

# Politics and Justice in Late Medieval Bologna

Sarah Rubin Blanshei



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# Politics and Justice in Late Medieval Bologna

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# Politics and Justice in Late Medieval Bologna

*By*

Sarah Rubin Blanshei



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## CONTENTS

List of Tables .....	vii
A Note on Usage .....	ix
Introduction .....	1
I. Part I. Politics of Closure: Setting the Boundaries .....	15
Part II. Prosecuting the Excluded .....	43
II. Oligarchy: Councils of the Commune .....	69
III. Oligarchy: Councils of the <i>Popolo</i> .....	113
IV. Part I. Status: Legal Definitions .....	135
Part II. Perceptions of Identity and Proofs of Status .....	183
1. Lambertazzi .....	183
2. <i>Fumantes</i> .....	202
3. Magnates: The List of 1294 .....	208
4. Identification of Magnates: <i>Habitus</i> .....	210
5. Ancestry vs. Lifestyle .....	216
6. Urban Magnates and Knighthood .....	231
7. Lifestyle as Proof of Status .....	239
8. Other Proofs of Status .....	260
9. Politics vs. Hereditary Status .....	266
10. Magnate Identity Trials as a Tool of Conflict .....	271
11. Political Profiles .....	274
12. The Debate on Nobility .....	296
13. Status and Society .....	306
V. The Politicization of Criminal Justice .....	313
1. Equality .....	313
2. Torture .....	320
3. Due Process .....	337
4. Captured <i>Banniti</i> .....	366
5. <i>Protestacio</i> .....	369

6. Privilege .....	377
7. <i>Querele</i> and Summary Justice .....	408
8. Petitions as Predecessors to the <i>Querele</i> .....	418
9. Legislation of 1313 .....	428
10. The New <i>Querele</i> of 1320 .....	441
11. Expansion of Summary Justice: Its Significance .....	455
12. Implementation of the <i>Querele</i> .....	462
13. Suspension of Due Process: Resistance by the Judges ....	484
Epilogue .....	499
Map of Bologna .....	509
Appendices	
A. Jurisdictions of the Courts of the Capitano del Popolo ....	511
B. Table for Chapter One .....	527
C. Table for Chapter Two .....	529
D. Tables for Chapter Three .....	531
E. Tables for Chapter Four .....	565
F. Tables for Chapter Five .....	597
Bibliography .....	641
Index .....	655

## LIST OF TABLES

I.1	Guilds and Arms Societies .....	527
II.1	Family Groups in the Communal Council of 2000–4000 in Porta Ravegnana .....	529
III.1	Sets of Relatives and Terms of Office Held in Consiglio del Popolo Contingents, 1283–1322 .....	531
III.2	Years in Which More or Less Than 50 Percent of Guilds and Societies Have Relatives among Their Consiglio del Popolo Contingents .....	533
III.3	Sets of Relatives in the Arms Societies' Contingents to the Consiglio del Popolo .....	534
III.4	Sets of Relatives in the Guilds' Contingents to the Consiglio del Popolo .....	536
III.5	Proportional Distribution of Sets of Relatives in the Arms Societies' Contingents to the Consiglio del Popolo: 1284–1307 and 1309–1322 .....	538
III.6	Proportional Distribution of Sets of Relatives in the Guilds' Contingents to the Consiglio del Popolo 1284–1305 and 1307–1322 .....	539
III.7	Families in Selected Guilds and Arms Societies with Greatest Number of Terms of Office Held and Percentage of Individuals Outside Families Holding Multiple Terms of Office in Contingents to the Consiglio del Popolo: 1282–1322 .....	540
III.8	Families Holding Twenty or More Terms of Office in the Consiglio del Popolo Sample .....	542
III.9	One-Time Only Appearances of <i>Anziani</i> With and Without Relatives: 1281–1326 .....	556
III.10	Families Appearing Nine or More Times in the <i>Anzianate</i> .....	557
III.11	Number and Names of <i>Anziani</i> Who Held Office Three or More Times 1281–1326 .....	560
IV.1	Magnate Identity Trials .....	565
IV.2	Families and Individuals with Multiple Trials .....	580
IV.3	Magnate List of 1294 .....	584
IV.4	Families That Appear in 1294 List and in Capitano Trials .....	594



IV.5	Magnate Identity Trials by Year .....	595
V.1	Verdicts, 1285–1296 .....	597
V.2	Verdicts, 1304–1326 .....	598
V.3	Torture by Crime .....	599
V.4	Trials by Accusation and Privilege .....	600
V.5	<i>Protestacio</i> by Frequency and Type .....	601

## A NOTE ON USAGE

In quoting from both printed primary sources and manuscripts I have retained the idiosyncrasies of spelling and grammar of the original texts. These occur so frequently that I have generally eschewed the practice of inserting “sic” after variations. Latin names are given in an Italianized form whenever I have been able to find equivalents in usage; where not, I have left them in Latin and italicized them. Occasionally the original text gives not only the name and patronymic, but also the nickname and grandfather’s name and indicates whether the father or grandfather was deceased. In such cases I have simplified names to include only the patronymic and the cognomen when given. There is one exception: the names of foreign rectors, judges, and notaries are left in Latin so that the reader can more easily find unnumbered documents. The names of guilds and arms societies have been translated into English in the text, but in the Appendices the reader will find the Latin names of individuals, families, guilds, and arms societies. The Latin for the guilds and arms societies, as in the original sources, is always in the genitive case, with the presumption of its being preceded by the word “societas.”

Money is usually given in the Bolognese records, as in most late medieval Italian city-states, as a money of account, rather than as actual coins: a *libra* (*lira* in Italian and pound in English); a *solidus* (*soldo* in Italian and “shilling” in English); a *denarius* (*denaro* in Italian and penny in English). One pound equaled 20 *solidi* and 240 *denarii*.



## INTRODUCTION

The medieval Italian communes have long evoked the admiration of historians, especially for their political-cultural achievements. The nineteenth-century Swiss historian J.C.L. Simonde de Sismondi, for instance, celebrated the Italian republics as cradles of liberty and democracy.<sup>1</sup> In his view, communal freedom in the twelfth and thirteenth centuries made it possible for civilization to flourish, and its loss in the fourteenth and fifteenth centuries ushered in “a period of unrestrained vice and crime.” But the “barbarians” who invaded Italy took back home with them the “numerous germs of a better state of things... [which were then] spread over the rest of Europe.”<sup>2</sup> Modern historiography also began on a positive note. In the late nineteenth century, Gaetano Salvemini portrayed the *popolo* of medieval Florence in Marxist terms as a new merchant class that battled the arrogant and violent aristocrats of the feudal countryside, and who, in contrast to their successor regimes of tyrants or *signori*, sought to build a society of peace and justice.<sup>3</sup>

But a negative interpretation of the republican period dominated twentieth-century historiography, beginning with Nicola Ottokar's harsh revisionist work in 1926.<sup>4</sup> Ottokar savaged Salvemini's work and replaced the theme of class struggle with one of “mindless struggle” and senseless violence perpetrated by competing groups who were not significantly differentiated socially and economically. Nevertheless, the positive view of the *popolo* continued to find adherents, such as Frederick Lane and John Mundy who extolled Italian republican

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<sup>1</sup> J.C.L. de Sismondi, *A History of the Italian Republics. Being a View of the Origin, Progress and Fall of Italian Freedom*. Introduction by Wallace K. Ferguson (Garden City, New York: Anchor Books, Doubleday & Company, 1966). The original work, *Histoire des républiques italiennes au moyen âge*, appeared in sixteen volumes between 1807 and 1818.

<sup>2</sup> *Ibid.*, p. 5.

<sup>3</sup> Gaetano Salvemini, *Magnati e popolani in Firenze dal 1280 al 1295*, ed. Ernesto Sestan (Milan: Feltrinelli, 1974), original edition 1899.

<sup>4</sup> Nicola Ottokar, *Il comune di Firenze alla fine del Dugento* (Turin: G. Einaudi, 1962), original edition 1926.

traditions.<sup>5</sup> Although Lane recognized that “republicanism lived on enfeebled in practice” after its high point in giving rise to popular participation in government in the thirteenth and fourteenth centuries, he also maintained that “it conquered new ground intellectually,” particularly after 1400 when it allied with humanism.<sup>6</sup> In the second half of the twentieth century, however, the revisionist interpretation strengthened its dominance with the works of Enrico Fiumi, Emilio Cristiani, Sergio Bertelli and Jacques Heers.<sup>7</sup> The negative view of

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<sup>5</sup> Frederick C. Lane, “At the Roots of Republicanism,” *The American Historical Review* 71 (1966): 403–274, and John Hine Mundy, “In Praise of Italy: The Italian Republics,” *Speculum* 64 (1989): 815–834. Lane specifically rejected the Marxist theory of the state and class struggle while maintaining the importance of the economic conditions that made possible the appearance “of a new class of merchant capitalists, shopkeepers, craftsmen, and day laborers.” Lane, “Roots of Republicanism,” pp. 405, 408. This emphasis on the assimilation of new men into the ruling class (social mobility) was a persistent framework for some historians who rejected both Ottokar extremism and the theme of class struggle, for example, David Herlihy, *Pisa in the Early Renaissance* (New Haven: Yale University Press, 1958); Marvin B. Becker, *Florence in Transition*, vol. 1, *The Decline of the Commune* (Baltimore: The Johns Hopkins Press, 1967), and vol. 2, *Studies in the Rise of the Territorial State* (Baltimore: The Johns Hopkins University Press, 1968); and more recently, Paolo Cammarosano, “Il ricambio e l’evoluzione dei ceti dirigenti nel corso del XIII secolo,” in *Magnati e popolani nell’Italia comunale. Atti del Quindicesimo convegno di Studi del Centro Italiano di studi di storia e d’arte, Pistoia 15–18 maggio 1995* (Pistoia: Centro Italiano di studi di storia e d’arte, 1997), pp. 17–40. Whereas earlier historians using this approach were reacting against the essentialism of the economic-juridical school, Cammarosano seems to have been responding to the reductionism of historians who maintained that there was no distinction to be made between republic and *signoria* since both were supposedly dominated by oligarchy (see footnote 9 below). Social mobility also provides the dialectic of historical change for the late twelfth and thirteenth century in the work of Gioacchino Volpe, *Studi sulle istituzioni comunali a Pisa* (Florence: Sansoni, 1970), original edition 1902. Volpe is usually tied to Salvemini as part of the economic-juridical school, but Maire Vigueur points out Volpe’s emphasis on social class as being in perpetual motion (in particular the consular aristocracy of Pisa) and thereby sees Volpe as well as Ottokar as being “light-years” away from Salvemini. Jean-Claude Maire Vigueur, “Il problema storiografico: Firenze come modello (e mito) di regime popolare,” in *Magnati e popolani nell’Italia comunale*, pp. 1–16, esp. pp. 7–8.

<sup>6</sup> Lane, “Roots of Republicanism,” pp. 413–4145. Lane stressed that while not the only source, medieval republicanism was one of three major sources of modern democratic ideals.

<sup>7</sup> Enrico Fiumi, *Storia economica e sociale di San Gimignano* (Florence: Biblioteca storica toscana, 1961); Emilio Cristiani, *Nobiltà e popolo nel comune di Pisa* (Naples: Istituto italiano per gli studi storici, 1962); Sergio Bertelli, *Il potere oligarchico nello stato-città medievale* (Florence: La Nuova Italia, 1978); Jacques Heers, *Parties and Political Life in the Medieval West* (New York and Amsterdam: North-Holland Publishing Co., 1977). For a brief but cogent overview of Ottokar’s influence, see Giuliano Milani, *L’esclusione dal comune. Conflitti e bandi politici a Bologna e in altre città italiane tra XII e XIV secolo* (Rome: Istituto Storico Italiano per il Medio Evo, 2003), pp. 12–15.

the *popolo* as a temporary phenomenon without a lasting legacy then reached a kind of historiographical apotheosis in the work of Philip Jones. In his remarkable scholarship Jones recognized the distinctive political and cultural achievements of the Italian commune, but he also maintained that the political base of the *popolo* was extremely limited, and that the government never overcame the challenges of factionalism, exiles and the disenfranchised, a failure that subsequently eased the transition from commune to *signoria*.<sup>8</sup> His view was embraced by many Anglo-American and Italian historians who came to view the “failure of the *popolo*” as a major barrier over the centuries to Italian unification. In addition, Sismondi’s juxtaposition of medieval republican justice with the repression of Renaissance tyrants was challenged by Ernesto Sestan, who began a tradition that emphasizes continuity between communes and *signori*, an interpretation further deepened by a view of the *signori* as lords rather than tyrants.<sup>9</sup>

Nevertheless, historians such as Lauro Martines, John Grundman and John Koenig continued the positive tradition and refused to dismiss the *popolo*’s impact as inconsequential.<sup>10</sup> Moreover, by

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<sup>8</sup> Philip J. Jones, “Economia e società nell’ Italia medievale: la leggenda della borghesia,” in *Storia d’Italia, Annali*, vol. 1, *Dal feudalesimo al capitalismo*, ed. Ruggiero Romano and Corrado Vivanti (Turin: G. Einaudi, 1978), pp. 185–372. He softened his views in his later work, *The Italian City-State. From Commune to Signoria* (Oxford: Clarendon Press, 1997), but still maintained that “[e]ven in Italy itself the struggle of republicanism and principality proved only a parenthesis in the prolonged progress of European monarchy. From the viewpoint of later history it was an episode, an eccentricity, significant less for itself than as sign of a deeper difference, something alien or anomalous in medieval Italy, for some prophetic, for others rather backward-looking, but in any case anachronistic.” *Ibid.*, p. 1.

<sup>9</sup> Ernesto Sestan, “Le origini delle Signorie cittadine: un problema storico esaurito?” in *Istituzioni e società nella storia d’Italia. La crisi degli ordinamenti comunali e le origini dello stato del Rinascimento*, ed. Giorgio Chittolini (Bologna: Il Mulino, 1979), pp. 53–75 (originally published in *Bullettino dell’ Istituto Storico Italiano per il Medioevo*, 73 (1961): 41–69; Philip J. Jones, “Communes and Despots: The City-State in Late-Medieval Italy,” *Transactions of the Royal Historical Society*, series 5, 15 (1965): 71–96; D.M. Bueno De Mesquita, “The Place of Despotism in Italian Politics,” in *Europe in the Late Middle Ages*, ed. J.R. Hale, J.R.L. Highfield, B. Smalley (Evanston, Ill.: Northwestern University Press, 1965), pp. 301–331; John E. Law, *The Lords of Renaissance Italy. The Signori, 1250–1500* (London: Historical Association, 1981). John Larner, *The Lords of Romagna. Romagnol Society and the Origins of the Signorie* (New York and London: St. Martin’s Press, 1965), p. 154: “[I]t would be wrong to describe the commune of the thirteenth century as ‘free’ in contrast to the commune of the fourteenth century. The only change was that the commune was now dominated by one man, instead of by a small feudal oligarchy.”

<sup>10</sup> John Koenig, *Il “popolo” dell’Italia del Nord nel XIII secolo* (Bologna: Il Mulino, 1986); Lauro Martines, *Power and Imagination. City-States in Renaissance Italy* (New

the end of the century, the Ottokar “school” came under sharp criticism from scholars such as Giorgio Cracco and John Najemy, both of whom asserted the vitality of the *popolo*’s achievements and legacy.<sup>11</sup> Najemy did not limit himself to the late thirteenth century and confronted what he deemed the prevailing view of an oligarchy dominant over centuries, interrupted only briefly by abortive outbursts from the “masses,” an “argument [that] depends, of course, not only on a dismissive view of the so-called masses, but also on suppressing the notion that between these masses and the oligarchy there existed a class (or coalition of groups) with purposes, policies, organization, discourse, in sum, a politics of its own.”<sup>12</sup> Najemy also rejected the “curious tendency” of historians of Florence and late-medieval Italy to claim that “the actions of popular governments never really changed things very much.”<sup>13</sup> He emphasized the importance of *popolo* ideas on the self-perception of the elite, which in turn influenced them to modify their behavior: “Elite families joined a system of discourse that changed them as they changed it.”<sup>14</sup> The *popolo*’s influence, according to Najemy, resided in its response to the contestation of power by the formulation of a discourse on the legitimacy of elite power through

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York: Alfred A. Knopf, 1979). But the positive tradition was not mainstream. Koenig’s work provoked a well-known reaction in a review by Pierre Racine, “Le ‘popolo’ groupe social ou groupe de pression?” *Nuova Rivista Storica* 73 (1989): 133–150. Grundman’s valuable dissertation, completed in 1974, was not published until 1992. John P. Grundman, *The Popolo at Perugia 1139–1309*, (Perugia: Deputazione di Storia Patria per l’Umbria, 1992). Grundman, pp. 335–336, concluded that “the story of the *Duecento* [in the 1220s and 1250s] is a success story of the *popolo*; and that success was due principally to three advantages: strength of numbers, cohesion, and leadership.” In the late *Duecento*, however, he saw the *popolo* as losing much of its strength. Gene Brucker, in a foreword to the publication, notes that in the Salvemini-Ottokar controversy, Grundman, although he had some criticism of Salvemini, belongs to his tradition. *Ibid.*, p. xix.

<sup>11</sup> Giorgio Cracco, “Social Structure and Conflict in the Medieval City,” and John M. Najemy, “The Dialogue of Power in Florentine Politics,” in *City States in Classical Antiquity and Modern Italy*, ed. Anthony Molho, Kurt Raaflaub, and Julia Emlen (Ann Arbor, Michigan: The University of Michigan Press, 1991), pp. 309–329 and 269–288. Also Najemy, “Stato, comune e ‘universitas,’” in *Origini dello Stato. Processi di formazione statale in Italia fra Medioevo ed età moderna*, ed. Giorgio Chittolini, Anthony Molho, and Pierangelo Schiera, *Annali dell’Istituto Italo-Germanico in Trento* (Bologna: Il Mulino, 1994), vol. 39, pp. 647–669, Najemy, “Brunetto Latini’s ‘Politica,’” *Dante Studies* 112 (1994): 33–51, and Najemy, *A History of Florence. 1200–1575* (Malden, MA and Oxford, UK: Blackwell, 2006).

<sup>12</sup> Najemy, “Dialogue of Power,” p. 271.

<sup>13</sup> *Ibid.*, p. 276.

<sup>14</sup> *Ibid.*, p. 278.

“consent, representation, delegation, [and] accountability,” a discourse that became in fifteenth century Florence “the reigning and sustaining fiction of oligarchic power.”<sup>15</sup>

Najemy’s thesis accords with the work of intellectual historians such as Quentin Skinner and Charles Davis, who found in the pre-humanist and scholastic writers of the medieval communes the philosophical origins of republicanism.<sup>16</sup> Moreover, his view also paralleled the new emphasis of other historians on the origins and development of *disciplina* and civility. Norbert Elias, a German sociologist, located the beginning of a “civilizing process” that marked a change in behavior from medieval violence to modern self-control in the royal and princely courts of the sixteenth and seventeenth centuries.<sup>17</sup> Elias wrote in the late 1930s, but his work was not translated into English and did not become well-known in general until the 1980s. Despite receiving some

<sup>15</sup> Ibid., p. 283. However, Najemy also saw as “one of its notable failures...the unwillingness of the city-republics to extend the concept of representation beyond the cities themselves to the surrounding territories.” “Republicanism,” in *Encyclopedia of the Renaissance*, ed. Paul F. Grendler et al., vol. 5 (New York: Scribner, 1999), pp. 313–22, esp. p. 315.

<sup>16</sup> Quentin Skinner, *The Foundations of Modern Political Thought*, vol. I, *The Renaissance* (Cambridge and New York: Cambridge University Press, 1978), Skinner, “Machiavelli’s *Discorsi* and the pre-humanist origins of republican ideas,” in *Machiavelli and Republicanism*, ed. Gisela Bock, Quentin Skinner and Maurizio Viroli (Cambridge and New York: Cambridge University Press, 1990), pp. 121–141, and Skinner, “The Vocabulary of Renaissance Republicanism: A cultural *longue-durée*?” in *Language and Images of Renaissance Italy*, ed. Alison Brown (Oxford: Oxford University Press, 1995), pp. 87–110. Skinner specifically pitted himself against the view of Witt and other scholars “that no attempt was ever made to vindicate the superiority of Republican liberty over monarchical forms of government before the work of the Florentine humanists at the end of the *trecento*.” Skinner, *Foundations*, p. 41. Whereas Charles Davis finds republicanism in the revival of Aristotelianism in late thirteenth century Italy, Skinner dates the new philosophy earlier. Cf. the criticism of Skinner in Ronald G. Witt, *In the Footsteps of the Ancients: The Origins of Humanism from Lovato to Bruni* (Boston, Cologne, and Leiden: Brill, 2000), pp. 63–64. Charles Davis, *Dante’s Italy and Other Essays* (Philadelphia: University of Pennsylvania Press, 1984). Najemy’s insight was to lodge the development of those ideas in the process and response to confrontation and the transformation of the self-perception and behavior of the elite. He takes Machiavelli’s attention to discords as a *cause* of republicanism in ancient Rome and sees in this an insight into the relationship between conflict and republicanism in medieval and Renaissance Florence. See, however, Skinner’s comments on the same passage in Machiavelli in “The Vocabulary of Renaissance Republicanism,” pp. 103–104.

<sup>17</sup> Norbert Elias, *The History of Manners. The Civilizing Process*, vol. 1 (New York: Pantheon Books, 1978), English trans. Edmund Jephcott of original German edition 1939; *Power & Civility. The Civilizing Process*, vol. 2 (New York: Pantheon Books, 1982), English trans. Edmund Jephcott of original German edition 1939.



scathing criticism, Elias's conceptual framework was largely welcomed at that point, in particular by historians of crime and violence. Other historians adapted and developed the theme of the origins of civility within new chronologies and traditions—knightly, monastic and civic.<sup>18</sup> Pierangelo Schiera, for example, found *disciplina* and “the real cradle of the state” in the “civic world” of disciplining guilds and corporations, universities, preaching and schools of the communes (and as much under the *signori* as in the republics).<sup>19</sup> Robert Putnam and his colleagues in 1993 postulated that the associations (or associationism) of the medieval communes were key to understanding the contemporary viability of democratic institutions in Italy and the dramatic differences between North and South.<sup>20</sup> In contrast to Schiera, Putnam made the republican aspect of the communes central to his theory: “Citizenship in a civic community is marked, first of all, by active participation in public affairs...and [c]itizenship in the civic community entails equal rights and obligations for all...[S]uch a community is bound together by horizontal relations of reciprocity and cooperation, not by vertical relations of authority and dependency.”<sup>21</sup> Interest in Putnam's theory was great, extending even beyond academe, and

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<sup>18</sup> *The Civilization of Crime. Violence in Town and Country since the Middle Ages*, ed. Eric A. Johnson and Eric H. Monkkonen (Urbana and Chicago: University of Illinois Press, 1996); C. Stephen Jaeger, *The Origins of Courtliness. Civilizing Trends and the Formation of Courtly Ideals, 939–1210* (Philadelphia: University of Pennsylvania Press, 1985); Delwyn Knox, “‘Disciplina’: The Monastic and Clerical Origins of European Civility,” in *Renaissance Society and Culture: Essays in Honor of Eugene F. Rice, Jr.*, ed. John Monfasani and R.G. Musto (New York: Italica Press, 1991), pp. 107–135.

<sup>19</sup> Pierangelo Schiera, “Legitimacy, Discipline, and Institutions: Three Necessary Conditions for the Birth of the Modern State,” in *The Origins of the State in Italy, 1300–1600*, ed. Julius Kirshner (Chicago: University of Chicago Press, 1996), pp. 11–33, English trans. Barbara Dooley of original Italian edition in *Origini dello Stato: Processi di formazione statale in Italia fra medioevo ed età moderna*, ed. Giorgio Chittolini, Anthony Molho, and Pierangelo Schiera, *Annali dell'Istituto Storico Italo-Germanico* in Trento vol. 39 (Bologna: Il Mulino, 1994) pp. 17–48, and his “Il bonum commune fra corpi e disciplina: alle radici della politica nel medioevo,” *Democrazia e diritto. Bimestrale del centro di studi e di iniziative per la riforma dello Stato* 5–6 (1991): 29–51. But the fate of communal “peace and justice,” according to Schiera, was its absorption into the justification and legitimization of the absolute power of the prince.

<sup>20</sup> Robert D. Putnam (with Robert Leonardi and Raffaella Y. Nanetti), *Making Democracy Work. Civic Traditions in Modern Italy* (Princeton: Princeton University Press, 1993).

<sup>21</sup> *Ibid.*, pp. 87–89. This was the ideal, along with “solidarity, trust and tolerance,” but Putnam recognized “the social inequalities and the pervasive insecurity that characterized even the most successful of communes.” *Ibid.*, p. 129.

in 1999 the *Journal of Interdisciplinary History* dedicated an issue to Putnam and the concept of social capital. Rather than demonstrating the emergence of a consensus, however, the issue highlighted the traditional conflicting views of historians towards the achievements and contributions of the *popolo* of the medieval commune. While rejecting Putnam's connection between the medieval commune and effective democracy in modern Italy, and eschewing "a peculiarly American reconstruction of Italian history that prizes the Italian past only insofar as it can be shown to lead to the triumph of republican institutions and democratic practices," Edward Muir also recognizes that medieval and early modern Italy "produced one of the earliest examples of a civil society."<sup>22</sup> Muir found three sources of civic culture: "civic religion, judicial practice, and the mores of refined manners... that had the cumulative effect of creating social capital."<sup>23</sup> Muir concluded that "the origins of Italian civil society can be found in the centuries-long struggle between aristocratic families and factions, on the one hand, and communities, on the other, that began in the eleventh century with the founding of the first communes." But he was careful to show the limitations of communal culture's opposition to factional violence (the latter being at the opposite pole of social capital), the survival of the rural aristocracy and oligarchic regimes, and the unwillingness of the commune to extend the principles of representation beyond the city walls. Key for him is that the urban and rural elites "adapted to, and even championed, civil society," and he attributes this development to Elias's civilizing process of the sixteenth century.<sup>24</sup> Republican traditions did matter, however, as Muir makes clear in this work and elsewhere, especially in the "continuous litigation" employed for centuries by rural communes to oppose feudal privilege.<sup>25</sup>

In contrast to Muir's cautious appraisal, Gene Brucker, in the same issue of the *Journal of Interdisciplinary History*, wrote a harsh indictment of the communal legacy. Brucker criticized Putnam for presenting "too idealized a picture" of communal culture, and for neglecting "the

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<sup>22</sup> Edward Muir, "The Sources of Civil Society in Italy," *Journal of Interdisciplinary History* 29 (1999): 370–406, esp. p. 380.

<sup>23</sup> *Ibid.*, p. 382.

<sup>24</sup> *Ibid.*, pp. 400–401.

<sup>25</sup> Edward Muir, "Was there Republicanism in the Renaissance Republics? Venice after Agnadello," in *Venice Reconsidered. The History and Civilization of an Italian City-State, 1297–1797*, ed. John Martin and Dennis Romano (Baltimore and London: Johns Hopkins University Press, 2000), pp. 137–167.

darker side of that world—its factionalism, its violence and brutality, and its coercive and authoritarian dimensions.” Brucker noted that since World War II, scholars such as Philip Jones had emphasized “the weaknesses, limitations, and failures of these urban regimes.”<sup>26</sup> Although he concurred that the republicanism that survived in Florence in the fourteenth and fifteenth centuries was based on the principles of “consent and representation” that Najemy described in communal culture, Brucker judged it to have an intrusive element, far removed from trust and harmony.<sup>27</sup> Civic republicanism did not develop the “concept of individual rights and liberties, and of a private realm immune from state intervention [and it] had never been a part of the communal legacy.”<sup>28</sup> He concluded that modern Italy did not receive a legacy of civic traditions from the communes, but rather a tradition of harsh authoritarian government from the ‘age of absolutism.’ Even in those cities which retained political autonomy, such as Venice, Genoa, Lucca and San Marino, the “primary objective of urban elites in those cities was the preservation of their privileged status.”<sup>29</sup> In short, the achievements of the medieval communes were short-lived, but their limitations were permanent.

Other recent works have fallen into both the “negative” and “positive” historiographical camps. On the one hand, for example, Mario Ascheri has objected to “the reductionist interpretation of the communal experience” that views the communal era as an obstacle to “the development of the Modern State” and as a period under the grip of an “oligarchy” that comprised a “cruel and naked reality” behind the apparent “realisation of communal ‘democracy.’”<sup>30</sup> While recognizing that communal government meant “systematic oppression” for those outside the city walls, Ascheri nevertheless credits the commune with operating “within an ideology analogous to that of the eighteenth-century *Rechtsstaat*, and roughly equivalent to the English *rule of law*, insisting on the rigid separation of political powers from the judicial and administrative powers and precise definition of the respective

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<sup>26</sup> Gene Brucker, “Civic Traditions in Premodern Italy,” in *Journal of Interdisciplinary History* 29 (1999): 357–377, esp. p. 358.

<sup>27</sup> *Ibid.*, p. 361.

<sup>28</sup> *Ibid.*, p. 373.

<sup>29</sup> *Ibid.*, p. 376.

<sup>30</sup> Mario Ascheri, “Beyond the *Comune*: The Italian City-State and its Inheritance,” in *The Medieval World*, ed. Peter Linehan and Janet L. Nelson (London and New York: Routledge, 2001), pp. 451–467, esp. p. 455.

competences of the various public organs in order to protect the citizen and guarantee the impartiality of the administration.”<sup>31</sup> Ascheri recognizes that the “republican and egalitarian values of the thirteenth-century city-state...fell victim over the next two hundred years to the ambitions of a predatory nobility,” but maintains that to neglect “the uniqueness of [the city-state’s] contribution to Europe’s collective consciousness” is to diminish “the history of European political thought and political praxis.”<sup>32</sup>

On the other hand, Andrea Zorzi has forcefully challenged the validity of the *popolo*’s vision of peace and justice and the significance of its rhetoric and policies. He rejects the idea that the anti-magnate legislation of the *popolo* represented a more “public” and “impersonal” ideology which was pitted against an older, “personal” and “private” justice of feud and vendetta. Combing the Florentine chronicles and finding that almost half of the feuds described in them were carried out by *popolano* families, he asserts that feud and vendetta “were not at all peculiar to the knightly classes,” and denies that the purpose of the Florentine anti-magnate legislation was “to contest the presumed pretension of the magnates to exercise justice in private forms.” Rather, he holds that the intent was “to single out by penal discipline of their violent lifestyle an instrument of political negotiation.” The goal was not coercion or enforcement of penal measures but political bargaining by which certain opponents would be admitted into the ruling class and others excluded. In the demonization of the magnates, the *popolo* found “legitimization of a new political order.”<sup>33</sup>

<sup>31</sup> Ibid., p. 463.

<sup>32</sup> Ibid., p. 465.

<sup>33</sup> Andrea Zorzi, “Politica e giustizia a Firenze al tempo degli ordinamenti antimagnatizi,” in *Ordinamenti di giustizia fiorentini. Studi in occasione del VII centenario*, ed. Vanna Arrighi (Florence: Ministero per beni culturali e beni ambientali, 1995), pp. 105–147, esp. p. 109. Zorzi frames his work specifically as a revision of an older view as expressed in works by Nicolai Rubinstein, Marvin Becker and Carol Lansing. Also see his “Diritto e giustizia nelle città dell’Italia comunale (secoli XIII–XIV),” in *Stadt und Recht im Mittelalter. La ville et le droit au Moyen Age*, ed. Pierre Monnet and Otto Gerhard Oexle (Göttingen: Vandenhoeck & Ruprecht, 2003), pp. 198–214. In his “La cultura della vendetta nel conflitto politico in età comunale,” in *Le storie e la memoria. In onore di Arnold Esch*, ed. Roberto Delle Donne and Andrea Zorzi (Florence, 2002), Reti medievali, [http://www.storia.unifi.it/\\_rm/e-book](http://www.storia.unifi.it/_rm/e-book), pp. 135–169, Zorzi reinterprets contemporary literature which has long been cited, as he puts it, “as an *apologia* of public justice in confrontation with the feud,” such as the *Liber consolationis* of Albertano da Brescia, to signify only the controlling of feud. In contrast, the analysis of Bolognese *popolo* rhetoric by Massimo Giansante comprises a strong

In this study I revisit the question of the medieval commune's achievements and failures through a case study of the political and juridical structures, policies and practices of the *popolo* of Bologna. Two issues are dominant: first, the issue of oligarchy—the extent of representation and participation in political life; and second, the impact of the *popolo* on the theory and practice of criminal justice. These issues of political participation and justice are crucial to the arguments over the significance of the republican communes and the legacy of the *popolo*, as seen in the historiographical overview given above. I have sought, however, to find a new perspective on the *popolo* and its struggles with the magnates by placing those conflicts into a broader context inspired by closure theory, in order to view conflict as neither class struggle nor “merely” as factionalism, but as the exclusion of others in order to establish the identity of one's group and its monopoly of resources. Closure theory stems from Max Weber's concept that “a dominant group safeguards its position and privileges by monopolizing resources and opportunities for its own group while denying access to outsiders” and has been applied by sociologists to contemporary society and by the historian Stephen Henry Rigby to late medieval English society.<sup>34</sup> As Rigby notes, closure “exists in two main forms: exclusionary and usurpationary.” Exclusionary closure is a downward process by which the group of insiders exerts pressure that leads to the creation of a subordinate “group, class or stratum of

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affirmation of the objectives of the *popolo* as more traditionally viewed. The values of the *popolo*, according to Giansante, stem not from political conflict, but from the professional virtues of the merchant-bankers, transposed by the notaries to political-social relations. Massimo Giansante, *Retorica e politica nel Duecento. I notai bolognesi e l'ideologia comunale* (Rome: Istituto Storico Italiano per il Medio Evo, 1998), for example, pp. 43–45 and 113–114. Also his “Rolandino e l'ideologia del comune del popolo. Dallo statuto dei cambiatori del 1245 a quello dei notai del 1288,” in *Rolandino e l'ars notaria di Bologna all'Europa. Atti del convegno internazionale di studi storici sulla figura e l'opera di Rolandino*, ed. Giorgio Tamba (Milan: Giuffrè, 2001, pp. 50–74; and “Pier della Vigne e Rolandino Passaggeri: Un duello di cancellere fra mito e storia,” in *Bologna, Re Enzo e il suo mito. Atti della Giornata di Studio (Bologna, 11 giugno 2000)*, ed. Antonio Ivan Pini and Anna Laura Trombetti Budriesi (Bologna: Deputazione di Storia Patria per le Province di Romagna, 2001), pp. 103–123.

<sup>34</sup> Frank Parkin, “Strategies of Social Closure in Class Formation,” in *The Social Analysis of Class Structure*, ed. Frank Parkin (London: Tavistock Publications, 1974), pp. 1–18; Raymond Murphy, *Social Closure. The Theory of Monopolization and Exclusion* (Oxford: Oxford University Press, 1988); S.H. Rigby, *English Society in the Later Middle Ages. Class, Status and Gender* (New York: St. Martin's Press, 1995).

legally defined inferiors.”<sup>35</sup> Usurpatory closure is an upwards thrust of power. But a particular social group can utilize both exclusionary and usurpatory closure as strategies to gain privileges and resources. What I have not found described in discussions of closure theory, and what I include in my adaptation of the concept is what I define as “lateral closure,” that is the definition of an equally powerful group as “outsiders.” I do so in order to include all major types of conflict in late medieval Bologna within the closure umbrella. In doing so I am acknowledging a recognized weakness of closure theory: it is primarily a descriptive, not an explanatory theory. But I would argue that its utility lies primarily not in its contribution to understanding causality but in its ability to broaden our range of description and analysis, and in the case of this study, to expand one’s perspective from the narrowness of viewing the magnate-*popolo* struggle in isolation from other conflicts. Thus, I find that while the struggle against magnates can be viewed as representing upward or usurpatory closure, it does not stand alone but is paralleled by a combined upwards and lateral closure of political opponents (the Lambertazzi), and downward closure of *fumantes* (non-noble inhabitants of the countryside or *contado*), *forenses* (people from outside the city and district of Bologna), and humbler citizens. One of the major themes of this study is the relationship among these multiple forms of closure and the conditions that led these groups defined as outsiders to become legally constituted hereditary classes. In a further attempt to give greater breadth to the traditional frameworks for these themes, I investigate the structures and membership of the *popolo* itself, the insider group, in terms not only of its leadership (the council of elders, or *anziani*), as has usually been done in studies of oligarchy, but also by analysis of the larger government councils (communal and *popolano*) and the corporations—guilds and arms societies (neighborhood defense units)—that constituted the basic building blocks of the *popolo*.

The first three chapters of this study show first of all the extraordinarily high level of citizen participation in political life that characterized late medieval Bologna. Not only did officeholders rotate rapidly (every six months for the larger councils), but major issues were sent

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<sup>35</sup> Rigby, *English Society*, p. 9. The criteria for identifying the insiders and outsiders “is not limited to that achieved by the property-based classes of Marxist analysis but can be effected by a variety of criteria, including race, religion, gender, language or lineage.”

to the guilds and arms societies for approval before being voted upon by the government councils. There were also, however, significant limitations to participation in political life, as evidenced by the ranks of those excluded from the guilds and arms societies. I also chart the diminishing presence of newcomers in the corporations and government councils, and the persistence of particular families among the societies' membership from the mid-thirteenth century to the beginning of the 1320s. I show that by the early fourteenth century, families from the elite merchant, banker and notaries' guilds had more deeply permeated the membership of other less prestigious guilds and arms societies. Utilizing a database of over 18,000 officeholders, I demonstrate that the proportion of offices held by an inner circle of prominent families had expanded considerably by the early fourteenth century. I also demonstrate that these phenomena were the result of the increasingly stringent exclusionary policies carried out by the *popolo* on every level of political life and describe the purges and litigation by which those policies were enforced. I further analyze the ebb and flow of the size of government councils and show that in this context closure was not a progressive, unidirectional development.

Chapter Four focuses on the changing definitions of legal status and perceptions of social identity that marked the closure of *popolo* ranks. Analysis of the testimony of trial witnesses to the status of putative magnates shows the confusion that prevailed in contemporary views and the disjuncture between status and perception in the late thirteenth century. These ambiguities of identity and status were in large measure resolved by the emergence of hereditary classes by the early fourteenth century. After 1306, the commune permitted the holding of *popolo* offices only to those individuals who themselves, or whose ancestors, had been enrolled in the tax registers of 1279–80. It compiled lists of magnates, *fumantes*, and Lambertazzi and decreed that all descendants of those listed would belong to those legal categories.

Chapter Five treats the impact of the *popolo* and closure on criminal justice. It asks to what extent, both in theory and practice, persons of different classes were treated equally before the law. I find that although due process (with certain exceptions, e.g., trials against infamous persons), was embedded in the law courts of the medieval commune, the coming of the *popolo* meant a significant increase in the use of summary justice (the suspension of due process). Consonant with closure theory, the *popolo* granted itself an increasingly privileged legal

position, an expansion that took place as the extent of political participation narrowed and the dominance of prominent families expanded. The increased use of summary justice was twofold: on the one hand, it functioned as part of the repressive measures used against those who did not comply with the commune's military and fiscal demands; on the other hand, it granted protection in the law courts for privileged *popolani* who could petition that their opponents be treated summarily and with suspension of due process.

The *popolo* retained a broad, if narrowing, base of political representation and participation right up to the coming of its first *signore*, the papal legate Cardinal Bertrando del Pogetto, in 1327. With the consent of the enfranchised, and under the increasing danger to its *libertas* that it faced in the early fourteenth century, the *popolo* formulated and executed policies that resulted in a greater politicization of justice. This study thus illuminates both the achievements and deleterious effects of *popolo* governance and the ambiguities of its legacy.

This study is made possible by the extraordinary richness of the Bolognese archives. Five major series of documents have been utilized: the *Libri matricularum* (membership lists of the guilds and arms societies), the *Consigli, magistrati ed ufficiali del comune* (membership lists of the communal and *popolo* councils), *reformagioni* and *provvigioni* (legislative acts and minutes of the Consiglio del Popolo and the executive councils respectively), the trial records of the Capitano del Popolo, and the trial records of the podesta. As overwhelmingly rich as these series are, they are not complete, and the quantitative analyses extracted from them are *per forza* samples of samples. Nevertheless, only a very few archives offer such documentation for so early a period. The choice of Bologna for a case study is also justified by its preeminence as a center of legal studies and by its leadership in political innovation: the anti-magnate legislation of the Sacred and Most Sacred Ordinances of 1282 and 1284 preceded by a decade the more famous Ordinances of Justice at Florence in 1293. But until recently, with the work of Carol Lansing, Trevor Dean, Guy Geltner, and Shona Kelly Wray, medieval Bologna was generally ignored by Anglo-American scholars who instead largely followed the "stones" trod by art historians to Florence, Venice and Siena.

My own research at Bologna began in 1978, but was interrupted for many years when I made a career change to college administration. It was only after I retired that I was able to return to the Archives. I am



very grateful for the welcome and support that was extended to me at that time by old and new friends and colleagues. The Archivio di Stato of Bologna is one of the most welcoming and efficient institutions of its kind and I wish to express my appreciation to its directors and staff for enabling and expediting my research, especially Giancarlo Busi, Massimo Giansante, Sergio Morara, Rossella Rinaldi and Diana Tura. The Biblioteca Archiginnasio of Bologna is a splendid institution and I thank especially Maurizio Avanzolini for his help in navigating its complexities. I also thank Ferdinando Briamonte, librarian of the Biblioteca del Dipartimento di Paleografia e Medievistica, Alma Mater Studiorum-Università di Bologna, for his kind and frequent assistance. I am very aware that this study would have been very different and of much less value if it were not for the achievements in Bolognese studies by a cohort of scholars whose excellent works in my particular area marked the years I was “away,” especially Massimo Giansante, Sara Menzinger, Giuliano Milani, Giorgio Tamba, and Massimo Vallerani. Vital to the completion of this work were the friendships that sustained me throughout the Bolognese years—*grazie da cuore* to Armando Antonelli, Elizabeth Bernhardt, Clara Castelli and the late Renato Zagatti, Maria Grazia Cupini, Gloria Felicani and Graziano Bottura, Azzo Gamberini and Gloria Fabbri, Guy Geltner, Mathias Jehn, Mary Noyes, Raffaella Pini, Luigi Geminiani and Anna Vivarelli Geminiani, Sergio Morara and Renata Carosse, Rosa Smurra, and Carla Valleri. Lorena Scaccabarozzi gave me not only friendship but valuable help with the reading of difficult texts. Trevor Dean asked astute questions and Matthew Louis Blanshei, Joanna Jill Carraway, and Shona Kelly Wray gave me encouragement and read parts of the manuscript in draft form. Shona Kelly Wray also gave me invaluable assistance in a painstaking reading of almost the entire final text. The anonymous reader from Brill offered helpful and cogent suggestions. It was a pleasure to work with the extraordinarily efficient editor from Brill, Marcella Mulder. I owe special thanks to Francesca Bocchi, who from start to finish gave me friendship, hospitality, and the inspiration of her outstanding scholarly achievements. To my husband Jack Blanshei, who shared all the grief and joy, I dedicate this book.

## CHAPTER ONE

### PART I. POLITICS OF CLOSURE: SETTING THE BOUNDARIES

The *popolo* of Bologna, from its earliest days in the thirteenth century as a congeries of voluntary associations to its final years a century later as a political force and party, structured itself and shaped its identity on the basis of exclusionary policies. These policies are found in their earliest format in the building blocks with which the *popolo* party was constructed—the guilds and arms societies. (See Appendix B, Table I.1 for a list of the guilds and arms societies.) The earliest guilds comprised the bankers, merchants, butchers and notaries (the latter included the judges until 1265), all of which existed by the late twelfth century. The arms societies were territorially-based associations for mutual defense (and later for military service outside the city). Voluntary associations in origin, the arms societies were modeled after the guilds. In 1217, they and the guilds briefly entered the government councils, only to suffer from a restrictive reaction in 1219, during which the arms societies were dissolved. In 1228, however, the merchants and bankers, whose guilds had already participated in the consular and podestarial governments of the late twelfth and early thirteenth century, led a revolution that brought the other guilds, commercial and artisanal, into government participation, and also reestablished the arms societies.<sup>1</sup> Shortly afterwards, by 1230, the arms societies and guilds were paired together in a permanent political configuration, for example the bankers' guild with the arms society of the Castles.<sup>2</sup>

But closure accompanied the establishment of the *Societas Populi*, the organization of guilds and arms societies that represented the *popolo* as a political body. The number of politically-recognized guilds

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<sup>1</sup> Gina Fasoli, "Le compagnie delle armi a Bologna," *L'Archiginnasio* 28 (1933): 158–183, 323–340, esp. pp. 165–167. Several of the arms societies, however, including the Tuscans, the Lombards, the Stars, the butchers *pro armis*, the drapers *pro armis* and the Claws of S. Stefano did not enter the *Societas Populi* until 1233, at which point the number of arms societies reached twenty-four. *Ibid.*, p. 168.

<sup>2</sup> Giorgio Tamba, "Da socio ad 'obbediente.' La società dei muratori dall'età comunale al 1796," in *Muratori in Bologna. Arte e società dalle origini al secolo XVIII* (Bologna: Collegio costruttori edili ed imprenditori affini della provincia di Bologna, 1981), pp. 53–146, esp. p. 57.

and arms societies was essentially frozen soon after the associations gained participation in government. In 1248, there were twenty guilds and twenty-four arms societies with full political participation, that is, they had the right to elect *anziani* (the officials who comprised the executive council) and send representative contingents of officials to the other *popolo* councils. The *statuto generale* of 1248, (a compilation of laws since 1228), expressly forbade the formation of new guilds.<sup>3</sup> It listed those occupations that were forbidden the right to form guilds, such as the wine cask carriers, the vegetable vendors, and the sellers of chickens.<sup>4</sup> A similar provision in the statutes of 1250 forbade several of the same occupations from having guild officials or any association.<sup>5</sup> Changes during the rest of the century reflect only the subdivision of two politically-recognized guilds that had consisted of diverse components. The statutes of 1250–67 have lists of *anziani* and *sapientes* for twenty-one guilds, an increase which merely reflects the separation of the masons and carpenters in 1257.<sup>6</sup> In 1298, the goldsmiths, who had

<sup>3</sup> Gina Fasoli, "Le compagnie delle arti a Bologna fino al principio del secolo XV," *L'Archiginnasio* 30 (1935): 237–280, esp. p. 275. The prohibition is also found in *Statuti di Bologna dall'anno 1245 all'anno 1267*, ed. Luigi Frati, vol. 3 (Bologna: Regia Tipografia, 1877), Bk. XI, Rubric XXXV, "De societate non fatienda deinceps in civitate bon.," p. 295.

<sup>4</sup> The occupations forbidden the right to organize were mainly in the food industries but also included millers, barbers, straw and wood sellers, and several occupations in the cloth industries: "Pistores, fornarii, tabernarii, aburatores, brentatores, molendinarii, victuales, ortolani, barberii, lardaroli vel formagliarii, tessarii pannorum vel battari, tintores vel lavatores lane, tricoli vel tricole erbarum, fructuum vel pulorum, palee, feni vel lignaminum." *Statuti delle società del popolo di Bologna*, ed. Augusto Gaudenzi, vol. 2, *Società delle Arti* (Rome: Forzani e C. tipografi del Senato, 1896), pp. 501–538, esp. p. 520. The list is repeated in *Statuti di Bologna dell'anno 1288*, ed. Gina Fasoli and Pietro Sella (Vatican City: Biblioteca Apostolica Vaticana, 1937–39), vol. 2, Bk. XII, Rubric XXIII, "De societibus inhibitis," p. 220. Despite the injunction against it and its repetition in 1288, the cheese makers in fact had a society, albeit one that was never recognized politically. In their statutes of 1242 they refer to their organization as an "antique societate." Gaudenzi, *Statuti*, vol. 2, p. 169.

<sup>5</sup> Frati, *Statuti di Bologna dall'anno 1245 all'anno 1267*, vol. 2, Rubric LXI, "Quod tabernarii et molendinarii pistores brentatores haburatores non habeat ministrales," pp. 254–55: "Statuimus quod pistores tabernarii et brentatores non habeat ministrales nec molendinarii nec aburatores neque societatem aliquam aliquo modo... nec etiam aliquos ancianos seu rectores, nec aliquod caput..."

<sup>6</sup> Frati, *Statuti di Bologna dall'anno 1245 all'anno 1267*, vol. 3, Rubric CLXXXII, "Quod ordinamenta seu reformationes facta et reformata per omnes et singulas societates artium et armorum civitatis bon. et per universum populum sub anno m.cc.lviii. sint firma et rata," pp. 450–454 and Rubric CLXXXIII, "Reformationes consilii populi pro sapientibus et aliis electis ad inquirendas baratarias bladi," pp. 462–464. The lists

comprised part of the blacksmiths' guild, were granted independence and by 1302 were recognized politically as a separate society.<sup>7</sup> Other occupations had guild organizations, possibly established after the initial formation of the *Societas Populi*, but those guilds did not receive political participation during the thirteenth century, such as the fine wool guild whose statutes survive from 1256 and the rough wool guild from 1288.<sup>8</sup> As individuals, however, the practitioners of some of those occupations, both those without guilds, such as the wine cask carriers, and those whose guilds were not politically recognized, such as the fine wool guild, might be members of certain arms societies and thus participate in political life.<sup>9</sup> The number of arms societies underwent only one change—the elimination of four of them in 1274 when the Lambertazzi were expelled from the city.<sup>10</sup>

In part, this crystallization of the *Societas Populi* stemmed from the economic interests of the powerful merchants and bankers, the only guilds recognized as *arti maggiori*.<sup>11</sup> Despite the growth of the fine wool industry in the middle of the thirteenth century and formation of its guild by 1256, artisans and workers from that sector did not gain political recognition since the fine wool industry was controlled by merchant-bankers who maintained their position through the non-political recognition of the fine wool guild and the absolute exclusion of organizations among the lesser wool workers such as the dyers,

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are also cited by Fasoli, "Le compagnie delle arti a Bologna," p. 239. For the 1257 division of the carpenters and masons, see Tamba, "Da socio ad 'obbediente,'" p. 62.

<sup>7</sup> Raffaella Pini, *Oreficeria e potere a Bologna nei secoli XIV e XV* (Bologna: Clueb, 2007), pp. 15–16; and Giorgio Tamba, "Il consiglio del popolo di Bologna," *Rivista di storia del diritto italiano* 69 (1996): 49–93, esp. p. 69.

<sup>8</sup> Luigi Dal Pane, *La vita economica a Bologna nel periodo comunale* (Bologna: Istituto di Storia economica e sociale dell'Università di Bologna, 1957), p. 128. Members of the barbers' guild testified in 1285 in the court of the Capitano del Popolo that their society was older than thirty years. ASB, Capitano, Giudici, Reg. 75, fols. 11rv, 81v–89v, October 1285–January 1286. A 1272 membership list (*matricula*) of the barbers' guild, with 160 members, survives in a later copy. Antonio Ivan Pini, "Problemi di demografia bolognese del Duecento," *Atti e memorie della Deputazione di storia patria per le province di Romagna*, new series, 17–19 (1969): 147–222, esp. p. 209.

<sup>9</sup> Pini, "Problemi di demografia bolognese," pp. 209–210. Pini estimated there were 100 bakers, another 100 millers and sifters, 140 innkeepers, forty hoteliers and twenty greengrocers enrolled in the *matricule* of the arms societies in 1274.

<sup>10</sup> Fasoli, "Le compagnie delle armi," pp. 167–168.

<sup>11</sup> Frati, *Statuti di Bologna dall'anno 1245 all'anno 1267*, vol. 3, Bk. X, Rubric LXXXVII, "De Elligendis compoxitoribus statutorum," pp. 184–186.

wool beaters, and weavers.<sup>12</sup> Not until the early fourteenth century did some of these guilds gain political recognition. The rough wool guild or *societas lane bixelle*, to be distinguished from the guild of weavers and sellers of rough cloths of mixed fibers or *societas bixileriorum*, did not gain political recognition until 1307.<sup>13</sup> That development occurred, perhaps not coincidentally, shortly after the overthrow of the pro-Ghibelline government which had prevailed between 1300 and 1306. The government had been dominated by jurists, merchant-bankers and a federation of nineteen, then twenty guilds. The new regime of "intransigent" Guelfs, led by a federation of seven arms societies, eliminated the voting advantages of the merchant-banker guilds in the *popolo* councils. This diminution of the merchant-bankers' influence may have permitted the political recognition of the rough wool guild. The barbers, spice merchants and apothecaries, and fine wool guilds finally gained political status in 1318,<sup>14</sup> a concession born from the fiscal desperation of the government.<sup>15</sup> Thus, although the *popolo* based itself politically on the principles of associationism and representation, it also deemed those principles as ones to be carefully controlled. In 1255, a new statute provided that no society was to associate itself with any other society and the penalty for any society or individual who did so was to be treated as one who was banned for homicide, with destruction of properties and decapitation.<sup>16</sup> Even the number of religious confraternities was frozen, at least by 1288, when a herald of the commune announced throughout the city that no new society or confraternity should be made by anyone.<sup>17</sup>

Closure of the *Societas Populi* is evidenced not only by the non-recognition of certain guilds and the refusal to permit certain occupations to organize, but also by the admission policies for new members

<sup>12</sup> Maureen Fennell Mazzaoui, "The Emigration of Veronese Textile Artisans to Bologna in the Thirteenth Century," *Atti e memorie delle accademie di agricoltura, scienze e lettere di Verona*, series 6, vol. 19 (1967–68): 275–322, esp. p. 307.

<sup>13</sup> Pini, "Problemi di demografia," p. 184.

<sup>14</sup> Tamba, "Il consiglio del popolo," p. 69. The fishmongers split into two pre-existing components shortly thereafter.

<sup>15</sup> See below, Chapter Two.

<sup>16</sup> Frati, *Statuti di Bologna dall'anno 1245 all'anno 1267*, vol. 3. Bk. XI, Rubric XXXVI, "Quod aliqua societatum existentium sub anzianis non associet ne cum alia societate seu legnamenta fatiat," p. 295.

<sup>17</sup> ASB, Capitano, Giudici, Reg. 120, fol. 1r, Oct. 4, 1288: "quod aliqua societas seu fraternitas non fiat nec fieri debeat per aliquam personam deinceps de novo ad penam in statutis comunis et populi contemptam."

of the guilds and arms societies. Until 1274, when eligibility to the associations became centralized and controlled by the Capitano del Popolo and the Consiglio del Popolo, the guilds and arms societies established their own, often differing, criteria for membership.<sup>18</sup> Almost all societies, however, expressed in their statutes a common concern that their members not be tainted by *infamia*, a condition that conferred specific legal status upon individuals. An infamous person, for example, was subject to torture if suspected of a crime. Infamy was conferred upon a person if he or she were contumacious, that is, had not responded to a court summons to defend himself from a criminal charge, or if the person was a known recidivist. In 1288, during a war with Modena, those deemed infamous persons were expelled from the city.<sup>19</sup> *Fama* could also refer to reputation, a concern for which also shaped the membership criteria of the guilds and arms societies.<sup>20</sup> For example, the 1291 statutes of the arms society of the Lombards specified that new members' reputations had to be investigated, with inquiries made of at least four of their neighbors to ensure that they were not infamous for certain crimes or riotous behaviors.<sup>21</sup>

In part, moreover, downward closure stemmed from the process by which the men of the guilds asserted their identity and reputation. Gervase Rosser has shown how important it was to medieval artisans to maintain their reputation by dissociating themselves from the petty criminals, prostitutes, "terminally poor," and "permanently

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<sup>18</sup> Although each society had its own standards and approval process for new members, the decisions of the societies, according to the Statutes of 1248, had to be approved by a meeting of the *ministrales* of all the societies. Gaudenzi, *Statuti*, vol. 2, Rubric XXXXI, "De legendo nomen et cognomen illius qui voluerit intrare societatem," p. 520. No one could be received in any society "unless first his name and cognomen were read before the *ministrales* of the guilds and arms societies convoked at a certain place, and not unless it was pleasing to ten parts of those present."

<sup>19</sup> ASB, Capitano, Giudici, Reg. 111, fols. 47r–49v, July 2–19, 1288.

<sup>20</sup> On the concept of *fama* in general, and especially for the distinction between reputation in the streets and *fama* as a legal condition, see *Fama. The Politics of Talk & Reputation in Medieval Europe*, ed. Thelma Fenster and Daniel Lord Smail (Ithaca, N.Y.: Cornell University Press, 2003), pp. 1–11, 210–214.

<sup>21</sup> *Statuti delle società del popolo di Bologna*, ed. Augusto Gaudenzi, vol. 1, *Società delle Armi*, Rome, 1889, p. 37: "videlicet de assassinatu, de lenocino, de furto, de derobatione, de violentiis, de falso, vel quod sint rissose persone; vel quod sint homines seditiosi et qui in aliqua societate populi Bononie de qua sint seu fuerint." A separate rubric forbade the admission of anyone banned "pro aliqua falsitate specialiter contra commune Bononie comissa." Ibid.

unemployed” who were marginalized to the edge of society.<sup>22</sup> He ties this concern for personal reputation to the mobility of workers and shopkeepers and the subsequent concern of recent immigrants who as “dislocated individual[s] inevitably had an equivocal standing in his or her adopted society.” Good repute was essential to obtaining credit and without personal credit “survival in the urban economy was not to be expected.”<sup>23</sup>

The Bolognese guilds and arms societies reflect a similar concern with the behavior of their members. A common thread to statutory provisions of the societies was an effort to curb violent behavior and the perceived causes of such behavior, especially gambling and adultery. For example, the statutes of the fine wool guild of 1256 specified that no one was to gamble for money in the guild’s buildings or in the marketplace, day or night. Nor were they, while in those places, to join a riot, strike anyone (with fists or by pulling someone’s hair), knife anyone, or speak injurious words. If they did so they would be fined and could be expelled from the guild.<sup>24</sup> The 1256 statutes of the arms society of the Lombards stated that henceforth no one could be a member of that society who publicly maintained prostitutes. If the member refused to desist from such activity, he was to return the society’s weapons and banners and be expelled from the society.<sup>25</sup> The arms society of the Lions in its 1256 statutes decreed that a member would be expelled if he committed adultery with another member’s wife, gave false testimony in court, or attacked another member and failed to reach an accord with him within fifteen days.<sup>26</sup> The arms society of the Claws in its 1255 statutes forbade members from pursuing a “war” (*guerra*) with anyone, members or non-members.<sup>27</sup>

With these exclusionary policies based on reputation and behavior, the guilds and arms societies were using downward closure to assert a privileged identity for themselves as honorable and professional

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<sup>22</sup> Gervase Rosser, “Crafts, Guilds and the Negotiation of Work in the Medieval Town,” *Past and Present* 154 (1997): 3–31, esp. p. 29: “The single most pressing earthly concern of every medieval artisan was the establishment of a good personal reputation.”

<sup>23</sup> *Ibid.*, p. 9.

<sup>24</sup> Gaudenzi, *Statuti*, vol. 2, p. 298.

<sup>25</sup> Gaudenzi, *Statuti*, vol 1, p. 18.

<sup>26</sup> *Ibid.*, p. 279.

<sup>27</sup> *Ibid.*, p. 267.

entities.<sup>28</sup> By the same token, certain of the occupations and guilds which were kept outside the *Societas Populi* were excluded because they were deemed too lowly and humble. Vegetable vendors, tavern-keepers, people who lived in the *contado*, and porters were specifically excluded from some societies, as in the case of the arms societies of the Bars and Claws, and were forbidden to organize into guilds.<sup>29</sup> The sellers of herbs, fruits and chickens (*tricoli*), who were also forbidden to have a guild, were lumped together with other groups described as *vilissime* in a mid-century statute that sought to prevent those persons from being elected to the communal council. In order to exclude them, the government set a minimum tax assessment as a requirement for holding that office.<sup>30</sup> Members of the occupations forbidden the right to organize, however, were admitted into the arms societies.<sup>31</sup>

Moreover, the definitions of those designated as “outside” the boundaries of the *popolo* societies broadened significantly during the second half of the thirteenth century. Citizenship and even minimum years of urban residency were seldom specified in the early statutes of the guilds and arms societies. At mid-century, the guild of the masons did not require members to be citizens and had no restrictions against inhabitants of the *contado* or those from outside the district of Bologna.<sup>32</sup> The guild of the bootmakers in 1252 simply required

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<sup>28</sup> For the self-perceived emphasis on honor and professionalism of the bankers, merchants and notaries, see Antonio Ivan Pini, “L’arte del cambio a Bologna nel XIII secolo,” *L’Archiginnasio* 57 (1962): 21–82, esp. pp. 48–49; and the extensive treatment by Massimo Giansante, *Retorica e politica nel Duecento. I notai bolognesi e l’ideologia comunale* (Rome: Istituto Storico Italiano per il Medio Evo, 1999; and his *L’usuraio onorato. Credito e potere a Bologna in età comunale* (Bologna: Il Mulino, 2008). The term “honorable” is used in the 1248 *popolo* ordinances to describe the *consules* of the merchant and banker guilds. Frati, *Statuti di Bologna dall’anno 1245 all’anno 1267*, vol. 3, Bk. X, Rubric CVII, p. 226, “Hec sunt ordinamenta conducta et creata per honorabiles merchatorum consules et campsorum et populi ancianos.”

<sup>29</sup> Gaudenzi, *Statuti*, vol. 1, pp. 193, 267. For a different interpretation of why these occupations were forbidden to organize, see Antonio Ivan Pini, *Città, comuni e corporazioni nel medioevo italiano* (Bologna: Clueb, 1989), pp. 249–251.

<sup>30</sup> Frati, *Statuti di Bologna*, vol. 3, Bk. XI, Rubric LXXXVII, pp. 334–335, “Quod nemo possit esse de consilio nisi habuerit in bonis extimatis in comuni l.lib. bon.”

<sup>31</sup> Roberto Greci, “Immigrazioni artigiane a Bologna tra Due e Trecento,” in *Demografia e società nell’Italia medievale, secoli IX–XIV*, ed. Rinaldo Comba and Irma Naso (Cuneo: Società per gli studi storici, archeologici ed artistici della Provincia di Cuneo, 1994), pp. 375–399, esp. p. 391.

<sup>32</sup> Gaudenzi, *Statuti*, vol. 2, “Statuto della società dei muratori degli anni 1248–1256,” cap. VII, discussed by Tamba, “Da socio ad ‘obbediente,’” pp. 62–64. The essential requirements were only that the individual be at least fourteen years of age and free of servile ties.



that a prospective member must have been living in the city with his entire family continuously for two years.<sup>33</sup> The notaries included *contadini* among their members.<sup>34</sup> In 1256, the statutes of the Lombards specified two years as the residency requirement for admission and the statutes of the Tuscans specified three years.<sup>35</sup> However, admission requirements became increasingly restrictive in the second half of the thirteenth century. The more stringent attitude toward immigrants is most striking in two of the three arms societies that were particularly dedicated to the needs of newcomers—the Lombards and Tuscans. By 1286, the Tuscans denied membership to those who were not citizens and had not lived in Bologna for at least ten years.<sup>36</sup> In 1287, the Lombards increased the residency requirement for new members to twenty years.<sup>37</sup>

The residency requirements for citizenship and office-holding also became more restrictive in the late thirteenth century. In the first half of the century, when the commune had sought to encourage skilled textile workers to immigrate to Bologna, citizenship was offered to them as an inducement and granted immediately.<sup>38</sup> Citizenship protected newcomers from the harsh treatment which could descend upon foreign residents in times of crisis, as happened, for example, during the famine of 1272, when all foreigners were forced to leave

<sup>33</sup> Gaudenzi, *Statuti*, vol. 2, p. 265.

<sup>34</sup> Giorgio Tamba, *La società dei notai di Bologna. Archivio di Stato di Bologna; saggio storico e inventario* (Rome: Ministero per beni culturali e beni ambientali, 1988), p. 36. Office-holding requirements were more restrictive in some guilds. The blacksmiths, for example, in their statutes of 1252 specified that one had to have lived in the city for ten years in order to hold office in their guild. Gaudenzi, vol. 2, Rubric LXX, pp. 243–44.

<sup>35</sup> Gaudenzi, *Statuti*, vol. 1, p. 130 for the Lombards and p. 113 for the Tuscans. These references are also cited by Greci, “Immigrazioni artigiane a Bologna,” p. 380.

<sup>36</sup> ASB, Capitano, Giudici, Reg. 75, fols. 104r–105v, March 1286. The Tuscans denied admission to *Tingus* from Florence for these reasons.

<sup>37</sup> Roberto Greci, “La compagnia dei Lombardi di Bologna (secoli XII–XIV),” in *La Compagnia dei Lombardi in Bologna: contributi per una storia di otto secoli* (Bologna: Ponte Nuovo, 1992), pp. 13–36, esp. p. 32.

<sup>38</sup> Mazzaoui, “The Emigration of Veronese Textile Artisans,” p. 3. These immigrants, mostly from Verona, were also granted other benefits, e.g., a fifteen-year exemption from taxes and military service. The great waves of immigration were over by the late thirteenth century, but newcomers continued to be made citizens. Lists of new citizens from the late thirteenth-early fourteenth century have survived in a copy from 1386. In 1288, there were 185 new citizens, in 1315 there were thirty-four, and in 1326 there were 211. ASB, Estimi, serie prima, Busta 1, Reg. 4, fols. 1r–4v.

the city,<sup>39</sup> and in 1287 when, as part of the aftermath of a conspiracy, all foreigners who had entered the city since 1274 were expelled from the guilds and arms societies.<sup>40</sup> By the 1280s, however, the residency requirement for citizenship had increased significantly. "True citizens" who lived in the *contado*, but who were not to be registered for tax purposes with other *contado* residents as *fumantes*, were defined as those who had been born in the city or who had lived continuously with their families in the city for thirty years, had a tax evaluation (*estimo*), and had served in the military since the first and second expulsions of the Lambertazzi faction in 1274 and 1279.<sup>41</sup> The years of residency as "true citizens" varied for office-holding, but were lengthy. In 1313 the qualification for the office of a guild's legal representative (*syndicus*) required that one have lived as a "true citizen" in the city for forty years, and the qualification for councillor (*consiliarius*) of the guilds and arms societies included a residency of fifty years for the councillor and his ancestors.<sup>42</sup> The pattern of increased discrimination against newcomers and foreigners in political life is also seen in a new statute of 1292 that permanently excluded many of foreign origin from office-holding. The law decreed that those who spoke a foreign language could not hold the office of *anzianus* or *consul*, nor any other office, nor be a member of the Consiglio del Popolo.<sup>43</sup> A law of 1306 required that a foreigner (*forensis*) could not be a member of the popular societies unless he had ancestors inscribed in the *estimo* compiled by a commission headed by the Bolognese judge Pace de

<sup>39</sup> ASB, Capitano, Società d'Arti e d'Armi (1248–1797), Busta II: Società d'Armi, Atti of the Schise of 1272, August 2. The society was voting on a provision from the government councils that called for expelling all foreigners who had come to Bologna within the prior ten years.

<sup>40</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric CXXXVI, "De forensibus de societatibus extrahendis, et quod arma non portent," pp. 498–499. Those cancelled from the guilds, however, were permitted to continue to work their craft as long as they obeyed the guild's officials.

<sup>41</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 2, Bk. IX, Rubric X, "De hominibus comitatus Bononie non habentibus extimum vel non existentibus in fumantes," p. 118. However, the statute does specify that the definition applies to this case: "De hiis excipimus veros cives quos intelligimus in predicto casu esse eos qui oriundi sunt in civitate Bononie vel habitaverint cum tota eorum familia per triginta annos continuos ipsi vel eorum ascendentes, habendo extimum in civitate Bononie et faciendo exercitus et cavalcatas tempore prime et secunde guerre...."

<sup>42</sup> ASB, Comune-Governo, Provvigioni IV, fols. 20r–21v, May 23 and 28, 1313.

<sup>43</sup> Fasoli-Sella, *Statuti dell'anno 1288*, Bk. V, Rubric XXXXIII, "De reformatione quod illi de lingua forasteria non possint esse anziani vel consules nec habere aliquod officium, nec esse de consilio," p. 341.

*Pacibus* in 1277–80.<sup>44</sup> Not coincidentally, the law of 1306 was part of the legislation that followed the final expulsion from the guilds and arms societies of anyone who had ever been a Lambertazzi, including individuals who had been reconciled to the dominant Geremei party after the expulsions of the Lambertazzi in 1274 and 1279. Enrollment in the *estimo* of Pace *de Pacibus* also became the *sine qua non* for a broad range of military and communal activities, with 1279, the year of the second expulsion of the Lambertazzi, becoming the recognized point of closure. For example, in 1314 one had to have (or have ancestors who had) an *estimo* from Pace *de Pacibus* in order to receive an assignment of maintaining a horse for the commune, that is, for serving in the communal cavalry, or for serving as a captain in guarding the communal fortifications (guards, however, needed only to be enrolled in the 1296 *estimo*).<sup>45</sup> The Pace *de Pacibus estimo* was also a requirement for those eligible to enjoy the reaffirmed legal privileges of the *popolo* in 1320.<sup>46</sup>

At least equal to the *popolo*'s concern to keep foreigners out of the guilds and arms societies (after 1287) was its earlier concern to exclude *fumantes*, and later, the descendants of *fumantes*. A *fumans* was an inhabitant of the *contado* who was registered in special tax rolls, which were distinct from and more onerous than those for *cives*. *Fumantes* were also subject to obligations of labor, for example, for the building and maintenance of bridges and roads in the *contado* and other pub-

<sup>44</sup> ASB, Capitano, Giudici, Reg. 645, fols. 73r–81v, Aug. 12–Sept. 24, 1318. The 1306 law and its re-proclamation on Jan. 22, 1316 are cited in this trial against a man who was charged with being illegally enrolled in two popular societies since neither he nor his ancestors had an *estimo* from the time of Pace *de Pacibus*, because he was a Ghibelline, a *blancus* (member of the White Party), a foreigner and *de lingua forasteria*. The penalty was a substantial fine of 300 pounds if such a person did not remove himself from the guilds and arms societies within three days. For the dating of the *estimo* by Pace *de Pacibus*, see Rosa Smurra, *Città, cittadini e imposta diretta a Bologna alla fine del Duecento. Ricerche preliminari* (Bologna: Clueb, 2007), pp. 41–54.

<sup>45</sup> ASB, Comune-Governo, Provvigioni IV, fols. 32v–33r, May 31, 1314. In 1317 four men had to be approved by special legislation to be considered as if they had been enrolled in the Pace *de Pacibus estimo* in order to serve in the *militia*. *Ibid.*, fol. 86r, July 23, 1317.

<sup>46</sup> ASB, Capitano, Giudici, Reg. 680, fol. 62r, Feb. 14, 1321. In this *consilium* Giovanni Picioli from Tavernola was absolved of the charge that he was a *fumans* enrolled in the *liber fumantum* of 1282. Giovanni was able to produce documents showing that he was the brother, not the son of a *fumans*, and that he had received a special legislative act (*riformazione*) from the Consiglio del Popolo granting him the status of a person whose ancestors were inscribed in the *estimo* made by Pace *de Pacibus* and his associates, thereby validating his privileges.

lic works.<sup>47</sup> Some societies expressly excluded non-citizens from their earliest statutes, as did the arms society of the Claws, but this was not a standard among other arms societies and guilds in the first half of the thirteenth century.<sup>48</sup> Roberto Greci has shown that 40 percent of the approved new notaries in 1220 and 1237 were *fumantes*, a percentage that shrank, however, in the following decades. With a major reform and reordering of the qualifying examinations for notaries in 1283–84, notaries from the district were denied admission to the guild, which became exclusively an association of urban notaries.<sup>49</sup> The prohibitions against the membership of *fumantes* in the popular societies became more severe by the late thirteenth-early fourteenth century. *Fumantes*, but not foreigners, are among those individuals purged from the guilds and arms societies in 1274.<sup>50</sup> In 1289, the Consiglio del Popolo legislated that no *fumans*, son or descendant of a *fumans*, or inhabitant of any rural commune, could be a member of the guilds or arms societies.<sup>51</sup> A law of 1292 distinguished between *fumantes* who had entered the city before and after the compilation of a new *estimo* of the *fumantes* in 1282, denying admission into the societies of those enrolled in or after 1282.<sup>52</sup> According to a law of 1315, which may have been a renewal of an earlier law, a person of *fumans* ancestry had to have had a father born in the city in order to be a member of a popular society.<sup>53</sup>

Closure was also usurpationary or upwards, as in the exclusion of nobles, knights (*milites*), magnates, and those who owed members of

<sup>47</sup> Rolando Dondarini, *Bologna medievale nella storia delle città* (Bologna: Pàtron, 2000), p. 197. Some *cives* (the *cives malenutriti*) retained their citizenship while living in the *contado* for most of the year, but the majority of *contado* inhabitants were *fumantes*.

<sup>48</sup> Gaudenzi, *Statuti*, vol. 1, p. 267.

<sup>49</sup> Roberto Greci, "Professioni e 'crisi' bassomedievali: Bologna tra Due e Quattrocento," in *Disuguaglianze: Stratificazione e mobilità sociale nelle popolazioni italiane (dal sec. XIV agli inizi del secolo XX)*, Savona, 1992 (Bologna: Clueb, 1997), vol. 2, pp. 707–729, esp. p. 715.

<sup>50</sup> See below, Chapter One, Part II.

<sup>51</sup> ASB, Comune-Governo, Riformagioni 128, fol. 171v, Feb. 21, 1289: "nec aliquis fumans vel filius fumantis nec aliquis descendens ex fumantibus nec aliquis rusticus habitator alicuius terre comitatus Bononie qui non habeat extimum in civitate Bononie."

<sup>52</sup> ASB, Capitano, Giudici, Reg. 227, fol. 48r, Feb. 1, 1294. The trial in 1294 refers to a law of 1292 in connection with a *fumans* who had not removed himself from the arms society of the Lions as called for in that law.

<sup>53</sup> ASB, Capitano, Giudici, Reg. 645, fols. 6r–15r, May 9, 1318. The 1315 legislation is referenced in this trial of 1318.

those groups allegiance, e.g., those holding fiefs from them or serving them under oath, such as squires (*scutiferi*). Nobles and knights had been excluded from the anzianate, or council of elders (the executive body of the *popolo*) since 1248, but the *statuto generale* of that year did not specify membership requirements for the guilds and arms societies as a whole, and those requirements varied up to the purges of 1272–1274.<sup>54</sup> The arms society of the Dragons, for example, in its statutes of 124 (at which time it was called the Deers or *Cervi*), forbade membership to those in a dependent relationship, such as followers in a band, but referred to knights (*milites*) as well as to infantrymen (*pedites*) as members of the society, so clearly did not forbid membership to *milites*.<sup>55</sup> The arms society of the Claws, however, in its statutes of 1255 excluded nobles, knights and their relatives, as well as squires, and the arms society of the Griffins in 1258 forbade membership to any knight or son of a knight.<sup>56</sup> But the Claws and Griffins were exceptional in their exclusion of nobles and knights, nor is the argument one simply *ex silencio*. The criteria for membership in the Consiglio del Popolo according to the Statutes of 1259–62 show clearly that nobles and knights were not at that time uniformly forbidden access to the popular societies. The statutory provision forbids judges, knights and the sons of knights from being members of the Consiglio del Popolo unless they were members of the arms societies. It also permits them

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<sup>54</sup> Gaudenzi, *Statuti*, vol. 2, pp. 505–506, Rubric III, “De ellectione anzianorum”: “Et anziani esse non possint aliquis miles vel filius militis vel magnatis vel capitaneus alicuius contrate, nec vassallus vel filius vassalli; scilicet qui a .XV. annis citra se astrinserit alicui occasione alicuius fidelitatis vel habuerit aliquid in amititiam ab aliquo a dicto tempore citra, vel deinceps, habebunt vel astringet; nec aliquis favorabilis vel astrictus partibus.”

<sup>55</sup> Gaudenzi, *Statuti*, vol. 1, pp. 33, 220, 223. Other societies that forbade admission to those in dependent relationships included the Claws in 1255 (“aliquis qui sit vel fuerit servus vel manumissus vel filius servi vel ammumissi per commune Bononie”) and the Bars in 1255 (“pactuales, scilicet servientes qui stent cum aliquo ad feudum”), *ibid.*, p. 193.

<sup>56</sup> For the Claws, Gaudenzi, *Statuti*, vol. 1, p. 267: “qui sit nobilis, capitaneus, vel valvasore, vel nobili prole, vel miles, vel filius militis vel magnatis aut de prole militis, vel ex qua sit vel fuerit aliquis miles.” For the Griffins, *ibid.*, p. 322: “Qui sit milex vel filius militis vel capitaneus alicuius contrate vel favorabilis alicui parti civitatis Bononie [non] recipiatur in nostra societate.” These passages are also cited by Gina Fasoli, “La legislazione antimagnatizia a Bologna fino al 1292,” in *Rivista di storia del diritto italiano* 6 (1933): 351–392, esp. pp. 356–358; and Antonio Ivan Pini, “Magnati e popolani a Bologna nella seconda metà del XIII secolo,” in *Magnati e popolani nell’Italia comunale. Atti del Quindicesimo Convegno di Studi, Pistoia, 15–18 maggio 1995* (Pistoia: Centro Italiano di Studi di Storia e d’Arte, 1997), pp. 371–395, esp. p. 388; and his “Problemi di demografia,” pp. 198–199.

to serve only as *sapientes* to the Consiglio and not as *ministrales* or *consiliarii* (the contingents sent by the guilds and arms societies to the Consiglio del Popolo comprised holders of all three offices). Thus, judges, knights and the sons of knights *could* be members of the arms societies (unless forbidden by a particular society, as in the case of the Griffins and Claws), and *could* even be elected as *sapientes* from the arms societies to the Consiglio del Popolo.<sup>57</sup> Although a general policy must have been in place earlier, it is not until 1288 that we have a provision forbidding membership in the guilds and all arms societies to anyone who was a knight, brother, son or grandson or a knight, or nephew of a knight on the paternal side, or a noble or person of noble ancestry, or a judge of noble ancestry.<sup>58</sup> But this policy was implemented earlier, probably by 1274, as can be seen in the purges carried out systematically that year and in the 1280s against individuals from the forbidden groups who were found enrolled illegally in the guilds and arms societies.<sup>59</sup> The policy was broadened in 1289 to include the uncles, fathers and fathers-in-law of a knight or noble.<sup>60</sup>

Prohibitions against membership could also extend beyond the minimum standards set by the Consiglio del Popolo, particularly against

<sup>57</sup> Frati, *Statuti di Bologna dall'anno 1245 all'anno 1267*, vol. 3, Bk. XI, Rubric CXXXI, "Quod non possunt esse de consilio populi nec officia populi habere," p. 400: "Statutimus et ordinamus quod nullus iudex vel miles vel filius militis possit nec debeat esse consilio populi bon. nec aliquod officium habere de populo bon. nisi solummodo pro societatibus armorum suorum que sub anzianis sunt et consulibus mercatorum et camporum populi bon. nec possit esse ministralis nec consiliarius in societatibus armorum."

<sup>58</sup> Gaudenzi, *Statuti*, vol. 1, p. 535. The provision is a statute of 1288 included in the statutes of the Griffins of 1295: "nullus posit esse de societatibus arcium vel armorum, cambia vel merchandantie populi Bononie, nec in eis de novo recipe, qui sit milix vel filius militis vel nepos militis vel filius filii militis, nec frater militis nec filius fratris masculi militis, vel aliquis nobilis de nobili progenie natus, sive habeat patrum vivum sive non... nec aliquis iudex, qui sit de nobili progenie natus; alii vero iudices possint esse de societatibus populi Bononie."

<sup>59</sup> See below, Chapter One, Part II.

<sup>60</sup> ASB, Comune-Governo, Riformagioni 128, fol. 171v, Feb. 21, 1289: "nullus posit poni nec recipe qui sit miles vel filius militis vel nepos militis filius filii masculini nec frater militis nec filius fratris militis masculini vel aliquis nobilis de nobili progenie natus, sive habeat patrem avuum fratrem patrimum unius sive non... nec aliquis iudex qui sit de nobili progenie natus. Item nec aliquis qui non sit de parte Jeremiensis civitatis Bononie, nec aliquis fumans vel filius fumantius nec aliquis descendens ex fumantibus nec aliquis rusticus habitator alicuius terre comitatus Bononie qui non habeat extimum in civitate Bononie vel aliquis alius qui non habeat extimum eidem inpositus per officiales ad hoc deputatos specialiter ipse vel pater eius vel avuus vel aliter seu alia persona." The provision was passed with an addition forbidding entrance to the father of a knight ("nec pater militis posit poni").

the more powerful individuals or groups of the community, whether magnates or *popolani*. Thus the arms society of the Horses in its statutes of 1288 (but not in its earlier statutes of 1230 and 1235) forbade admission to judges, presumably *popolani* as well as magnate judges since they did not specify only those of noble ancestry, and anyone from any house having insignia.<sup>61</sup> The Lombards in their 1291 statutes forbade admission to anyone “from great houses of the *popolo*.”<sup>62</sup> The cordwainers’ guild in 1256 excluded from participation in the election of guild officials those members who did not practice the craft with their own hands.<sup>63</sup> The blacksmiths, who included in their *matricula* of 1294 a group of merchants who dealt with metals, forbade those merchant members from voting or holding office.<sup>64</sup> Similarly, the arms society of the Minivers, in an addition to its statutes of 1256, decided that no one, for the following five years, would be admitted into the society unless he were from the “lesser guilds,” which comprised all guilds other than the merchants and bankers.<sup>65</sup> The provision was apparently aimed against men from those powerful guilds. By 1282 anyone who had entered the guilds after 1274 had to work his craft with his own hands in order to hold office in any of the guilds.<sup>66</sup>

Finally, closure also involved another dramatic usurpationary thrust, in part upwards but also lateral in nature as the *popolo* allied itself with the Geremei party and succeeded in expelling magnates and *popolani* of the Lambertazzi party from political life, and in part even from the city and district. The *popolo*, prior to the 1270s, had attempted to avoid involvement in the monumental factional struggles between the Geremei and Lambertazzi.<sup>67</sup> But many *popolani* had in fact become deeply involved in the factional struggles, as evidenced by the number

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<sup>61</sup> ASB, Capitano, Società d’arti e d’armi, Busta I, fol. 7r: “aliquot casale civitatis Bononie habens armaturam seu insignam.” The statutes of 1230 and 1235 are published in Gaudenzi, but not those of 1288.

<sup>62</sup> Gaudenzi, *Statuti*, vol. 1, p. 36: “de magnis casalibus populi.”

<sup>63</sup> ASB, Capitano, Società d’arti e d’armi, Busta I.

<sup>64</sup> ASB, Capitano, Libri matricularum, Busta II, fol. 154v. Eleven merchants were named under this category. The entry is dated June 1298.

<sup>65</sup> Gaudenzi, *Statuti*, vol. 1, p. 344: “nisi fuerit de artibus minutis cyvitatibus Bononie, que sunt sub anzianis populi, et de ipsis artibus personaliter operetur.”

<sup>66</sup> Fasoli-Sella, *Statuti dell’anno 1288*, vol. 1, Bk. V, Rubric XVIII, “Quod nullus de societatibus artium possit habere officium pro dicta societate nisi suis manibus exercuerit artem; qui intraverit dictas societates ab anno Domini millesimo ducesimo septuagesimo quarto, indictione secunda de mense aprilis citra,” p. 313.

<sup>67</sup> John Koenig, *Il “popolo” dell’Italia del Nord nel XIII secolo* (Bologna: Il Mulino, 1986).

of society members who were subsequently banned in 1274, including four entire arms societies which were eliminated because they were considered to be dominated by Lambertazzi.<sup>68</sup> In 1274, under the leadership of the famous notary, Rolandino Passaggeri, the *popolo* allied itself with the Geremei faction and after a civil war that lasted for forty days, succeeded in expelling the Lambertazzi from the city. There was a brief interval of reconciliation in 1278–79, maneuvered by a papal envoy, but the Lambertazzi were again expelled in 1279.<sup>69</sup> The expulsion of the Lambertazzi has been treated by historians as a cataclysmic event, involving the expulsion of 12,000–14,000 Lambertazzi, an event that heralded the decline of Bologna, but as Giuliano Milani has shown in his definitive recent work, the expulsion was not as large or as long-lasting as has been assumed. Approximately 4,000 men were banned, but many Lambertazzi re-entered the city within a few years, with especially large re-entries occurring in 1292, 1296 and 1299, a development necessitated by military and fiscal pressures from the war with the lord of Ferrara. Moreover, the final expulsion of the Lambertazzi in 1306 was on a far lesser scale than the expulsions of 1274 and 1279.<sup>70</sup>

Nevertheless, 1274 brought a fissure to Bolognese society that deepened significantly after 1306 and endured throughout the communal period. Lambertazzi were divided into those, on the one hand, who were actually expelled from the city under varying conditions (some were banned and others “confined” to particular places either outside

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<sup>68</sup> The four eliminated arms societies were the Claws of S. Stefano, the Dolphins, the Rakes and the Crossbars of Val d'Aposa (*Societates Brancarum strate S. Stephani, Dalfinorum, Rastellorum, and Traversarum vallis Apose*). Gaudenzi, *Statuti*, vol. 1, p. 40. Also cited by Fasoli, “Le compagnie delle armi,” p. 168. However, Milani has shown that the average number of individuals cancelled from the *matricule* of those societies was approximately 10 percent, actually lower than the average in the other arms societies. According to Milani, the four societies' cancellation was more likely due to a more general reorganization of the *popolo*, and the Lambertazzi labeling of those societies served to justify the reorganization. Giuliano Milani, *L'esclusione dal comune. Conflitti e bandi politici a Bologna e in altre città tra XII e XIV secolo* (Rome: Istituto Storico Italiano per il Medio Evo, 2003), p. 256. In addition, there may have been a separate society of Lambertazzi butchers which was also cancelled. There is a *matricula* from 1275 of 295 men who comprised the *societas bechariorum de parte Lambertaciorum de quarterio porte Ravennatis*. Pini, “Problemi di demografia,” p. 191.

<sup>69</sup> Gina Fasoli, “Bologna nell'età medievale (1115–1506),” in *Storia di Bologna*, ed. Antonio Ferri and Giancarlo Roversi (Bologna: University Press Bologna, 1996), reprint of 1978 edition, pp. 128–196, esp. pp. 161–162.

<sup>70</sup> See below, Epilogue.



the Bolognese district or inside the Bolognese *contado*), and those on the other hand, who were permitted to remain in the city as *confinati de garnata*. The latter were subject to removal from the city at any time at the order of the Capitano del Popolo. The *confinati de garnata* were excluded from the popular societies, but Lambertazzi who swore allegiance to the Geremei party were accepted as Geremei, usually in a formal ceremony marked by the kiss of peace. These “reconstituted” Geremei could and did re-enter the guilds and arms societies. However, they were not permitted to elect officials or hold office in those societies, nor could they be elected to the communal councils or the Consiglio del Popolo, or hold any communal office.<sup>71</sup> The exclusion against the Lambertazzi was therefore considerably more severe than that against magnates, who were not forbidden access to communal, as opposed to *popolo*, councils and offices. The lateral closure against Lambertazzi also acted in part as usurpationary closure since the exclusion of Lambertazzi magnates and nobles weakened the magnates as a whole and, as we shall see, helped usher in a period of harsher treatment of magnates. Moreover, Lambertazzi were removed from the military units of the Twenty-five (for the *pedites* or infantry) and the Ten (for the *equites* or cavalry). They also could not participate in the allotment of horses (*assignatio equorum*), but had to pay for someone else to ride a horse for them, and had to pay heavier taxes than the Geremei.<sup>72</sup> In short, the Lambertazzi, even those who had sworn allegiance to the Geremei, to a considerable degree became second-class citizens. After 1306 the Lambertazzi were designated as comprising anyone who had ever had a Lambertazzi ancestor, making a hereditary, non-negotiable class of that excluded group. As we shall see, the magnates also became a hereditary group by the turn of the century.<sup>73</sup>

Thus, by the early fourteenth century, *fumantes*, foreigners, magnates and Lambertazzi had been designated as hereditary excluded groups. The *popolo* had constructed and identified itself by excluding these groups and others designated as “lowly” and “marginal,” such as *persone infame* and *vilissime*. All were perceived, to varying degrees,

<sup>71</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. II, Rubric VIII, July 1, 1284, “De lanbertaciis qui non possunt habere offitium nec esse consilarii,” pp. 58–60. Not only the Lambertazzi themselves, but also their fathers, sons, nephews and descendants were forbidden to hold any office, *popolano* or communal.

<sup>72</sup> Milani, *L'esclusione dal comune*, pp. 253–255, 269, 394–395.

<sup>73</sup> See below, Chapter Four, Part II.

as threatening the privileged position acquired through exclusionary and usurpationary closure by the *popolo*. The exclusionary policies of the *popolo* were suited to a society that lived by polarities, by the division of society at all levels into networks of friendship and enmity as the foundational principle of survival. As the dangers the *popolo* faced deepened, so too did the severity and scope of their exclusionary policies. Exclusion and anxiety, narrowing boundaries and deepening fear were interwoven and mutually accelerating.<sup>74</sup> Intergroup relationships were based on conflict, not on trust, and conflicts were pushed to absolute conclusions on the belief, well-founded in experience, that to be out of power was to lose everything.<sup>75</sup>

The deliberately exclusionary policies of the *popolo* were reinforced by two other developments: the involution of guilds and arms societies as they became first more hereditary in the scope of their membership and vastly more limited in their number of newcomers, and secondly more aristocratic with the diffusion of certain powerful families throughout a broader range of guilds and arms societies. The first process, involution, or the increasingly hereditary nature of guild membership, was identified by Giorgio Tamba in two model studies of the masons' and notaries' guilds. In the late thirteenth century these guilds became less viable as vehicles of social mobility as members were replaced with members' sons rather than with newcomers to the profession or city. Comparing the membership lists of the masons from 1274 and 1294, Tamba found that the percentage of related members increased from eighteen to twenty-two. Moreover, analyzing the additions to the list of 1294, he found that between 1297 and 1313 the average number each year of new members who were not relatives of existing members was three, whereas the annual average between 1272 and 1294 was eight. Of the fifty-seven new members added between 1294 and 1313, twenty-two, or 38 percent, were the sons of those already inscribed in the 1294 list.<sup>76</sup> Tamba found the same trend of guilds becoming more hereditary in their admission of new members in his study of the notaries. In that guild he found

<sup>74</sup> For a discussion of the relationship of anxiety, the suspicion of outsiders and the setting of boundaries, see *Christendom and its Discontents*, ed. Scott L. Waugh and Peter D. Diehl (Cambridge: Cambridge University Press, 1996), pp. 2–12.

<sup>75</sup> On the absence of the concept of a loyal opposition and the "winner take all" principle, see Thomas L. Friedman, "A free election in Bahrain. Grandmother is getting her say," in *International Herald Tribune*, (October 29, 2002): 6.

<sup>76</sup> Tamba, "Da socio ad 'obbediente,'" pp. 72–77.

that the percentage of new members who were relatives of existing members rose significantly, from 58.6 percent between 1284–85 and 57.2 percent between 1291–1300, to 75.2 percent between 1301–1310, to 89.7 percent between 1311–1320 and to 91.5 percent between 1321–1330.<sup>77</sup>

A high level of relatives—53 percent—also was found by Raffaella Pini among the goldsmiths, in their *matricula* of 1298–1313.<sup>78</sup> As Pini points out, highly skilled crafts, such as the goldsmiths, were especially likely to pass their skills on to their sons, which may in part explain the high levels of relatives among their members. However, I also find that other guilds reflect the same practice, even the primarily commercial guilds. For example, the guild of the sellers of rough cloths also had a high level of relatives in 1294—42.4 percent. Moreover, among the additions to that guild, which continue through 1315, seventy-seven of 154 new members, or 50 percent, were relatives, almost always sons, of the 1294 members.<sup>79</sup> Of the sellers of linen cloths, seventy-six of 108, or 70.3 percent of members in 1294 were relatives, and of the 244 additions to that guild from 1297 through 1315, 170, or 69.7 percent, were also relatives.<sup>80</sup> The haberdashers had 127 relatives, or 42.6 percent, among their 298 members in 1294. Of their 220 additions (from 1298 through 1315), 105, or 47.7 percent, were relatives of other new members, or the sons of members listed in 1294.<sup>81</sup> In the case of the salt-sellers, the notary of the 1274 *matricula* identified members who were relatives of other members. Seventy-six of 383, or 19.8 percent are thus identified as brothers or sons of other members. In 1294, of the 279 members of that guild, ninety-four, or 33.7 percent, were relatives. Of the sixty-eight new members enrolled between 1297 and 1308, forty-two, or 61.8 percent, were relatives or sons of the members listed in 1294.<sup>82</sup> Involution of guild membership thus seems to have been pervasive among the guilds. It also was an intensifying but not a new trend at the turn of the century.

Moreover, the increasingly hereditary nature of guild membership is paralleled by a decline in members of foreign provenance between

<sup>77</sup> Tamba, *La società dei notai di Bologna*, p. 52.

<sup>78</sup> Pini, *Oreficeria e potere a Bologna*, p. 30.

<sup>79</sup> ASB, Capitano, Libri matricularum, Busta II, fols. 201r–212v.

<sup>80</sup> Ibid., fols. 247r–254r.

<sup>81</sup> Ibid., fols. 135r–144v.

<sup>82</sup> Ibid., fols. 253r–262v.

1274 and 1294. This decline took place despite the increase in guild membership for those years that Pini found in comparing the *matricule* of 1274 and 1294.<sup>83</sup> Tamba, in his study of the masons, found that the number of members of that guild who were from outside the city and district of Bologna in 1272 was eighteen, but only five in 1294.<sup>84</sup> Was there a similar pattern in other guilds? I find that the sellers of rough cloths had six such members in 1274,<sup>85</sup> only one in 1294 (from San Marino), and none among the additions between 1304 and 1315. The same pattern is found in a sample comparison of the *matricule* of the salt-sellers,<sup>86</sup> the linen sellers,<sup>87</sup> and the tailors.<sup>88</sup> The only guild in this sample to show a contrary trend is that of the haberdashers. It had four members of foreign provenance in 1274,<sup>89</sup> and five in 1294.<sup>90</sup> There was only one member of foreign provenance, however, in the additions to that guild (from Verona). These data indicate that the great waves of immigration that characterized the demographic expansion of Bologna in the thirteenth century were over by 1274 and declined further at the turn of the century, despite the increase in total membership of the guilds between 1274 and 1294.<sup>91</sup> The data may also reflect the harsher policy towards foreigners in the guilds initiated in 1287, as noted above, although as we shall see, a similar phenomenon affected the arms societies.

<sup>83</sup> Pini, "Problemi di demografia," p. 197.

<sup>84</sup> Tamba, "Da socio ad 'obbediente,'" pp. 72–77.

<sup>85</sup> Three from Verona, two from Reggio, and one from San Marino.

<sup>86</sup> The salt-sellers had thirteen in 1274 (five from Tuscany, four from Reggio, and one each from Cento, Imola, Verona, and Vignola). But in 1294 there was only one (from Perugia) and one in the additions (from the Marches).

<sup>87</sup> They had six in 1274 (one each from Cremona, Florence, Imola, Padua, Spoleto, and Verona), two in 1294 (from Ferrara) and three (from Reggio) in the additions.

<sup>88</sup> Twenty-four in 1274 (six from Reggio, four each from Florence and Parma, two each from Brescia and Mantua, and one each from Carrara, Cremona, Lucca, Perugia, and Prato), seventeen in 1294 (four each from Cento and Reggio, three from Florence, two from Verona, and one each from Cremona, Parma, San Marino, and Spoleto), and two in the additions (one each from Foligno and Venice).

<sup>89</sup> One each from Alexandria, Florence, Reggio, and Verona.

<sup>90</sup> Two from Florence, and one each from Parma, Pistoia, and Verona.

<sup>91</sup> Pini estimated that the total membership of the guilds in 1274 was 8,344, and 10,372 in 1294. The membership of the arms societies increased from 7,402 in 1274 to 8,032 in 1314. Pini, "Problemi di demografia," p. 215. These increases, at least in part, reflect political rather than demographic changes. Thus, in 1292 everyone in the guilds over age eighteen was required to enroll in an arms society in the quarter in which they lived. ASB, Capitano, Giudici, Reg. 191, fol. 2r, Oct. 7, 1292.

Patterns of foreign immigration are particularly revealing in the *matricule* of the arms societies that were dedicated to foreign immigrants—the Stars, Lombards, and Tuscans. The Stars were open to all foreign immigrants, but the other two societies restricted their membership to immigrants or those whose fathers and grandfathers were immigrants from their respective regions. The ascription of foreign provenance to the name of a member thus could refer to a recent immigrant but also could have become part of the patronymic of a father or grandfather (except if the formula “fuit de” was added to the place name, as was done occasionally). In contrast to the other arms societies, the three “immigrant” societies had declined, not increased, in their membership between 1272–74 and 1314.<sup>92</sup> Greci, in a study of the Lombards, noted that foreign provenance was ascribed to the names of very few members in the *matricula* of 1314, and concluded that what he termed as “bolonization,” that is, the replacement of foreign immigrants by *bolognesi*, had occurred in that arms society in the early fourteenth century.<sup>93</sup> Certainly the 1314 data on the Lombards contrast sharply with earlier data he presents for that society in another study of foreign immigrants. In the *matricula* of the Lombards of 1272–74 he found 181 members from major cities of Lombardy and Emilia, and another fifteen from minor northern centers.<sup>94</sup>

In that same study Greci also provides data from the *matricule* of the Stars and Tuscans which similarly reflect high levels of names with indication of foreign provenance at mid-century. The 1259 *matricula* of the Stars yields ninety-four such names out of 391 (24 percent).<sup>95</sup> In the 1272 *matricula* of the Stars, the number of those with foreign provenance specified was 106 of 392 (27 percent).<sup>96</sup> Of the 562 members of the Tuscans in 1259, only fifty-five (9.7 percent) were of specified foreign provenance, but in the additions from 1260–73, another sixty-four members were so designated out of 348 new names

<sup>92</sup> Pini, “Problemi di demografia,” p. 189. The Lombards declined from 556 to 392 members, or 29.4 percent, the Tuscans from 596 to 392, or 34 percent, and the Stars from 298 to 285, or .04 percent (my calculations).

<sup>93</sup> Greci, “La compagnia,” p. 24. In 1314 Greci found only two members from Milan, and one each from Brescia, Bergamo and Reggio. In the additions he found only one each from Brescia and Lodi. In 1274 he found 172 members of foreign provenance out of 555 members, or 30.9 percent (my calculation). *Ibid.*, p. 23. The 555 figure is given in his “Immigrazioni artigiane,” p. 384.

<sup>94</sup> Greci, “Immigrazioni artigiane,” pp. 389–390. (The percentage is my calculation.)

<sup>95</sup> *Ibid.*, p. 390. (The percentage is my calculation.)

<sup>96</sup> *Ibid.*, p. 383. (The percentage is my calculation.)

(18.3 percent).<sup>97</sup> If we compare Greci's data for the Tuscans and Stars at mid-century with the *matricule* for those societies in 1314, we find that dramatic "bolonization" had also occurred in those societies. The Tuscans had only three members with foreign provenance in 1314 out of 394 members (0.76 percent),<sup>98</sup> and five in the additions,<sup>99</sup> out of 232 from 1315–1326 (2.1 percent).<sup>100</sup> The process was apparently complete for the Stars in 1314—in that *matricula* we find no one with foreign provenance out of the 243 members in 1314 and none in the 163 additions from 1317 through 1326.<sup>101</sup>

As for the other arms societies, which were not dedicated to immigrants, the number of members with foreign provenance in their patronymics had diminished almost to the vanishing point by 1272–74, even though the residency requirements for members were still low in those years and no members were excluded in 1274 because they were foreigners. In the arms societies that were located towards the center of the city the number of members with foreign provenance ranged from zero in the Deers (called Dragons after 1274)<sup>102</sup> to a high of 5.4 percent in the Minivers. In societies that extended to the city gates or were without topographical boundaries, where one might expect more immigrants, given medieval residency patterns, the numbers are still very low, for example, 2.2 percent in the haberdashers *pro armis* and 0.9 percent in the Lions.<sup>103</sup> It thus seems that a decrease in immigration preceded the anti-immigrant policies of the *popolo* in the late thirteenth century and that "bolonization" of the "immigrant" societies marked the culmination at the turn of the century of a process that had begun decades earlier throughout the arms societies.

Moreover, the increases in membership in the guilds between 1274 and 1294 (with additions for another decade after 1294) and in the arms societies between 1274 and 1314 (again with additions for another decade for the latter date), were marked by a third phenomenon that paralleled the involution of the guilds and "bolonization" of the arms societies—the process by which elite families from the merchants',

<sup>97</sup> Ibid., pp. 390–391.

<sup>98</sup> One each from Lucca, Prato and Siena.

<sup>99</sup> Three from Lucca, and one each from Florence and Pistoia.

<sup>100</sup> ASB, Capitano, Libri matricularum, Busta III, fols. 153r–164r (plus four unnumbered folios).

<sup>101</sup> Ibid., fols. 72r–80v.

<sup>102</sup> Fasoli, "Le compagnie delle armi," p. 168.

<sup>103</sup> ASB, Capitano, Libri matricularum, Busta I.

bankers', and notaries' guilds moved into and gained prominence in other guilds and arms societies, thereby broadening their spheres of influence and power. This process is distinct from but connected to an increase within the arms societies of the number of related members, a phenomenon also noted above in the guilds. In the arms societies, as in the guilds, the proportion of members who were related to each other increased significantly. The increase had two sources. It stemmed in part from an expansion in the number of relatives within particular families who were members of the society, but also was due to the infusion within the society of new families. The Deers-Dragons present an extreme version of the latter development. In 1272, twenty-nine of the eighty-four members of the Deers (34.5 percent) were related. In 1314 that figure increased to ninety-nine of 191 (51.8 percent) of the Dragons. Of the 210 new members added from 1315 through 1327, thirty-seven, or 17.6 percent, were related to the members given in the 1314 list. Of particular significance, in 1314 and in the additions to that year, there were eight prominent families of the political elite new to the society. Only two other elite families, the Rasuri and Vatagliano, were also enrolled earlier in the *matricula* of 1272.<sup>104</sup> Moreover, the new families also comprised large contingents of relatives. For example, the Gozzadini had thirteen members—six in the original list of 1314, three from 1316, one in 1321 and three in 1327. The other new and large families included the Baciacomari, Graziadio, Pizoli, da Guercino, Dosi, da Galisano, and da Lana.<sup>105</sup> All these families were from the merchant-banking and notarial elite of the city, as evidenced by their presence in the guild *matricule* of 1272–74 or 1294.

<sup>104</sup> The Rasuri or Rasori family in 1314–27 had thirteen members, eight from the original list of 1314 with two additions in 1317 and two in 1327. The Vatagliano family had only one member in 1272 and three in 1314.

<sup>105</sup> ASB, Capitano, Società d'arti e d'armi (1248–1797), Busta I, for the *matricula* of the Deers; ASB, Capitano, Libri matricularum, Busta III, fols. 147r–152r for the Dragons. The Baciacomari family had twelve members, seven in 1314 and five added in 1316. The Graziadio family had eight members, all enrolled in 1314, including the four sons of the prominent judge Giuliano di Cambio. Next was the Pizoli family with seven members, four in 1314, one in 1317 and two in 1318, followed by five of the da Guercino (one of whom served as notary of the society in 1317), with two members in 1314 and three in 1320. The Dosi family had two members in 1314, two in the additions of 1320 and one in 1315 (a member of the family also served as notary of the society). The da Galisano had five members, one in 1314 and four added in 1319. The da Lana had four members, all in the original list of 1314 and all sons of Domenico da Lana.

Multiple matriculations in diverse guilds as well as in arms societies marked the expanding influence of the political elite. Cross-matriculation in the guilds in general existed as early as 1244 when the tailors forbade members who were also members of the merchants' and furriers' guilds from holding office in the tailors when that guild was engaged in a dispute with the other two guilds.<sup>106</sup> The cross-matriculation of the notaries in a wide range of other guilds and societies was first noted by Giorgio Tamba. Their professional skills as notaries helped them achieve leadership positions in those guilds and arms societies even when they did not serve as the official notary for those organizations.<sup>107</sup> Brian Carniello also noted the listings of notarial families in multiple guilds, and also the entrance of merchant-banker families into the notaries' guild, and dated the initiation of these trends to the decade after 1282.<sup>108</sup> I have found, however, that both trends began earlier. Thus, the Bambaglioli and Rovisi families, whom Carniello uses as exemplars, were already in the guilds of the cordwainers and haberdashers, as well as the notaries, in 1272–74. Moreover, the Sabadini, da Corvi, da Lobia and Tettalasini families were in both the merchants' and notaries' guilds in 1274.

In many instances it is not clear whether a family was first enrolled in the merchant-bankers' guilds or in the notaries, even when the same individual appears in both the merchant and notaries' guilds of 1272–74 (the *matricula* of the bankers' guild for 1272–74 did not survive). What we do know is that these families at an early date were in both organizations. We can trace the entrance of certain families into the notaries prior to 1272–74, but cannot document when they entered the merchants' guild since, unlike the notaries, there are no admission lists over time for the merchants. For example, the da Corvi, *de Faffis*, Orsi, Tettalasini, da Cantone, Buvalelli, Malgerni, and Musoni families were all in the *matricula* of the merchants in 1274, but members of those families appear even earlier in the admission lists of the notaries. The same holds for individuals. For example, Sidonio Baccilieri had his own company according to the merchants' *matricula* of 1274, but was

<sup>106</sup> Gaudenzi, *Statuti*, vol. 2, p. 279. This passage is also cited by Steven A. Epstein, *Wage Labor and Guilds in Medieval Europe* (Chapel Hill and London: University of North Carolina Press, 1991), p. 84.

<sup>107</sup> Tamba, *La società dei notai di Bologna*, pp. 29–30, 45.

<sup>108</sup> Brian Robert Carniello, "The Notaries of Bologna: Family, Profession and Popular Politics in a Medieval Italian City-State," Ph.D. diss., University of California, Santa Barbara, 2005, pp. 98–99, 110–111.



already admitted to the notaries' guild in 1261.<sup>109</sup> The survival of the notaries' admission lists may skew the data in favor of an earlier pattern of notaries entering the merchants' guild. Some of the evidence, moreover, points to a reverse trend, of earlier merchant-family-entry into the notaries rather than notaries moving into the merchants. Micheluccio Maranesi had his own company in the 1274 *matricula* of the merchants, and his son Marchisino was one of his associates. His grandson, *Thorilinus* di Marchisino Maranesi, entered the notaries' guild in 1273.<sup>110</sup> Giacomo di Giacomo da Lobia also entered the notaries in 1273 but appears in the merchants' *matricula* in 1274 as an associate in the company of Sidonio Baccilieri, together with Accarisio di Giacomo da Lobia.

Moreover, although the bankers' *matricula* of 1274 did not survive, we can identify from other sources several very prominent banking families who entered the notaries by mid-century.<sup>111</sup> Thus, Rolando Guglielmo Foscherari was admitted into the notaries in 1245 and Tuzimano di Tommasino Gozzadini in 1251,<sup>112</sup> Michele di Gerardo Garisendi in 1252,<sup>113</sup> Enrighetto di Artenisio Artenisi and Bartolomeo di Civenino Zovenzoni in 1259,<sup>114</sup> Artenisio di Ricardino *de Garisinis* in 1266,<sup>115</sup> Uguccio di Albertuccio Sabadini in 1270 and Niccolò di Albertuccio Sabadini in 1272,<sup>116</sup> and Donato di Niccolò Garisendi, also in 1272.<sup>117</sup> In the last two decades of the thirteenth century the entrance of the most powerful banking families into the notaries accelerated, especially in the case of the Pepoli and Gozzadini, two of the most prestigious of the prominent banking families.<sup>118</sup>

<sup>109</sup> Roberto Ferrara and Vittorio Valentini, ed. *Liber sive matricula notariorum comunis Bononie (1219-1299)* (Rome: Consiglio nazionale del Notariato, 1980), p. 212.

<sup>110</sup> *Ibid.*, p. 306.

<sup>111</sup> Giansante, *L'usuraio onorato*, pp. 93-111.

<sup>112</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, pp. 107 and 131.

<sup>113</sup> *Ibid.*, p. 134.

<sup>114</sup> *Ibid.*, p. 155.

<sup>115</sup> *Ibid.*, p. 249.

<sup>116</sup> *Ibid.*, p. 293. The Sabadini were also in the merchants' guild in 1274. Munso di Trancedino Sabadini was one of the associates (*servientes*) in the company (*stacio*) of Guido Algardi.

<sup>117</sup> *Ibid.*, p. 297.

<sup>118</sup> Balduino di Filippo Pepoli entered the notaries in 1281 and Romeo Pepoli himself entered in 1285. *Ibid.*, pp. 354 and 373. The Gozzadini, who had family members in the notaries' guild from mid-century, now entered in a stream. Amadore di Bonifacio Gozzadini entered in 1282, Vinciguerra di Gozzadino Gozzadini in 1286, Benno di

Nor was the cross-matriculation of the merchant-bankers limited to entrance into the notaries' guild. The economic interests of merchant-bankers such as the Rodaldi, Tebaldi, and Guarini, among others, brought them into other guilds, especially in the wool industry, where, as noted above, their dominating role kept those guilds from achieving political recognition.<sup>119</sup> By 1272, the merchant-banker families of the Pepoli, Rodaldi, *de Faffis*, Garisendi, Tebaldi, Pacone and Grimaldi were enrolled in the guild of the sellers of coarse cloth. The Tebaldi were also enrolled in the guild of the tailors. The da Corvi were in the notaries, the sellers of linen cloths, and the haberdashers. The Rodaldi were among the merchants of iron enrolled in the blacksmiths. Moreover, the presence of merchant-bankers in guilds other than their own extended further by 1294, when we find members of the Bianchi di Cosa, Sabadini, and Pepoli families also listed in the bootmakers' and the shoemakers' guilds and the dalle Rote (di Roti) and Gozzadini in the butchers'. Among the additions to the sellers of coarse cloth between 1294 and 1315, we find families of the merchant-banker-notarial elite who were in neither the 1274 nor the 1294 *matricule*—the Tolomei, Gozzadini, Bonromei, da Bisano, Bambioli, Artenisi, dalle Rote (di Roti), Mezzovillani, Sabadini, Calamantoni, Culforati and Fabiani.

Elite families gained a greater presence in the arms societies as well as the guilds by the turn of the century. As noted above, the number of elite families had increased significantly in the Dragons by 1314. Other societies show a similar pattern, with families who were enrolled in 1272–74 having more members in 1314 and other elite families appearing for the first time in the *matricule* of 1314 and the additions through 1327. However, in other societies there was more persistence of families between 1272 and 1314 than we saw in the case of the Dragons, where only two families appear in both *matricule*. For example, in the arms society of the Eagles several families persisted over time, increasing their share of members in 1314. The Cristiani and the Caldari went from three to four and from five to seven members

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Gozzadino Gozzadini in 1286, Brunorio di Gozzadino Gozzadini in 1289, Tommaso di Giacomo *Minagii* Gozzadini in 1289, Bonifacio di Bonifacio Gozzadini in 1291, Benno di Castellano Gozzadini in 1292 and Gozzadino di Castellano Gozzadini in 1293. *Ibid.*, pp. 357, 374, 376, 393, 396, 414, 527, 442.

<sup>119</sup> Those families served as guarantors for immigrants in the wool industry. Mazzaoui, "Emigration of Veronese Textile Artisans," p. 22.

respectively between 1272 and 1314. The Rovisi went from two members in 1272, to four members in 1314 (three of whom were brothers), with four more in the additions of 1323. The da Manzolino went from two members in 1272 to six in 1314 (including two sets of two brothers each). Other families still had only a single member in 1314 as they had had in 1272, as in the case of the Aste, Equi, and Guarini, or increased slightly, as did the Creveleri, from one to two members. Moreover, as in the arms society of the Dragons, the increased proportion of related members in the Eagles was also due to the entrance of families not new to Bologna but new to the Eagles, such as the Fiorani (four members, including a father and his two sons), the Pavanensi (four), the Arpinelli (three, two of whom were brothers), the Ghisilieri (three, two of whom were brothers), the Aposa or Aversa (three, two of whom were brothers), the Artusini (two), the *de Mulinariis* (two) and finally, the son of the most powerful man in Bologna, Taddeo di Romeo Pepoli. In the additions to the 1314 *matricula* one finds the same pattern of new members from prominent families who were not in the society earlier, neither in 1272 or 1314, such as one member each from the da Lana, Bambaglioli, and Conforti families, and the son of Artusio da Monzuno, the great feudal lord who had been made a *popolano* by the commune.

The Dragons and Eagles were “inner city” arms societies where elite families were more likely to live, but the pattern is similar in arms societies that extended to the city walls, such as the Lions. Certain families already enrolled in 1271, such as the Bambaglioli, da Sala, Marsigli, Boatteri, Grassi, Fanti, Ricci, and da Bagno persist into the *matricula* of 1314 and even have a larger contingent of family members represented in that year. For example, there are two Boatteri in 1271, but eleven in 1314 and four in the additions of 1324. There are three Bambaglioli in 1271, four in 1314 and five in the additions from 1317 to 1326. Some families of course disappeared, such as the *de Menaboys* who had three members in 1271 and none in the later *matricula*. But again, members of the most prestigious and powerful families appear in 1314 and in the additions that were not in the list of 1271, such as the Romanzi, Gattari, Ghisilieri, Albiroli, and Beccadelli.

Elite families even entered more deeply into the “immigrant” arms societies of the Lombards and Tuscans. New families not only appear in the *matricule* of 1314, but some of them gained leadership roles in those societies by the 1280s, as did the merchant-banker family of the Rodaldi. Pietro Rodaldi was one of the six *ministrales* of the Lombards

in 1283.<sup>120</sup> Matteo di Niccolò Rodaldi was one of the *ministrales* of the Tuscans in 1283 and again in 1292.<sup>121</sup> By 1314 there were seven members of the Rodaldi family in the *matricula* of the Tuscans with one new member of that family added in 1318 and another in 1321. The Stars, the third “immigrant” society, shows a sharp difference in the nature of the society’s elite members between 1272 and 1314. Nearly all those members with cognomens in the *matricula* of 1269–72, usually a sign of elevated status, disappear from the 1314 *matricula*. The family with the largest contingent in the earlier *matricula*, the Ramisini with six members, had only one member in 1314. The second most prominent family, the Dati, with four members in 1269–1272, has none in 1314. The Ricolfi had three in 1269–70 but only one in 1314. Meanwhile, new families appear in 1314, with the Maimellini having one member in 1314 and three more in the additions, the Roizi having three in 1314 and two in the additions, the Boatteri having one in 1314 and two in the additions and the powerful family of the Albiroli having six members in 1314 and three in the additions.

The data thus strongly suggest that certain families of the merchant-banking-notarial elite were becoming more prominent in a broader range of guilds and arms societies as the waves of newcomers that had characterized the first half of the thirteenth century receded and the associations became more hereditary in their membership. Closure among the basic political units of the *popolo*—the guilds and arms societies—was a result not only of the deliberately exclusionary policies of the *popolo*, but also of the biological persistence and expansionist strategies of certain families and the economic and demographic changes that Bologna experienced in the late thirteenth and early fourteenth centuries. In Chapter Three we shall see how these developments relate to the increasingly oligarchical nature of the *popolo* government in the early fourteenth century.

<sup>120</sup> ASB, Capitano, Giudici, Reg. 49, fols. 51r–52r, Nov. 29, 1283 and Reg. 52, fols. 94r–103v.

<sup>121</sup> Ibid., Reg. 52, fol. 13v, Reg. 49, fols. 51r–52r, Nov. 29, 1283, and Fasoli-Sella, *Statuti*, Bk. V, Rubric LXXII, “Nomina consiliariorum populi societatum Armorum,” p. 377.



## CHAPTER ONE

### PART II. PROSECUTING THE EXCLUDED

All those deemed “outsiders” by the exclusionary policies of the *popolo*—infamous persons, *fumantes*, foreigners, Lambertazzi, knights and nobles—were denied access to *popolo* offices and councils. At regular intervals the *popolo* appointed special commissions to work with the Capitano del Popolo to maintain the purity of the guild and arms society membership. In addition, the *vicarius* court of the Capitano had special responsibility for hearing charges that specific individuals were illegally enrolled in the associations or were holding a *popolo* office. The surviving documentation for these processes is twofold: lists of a few purges of the membership lists (*matricule*) from 1274 and the 1280s, as well as the nearly continuous records of the *vicarius* judge of the Capitano del Popolo from 1281 through 1326.<sup>1</sup> These documents permit analysis of the variations in prosecution that characterized *popolo* policies during those years. As we shall see, the *popolo* was sensitive to pressures of internal and external danger and varied its prosecution patterns accordingly.

The Capitano may have been given responsibility for purging the *matricule* as early as 1256, the year in which he began receiving copies of the statutes of the guilds and arms societies for review, but the earliest surviving evidence of centralized and systematic purges is from legislation of 1272, and from the surviving lists themselves of 1272 and 1274.<sup>2</sup> The process was an ongoing one, with each Capitano obligated by his oath to require the *ministrales* of the societies to send him lists of members in their societies who were illegally enrolled, whom he then had removed from the *matricule* housed in the communal archives.<sup>3</sup>

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<sup>1</sup> Four registers also survive from 1275. ASB, Capitano, Giudici, Regs. 1–4.

<sup>2</sup> Augusto Gaudenzi, “Gli statuti delle società delle armi del popolo di Bologna,” *Bullettino dell’istituto storico italiano* 8 (1889): 7–74, esp. pp. 39–49 for 1256, and pp. 63–64 for the *reformazione* of Jan. 2, 1272. Pini, “Problemi di demografia bolognese,” pp. 180–197.

<sup>3</sup> The *popolo* statutes with the Capitano’s oath have not survived (except for an exemplar on the Lambertazzi), but there are references to it and his responsibility to review the *matricule* in Capitano, Giudici, Reg. 62, fol. 94, May 16, 1284 and Reg. 127,

Periodically, to account for the accumulated number of additions and deletions and to incorporate an unusually large set of changes, the *matricule* were completely recast, as in 1294 and 1314.<sup>4</sup>

Litigation that arose over membership issues were under the Capitano's purview and can be divided into three categories: resolution of cases where a person exercised a craft but refused to inscribe himself in a guild;<sup>5</sup> appeals of individuals who claimed that they had been unjustly cancelled from their societies by society officials;<sup>6</sup> and cases in which individuals were charged with illegal membership in the societies by persons other than those societies' officials. As late as the mid-1280s there was resistance from the societies to the Capitano's authority; for example, when the *ministralles* of the Lombards wanted to remove Gilio *de Oldraxiis* da Cremona from their society (they claimed he was a foreigner), and the Capitano ruled in favor of the appellant. The *ministralles* then challenged the Capitano's jurisdiction, but the *consilium sapientis* (a legal opinion from a Bolognese judge from outside the court) for this case advised that although initial jurisdiction belonged to the arms society, the Capitano had jurisdiction since the imputed had appealed the decision of the *ministralles*.<sup>7</sup>

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fol. 122v, 1289. The exemplar of the oath is given in Milani, *L'esclusione dal comune*, pp. 299–300.

<sup>4</sup> The *matricule* for the guilds survive from 1294 and for the arms societies from 1314. ASB, Capitano, Libri matricularum, Buste II and III.

<sup>5</sup> For example ASB, Capitano, Giudici, Reg. 15, fols. 11v–13r, 31v, 32r, Sept. 17–Nov. 18, 1281, for petitions from the *ministralles* of the linen cloths guild and the *ministralles* of the spice merchants; *ibid.*, fols. 24v–25r, Nov. 14–18, 1281 and from the *ministralles* of the carpenters' guild, *ibid.*, fols. 15v, 16v, Nov. 12 and 19, 1281. Also *ibid.*, Reg. 34, fol. 5v, Oct. 19, 1282 for a petition of the *ministralles* of the rough wool guild that Giacomo da Granarolo should be in their society. Membership in the guilds had been voluntary to mid-century but became mandatory according to a law from 1269–70, as indicated in a reference to that law made in one of the cases cited, the trial concerning the spice merchants.

<sup>6</sup> For example, ASB, Capitano, Giudici, Reg. 48, fol. 11r, Feb. 18, 1283, *ibid.*, Reg. 82, fols. 54v–58v, Aug. 2–Sept. 29, 1286, *ibid.*, Reg. 87, fol. 10r, Oct. 4, 1286, The *vicarius* or deputy judge of the Capitano also settled appeals from those to whom the *ministralles* of a society had refused admission. *Ibid.*, Reg. 120, fols. 14v, 31r, 27r–32v, Nov. 10–Jan. 29, 1288. An attempt to appeal the decision of a prior Capitano, however, failed. ASB, Capitano, Giudici, Reg. 82, fol. 47v, July 17, 1286.

<sup>7</sup> ASB, Capitano, Giudici, Reg. 107, fols. 17r–19v, Dec. 9–24, 1287. The *ministralles* of that society continued unsuccessfully to challenge the Capitano's jurisdiction in membership cases. ASB, Capitano, Giudici, Reg. 104, fol. 53r, March 25, 1288. In at least one instance, officials of a society submitted names of those they wished to remove and the Capitano's judge conducted trials for those individuals. This happened in 1293 when the society of the butchers submitted the names of seventeen members for cancellation as *fumantes*. The judge acquitted eight and condemned two of them

Decision-making on society membership was not exclusive to the Capitano and his judges, but rather was a process characterized by the interweaving of the juridical and political spheres. In 1272, the Capitano and *anziani* met with six *sapientes* from each quarter (who had been elected by the *ministrals* of their societies) to decide who was to be removed from the *matricule*.<sup>8</sup> According to the Sacred Ordinances of 1282, the Capitano had to conduct his mandatory examination of the *matricule* by convoking a meeting of the *ministrals* of the two preeminent societies and the two *sapientes* from each society who advised them (both offices were established in 1282). At that meeting the decision to approve or reject members was made by majority vote of those convened, but the lists compiled then had to be read in the Consiglio del Popolo, with that Council attentive (*bene audiente et intelligente*), wherein resided final authority.<sup>9</sup> Thus, in December 1282 we find the names of all those who had been erased from the *matricule* by the two preeminent societies of the month and the *sapientes*.<sup>10</sup> The ongoing nature of the purge process meant that few were cancelled from the societies at each review. There are other references to these periodic meetings for several other years in the 1280s, when accessions to the societies were made of those who had been enrolled since the review under the prior Capitano.<sup>11</sup> The review in February 1283, however, seems to have involved more officials.<sup>12</sup> It included among the members of the review commission, in addition to the officials

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(verdicts are not given for the others). ASB, Capitano, Giudici, Reg. 227, fols. 10r–14r, 19r–20r, Nov. 3, 1293–Feb. 13, 1294.

<sup>8</sup> Gaudenzi, “Gli statuti,” pp. 63–64 for the *riformazione* of 1272.

<sup>9</sup> Fasoli-Sella, *Statuti dell’anno 1288*, vol. 1, Bk. V, Rubric XX, “De examinatione societatum artium et armorum cambii et merchadandie,” pp. 314–315. The law also specified that the officials of a particular society could not be present at the meeting when eligibility of members of their own society was decided.

<sup>10</sup> ASB, Capitano, Giudici, Reg. 34, fols. 90v–91r, Dec. 7, 1282.

<sup>11</sup> A proclamation of March 1282 from the Capitano called on all the societies’ officials to give to his *vicarius* judge the names of all who had been enrolled in their societies since his predecessor’s term review. ASB, Capitano, Giudici, Reg. 22, fol. 63r, Feb. 4, 1282.

<sup>12</sup> ASB, Capitano, Giudici, Reg. 49, fols. 4rv, for a case in which the verdict on Nov. 18 decided that the trial should not proceed because the imputed’s membership in the society of the Horses had been approved in 1283 “in the general examination made of all *matricule*.” There were two different reviews in 1283, as there should have been, one for each of the two Capitanos’ regimes of that year; one held in February 1283, and the other from November 1283. ASB, Capitano, Giudici, Reg. 36, fols. 21r–27r. The February review gives only the names of additions to twenty-seven societies that were approved by the Consiglio del Popolo.



required by statute, the *ministrales* of all societies and another four *sapientes* from each society (the latter selected by the *ministrales*). These officials decided the review process would include proclamations throughout the city inviting anyone to denounce anyone who was illegally enrolled in a society. In order to enable informers to act secretly, they also decided that a locked box (*capsa*) would be put in a public place in the *palacio novo* into which anyone could deposit an anonymous denunciation.<sup>13</sup> Documentation survives for other meetings and reviews held in 1284, 1285, and 1292.<sup>14</sup> A similar process of using a special commission with review by the Consiglio del Popolo was employed in 1286–87 to examine and consolidate lists of Lamber-

<sup>13</sup> ASB, Capitano, Giudici, Reg. 52, fols. 25rv, Nov. 11, 1283. A specially designated notary was assigned to management of this *capsa* which was used as a depository for anonymous accusations of illegal society and council membership (as well as for harboring Lambertazzi) on an ongoing basis and formed a significant portion of the cases in the *vicarius*'s court.

<sup>14</sup> ASB, Capitano, Giudici, Reg. 62, fols. 79r–80v, 85r–86r, 87v–90r, May 24–June 9, 1284, with reference to the Capitano's oath (*sacramentum*) and the statute of 1282 and apparently a review of additions to the societies. In 1285, the process again included four "extra" *sapientes* from each society and the use of the *capsa* and proclamations throughout the city. Ibid., Reg. 70, fols. 20v–25v, May 24, 1285. A further review by the Consiglio del Popolo in 1286, however, does not seem to have employed a special commission. That review refers to the registration and approval (and disapproval) of new members on the basis of "authenticated documentation" from the notaries of the societies. Ibid., Reg. 81, fols. 26v–27r, Sept. 3, 1286 (but referring to reviews done in June of that year). For 1292, ASB, Capitano, Giudici, Reg. 183, fol. 3r, May 13, 1292, a proclamation which gave a term of one month for all who should not be in the popular societies to remove themselves from those societies. Those forbidden membership are described in the proclamation as any "miles vel filius militis vel nepos militis vel filius filii masculi vel frater militis vel filius fratris masculi militis vel aliquis nobilis de nobili progenie natus sive habet patrem avum fratrem patrimum vivum vel non vel iudex de nobili progenie natus vel aliquis qui non sit de parte Jeremiensium civitatis Bononie vel aliquis fumans vel filius fumantis vel aliquis descendens ex fumante vel aliquis rusticus habitator alicuius terre comitatus Bononie qui non habeat extimum in civitate Bononie vel aliquis alius qui non habeat extimum eidem factum per officiales ad hoc specialiter deputatos ipse vel pater eius vel avus vel alius seu alia persona maior domus cum qua haberet bona... vel aliquis scutifer, rufianus, assassinus vel quibus essent publica fama esse assassinus vel rufianus vel aliquis homo qui sit male fame et opinionis vel aliquis alius qui fuerit a comuni Bononie manumissus vel aliquis qui fuerit canzelatus de aliqua matricula alicuius societatis vel aliquis qui fuerit reprobates per ministrasle duarum societatum et dominos sapientes pro qualibet societate tempore cuiuscumque capitanei vel aliquis forensis qui non sit de parte ecclesie et jeremiense civitatis Bononie et solverit collectas a tempore primorum rumorum citra qui non habitaverit continue in civitate Bononie vel burgis per XX annos..." The proclamation also noted that the penalty for not removing oneself was 25 pounds and that any accuser could have his name kept secret and have as reward half of that penalty when paid by the accused.

tazzi who had sworn allegiance to the Geremei party. The names of those approved as well as those rejected were submitted to the Consiglio del Popolo.<sup>15</sup> Lambertazzi *popolani* who had sworn allegiance and who had been members of popular societies before the expulsions of the Lambertazzi subsequently had been readmitted into their societies.<sup>16</sup> The Capitano's *vicarius* judge also held a periodic *inquisitio generalis* in which he required the *ministrales* of the popular societies to appear before him and denounce any members of their societies who fit any of the forbidden categories.<sup>17</sup>

In addition to these reviews held each semester, at particular times certain groups were singled out for removal from the societies. *Fuman-tes* and their descendents constituted the subject of exclusionary legislation in 1282, which was repeated in 1292.<sup>18</sup> In 1287, foreigners who had moved into the city since 1274 were cancelled from the societies. They were given one month to remove themselves or face a fine of twenty-five pounds, but could continue to practice their craft as *obbedienti*. That status meant they were without political rights, that is, they could not vote within their guilds and could not hold office in

<sup>15</sup> In the case of the Lambertazzi the review included an additional step after the review by the Consiglio del Popolo—presentation of the names before the combined bodies of the Council of 800 (the Council of the Commune) and the Consiglio del Popolo. ASB, Capitano, Giudici, Reg. 97, fols. 1r–10v, Oct. 14–21, 1286. The special commission in this case comprised fourteen *sapientes* from each quarter who were selected by the *anziani*. The *capsa* was used to solicit anonymous denunciations. For other aspects of Lambertazzi reentry, see Milani, *L'esclusione dal comune*, pp. 261–289. In 1274 and 1275, 100 *sapientes*, two from each of the societies, seventeen *anziani et consules*, and the podesta reviewed lists such as those of the Twenty-five and the Ten (lists of who were to serve militarily), the tax levy (*collecta*) and *assignationes equorum*, and examining each individual, had decided who should be removed from those groups and organizations as Lambertazzi. In 1307, after the re-expulsion of the Lambertazzi of the prior year, it was the Consiglio del Popolo that approved the new lists that had been compiled by the executive officials with Romeo Pepoli and his closest ally, Francesco dalle Rote (di Roti), as *sapientes*.

<sup>16</sup> ASB, Capitano, Giudici, Reg. 9, fol. 5r, Feb. 18, 1281, where, for example, those in the society of the fishmongers who had sworn allegiance to the Geremei party and were Lambertazzi at the time of the first civil conflict (*rumor*) in 1274 and therefore had been cancelled from the society, were now to be readmitted into those societies.

<sup>17</sup> ASB, Capitano, Giudici, Reg. 146, fol. 23r, May 1290.

<sup>18</sup> ASB, Capitano, Giudici, Reg. 227, fol. 48r, Feb. 1, 1294. The reference in 1294 is to the law of 1292 (which is referenced only as made during the captaincy of *Guidotinus de Bunglis* whose term extended from April to October of 1292). The reference occurs in a case in 1294 against someone charged with being a *fumans* who had not removed himself from the society of the Lions as called for in that law.

the *anzianate* or the *Consiglio del Popolo*.<sup>19</sup> In 1294, special provisions of February called for all “knights, sons of knights, nephews or grandsons (*nepotes*) of knights, nobles, magnates and those of noble progeny” to remove themselves within one month from the popular societies or face a penalty of 50 pounds. The provisions also designated certain *popolano* houses as “among the noble, powerful, magnate and knightly houses of the city and *contado* of Bologna.”<sup>20</sup> Finally, a law of 1306 aimed at foreigners required all who were not themselves, or their ancestors, enrolled in the tax evaluation (*estimo*) which had been made in 1277–1280 (the *estimo* compiled under the direction of Pace *de Pacibus*), to remove themselves from the popular societies or face the substantial fine of 300 pounds. This law was proclaimed throughout the city periodically, as in 1316.<sup>21</sup>

Did these laws and their periodic promulgation against particular excluded groups represent variations in the prosecution of those groups? If that was the case, did the pattern change over the decades of *popolo* dominance and if so, why? We have two sources with which to address these issues—first, the few lists of those actually removed from the societies and second, trial records from the *vicarius*’s court. The trial records yield a picture of which groups were prosecuted and during which periods they were more frequently prosecuted. The earliest list is from 1274, but is only a partial list of those removed, comprising 283 individuals from twenty-one societies.<sup>22</sup> In addition, there are lists of all who were approved and all who were removed from the societ-

<sup>19</sup> Fasoli-Sella, *Statuti dell’anno 1288*, Bk. V, Rubric CXXXVI, “De forensibus de societatibus extrahendis et quod arma non portent,” pp. 498–499. On the “*obbedienti*” see Tamba, “Da socio ad ‘obbediente,’” pp. 53–146. Tamba also cites the legislation of 1287, *ibid.*, p. 69.

<sup>20</sup> “de cassalibus nobilibus potentibus magnatibus et millitibus civitatis et comitatus Bononie.” Those who came forward to remove themselves from the societies were registered in a surviving “*Liber illorum qui se facerunt canzelari de societatibus*” compiled during Feb. 6–26, 1294. ASB, Capitano, Giudici, Reg. 228, fols. 1r–19v. See below, Chapter Four, Part II, section 3.

<sup>21</sup> ASB, Capitano, Giudici, Reg. 645, fols. 73r–81v, Aug. 12–Sept. 24, 1318, which cites the law of 1306 and its proclamation throughout the city on Jan. 22, 1316 that any “*forensis non habens extimum dicto tempore domini Pacis se deberet facere cancellari infra tertiam diem sub dicta pena.*”

<sup>22</sup> ASB, Capitano, Libri matricularum, Busta I, Fascicolo 3. Part of this list (the section on the cancellations of the notaries) is published in Ferrara-Valentini, *Liber sive matricula notariorum*, pp. 507–513. This list has been discussed by Pini, “Problemi di demografia bolognese,” p. 180, and by Koenig, *Il “popolo” “dell’Italia,”* pp. 377–378. However, neither commented on the absence of *forenses* in that list. Pini recognized the list was a partial one, but Koenig treated the 283 cancellations as representing the

ies in the reviews of 1282, 1283, 1285 and 1286. The February 1283 list, however, consists only of those new members who were approved and those who had been accused anonymously (by *capsa*) but were approved to remain in the societies.

The largest group of those cancelled in 1274 (from the partial list that survives) was from the society of the notaries, which comprised 119 of the 283 cancellations.<sup>23</sup> The rest of the cancellations were distributed among seven other guilds and fourteen arms societies. Among the notaries eighty-one *fumantes* and *comitatini* comprised the largest subgroup.<sup>24</sup> The nobles and relatives of knights comprised the second-largest group, with four brothers, sons, or grandsons of knights and fourteen nobles listed. In third place were the thirty-eight individuals who were cancelled because they were infamous or “suspect.” Also cancelled were fifteen judges and one cleric. The pattern among the other societies, however, was quite different, with only one judge (from the arms society of the Minivers) cancelled from the other twenty-one societies. As noted above, of the seven guilds in addition to the notaries, only the tailors and salt-sellers and nine of the fourteen arms societies had knights or their relatives cancelled. The largest group cancelled from these twenty-one societies comprised infamous persons (fifty-eight), followed by the *fumantes* (thirty-six). Given the close relationship between judges and notaries and magnates, the pattern is not surprising. The Lambertazzi, however, do not appear among those cancelled since their expulsion from the societies occurred several months after this purge of the *matricule* and promulgation of this list in January 1274. Consonant with the lack of a law against foreigners in the societies prior to 1287 (discussed above, Chapter One, Part I) is the absence of foreigners from the cancellations list. No one in the 1274 list was cancelled for not being a citizen or for having violated the residency requirements for society membership.

In the list of 1282 six Lambertazzi, four infamous persons (assassins), and two *fumantes* were cancelled from a total of five guilds and

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total number of those cancelled. The list is dated Jan. 22, 1274 and was read in the Consiglio del Popolo Jan. 27, 1274.

<sup>23</sup> Cf. Pini, “Problemi di demografia bolognese,” p. 180, who counted 156 of the 283 cancelled as notaries.

<sup>24</sup> Thirty-eight were cancelled as *fumantes*, another six as sons of *fumantes*, one was listed both as a *suspecta persona* as well as a *fumans*, thirty-three as *comitatini*, and one person as both a *fumans* and a *comitatinus*.

arms societies.<sup>25</sup> The list of 1285 is twofold, consisting first of the 106 men who were approved as members of the societies (that is, from the additions to the societies made since the last review), followed by a group of forty-seven-plus men (one entry includes an unspecified number of sons of the person listed) whose names were found in the *capsa* and who were removed from the societies, and another group of eighteen who were reviewed on the basis of denunciations (*denuncie*) and were removed.<sup>26</sup> Of the forty-seven men from the first group who were removed, thirty-three Lambertazzi, including one *ghibellinus*, comprised the largest group.<sup>27</sup> Of the second group of eighteen who were cancelled, the reasons for cancellation are given only for eleven of them, divided into seven Lambertazzi, three *fumantes* and one cleric. Thus cancellations for political exclusion as Lambertazzi were predominant, but again no one labeled as a foreigner appears on these lists from the 1280s. The only other surviving list of cancellations, from 1286, has only fourteen names and does not give the reasons for their cancellations.<sup>28</sup>

Data extrapolated from the trial records show a late initiation of litigation against foreigners and magnates and permit us to nuance the pattern of prosecution further. Giuliano Milani has already studied these records for the occurrence and outcomes of trials against Lambertazzi, and has shown that the frequency of such trials subsided considerably after the first years of prosecution and that the rate of conviction was much higher in the earlier years.<sup>29</sup> As we shall see, the

<sup>25</sup> ASB, Capitano, Giudici, Reg. 34, fols. 90v–91r, Dec. 7, 1282. The guilds and arms societies from which the men were cancelled were the Castles, the carpenters, the haberdashers, the Keys, and the Dragons.

<sup>26</sup> ASB, Capitano, Giudici, Reg. 70, fols. 32r–34r, June 1285 for the first group, fols. 35r–36r for the second and fol. 36r for the third group.

<sup>27</sup> Next were six *fumantes* (including one who was also listed as a man of *male opinionis et fame*), followed by four infamous persons, not including the persons also listed as a *fumans*, two as *nobiles* (Malliacozzo bastard son of Lambertino *de Garariis* and Giacomo *Savarixii*), one as *de magnatibus et nobilibus* (Giacomo *Hoxelecti* da Riosto or Ariosti), and one as *potens* (*Trialuxius filius Regis Stephani*).

<sup>28</sup> ASB, Capitano, Giudici, Reg. 81, fol. 24r, June 30, 1286. On that same day thirty-one members were approved in the Consiglio del Popolo, *ibid.*, fols. 19r–21r. In September of that year, the *vicarius* ordered the notaries of the *popolo* archive to enroll those members into the archive's copies of the *matricule*, *ibid.*, fols. 26v–27r.

<sup>29</sup> Giuliano Milani, "Dalla ritorsione al controllo. Elaborazione e applicazione del programma anti-ghibellino a Bologna alla fine del Duecento," *Quaderni Storici* 94 (1997): 43–74, esp. pp. 60–66, and his *L'esclusione dal comune*, pp. 307–309, 319–320. Milani emphasizes the viability for statistical purposes of this documentation from the *Giudici* series between 1275–1300 by comparing the extent of the surviving docu-

patterns for other excluded groups changed in response to political crises and shifts in power. The decades from 1281–1326 can be divided into eight periods as defined by the focus of the court's prosecution emphases and by major political developments.<sup>30</sup> The first period is very brief, extending from 1281, when the survival of continuous records in this series begins, through August, 1282.<sup>31</sup> Six registers from that period containing trials from the *vicarius* court survive, yielding data on eighty-one trials. In sharp contrast to all the later periods, none of these trials concerned individuals from excluded groups accused of being illegally enrolled in the popular societies. To be sure, the majority of the trials in this first period involved Lambertazzi, but those trials did not concern claims of their illegal membership in the popular societies.<sup>32</sup> In second rank were twenty-five trials concerned with false contracts and in third place were eight trials involving extortion in

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ments with inventories of the communal archives that have survived from that period. *Ibid.*, pp. 301–302. The documentation for the fourteenth century does not have this control device, but for this analysis, since it is comparing major emphases over time, the documentation is sufficient even for those later years.

<sup>30</sup> Period I (1281–August 1282), II (September 1282–September 1287), III (1287–1292), IV (1293–1300), V (1300–1306), VI (1306–1317), VII (1317–1320), VIII (1320–1326). The political benchmarks for these periods are the Sacred Ordinances of 1282, the 1287 conspiracy against the Ordinances, the brief abrogation and modification of the Ordinances in 1292, the reentry of Lambertazzi in 1300, and the final expulsion of the Lambertazzi in 1306.

<sup>31</sup> Four registers survive from 1275. Registers 2 and 3 consist of proclamations, but the other two contain trial records. Register 1 has fifteen cases, mostly testimony of witnesses without the charges. These include one case of carrying weapons at night and guards not found at their posts at the city gates, but mainly seem to concern whether individuals in the assignment of communal horses were Lambertazzi or Geremei. There is also one case concerning membership of a Lambertazzi in the arms society of the Castles. Valuable for perceptions of identity and the nature of proofs, this register was utilized for that purpose by Koenig and Milani. Koenig, *Il "popolo" dell'Italia*, pp. 391–398; Milani, *L'esclusione dal comune*, pp. 292–298. Register 4 is idiosyncratic, containing eight cases of assault. Assault in the palace of the Capitano would continue to be in the Capitano's jurisdiction in later years, but these cases include not only assaults against officials or in the palace, but also two that are anomalous—one in a home and one between private individuals in the streets. It is possible that the Capitano at this earlier period shared jurisdiction for lesser crimes with the podesta, but by 1281 all lesser crimes and responsibility for security of the streets was in the jurisdiction of the podesta. On the jurisdictions of the podesta and Capitano, see Appendix A, "Jurisdictions of the Capitano del Popolo."

<sup>32</sup> Twenty-two trials were against Lambertazzi for violating their confinements, four were against those who harbored Lambertazzi in their homes, two were against men accused of joining the Lambertazzi rebels at Forlì, two were against Lambertazzi for serving as officials of rural communes, and one was against a Lambertazzi accused of attending a meeting of a rural commune.

or against a rural commune by *contado* nobles (including one urban magnate). The other trials involved military-related cases (not serving in an expedition and receiving payment for that non-service), or crimes committed during a military expedition (six) and an array of charges that occurred only once each. The predominance of Lambertazzi cases is to be expected, but the other two major categories, false contracts and rural extortion, require explanation. The large number of such cases suggests that a major concern of the *popolo* government regarding excluded groups prior to the promulgation of the Sacred Ordinances of 1282 was with *contado* nobles as well as Lambertazzi.

One would expect trials against perpetrators of false contracts to have fallen under the jurisdiction of the podesta, whose courts were indeed responsible for trying charges of contract forgery. The key to the appearance of such cases in the court of the Capitano's *vicarius* is that these false contracts, or as they were also more aptly called, fictitious contracts, formed a vehicle for extortion, and not coincidentally related to the third-ranking group of trials, those of rural extortion, and furthermore even to the expulsion of the Lambertazzi. Usually one of the parties in a fictitious contract case was a person of power from the *contado*, but also sometimes from the city. With this person of power a person of lesser means made a contract, usually for the sale of his or her property or for a loan, but as was established during the trial, no money was actually paid to the seller or receiver of the loan. Usually the seller was compelled to make the fictitious sale or loan by force and out of fear. Thus, Bonandrea da Liano admitted at his trial that he had made a fictitious contract with Lanzaotto Gozzadini (a very powerful urban *popolano*) and Guglielmo di Uguccio da Casalecchio, whereby he received a "loan" of forty pounds and ten *solidi*, but no money actually changed hands. Bonandrea thus made himself liable to repay a loan for which he had not received a *solidus*. When asked why he had done so, he explained that he was a Lambertazzi and had been captured by the two men who made him the "loan." His captors took him to the church of S. Marino in the rural commune of Liano where the contract was drawn up by the notary Bombologno di Giberti. Bonandrea testified that he had agreed to the contract because he was afraid his captors would injure him. His capture occurred during the uprisings that accompanied the second expulsion of the Lambertazzi in early December 1279.

Nor was Bonandrea the only victim during this episode. In a separate trial, Galvano Gozzadini admitted he had made a fictitious con-

tract with Soldano di Guido da Liano for 51 pounds and 10 *solidi*. Soldano had been captured at the same time as Bonandrea, and the contract was written by the same notary in the same church.<sup>33</sup> In a similar vein, Artusio di Niccolò da Monzuno, one of the greatest feudal nobles among the Geremei, was charged by Taviano di Michele *de Agoglaria* of forcing his father to agree to a fictitious contract. Taviano also was seized at the time of the second expulsion of the Lambertazzi, in December, by twelve armed men who broke down the door and walls of his house, robbed him of his household possessions and his cattle and took him by force to Monzuno where, fearful of imprisonment and torture, he signed an agreement which required him to provide two *corbe* of wheat annually and perpetually, in exchange for a fictitious loan of 70 pounds, to Artusio “for fidelity and vassalage.” Two years later the son was petitioning that the contract be declared “fictitious and simulated and made by fear and written by fear.” The contract was in fact ultimately voided by the court.<sup>34</sup>

Turmoil during and after the expulsion of the Lambertazzi in 1279 was thus an added opportunity for *contado* nobles (and powerful urban *popolani*) to commit acts of extortion in the *contado*, by means of fictitious contracts or otherwise. The *contado* nobles Rustigano da Scopeto and Ubertino da Rocca dei Ridolfi were charged with kidnapping Filippo di Bonvillano da Montepolo and holding him for several days until he agreed to a contract by which he promised to repay 200 pounds to two others, who lived with Rustigano, although he had received no money. They then sold the property which had secured the fictitious loan. Again, as specified during the trial, this kidnapping and extortion took place at the time of the second expulsion of the

<sup>33</sup> ASB, Capitano, Giudici, Reg. 6, fols. 2v–4v, Feb. 21–22, 1281. Fasoli recognized the importance of the fictitious contract. “La legislazione antimagnatizia,” pp. 365 and 377.

<sup>34</sup> ASB, Capitano, Giudici, Reg. 22, fols. 17r–18v, 52r–54v. The trial proceeded in two stages. It began with Taviano’s petition on March 12, 1282, and continued with testimony of witnesses supporting the charge through April 24, 1282. The case was then reopened (a new charge was filed) June 5, 1282 and continued with more testimony of witnesses through Aug. 21. Then followed a gap until Oct. 28, when the lords of Monzuno were summoned to court or were warned that if they did not appear the contract would be voided. On Nov. 21 another witness testified. But it was not until March 1, 1283, almost a year after the original petition, that the case was resumed, with another summons to appear in court to the lords of Monzuno, ending finally with voiding of the contract. (That the contract was voided is evidenced by a marginal note, fol. 52r: “Cassata sunt infrascripta instrumenta tempore domini Johannis de Pescarolo capitanei.”)



Lambertazzi.<sup>35</sup> The imputed in this case were later (in 1282) included among those nobles or magnates required to post securities for their good behavior (*lupi rapaces*), as were the sons of Sinibaldo da Cuzzano (Zaccaria archipresbiter da Samoggia and his brother Rodolfo), who were also charged with forcing submission to a fictitious contract, again during the second expulsion of the Lambertazzi.<sup>36</sup> Although powerful *popolani*, such as the Gozzadini, were charged, as noted above, with making fictitious contracts, the target of the legislation against this practice seems to have been magnates and *contado* nobles, as indicated in a proclamation read aloud by heralds throughout the city in 1282.<sup>37</sup>

What is initially puzzling in these trials, however, is that the culprits often responded to the summons to appear in court and confessed that they had committed these acts. In one of the few cases in which the charge was denied, we find that it was not the act of making a fictitious contract that was contested. Rather, those involved maintained that the conditions provided for in that contract had not been fulfilled. It was claimed that Gerardo di Bencevenne Curioni and Oddolino his servant were detained by communal officials because of a homicide they were charged with committing. The three imputed in this trial, Bencevenne Curioni, Bartolomeo da Garda and Giovanni di Bondo *de Massignis*, had made a fictitious contract for a loan with a certain Giuliano dalla Calcina, who made a peace accord (*pax*) with Gerardo and Oddolino. They did this in the name of the mother and sisters of the victim, in the hopes of gaining the release of the two charged with homicide, that is, they (the three now charged) had committed themselves to payment of a fictitious debt. The attorney of the three now claimed that the contract was made from fear and that the contract

<sup>35</sup> ASB, Capitano, Giudici, Reg. 6, fols. 8r, 19rv, 20r–21v, April 1–May 3, 1281. There is also a nuncio's report of a precept by a judge against Rustigano da Scopeto, Ubertino da Rocca dei Ridolfi, Giovanni di Bonaparte da Rasiglio and Argumento di Tassamini da Scopeto in *ibid.*, Reg. 9, unbound folio between fols. 9v and 10r, dated March 31, 1281 (the last two were the ones with whom the contract was actually made).

<sup>36</sup> ASB, Capitano, Giudici, Reg. 10, fol. 18rv, May 14 and June 2, 1281.

<sup>37</sup> ASB, Capitano, Giudici, Reg. 22, fol. 63r, Feb. 4, 1282: "quod quicumque fecit a tempore primorum rumorum citra aliquam promissionum, obligationem vel contractam simulatum alicui nobili, magnati vel potenti civitatis vel districtus Bononie aliqua occasione debeat venire coram domino capitaneo vel eius iudice et eis dicere et manifestare negocium vel ponere debeat denuncia in casa sicuri quod dominus capitaneus et eius iudex libenter audient omnes volentes tales denuncie facere."

should be voided. Giuliano was apparently seeking to collect the debt, which the three did not want to pay. The real reason for their refusal to pay and their claim that the contract was fictitious (it was) and made by force (apparently it was not), was that Gerardo and Oddolino had been executed and the peace accord had not been utilized successfully to save them. They therefore did not want to pay the fictitious debt, which as one witness testified, was the understanding at the time the contract was made, that is, that they would not have to pay if the peace accord did not save the two charged with homicide from execution.<sup>38</sup> But denial of the charge, as in this case, and particularly such a vigorously pursued denial, was exceptional. In most cases, those charged, both the party who forced the contract and the victimized party admitted that the contract was fictitious.

Why were even *lupi rapaces* and prominent *popolani* willing to appear and confess, in contrast to such individuals' usual refusal to even appear in court? Special legislation governed these cases (later incorporated into the Sacred Ordinances of 1282) and is referred to in one trial. That trial stemmed from another extortionate contract made by the *contado* noble Ubertino *de Larocho* da Montepolo, which identified the law governing fictitious contracts as part of ordinances made at the time of the first Lambertazzi conflicts in 1274 and renewed with the second expulsion of the Lambertazzi in 1279.<sup>39</sup> Most of the trials refer to contracts made at the time of the first or second expulsion and the dating of the legislation makes it clear the fictitious contract problem arose or reached a significant level at that time. Reference to the turmoil generated by the Lambertazzi expulsion is also indicated in two proclamations from 1281 and 1282. In both proclamations any rural commune or individual who had made a fictitious or simulated contract at the time of the first Lambertazzi conflicts with any noble, magnate or powerful person from the *contado* or city was urged either to appear before the Capitano or his judge and make a denunciation openly, or to do so in secret by means of the *capsa*, and have the contract cancelled.<sup>40</sup> The process was facilitated by making the ban for

<sup>38</sup> ASB, Capitano, Giudici, Reg. 10, fols. 6v–11v, June 3–6, 1281.

<sup>39</sup> ASB, Capitano, Giudici, Reg. 21, fol. 1v, March 4, 1282.

<sup>40</sup> ASB, Capitano, Giudici, Reg. 8, fol. 21r, February 1281 and *ibid.*, Reg. 22, fol. 63r, Feb. 4, 1282. That both proclamations were made in February may not have been coincidental, since certain proclamations were made periodically on a regularly scheduled basis.

not appearing in court dramatically higher than the fines imposed on those who had forced the making of the contract. If the party charged in the denunciation failed to appear in court, he or she was placed under a ban for 1,000 pounds.<sup>41</sup> If the imputed appeared in court and was convicted, however, the penalty was 10, 50, or 100 pounds.<sup>42</sup> The purpose was not so much punitive as to protect *popolani* from extortion by voiding the contracts and restoring properties. By the same process, it also restored properties that belonged to the commune, since Lambertazzi had used the device of fictitious contracts to protect properties of those who were banned from confiscation by the commune.<sup>43</sup>

The fictitious contract cases thus stemmed in large part from the turmoil that accompanied the expulsion of the Lambertazzi, and from the subsequently increased fragility of the commune's control of the *contado*.<sup>44</sup> Powerful Lambertazzi who were under ban found refuge in the *contado*, and feuds between *contado* nobles were rekindled, as in the case of the counts of Panico (those of that family who were Lambertazzi) and their war with the lords of Monzuno, who allied with the Geremei and the commune.<sup>45</sup> The problem was not a new one, but in this environment the criminal activities of powerful men in the *contado* formed a persistent, perhaps exacerbated challenge,

<sup>41</sup> According to a proclamation in 1281, however, any notary who wrote such contracts faced a penalty of 100 pounds. ASB, Capitano, Giudici, Reg. 8, fol. 20v, Feb. 10, 1281.

<sup>42</sup> ASB, Capitano, Giudici, Reg. 49, fols. 15v–16v, Oct. 15, 1283. Also *ibid.*, Reg. 44, fols. 17v–18r, Aug. 27, 1283 for ten pounds and fol. 24r for 100 pounds.

<sup>43</sup> For example, ASB, Capitano, Giudici, Reg. 22, fols 7r–8r, 14r, 19r–21r, Feb. 17–April 7, 1282. The purpose of the fictitious contract, as made clear by the testimony of witnesses, was specifically to keep the land from being confiscated by the commune.

<sup>44</sup> There were other reasons as well. For example, one contract was made by the three sons of Giacomo Caccianemici in order to have the other party agree to a peace agreement (*pax*) that would enable them to have a ban against them lifted. The contract was challenged because the ban was not lifted. ASB, Capitano, Giudici, Reg. 34, fols. 108r–109r, Dec. 11, 1282. Another fictitious contract had its origin in spousal abuse. Gaydia charged that her husband, Enrico Liazzari, had forced her to sign a fictitious contract for the sale of a piece of land, first by blandishments, then by threats and beatings. After he succeeded in having the contract made, he threw her out of his house. ASB, Capitano, Giudici, Reg. 34, fols. 71rv, 74rv, Nov. 16–18, 1282.

<sup>45</sup> Thus the counts da Panico—Rodolfo and Borniolo—were charged with violently seizing the rural commune of Pieve di Sambro from Bolognese authority (*de manibus et forcias comunis et populi Bononie*), coming to that commune with their followers and with Lambertazzi and other enemy *banniti* and rebels. They were placed under a ban of 3,000 pounds and destruction of their properties as traitors. ASB, Capitano, Giudici, Reg. 9, fols. 10–11v, March 18, 28–29, 1281.

as reflected in the trials that comprise the third-largest set of trials in the *vicarius*' court in this period, those involving extortion or violence against rural communes.<sup>46</sup> The accused in these trials consisted mainly but not exclusively of *contado* nobles and urban magnates. Those charged included the elite *popolano* family of the Romanzi (later designated as magnates),<sup>47</sup> and the Boatteri (a *popolano* family that included knights).<sup>48</sup> Bonifacio Galluzzi of the urban magnate family, was accused of living with his family in Castel dei Britti and sending his agents through that rural commune, to demand grain and hay.<sup>49</sup> The *contado* nobles Guido, Guiglielmo and Aspettato di Rolando and Bertuccio di Michale, all from Vizzano, were charged with threatening armed violence against the abbot and monks of the monastery of Musiano,<sup>50</sup> and the *contado* nobles Rodolfo and Borniolo da Panico were charged with violently taking control of a rural commune.<sup>51</sup>

The rural communes were vulnerable to the demands of powerful men not only because of their own weakness, but because they often found themselves in a double-bind situation, caught between the authority of Bologna and powerful men. On the one hand, the commune of Bologna was anxious to assert its authority over the rural communes and strike against those who obstructed that authority. One of the frequently proclaimed decrees declared that no noble, magnate or powerful person was to accept the position of captain, or any leadership position in a rural commune, since those positions permitted those men to collect fraudulent taxes, services and goods from

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<sup>46</sup> The commune of Bologna had been struggling against the power of the *contado* nobles and urban magnates with strong ties to the *contado* since at least the emancipation of the serfs in 1256–57. Fasoli, "La legislazione antimagnatizia," p. 359.

<sup>47</sup> ASB, Capitano, Giudici, Reg. 6, fol. 5v, March 5, 1281. They demanded 100 pounds from the commune of Crespellano for Alberto Romanzi for his service as captain of the commune.

<sup>48</sup> ASB, Capitano, Giudici, Reg. 6, fol. 9r, March 17, 1281. Cervio Boatteri and his *nepotes* (nephews or grandsons) Giacomo and Zaccaria were accused of making themselves podestas of the rural commune of Borgo Panigale against the will of that commune and of extorting 50 pounds from the men of that commune while they held office.

<sup>49</sup> ASB, Capitano, Giudici, Reg. 6, fol. 12r, March 15, 1281. The charge was repeated against him (and his son Albizo) in 1290. ASB, Capitano, Giudici, Reg. 135, fol. 18r, and *ibid.*, Reg. 137, fols. 47r–48r, Nov. 21, 1290. They were acquitted in 1290.

<sup>50</sup> ASB, Capitano, Giudici, Reg. 6, fols. 14v–16r, March 20–23, 1281. (One of the guarantors for the da Vizzano was Bonifacio Galluzzi.)

<sup>51</sup> ASB, Capitano, Giudici, Reg. 9, fols. 10r–11v, March 18, 28–29, 1281.

the men of the rural commune.<sup>52</sup> On the other hand, the commune of Bologna imposed what were often onerous fiscal obligations upon the rural communes, requiring officials of the communes to post securities, maintain and repair bridges and roads, supply soldiers and collect special taxes.<sup>53</sup> In August 1282, the rural commune of Argelata was charged with contravening the law by providing wheat to the powerful nobles Bacciliero, Ramberto, Niccolò and Niccolò di Ramberto Baccilieri.<sup>54</sup> In the course of the trial the witnesses from Argelata explained that they had provided the wheat to the nobles because Bacciliero had provided them with services, for example, he had loaned Argelata 200 pounds. The rural commune had needed to pay a condemnation made against it by Bologna for not supplying its proper contingent of men to serve in the army that was sent to Faenza. Furthermore, he had earlier, in July, provided them with another loan which was needed to equip those soldiers whom the commune did send to the army, and he had also served as their guarantor when the commune was required to post securities. Testimony in the trial makes it clear that the relationship between the Baccilieri and Argelata was a long-standing one, with references to the protection the Baccilieri gave the commune during the first and second Lambertazzi conflicts when they were “true and faithful friends.” The Baccilieri were labeled as *lupi rapaces* in the Sacred

<sup>52</sup> ASB, Capitano, Giudici, Reg. 101, fols. 79rv, Aug. 12, 1287.

<sup>53</sup> ASB, Capitano, Giudici, Reg. 87, fols. 30r–34r, Oct. 12, 1286. The officials (*massarii*) of the rural communes promised not to give or loan any money, grain, wine, hay, or wood or pay any taxes under any pretext of any sale, donation, fief, or recognition of any fief or vassalage to any knight or son of a knight or to anyone of noble progeny or to any *popolano*, male or female or any other person from the city of Bologna or its district, cleric or layperson: “non donare, prestare, salvere vel facere per se vel alium de cetero aliquid in pecunia frumento vino feno vel lignis vel carigiis vel alia re quocumque nomine collecte feudi remunerationis doni vel gratie vel progarie vel exactionis seu nomine vel pretextu alius alterius rationis vel aliquam aliam angnam vel per angariam personarum vel rerum vel sub titulo emptionis donationis feudi seu recognitionis alicuius feudi vel vassalatici vel manentis vel cuiuscumque alterius conventus pacti facti quovis nomine censeantur vel aliquid sit publicum vel de publico ipsius comunis et universitatis vel per ipsum comune possessum alicui militi vel filio militis vel de nobili proienie [sic] nata vel alicui populari vel plebei masculo vel femine vel alicui alie persone de civitate Bononie vel districtu tam clerico quam layco.” Also *ibid.*, Reg. 101, fol. 8v, April 2, 1287. The legislation was incorporated into the Sacred Ordinances of 1282. *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric XII, “Quod nullus possit ex aliquo contractu vel pacto aliquid habere quod sit vel fuerit publicum vel de publico alicuius terre districtus Bononie, et pena et banno recipientium,” pp. 303–305.

<sup>54</sup> ASB, Capitano, Giudici, Reg. 26, fols. 5r–10v, Aug. 10, 1282, and *ibid.*, Reg. 27, fols. 17rv, Aug. 19, 1282, and *ibid.*, Reg. 34, fols. 66v–68v, 88v–89v, Nov. 13 and Dec. 10, 1282.

Ordinances that were enacted the next month.<sup>55</sup> Indeed, half the *lupi rapaces* listed in the Sacred Ordinances of 1282 were *contado* nobles. The picture from the Capitano's court has its counterpart of violence by *contado* nobles in the court of the podesta. In that court there were charges of other criminal aspects of noble behavior—their kidnappings, homicides, and arsons. These acts were particularly related to the “wars” between *contado* nobles, such as that noted above between the counts of Panico and the lords of Monzuno that surged in the post-Lambertazzi-expulsion environment. Not surprisingly, we find the same actors in both the courts of the Capitano and the podesta, for example, Rustigano da Scopeto, as described below in Chapter Five.

It is possible that the upsurge in violence and rural extortion by *contado* nobles and urban magnates that accompanied the upheavals of the second Lambertazzi expulsion constituted a trigger for the creation of the Sacred Ordinances of 1282. Other *popolo* reforms had, in contrast, been instigated by acts of magnate violence within the city, particularly against *popolani*, as in the case of the attack on an official of the arms society of the Claws that precipitated the Ordinances of the Forty in 1272 or the attack by Alberto Lambertazzi on a *popolano* in 1234.<sup>56</sup> Nor were the Sacred Ordinances of 1282 precipitated by civil strife between magnate factions, as happened in 1263 and 1267.<sup>57</sup> No comparable incident preceded establishment of the Sacred Ordinances of 1282.

At least three major factors came into play in 1282 that contributed to the creation on Aug. 14, 1282 of the Sacred Ordinances.<sup>58</sup> First, the expulsion of the Lambertazzi had weakened the magnates as a group.<sup>59</sup>

<sup>55</sup> Fasoli-Sella, *Statuti dell'anno 1288*, Bk V, Rubric XVI, “De satisfactione prestanda ab infrascriptis nobilibus civitatis vel districtus Bononie, et de penis eorum qui non darent dictam satisfactionem et de fidantia eis danda ratione predicta,” pp. 308–312.

<sup>56</sup> For the Ordinances of the Forty, see Koenig, *Il “popolo” dell'Italia*, p. 375–376. For Alberto Lambertazzi, see Sarah Rubin Blanshei, “Criminal Law and Politics in Medieval Bologna,” *Criminal Justice History. An International Review* 2 (1981): 1–30, esp. pp. 8–9.

<sup>57</sup> Koenig, *Il “popolo” dell'Italia*, pp. 365–366.

<sup>58</sup> Fasoli, “La legislazione antimagnatizia,” p. 363, for the Aug. 14 date.

<sup>59</sup> The expulsion of Lambertazzi resulted in the ban and confinement of *popolani* as well as magnates, but as Milani has shown, *banniti* and *confinati* who were *popolani* more quickly (and very quickly) swore allegiance to the Geremei party and re-entered the popular societies. Milani, *L'esclusione dal comune*, p. 263. The nobles and magnates were among the most intransigent of the Lambertazzi *banniti*, as is evidenced as late as 1299, with the final reentry of the Lambertazzi. At that time, 200 Lambertazzi were “elected” by the Consiglio del Popolo to retain *confinati* status, most of whom

Second, the expulsion itself had exacerbated the situation of violence and intimidation, especially by *contado* nobles, and threatened the commune's authority and control over the *contado*, as reflected in both the Capitano and podesta's court records. Third, the importance of that control was especially perceived in the late summer of 1282, when the commune lived under the threat and reality of famine.<sup>60</sup> The pressure for more radical reforms was probably behind the unsuccessful conspiracy by several members of the butchers' guild in February 1282, a pressure that succeeded in the more difficult circumstances of August of that same year, and under the leadership of the same individual, Giovanni Summa, for whom the post of *barisellus* was subsequently created.<sup>61</sup> That the *contado* situation continued to be perceived as important is indicated by the great care with which the trials pending in the court of the *vicarius* were handled during the disruption that accompanied the establishment of the Sacred Ordinances of 1282. Cases were suspended in mid-August, with the promulgation of the Sacred Ordinances and the flight of the Capitano and podesta. They were resumed under the new Capitano in October, but were not finally completed until the regime of yet another Capitano in March of 1283. But extraordinarily those pending cases were not forgotten and sentences were finally issued.<sup>62</sup> Furthermore, the older legislation on control of the *contado* was incorporated into the Sacred Ordinances.<sup>63</sup>

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(194 of them) preferred to remain *banniti*. Among these 200 was a disproportionate number of *grandi*. ASB, Riformagioni 151, fol. 165r, 1299. Milani, *L'esclusione dal comune*, p. 381 on the 194 who were banned in 1300 and 1301.

<sup>60</sup> ASB, Capitano, Giudici, Reg. 30, fols. 13r–17r, Aug. 13, 1282 for a meeting and emergency measures of a special commission of the Capitano, the *anziani*, and five *sapientes* from each quarter which had been appointed by the Consiglio del Popolo on Aug. 2 with special authority on the wheat supply. Ibid., Reg. 27, fols. 8v–9r, 17r–23r, Aug. 12, 1282 for the *massarii* of thirty-six rural communes taking special oaths and posting securities not to permit the export of wheat from the district.

<sup>61</sup> ASB, Capitano, Giudici, Reg. 22, fols. 10rv, 11v, Feb. 21–23, 1282. In addition to the butchers, the other society involved was that of the drapers. Giovanni Summa was immediately sent outside the city, to Castelfranco, and was, by the next day, to be confined at Modena, unable to leave without license of the Capitano.

<sup>62</sup> ASB, Capitano, Giudici, Reg. 22 (see footnote 34 above). Also ibid., Reg. 34, fol. 16r, Nov. 20, 1282, where the *bannitor* reports that he has cited the *massarius* to appear in court, if he wishes, about the case done during the regime of *Aymericus de Axandris* (who held two consecutive captaincies in 1281–1282).

<sup>63</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric XI, "De instrumentis assandis feudorum et vassalatici et aliorum recognitionum factis ab aliquibus de civitate Bononie vel districtu et de pena utentium ipsis instrumentis," pp. 302–303. In later cases, rural extortion trials referenced the Sacred Ordinances of 1282. ASB, Capitano, Giudici, Reg. 114, fols. 5rv, May 17, 1288, (rural extortion by Rainerio di Fra

What impact, if any, did promulgation of the Sacred Ordinances of 1282 and 1284 have on the functioning of the Capitano's *vicarius* court? The impact of the Ordinances was twofold and paradoxical, as so many of the *popolo*'s reforms and efforts to protect itself were to be in the following decades. On the one hand, as we shall see, the harsh measures may have had some deterrent effect against the violence of *contado* nobles, but on the other hand, the emphasis of the Ordinances on secrecy and rewards also offered a new forum for extortion and attacks upon one's enemies. From September 1282 to September 1287 (the latter the date of a major conspiracy against the Sacred Ordinances), which comprises period II of my categorizations, the majority of trials no longer consisted of the categories of fictitious contracts or rural extortion and violence in the *contado*. The diminution of the number of those cases suggests that the *popolo* may have had some success, at least briefly, in its struggle against the depredations in the *contado* of feudal nobles, urban magnates, and prepotent *popolani*. In that period there are only two trials of extortion against a rural commune (one by a noble, the other by a *popolano*), and only one trial of violence by *contado* nobles.<sup>64</sup> However, the respite, if it actually

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Albriccio da Castel S. Pietro, a magnate required to post securities (*lupus rapax*), and *ibid.*, fol. 6r, March 27, 1288 (against the *massarius* of Monteveglio for proposing in a meeting of that rural commune that wagonloads of wood be given to a *popolano* of the city). On ties of feudal magnates with rural *popolani* and Bologna's breaking of those ties in 1256–57, see Fasoli, "La legislazione antimagnatizia" p. 359, and *Il Liber Paradisus con un'antologia di fonti bolognesi in materia di servitù medievale* (942–1304), ed. Armando Antonelli (Venice: Marsilio, 2007), and the collection of articles in the companion volume, *Il Liber Paradisus e le liberazioni collettive nel XIII secolo. Cento anni di studi* (1906–2008), ed. Armando Antonelli and Massimo Giansante (Venice: Marsilio, 2008). For other concerns, see Fasoli-Sella, *Statuti dell'anno 1288*, vol. II, Bk. XII, Rubric XXXVIII, "Quod magnates vel nobiles non possint advocare vel fideiubere pro aliquo populari vel rustico vel comuni alicuius terre in aliqua causa civili vel criminali et quod nullus popularis vel rusticus ducat aliquem magnatem in suum servicium," pp. 226–227. The Sacred Ordinances were accompanied by a military expedition into the *contado* against certain feudal nobles. Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric XIII, "De fortilitiis, domibus, habitationibus quorundam de parte Lambertaciorum destruendis," pp. 305–306. The military expedition is also cited by Fasoli, "La legislazione antimagnatizia," p. 365.

<sup>64</sup> Both of the rural extortion trials are from ASB, Capitano, Giudici, Reg. 49, fols. 18rv, Oct. 14, 1283 and fols. 24rv, Oct. 29, 1283. The urban magnate was Mattiolo Galluzzi, charged with receiving a gift worth 6 pounds, 20 *solidi* while serving as podesta of the rural commune of Castel del Vescovo. The *popolano* was Zaccaria di Matteo Allerari da Borgo S. Felice, from a politically prominent family, who called an assembly of the men of the rural commune of Corticella, and sought to force a revocable loan (*precarium*) on the men of that commune who had cattle. Both trials originated from anonymous denunciations and resulted in acquittals. The third trial, also an



occurred, was only relative. It took years, for example, for Bologna to remove the Ubaldini nobles from their dominance over the rural commune of Cavrenno, a commune important for its strategic location.<sup>65</sup> Moreover, the Sacred Ordinances of 1282, with their grants of legal privileges to *popolani* and men from the *contado* (*rustici*), also provided an opportunity for individuals to use the courts for conflictual purposes, as evidenced by a clustering of false accusation and false testimony trials in this period.<sup>66</sup> The charge of fictitious contract also apparently served as the occasion to harass opponents. Legislation in 1284 limited the grounds for making such a charge and the frequency of such charges declined, beginning that year, to four of 247

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anonymous denunciation, was against the *contado* noble Gerardo di Gerardino da Monte Severo (and others) that he, with many others, seized possession of the house and goods of the church of S. Giovanni di Serenico in the rural commune of Vado, *ibid.*, Reg. 95, fols. 40r–41r, Oct. 12, 1286. Some relief to the violence from noble conflicts may have been provided by the peace settlement (*compromissum*) the podesta and Capitano together were able to negotiate in 1286 among members of the *de Mostarda*, da Tignano, da Scopeto, da Liano, and da Rocca families. ASB, Capitano, Giudici, Reg. 80, fol. 19v, Jan. 8, 1286.

<sup>65</sup> In 1284, a certain *Vandalanus* di Bonaventura Gualdini petitioned on behalf of himself, his brother and his father to be removed from the list of *fumantes* for the rural commune of Cavrenno and be permitted to live elsewhere in the *contado*. The reason for the petition was that they had been expelled from Cavrenno by the Ubaldini, who had dominated that rural commune for the past six years, and had moved to the rural commune of *Magani*. ASB, Capitano, Giudici, Reg. 62, fols. 734–74v, and Reg. 87, fol. 35r. In 1286, three of the Ubaldini were banned under a penalty of 2,000 pounds each for not returning Cavrenno to the custody of Bologna. *Ibid.*, Reg. 91, fols. 2r–3r, Oct. 20, 1286. Cavrenno is in the mountains south of Bologna, towards the border with Florence, and southeast of Monghidoro. According to Vito Vitale, *Il dominio della parte guelfa in Bologna (1280–1327)* (Bologna: Arnaldo Forni, 1978, reprint of 1901 edition,) p. 63, the Ubaldini finally yielded the *castello* towards the end of the war with the Este of Ferrara, in 1298.

<sup>66</sup> ASB, Capitano, Giudici, Reg. 88, fols. 3r–6v, Dec. 7, fols. 7r–9r, Dec. 9, fols. 10r–11r, Dec. 6, fols. 12r–13r, Dec. 9, 1287, fols. 15r–17v, January 1288, fols. 19rv, Dec. 19, 1287, fol. 22r, Dec. 14, 1287, fols. 29v–31r, Dec. 23, 1287, fols. 38r–39v, Dec. 22, 1287. (There was a total of fifteen trials in that register.) In the only register of bans to survive for the *vicarius* court, three of the ten bans were for false accusation or false testimony. *Ibid.*, Reg. 91, fols. 3v–4r, Dec. 13, and fol. 5r, Dec. 22, 1286. (The bans for false accusation and false testimony duplicate those listed here from the trials' registers.) *Ibid.*, Reg. 94, fols. 34r–37r, 44r, Dec. 6, fols. 38r–40v, Dec. 16, 1287 and fols. 53r–54v, Jan. 29, 1289. The problem of false accusations at this time also plagued the criminal courts of the podesta. The *ministrali* of the two preeminent societies had special responsibility for ensuring that no petition was reviewed by the judges of either the Capitano or podesta that threatened the integrity of the Sacred and Most Sacred Ordinances, as they did in the Capitano's *vicarius* court in 1286, when they ordered the *vicarius* not to admit a particular petition. ASB, Capitano, Giudici, Reg. 82, fol. 58v, Aug. 18, 1286. For the *ministrali*'s actions in the podesta courts, see below, Chapter Five.

trials (1.6 percent), in contrast to forty-six of 147 trials (31.3 percent) between 1282 and 1284.<sup>67</sup>

The most dramatic change in the records of the *vicarius* court after the promulgation of the Sacred Ordinances of 1282 (period two of my categorizations), was the appearance of trials against individuals for illegal membership in the popular societies. This change was due to systematic periodic purges of the membership of the popular societies and Consiglio del Popolo, thereby establishing a pattern that reflected the precarious and ambiguous nature of the newly established political elite—a pattern that would dominate the court records until the end of the century. Between October 1282 (the Sacred Ordinances were established in August and there is a lacuna of records for September) and September 1287 (date of a major conspiracy against the Ordinances), fifty-seven of the 364 trials in the court of the *vicarius* (15.6 percent) concerned membership in the popular societies, in contrast to the dearth of such cases in the prior period.<sup>68</sup> The largest group of membership trials consisted of charges against Lambertazzi (fifteen), next against those without *estimo* (eleven), followed by *fumantes* and infamous persons (seven each) and magnates (five).<sup>69</sup>

Moreover, after a major conspiracy in 1287 against the Sacred and Most Sacred Ordinances, the frequency of membership trials increased. Between April 1288 and 1292 (period III of my categorizations), when the Ordinances were briefly abrogated and then reinstated in modified form, seventy-one of 233 trials (30.4 percent) comprised membership

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<sup>67</sup> ASB, Capitano, Giudici, Reg. 67, fol. 84r, February 1285 (an appeal of an earlier voiding of a contract as fictitious since it was not among the justifications for the cancellation of such contracts as determined by the Consiglio del Popolo in 1284). Ibid., Reg. 49, fol. 39r, Nov. 5, 1283, for a trial for false contract that does not proceed because the false contract was written fifteen years earlier, before the period specified in the oath of the Capitano.

<sup>68</sup> A word of caution is needed on these data. There is a major lacuna in the *vicarius* court documentation during period II (September 1282–September 1287). For the semesters 1284 and 1284–85 the registers are in very bad condition, even disintegrating to the touch. The pattern noted for period II continues, however, in period III (1287–1292) and period IV, until the end of the century, indicating that despite the lacunae, the data accurately indicate a contrast between the periods before and after 1282.

<sup>69</sup> The *vicarius* trial records are embedded in the *Giudici* series which consists of records arranged in chronological order from various courts of the Capitano, as described in Appendix A, “Jurisdictions of the Capitano del Popolo.” The registers of the *vicarius* used for the data for this period (1282–1287) are Regs. 34, 42, 44, 45, 49, 59–63, 66, 67, 72, 75, 78, 82, 87, 89, 91, and 94.

cases, with the largest category consisting of *fumantes* (thirty-one), followed by infamous persons (nine), foreigners (eight), magnates (eight), and Lambertazzi (seven).<sup>70</sup> From 1293 to the end of the century (period IV) the dominance of membership trials continued and increased, with sixty of 195 trials (45.6 percent) comprising membership trials. During this period the largest category consisted of trials against those charged as magnates (twenty-two), followed by foreigners (sixteen), *fumantes* (thirteen), Lambertazzi (six), and lastly, infamous persons (three).<sup>71</sup> Foreigners are included for the first time in period III, a reflection of the 1287 law against them discussed above, and the increased number of magnates in period four reflects the compilation of a book of magnates in 1294, also discussed above.

With the temporary coming to power of the pro-Ghibelline White Party in 1300, however, the prosecution pattern of the excluded changed (inaugurating period V of my categorizations). The percentage of membership cases in the records between 1300 and 1305 declined to twenty-four of seventy-nine trials (30.3 percent), with the largest categories *fumantes* (nine) and magnates (seven), followed by infamous persons (four) and foreigners (three), with one Lambertazzi and one person who had failed to pay taxes (*malpaghus*).<sup>72</sup> Even more significantly, a new type of case appears among the trials in the *vicarius* court in this period—the trial initiated not by accusation or *inquisitio*, but by a petition destined for action by the Consiglio del Popolo. In earlier years trials had been frequently initiated by petition in the properties court of the Capitano, and also occasionally in the *vicarius* court, as Mathias Jehn has shown.<sup>73</sup> The petitions in the properties court and the earlier petitions in the *vicarius* court were settled by interlocutory decisions by the courts' judges. In the properties court petitions usually involved claims to Lambertazzi property that had been confiscated. Those in the *vicarius* court were usually appeals of decisions by

<sup>70</sup> ASB, Capitano, Giudici, Regs. 104, 109, 114, 120, 126, 127, 136, 137, 146, 163, and 180.

<sup>71</sup> ASB, Capitano, Giudici, Regs. 216, 217, 223, 227, 239, 244, 259, 276, 279, 288, 312, 315, 325, 332, 344, 355, and 362.

<sup>72</sup> ASB, Capitano, Giudici, Regs. 375, 380, 386, 392, 397, 405, 408, 413, 416, 419, 424, 433, 437, 438, 447, and 449.

<sup>73</sup> Mathias Jehn, "Die Versteckte Macht. Das *consilium sapientis* und der politische Einfluß der Juristen in Bologna. 1281 bis 1306," tesi di dottorato, Scuola Superiore di Studi Storici di San Marino, 2002. Jehn did not subdivide his data on trial origins into the separate courts of the Capitano.

the *ministralles* of the popular societies or by the special commissions on membership.<sup>74</sup> In these instances, the *vicarius* judge presided over the trial and made a final decision on the issue.<sup>75</sup> The decision made by the judge was then executed by the Capitano, as, for example, when the Capitano ordered the *ministralles* of the arms society of the Tuscans to reinstate a certain Lapo who had been cancelled by them as a foreigner. The *vicarius* had determined in a trial that originated in a petition-appeal from Lapo that he should not have been cancelled. The *vicarius* judge had established that Lapo had in fact lived in the city continuously since before the first Lambertazzi conflicts and had an *estimo* as a citizen and was a Geremei.<sup>76</sup>

Most petition-initiated trials in the court of the *vicarius*, however, especially from the early fourteenth century, were of a very different nature and purpose. They could be appeals, but these were appeals from decisions made or actions taken by the podesta or his judges, not appeals against decisions of guild or arms society officials. Or they might be trials to review petitions to the Capitano and *anziani* which, if approved by them, were then submitted to the Consiglio del Popolo for further review and final approval. The documentation for these petition-review trials in the court of the Capitano's *vicarius* from the late thirteenth century is very fragmentary, but it is clear that the role of the *vicarius*' court in the petition process was to review, reject or recommend the petitions for further review by the Capitano and *anziani* and ultimately the Consiglio del Popolo. The review trial gave the opposing party the opportunity to contest the petition, or lodge a petition of its own. One of the earliest surviving trials in the *vicarius* court of this type is from 1292. Bartolomeo di Zaccaria submitted a petition to the *anziani* and Consiglio del Popolo, asking that he not have to pay 60 pounds to the monastery and convent of the sisters of S. Salvatore. The *vicarius* reviewed the petition and invited the opposing party, i.e., the monastery, to come to court and oppose the petition if it wished

<sup>74</sup> For examples of petitions *not* intended for the *anziani* and Consiglio del Popolo, see above, footnotes 5 and 6.

<sup>75</sup> ASB, Capitano, Giudici, Reg. 75, fols. 107r–108r, Feb. 22, 1286, for an appeal of a cancellation made by a special commission in 1285. Ibid., Reg. 48, fol. 11r, Feb. 18, for an appeal of his cancellation from his society (which he won). Ibid., Reg. 82, fols. 54v–58v, Aug. 17, 1286, and ibid., Reg. 87, fol. 10r, Oct. 4, 1286, for a legal representative of a society who appeals the decision of the judge that a member of his society be reinstated.

<sup>76</sup> ASB, Capitano, Giudici, Reg. 120, fol. 44r, March 26, 1289.

to do so.<sup>77</sup> The opposing party could also be a communal official, as in a trial in 1298 in which the petitioner was opposed by an official from the office responsible for the administration of communal properties, the *officio procuratorum*.<sup>78</sup> These contested petitions comprised full trials, with the interrogation of witnesses and often the rendering of a *consilium sapientis*.<sup>79</sup> This type of petition increased dramatically in frequency of appearance at the turn of the century, marking a further new period in prosecution patterns (period V of my categorizations). Trials initiated by these petitions even occurred more often than those initiated by accusation or *inquisitio*. For example, of the three surviving registers from the *vicarius* court in 1306, seven of the eleven trials were of petition origin, with the registers also containing snippets from other petition trials. In 1299 and 1303 separate registers dedicated to petition trials also appear among the surviving records.<sup>80</sup> Moreover, in the early fourteenth century, during the same period in which the new type of petition became dominant (period VI of my categorizations), the number of trials in the *vicarius* court declined, and membership trials became rare. For example, separate registers for both trials initiated by petition and those initiated by accusation or *inquisitio* have survived from 1309. The *Liber petitionum* has twelve petition trials, all concerning property disputes and dowry restitutions. The register of accusations and inquisitions has six trials, none of which consisted of membership cases.<sup>81</sup> Similarly, from 1309–1310 there are three regis-

<sup>77</sup> ASB, Capitano, Giudici, Reg. 180, fol. 87v, Aug. 26, 1292.

<sup>78</sup> ASB, Capitano, Giudici, Reg. 344, fols. 37v–41r, Dec. 6, 1298.

<sup>79</sup> ASB, Capitano, Giudici, Reg. 456, fols. 47v–48v, Oct. 12–Nov. 26, 1306, for an example of a *consilium* in such a trial. In this case the opposing party claimed that the petition by the prior of the church of S. Sirico should not be considered by the court, because the opposing party had already received a legislative act (*riformagione*) from the Consiglio del Popolo in response to his own petition, which had been submitted on his behalf by the *Defensor* of the Twenty Guilds. The judge ordered a *consilium*, which was in favor of the petitioner, despite the earlier *riformagione* made against him.

<sup>80</sup> ASB, Capitano, Giudici, Regs. 353 and 456. The header for Reg. 353 declares: “Hic est liber inquisitionum quarundam generalium et testium super ipsis receptorum et petitionum porectarum et processum factorum super ipsis petitionibus factus tempore magnifici viri domini Blasii de Tholomeis de Senis.” The first eight folios of the register comprise a review of reports (*inquisitio generalis*) from the *ministrals* of the parishes (*cappelle*). The petitions begin with a new *quaderno*, entitled *Petitionum liber*, from fols. 17r–28r. Other registers of the period, however, consist of a mix of accusations, inquisitions, and petitions, as in the case of Regs. 433, 435 and 447, from 1304.

<sup>81</sup> ASB, Capitano, Giudici, Regs. 505 and 509.

ters containing both petition and accusation/inquisition trials which break down into ten trials initiated by petition and seven by accusation or inquisition.<sup>82</sup> After 1313, however, the proportion of petition trials declines temporarily and the number of membership trials slightly increases. The two surviving registers from 1313 contain only two petition trials but have ten accusation/inquisition trials, including one membership case against a magnate and two against *fumantes*.<sup>83</sup> There are two registers from 1314 with a total of twenty trials, with only five of those initiated by petition.<sup>84</sup> The one surviving register from 1314–15 has nine trials, none of which are petition-initiated, but two of which are membership trials against two brothers accused of being nobles.<sup>85</sup> The surviving register from 1316 has five trials, none petition-initiated, with one membership trial against a magnate.<sup>86</sup> The surviving register from the next semester, 1316–17, has eight trials, four of which concern membership.<sup>87</sup>

In 1317, initiating yet another new period in the pattern of trials (period VII of my categorizations), a new type of appeal, the *protestacio*, became a new major feature of *vicarius* court activity. The *protestacio* appeal, discussed below in Chapter Five and Table V.5, was made by *popolani* to the Capitano and his *vicarius* judge against decisions or actions made by the podesta or his judges against the appellant. The *protestacio* became so important an activity in the 1320s that in some instances entire registers were dedicated to it.<sup>88</sup> Moreover, after the initiation of a new type of petition, the *querela*, in 1320, the *vicarius* court, in an extension of its responsibility to review petitions destined for the Consiglio del Popolo, became heavily engaged in testing the validity of *querela* petitions (marking period VIII of my categorizations). The *vicarius* court, as it had been doing for earlier petitions, reviewed each *querela* petition and determined whether or not it should be forwarded to the Capitano and *anziani*, to be reviewed

<sup>82</sup> ASB, Capitano, Giudici, Regs. 515, 517, and 521.

<sup>83</sup> ASB, Capitano, Giudici, Regs. 560 and 561. (Reg. 560 is a *Liber testium*.)

<sup>84</sup> ASB, Capitano, Giudici, Regs. 589 and 590.

<sup>85</sup> ASB, Capitano, Giudici, Reg. 594.

<sup>86</sup> ASB, Capitano, Giudici, Reg. 619.

<sup>87</sup> ASB, Capitano, Giudici, Reg. 621. The four membership trials were against a foreigner, a *fumans*, a Lambertazzi and a noble.

<sup>88</sup> ASB, Capitano, Giudici, Reg. 706 (October 1322–March 1323) has twelve *protestaciones*, Reg. 714 (April–September, 1323) has ten *protestaciones*, Reg. 733 (March–September 1325) has eighteen *protestaciones* and only one non-*protestacio* trial—an *inquisitio* against a *fumans* for membership in the societies.

in turn by them for possible submission to the Consiglio del Popolo. The *querela* petitioner sought relief from the rigidity of the law or the negligence or ineffectiveness of justice in the criminal and civil courts of the podesta. If approved by the Consiglio, the podesta and his judges would then be directed by the Consiglio to conduct a trial as requested by the petitioner, usually by a grant of summary justice authority in the name of equity—the trial was to be conducted summarily and with suspension of due process. (The *querela* petition and its effect upon the podesta's courts are also discussed below in Chapter Five.) The preliminary reviews in the *vicarius* court of the Capitano were conducted as trials, often contested by the opposing party. By the 1320s the *protestacio* and *querela* petitions dominated the *vicarius* court. During the same period (period VIII), the percentage of membership trials dropped to nine of 124 trials (7.2%).<sup>89</sup>

The focus of the *vicarius* court thus had shifted in the early fourteenth century from an emphasis upon the prosecution of illegal members of the guilds and arms societies to administration of the juridical “safety valves” of the *protestacio* and *querela* petitions, thereby adding a layer of litigation to juridical procedures. The change was completed by the early 1320s, but the initiating point of transition, as noted above, was 1306. With the final expulsion from the popular societies that year of the Lambertazzi, and with the ironclad establishment by then of lists of “outsiders,” confusion and litigation over membership in the popular societies and Consiglio del Popolo subsided. At that point appeals and petitions became prominent in the *vicarius* court, pointing the way to the later *protestacio* and *querela*, as the *vicarius* court of the Capitano shifted from prosecution of the excluded to protection of *popolani* from abuses in the law courts of the podesta. To understand the latter phenomenon however, requires analysis of the issue that constitutes Chapters Two and Three—the degree to which political life was dominated by oligarchy.

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<sup>89</sup> In the last fifteen registers from the *vicarius* court (from 1320–1326) the nine membership trials divide into four trials against *fumantes*, three against foreigners, and one each against nobles and Lambertazzi. ASB, Capitano, Giudici, Regs. 680, 682, 688, 706, 714, 721, 723, 725, 730, 732, 735, 736, 733, 739, and 740.

## CHAPTER TWO

### OLIGARCHY: COUNCILS OF THE COMMUNE

The “iron law of oligarchy” has held a virtual monopoly over theorists and a majority of historians since the early twentieth century. From the works of Robert Michels, Gaetano Mosca, Vilfredo Pareto, C. Wright Mills, and Joseph Schumpeter evolved an “elitist theory of democracy” that has served not only to describe a political-sociological model, but also to justify a particular interpretation of modern democracy and the inevitability of elitism.<sup>1</sup> In this paradigm, decision-makers are limited to elites, and popular political pressure and political change result only in the replacement of one elite by another. The role of the “masses” is constrained to the selection of elites by popular elections. However, that means that elitist governments therefore must retain the consent of the governed, which they do by extending the state into non-governmental associations of society (civil society) and exerting what Antonio Gramsci called hegemony and what modern theorists label as polyarchy.<sup>2</sup>

The decade of the 1960s resulted in a crisis in polyarchical theory, and although that crisis produced mostly further justifications of elitism, it also left a legacy of theoretical critiques, such as those by Clifford duRand and William Robinson.<sup>3</sup> DuRand, in his attack on the oligarchy-polyarchy paradigm, and his claim of significance for “popular surges,” such as that of the 1960s, offers a very brief but insightful revision of our understanding of Robert Michels’ “iron law of oligarchy,” pointing out that Michels was in fact describing a

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<sup>1</sup> The oft-quoted “iron law of oligarchy” concept belongs to Robert(o) Michels, a German-born theorist, who first wrote in that language, but who moved to and lived in Italy. The first version of his work dates from 1911. Robert Michels, *Political Parties. A Sociological Study of the Oligarchical Tendencies of Modern Democracy*, trans. Eden and Cedar Paul, (New York: The Free Press, 1962).

<sup>2</sup> Cliff duRand, “Democracy and Struggles for Social Justice.” *Another World Is Possible. Workshop on Alter Globalizations*, Aug. 12, 2004, <http://ebowman.home.igc.org/AnotherWorld/papers/durand1.wtm>.

<sup>3</sup> William I. Robinson, *Promoting Polyarchy. Globalization, US Intervention, and Hegemony* (Cambridge and New York: Cambridge University Press, 1996), quoted by duRand, “Democracy and Social Struggles,” p. 6.



tendency, not an irreversible law. Moreover, Michels also described what duRand calls “a counter democratic tendency” of ever-renewing waves of opponents to aristocratic dominance. In Michels’ theory, therefore, struggle is inevitable, but not the permanent dominance of either aristocracy or democracy.<sup>4</sup> This interpretation of oligarchical theory contrasts sharply with that of the “consensus” school that has dominated Anglo-American historiography, with its emphasis upon government by an elite dedicated to the “common good” and its de-emphasis upon the significance of conflict.<sup>5</sup>

Historians of Florence and Venice have argued that closure took place in those societies in the late thirteenth century and led to the formation of oligarchies that endured for centuries.<sup>6</sup> But in the last decade the appropriateness of applying the concept of oligarchy to the medieval communes, paralleling the appearance of critiques of the theoretical orthodoxy of elitism described above, has also become controversial. The arguments in favor of and in opposition to the existence of oligarchies in the late medieval commune also parallel and relate closely to interpretations of the magnate-*popolo* struggle. Those sympathetic to the *popolo* tend to denounce the oligarchical interpretation, but those who deny the reality of the effectiveness of the *popolo* and its program and who see the magnates and *popolani* as having engaged in “mere” factional conflict, not surprisingly, tend to support it. A recent challenge to the orthodoxy of the late medieval oligarchy paradigm and the “perception of a fundamental continuity of elite power”

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<sup>4</sup> DuRand, “Democracy and Social Struggles,” p. 3, quoting the closing paragraph of Michels’s *Political Parties*, p. 371.

<sup>5</sup> For the “consensus” school, see John M. Najemy, “Politics and Political Thought,” in *Palgrave Advances in Renaissance Historiography*, ed. Jonathan Woolfson (New York: Palgrave Macmillan, 2005), pp. 270–297.

<sup>6</sup> For Venice, and the traditional view that the patriciate was closed by the early fourteenth century, see Guido Ruggiero, “Modernization and the Mythic State in Early Renaissance Venice: the Serrata Revisited,” *Viator* 10 (1979): 245–56. For a revisionist view, see Stanley Chojnacki, “In Search of the Venetian Patriciate: Families and Factions in the Fourteenth Century,” in *Renaissance Venice*, ed. J.R. Hale (London: Faber and Faber, 1973), pp. 47–90. For Florence the founding proponent of the oligarchical interpretation was Nicola Ottokar, *Il comune di Firenze alla fine del Dugento* (Turin: G. Einaudi, 1962), original edition 1926. For the same period and same type of interpretation, also see Sergio Raveggi, Massimo Tarassi, Daniela Medici, and Patrizia Parenti, *Ghibellini, guelfi e popolo grasso: i detentori del potere politico a Firenze nella seconda metà del Dugento* (Florence: La Nuova Italia, 1978). One of the strongest proponents of an oligarchical interpretation is Sergio Bertelli, *Il potere oligarchico nello stato-città medievale* (Florence: La Nuova Italia, 1978).

was made by John Najemy, in his article "The Dialogue of Power in Florentine Politics." Najemy sees the proponents of the oligarchical interpretation as reaching a position in which they "assume a degree of aristocratic hegemony so enduring and so complete as to constitute in effect a permanent and immovable structure... [and] that the Florentine elite enjoyed a virtual monopoly of power, and indeed that politics itself was always and inevitably an affair of the elite."<sup>7</sup> Najemy further points out that the oligarchical proponents see power exercised by an elite of great families "through personal and family bonds of blood, marriage, and friendship, through ties of patronage, obligation, dependence, and protection, and in neighborhood and factional networks that organized these various links into recognizable groups with the capacity to influence or modify the behavior of both their own 'members' and those of other groups."<sup>8</sup>

For Najemy, the elite families are *outside* the *popolo* and guild republicanism: "At different times in different places, most communes underwent the revolution of the *popolo*—the rise to power of coalitions of *nonelite* (emphasis added) merchants, notaries, artisans, and shopkeepers organized in guilds and federations of guilds."<sup>9</sup> While not denying that an elite of great families existed in Florence and functioned through patronage and neighborhood networks, he nevertheless stresses the limitations of the oligarchical interpretation and its effect of obliterating "any sense of the historical alternative or alternatives against which the Florentine elite established its power" and the repeated and sometimes successful challenges that the elite faced from popular movements. But of course the appeal of the oligarchical interpretation, in part at least, lies precisely in its effectiveness in minimizing and denying any reality to class conflict and significance to popular movements. Najemy does not cite Robert Michels, but Michels' theory that "democratic currents" are significant and not to be dismissed can be used to give theoretical support to Najemy's emphasis on the importance of intermittent surges of "guild republicanism" as a modifying alternative to the classical theory of oligarchy.

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<sup>7</sup> John M. Najemy, "The Dialogue of Power in Florentine Politics," in *City States in Classical Antiquity and Modern Italy*, ed. Anthony Molho, Kurt Raaflaub, and Julia Emlen (Ann Arbor, Michigan: The University of Michigan Press, 1991), pp. 269–288, esp. p. 270.

<sup>8</sup> *Ibid.*, p. 272.

<sup>9</sup> John M. Najemy, "Republicanism," in *Encyclopedia of the Renaissance*, ed. Paul F. Grendler et al., vol. 5 (New York: Scribner, 1999), p. 314.

Nor is Najemy's voice the only recent protest against the dominance of the oligarchical school. Massimo Vallerani also has reacted against the hegemony of the oligarchical orthodoxy.<sup>10</sup> His emphasis is on the intellectual environment that nurtured the oligarchical school. Placing it in the context of twentieth-century Italian political theory and sociology, he highlights the key conceptual development by theorists, especially Pareto and Mosca, of a dichotomy between power and political institutions and politics as the permanent dominance of changing elites, with political struggle and change removed from class conflict. The impact on Italian historians was immense, with even the major proponents of the late nineteenth-century economic-juridical school of class conflict, historians such as Salvemini, Volpe and Anzilotti, acknowledging the new paradigm.<sup>11</sup>

Vallerani traces the oligarchical school from the foundational Namerism of Ottokar through the later works of Chabod, Cristiani, Bertelli and Jones. Like Najemy, he portrays the common characteristics of the school as: 1) an equating of the ruling class to oligarchy, 2) the retention of power by a restricted minority, 3) a viewing of institutions as an external façade, irrelevant for the events of power, and 4) maintenance of the position that leadership of all popular governments was by persons from superior classes who exploited the *popolo* in order to undermine the old ruling class, and that political conflicts, despite any form or ideology with which they presented themselves, were actually only conflicts for power on the part of elites.<sup>12</sup>

Vallerani also criticizes the more recent works of George Dameron and Carol Lansing for portraying "even" the commune of Florence as ultimately the development of "feudal" interests.<sup>13</sup> He also defends John Koenig, who had extolled the efforts and accomplishments of

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<sup>10</sup> Massimo Vallerani, "Le città e le sue istituzioni. Ceti dirigenti, oligarchia e politica nella medievistica italiana dei Novecento," *Annali dell'istituto storico italo-germanico in Trento* 20 (1994): 165–230.

<sup>11</sup> Vallerani, "Le città e le sue istituzioni," p. 188. In an earlier study he also analyzes the theoretical underpinning of Sergio Bertelli's work. Bertelli, the leading proponent of the oligarchical interpretation, used C. Wright Mills's concept of elite power with its maximum reductions and complete negation of any relevance of the institutional forms of the commune, which simply served to hide oligarchical power. Massimo Valerio Vallerani, "Sfere di giustizia. Strutture politiche, istituzioni comunali e amministrazione della giustizia a Bologna tra Due e Trecento," tesi di dottorato, Università degli Studi di Torino, 1992, p. 39.

<sup>12</sup> Vallerani, "Le città e le sue istituzioni," p. 217.

<sup>13</sup> *Ibid.*, p. 218.

the *popolo*, from the criticism of Pierre Racine, who used the clientage concept to claim that the *popolo* was a mere appendage of the nobles, in short, that the *popolo* had no impact on the commune.

In great part, Najemy and Vallerani sustain their arguments along similar lines. Najemy supports his anti-oligarchy position by arguing that the effects of the *popolo*, far from being "brief and unstable," had both a short-term and long-term impact on Florentine government and society. The *primo popolo* of 1250–1260 "upset the rationale of an entire generation of upper-class politics" and established a viable new political discourse. Even if the reforms of the *popolo*, both in foreign policy and domestic politics, were not permanent, they nevertheless "left important legacies in terms of strengthened guilds and the new magistracy, continuous after 1282, of the priorate of the guilds." Furthermore, the second *popolo* of 1292 established "a more radical program, enunciated in the Ordinances of Justice, for the containment of upper-class violence."<sup>14</sup> Najemy argues his first point for the importance of the *popolo* with evidence from contemporary and later literature concerning the hostility of the elite and great families towards the popular regimes and their serious efforts to undermine them. For the second point, he maintains that the *popolo*'s new vision of political behavior interacted with its opponents' ideals of violence and vendetta and by that interaction eventually transformed them from "valiant fighters" to "prudent merchants," even though the *popolo* itself was defeated.<sup>15</sup> The new mechanisms of political power, the institutions of consultation and representation, or "corporationism," became a permanent part of the *popolo*'s legacy as elite families came to rest their legitimacy on those institutions. Najemy makes it clear that the elite families never accepted the *popolo*'s political objectives, but "guild republicanism, never powerful or stable enough to supplant the elite altogether, was indeed powerful enough to create certain institutions that endured and slowly transformed the discourse, attitudes, and behavior of those who lived, sometimes reluctantly in or next to

<sup>14</sup> Najemy, "Dialogue of Power," p. 275.

<sup>15</sup> Ibid., pp. 276–277. Although he does not make this point, Najemy's thesis offers an alternative to Norbert Elias's explanation of the "taming" of aristocratic behavior. Najemy also develops this thesis of behavioral change in his "Brunetto Latini's 'Politica,'" *Dante Studies* 112 (1994): 33–51, where he analyses Latini's "ideal of the practitioners of trades as ideal citizens," with its assumption that the artisan is shaped by his professionalism to a life lived by rules, in "contrast with the destructive behavior of the upper class factions."

them.”<sup>16</sup> For Najemy the *transformation* both of the elite and political discourse itself constituted a powerful argument against the oligarchical view of continuous unchanging governments of the elite.

Vallerani devotes most of his article on oligarchy to the development of the oligarchical school and less to its refutation. When he does specifically address the latter point, he uses arguments that concur with those of Najemy, but he also explicitly rejects the use of statistical analysis of priorate membership as a means of evaluating the existence of an oligarchy. Najemy makes no reference to an article by David Herlihy which appears in the same volume as Najemy’s, and which includes a statistical analysis of all who were elected for the first time to the priorate, the highest political office in Florence, from 1290–1409, using “[t]he numbers of citizens serving for the first time as priors [as] an index of the relative openness of the office.”<sup>17</sup> Vallerani, however, refers to Herlihy’s article as representative of works that assume the framework of oligarchy, and investigate the relative levels of openness or narrowness within that oligarchy. Vallerani, in contrast, maintains that the priorate itself was a restricted office and therefore rejects arguments made by historians from Ottokar to Becker and Brucker concerning the degree of oligarchy. He regards those arguments as tautological since they were based on data from an office that is by definition restrictive and because historians also ignore other offices such as the larger councils and organizations of the urban quarters, or assume that they are simple derivations from the vertex of government.<sup>18</sup> Vallerani does open the door to statistical analysis of officeholders, however, when he offers the conjecture that possibly two levels existed—one oligarchical at the priorate level and another more egalitarian at the level of the great councils.<sup>19</sup>

<sup>16</sup> Najemy, “Dialogue of Power” p. 281.

<sup>17</sup> David Herlihy, “The Rulers of Florence, 1282–1530,” in *City States in Classical Antiquity*, pp. 197–221. Herlihy concluded that the “priorate did become relatively more open to new men over the roughly two decades following the Ordinances of Justice, but for several decades after 1310, its composition swung strongly in the direction of restricted access.” For Herlihy the issue was how tight or loose the oligarchy was at particular times, but his study was not a challenge to the dominance of the oligarchy concept as such. Nevertheless, his datum that 55 percent of all who served between 1282 and 1328 served for only a single term (p. 205) is a very important finding to which I refer below in Chapter Three.

<sup>18</sup> Vallerani, “Le città e le sue istituzioni,” pp. 225–226.

<sup>19</sup> Ibid., pp. 223–224: “Forse si é insistito poco proprio sulla coesistenza di queste due forze, che informano livelli diversi delle istituzioni. Così, a seconda degli orga-

However, Vallerani differs sharply from Najemy on the basic issue of representation. Najemy sees a continuous but transformed oligarchy, one that becomes based on consent and representation as the bedrock of "guild republicanism." Vallerani, however, sees the concept of representation in the oligarchical paradigm as an anachronistic attribution of "an unjust extension of the modern principle of representation to the urban councils, as if the latter functioned as institutions representative of vaster social components in a democratic commune, or of groups of particular interest in an oligarchy."<sup>20</sup> Vallerani gives a more detailed exposition of this point in an earlier work, where he criticizes the proponents of oligarchy for analyzing the functions of government by the modern divisions of executive, legislative and judiciary components and then centering and controlling all those functions in the "institutional vertex of the commune," the *anziani* or priors, a schema that presumes the existence of an ordered hierarchy of representation or of simple derivations of powers. In other words, representation is a vehicle for the functioning of oligarchy. For this reason, the organs of government other than the executive are either ignored or regarded as a façade by the adherents of oligarchy.<sup>21</sup> In opposition to this assumption, Vallerani proceeds to show that the "vertex" (the *anzianate*) was disconnected from the other, larger councils, and that contrary to the premises and logic of the oligarchical school, the councils did not function in a mode representative of either larger democratic bodies or of oligarchical groups. "In no commune... is any council elected by the population, nor are the restricted councils a direct expression of the larger councils. Nor is the contrary true—given that the priors or *anziani* do not in turn have the capacity to elect members of all the other councils or to direct their acts in an imperative manner."<sup>22</sup>

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nismi studiati, il governo della città-repubblica di Firenze appare mediamente largo o ristretto."

<sup>20</sup> Vallerani, "Le città e le sue istituzioni," p. 226: "Il terzo punto riguarda la natura delle istituzioni comunali, in particolare i consigli cittadini. Con un'indebita estensione del principio moderno della rappresentanza, essi funzionerebbero da istituzioni rappresentative di componenti sociali più vaste nel comune democratico, o di gruppi di interesse particolari in quello oligarchico; ma in entrambi i casi si avrebbe l'implicita attribuzione di un mandato ai membri delle diverse assemblee."

<sup>21</sup> Vallerani, "Sfere di giustizia," pp. 40–45.

<sup>22</sup> Vallerani, "Sfere di giustizia," p. 42: "In nessun comune ad esempio si riscontra una gerarchia di deleghe che parta dal basso verso l'alto, dato che nessun consiglio viene eletto dalla popolazione, né i consigli ristretti sono espressione diretta dei consigli maggiori; ma neanche il contrario è vero, dato che i priors, o gli anziani, non

Instead of *representation*, Vallerani sees *participation* as the basis of the communal political experience. "The commune is neither a democracy nor an oligarchy because it is not founded on representation, but on direct participation."<sup>23</sup> For him, to raise the question of who were the members of the councils is therefore to address the wrong issue. Since the basic principle of political life was not representation but rather participation, the important issue is how many participated and not who they were.

The issues set forth above are complex, but are at the heart of interpreting the nature of communal political experience. They comprise an essential historiographical framework for discussing the impact of closure and from it stems many of the questions which I address in this chapter and the next. My approach is twofold: structural and prosopographical. First I address the structure of the government and its councils to test (and modify significantly) Vallerani's views concerning the non-representative nature of the councils, and complement those conclusions with the work by Tamba on the expanding and contracting size of the councils. Second, having established that the prosopographical issue is a valid one, I test by systematic statistical analysis the membership of both the executive and larger councils in terms of the frequency of individual office-holding and the persistence of family participation in government (between 1251 and 1300–01 for the communal councils and 1281–1327 for the *popolo* councils).

One of Vallerani's major points, as discussed above, is that at Bologna the *anziani* were, according to him, not at the apex of governmental authority and did not exert control over the other councils. The *anziani* did not appoint members of the larger councils, nor did they or the councils represent broader groups of society. From a structural point of view, his claim is valid. As he points out, the *anziani* were elected by various means that changed over time, but in general by an elaborate system of cooption and nominations made by the guilds and arms societies. They were not elected by the Consiglio del Popolo, nor

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avevano a loro volta la facoltà di eleggere i membri di tutti gli altri consigli, o di dirigerne gli atti in maniera imperativa."

<sup>23</sup> Vallerani, "Sfere di giustizia," p. 45: "Il commune si rivela infatti come una delle rare configurazioni istituzionali nella quale la maggioranza dei cittadini appartiene a qualche istituzione, viene coinvolta direttamente o indirettamente in una forma di partecipazione alla vita politica pubblica. In tal senso il comune non sarà mai né democratico né oligarchico perché non si fonda sulla rappresentanza, ma sulla partecipazione diretta."

were they accountable to that body or able to influence the election of members to that Council.<sup>24</sup> The officials of the guilds and arms societies (*ministrali*) were *ex officio* members of the Consiglio del Popolo as were the *sapientes* and councillors (*consiliarii*), who were elected as additional members from and by each society. Thus, the *ministrali* were, as Vallerani puts it, the summit or vertex of the popular societies, but the *anziani* were the summit or vertex of the *popolo* and the two bodies did not coincide.<sup>25</sup> But why is this so significant for the issue of representation unless one has in mind as a yardstick the model of the modern Italian parliamentary system in which the president is elected by the two houses of Parliament and representatives of the regional councils?

Vallerani also maintains that the popular societies themselves were not hierarchical, with the exception of the notaries.<sup>26</sup> However, the cordwainers' guild, even larger than the notaries, also had a hierarchical structure.<sup>27</sup> Nor was hierarchy limited to these, the largest of the guilds. Other, smaller guilds and arms societies developed small councils to treat issues that had once been dealt with by the assembly of all members, e.g., the admission of new members. For example, in the arms society of the Lombards, the review of new members was delegated to forty *sapientes* chosen by the *ministrali*, but the decisions of the *ministrali* and the *sapientes* had to be ratified by the larger council of the society.<sup>28</sup> Delegation of authority to representatives in a hierarchy, with consent remaining in the hands of the assembly, characterizes the functioning of other popular societies as well, such as the bankers and the masons.<sup>29</sup>

<sup>24</sup> Ibid., pp. 78–79.

<sup>25</sup> Vallerani, "Sfere di giustizia," p. 61. In contrast to Vallerani, Tamba describes the *anziani et consules* as "al vertice della struttura istituzionale." Giorgio Tamba, "Consigli elettorali degli ufficiali del comune bolognese alla fine del secolo XIII," *Rassegna degli Archivi di Stato* 42 (1982): 34–95, esp. p. 80, footnote 1.

<sup>26</sup> Vallerani, "Sfere di giustizia," pp. 62–63.

<sup>27</sup> New members of the guild had to be approved not only by the *ministrali* but by the guild's council of forty *sapientes*. ASB, Capitano, Libri matricularum, Busta II, fol. 115r, September 1315.

<sup>28</sup> *Statuti delle società del popolo di Bologna*, ed. Augusto Gaudenzi, vol. 1, *Società delle Armi* (Rome: Forzani e C. tipografi del Senato, 1889), pp. 77–78.

<sup>29</sup> Antonio Ivan Pini, "L'arte del cambio a Bologna nel XIII secolo," *L'Archiginnasio* 57 (1962): 20–81, esp. p. 53; and Giorgio Tamba, "Da socio ad 'obbediente.' La Società dei Muratori dall'età comunale al 1796," in *Muratori in Bologna. Arte e società dalle origini al secolo XVIII* (Bologna: Collegio costruttori edili ed imprenditori affini della provincia di Bologna, 1981), pp. 53–146, esp. p. 80.



The practices of consent and representation also enter the picture when one looks not only at the *structure* of communal government, but also at the *process* of governing. The *anziani*, in fact, exerted tremendous control over the Consiglio del Popolo. Every proposal discussed and voted upon by that legislative body had to be discussed and approved by the *anziani* prior to its presentation by the Capitano del Popolo to the Consiglio del Popolo. Moreover, the *anziani* in turn were dependent, at different stages of initiating legislation, on both the Consiglio del Popolo and the popular societies themselves. Before proposing legislation to the Consiglio del Popolo, the *anziani* had to obtain approval from that Council for the sending of the proposal as a *cedula* to all the popular societies. Each society had to call an assembly of all members to vote on *cedule*. Approval of a *cedula* required the positive votes of two thirds of the members of a society and two thirds of all the societies. In addition, a particular society could also make itself the sponsor or promoter of a proposal and transmit it to the *anziani* who then had it sent to the other societies.<sup>30</sup> In this sense, by means of the *cedule*, participation extended not only to officeholders, but to all members of the popular societies. The number of officeholders was considerable, (there were approximately 6,000 members of the major councils—communal and *popolano*—at the turn of the century),<sup>31</sup> but the number of political participants went beyond officeholding to include all members of the popular societies. Contrary to Vallerani's view, the *anziani*, Consiglio del Popolo and popular soci-

<sup>30</sup> Gaudenzi, *Statuti*, vol. 1, Statuti dei Lombardi, 1291, pp. 75–76. A minimum of eighty members had to be present in that society at the meeting in which a *cedula* was voted upon. *Statuti di Bologna dell'anno 1288*, ed. Gina Fasoli and Pietro Sella (Vatican City: Biblioteca Apostolica Vaticana, 1937–39), vol. 1, Bk. V, Rubric XXXIII, “De cedula missa per societates populi Bononie,” pp. 332–336. Vallerani mentions the “system of *cartaselle*,” but describes that system very briefly in passing only as a means by which individual societies could be consulted concerning their needs, demands, and requests. Vallerani, “Sfere di giustizia,” pp. 189 and 197. Gina Fasoli, “Le compagnie delle arti a Bologna fino al principio del secolo XV,” *L'Archiginnasio* 30 (1935): 277–278 more correctly refers to the system of *cedule* or *cartiselle* as a system of review and approval which was used when the meeting of the entire *popolo*, the *universus populus*, constituting all inscribed in the popular societies, became too unwieldy because of its increased size. *Cedule* were required for major proposals but not for responses to petitions or *querele*.

<sup>31</sup> The communal councils comprised the Councils of 4,000 and 800. The membership of the Consiglio del Popolo fluctuated, reaching 1,200 in 1309 and 1,400 in 1321. Giorgio Tamba, “Il Consiglio del Popolo di Bologna. Dagli ordinamenti popolari alla signoria (1283–1336),” *Rivista di storia del diritto italiano* 69 (1996): 49–93, esp. pp. 83, 88.

eties thus did relate to each other and interact in a mode of consent and representation. The members of the societies were in a position to wield veto power over the actions of the *anziani* and the Consiglio del Popolo as well as to take the initiative in directing their actions.

Moreover, consonant with its importance, the *cedula*, in particular after a major conspiracy in 1287, was regarded as an instrument of power subject to suspicion and strict control. One of the proclamations announced by heralds in October 1288, declared that no *ministralis* of any society, or any other person, was to give or receive any document (*carticella*) for the purpose of sending, reading or proposing it in any society without the express license of the Capitano del Popolo.<sup>32</sup> That the ban was an innovation of 1288 and not an earlier practice is indicated by an investigation of Oct. 16, 1288, the day after proclamation of the ban, against a candlemaker of the guild of the haberdashers who wanted a meeting of the guild in order to propose a *riformagione*. He confessed that he had indeed done so, but in his defense said that he did so before it was proclaimed that no one should give or propose a *carticella* in the societies.<sup>33</sup> The law was still in effect in 1292 when another investigation was conducted concerning a *carticella* sent to other societies and also appears in the proclamations of 1300.<sup>34</sup> During the war at the end of the thirteenth century against Ferrara, the *cedula* process was suspended for financial proposals, but was reestablished after the end of the war.<sup>35</sup>

By not recognizing the process by which legislation came to the Consiglio del Popolo, Vallerani missed how “representative” and closely tied were, in fact, the societies, the *anziani* and the Consiglio del Popolo. He over-emphasizes the “non-representative” or “imperfect hierarchy” of government structure and the significance of the numbers participating in government office, thereby underestimating the importance of the much larger number participating in the *process*

<sup>32</sup> ASB, Capitano, Giudici, Reg. 120, fol. 4v, Oct. 14, 1288. The decree is also found among the proclamations of 1291, *ibid.*, Reg. 162, fol. 2v.

<sup>33</sup> ASB, Capitano, Giudici, Reg. 126, fols. 5r–6v, Oct. 16, 1288. The law itself is referred to in the trial as newly-made.

<sup>34</sup> ASB, Capitano, Giudici, Reg. 166, fol. 50v, June 23, for the 1292 reference and *ibid.*, Reg. 383, fols. 30r–32v for the 1300 reference.

<sup>35</sup> ASB, Comune-Governo, Provvigioni I, fols. 68r–70v, June 19, 1296 for the suspension and ASB, Comune-Governo, Riformagioni 149, fols. 127r–131v, March 1299, fols. 92v–93r, June 1, 1299 and Riformagioni 151, fols. 156v–157r, Oct. 12, 1299 for re-establishment of the process.

of governance. Not to understand this process means, moreover, that one misses also the relationship between the government's leadership (and that of factional leaders) and its (and their) rank and file members. Because their control was never complete, they had to be responsive to the programmatic desires and perceived needs of their followers and the thousands of members of the popular societies.

How many people participated in political life as members of the popular societies, not just as officeholders? Antonio Ivan Pini pointed out that although there was overlap between the arms societies and the guilds in their membership, the two groups in general comprised two coexisting entities. He estimated that the membership in 1272–74 was approximately 7,204 for the arms societies and 6,028 for the politically-recognized guilds, and that in 1294 those enrolled in the guilds had increased to 10,372 and in 1314 those in the arms societies had increased to 8,032.<sup>36</sup> The total of 13,232 however, includes an unknown number of persons who were in both a guild and an arms society and those who belonged to more than one guild. Moreover, as discussed above in Chapter One, the arms societies included individuals who were not eligible for membership in the guilds. The degree of overlap, furthermore, probably changed significantly after 1288, when all members of the guilds were required to enroll in an arms society.<sup>37</sup> Pini estimated that there were 2,772 individuals representing those groups forbidden entrance to the guilds who *could* have enrolled in the arms societies (and should be added to the base figure of guildsmen), but his figure includes 500 nobles and knights who would not have been eligible by 1294 (when the guild *matricule* were compiled).<sup>38</sup> Reducing his figure by the 500 estimated nobles and knights, and then adding it to his estimate of 10,372 enrolled in the guilds in 1294, (but remembering that at least several hundred of the guildsmen were enrolled in more than one society), one derives an estimate of 12,000 members for that year. Therefore, one can be certain that at least 10,000 persons in 1272–74 and as many as 12,000 by 1294 were enrolled in the societies, and thereby were enfranchised and were participants in political life. Given the population of Bologna (between 50,000 and 60,000 in the

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<sup>36</sup> Antonio Ivan Pini, "Problemi di demografia bolognese del Duecento," *Atti e memorie della Deputazione di storia patria per le province di Romagna*, new series, 17–19 (1969): 147–222.

<sup>37</sup> ASB, Capitano, Giudici, Reg. 120, fol. 4v, Oct. 8, 1288.

<sup>38</sup> Pini, "Problemi di demografia," p. 211.

last two decades of the thirteenth century),<sup>39</sup> Bologna would have been one of the broadest based politically of the Italian medieval communes, with between twenty and twenty-four percent of the total population actively and simultaneously participating, directly or indirectly, in the political decisions of the highest legislative body of the commune.<sup>40</sup>

Bologna's government was also one inclusive of individuals from a broad array of socioeconomic backgrounds. As noted above in Chapter One, even those from humble occupations such as herb vendors, chicken sellers and wine-cask carriers were members of the arms societies and thus eligible for membership in the popular councils and the office of *anzianus*. The membership of the guilds and arms societies, in contrast to most other cities, included not only masters but apprentices and associates (*discipli* and *servientes*).<sup>41</sup> There was, however, a fifty-pound minimum tax assessment required for holding the *anzianate* office.<sup>42</sup> The minimum assessments for members of the Consiglio del Popolo were 100 pounds for the bankers and merchants and 60 pounds for the members from all other guilds and arms societies.<sup>43</sup>

As noted above, the fact that the *anziani* could not appoint the members of the Consiglio del Popolo was significant for Vallerani, indicating the difficulty the executive body would have had in controlling that council. The situation described by Vallerani is accurate for the final decades of the thirteenth century for the Consiglio del Popolo, but beginning with the first semester of 1307, the *anziani* appointed large contingents of the Consiglio del Popolo in addition to those elected by

<sup>39</sup> Rolando Dondarini, *Bologna medievale nella storia delle città* (Bologna: Pàtron, 2000), p. 173.

<sup>40</sup> Only men were members of the guilds and arms societies that were politically recognized. I have found only one member in all the *matricule* whose name indicates that the person might have been a woman.

<sup>41</sup> Pini, "Problemi di demografia," pp. 205–206.

<sup>42</sup> ASB, Capitano, Giudici, Reg. 34, fols. 45v–46r, Oct. 10–12, 1282 for a trial against an *anzianus* charged with having been illegally elected since he did not have the required fifty-pound minimum *estimo*. Also *ibid.*, Reg. 49, fols. 9rv, Oct. 8, 1283 for another trial against someone who had nominated as *anzianus* an individual who lacked the fifty-pound minimum. He was fined 100 *solidi*. The minimum tax *estimo* for holding administrative office was higher (100 pounds), but one who did not meet that requirement could provide a guarantor. Giorgio Tamba, "Consigli elettorali degli ufficiali," pp. 34–95, esp. pp. 55, 74–75.

<sup>43</sup> Tamba, "Il Consiglio del Popolo," p. 67.

the societies.<sup>44</sup> Moreover, from 1282, when the Council of 600 became the Council of 800, the additional 200 members were appointed by the *anziani*.<sup>45</sup>

Participation therefore took place on two levels: at the level of the individual popular societies on the one hand, and, on the other hand, at the level of the executive and legislative councils (of commune and *popolo*), and the functionaries who held administrative offices, for example, those who served as ambassadors, and those appointed to special commissions (*balie*).<sup>46</sup> But those who could and did participate in various roles and levels varied significantly and these differences are symptomatic and indicative of the effectiveness of closure and the extent of oligarchy. Analysis of who participated also must be studied in tandem with how many could participate, given the size of government bodies. The pattern of participation in general consisted of a paradoxical combination of exclusionary policies and expansion of the size of government organs, that is, a combination of increased restrictions on *who* could participate with an increase in the *number* of those who participated. However, in both cases the pattern was not a progressive evolution.

Changes in the size and number of government councils are usually viewed by historians as closely tied to magnate-*popolo* conflicts. At Bologna they were in large part so connected, but other conditions, especially factional struggles, also influenced increases and contractions in participation in government. The changes were twofold: the

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<sup>44</sup> Ibid., p. 75. The *anziani*, their notaries, and the other executive officials who by then were part of their council—the *Defensor* of the Twenty Societies, the *preconsulis* of the notaries, and the *ministrales* of the two preeminent societies (one guild and one arms society rotated into that position each month)—each nominated two persons for a total of eighty additional Consiglio members.

<sup>45</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric XXI, "De consilio VIII<sup>c</sup> et populi et de possibilitate dictorum simul coniunctorum vel separatim existentium," pp. 315–316. For the dating of this provision, Tamba, "Consigli elettorali degli ufficiali," pp. 57–58, and Vito Vitale, *Il dominio della parte guelfa in Bologna (1280–1327)* (Bologna: Arnaldo Forni, 1978) reprint of 1901 edition, p. 32.

<sup>46</sup> Vallerani's approach to participation rests almost entirely on the theoretical possibilities of participation on the basis of council size and rotation requirements through the quarters and societies. Such an analysis is of value, but cannot replace analysis of actual participation by individuals and families. His picture of potential participation and breadth of participation is also limited to the turn of the century (he compares the councils of 1283 and 1303) and therefore he does not address the question of continuity in office-holding by individuals and families in the early decades of the fourteenth century. Vallerani, "Sfere di giustizia," pp. 83–84.

creation of and changes in the newer *popolo* councils and changes in the older communal councils that continued to exist alongside the newer *popolo* councils.

The councils of the commune existed by the late twelfth century and membership lists of the *consilium credentie* and the larger *consilium generale* have survived from 1251. Those councils appear in the Statutes of 1250–67 as the *consilium speciale et generale* and became in 1274, after the expulsion of the Lambertazzi, the Council of 600 or the *consilium comunis*.<sup>47</sup> In 1282, the Council of 600 was enlarged and became the Council of 800, sometimes (confusingly) referred to not only as a *consilium comunis* but also as a *consilium populi* since it met alone but also together with the Consiglio del Popolo.<sup>48</sup> In 1285, the composition of the Council of 800 was further modified to include judges and belted knights.<sup>49</sup> But this Council of the Commune, both in its 600 and 800 membership versions, was smaller than its predecessor. The *consilium credentie* had consisted of 500 members, 125 from each quarter, including university jurists (called *domini legum* in this instance) as *ex officio* members, with additional members consisting of twenty knights from the *contado* (*milites de comitatu*), five per quarter, and eight members from Frignano (outside Bolognese territory), two from each quarter. The *consilium generale* had consisted of 600 elected members from the city and forty men from the *contado*, ten per quarter, who were to come to the meetings of the council when they were in the city. The two councils, with a combined membership of 1,200, met together for specific purposes, for example, the election of *contado* officials—the podestas of the rural communes.<sup>50</sup> By the 1260s the two

<sup>47</sup> *Riformagioni e provvigioni del comune di Bologna dal 1248 al 1400. Inventario*, ed. Bruno Neppi (Rome: Ministero per beni culturali e beni ambientali, 1961), p. xvi.

<sup>48</sup> Vallerani, “Sfere di giustizia,” p. 70, in his description of the Council of 800 actually describes the Consiglio speciale e generale according to the mid-century statutes edited by Frati. He also dates the 1290 list of members of the Council of 800 as 1289, but although elected at the end of 1289, the list refers to those officials in office for the first six months of 1290.

<sup>49</sup> Tamba, “Consigli elettorali degli ufficiali,” p. 58.

<sup>50</sup> *Statuti dall'anno 1245 all'anno 1267*, ed. Luigi Frati, (Bologna: Regia Tipografia, 1869–1877), vol. 3, Bk. X, Rubric XIX, “De Ellectione consilii credentie et generalis,” pp. 63–65 for the size of the council. Also *ibid.*, vol. 3, Bk. X, Rubric XX, “Quod consilium generale vadat ad brevia,” p. 66 for the joint meeting to elect the *potestates terrarum*.

councils had merged into a new entity called the *consilium speciale et generale*, predecessor of the Council of 600–800.<sup>51</sup>

By 1282, there was also a *consilium comunis* of 4,000 members, which was reduced to 2,000 members between 1282 and 1284 and then enlarged again to 4,000 members in 1294. In addition, from 1287, the *anziani* and their notaries were *ex officio* members of this body.<sup>52</sup> By 1285, this council acted as the electoral body for all administrative officeholders, taking on the elections that earlier had taken place in various organs, for example, the election of the notaries of the *anziani* which had taken place in the Consiglio del Popolo.<sup>53</sup> As Tamba has shown, the increased size in the membership of this council stemmed at least in part from communal fiscal needs, since members had to pay a fee in order to hold this office.<sup>54</sup> (Indeed, not surprisingly, members consequently regarded the office as their possession for the term, and if a member died in office, determination of who would fill the rest of the term required approval of the heirs of the deceased member.)<sup>55</sup>

As communal councils, both the Council of 800 and the Council of 2,000–4,000 were presided over by the podesta even when the Council of 800 was joined by the members of the Consiglio del Popolo, but it was the Capitano and/or the *anziani* who decided that such a meeting

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<sup>51</sup> Hessel says the *consilium credentie* came to be called the *consilium speciale* from 1230 and was united with the *consilium generale*, but from extant membership lists discussed below, we know the old titles were still in use in 1251. Alfred Hessel, *Storia della città di Bologna dal 1116 al 1280*, Italian trans. Gina Fasoli (Bologna: Alfa, 1975), p. 175, original German edition 1910. Giorgio Tamba, “I Documenti del Governo del Comune Bolognese (1116–1512)”, *Quaderni Culturali Bolognesi* 2 (1978): 5–66, esp. p. 9 notes the change in name from the *consilium credentie* to *consilium speciale* and dates it as 1228. The council served as an electoral college, a function later assumed by the Council of 2,000–4,000. The council became the Council of 400 in 1274 with the reorganization that took place after the expulsion of the Lambertazzi. It was increased to 600 the next year (and to 800 in 1282). *Ibid.*, p. 10.

<sup>52</sup> Tamba, “Consigli elettorali degli ufficiali,” p. 85. In 1275, the office lasted for two years. Members paid a fee of 20 *solidi* and the office was treated as a possession that could be transmitted to heirs or its functions could be performed by a proxy. *Ibid.*, p. 43.

<sup>53</sup> Tamba, “Consigli elettorali degli ufficiali,” pp. 38, 40–42, 76.

<sup>54</sup> *Ibid.*, pp. 91–92. Tamba identifies the financial need in June, 1294 as the acquisition of Castello Capreno (Cavrenno) and Pretemola on the road to Florence, which had been held by the Ubaldini and which cost the commune 15,000 florins. The tax for council members was 20 *solidi* but the tax was waived for *ex officio* members, who by this time comprised more than one third of the members.

<sup>55</sup> As noted in the margins of the membership lists. Tamba, “Consigli elettorali degli ufficiali,” p. 86.

should be called.<sup>56</sup> In 1282, with the establishment of the Sacred Ordinances, the *popolo* asserted the supremacy of its Consiglio del Popolo over that of the Council of 800—legislation from the former no longer required ratification by the latter, marking the culmination of an advance to power by the *popolo* that had its beginnings early in the century with the first *popolo* revolution of 1228 (led by the merchants and bankers) which brought officials from the popular societies into the communal council, and the establishment of the anzianate office between 1228 and 1231.<sup>57</sup>

The earliest evidence for the existence of the *popolo*'s councils dates from 1248, with the existence by that year of the council of the *anziani et consules* which met with one *sapiens* from each of the popular societies, and the coexistence of the council of the *ministrales* and councillors, which met monthly with the *anziani*.<sup>58</sup> By 1256, which marked a reorganization of the *popolo* and the establishment of the office of the Capitano del Popolo, the council of the *anziani et consules* and their *sapientes* was recognized as the *consilium parvum populi* and the council of the *ministrales* and councillors as the *consilium magnum populi*, the latter consisting of no more than eight officials from each society, except for the merchants and bankers, who at this point had contingents of twenty-five officials each.<sup>59</sup> By 1267, the *consilium magnum*, with the renewal of the office of the Capitano del Popolo, which had been temporarily suspended, was given an additional four *sapientes de massa* from each society.<sup>60</sup> By 1274, the contingents from the merchants' and bankers' guilds were increased to thirty-three officials each.

<sup>56</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. I, Rubric XIII, "De propositionibus consiliariorum non faciendis in consilio sine voluntate ancianorum et consulum," pp. 30–31, and *ibid.*, Bk. V, Rubric XXI, "De consilio VIII<sup>c</sup> et populi et possibilitate eorum simul coniunctorum vel separatim existentium," pp. 315–316.

<sup>57</sup> Fasoli, "Le compagnie delle arti," p. 270. The *reformagioni* of the Council of 800 are catalogued in Neppi, *Inventario* and as he notes (p. xvi), the surviving documents from 1287–1301 demonstrate the limited purview of that council, which dealt with concessions of properties of the commune to private individuals and payments of officials. It was in this council that the sentences from the court of the podesta were pronounced.

<sup>58</sup> Fasoli, "Le compagnie delle arti," pp. 275–276. Gaudenzi, *Statuti*, vol. 2, pp. 501 and 508; Tamba, "Il consiglio del popolo," p. 52. Tamba also cites an earlier reference to the *consilium parvum populi* from 1245 in Frati, *Statuti dall'anno 124 all'anno 1267*, vol. 1, p. 6.

<sup>59</sup> Fasoli, "Le compagnie delle arti," p. 277. Tamba, "Il consiglio del popolo," p. 52, citing the statutes of the merchants' guild from Gaudenzi, *Statuti*, vol. 2, p. 119.

<sup>60</sup> Tamba, "Il consiglio del popolo," p. 52.



Given some variations in the size of the contingents of other societies, the number of “ordinary” members of the Consiglio varied between 600 and 650, as well as the *anziani* as *ex officio* members, at least two-thirds of whom had to be present at meetings of the council.<sup>61</sup>

Changes to the Consiglio del Popolo in the late thirteenth and early fourteenth century have been exhaustively documented by Giorgio Tamba, in a definitive study of the extant *reformagioni* which have survived from 1283 to 1327, but with gaps.<sup>62</sup> One of his major findings was that the Consiglio, while overall becoming larger until its suppression in 1327 with the establishment of the lordship of Cardinal Bertrando del Pogetto, at intervals also was reduced back to a smaller size. Some growth was caused by an increase in the number of guilds, from twenty-one in 1283 to twenty-six by 1318 (with the addition of the goldsmiths in 1302, the rough wool guild in 1307, and the barbers, fine wool guild and spice merchants and apothecaries in 1318).<sup>63</sup> But other increases (and decreases) were due to the use (or discontinuance) of “additions” made to the base of “ordinary” members and can be tied to specific changes of regime and factional influence. The first set of “additions” dates from 1305, under the regime of the “Whites” or moderate Guelfs (1303–1306), and was employed again by the successor regime, the “intransigent” or “ultra-Guelfs,” which came to power in February 1306.<sup>64</sup> The “intransigent” Guelfs dropped the 200 additions and replaced them with seventy additions, most likely the *anziani* and their notaries from March, April, and May of 1306, and in the summer of 1306 added thirty-four *sapientes*. Further, in September 1306 each of the *anziani*, their notaries and several other officials in leadership roles (the *defensor* of the Twenty Guilds, the *preconsulis* of the notaries, the *ministrales* of the Eagles and masons—the two soci-

<sup>61</sup> Gaudenzi, *Statuti*, vol. 2, p. 537. Giorgio Tamba, “Le riformagioni del consiglio del popolo di Bologna. Elementi per un’analisi diplomatica,” *Atti e memorie della Deputazione di storia patria per le province di Romagna*, new series, 46 (1995): 237–257, esp. p. 250.

<sup>62</sup> Tamba, “Il consiglio del popolo,” p. 54.

<sup>63</sup> Tamba, “Il consiglio del popolo,” p. 69, and also his “Le riformagioni del consiglio del popolo,” p. 250. Shortly thereafter, the fishmongers split, bringing the total number of guilds to twenty-seven.

<sup>64</sup> Tamba, “Il consiglio del popolo,” pp. 58, 73–74. It was decided in January 1305 that the Consiglio del Popolo for the term beginning in June would include *ex officio* those who had held leadership positions from July 1304 to June 1305 (the *anziani et consules*, their notaries, the *defensores averis*, and the *defensores* of the twenty societies), amounting to a group of 200 persons.

eties that served as the preeminent societies that month—in short all those responsible for proposing that the additions be continued into the next term), were each empowered to name two more members as further additions to the Consiglio in the following term, an addition of eighty persons. Thus, next to the system of election of the members of the Consiglio by the popular societies a system was established for cooption and direct appointment of the members of the Consiglio by the *anziani* and others in leadership positions.<sup>65</sup>

In all these instances of Consiglio enlargement, and in the case of both regimes, the system of additions was intended to ensure that the membership would comprise a sufficient number of regime supporters, marking a significant move towards hierarchical control of the Consiglio. Enlargement of the Consiglio and those participating in government at that level signified, therefore, at least in these cases, a paradoxical narrowing of the power base despite the increase in the number of Consiglio members. It is ironic that this narrowing of the power base to supporters of a particular regime or faction was accompanied by the final stage in the dismantling of the numerical advantage that the merchants and bankers had held in the Consiglio from the time of its formation. In February 1306, the thirty-three councillors each that the bankers and merchants had in the Consiglio del Popolo was reduced and equalized to the fourteen councillors that was the maximum for all the other guilds' and arms societies' contingents.<sup>66</sup> In 1309, the bankers and merchants lost their privileged position in the *anzianate* itself.<sup>67</sup>

But these moves against the bankers and merchants were part of a closing, not an expanding, of those to be admitted into the ranks of decision-makers, as the faction of the "intransigent" Guelfs under the leadership of a federation of seven of the arms societies and, increasingly, the wealthy banker Romeo Pepoli, consolidated its position of dominance.<sup>68</sup> The newly enlarged Consiglio retained its size until July

<sup>65</sup> Tamba, "Il consiglio del popolo," pp. 74–75.

<sup>66</sup> Ibid., p. 74.

<sup>67</sup> As far as I know, this change in the *anziente* has not been previously noted. ASB, Capitano, Giudici, Regs. 500–513.

<sup>68</sup> The seven societies were the Eagles, Claws, Griffins, Lions, Swords, Stars, and butchers *pro armis*. Fasoli, "Le compagnie delle armi a Bologna," *L'Archiginnasio* 28 (1933–XII): 158–183, 323–340, esp. p. 324. Romeo Pepoli's prominence increased with the establishment of the "intransigent" Guelf government, but his *proto-signoria* did not emerge until later. By 1310 he was present at every election of the *anziani*.

1309, when a further addition for one year of 171 members chosen directly by the *anziani* was made, bringing the size of the Consiglio to approximately 1,200 members. The purpose of the enlargement was to ensure support for the regime in a time of external danger (the coming of Henry VII to Italy and the ensuing climate of fear generated among the “intransigent” Guelfs in the cities of the Guelf League).<sup>69</sup> The perceived danger to the government and city was not lessened by the death of Henry VII in 1313 and the system of additions was continued until 1315 when it was replaced by the insertion of the already existing Council of the Guelf Party into the *popolo* council hierarchy.<sup>70</sup> That body consisted of 347 members, 200 of whom were chosen, fifty per quarter, by the *anziani*. The remaining 147 members included the *anziani* of October and November, the *sapientes* who had formed the commission that proposed the new council, the notaries of the *anziani*, the chancellor, the *preconsulis* of the notaries, the *barisellus*, and the *preministralis* of each of the seven arms societies who had carried out the establishment of the “intransigent” Guelf regime in 1306, members of the preceding Council of the Guelf Party, and Romeo Pepoli and two other individuals closely associated with him. Meanwhile, the Consiglio del Popolo itself was reduced back to its size with only “ordinary” members. The Council of the Guelf Party was enlarged further to 400 members in 1317, but then disbanded in December 1319 and the system of additions to the Consiglio del Popolo with number and individuals decided by the *anziani*, was renewed, with the result that 672 additional members were appointed.<sup>71</sup>

By 1319, the system of additions had become entangled not only with the efforts of Romeo Pepoli (who had established himself as one of the most prominent leaders of the “intransigent” Guelfs during the revolution of 1306) to establish a *signoria*, but, significantly, also with resistance to Pepoli’s efforts. Resistance to this centralizing, more hier-

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Massimo Giansante, *Patrimonio familiare e potere nel periodo tardo-comunale. Il progetto signorile di Romeo Pepoli banchiere bolognese (1250 c.–1322)* (Bologna: La fotocromo emiliana, 1991), p. 58.

<sup>69</sup> Tamba, “Il consiglio del popolo,” pp. 76–77. As usual, the additions were to be appointed centrally. In this case the *anziani* named ten *sapientes* per quarter and the *sapientes* in turn prepared a list of 100 per quarter, which was reviewed by the *anziani* who could make substitutions.

<sup>70</sup> Vitale, *Il dominio della parte guelfa*, pp. 147–151; Tamba, “Il consiglio del popolo” p. 83 and “Le riformazioni del consiglio del popolo,” p. 251.

<sup>71</sup> Tamba, “Il consiglio del popolo,” pp. 85–86; “Le riformazioni del consiglio del popolo,” p. 252.

archical trend probably explains the change in the number of ordinary members in June 1320 which reduced the number of additions appointed by the *anziani* to the Consiglio del Popolo. In this case, which lasted only that year, the number of ordinary members also was increased by fifty-five officials from the arms societies (but not from the guilds).<sup>72</sup> But the system of additions also suited the needs of those opposed to Pepoli's ambitions. After the expulsion of Pepoli and his closest allies from the city in July 1321, the new regime modified the structure of the Consiglio del Popolo, particularly in the following two years, so that the Consiglio del Popolo reached the greatest size in its entire history—1,400 members, of whom more than half were centrally-appointed additions.<sup>73</sup> What thus can clearly be seen from Tamba's studies is that expansion of the size of the Consiglio del Popolo was a tool used by different regimes—the Whites of 1303–06, the “intransigent” Guelfs of 1306–1319, and both the pro- and anti-Pepoli governments before and after his expulsion in 1321—and that it was used by each regime to bolster support for itself, and was not a sign of a broader base of power. In short, an expansion of the size of government organs and an increase in the number of participants (a paradox long-noted by historians of Florence) took place at Bologna during a succession of governments that marked at each transition an increasingly narrow body in terms of party and faction and an increasing exclusion from political life of opposing political groups. More people than ever before were directly involved and participating in political life, but the scope of political life itself was reduced to a narrower constituency of the *popolo* than the one that had triumphed in 1282 (when the supremacy of the Consiglio del Popolo was established).

Does the trend from the beginning of the fourteenth century to a more centralized, controlled and hierarchical form of government signify that political life became more controlled by an elite of great families, and that Bologna's government was in the hands of an oligarchy? If there was an oligarchy, was it already in place in earlier years? Those questions cannot be answered only in terms of government structures and levels of citizen participation, but also require analysis of *who* participated, to what degree, and with what continuity over time.

<sup>72</sup> Tamba, “Il consiglio del popolo,” pp. 87–88.

<sup>73</sup> Ibid., p. 88.

The documentary basis for analyzing membership in the *anzianate* and larger councils is an abundant but uneven one. For the *anzianate* there is a valuable and totally neglected compilation by the eighteenth-century *erudito*, Pancrazio Molinari. While not complete, his work contains an almost continuous record from 1282 through 1327 and, supplemented with *anziani et consules* lists from the late sixteenth-early seventeenth-century chronicler, Cherubino Ghirardacci, the total number compiled of offices held reaches 7,050, thus constituting a rich source for studying that institution.<sup>74</sup> While the surviving records for the councils of the commune are relatively meager, they are nevertheless valuable: the list of members for the *consilium credentie* from 1251 survives for two quarters, Porta S. Procolo and Porta S. Pietro, and the list for the *consilium generale* of 1251 survives for the quarters Porta S. Procolo and Porta Stiera.<sup>75</sup> For the Council of 800 two lists survive: one for S. Procolo from 1290 and one for S. Pietro from 1294.<sup>76</sup> For the Council of 2,000 there are membership lists for the quarters of Porta Ravegnana, S. Procolo and S. Pietro for the year 1290 and for Ravegnana and S. Pietro for the year 1294.<sup>77</sup> The Council of 2,000 became the Council of 4,000 in 1294 and a few membership lists survive for the Council of 4,000. Some are damaged but the lists from 1300–01 and 1315 are usable.<sup>78</sup>

The extant records for the Consiglio del Popolo are much richer than those for the councils of the commune, but the series has significant gaps, and for some of the semesters the records are incomplete or have records for either the arms societies or the guilds, but not for both, or for the later years, give the ordinary members but not the

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<sup>74</sup> Pancrazio Molinari, *Li Consoli, Anziani Consoli e Gonfalonieri di Giustizia della città di Bologna*, vol. 1, (1143–1375) (Bologna: Istituto delle scienze, Bologna, 1788), and Cherubino Ghirardacci, *Della historia di Bologna*, vol. 1 (Bologna: Simon Parlasca, 1605). I have tested the reliability of their documentation in a sampling of the appearance of *anziani* names in the *reformagioni*, and have found them to be accurate in capturing the individuals but inconsistent in their translations of the names into Italian.

<sup>75</sup> ASB, Comune-Governo, Consigli ed ufficiali—Elezioni per i consigli del comune. Busta 57, Fascicolo “a.”

<sup>76</sup> ASB, Comune-Governo, Consigli ed ufficiali—Elezioni per i consigli del comune. Busta 57, Fascicolo “b.”

<sup>77</sup> ASB, Comune-Governo, Consigli ed ufficiali—Elezioni per i consigli del comune. Busta 57, Fascicolo “c.”

<sup>78</sup> ASB, Comune-Governo, Consigli ed ufficiali—Elezioni per i consigli del comune, Busta 58.

additions or vice versa.<sup>79</sup> In the case of the *anzianate*, and also the councils of the commune, except for that of the 4,000, I have used all the available data. For the Council of 4,000 I have used only the quarter of Ravegnana for 1300–01. For the Consiglio del Popolo I have used a sample of the lists from years for which the records are complete, plus certain others selected for reasons given below, for a sample that includes 11,074 terms of office held.

The *anzianate* is the institution in which one would expect to find the greatest degree of elitism since it was the most prestigious and the most restrictive of all government councils. From a structural point of view, however, the council of the *anziani et consules* became less restrictive during our period. The earliest statutory configuration of the *anzianate*, from 1248, reflects the pre-eminent position of the merchants and bankers, with eight of the twenty terms of office reserved for them.<sup>80</sup> Since approval of all decisions required a two-thirds vote, the *consules* of the merchants and bankers therefore held veto power.<sup>81</sup> Each month between 1248 and 1256 there were six *anziani* representing six guilds and eight *consules* representing the bankers' and merchants' guilds and another six *anziani* representing six arms societies, for a total of twenty members each month. In 1256, the merchants and bankers lost that veto power when the representatives from the other guilds and arms societies were increased from the six each of 1248 to eight members each.<sup>82</sup> In 1256, moreover, the butchers, who had both a guild and an arms society, obtained a permanent position on the

<sup>79</sup> ASB, Comune-Governo, Consigli ed ufficiali del comune, Consiglio del popolo, Busta 62 (1283–1310), Busta 63 (1313–1320), and Busta 64 (1321–1335). There is also a list for 1292 published in Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, and a list for the Consiglio del Popolo *ex officio* members from 1300–01 included with the Council of 4,000 list for that year.

<sup>80</sup> Fasoli, "Le compagnie delle arti," pp. 274–278.

<sup>81</sup> The earliest listing of *anziani* dates from the three-semester-term of April, May, June 1247 when a panel of twenty was selected, but, as with all the data from Molinari, without designation of the societies which they represented. Molinari, *Li consoli, anziani consoli e confalonieri*, pp. 6–7. The next three-month panel, July, August, September 1247 has sixteen names. The next panel is for January, February, March 1248 and gives twenty members and the panel for October, November, December 1249 comprises nineteen names. *Ibid.*, p. 7.

<sup>82</sup> Fasoli, "Le compagnie delle arti," p. 277. The size of the panels, according to Molinari's data, however, still fit the older model with twenty for the three-month-term of July, August, September 1256 and nineteen for January, February, March 1257, but twenty-five for April, May, June 1257 and twenty-five for November and December 1258. Molinari, *Li consoli, anziani consoli e confalonieri*, p. 8.

anzianate, alternating their representation each term with a member from their guild or arms society, bringing the number of *anziani* to seventeen. They were granted the permanent post in recognition of their role in the *popolo* revolution of that year that had resulted in a decrease in the terms of office held in the anzianate by the merchants and bankers from eight to four *consules* (two for each guild). At the same time the number of notaries assigned to the anzianate was increased to two. The number of terms of office in each monthly panel (the rotation had been at three and then two-month-intervals) was standardized by this time in an alternating pattern of twenty-three and twenty-four members. The number of terms of office per year for the merchants and bankers was thus forty-eight (four per month). For the anzianate as a whole, including the *consules* (twenty-three each month for six months and twenty-four per month for the alternating six months), the total number of terms of office was 282, which, together with twenty-four notaries, made a total of 306 terms of office to be filled each year on the executive council.<sup>83</sup>

The number of merchant and banker terms of office was further reduced, however, in 1309, when the merchants and bankers retained only one term of office each and that term of office rotated between them each month, thereby reducing the number of *anziani et consules* from twenty-three and twenty-four to twenty-one and twenty-two members each month for alternating months, bringing the total number of terms of office to be filled each year to 258, plus the twenty-four notaries.<sup>84</sup> Thus, the trend over the period of this study *structurally* was on the one hand a reduction of the merchant-bankers' predominance, but on the other hand it was also a conjoining of that predominance with greater ongoing influence from the butchers and notaries.

Not only the number of *anziani et consules*, but also the period within which the same person could hold office changed. However, the change was inversely related to the length of term. Thus, in 1248 when the length of term was three months, eligibility to hold office was limited to once every three years, but when the term was reduced to one

<sup>83</sup> Tamba, "Consigli elettorali degli ufficiali," p. 58, and Vallerani, "Sfere di giustizia," p. 83. For the two notaries see Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric LXXIII, p. 395.

<sup>84</sup> To my knowledge, scholars have not hitherto observed this change. ASB, Capitano, Giudici, Reg. 514, 1309. The figures from Molinari vary because he does not distinguish between the *anziani et consules* on the one hand and the two or three notaries on the other hand.

month, the eligibility term was also reduced, to once each year, thereby leaving the number of months a person could hold the office within a three-year period the same—three months.<sup>85</sup> The increased rotation of offices thus did not necessarily mean an expansion in the number of those who actually held or could hold office. Nor can we assume that the reduction in the merchant-banker terms of office necessarily signified a waning influence and decreased presence of individuals and families from those guilds, since, as shown above in Chapter One, the mercantile-banking families had increased their presence in the arms societies and were in leadership positions both in the arms societies and in the guilds that had won political recognition in the late thirteenth and early fourteenth century. Moreover, a prohibition against holding the office of *anzianus* more than once per year apparently was difficult to enforce. A law of Nov. 20, 1299 forbade anyone from holding that office twice in one year, beginning with December 1299, even though that law had been in place for over ten years.<sup>86</sup>

Understanding the degree of political mobility and openness in the executive council of the *anzianate* from a structural viewpoint is further complicated by the presence of individuals, some elected and some *ex officio*, who met regularly with the *anziani* and in some cases, stood as their coequals in positions of the highest political authority. These officials make their first appearance in connection with regime change and served to guard special interests, either of the *popolo*, the Geremei, or of a specific party. From 1256, the *barisellus*, who was always a member of the butchers' guild and the same individual for decades, was present in the council's meetings.<sup>87</sup> In 1283, the *pre-consulis* of the notaries' guild also began meeting *ex officio* with the *anziani*, a role he retained until 1318. During the dominance of the White Party the then *barisellus* was banned and his office replaced by that of the *defensor* of the guilds, representing first nineteen and

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<sup>85</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric VIII, "De electione ancianorum," pp. 297–299 for the interval for holding the office of *anzianus* as one year. Fasoli, "Le compagnie delle arti," p. 276 for the 1248 configuration of eight *consules* of merchants and bankers and twelve *anziani*, and *ibid.*, p. 277 for *anziani* in 1256 becoming seventeen and the term of office as two months, representing eight guilds and eight armed companies and the butchers.

<sup>86</sup> ASB, Comune-Governo, Riformagioni 151, fol. 165v. In addition, no one was to be elected to the Consiglio del Popolo by two societies.

<sup>87</sup> Fasoli, "Le compagnie delle arti," p. 277.



then twenty of the then twenty-three politically recognized guilds.<sup>88</sup> But shortly after the White Party was overthrown in 1306, the office of *defensor* was abolished and the *barisellus* office reinstated. In addition, the new regime created the office of *preministralis* of the seven arms societies whose federation had overthrown the White Party. This new official also sat with the *anziani*. In 1313, yet another new official, the *preministralis* of the remaining thirteen arms societies was added to the list of *ex officio* members who sat with the *anziani*. The last of these auxiliary “executive” officials was the Standard-bearer of Justice (*gonfalonarius iusticie*), proposed on the eve of Romeo Pepoli’s expulsion in 1321 and established by the new regime immediately after his forced departure.<sup>89</sup>

In addition, from 1282, the *ministrales* from the two different societies each month (one guild and one arms society in their traditional pairings) that were designated as the “two preeminent societies” for that month, were charged with special responsibility for the preservation of the *popolo*’s Sacred Ordinances of 1282 (and then also the Most Sacred Ordinances of 1284) and served as a “watch-dog” to ensure that the *anziani*’s actions conformed to the Ordinances. Furthermore, the two preeminent societies were “assisted” in their work by two *sapientes* elected by each of the guilds and arms societies, for a total of eighty-six *sapientes* in the 1280s, when there were forty-three societies, and ninety-six in 1318 when the number of societies increased to forty-eight.<sup>90</sup> From the days of its earliest councils, the *anziani* had met with *sapientes*, usually elected by the *anziani*, who served on special commissions, or *balie*, for and with the *anziani*. (One should note that the *sapientes* of the two preeminent societies are distinct from those of the

<sup>88</sup> ASB, Comune-Governo, Provvisioni III, fol. 40r–41r, January 1303. The *barisellus* from the early 1280s until his final ban in 1303 (under the extraordinary ban of 10,000 pounds) was Giovanni Summa. ASB, Capitano, Giudici, Reg. 424, fols. 50r–52v. He also served as *anzianus* at particular points, for example, in 1297. Ibid., Reg. 317, fol. 21r. He was also temporarily sent to Modena in February 1282 in connection with a conspiracy in Bologna. ASB, Capitano, Giudici, Reg. 22, fols. 10rv, Feb. 21–23. For 1296, ASB, Comune-Governo, Riformagioni e provvisioni, serie cartacea, Busta 216, fol. 3r, May 1296. The *barisellus*’ primary role was to protect the commune and *popolo* from Lambertazzi and he had summary powers to do so. Vitale, *Il dominio della parte guelfa*, p. 119. For the creation of the position of *preconsulis* in 1283, see Giorgio Tamba, *La società dei notai di Bologna. Archivio di Stato di Bologna; saggio storico e inventario* (Rome: Ministero per beni culturali e beni ambientali, 1988) p. 40.

<sup>89</sup> Vitale, *Il dominio della parte guelfa*, pp. 170–172.

<sup>90</sup> ASB, Capitano, Giudici, Reg. 163, fols. 34r–44r.

special commissions and also are not to be confused with the *sapientes de massa*, who were also elected by the guilds and arms societies as part of their contingents to the Consiglio del Popolo.)<sup>91</sup> Unlike the *anziani*, the *sapientes* who sat with the *anziani* were not limited to holding their office once per year, but held it as frequently as every other month.<sup>92</sup> Thus the executive council of the *anziani*, when one includes the plethora of *ex officio* members, *ministrales* of the preeminent societies and their *sapientes*, comprised a sizeable body, one that extended to more than 143 members per month and more than 1,300 terms of office per year. Moreover, that figure does not include the varying number of specially commissioned legal consultants (*sapientes iuris*). The monthly rotation of the *anziani* and the *ministrales* of the two preeminent societies was thus balanced to a degree by the ongoing presence of the *barisellus*, the *preconsulis*, and the *preminis-tralis*, but as Sara Menzinger has shown in a recent study, a significant source of continuity can also be found in the special commissions of *sapientes iuris*, who provided juridical and military expertise to the executive council of the *anziani*.<sup>93</sup> Structurally, the government bodies of commune and *popolo* thus underwent significant expansion and contraction in their size during our period, and the configuration of the executive bodies left open ample opportunity for greater or lesser sharing of decision-making. The questions of who actually participated in the councils and the degree to which leadership was exerted by networks of familial and professional ties can be answered only by a prosopographical analysis of the *anzianate* and larger councils. The existence of powerful familial networks has long been postulated by scholars of medieval and Renaissance Italy as the primary characteristic

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<sup>91</sup> Jehn incorrectly treats the *sapientes* who assisted the preeminent societies as *sapientes de massa* (members of the Consiglio del Popolo). Mathias Jehn, "Die Versteckte Macht. Das *consilium sapientis* und der politische Einfluß der Juristen in Bologna. 1281 bis 1306," tesi di dottorato, Scuola Superiore di Studi Storici di San Marino, 2002.

<sup>92</sup> A two-month interval before holding office again is specified for the Forty *sapientes* who were elected by the *anziani* themselves and who were phased out as such around the time of the establishment of the institution of two *sapientes* from each society, who were selected by the *ministrales* of each society. There is an overlap in the Capitano records of the two *sapientes* per society and the Forty in October 1283. ASB, Capitano, Giudici, Reg 52, fol. 5r. That the same interval was required for the two *sapientes* I have determined from studying the lists of *sapientes*.

<sup>93</sup> Sara Menzinger, *Giuristi e politica nei comuni di popolo. Siena, Perugia e Bologna, tre governi a confronto* (Rome: Viella, 2006).

of oligarchies.<sup>94</sup> Indeed, the assumption of much of the historiography, and of this study, is one of family solidarity as a key component of political blocs. The assumption can be challenged and instances found of family political divisions, for instance the Lambertazzi and Geremei wings of the Counts of Panico and the Garisendi families. But in general in this period alignments to factions and political alliances were by family. The question remains, however: how dominant a role did family ties play in the functioning of the political class of late medieval Bologna?

The oldest data available for prosopographical analysis are those of the communal councils. As fragmentary as they are, the membership lists do offer an opportunity to analyze change over time, given their chronological spread of forty to fifty years, from the councils of the *credentie* and *generale* of 1251 to the Councils of 800 and 2,000–4,000 from the decades at the turn of the century. For these councils of the commune we can compare the membership before and after the three revolutions of 1256, 1274 and 1282 that brought the *popolo* to supremacy. What I will maintain from this evidence is that the data do reflect and indicate the impact of upward closure, as we would expect from the structural changes described above, but that in sharp contrast to the situation in Florence, the older magnate families as well as the merchant-banker families maintained a prominent position in the communal councils and administrative life of the commune.

Which social strata participated in the councils in 1251 and how did that type of participation change? Which families dominated in 1251 and which continued in a prominent position at the turn of the

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<sup>94</sup> For example, Dale Kent, *The Rise of the Medici: Faction in Florence, 1426–1434* (Oxford: Oxford University Press, 1978), whom Brian Carniello discusses as a major proponent of an “elitist partisan politics” interpretation of Florentine political life. Carniello juxtaposes the work of John Najemy to that of Kent and argues that his own study of several prominent notarial families in Bologna shows a contrasting “equation” of political life, one based on the “centralization of authority over private forms of power.” Brian Robert Carniello, “The Notaries of Bologna: Family, Profession and Popular Politics in a Medieval Italian City-State,” Ph.D. diss., University of California, Santa Barbara, 2005, pp. 29–37. For an introduction to political elites and bibliography, see Edward D. English, “Society, Elite Families, and Politics in Late Medieval Italian Cities,” in *A Companion to the Medieval World*, ed. Carol Lansing and Edward D. English (Malden, MA and Oxford, UK: Wiley-Blackwell, 2009), pp. 185–208. A work not referenced in that article that directly relates families to state politics and state building is that of Giovanna Benadusi, *A Provincial Elite in Early Modern Tuscany. Family and Power in the Creation of the State* (Baltimore and London: The Johns Hopkins University Press, 1996), esp. pp. 31–52.

century? The most striking feature in the 1251 councils is the presence of those who would later be eliminated by upward closure from the centers of political authority. In the *consilium credentie*, which served as an electoral college, and for which we have the membership lists for two urban quarters, the statutes call for the election of twenty knights from the *contado* (five from each quarter) and eight men from Frignano (two from each quarter). In fact, in these lists we do find *contado* nobles, consular aristocrats, some individuals who were later designated as urban magnates, as well as other magnates who would be banned as Lambertazzi in 1274, and some individuals later designated in the Sacred Ordinances of 1282 as magnates who had to post securities to ensure their good behavior (*lupi rapaces*). From the quarter of S. Procolo the members included Rustigano da Scopeto and Parisio di Barufaldo (from Frignano), both *contado* nobles who were later designated as *lupi rapaces* and who were particularly notorious as feudists and violators of *popolo* norms.<sup>95</sup> Other *contado* nobles included Isnardo da Montasico and Gerardo da Tizzano. Members of families later designated as urban magnates included the Galluzzi. Prominent jurists and judges included Odofredo, *doctor legum*, and five other *doctores legum*, as well as two judges.

Also present were leading merchant-banking *popolano* families, some of whom were later designated as urban magnates, such as Arpinaldo Carbonesi and Pietro Lamberti. One of the most prominent of Lambertazzi bankers is included—Brancaleo Lambertazzi.<sup>96</sup> Notaries and sons of notaries comprised nine of the members, some with no patronymic or cognomen. In this quarter (S. Procolo), there is also a smattering of artisans and their sons (four of them).<sup>97</sup> A strong family presence is also evident. The *de Rameniis* had six members present. Two of the five electors of the council members chose their own relatives—the da Scopeto and Fratta, and there were at least three other groups of brothers—the two sons of Giacomello Serti, the three

<sup>95</sup> ASB, Comune-governo, Consigli ed ufficiali del comune. Elezioni per i consigli del comune, Busta 57 (1150–1386), 1251, fols. 1r–2v. Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric XVI, "De satisfactione prestanda ab infrascriptis nobilibus civitatis vel districtus Bononie, et de penis eorum qui non darent dictam satisfactionem et de fidantia eis danda ratione predicta," pp. 308–312.

<sup>96</sup> Other members of Lambertazzi families include Enrighetto Fratta, *Gruamons* Fratta and *Gualterinus* Maccagnani.

<sup>97</sup> Suzio di Rinaldino, doctor (of medicine), Petrozolo di Benedetto the miller, Grasso the mason, and *Maracoaldus* the miniaturist.

sons of Guezo *Beline*, the two sons of Pietro Torelli, and several Galluzzi and Maccagnani.

The *consilium credentie* list of 1251 for the quarter of S. Pietro has fewer notaries (four of them) and artisans (only one—Magister *Grossus*, doctor of medicine), but a stronger family presence with more groups of relatives from mercantile-banking-juridical-notarial families—the Orsi, *de Iudicibus*, Liazzari, Lamandini, Garisendi, Guarini, Piantavigne, Prendiparte, da Marano, *de Pacibus*, Pacone, Casole, Ariosti (da Riosto), Albari, Ramponi and Azzoguidi.<sup>98</sup> The only member of foreign provenance in either of the two quarters is Giacomino Mattiolo da Reggio, who however, was an established citizen by mid-century and not a recent immigrant. His house was one of the landmarks used to describe the positions from which the communal heralds made their proclamations.<sup>99</sup>

In the *consilium generale* list there is even stronger evidence of family ties. The members were elected by five electors who were themselves members of the *consilium credentie*.<sup>100</sup> For the quarter of S. Procolo in the *consilium generale* of 1251<sup>101</sup> there are five electors and four of these five apparently chose themselves and/or their relatives as members of the *consilium generale*. (We have the names of the electors and the elected, but do not know who chose whom.) The elector Aldrevendino di Pietro Rodolfi apparently elected himself and his possible relative, Bianco di Egidio Rodolfi and his son, Pietro di Aldrevendino Pietro Rodolfi. The elector Giovannino da Lobia chose four relatives, and the electors Tommasino di Guido Baccilieri and Galvano di Pietro Torelli chose one each. Furthermore, of the 152 members from this quarter, I have identified fifteen families comprising fifty-four relatives,

<sup>98</sup> The Garisendi, Liazzari, Prendiparte, *de Pacibus*, Ramponi and Azzoguidi were later declared magnates.

<sup>99</sup> Fratri, *Statuti dall'anno 1245 all'anno 1267*, vol. 3, Bk. X, Rubric XXX, "De Ellectione nuntiorum comunis," p. 85.

<sup>100</sup> The *consilium credentie* was elected by four electors chosen *ad brevia* from each quarter (but who participated in the election of the electors is not explained). Frati, *Statuti dall'anno 1245 all'anno 1267*, vol. 3, Bk. X, Rubric XIX, "De Ellectione consilii credentie et generalis," pp. 63–65. The same four electors three days later chose the members of the *consilium generale*. However, in the surviving membership list for the *consilium credentie* of 1251 for Porta S. Pietro the header clearly states that the first listed five names are the "electores porte Sancti Petri de consilio credencie." The same formula and number of electors holds for Porta S. Procolo for the *consilium credentie* and also for that quarter for the *consilium generale* list.

<sup>101</sup> ASB, Consigli ed ufficiali—Elezioni per i consigli del comune, Busta 57, Fascicolo "a."

representing 35.5 percent of the members. The largest family group (beside the da Lobia) was that of another mercantile-banking-notarial family—the *de Quercis*, with four members. There were *contado* nobles in this council as well—Niccolò di Barufaldo da Rocca Masnada is listed among the “forenses” for this quarter (Porta S. Procolo). In addition there were eight notaries or sons of notaries, one judge, one tailor, one blacksmith, and one mason.

For the second surviving district for the *consilium generale* of 1251, Porta Stiera, the electors selected seventy members in groups of five each. Among those elected were five judges and three notaries or sons of notaries, two shoemakers and one butcher. Twenty-six of the seventy members (37.1 percent) can be identified as relatives. The three largest groups of relatives comprised relatives of electors—six Ghisilieri, four da Savignano and three *de Nocleriis*. (Six of the ten electors had relatives among those elected, probably elected by them). Again we find families (in a few instances the very same individuals) who would in the 1280s be declared magnates, e.g., Bacciliero di Niccolò Baccilieri and Rambertuccio Baccilieri and the Ghisilieri.<sup>102</sup>

Although we do not have a surviving membership list for Porta Ravegnana, we do have a September 1250 *Liber defensionum* of those who failed to appear for *consilium generale* meetings. Although not a complete listing of the members, it is sufficient to show that the pattern for this quarter was the same as the other two quarters for the following year. In the 1250 *Liber defensionum* we find, as expected, urban magnate and merchant-banker families of the greatest prominence, such as the Asinelli, Gozzadini, Ghisilieri, Lambertazzi, Artenisi, and Rodaldi and only a smattering of artisans.<sup>103</sup>

To compare the data from the communal councils of 1251 to those from the Council of 800 from 1290 and 1294 is to take two snapshots that highlight the transformations wrought by the popular revolutions

<sup>102</sup> The Ghisilieri comprised Guido di Odone Ghisilieri, who was an elector, and Rambertino di Ugolino Ghisilieri, Girarduccio di Ugolino Ghisilieri, Guidotto Ghisilieri and Lambertuccio Ghisilieri, notary.

<sup>103</sup> ASB, Consigli ed ufficiali—Elezioni per i consigli del comune, Busta 57, Fascicolo “a,” fol. 4v. Giuliano Asinelli and his brother Aliverio, listed because they “were under ban of the commune,” Giacobino Gozzadini, Bombologno Artenisi, Zaccaria Rodaldi (who provided a document showing he was seventy years old and therefore not to be fined), *Bolgarius* Lambertazzi and his brothers Tommasino and Azolino, Ugolino Ghisilieri, *Homobono* the miller, and Magister Bartolomeo the spice merchant or apothecary.

of 1256, 1271–74, and 1282. The groups that are no longer present in the communal councils at the end of the century consist of the Lambertazzi and the *contado* nobles. The Lambertazzi families are not present, even though they had largely been readmitted to the city by this time, since they were forbidden by statute to hold communal or *popolo* office, as noted above. Their readmission and transformed status, from “perfidious enemies to be avenged” to that of second-class citizens to be controlled (although it permitted them admission into the popular societies) did not admit them back into communal or *popolo* political life. Furthermore, the *contado* nobles are gone from the Council of 800. The alliance between the merchants and bankers and the notaries and artisans thus had been effective in closing that group, the *contado* nobles, completely out of the council of the commune. Although certain *contado* nobles were lumped together with certain urban magnates who had to post securities according to the Ordinances of 1282–84, it was only the *contado* nobles and not the urban magnates who were removed from the council. At some point prior to 1285 it is possible that the magnates also had been excluded temporarily from the communal council, since in 1285 the composition of the Council of 800 was changed to include doctors of law and belted knights as *ex officio* members.<sup>104</sup> The *doctores legum*, as noted above, had been *ex officio* members of the *consilium credentie* at mid-century.

There are fewer families in the Council of 800 at the end of the century than there were in the predecessor councils at mid-century, but the family contingents are larger or as large as those in the sample from the 1290s. For Porta S. Procolo we have both the councils *credentie* and *generale* of 1251 (see above) and the Council of 800 of 1290. In 1290, the contingent of members from the urban magnate family of the Galluzzi comprised an impressive ten individuals, and the banking-mercantile families of the Zovenzoni and Pepoli had seven and four respectively. The magnate family of the Simonpiccioli had five,

<sup>104</sup> Tamba, “Consigli elettorali degli ufficiali,” p. 58. Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric CXII, “De electione consilii VIII<sup>c</sup>,” pp. 475–476. The 1288 statutes specified that all members of the Council of 800 must have been citizens and inhabitants for thirty years, have an *estimo* in the city, not have been a Lambertazzi from the first conflict and that all *doctores* and belted knights (*milites acinti cingulo militari*) who were citizens and Geremei and had an *estimo* were to be in the Council of 800.

the Robondini had three (including the jurist Guglielmo Robondini), and the Balduini had three (including the judge Giacomo Balduini).

The importance of family in the Council of 800 is also evidenced by the continued presence of many families who were in the predecessor councils forty years earlier, before the popular revolutions. The continuity of particular families is particularly impressive in view of the discontinuity built into the comparison by the expulsion of the Lambertazzi from all councils. The twenty-eight "persistent" families in 1290 comprised seventy-three individuals out of the 204 members, or 35 percent of the S. Procolo quarter's membership.<sup>105</sup> Three of the largest families, the Zovenzoni, the Ronbodivini and the Pepoli were not in the 1251 list, but from other evidence we know that they were among the most politically active of the banking-mercantile-juridical families at mid-century. Indeed the Council of 800, like its predecessors, had only a few artisans or their sons, and the majority of its members consisted of juridical, magnate, banking-mercantile and notarial families. The presence of the latter is much stronger than at mid-century, with members of new (to this council) notarial families from the most politically active of such families at the end of the century, such as the Bambaglioli and Angellini, and prominent individual notaries such as Enrighetto Feliciani and Matteo Scorneta.

For the quarter of Porta S. Pietro we have only the *consilium credentie* of 1251 and the Council of 800 for 1294, but the presence of families that persisted over the forty years is again impressive—nine of them, comprising twenty-eight of the 162 members (17 percent) in the 1294 list.<sup>106</sup> In this council too we find urban magnates, such as the Ariosti (da Riosto), Liazzari, Garisendi, *Ginibaldus domini Benvignay* and his brother *Zangarellus de Burgo*, and Rolandino Pagano (the last three were labeled as magnates in the 1280s, for which see below, Chapter Four).

Also in the Council of 2,000, which by the end of the century served as the single electoral body for all administrative officials, one finds some magnates and *legum doctores*. From the Porta S. Procolo quarter

<sup>105</sup> These families comprised the Galluzzi, Simonpiccioli, Torelli, Senzanomi, Oddofredo, Balduini, da Lobia, Buvaelli, *de Gaulingis*, da Sala, *de Quercis*, da Savignano, Baccilieri, Delfini, Scorneta, Ardiccioni, da Gesso, *de Veduciis*, da Ozzano, *Tucinimini*, da Dugliolo, Visconti, Pascipoveri, Foscherari, and Massimili.

<sup>106</sup> The families are the Ramponi, *de Pacibus*, Liazzari, Garisendi, Vetri, Principi, Ariosti (also as da Riosto), Papazzoni, and Piantavigne.



of the Council of 2,000 for 1290, for which we also have the Council of 800 list for the same year, we can see also that the same juridical and magnate families appear in both councils, e.g., the Simonpiccioli and Galluzzi with twelve members each, Alberto di Odofredo with his two sons, and the Rombodivini.<sup>107</sup> As in the Council of 800, the Lambertazzi and the *contado* nobles were excluded. The mercantile-banking-notarial families prominent in the Council of 800 are also prominent in this council—the da Lobia, with eleven members, the Foscherari with nine, the Zovenzoni with eight, the *de Quercis* with six, and the Torelli with four. But newer, non-lineage families also had large contingents—e.g., Rizzardo the fabric brusher (*napparius*) and his six sons (found in Porta Ravegnana in 1294).

Each of the 100 electors selected five members for the Council of 2,000 for each quarter and, again for Porta S. Procolo, nearly half, or forty-seven of the 100 groups of five, contain relatives. For Porta S. Pietro sixty-one of the 100 groups have relatives, and in Porta Ravegnana, seventy-one of the 100 groups.<sup>108</sup> The percentage of groups with relatives is highest in Porta Ravegnana which was the wealthiest of the quarters, but is significant for all three districts. Porta Ravegnana also has a greater proportion of groups with larger numbers of relatives. Thus, four groups in Porta Ravegnana in 1290 consisted totally of members of the same family (the Soldaderi, Rasuri, Sardelli and Rodaldi), but there was only one such group in Porta S. Procolo (the da Lobia) and two in Porta S. Pietro (the Sabadini and *de Ledoysiis*). However, the majority of relatives in the council did not consist of members of lineages (or of families with cognomens), but rather of a father and his son or two brothers. In each quarter, of the groups with relatives, the largest comprised those groups with two relatives—thirty-two groups in Porta S. Procolo, thirty-five in Porta S. Pietro, and twenty-nine in Porta Ravegnana.

Who elected whom? As we have seen, some electors selected their own relatives, and occasionally only their relatives. The great banking families tended to select their relatives and members of other banking-mercantile families, but magnate and jurist families were also elected by notarial and artisanal families. The magnates Guidotto di Rainerio

<sup>107</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 57, Fascicolo “c” Reg. 3 for S. Procolo.

<sup>108</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 57, Fascicolo “c,” Reg. 4 for S. Piero of 1290 and *ibid.*, Reg. 2 for Porta Ravegnana.

Liazzari and Gregorio Azzoguidi were elected by the *popolano* Lorenzo di Michelotto da Budrio and Lazzaro Liazzari was elected by Taviano Balduini of the tailors' guild. Prestigious *popolani* also elected humbler artisans. For example, Trintinello di Paolo Trintinelli elected himself and two members of the Piantavigne, a banking family, but he also elected a coarse cloth seller without patronymic. Members of particular guilds elected each other (Paolo di Trintinello was elected by Casella di Zambonini, seller of linen cloths).

Despite the presence of magnates and jurists, however, many of the Council of 2,000's members were from the guilds, as Tamba has shown. Reviewing the list of actual elections for Porta S. Pietro from 1286, he identified 228 of the 500 members and found that 135 (60 percent) of them were guildsmen.<sup>109</sup> He also analyzed the list of members of the Council for Porta S. Pietro from 1294, after the insertion (in 1292) of certain *popolano* officeholders as *ex officio* members.<sup>110</sup> He found that 317 of the 500 (63.4 percent) elected members of the Council from Porta S. Pietro from that year were guildsmen and another thirty-five were enrolled in the arms societies.<sup>111</sup>

The Council of 2,000 was doubled in size in 1294. Election of the additional 2,000 members was by selection of 200 members per quarter by lot from the existing Council of 2,000 who each named five new members.<sup>112</sup> In December 1298 it was decided that Council members would serve for two-year instead of one-year terms. Enlargement of the size of the Council therefore did not increase the potential for greater participation in office-holding. However, it was also decided that all members of the Consiglio del Popolo holding office at that time as well as those elected for the succeeding term would be added *ex officio* to the Council of the Commune.<sup>113</sup>

Did these changes affect family presence in the Council of the Commune? To test this I have analyzed the families for Porta Ravennana, lists for which survive from 1290 and 1294 (before the doubling of the Council) and from 1300–01 (after the doubling in 1294). The data

<sup>109</sup> Tamba, "Gli elettorali degli ufficiali," p. 77.

<sup>110</sup> The *ex officio* members comprised the *anziani*, notaries from the law courts, the chancellor of the commune and the *ministrates* of the two preeminent societies.

<sup>111</sup> Tamba, "Gli elettorali degli ufficiali," pp. 89–90.

<sup>112</sup> *Ibid.*, p. 92.

<sup>113</sup> *Ibid.*, p. 93.

(displayed in Appendix C, Table II.1) show that the distribution of groups with relatives did not vary significantly, despite the doubling of the Council's size.<sup>114</sup> Certain prominent families continued to have the largest contingents in 1290 and in 1294 and even increased the size of their contingents. Moreover, the family members often comprise the same individuals in both years. For example, the Baciacomari had twelve members in 1290 (in addition to Baciacomare Baciacomari who was one of the two *legum doctores ex officio* for this district), and had seventeen members (plus one replacement) in 1294 (again in addition to Baciacomare Baciacomari who was one of the three *legum doctores* listed again for the quarter that year). In second place were the Rodaldi, with fourteen members in 1290 and twelve in 1294. In third place in 1290 were the Gozzadini, with thirteen members in 1290 and seventeen in 1294. The Pegolotti had nine in 1290 and eight in 1300. Many other families appear in both documents and some increased the size of their contingents—the Zovenzoni had four members in 1290 and seven in 1294, the Lambertini had three in 1290 and six in 1294, and the Mantici had three in 1290 and six in 1294.

There is a slight but suggestive shift in a different direction, however, between 1290 and 1300–01 in the distribution of family members among the groups in the Council of 2,000–4,000 for Porta Ravegnana. The appearance of some newer non-lineage families in groups that consist of four or five relatives, in comparison with the almost complete dominance of these categories earlier by older lineage families and families with cognomens indicates the increased presence of newer *popolano* families in the Council. At least six of the twenty-eight families that belonged to the two categories of groups with four and five relatives were from the notaries', haberdashers', butchers', and spice merchants' guilds. For example, in 1300–01 the four sons of Pietro di Grasso and one of his grandsons comprise an entire elected group.<sup>115</sup> Also comprising all five slots of a group were the Bonafideo—Jacopo di Bonafideo, notary, elected himself and four relatives, probably his son and his brothers—Giuliano di Jacopo Bonafidei, notary, Giovanni di Bonafideo, butcher, Niccolò di Bonafideo,

<sup>114</sup> ASB, Consiglio ed ufficiali del comune—Elezioni per i consigli del comune, Busta 57, Fascicolo “c,” Reg. 5, Ravennate 1294, and Busta 58, Fascicolo 1, “a” Ravennate 1300–01. A caveat is in order: the 1300–01 list has 124, not 200 electors and therefore may be incomplete.

<sup>115</sup> Ibid., Busta 58, Fascicolo 1, “a,” Ravennate 1300–01, fol. 3v, Group 3.

butcher and Benvenuto di Bonafideo, butcher.<sup>116</sup> *Feci* di Gerardo, inn-keeper, elected himself, Bonacursio *Barnazini*, spice merchant, and the latter's three sons.<sup>117</sup>

The most prominent families in this district in 1290 and 1294 appear yet again in 1300–01, but some with smaller contingents. (The Gozzadini do not appear at all—part of that family had been banned in 1298.) The mercantile-banking families of the Rodaldi have seven members, the Baciacomari have seven, the Zovenzoni have six, and the Mantici five. Nevertheless, one of the strongest characteristics of this Council's membership profile consists of family persistence—nearly all families with three or more members in 1300 also appeared earlier in 1290 and/or 1294.

Another characteristic of the Council's profile is that many of these prominent families who were from families from the mercantile-banking-notarial professions also appear among the members from this quarter who were *ex officio* members of the merchant-banker-notaries' guilds, that is, they appear in the lists as elected members of the Council of 4,000, but also in the lists of the *ex officio* members from the Consiglio del Popolo. Thus, the Baciacomari were elected to the Council of 4,000 directly, but members of that family were also present as members of the bankers' and notaries' contingents to the Consiglio del Popolo. The Gardini and Artenisi were also present in the merchants, the dalle Tavole and the Lambertini da Stifunti in the bankers, merchants and notaries, the da Spiolara in the notaries, merchants, and haberdashers, the Magnani in the notaries and butchers, the Casola in the notaries and drapers, and the Vatiigliano in the bankers and coarse cloth sellers' contingents. All these families were present in the Council in dual roles—as elected members of the Council and as *ex officio* members from the guilds and arms societies, in particular from the merchant, banker, and notaries' guilds.

Another change in 1300 was the appearance of a few members from the non-recognized guilds and humble artisans among those who were elected directly to the Council. I found only Tommasino di Graziano *de Conplano*, woolworker, who was elected by Pietro Fabiani,<sup>118</sup> Magister Allegro, barber, elected by Brandelasio Sardelli,<sup>119</sup> Amoretto, doctor

<sup>116</sup> Ibid., fol. 22r, Group 1.

<sup>117</sup> Ibid., fol. 13r, Group 1.

<sup>118</sup> Ibid., fol. 8r, no group given.

<sup>119</sup> Ibid., fol. 15r, Group 1.

of medicine, Bonaventura da Sala, candlemaker, elected by Pietro Merlino),<sup>120</sup> and *Feci di Gerardo*, innkeeper.<sup>121</sup> Nevertheless, these men do represent a new presence in the Council in 1300–01, an entrance that occurred after the doubling of the size of the Council and infusion of more *popolani ex officio*. Taken together with the slightly diminished presence of the greatest families, it does point to a broadening of the membership's social recruitment.

Another indication that the doubling of the size of the Council of 4,000 brought new men into that body is evidenced by comparing the number of officeholders among the directly elected members for whom an occupation is indicated (other than the merchants, bankers, and notaries) in 1290 and 1300–01. (One caveat: given the use of abbreviations by the notaries compiling the lists, we cannot tell sometimes if the profession or occupation belonged to the member himself or is part of his father's patronymic.) There are forty-one members with such information from 1290 and 111 from 1300–01. Since the number of groups in 1290 is 100 and in 1300–01 it is only 124, the doubling of those with occupations or with fathers with occupation is not accounted for by the doubling of the Council itself. Given the members who are obviously brothers and sons of an artisan (which is a much smaller figure in 1290), the reason for the increase seems to be that artisans who were already in the Council in 1290 had increased the number of their sons who were present, a finding that fits the pattern of more such families comprising all members of an elected group as described above. This comparison also indicates that at least for Porta Ravennana the butchers comprised the largest group of artisans represented, with eighteen in 1290 and sixteen in 1300. This finding is not surprising since the butchers were probably the oldest guild after the merchants, bankers, judges and notaries.<sup>122</sup>

We can also see the consistency of ties between various families in the electors' choices. For example, the Sardelli, Artenisi and Buvaelli consistently supported each other. In 1300–01 the elector Filippo Sardelli elected (on behalf of his brother Giacomo) two other mem-

<sup>120</sup> Ibid., fol. 22r, Group 3.

<sup>121</sup> Ibid., fol. 13r, Group 1.

<sup>122</sup> Massimo Giansante, "L'età comunale a Bologna. Strutture sociali, vita economica e temi urbanistico-demografici: orientamenti e problemi," *Bullettino dell'Istituto storico italiano per il Medioevo e Archivio muratoriano* 92 (1985/86):103–222, esp. pp. 175–177.

bers of the Sardelli and one Buvalleli (and when one of the Sardelli could not accept office the elector selected as his replacement one of the Baciacomari).<sup>123</sup> Meanwhile another elector, Brandelisio Sardelli (again for his brother Giacomo) elected Giacomo Sardelli, Galeatto Sardelli, Beccadino di Fra Niccolò Artenisi, Bolognetto di Giovanni Artenisi *legum doctor* and Magister Allegro, barber.<sup>124</sup> Yet a third elector, Bonino di Maglolino Sardelli, again on behalf of his brother Giacomo Sardelli, elected Mino di Beccadino Artenisi and Lando di Buvalleli in his group.<sup>125</sup>

The extent of *popolano* family and professional networks in the Council of 4,000 can be seen emblematically by tracing the elections and the elected choices of members who had ties with Pietro Merlino, a politically prominent notary. The various branches of his family were just entering the elite, with some branches adopting a cognomen as the Merlini (*de Merlinis*) and others as the Nappari (*de Nappariis*). In 1300–01, the elector Pietro di Giacomo Nappari elected Marco di Giacomo Nappari and Bartolo di Rizzardo Nappari (his brother and probably his cousin) and Francesco di Pietro Merlini and Domenico di Pietro Merlini. When Bartolo was unable to accept the office, the elector replaced him with a third son of Pietro Merlino—Giovanni di Pietro Merlini.<sup>126</sup> Bartolo di Giovannino Giordano, judge (a relative of Pietro Merlino) elected his sons Petrone di Bartolomeo, judge, Niccolò di Bartolomeo, judge, and Vinciguerra di Bartolomeo Giordano and Rainaldo di Pietro Merlini (a fourth son of Pietro Merlino).<sup>127</sup> (Bartolomeo di Giovannino Giordano, judge, was related to the notary Giovanni di Giovannino Giordano who worked on the compilation or adjustments to this membership list).<sup>128</sup> Then Pietro Merlino elected,

<sup>123</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 58, Fascicolo 1, “a,” Ravennate 1300–01, fol. 8r, Group 1.

<sup>124</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 58, Fascicolo 1, “a,” Ravennate 1300–01, fol. 15r, Group 1.

<sup>125</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 58, Fascicolo 1, “a,” Ravennate 1300–01 fol. 17r, Group 3.

<sup>126</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 58, Fascicolo 1 “a,” Ravennate 1300–01, fol. 7v, Group 2.

<sup>127</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 58, Fascicolo 1 “a” Ravennate 1300–01, fol. 20v, Group 1.

<sup>128</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 58, Fascicolo 1, “a,” Ravennate 1300–01, fol. 1v for the notation of a cancellation made by “ego Johannes Iohanini Jordani notarius.” Giovanni is himself elected by Giacobino di Giacobino Graziadei, fol. 4r, Group 2.

on behalf of his son Niccolò (a fifth son) four men outside these families (one a judge, one a doctor of medicine and one a candlemaker) and then in another group, as attorney for the elector Pietro di Domenico *Grappi*, his choices included Matteo di Giovannino Giordano (brother to the notary Giovanni di Giovannino Giordano, whom, as we just saw, he had also elected) and Niccolò di Pietro Merlini, the son for whom he made selections in the prior group.<sup>129</sup> Pietro Merlino himself was elected by Biagio di Pietro, furrier.<sup>130</sup>

In 1294, the *de Nappariis* branch appears in two groups elected by Bartolo di Rizzardo Nappari and Lazarino di Rizzardo *de Nappariis* respectively (the cognomens are given here as they appear in the documents).<sup>131</sup> In a separate group for which Domenico di Pietro Merlini was the elector, we find Guglielmo di Giovannino Giordano Nappari. In another group, for which Petrone di Bartolomeo *de Nappariis* was the elector, we find Pietro Merlino and Giovanni di Giovannino Giordano Nappari—demonstrating the same ties as in 1300–01. In both these groups there is also a da Spiolara and in one of them Pietro di Domenico *Grappi* who also appears with the Merlini in 1300–01.<sup>132</sup> As we shall see below, the da Spiolara were frequently tied to the Merlini and *de Nappariis*.

The political prominence in *popolo* government circles of Pietro Merlino and the network of which he and his relatives and associates were a part is also demonstrated in the lists of Consiglio del Popolo members of 1300–01 from Porta Ravegnana who were *ex officio* additions to the Council of 4,000. Thus, one of the *anziani* for December 1299 was Bartolo *de Nappariis*. The *sapientes* elected by the *anziani* and charged with finding money for the commune included Romeo di Pietro Merlini (yet another, sixth son of Pietro), and Pietro himself.

<sup>129</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 58, Fascicolo 1 “a” Ravennate 1300–01, fols. 22rv, Groups 3 and 1 respectively.

<sup>130</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 58, Fascicolo 1, “a,” Ravennate 1300–01, fol. 2r Group 2.

<sup>131</sup> Bartolo di Rizzardo Nappari elected Giovanni di Rizzardo Nappari, Biagio di Alberto da Spiolara, Guglielmo di Rizzardo Nappari, and Niccolò di Rizzardo Nappari (his three brothers) Ibid., fol. 8v, Group 7. Lazarino di Rizzardo *de Nappariis* elected Giacobino di Rizzardo *de Nappariis*, Giacomo Giacobino da Serra, Lenzio di Andrea *de Nappariis* and Vandolo Pulpuri. Ibid., fol. 9r, Group 1.

<sup>132</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 57, Fascicolo “c,” 1294, fol. 9r, Group 4 and Group 2. Bartolomeo di Giovanni Giordano, judge, appears in another group, ibid., fol. 8v, along with *Venture Bonsiglioli napariis*.

One of the notaries assigned to the court of the podesta was Giovanni di Giovannino Giordano.<sup>133</sup> Among the representatives of the bankers in the Consiglio del Popolo for the second semester of 1299 was Marco di Giovanni Giovannino, notary, along with Mino da Spiolara,<sup>134</sup> and among the representatives of the haberdashers to the Consiglio del Popolo for the first semester of 1300 was Guglielmo di Giovanni Giordano and Giovanni di Giovannino Giordano (with Giacomo da Spiolara and Biagio di Alberto da Spiolara).<sup>135</sup> Among the representatives of the haberdashers to the Consiglio del Popolo for the first semester of 1300 were Pietro Merlino, Bartolomeo di Bonaventura da Spiolara, and Bartolomeo di Giovannino.<sup>136</sup> Among the members of the contingent of the arms society of the Dragons in the Consiglio del Popolo for the second semester of 1299 was Marco di Giovanni Giovannino, notary, and among the makers of parchment's contingent was Matteo di Giovanni *de Nappariis*.<sup>137</sup> Among the arms society for the Horses' contingent for the new Consiglio del Popolo was Giovanni di Giovannino *de Merlinis* and Bartolomeo di Bonaventura d Spiolara.<sup>138</sup> Finally, among the members of the new Consiglio elected by the notaries we find Pietro Merlino himself.<sup>139</sup>

Pietro Merlino thus maintained his prominent political and administrative role through a network that bound together his relatives and associates in the guilds of the bankers, notaries, haberdashers, makers of parchment, and the arms society of the Horses. Both Pietro Merlino and Giovanni di Giovannino Giordano, key nodes in the *de Merlinis-de Nappariis* network, held the office of *anzianus* in the following years. Their network was not merely one of membership in various societies but one of holding important political positions as representatives of those societies. This network of relationships, of family, guild and

<sup>133</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 58, Fascicolo 1 “a” fols. 23rv.

<sup>134</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 58, Fascicolo 1 “a” fol. 28r.

<sup>135</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 58, Fascicolo 1 “a” fol. 31r.

<sup>136</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 58, Fascicolo 1 “a” fol. 32v.

<sup>137</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 58, Fascicolo 1 “a” fols. 25v and 27v.

<sup>138</sup> ASB, Consigli ed ufficiali del comune—Elezioni per i consigli del comune, Busta 58, Fascicolo 1 “a” fol. 29r.

<sup>139</sup> Ibid., fol. 31v.



arms society ties of Pietro Merlino in the *popolo* bodies is the same network of relationships as those he had in the Councils of 2,000 and 4,000. The similarity of network patterns in both the communal and *popolano* councils indicates that the ties in the communal council were political in nature, and not merely the reflection of topographical and technical requirements, a point I will return to shortly.

The nature of the membership as well as the structure of the communal councils thus changed significantly between 1251 and 1300–01. On the one hand, an elite developed from one consisting of merchant-bankers, urban magnates and *contado* nobles at mid-century, to one from which the *contado* nobles and Lambertazzi had been eliminated (but not the urban magnates, judges or knights). On the other hand, families still comprised a very significant component of the councils, but the families now came from a broader base of *popolani*, with massive additions of members from the guilds, both *ex officio* and among those directly elected. The elite had changed, but the strength of family ties had continued. It should be emphasized, however, that the elite of the communal councils in its functioning was not a *political* decision-making elite. The Council of 800 was the vehicle for proclaiming criminal court sentences and for the bidding of communal contracts; the Council of 2,000–4,000 served as the electoral body for nearly all communal and *popolano* offices, approximately 1,800 such offices each year.<sup>140</sup> The elite of the communal councils can be labeled, therefore, as an *administrative* elite, albeit one that to a great extent was created by political ties.

The interpretation presented here of communal councils dominated by families does not agree with that of Massimo Vallerani. While acknowledging the strong presence of families in the Councils of 800 and 2,000, Vallerani specifically denied that their presence signified the political importance of those families. Instead, he ascribed the presence of those families to topographical-technical causes, to the mode of election which he thought proceeded by law according to neighborhoods and therefore inevitably reflected the predominance in small neighborhoods of powerful families. He also thought that the rotation of the councils' membership topographically and chronologically meant that an oligarchy could not have been formed.<sup>141</sup> However,

<sup>140</sup> Tamba, "Consigli elettorali degli ufficiali," p. 63.

<sup>141</sup> Vallerani, "Sfere di giustizia," pp. 72–74.

Vallerani's description of the election of the Council of 800 derives from the mid-century statutes and describes the mode of electing the *consilium credentie* and the *consilium speciale et generale*. If he were correct in thinking that the Council of 800 elected the members of the 2,000, the latter body would have been biased in favor of the already presumably topographically-based families of the Council of 800. However, there is no neighborhood requirement for the election of the Council of 800. As Tamba has demonstrated, moreover, the election mode of the Council of 2,000 was reformed in December 1285, with the stipulation that the members had to be divided equally among the four districts, but were not to be elected either by the Council of 800 or by the Council of 2,000. As clarified in 1287, the election was carried out by 100 electors chosen *ad brevia* from each quarter and they in turn selected the five components of the new council.<sup>142</sup>

Nevertheless, one cannot assume that the presence of prominent families in the Council of 2,000 means that the government should be characterized as oligarchical. Neither the Council of 800 nor the Council of 2,000–4,000 made political decisions or shaped policies. To be sure, as shown above in the case of Porta Ravegnana in 1300–01, there was overlap between the prominent persistent families in the Council of 2,000–4,000 and members of the Consiglio del Popolo, which is suggestive of a political role for those members. But testing the validity of an oligarchical interpretation also requires analysis of the membership of the Consiglio del Popolo, the most powerful legislative body in the government, which should theoretically be the least elite of all government bodies, and also analysis of the membership of the *anziente*, which should be the most elite, as is done in the next chapter.<sup>143</sup>

<sup>142</sup> Tamba, "Consigli elettorali degli ufficiali," pp. 81–84. Vallerani thought the Council of 800 elected the electors of the 2,000, Vallerani, "Sfere di giustizia," p. 73, and that a Council of 600 or 800 that changed every six months and whose membership rotated through the neighborhoods could not *ipso facto* have a "monopoly" or dominance by a restricted group of families. *Ibid.*, p. 68. However, in fact the Council of 800 was elected for a term of one year, not six months, and was not based on election by neighborhoods (as was the earlier *consilium speciale et generale*).

<sup>143</sup> Vallerani tested how many guild and arms societies had more than one member of a family in the contingents they sent to the Consiglio del Popolo, but he worked from a sample of only three council lists—those of 1283 (which is incomplete), 1284 and 1286. Vallerani, "Sfere di giustizia," p. 76. His figures and interpretation differ from that presented here, in part because of the shorter-term range of his data, but also because he limited his definition of relatives to those with cognomens.



### CHAPTER THREE

#### OLIGARCHY: COUNCILS OF THE *POPOLO*

As noted in Chapter Two, one of the major criticisms of the oligarchical interpretation of communal political experience is that studies concentrate on the executive councils (priors at Florence, *anziani et consules* at Bologna), which are *ipso facto* restrictive and elitist in nature. In this chapter, however, I analyze the composition not only of the *anzianate*, but also of the Consiglio del Popolo, the major legislative body of the commune and *popolo*, a body that reached 1,400 members each semester at its peak size. The surviving documentation makes it possible to ask how great were the ties of family among the members of the councils, how frequently individuals and families held office, and if and how those patterns changed between 1282, when the *popolo* achieved supremacy, and 1327, when the *anzianate* and Consiglio del Popolo were suppressed by the establishment of the *signoria* of Cardinal Bertrando del Poggetto.

The surviving documentation for the membership of the Consiglio del Popolo extends from 1283 through 1325 and constitutes a huge mass of approximately 30,000 recorded names.<sup>1</sup> However, it also constitutes a series with serious gaps, and for some semesters the records are seriously damaged.<sup>2</sup> I have selected and compiled a database of twenty-five sets, all complete except for that of 1283 II, which has only thirty-three of the forty-two guilds and arms societies that existed that year, but which I have included because it is the earliest surviving

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<sup>1</sup> ASB, Consigli ed ufficiali del comune, Consiglio del Popolo, Busta 62 (1283–1310), Busta 63 (1313–1320), and Busta 64 (1321–1335). There is also a list for 1292 published in *Statuti di Bologna dell'anno 1288*, ed. Gina Fasoli and Pietro Sella, 2 vols. (Vatican City: Biblioteca Apostolica Vaticana, 1937–39), vol. I, Bk. V, Rubric LXXII, pp. 371–381, and the list for the Consiglio del Popolo *ex officio* members from 1300–01 that is included with the Council of 4,000 list for that semester. For a description of the Consiglio del Popolo see above, Chapter Two and the definitive work of Giorgio Tamba, “Il consiglio del popolo di Bologna. Dagli ordinamenti popolari alla signoria (1283–1336)” *Rivista di storia del diritto italiano* 69 (1996), 49–93.

<sup>2</sup> ASB, Consigli ed ufficiali del comune, Consiglio del Popolo, Fascicolo 2 for 1284, Fascicolo 9 for 1304, Fascicolo 24 for 1314. Fascicoli 35 and 36 for 1318 I and Fascicolo 53 for 1323 were in restoration at the time of this research.

list. For eleven of the selected semesters, documentation for both the guilds and arms societies survives.<sup>3</sup> For four semesters documentation survives only for the arms societies, and for two semesters there is documentation for the guilds only.<sup>4</sup> The documentation for one semester consists only of “additions” (1305 II), comprising the six additional or extraordinary members elected by each guild and arms society for that particular semester.

All extant documentation (other than those damaged registers in restoration) for the period 1283 II–1313 II has been included except for the first semester of 1309 which is partially damaged, the first semester of 1310, which comprises only two quarters or 50 percent of the members for that semester, and the documentation catalogued for 1312 II since that manuscript is undated and the attribution uncertain. From 1314 the documentation has survived more fully and I have therefore selected semesters for which the documentation is undamaged, complete and which constitutes an overall database that divides as equally as possible between the periods 1283–1306 and 1307–1322. The reason for the division is that in 1307 the contingents sent to the Consiglio del Popolo by the merchants and bankers were reduced from thirty-three each to the maximum of fourteen members for each guild and arms society. Since the data for the second period usually include not only ordinary members, but “additions” appointed by the executive council, the number of appointments in the second period is larger than that of the first period. The sample contains the names of 11,585 officeholders.

I have analyzed these data in two ways, first by how many and which societies had one or more relatives in the contingents they elected to the Consiglio del Popolo in a particular semester, and secondly, by family affiliations in those contingents over time, in order to test for the persistence of particular families’ participation over the period 1283–1322 and under the diverse regimes of that period. The data by society for the entire sample period are displayed in Appendix D, Table III.1 in descending order of frequency, both by *sets* of relatives, that is, by how many groupings of relatives from diverse families there were in the contingents, and also by the *number* of relatives, since the

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<sup>3</sup> The eleven semesters are 1284 II, 1286 II, 1292 II, 1302 II, 1303 I, 1309 II, 1313 II, 1317 I, 1320 II, 1321 II, and 1322 II.

<sup>4</sup> For the arms societies the semesters are 1302 II, 1305 I, 1306 II, and 1307 I. For the guilds the semesters are 1302 I and 1307 II.

number of relatives in various sets ranged from two to as many as seven relatives in each set.

Among the guilds there was a broad range in the number of family sets and terms of office held by relatives, from a high of forty-three sets and 119 terms of office held by relatives in the contingents of the bankers to a low of three sets and six terms held by relatives in the contingents of the tailors.<sup>5</sup> Less dramatic, but still broad, is the range among the arms societies, from the thirty sets of relatives of the Dragons to the two sets of the Stars. These differences cannot be dismissed as simply a reflection of the diverse size of the various guilds and arms societies, nor even of the relative proportions of relatives within those societies themselves (as opposed to the contingents the societies sent to the Consiglio del Popolo). Thus, the guilds of the new furriers and the fishmongers in 1294 had almost exactly the same number of members (268 and 267 respectively),<sup>6</sup> but the former has only four sets of relatives and is in twentieth place in Table III.1, whereas the fishmongers have fourteen sets of relatives and are in fourth place overall. The same disparity can be found when comparing the number of relatives in the contingents to the Consiglio del Popolo with the number of relatives in the societies themselves. As noted above in Chapter One, the range of relatives in the arms societies in 1314 extended from a low of 12 percent to a high of 50 percent. Both the arms societies of the Minivers and Dragons rank very high in Table III.1 (in fourth and first place respectively), but the Minivers were at the lowest level in terms of the number of relatives in the society (12 percent of original members and 25 percent of additions in 1314), whereas the Dragons were at the highest level (52 percent of all members were relatives). At least in part, therefore, the data on relatives in Table III.1 should be interpreted in political as well as demographic terms and may be used as a measure for the presence and extent of oligarchy among the political leadership.

In Table III.2 the data for the guilds and arms societies on sets of relatives are displayed chronologically and are divided into two categories—those years in which more or fewer than 50 percent of those

<sup>5</sup> There are four guilds on Table III.1 with fewer sets of relatives and terms of office, but those four guilds gained political recognition late in the sample. See above, Chapter Two.

<sup>6</sup> Antonio Ivan Pini, "Problemi di demografia bolognese del Duecento," *Atti e memorie della Deputazione di storia patria per le province di Romagna*, new series, 17–19 (1969): 147–222, esp. p. 197.

societies had relatives in their contingents to the Consiglio del Popolo. (See Tables III. 3 and 4 for the data on which Table III.2 is based.) At first glance, the pattern for the guilds (Part I) is a very jagged one. However, beyond the shorter-term gyrations there are two periods in which there are clusters, one in 1302 II-1307 II, when the number of sets is below 50 percent, and the other from 1309 II through 1317 II, when the number of sets is above the 50 percent level, a surprising result since from 1307, as noted above, the bankers and merchants, who supplied the greatest number of relatives in their contingents, lost their numerical advantage in the Consiglio del Popolo. The two periods correspond respectively, and as we shall see, not coincidentally, to the years of the White government for the first cluster and the years of the federation of the seven arms societies and the subsequent emergence of the Pepoli faction and the dominance of the "intransigent" wing of the Guelf Party in the second cluster.

In Table III.2 (Part 2) the data for the arms societies are also presented chronologically, and although the data gyrate in part here too, there is in general a more consistent developmental pattern than that for the guilds. From the first year, 1283 II, through 1307 II the percentages of sets of relatives range from thirty-five to sixty-five. However, if one eliminates the sets for 1283 II and 1292 II, which are incomplete, the range for the first six years is narrower and more consistent—between 59 and 65 percent. For the last six years, from 1309 II through 1322 II, the percentage of sets of relatives goes up significantly, from 70 percent in 1309 II to 85 and 80 percent for the remaining years, the latter group comprising again the years marking the federation of the seven arms societies followed by the emergence of the Pepoli faction and the dominance of the "intransigent" wing of the Guelf Party.

Thus, in both the guilds and the arms societies the peak years for the appearance of sets of relatives in the contingents to the Consiglio del Popolo are 1313 II and 1317 II (69.5 and 73.9 percent for the guilds and 85 percent both years for the arms societies). Although the level of relatives in general in the arms societies' contingents was always higher than in those of the guilds, the trend in both guilds' and arms societies' contingents from 1307 through 1317 was of a significant increase, with a tapering off from 1320 II in both cases, but more so in the guilds. The presence of more relatives in the *elected* contingents reflects not just involution and "bolonization" of the societies, as discussed in Chapter One, but an increasingly prominent role of families in leadership positions, as officials of the societies and members

of the Consiglio del Popolo. These data indicate the growing importance of family ties in politics, and also the role family played in the *proto-signoria* of Romeo Pepoli, but the data can be further nuanced to reveal the way certain families extended their influence (and the way they were resisted). As we shall see, certain arms societies and guilds comprised a clear base of power for particular families throughout the period, whereas other societies came under family influence by 1307–1309 and yet others remained relatively immune to family influence throughout the period.

Table III.5 has data for the arms societies for sixteen years, divided between the period 1284 II–1307 II and 1309 II–1322 II (before and after the overthrow of the White regime and the establishment of the federation of the seven arms societies). Nearly every society had a significantly larger number of relatives in the later period—only the arms society of the Stars remained the same. The increase in the importance of relatives politically in the later period is uniformly within a close range throughout the arms societies, except for the arms society of the Lombards, which had only one set of relatives in the early period and nine sets in the later period.

The guilds, however, show a more complex picture, as given in Table III.6. Most of the guilds show more relatives in the later period, but some show a decline or parity between the two periods. To be sure, certain of the negative changes can be explained structurally. Thus, the merchants and bankers have fewer relatives in their contingents in the later period, a finding to be explained by the diminution of the size of their contingents in the later period. The bankers sent their largest contingents of relatives to the Consiglio del Popolo in 1284, 1301, 1303 and 1305, but with the coming of the federation of the seven arms societies in 1306, the percentage of relatives sent by merchants and bankers was only 27.7 and 28.2 percent respectively. But other guilds also show a decline, as in the guilds of the makers of parchment, the cordwainers, harberdashers, and salt-sellers, or remain the same, as in the guilds of the new and old furriers. The picture for the guilds is not as uniform as that of the arms societies, but the general trend was still that of an increase in relatives in the contingents to the Consiglio del Popolo in the later period.

Why did the membership profiles in general change to reflect a greater number of relatives in the later period? The later or second period is distinguished first of all by the establishment of the federation of seven arms societies that overthrew the White regime in 1306.



The arms society of the Stars, which provided leadership for the federation, had one of the lowest numbers of relatives in its contingents to the Consiglio del Popolo. Moreover, at the time of the overthrow of the White regime, the federation societies were (with the exception of the Eagles) among the societies with the largest number of years in which their contingents to the Consiglio del Popolo contained no relatives, as indicated in Table III.3.

Gina Fasoli hypothesized many years ago that the federation of seven arms societies represented a movement of “democratic” reaction against the more “aristocratic” regime of the Whites. She based her thesis on the location of most of those federation societies in the district of Porta Stiera, which was a more working-class quarter.<sup>7</sup> Indeed, as we have seen, the federation constituted, at least at the time of the overthrow of the Whites, a group of societies that evidenced the least amount of family influence. But very quickly after coming to power, the federation’s profile changed, with the exception of the Stars, evidencing a stronger family presence, as did the non-federation societies. The butchers *pro armis* exemplifies this trend. Prior to the revolution of 1306 there were only two years in which it sent relatives in its contingents to the Consiglio del Popolo, but after 1306 II it sent relatives in its contingents every year. In short, it seems that the “democratic” revolution of 1306 provided the opportunity for a strengthening of family presence in the arms societies’ contingents to the Consiglio del Popolo, and that family presence in turn became the basis for Romeo Pepoli’s *proto-signoria*, as family-based factions deepened their influence in both guilds and arms societies, as reflected in the peaking of family sets in 1313 II and 1317 II. But the ebb and flow of family influence and family-based politics in the Consiglio del Popolo (and the relationship between politics by guild and arms society on the one hand, and politics by family, that is by oligarchy, on the other hand), can be more fully appreciated only by looking at the frequency of appearance in the Consiglio of particular families.

When one views the appearance of families among the contingents to the Consiglio del Popolo in the forty years of the sample, as in Table III.7, the most striking characteristic is the remarkable persistence of certain families in particular societies. By tracing the appearances of all members of families over the years in the sample, not just those

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<sup>7</sup> Gina Fasoli, “Le compagnie delle arti a Bologna fino al principio del secolo XV,” *L’Archiginnasio* 28 (1933): 158–183, 323–340, esp. pp. 324–325.

relatives that appear in the same years, as done in the earlier tables in this chapter, one derives a clearer picture of the strength and persistence of particular families. For this sample I have included the arms societies that had the greatest and smallest numbers of sets of relatives in Tables III.1–6, the Dragons and the Stars. Since the latter was an immigrant society, I have also included the other two immigrant societies, the Lombards and Tuscans, for comparative purposes. For the guilds I have included the two guilds with the highest number of sets of relatives in Tables III.1–6 (the bankers and merchants). I have also included the cordwainers because they were the largest among the guilds with the lowest number of sets of relatives, and the notaries and the butchers because of their recognized political importance (e.g., the permanent *barisellus* and *preconsulis* posts in the *anzianate* for the butchers and notaries, respectively).

In the Dragons, 136 of the 197 terms of office (69 percent) were held by fifteen families in the sample years between 1283 and 1322. The Baciacomari held the greatest number of terms of office (twenty-five), followed by the Rasuri with twenty-three, and the *de Guercino* with nineteen. The Rasuri and *de Guercino* held their terms from 1284 through 1321 and 1320 respectively, and the Baciacomari from 1292 through 1322, followed by the da Lana with twelve terms (from 1305–1321) and the Gozzadini with eleven (from 1284–1320). Thus, three of these top four families held their terms throughout the period. Only seven individuals outside of families held office more than once, for a total of fifteen appointments or 7.6 percent of the 197 terms of office.

At the opposite end of the spectrum for the arms societies were the Stars, the society which, as we saw above, contained the lowest number of sets or relatives. In the Stars, again in contrast to the Dragons, only sixty-seven of 223 members (30 percent) were related, and the majority of these relatives were brothers or fathers and sons and not lineages, with three exceptions—the Albiroli with five appointments (1309–1320), the Piatessi with three (1283–1309) and the Roizi with seven (1292–1317). The largest groups of relatives in this society, however, did not come from lineages as they did in the Dragons, but consisted of the two brothers Ubaldini with ten appointments from 1303–1320 and the brothers Horandi (Orandi) with eight from 1286–1303. Furthermore, there were many more terms of office in the Stars which were held by the same individuals who had no other relatives in the contingents—eighty-two of 223 members (36.7 percent) in the Stars, in contrast to the 7.6 percent for the Dragons.

The profile for the Stars contrasts sharply, however, with that of the other two immigrant societies—the Lombards and Tuscans, which one would expect from the profiles for all three societies in Tables III. 1–6. It is surprising, however, that the Lombards are equal to or even slightly surpass the Dragons in the percentage of terms of office held by families (69 percent). The Tuscans also have a relatively high percentage, 56 percent, twice that of the Stars. Furthermore, all but two of the families in the Lombards with the greatest share of appointments (the Amonetto, da Bagno, Casela, Rodaldi, Laude, and Tarassi) extend their influence throughout the forty-year period. Similarly, three of the five highest-ranking families in the Tuscans have their terms distributed throughout the period. Thus, although the data in Tables III.5–6 showed the increasing importance of sets of relatives for the second period, the data in Table III.7 clarify the role of families and show that the most influential families were already in a leadership role, serving as society officials and representatives to the Consiglio del Popolo, in the 1280s and '90s.

In the merchant and bankers' guilds, at the top of the list in Table III.7, the number of families sharing in the holding of terms of office over time was larger than any of the arms societies and also of the other guilds in the sample, which is not surprising in view of the larger size of their contingents until 1307. The bankers had the greatest proportion of related members within any society, at 85 percent, shared by forty-one families, and the merchants had 67.6 percent shared by forty-four families. What is surprising is the gap between the butchers and notaries, with the former having a 51 percent share and the notaries only a 25.4 percent share, less even than the Stars with their 29.5 percent share. Moreover, while all the families in the butchers with the largest shares held their terms throughout the forty-year period, the families in the notaries with the largest shares, with one exception (the Rovisi), all held their terms of office only in the 1302–1322 period.

In the cordwainers, which by the late thirteenth century was even larger in total membership than the notaries, the family-held share of appointments was even smaller—17.3 percent. But in the cordwainers, in contrast to all the other guilds in this sample, only one of the families holding the largest share of terms of office, as shown in Table III.7, was a lineage family (the Planelli). Only the arms society of the Stars, of the nine guilds and arms societies in this sample, has a profile similar to that of the cordwainers. Since the guilds and arms societies in this sample represent all the types of such societies for sets of

relatives in Tables III.1–6, it is probable that the majority of guilds and arms societies, except for those in the lowest group of Table III.1, also had the two-tier profile of those in this sample, in which a dozen or more families (the majority lineage families) had a continued and strong presence.

But an important point not to be lost in this array of data showing the persistence of many families in leadership positions is that the profile is indeed two-tiered and that next to the tier of families that continuously held a leadership position was a tier of very different composition. In this second tier one finds a minority of individuals without family ties who held office more than once. The individuals without family ties who held office more than once are indicated as such in Table III.7. The proportions of the two tiers, the tier of families and individuals, even when the multiple officeholders without relatives are added to the family tier, leaves the remaining individuals (who held office only once and who had no relatives in office) in the majority only in the Stars, cordwainers and notaries. In the other six guilds and arms societies in the sample, the individuals who held office only once and had no relatives in the sample were a minority. Thus, at one extreme, in the merchants only 9.7 percent of that guild's members held office only once in the sample years and had no relatives in the sample. At the other extreme, in the notaries, the percentage for that category was 68 percent. The sample in Table III.7, while it is not proportionately reflective of all guilds and arms societies, indicates that certain guilds and arms societies were more resistant than others to the influence of powerful families.

The cumulative data, both from the sets of relatives in particular years (with an increase in later years) and from that of family ties persisting over the years within guilds and arms societies, presents a paradox. Did 1306 represent a final stage in weakening the dominance of the merchants and bankers and the oligarchy they represent as indicated by the diminution of the size of their contingents? If so, how does one explain the increased presence of relatives in the contingents of most guilds and nearly all arms societies? Was the level of oligarchy diminishing or increasing in the early years of the fourteenth century?

From the data in Table III.7 it is possible to extract a hypothesis to explain this apparent paradox and address the questions raised. Several families appear in that table in more than one guild and/or arms society. Thus, the Gozzadini rank second in the top five families of

the bankers with twenty-nine terms of office in that guild, but also rank in first place in the notaries with five terms of office, and in fifth place in the Dragons with eleven terms. The Baciacomari rank second in the Dragons with twenty-three terms of office and fourth in the notaries with three terms. The Rodaldi rank first in the Tuscans with twenty-two terms and fourth in the Lombards with twelve terms. The Bentivoglio tie for fifth place in the notaries with three terms and rank second in the butchers. Did the most influential families cross over organizational boundaries and exert influence by weaving their members through a network of guilds and arms societies? Had the networks of power shifted to some degree from guild and arms-society organizations to families whose ties transcended organizations? And, to ask the most basic question, to what extent were terms of office in the Consiglio del Popolo monopolized by particular families?

To address these questions I have compiled a database of the guild and arms society affiliations of all families in the Consiglio del Popolo sample of fourteen semesters for the guilds and fifteen semesters for the arms societies from the 1283–1322 period. Table III.8 includes the distribution of guild and arms society affiliations for the seventy-six families that held twenty or more terms of office in the Consiglio del Popolo, as extrapolated from that database, with the year of the family's first and last appearance in each guild and arms society and the distribution of the family's terms of office among the guilds and arms societies. The seventy-six families held 23 percent of all terms in the sample, an impressive figure that amply demonstrates the existence and extent of an elite tier in the Consiglio del Popolo, despite the restrictions on individual rotation in office. A very few of these families had their power base predominantly in only one guild or arms society, for example, the *de Guercino*, in sixtieth position in Table III.8, held twenty of their twenty-three terms of office in the Dragons.<sup>8</sup> Most families, however, were more broadly based, with the Bambaglioli (in eighth rank) having the broadest spread, with their terms of office divided among eleven guilds and arms societies, and the da Manzo-

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<sup>8</sup> The Placiti in fifty-third rank held twenty-four of their twenty-five terms in the Leopards, and the Rasuri in twenty-ninth rank held twenty-five of their thirty-four terms in the Dragons, the Baciacomari in twenty-second rank held twenty-six of their thirty-eight terms in the Dragons, and the Fiorani in thirty-fourth rank held twenty-five of their thirty-one terms in the Eagles.

lino (in third rank), with their eighty-one terms divided among ten societies.

Given their numerical advantages until 1307 in the Consiglio del Popolo, one would expect the bankers' and merchants' guilds to be the power base for a majority of these families. Indeed, sixteen of the families did have the bankers' and/or merchants' guilds as a major power base, and another seven families held a large proportion of their terms of office from the bankers' and merchants', for a total of 30.2 percent of the families with twenty or more terms.<sup>9</sup> Despite their loss of numerical advantage in the second half of the sample period, the great merchant-banking families continued to hold an extraordinary share of terms of office in the Consiglio del Popolo. But nearly all of them maintained their preeminence by also achieving leadership roles in arms societies and in other guilds as well. Thus, the banking families of the Zovenzoni and Gozzadini each held more terms of office in the Consiglio del Popolo than any other family, with ninety-one and eighty-eight appointments each. In both cases the family held a significantly larger portion of its terms of office for the bankers in the pre-1307 period. The Zovenzoni held twenty-seven terms of office for the bankers in the earlier period and only ten from the later period. The Gozzadini held nineteen in the earlier period and twelve in the later period. Each family, however, increased its share of appointments in the arms societies' contingents. Thus, the Zovenzoni had seven terms of office for the Castles (the only arms society from which members of this family were sent to the Consiglio del Popolo) in the earlier period but seventeen terms in the later period. The Gozzadini had one appointment for the Keys in the early period and eight in the later period. That family was also based in the Dragons, for which it had five terms of office in the early period and seven in the later period, and had two terms from the Horses, divided between both periods. Finally, its three terms for the Lombards were all from the later period. The Zovenzoni, who held the most terms of office overall, were only represented by one guild other than the merchant-bankers—that of the notaries—and that only by one appointment from 1302. The representation of the Gozzadini, however, who were in second place overall,

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<sup>9</sup> The sixteen families comprised the Zovenzoni, Gozzadini, Sabadini, Beccadelli, Mezzovillani, Artenisi, Pepoli, da San Giorgio, Foscherari, Spersonaldi, Bonvisini, da Roncore, Bonromei, Pavanesi, Lamandini, and da Ignano. The seven comprised the da Manzolino, Sardelli, Rodaldi, Baciacomari, Clarissimi, Dugliolo, and Pegolotti.

included three other guilds, the notaries, merchants, and barbers, and in all three instances the representations were from the later period. Finally, both families benefited from the practice adopted in 1305 of appointing extraordinary members or “additions” which after 1306 were usually appointed by the *anziani* and their *sapientes*. The Zovenzoni had twenty-nine additions or extraordinary members, the Gozzadini had twenty-three, and all were appointed in the later period. In short, these two families exemplify the means by which the most pre-eminent merchant-banking families retained and even increased their predominance even after the structural diminution of those guilds’ power—by diffusion of their leadership into other guilds and arms societies and by extraordinary executive appointment.

A similar pattern holds for the other top merchant-banking families. Thus the Beccadelli, in fifth position with seventy-four terms of office, held fifteen and thirteen terms respectively through both periods in the bankers and Castles respectively, but nineteen other terms in three other arms societies and four other guilds, all from the later period (1307–1322), as well as twenty-seven terms of “additions.” The exception is the Rodaldi, in sixth rank, whose banker-merchant base, at eleven terms from those guilds over the entire period, was actually less than their base in the two “immigrant” societies of the Tuscans and Lombards. They sent representatives (thirty-four for the entire period) to the Consiglio del Popolo from both of those societies by 1283. In short, their “diffusion” was well-established early and their preeminence was not diminished by the merchant-bankers’ loss of numerical advantage.

The same strategy of overall strength by means of a leadership role in multiple societies also served as the basis for the greatest of the non-merchant-banker families—the Bambaglioli, Bentivoglio and Bonacatti, in the eighth, ninth and tenth ranks, respectively. The Bambaglioli, the preeminent notarial family in this list, were enrolled in multiple guilds by the 1270s, as discussed above in Chapter One, in particular in the notaries and the leather guilds (the bootmakers, shoemakers, and cordwainers) and in the Lions’ arms society. They appear in Table III.8 for the notaries, bootmakers, and shoemakers by 1283, 1286 and 1292 respectively, and for the arms society of the Crossbars by 1302. By 1305, they also represented the merchants and in the later period they spread their base into two other arms societies and into four other guilds.

But the successful strategy for most of the families below the top ten families was reliance on a combination of one arms society and one guild, or even more frequently, upon one or the other. Thus, the Boat-teri in eleventh rank had twenty-three terms clustered in the Lions.<sup>10</sup> In addition to the merchant-bankers' guilds and sixteen (not including the butchers *pro armis* which I discuss below) of the twenty arms societies,<sup>11</sup> sixteen of the twenty-one guilds that span the entire sample period provided a major base for families in Table III.8. In most cases the guild or arms society supported one family, as, for example, did the guild of the curriers, dressers of leather and tanners with thirty-two appointments for the Curioni (at seventh rank).<sup>12</sup> Three guilds served as the power base for two prominent families.<sup>13</sup> Only the sellers of linen cloths served three families—the Tencarari (twelve terms at twenty-third rank), the Tederesi (twelve terms at forty-fourth rank) and the Carbone (twelve terms at forty-ninth rank). Finally, the butchers *pro armis* and *pro arte* served five prominent families.<sup>14</sup>

It is not surprising that the butchers should play such a prominent role, not because they comprised an arms society as well as a guild (the drapers had the same advantage but it did not transfer into serving prominently as a power base for powerful families), but because after

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<sup>10</sup> The da Saliceto in thirteenth rank had twenty-six terms in the Minivers, the Mezzovillani in fourteenth rank had thirteen terms in the Horses and twelve in the merchants, the Pepoli in eighteenth rank had twenty-three terms in the Castles and eleven in the bankers, the Preti in nineteenth rank had twenty-three terms in the Swords, etc.

<sup>11</sup> The only three arms societies that did not serve as a base for families in Table III.8 were the Stars, the Griffins, and the Stripes of Saragozza.

<sup>12</sup> The bootmakers provided thirteen appointments for the Prevedelli (at twenty-seventh rank, the coarse cloths' guild provided twelve for the Bonzagni (at thirty-eighth rank), the old furriers fourteen for the Montanari (at forty-fifth rank), the masons with six for the Bonincontro (at sixty-fifth rank), the carpenters with twenty-three appointments for the de Roti (at sixty-second rank), the cordwainers with eight for the Planelli (at sixty-fifth rank), and the haberdashers with nine for the *de Napparis*.

<sup>13</sup> The drapers *pro arte* for the Rociti (Rocetti) with sixteen terms at twentieth rank, and also for the *de Praxitiis* with eleven terms at forty-second rank, the salt-sellers for the Rovisi with eight terms at thirty-sixth rank and also for the Ghisalabella with nine terms at sixty-sixth rank, and the fishmongers for the Cavalli with thirteen terms at forty-eighth rank and also for the Beretta with sixteen terms at seventy-second rank.

<sup>14</sup> The da Manzolino with fifteen terms *pro arte* and seven *pro armis* at third rank, the Bentivoglio with fifteen terms *pro armis* and thirteen *pro arte* at tenth rank, the Magnani with fourteen terms each *pro arte* and *pro armis* at seventeenth rank, the Tettacapra with eleven terms *pro armis* and nine *pro arte* at twenty-eighth rank, and the Alberghi with eight terms *pro armis* and four *pro arte* at fifty-fifth rank.



the bankers and merchants they ranked with the notaries as the oldest and privileged of the guilds. What is surprising is that the notaries' guild did *not* play such a role. The preeminent notarial families in Table III.8—the Bambaglioli, Bonacatti, da Saliceto, Magnani, Fiorani, Montanari, da Bisano and Rovisi, relied not upon the notarial guild as their major or at least one of their major bases of support (although they held terms of office for that guild), but upon other guilds and/or arms societies.

The most powerful guilds were the merchants, bankers, butchers and notaries, as recognized by their privileged position in the *anzianate*, and from those guilds came the most politically active families and the leadership of the *popolo*. But those leaders functioned on two levels, not only as leaders and representatives of their “primary” guilds, but also as leaders and representatives of arms societies and other guilds in a network of family alliances and relationships that cut across the boundaries of the guilds and arms societies. Moreover, as noted in Table III.8, that network was expanded considerably in the first decades of the fourteenth century. Banker and merchant families, as well as families from other guilds, had been sending their sons into notarial careers and enrollment in the notaries' guild at least since the 1270s, as discussed in Chapter One, but it is only at the turn of the century that the most politically active merchant-banker families also assume a leadership role in the notaries, as seen in Table III.8, with members of the Zovenzoni, Gozzadini, Sabadini, Beccadelli, Albiroli, Mezzovillani, Artenisi, Pepoli, Baciacomari, Sardelli, Spersonaldi (Personaldi), Bonvisini, *de Quercis*, and da Roncore families present among the contingents of the notaries to the Consiglio del Popolo. By the second decade of the fourteenth century the merchant-banking guilds had lost all structural vestiges of their early thirteenth century dominance of the *popolo*, a role that was successfully challenged in the 1270s by the “lesser guilds” under the leadership of the notaries and butchers, but by the early fourteenth century certain merchant-bankers had reversed that trend to become dominant members of the notaries' guild itself.<sup>15</sup>

The merchant-bankers as guilds lost their hegemony and experienced sharp decline in structural terms at the turn of the century, but within the framework of decline certain families of those guilds found

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<sup>15</sup> See above, Chapter One, Part II.

the opportunity to retain and assert their preponderance as individual families by adopting new alliances and strategies of diffusion through a broad array of arms societies and guilds. Politics moved increasingly in the second half of the thirteenth century from a guild to a party-family alliance basis. Moreover, despite the canons of historiographical orthodoxy, the notaries as a guild never “replaced” the merchant-bankers, neither in the 1270s nor in the 1280s, but rather partnered with them in the creation of a new power axis, or oligarchy, that was solidified by the closure process of those decades.<sup>16</sup> In 1287, when the Sacred and Most Sacred Ordinances were threatened by a major conspiracy, the notaries went to the merchant-bankers for help and leadership in quashing the challenge.<sup>17</sup> The overthrow of the signorial ambitions of Romeo Pepoli in 1321 involved a leadership partnership of the notarial family of the Bambaglioli and the merchant-banking families of the Rodaldi and Beccadelli.<sup>18</sup> Nor did the political recognition of new guilds in the early fourteenth century loosen the grip of the oligarchy. Indeed, those guilds served as new political vehicles for

<sup>16</sup> The merchant-bankers are viewed as tied to the nobles, whereas the notaries are seen as leaders of the artisans against the merchant-bankers, with the former triumphing over the latter by the 1270s. For example, as in Gina Fasoli, “Bologna nell’età medievale (1115–1506)” in *Storia di Bologna*, ed. Antonio Ferri and Giancarlo Roversi (Bologna: University Press Bologna, 1996), reprint of 1978 edition, pp. 160–163. In Pini’s view the merchant-bankers, damaged by the loss of students and competition from Tuscan merchants, stemming from the heavy costs of the struggle against Frederick II and his blocking of Bolognese merchants at mid-century, were replaced by the notaries as leaders of the *popolo*. Antonio Ivan Pini, “L’arte del cambio a Bologna nel XIII secolo,” *L’Archiginnasio* 57 (1962): 21–82, and his “Bologna nel suo secolo d’oro: Da ‘comune aristocratico’ a ‘repubblica di notai,’” in *Rolandino e l’Ars Notaria da Bologna all’Europa. Atti del convegno internazionale di studi storici sulla figura e l’opera di Rolandino*, ed. Giorgio Tamba (Milan: Giuffrè, 2002), pp. 3–10. For other interpretations embracing the same premises, see John Koenig, *Il “popolo” dell’Italia del Nord nel XIII secolo* (Bologna: Il Mulino, 1986) and Brian Robert Carniello, “The Notaries of Bologna: Family, Profession and Popular Politics in a Medieval Italian City-State,” Ph.D. diss., University of California, Santa Barbara, 2005. Massimo Giansante, however, does not so much see the notaries as “replacing” the merchant-bankers, or as having hegemony over the artisan guilds, as much as having a kind of supremacy in the politics and administration at the center of the *popolo*. Massimo Giansante, “L’età comunale a Bologna. Strutture sociali, vita economica e temi urbanistico-demografici: orientamenti e problemi,” *Bollettino dell’istituto storico italiano per il Medioevo e Archivio muratoriano* 92 (1985/86): 103–222, esp. p. 120.

<sup>17</sup> Giuliano Milani, “Bologna’s Two Exclusions and the Power of Law Experts,” in *Europa und seine Regionen. 2000 Jahre Rechtsgeschichte*, ed. Andreas Bauer and Karl H.L. Welker (Cologne: Böhlau, 2007), pp. 123–138, esp. p. 135.

<sup>18</sup> Vito Vitale, *Il dominio della parte guelfa in Bologna (1280–1327)* (Bologna: Arnaldo Forni, 1978), reprint of 1901 edition, pp. 167–171.

the older merchant-banker families, such as the Albiroli, Rodaldi and da Lana in the rough wool guild, the Boatteri and Beccadelli in the fine wool guild, the Pepoli, Bonromei, and Gozzadini in the barbers, and the Beccadelli, Boatteri, and Buvalelli in the spice merchants and apothecaries.

The highest levels of the oligarchy of the late thirteenth and early fourteenth century were thus firmly established by the 1280s and probably by the 1270s. With very few exceptions, all the families in Table III.8 have their first appearances in the Consiglio del Popolo contingents by the 1280s. The exceptions comprise the Baciacomari and the Tencarari (twenty-second and twenty-third ranks respectively) who held their first terms from 1292 II, the Panzoni (fifty-second rank) from 1302 I, and the Alerari (forty-third rank) with their first term of office from 1303 I. However, since there is evidence that the Baciacomari were in fact in a leadership position in the bankers by 1285 (Simon Baciacomari was one of the bankers' consuls in that year),<sup>19</sup> that family should be withdrawn from the exceptions which then would number only three of the seventy-six families in Table III.8.

Family networks thus gained leverage over guild and arms society structures in the Consiglio del Popolo by the early fourteenth century, and a leadership tier of participating families was preeminent at least from the 1280s and the triumph of the *popolo*. Is the same pattern discernible in the *anzianate*, the executive body of the commune and *popolo*? Given the much more restrictive office-holding opportunities of the *anzianate*—an average of twenty-one terms per month for the entire period—one would expect the *anzianate* to display a more oligarchical nature than the Consiglio del Popolo. The sample for the *anzianate* (7,050) is considerably more complete than that of the Consiglio del Popolo. I have compiled a database of *anziani et consules* officeholders between 1281 and 1327, extrapolated from the work of the seventeenth and eighteenth century-*eruditi*, Cherubino Ghirardacci and Pancrazio Molinari, to which I have added data from the surviving Capitano del Popolo *Giudici* registers.

The sample has some major gaps, even for whole years, but includes 309 of the 552 months for the period. Only 25.3 percent of the officeholders held office one time only (see Table III.9). Moreover, of these 1,838 one-time officeholders, 1,077 (59 percent) had relatives who

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<sup>19</sup> ASB, Capitano del Popolo, Giudici, Regs. 69–73.

also served in the *anzianate*. Of the 937 incumbents who held office between the years 1281 and 1290, each incumbent served an average of 1.7 terms during that period. That figure is almost exactly the same as the one David Herlihy found in the priorate data for Florence for approximately the same period. He found that of the 267 incumbents who held 445 offices between 1282 and 1292, each incumbent served an average of 1.6 terms.<sup>20</sup> As at Florence, at Bologna there were individuals who served with exceptional frequency and over an extraordinary period of years. At Bologna Guglielmo Spersonaldi (Personalidi) served seventeen times over twenty-four years (1283–1317), Munso Sabadini served twelve times over twenty-three years (1287–1310), and Romeo Pepoli served eleven times over thirty-one years (1289–1320). (See Table III.11.) However, the number of individuals holding office only once increased significantly after the expulsion of the Pepoli in July 1321 as the families who had successfully opposed Pepoli brought new men into the highest office, many their own relatives who had not served earlier. As shown in Table III.9, the percentage of *anziani* holding office one time only was greatest during the period 1321–1326 (43.3 percent). During the same period, the percentage of one-time-only officeholders who had relatives in office was also at its highest level (27.9 percent).

Which families held the largest number of terms of office on the *anzianate*? The bankers and merchants had a numerical advantage in this office as well until 1309, as noted above, and that advantage is reflected in the list of dominant *anzianate* families as given in Table III.10, where I have compiled all families that held nine or more terms in the *anzianate*. The highest ranking families are merchant-bankers, followed at the highest level by a few families from the notaries and butchers. There is a striking overlap between the top families of the *anzianate* and those from the Consiglio del Popolo. Not only are they the same families, but also the same individuals from those families are among those who appear most frequently in both the *anzianate* and the Consiglio del Popolo. As was the case with their terms of office in the Consiglio del Popolo, the top banking families did not lose their predominance after 1307 when the banker and merchant guilds lost

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<sup>20</sup> David Herlihy, "The Rulers of Florence, 1282–1530," in *City States in Classical Antiquity and Medieval Italy*, ed. Anthony Molho, Kurt Raaflaub, and Julia Emlen (Ann Arbor, Michigan: The University of Michigan Press, 1991), p. 205.

their numerical advantage in the *anzianate* as well as in the Consiglio del Popolo. Thus, the top ranking family in the *anzianate*, the Sabadini, held office in the *anzianate* twenty-five times in the period 1282–1306 and thirty-four times in the period 1307–1322. The second ranking family, the Gozzadini, held twenty-eight terms in the first period and thirty-six terms in the second period. The third ranking family, the Zovenzoni, however, held twenty-seven terms in the first period and seventeen in the second period. The Beccadelli, in fourth place, held thirteen terms in the first period and thirty-six terms in the second period. The four top ranking families in the *anzianate* were thus not only banking families but three of the four held a significantly larger proportion of their terms in the *anzianate* in the second period, after the bankers (along with the merchants) lost their numerical advantage in that office.

The top twenty-five families in the Consiglio del Popolo and *anzianate* (Tables III.8 and III.10) are the same, but some families that appeared frequently in the Consiglio del Popolo rank much lower in the *anzianate* list, for example, the Beretta, Pratesi, and Parigi. In part the differences may reflect the election process whereby the guilds and societies controlled the membership of the Consiglio del Popolo, but only indirectly influenced the election of the *anziani*. But the appointment by the *anziani* after 1305 of large components of the Consiglio del Popolo indicates that the relationship between the *anziani* and Consiglio del Popolo signified a reinforcement of oligarchy on both levels, a conclusion that is evidenced by the contribution of “additions” terms to family dominance. In part the differences between the *anzianate* and Consiglio del Popolo data also stem from the containment and intensity of certain families’ participation within brief periods, as in the case of the Guastavillani, who were especially prominent and held a leadership role in the first years of the fourteenth century during the regime of the Whites, but were expelled after the collapse of that government. Their participation would not appear as frequently in the Consiglio del Popolo sample, given the spread of years from which that sample was selected, but is reflected in the more complete *anzianate* listing.

Despite the prominence and persistence of the older merchant-banker families, I maintain that the continuance of those families marked not the continuance of a class, but of particular families from the mercantile-banking class, and that those families succeeded because of their linking with other non-merchant-banking-families, particularly with

families from the notaries and butchers and the older families of other guilds and arms societies, as well as by the diffusion of the persistent merchant-banker families themselves into other guilds and societies. The deepening closure of the late thirteenth century signified not just conflicts of class and struggles between the older established guilds and families versus newcomers, not just the expulsion of opponents, but also the forging of new partnerships and the formation of a more restrictive oligarchy. By the end of the first decade of the fourteenth century, the vertical politics of family and client alliances had replaced the horizontal politics of guilds and arms societies. The cross-matriculation of families into a range of guilds and arms societies that was documented above in Chapter One had its parallel in the nature of the alliances and family ties that characterized the contingents sent to the Consiglio del Popolo and the individuals elected to the *anzianate*.

The diffusion of prominent families, especially those of the older guilds of the merchant-bankers, notaries and butchers into leadership roles in multiple societies was part of a shift in the balance of power among social groups in favor of a more restricted oligarchy. The power shift was paralleled by a return to the guilds and arms societies of individuals and families who had been expelled from *popolo* organizations in the “cleansings” of 1274 and the 1280s, as we shall see in Chapter Four—the Ghisilieri, Balduini, Gattari, Romanzi, and Pippini. It was also paralleled by an increased role of judges in the guilds and arms societies and in the Consiglio del Popolo. At mid-century, *popolano* judges had been forbidden to hold office in guilds or to be in the Consiglio del Popolo except as *sapientes de massa* from the arms societies.<sup>21</sup> The 1285 statute on the election of *anziani* specifies that no judge was to be included among the names of candidates for that office that were placed in the election bags.<sup>22</sup> By the turn of the century, although there is no surviving legislation to pinpoint the change,<sup>23</sup> from the

<sup>21</sup> *Statuti di Bologna dall'anno 1245 all'anno 1267*, ed. Luigi Frati, vol. 3 (Bologna: Regia Tipografia, 1877), Rubric CXXXI, “Quod non possunt esse de consilio populi nec officia populi habere,” p. 400. The law forbade their holding the posts of *ministralis* and *consiliarius* even in the arms societies, thereby limiting them to serve in the contingents as a *sapiens de massa*.

<sup>22</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric CXI, “De electione anzanorum et consulum,” pp. 472–475.

<sup>23</sup> However, the change may be indicated by a *riformagione* of Feb. 21, 1289 which, in a discussion of those forbidden membership in both the guilds and arms societies, cites only judges “qui sit de nobili progenie” as excluded. ASB, Comune-Governo, Riformagioni 128, fol. 171v.

membership lists themselves it is clear that judges held leadership roles not only in the arms societies, but also in the guilds. In the Consiglio del Popolo lists we find that Gardino Gardini, *doctor legum*, was one of the *ministralles* of the sellers of linen cloths in 1302 I, the jurist Bonincontro dello Spedale was a *consiliarius-sapiens* in the contingent of the cordwainers to the Consiglio del Popolo in 1303 I, the judge Francesco Gatti served as *consiliarius* in the Consiglio del Popolo in the notaries' contingent in 1290, Filippo Preti, *doctor legum*, was in the contingent of the merchants in 1307 II, and Alberto Bonacatti served as an "addition" for the cordwainers in 1309 II. At the same time, as shown in studies by Sara Menzinger and Mathias Jehn, judges and jurists maintained a prominent central role in politics in two major ways. They served as *sapientes* on special commissions appointed by the *anziani*, or as the *sapientes*, two elected by each guild and arms society, who served as a council for the *ministralles* of the two preeminent societies. From 1281 through 1306 Jehn identified sixty-two judges and one *doctor legum* as holding the latter office.<sup>24</sup>

The realignment of the oligarchy at the turn of the century consisted primarily of a recombination of elements and not the admission of new families into the government. Only a very few families became prominent for the first time at the end of the thirteenth century or later. For example, the Balduini do not appear in the Consiglio del Popolo nor the anzianate records until 1309, but they in fact were a family that had been prominent in the early thirteenth century (the most famous member of the family was the jurist Jacopo Baldovini). In the late thirteenth century they served frequently as *sapientes* on special commissions.<sup>25</sup> Their appearance in the early fourteenth century *popolo* government, even in the anzianate, was in fact a return to the status of *popolani* that they had been seeking to achieve for decades. Indeed, it is very difficult to find a family prominent in the government in the first three decades of the fourteenth century that was not established and active from the 1270s or at least the first years of the 1280s. Closure and transformation of the oligarchy date from the

<sup>24</sup> Sara Menzinger, *Giuristi e politica nei comuni di popolo. Siena, Perugia e Bologna, tre governi a confronto* (Rome: Viella, 2006). Mathias Jehn, "Die Versteckte Macht. Das *consilium sapientis* und der politische Einfluß der Juristen in Bologna. 1281bis 1306," tesi di dottorato, Scuola Superiore di Studi Storici di San Marino, 2002, p. 405.

<sup>25</sup> Guido Cherio di Filippo Balduini appears as an "addition" in 1309 II. I discuss the Balduini extensively below in Chapter Four.

1270s, with the inclusion into political prominence of families from the lesser guilds, under the leadership of the notaries. There was also a continuous entry into political life of those holding office one time only. Especially during the considerable expansion of participation in the Consiglio del Popolo after 1321, there was an increased flow into the Consiglio del Popolo and the *anzianate* of new men, of individuals who held office for the first time, some related to other members but many standing alone. The oligarchy of the commune up to 1327 never approached the much more advanced restrictiveness of the briefly reestablished commune of 1334–1337 and the subsequent *signoria* of Taddeo Pepoli, son of Romeo. Up to the establishment of the *signoria* of Cardinal del Poggetto in 1327 the increasing pressure towards elitism met vigorous resistance, a resistance that was overcome only when war threatened the very independence of Bologna. Faced with the loss of liberty or independence, the commune sacrificed the liberty of political process and moved from a republican commune, albeit an oligarchical one, to a *signoria*.

Closure marked the triumph of the *popolo*. An elite tier of prominent families held an extraordinary proportion of political offices and increased its share in the early decades of the fourteenth century. Yet as we have seen, the structure of government remained broadly participative, with expansion of the size of the Consiglio del Popolo and diminution of the role of the merchant-banker guilds. Moreover, despite the persistent dominance of powerful families, many men from outside those families continued to enter political life, as in 1321 after the expulsion of Romeo Pepoli. But how deeply did closure penetrate society? In the following chapter I ask that question in the context of social structure—in terms of the legal status and perceptions of identity of the major social and political groups.





## CHAPTER FOUR

### PART I. STATUS: LEGAL DEFINITIONS

In this chapter I examine the legal definitions of status for the various groups excluded from political life by closure and compare those definitions with perceptions of social identity as revealed in the court records of the Capitano del Popolo. I demonstrate the ambiguities of group identity in legal definitions and practices, as well as changes in those definitions over time in Part I. In Part II, I study the perceptions of witnesses in trials concerning status and identity, probing the relationship between legal definitions and popular perceptions of status and the significance of disparities between those two categories.

Identity in late medieval Bologna was characterized by great ambiguities in the statutory definitions of groups, as well as changes in the definitions themselves, resulting in an environment of ceaseless confusion, purges and litigation over the status of individuals. As we shall see, a significant degree of porosity existed between excluded and included groups. Participation of individuals from excluded groups in government and administration was permitted by specific exemptions from exclusion for certain subgroups. Moreover, the degree of porosity varied over the years in response to military and fiscal exigencies, particularly at the turn of the century and again after 1315.

Anomalies characterized the participation in communal life even of the Lambertazzi—the faction that had been bested by their rivals the Geremei—in a successful alliance forged between the latter and the *popolo* in the 1270s. Many who had been expelled from the commune in 1274 and 1279 were soon readmitted if they swore allegiance to the commune and *popolo* and became Geremei. Large contingencies of the remaining *banniti* paid a huge tax and re-entered the city in 1292 and 1296, which were years of military and fiscal stress for the commune, especially because of the war against Ferrara.<sup>1</sup> But these “reconstituted”

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<sup>1</sup> Antonio Ivan Pini, “Un aspetto dei rapporti tra città e territorio nel Medioevo: la politica demografica ‘ad elastico’ di Bologna fra il XII e il XIV secolo,” in *Studi in memoria di Federigo Melis*, vol. 1 (Naples: Giannini, 1978), pp. 365–408, esp. pp. 290–91. Giuliano Milani, *L’esclusione dal comune. Conflitti e bandi politici a Bologna*

Lambertazzi were excluded from all political and administrative offices of the *popolo* and commune, unless an individual received a decree (*riformagione*) from the Consiglio del Popolo that specifically exempted him from political and administrative exclusion.<sup>2</sup> For example, the Tettalasini were a Lambertazzi family who early swore allegiance to the Geremei (in 1280), but not until 1295, during the onset of the war against Ferrara, did they recover all the privileges and benefits of Geremei *popolani*.<sup>3</sup> Nevertheless, for much of the period the returned Lambertazzi who swore allegiance to the Geremei party were permitted to enroll as members of the popular societies, even if they could not hold office, making it possible for them to wield influence within those societies. In 1306, however, with the third and final expulsion of the Lambertazzi, these “reconstituted” Lambertazzi were again expelled from the societies.<sup>4</sup>

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*e in altre città italiane tra XII e XIV secolo* (Bologna: Istituto Storico Italiano per il Medio Evo, 2003), pp. 210–211, 268, 281–286.

<sup>2</sup> *Statuti di Bologna dell'anno 1288*, ed. Gina Fasoli and Pietro Sella, 2 vols. (Vatican City: Biblioteca Apostolica Vaticana, 1937–39), vol. 1, Bk. V, Rubric LXXIII, “De privilegio concesso condemptibus ordinamenta predicta et eorum patribus, filiis, fratribus et aliis consiliariis populi,” pp. 389–390. This law is part of the 1292 revision of the 1282–84 Sacred and Most Sacred Ordinances which specifically preserved the *riformagione* concerning Lambertazzi that were not able to hold office nor to be councillors, made at the time of *Gerardinus de Buschitis*, once Capitano [1284], that no “Lambertaxius tempore primorum rumororum et a dicto tempore citra, et nullus pater, filius vel descendens a predictis vel aliquo predictorum, vel frater vel filius fratris vel descendens ex fratre predictorum vel alicuius eorum, possit esse de consilio communis vel populi Bononie, ancianus vel consul vel interesse alicui credentie communis vel populi Bononie vel habere aliquod officium ordinarium vel extraordinarium vel aliquam potestariam de sacho vel de banderia vel mitti in aliqua vel ad aliquam custodiam pro communi vel populo Bononie. Et intelligatur Lambertatius qui unquam fuerit scriptus in aliquo libro confinatorum cuiuscumque conditionis vel in aliquo libro bannitorum vel rebellium pro parte Lambertatiorum vel qui pecierint fieri sibi mendum occasione derobationis facte tempore secundum rumorum.... Salvo [quod] illi qui iuraverunt partem ecclesie et Ieremiensium ad voluntatem comunis, habeant et consequantur beneficia et privilegia que habent et consequi possunt secundum formam statutorum, provisionum, reformationum communis et populi Bononie, preterquam in exceptatis casibus superius.” The original 1284 law is in Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. II, Rubric VIII, “De Lambertaciis qui non possunt habere offitium nec esse consiliarii,” pp. 58–60. The prohibition includes the fathers, sons and their descendants, brothers and nephews and their descendants. But relatives of a Lambertazzi who had always been Geremei were exempted. The provisions against the Lambertazzi were periodically renewed. For example, a law of 1313 forbade any Lambertazzi or relative of a Lambertazzi (or anyone banned, confined or interdicted in and since 1306) from being present at elections of guild and armed society officials. ASB, Comune-Governo, Provvisioni IV, fols. 21rv, May 28, 1313.

<sup>3</sup> ASB, Comune-Governo, Provvisioni I, fols. 236v–237r, May 25, 1295.

<sup>4</sup> Milani, *L'esclusione dal comune*, pp. 377–413.

Magnates, however, although excluded as a group from the *anzianate* beginning in 1248 and from the Consiglio del Popolo and all offices of the *popolo* by 1282, continued in the late thirteenth and early fourteenth century to participate prominently as members of the communal councils—the Council of 2,000 (later 4,000) and the Council of 800.<sup>5</sup> Even the magnates considered most dangerous who were required to post securities guaranteeing their good behaviour (the *lupi rapaces*), are found in the Council of 800 in the 1280s, at the reputed height of *popolo* power.<sup>6</sup> Magnates (again even *lupi rapaces*) and especially magnate jurists also are found in the innermost circle of decision-makers as *sapientes* in 1284 and throughout the period.<sup>7</sup> Particularly during the war with the Marquis of Este and the subsequent period of White Party (pro-Ghibelline) domination at the turn of the century, magnates and jurists (the latter of both magnate and *popolo* status) were members of powerful *balie*. The latter were specially appointed commissions entrusted with major issues, sometimes in an advisory capacity, but often in a decision-making role.<sup>8</sup> Feudal nobles, who, as discussed above in Chapter Two, had been expelled from the communal councils after mid-century, were readmitted during the war into the confidence of the commune as allies and entrusted with governance of the *contado*, particularly in the mountains, with responsibilities for military fortifications. However, at other times the

<sup>5</sup> *Statuti di Bologna dall'anno 1245 all'anno 1267*, ed. Luigi Frati, 3 vols. (Bologna: Regia Tipografia), 1869–1877, vol. 3, Bk. XI, Rubric CXXVII, “De quantitate *anzianorum* et quomodo divisi sunt per societates artium et armorum et qui possunt esse *anziani* et qui non et quomodo sunt eligendis et de tempore eorum offitij et quanto cessare debent,” p. 386. See above, Chapters Two and Three for the other exclusions.

<sup>6</sup> ASB, Comune-Governo, Riformagioni e provvigioni, serie cartacea, Busta 215, Reg. 2, fol. 10r, July 28, 1284. See above, Chapter Two.

<sup>7</sup> Sara Menzinger, *Giuristi e politica nei comuni di popolo. Siena, Perugia e Bologna, tre governi a confronto* (Rome: Viella, 2006), pp. 316–326 for lists of *sapientes* convoked by the *anziani* during the 1280s, among whom can be identified magnates such as Ubaldino Malavolta, several members of the Galluzzi, Baccilieri, Caccianemici and others. For other evidence of the continuous presence of magnate jurists among the *sapientes*, also see ASB, Capitano, Giudici, Reg. 97, fol. 1r, October 1286, for Lanbertino Ramponi *legum doctor*, Lazzaro Liazzari, Francesco Gatti, Rolandino Tencarari, Ubaldino Malavolta, *legum doctor* and Alberto di Odofredo, *legum doctor*.

<sup>8</sup> ASB, Comune-Governo, Provvigioni III, fol. 79r, for the powerful “junta” of Ubaldino Malavolta, Pace *de Pacibus*, Bonincontro dello Spedale, Giuliano di Cambio and Giacomo da Ignano. Among the *sapientes* appointed for consultation with the Captain of War, the Capitano del Popolo, and the podesta, were Bacciliero Baccilieri, Alberto di Odofredo, Lanbertino Ramponi, Cervio Boatteri, and Alberto Asinelli. ASB, Comune-Governo, Riformagioni e provvigioni, serie cartacea, Busta, 216, Reg. 7, fol. 1r, 1296.

same individuals were treated as mortal enemies, depending on the complexities and developments of the military and diplomatic situation in which the commune found or placed itself.<sup>9</sup>

Magnates also frequently held lucrative administrative positions, for example, as collectors of certain taxes or contractors of Lamber-tazzi properties (*conductores*), as officials in the civil courts, podestas of rural districts, guarantors for foreign rectors and their entourages, and guarantors for foreign mercenaries.<sup>10</sup> Under the pressures of war,

<sup>9</sup> See below, Chapter Five and Epilogue. On the war with Ferrara, see Alma Gorreta, *La lotta fra il comune bolognese e la signoria estense* (Bologna: Arnaldo Forni, reprint without date of original 1906 edition).

<sup>10</sup> ASB, Capitano, Giudici, Reg. 74, 1287, for a list of *conductores* posting securities which includes individuals of definite magnate status, with others accused during the 1280s of being magnates, as well as prominent notaries such as the Bambaglioli and Rovisi. Also ASB, Capitano, Beni banditi e ribelli, Mazzo 17, Reg. 551, 1287. Magnate *conductores* include the Galluzzi, *Sarmenus* di Alberto da Monzuno, Albizzo di Alberto da Munzono, and the Simonpiccioli. In 1290, Gerardo di Rolandino Galluzzi held the "officium mollendinorum comunis Bononie," ASB, Camera del Comune, Procuratori del Comune, Busta 4, Reg. 36b, fol. 2r, Jan. 19, 1290. For examples of magnates serving as podesta of rural communes, ASB, Capitano, Giudici, Reg. 358, fol. 37r, May 5, 1299 when Albizzo di Fra Bonifacio Galluzzi posted 1,000 pounds for that post and *ibid.*, Reg. 41, fol. 3r, December 1292, for Bonifacio Samaritani posting security of 5,000 pounds as podesta of Imola. *Ibid.*, Busta 4, Reg. 37a, fol. 33r, June 12, 1291, for Palmirolo Liazzari, judge, and *Prichone de Prichonibus* serving in the *officio gabelle*. Pellegrino Simonpiccioli was "prepositus officio Gabelle," *ibid.*, Reg. 40, fol. 39r, July 22, 1287. Ugolino di Lazzarino Lazzarini served as *miles ad dischum Ursi* (one of the civil courts), ASB, Podesta, Sindacato, Busta 6, "Liber somarum introytum," fol. 1r, 1289. In 1290, Gerardo di Rolandino Galluzzi posted securities of 1,000 pounds for his post "ad officium mollendinorum." ASB, Camera del Comune, Procuratori del Comune, Busta 4, Reg. 36b, fol. 2r. Zaccaria Occeletti was knight and attorney at the *officio procuratorum* in 1293, *ibid.*, Busta 4, Reg. 41, fol. 7v. For examples of payments to magnate jurists who served as ambassadors, see ASB, Capitano, Giudici, Reg. 111, fols. 30r and 40r, July 16 and Sept. 17, 1288, for payments to Alberto Asinelli, Guidoherio Galluzzi, and Lamberto Ramponi, *legum doctor*. Bonifacio Samaritani served as ambassador to the Count of Romagna, Jan. 9, 1291, ASB, Podesta, Sindacato 8, Reg. "1321," fol. 1v, and Tommaso Ghisilieri (who was included as a magnate in the 1271–72 lists), as ambassador to the Count of Romagna in 1286, ASB, Podesta, Sindacato, Busta 3, Reg. "1440," fol. 16r, Aug. 19, 1286. (Both Samaritani and Ghisilieri were listed as belted knights in the Council of 800 in 1293, ASB, Podesta, Accusationes, Busta 12a, Reg. 9, fol. 14r.) For the magnate guarantors of foreign rectors, ASB, Camera del Comune, Procuratori del Comune, Busta 4 (1231–1370), Reg. 33 (1287), fols. 1r–2v, July 2, 1287. The twenty-two guarantors for the 10,000-pound securities posted by the outgoing podesta and his entourage were divided into two groups, one comprising seventeen magnates, the second four *popolani*, although the status of the two groups is not labeled as it is in later registers. Those in the first or magnate group included Beccadino Beccadelli, Guidoherio Galluzzi, Comacio Galluzzi, Simone Lambertini, Pellegrino Simonpiccioli, Bonavolta Malavolta, Pellegrino di Albrico Simonpiccioli, (name torn away) Simonpiccioli, Pellegrino (name illegible), Guidoherio Galluzzi, Castellano di Pellegrino Simonpiccioli, Amadigio Ghisilieri,

Rainerio *Frulani*, Giacomo *Godini*, Bonifacio Samaritani, Torello Torelli, Bitino di Comacio Galluzzi, and Ubaldo di Cervio Boatteri. The second group comprised Francesco Artenisi, judge, Antolino da Manzolino *legum doctor*, Bartolomeo *domine Clare*, Giacomo da Lastignano, and Bonaventura da Savignano. However, the 119 guarantors for the outgoing Capitano del Popolo, at the end of September 1287, were all *popolani*. ASB, Camera del Comune, Procuratori del Comune, Busta 4, Reg. 36b, fols. 1rv, Jan. 2, 1290, for the posting of securities for syndication of the outgoing podesta, *Zagonus de Filiis Zagoni* of Perugia and his entourage of judges, knights, and notaries. Their twenty guarantors were divided equally and explicitly between magnates and *popolani*. The magnates were Tommaso Ghisilieri, Pellegrino Simonpiccioli, Cervio Boatteri, Bonavolta Malavolta, Rainerio *Frulani*, Gerardo di Rolandino, Guidesto Romanzi, Antonio Galluzzi, Beccadino Artenisi and Bonacosa Baciacomari, several of whom were not only magnates, but *lupi rapaces*. Also *ibid.*, Reg. 36e, July 2, 1290, fol. 1v for the magnate guarantors for the outgoing podesta who were Cervio Boatteri, Bonavolta Malavolta, *Franchinus* Samaritani, Ubaldino Malavolta, Lazzaro Liazzari, Pietro *Frulani*, *Prendinus* Prendiparte, Dinadano di Albrico Simonpiccioli, Gerardo Testa Ghisilieri, and Monte Caccianemici. (At the same time, one of the *popolano* guarantors was Graziolo Boatteri, demonstrating the split in status within families.) The guarantors for the outgoing Capitano, however, were not designated by status and seem to have all been *popolani*. *Ibid.*, Reg. 36e, fol. 6v, Oct. 2, 1290. In 1292, the magnate guarantors for the outgoing podesta were Senzanome di Senzanome, Bacciliero Baccilieri, Bonavolta Malavolta, Ugolino Garisendi, Monte Caccianemici, Pietro Gardini, Giovanni Simonpiccioli, Delfino di Michele Priore, Tommasino Ariosti and Calorio Lambertini, ASB, Camera del Comune, Procuratori del Comune, Busta 4, Reg. 41, July 3, 1292, fol. 1v. (The guarantors for the outgoing Capitano were again all *popolani*, albeit very elite—*ibid.*, fols. 6v–7r, Oct. 2, 1292.) In January 1293, the magnate guarantors for the outgoing podesta were Belvillano *de Pacibus*, Comacio Galluzzi, Pietro *Frulani*, Torello Torelli, Venetico Caccianemici, Bonavolta Malavolta, Ugolino Garisendi, Gerardo di Rolandino Galluzzi, Cervio Boatteri and Castellano Malavolta, *ibid.*, Reg. 39, Jan. 2, 1293, fol. 1r. (Once again we find the phenomenon of members from the same family among both the magnates and *popolani*. Thus, among the *popolani* was Brandelisio Garisendi, *ibid.*, fol. 1v). In July 1292, the magnate guarantors for the outgoing podesta were Senzanome di Senzanome, Bacciliero Baccilieri, Bonavolta Malavolta, Ugolino Garisendi, Monte Caccianemici, Pietro Gardini, Giovanni Simonpiccioli, Delfino di Michele Priore, Tommasino Ariosti and Calorio Lambertini, *ibid.*, Reg. 41 (there are two registers numbered 41, one for 1292 and one for 1293), fol. 2v, July 3, 1292. In July 1293, the magnate guarantors for the outgoing podesta were only seven: Belvillano *de Pacibus*, Rodolfo his son, Pietro Prendiparte, Conte di Lambertino Ramponi, *Charelanus* Malavolta, Giglio di Amadigio Ghisilieri and Buvaello Buvaelli (but there were the usual ten from the *popolani*), Busta 4, Reg. 41 (1293), fol. 1r, July 2, 1293. In addition one of the four officials “*de Bullecta*” in June was “*de nobilibus*,” i.e., Cervio Boatteri for the quarter of Porta Stiera (who was excused because of illness and replaced with Bonifacio Samaritani), ASB, Capitano, Giudici, Reg. 317, fol. 2v, and in July it was Conte di Lambertino Ramponi (*ibid.*, fol. 11v), Giovanni Baciacomari in August 1297, ASB, Capitano, Giudici, Reg. 317, fol. 16v, and for September it was Giacobino Dotti (*ibid.*, fol. 20v). For magnates serving as guarantors of foreign mercenaries, ASB, Camera del Comune, Procuratori del Comune, Busta 4, Reg. 34, fols. 42rv, Nov. 9, 1288, for the pact with the mercenary “*Dominus Guilliellmus Chatellanus congnostabillis maxenate centum stipendiariorum equitum comunis et populi Bononie*.” The magnate guarantors in this case were Tommaso di Lambertino Ghisilieri, Guidesto di Rolandino Romanzi, Pietro di Mondolino Lambertini, *Prendinus* di Giacomo Prendiparte, Niccolò di Bonaparte da Castello, and Giacobino di Bartolomeo Guidoagni. Magnates could serve as guarantors for other magnates, but not for *popolani*.

both Lambertazzi and Geremei magnates were entrusted as captains of *castelli* and military fortifications in the *contado*.<sup>11</sup> Not only magnates,

<sup>11</sup> According to the Statutes of 1288, elections of the captains and guards of the *castelli* were to take place in the Council of 2,000 and those elected had to be members of the popular societies and inhabitants of the city continuously for at least twenty years. The terms were for two months and the securities to be posted were 1,000 pounds for the captains and 200 pounds for the guards. Fasoli-Sella, *Statuti dell'anno 1288*, vol. I, Bk. II, Rubric XXIII, "De electione capitanei et custodum Castri Franchi, Castri Sancti Petri, Bixani, Stagni et Barzi et aliorum castrorum et eorum feudo," pp. 103–105. Ibid., Bk. IX, Rubric XXI, "De castro Luxolini," p. 122, which specifies that the captain and four guards had to be members of the popular societies and elected in the Council of 2,000 the same way as those elected for Castelfranco. In 1316, the popular societies themselves (in their usual pairings of one arms society and one guild), and not the communal council, were entrusted to supply the captains and guards, with each pair of societies obligated for one particular *castello*. Arturo Palmieri, "Gli antichi castelli comunali dell'appenino Bolognese," *Atti e memorie della deputazione di storia patria per le province di Romagna*, series 3, 24 (1906): 1–40, esp. pp. 9–10. In 1320, the mode of selecting the captains was diverse, but they still had to be "de populo" and they or their ancestors had to have been registered in the tax rolls made by Pace *de Pacibus* (1277–80), ASB, Comune-Governo, Riformagioni 192, fol. 424r, July 18, 1320. The point seems to have been to ensure that individuals loyal to the regime would be entrusted with responsibility for the *castelli*. But during the war with the Marquis of Este, the commune's policies were more varied. On the one hand, the commune was already entrusting the staffing of the *castelli* to the popular societies, as noted by Paola Foschi, "I castelli montani del comune di Bologna fra XIII e XIV secolo," in *I castelli dell'Appennino nel Medioevo. Atti della giornata di studio (11 settembre 1999)*, ed. Paola Foschi, Edoardo Penoncini, and Renzo Zagnoni (Pistoia: Società Pistoiese di Storia Patria, 2000), pp. 115–134, esp. pp. 126–127. On the other hand, this assignment to the popular societies was only part of the commune's policies for staffing the *castelli*. Although not noted by Foschi, the commune also was appointing magnates as captains of the *castelli* in 1297, as evidenced in the records of the *procuratores*. Niccolò Rodolico, *Dal comune alla signoria. Saggio sul governo di Taddeo Pepoli in Bologna* (Bologna, Arnaldo Forni, reprint without date of original 1898 edition), p. 35, says that 1297 was the year in which the captains of the *castelli* of the *contado* were selected in equal number between *popolani* and "nobili," but gives no source for that point. Vito Vitale, *Il dominio della parte guelfa in Bologna (1280–1327)* (Bologna: Arnaldo Forni, 1978, reprint of 1901 edition) p. 76, footnote 1, says that from 1300 the captains were "tam de magnatibus quam de popularibus," and gives as the citation "Provvisioni, 15 gennaio." ASB, Camera del Comune, Procuratori del Comune, Libri contractuum, Busta 5, fol. 28r, Feb. 28, 1297 has, as captain of Monteveglio, Pietro di Giacobino Piccioli Prendiparte, and (fol. 29r), Bonacursio Romanzi as captain of Castel S. Paolo. Also, *ibid.*, fol. 31r, March 4, 1297, Gregorio Azzoguidi as captain of Castel Bazzano, and (fol. 30v) *Filamnixius* di Alberto da Sala as captain of Castel Savigno, and (fol. 37r, March 26, 1297) Priore Tebaldi as captain of Castel Manzolino, and (fol. 37r), Petrolino di Alioto as captain of Castel Cavrenno, (fol. 37v, March 26), Brandelasio Maranesi as captain of S. Agata. Prominent *popolani* were appointed as well, for example, *ibid.*, fol. 38v, March 27, Soldaderio di Giacobino Soldaderi as captain of Castel Monteveglio, Zanino di Niccolò Rodaldi as captain of Castel S. Paolo, (fol. 39r, March 28), Lanzalotto di Guido Tarassi as captain of Castel Serravalle, (fol. 39v), Paolo di Mondolino Lambertini as captain of Crevalcore, Tommasino di Giacobino Beretta as captain of Borgo Castelfranco, (fol. 42v, March 30), Pietro Gozzadini as captain of

but again even *lupi rapaces* served on the *balia* of the Twelve Lords of War in 1294.<sup>12</sup> Famous magnate jurists were particularly prominent as ambassadors and treaty negotiators and, along with *popolo* jurists, served as writers of legal opinions (*consilia sapientum*) for the civil and criminal courts of the podesta and Capitano del Popolo and for the Consiglio del Popolo.<sup>13</sup> However, a review of which magnates and *lupi rapaces* actually held administrative office and served as *sapientes*,

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Castelfranco, (fol. 46v, April 1, 1297), and Francesco di Fra Lamberto as captain of Castelfranco. Although the series is not complete, I have found no other magnates as captains of the *castelli* in earlier years in the surviving registers of Busta 4 of the *procuratores* (most of which are from the early 1290s), when there was usually only one captain for each *castello*, many of whom are identified as notaries. Evidence for the appointment of magnates to these posts is also to be found in the records of the Capitano, *Giudici* series, for 1297, but not for 1296, thus also suggesting that these appointments were in fact a result of the war. ASB, Capitano, Giudici, Reg. 294, fols. 4v–5r, April 26, 1296. That reference is to the captains for six *castelli*: those of Castelfranco, Monteveglio, S. Pietro, Crevalcore and Uccellino, each *castello* receiving two captains, and all were *popolani*. In 1297, however, the captains, usually three for each fortification, were specified as “de populo” or “de nobilibus” and there was one “de nobilibus” appointed for almost every *castello* listed. The nobles listed for July 1297 (fols. 8v–9v), were Dinadano Simonpiccioli for Castelfranco, Prendiparte Prendiparte for *Castri Bazerii*, Rodolfo di Belvillano *de Pacibus* for Savigno, Beccadino Beccadelli for Castel S. Pietro, Paolo Lambertini for Castel S. Paolo, Bettino di Lambertino Piatesi for Castel Piumazzo, Tuccimano di Guido Tuccimani for *Angiellini*, Pietro *Malvuxii* Piatesi for Monteveglio, Gerardo di Adelardo d’Accursio for Crevalcore, Alessandro di Ugolino Giambone for Montasico, and Petrone *de Pretonibus* for S. Agata. For August those appointed captains “de nobilibus” were (fols. 14v–15v) Buvalino di Alberto da Sala for Castelfranco, Lambertino di Comacio Galluzzi for Castel Bazzano, Federico Tebaldi for Savignano, Bolognino Baciacomari for S. Pietro, Guglielmo di Catalano Galluzzi for S. Paolo, Scanabecco Ramponi for Piumazzo, Conte di Giacobino Prendiparte for *Angiellini*, Guido *de Primadictiis* for Monteveglio, Pietro Gardini for Crevalcore, Bianco Galluzzi for Montasico, and Pietro di Uguccio *de Angiellatis* for S. Agata. For the month of September the captains “de nobilibus” were (fols. 18v–19r): Mattiolo Galluzzi for Castelfranco, Tommaso Ghisilieri for Castel Bazzano, Guidotto Dotti for Savignano, Castellano Simonpiccioli for S. Pietro, Tobia Buvalelli for S. Paolo, Giacomo di Delfino Priore for Piumazzo, Gerardo Albertinazzi Ghisilieri and Niccolò Baciacomari, both for *Angiellini*, *Filamanise* di Alberto da Sala for Crevalcore, Lanza-lotto Lambertini for Montasico (who replaced *Guidolongus* da Castello who was ill), and Filippo Ariosti for S. Agata, several of whom were *lupi rapaces*. ASB, Capitano, Guidici, Reg. 317 (1297), fols. 8v–9v, 14v–15v, 18v–19v.

<sup>12</sup> Fasoli-Sella, *Statuti dell’anno 1288*, vol. 1, Bk. V, Rubric CLIII, “Provisiones factae anno Domini millesimo ducentesimo nonagesimo quarto,” p. 545, for the list of the lords which included Delfino Priore and Bonifacio Samaritani.

<sup>13</sup> For the *sapientes*, see Mathias Jehn, “Die Versteckte Macht. Das *consilium sapientis* und der politische Einfluß der Juristen in Bologna 1281 bis 1306,” tesi di dottorato, Scuola Superiore di Studi Storici di San Marino, 2002. For magnates as ambassadors, ASB, Capitano, Giudici Reg. 111, fols. 30r and 40r, July 16, and Sept. 17, 1288, for payments to Alberto Asinelli, Guidocherio Galluzzi, Bonagratia di Armani, and Lamberto Ramponi, *legum doctor*.



ambassadors, and guarantors of officials, shows that these men comprised a relatively small and remarkably consistent subgroup of magnates and magnate jurists, with participants in these various roles consistently, over decades, deriving from the same handful of families, e.g., the Galluzzi, Liazzari, Simonpiccioli, Ramponi, Prendiparte, da Sala, etc. Furthermore, these individuals were from the same few magnate families that appear prominently in the Council of 800 and the Council of 2,000.<sup>14</sup> The commune carefully controlled which magnates were permitted to participate in political, military, and administrative life. Members of special commissions were appointed by the *anziani*, and magnates were selected for administrative positions by cooption in the Council of 2,000–4,000. To a remarkable degree the pattern of those appointed and elected was consistent, despite significant changes in regimes and foreign policies. The common criteria for inclusion seem to have been a combination of particular magnates' military/administrative expertise and their willingness to support the *popolo*. It is ironic that support of the *popolo* meant adherence to the Sacred and Most Sacred Ordinances that included anti-magnate legislation.

Ambiguities over status resided not only in exceptions and stratagems such as the *balie* that permitted certain members of excluded groups to participate in various aspects of communal and governmental life, but also in the definitions themselves of those groups. For example, the Lambertazzi were defined in four different sub-categories, ranging from those who were banned from the commune (*banniti*), those who were confined to specific places outside the Bolognese district, those who were confined to specific places in the Bologna *contado*, and finally those *de garnata* who were permitted to live inside the city.<sup>15</sup> The gulf between those banned and those *de garnata* was enormous—as banned individuals, Lambertazzi, like banned criminals, fell outside the protection of the commune and could even be killed with impunity. Those who were in the *de garnata* category, however, retained their citizenship and legal rights in the courts. Giuliano Milani has shown that the number of actual *banniti* was much smaller than had been assumed, approximately 4,000 instead of the earlier accepted

<sup>14</sup> See above, Chapter Two for magnates in the communal Councils of 800 and 2,000.

<sup>15</sup> Milani, *L'esclusione dal comune*, pp. 240–241, 263–264. In times of crisis, however, the Lambertazzi *de garnata* could be and were ordered to leave the city and stay in specified places of confinement in the *contado*.

estimates of 12,000–14,000.<sup>16</sup> By 1300, only 200 Lambertazzi remained recalcitrant to reconciliation and in the status of *banniti*,<sup>17</sup> and even after the so-called third and final expulsion of the Lambertazzi in 1306, most Lambertazzi remained in the city or district, but as second-class citizens, subjected to special handicaps in the courts and required to pay separate and heavier taxes.<sup>18</sup>

The definition of magnates was even more complex (and amorphous) than that of the Lambertazzi. The term “magnate” was seldom used in the early thirteenth century and when used, was not employed as a juridical term denoting penalties by status, as it was in the case of the terms for a knight (*miles*) and infantryman (*pedes*). Rather, the term “magnate” was used, but inconsistently, as an exclusionary term for those forbidden membership in the *Societas Populi*, the association of guilds and arms societies, and only became a term of penal status in 1271. Thus, the term “magnate” occurs in the *popolo’s statuto generale* of 1248 to describe knights, sons of knights, or magnates as those who could not hold the office of *anzianus*, but not in its description of those who were excluded as members of the popular societies.<sup>19</sup> Only two of the popular societies prior to 1274 specified *milites* or magnates as among those forbidden membership (see above, Chapter One), and only in one of those instances was there a reference to “magnates.” Thus, the statutes of the arms society of the Claws of 1255 referred to magnates and *potentes* as well as nobles and *milites* and their sons,

<sup>16</sup> Milani, *L’esclusione dal comune*, p. 287 and personal e-mail communication of Oct. 21, 2003.

<sup>17</sup> ASB, Capitano, Giudici, Reg. 369, fols. 4r, 78r, March–April 1300. There were actually 207 recalcitrant Lambertazzi since seven names were added to the original 200 selected. The 200 were to have been given the status of *confinati*, but since they refused that status, they remained under ban.

<sup>18</sup> Milani, *L’esclusione dal comune*, pp. 377–413.

<sup>19</sup> “non possint aliquis miles vel filius millitis vel magnatis.” *Statuti delle società del popolo di Bologna*, ed. Augusto Gaudenzi, 2 vols. (Rome: Forzani e C. tipografi del Senato, 1889–1896), vol. 2, *Società delle arti*, Rubric III “De electione anzianorum,” pp. 505–506, that no one could be an *anzianus* who was a “miles vel filius millitis vel magnatis vel capitaneus alicuius contrate, nec vassallus vel filius vassalli; scilicet qui a .XV. annis citra se astrinserit alicui occasione alicuius fidelitatis vel habuerit aliquid in amittitiam ab aliquo a dicto tempore citra, vel deinceps habebunt vel astringet; nec aliquis favorabilis vel astrictus partibus.” Ibid., Rubric “De Illis Qui Possunt Esse De Societabius Et Qui Non,” pp. 535–536. It was also used in Rubric XXXVIII “De non trahendo ad rumorem alicuius magnatis,” pp. 519–520, and Rubric LXV, p. 529, in which members of the merchants and bankers’ guilds were forbidden to go to the home of any magnate, with or without weapons, at the time of a riot or uprising, but were instead to follow the podesta, as should the men of all the societies.

but the statutes of the Griffins of 1258 referred only to *militēs*.<sup>20</sup> In the marginal notations of the general list of cancellations from the popular societies of 1271–1274, and in the margins of the individual society copies of membership lists (*matricule*), the term “magnas” was specifically used to identify individuals who were removed from the societies, as well as the terms *potens*, *nobilis*, *de nobili progenie*, *nobilis et potens* and *miles*.<sup>21</sup> By 1271, as evidenced by these marginal notations, the range of relatives of knights designated for cancellation had also expanded beyond the sons to include the brothers and nephews of *militēs*.

The groups specified in distinctive legal categories for penal purposes by the commune in the mid-century statutes comprised only the *militēs* and nobles in juxtaposition to the *pedites* and *popolani*. The earliest reference I have found in the communal statutes dates from a concord, made by the commune and podesta of Bologna with Cardinal Legate Ottaviano Ubaldini in 1247 for the pacification of serious tumults in the Romagna, a provision which was included in the redactions of 1259–1262. The rubric calls for anyone from the district of Bologna who acted against the concord to receive a penalty of 200 pounds if a *pedes* and 300 pounds if a *miles*, or more at the discretion of the cardinal and podesta of Bologna. If anyone from the city or district of Bologna refused to leave the Romagna and return to his home, he was similarly to be punished according to his status.<sup>22</sup> A rubric from 1252, which forbade anyone from the district or episcopate from coming into the city of Bologna at the time of any uprising or riot without license from the podesta, also set penalties by status. The penalties for a *miles* who disobeyed was 100 pounds and for a

<sup>20</sup> Gaudenzi, *Statuti*, vol. 2, p. 260 for the Claws: “dummodo non sit ipsa petitio pro negotiis alicuius magnatis, nobilis vel potentis vel militis vel alicuius filii militis vel de nobili progenie, layci vel clerici.” Ibid., Statutes of the Griffins of 1258, p. 322, Rubric XXXXVIII: “Quod nullus miles recipiatur in dicta societate. Item statuimus et ordinamus quod nullus homo qui sit milix vel filius militis vel capitaneus alicuius contrate vel favorabilis alicui parti civitatis Bononie recipiatur in nostra societate,” and Rubric XXII, “De eodem,” p. 287, with similar penalties in Rubrics XXIII–XXV, pp. 288–289.

<sup>21</sup> ASB, *Libri matricularum*, Busta 1. For example, one person was cancelled from the Quarters “quia de magnatibus, nobilis et filius militis,” another from the tailors because he was “nobili progenie;” yet another from the Rakes because he was “nobilis et potens” and finally another because he was a *miles*.

<sup>22</sup> Frati, *Statuti dall'anno 1245 all'anno 1267*, vol. 3, Bk. XI, Rubric XXI, “De eodem (De statutis factis pro tenenda probantia romagne in bono statu et penis facientium contra inpositis singulariter et universaliter),” p. 287.

*pedes* 50 pounds with amputation of a foot if the condemned person were unable to pay and with confiscation of his properties.<sup>23</sup>

But these distinctions between *milites* and *pedites* should not be viewed, as they sometimes have been by historians, as examples of anti-magnate legislation or as precursors of the Sacred and Most Sacred Ordinances of 1282 and 1284. Rather, they stemmed from the basic premise in penal legislation of the period that penalties should be fixed according to the nature of the crime and the “quality” and “condition” of the person, in particular to the individual’s presumed wealth and capacity to pay. Thus, another provision of these statutes declared that anyone who created a disturbance or riot in the communal palace at the time of council meetings was condemned to pay 50 pounds if he were a *miles* and 25 pounds if a *pedes*.<sup>24</sup> In 1259, anyone harboring a person banned for major crimes was to be punished with a fine of 300 pounds if he were a *miles* and 100 pounds if a *pedes*.<sup>25</sup> Furthermore, the parish officials (*ministrales contratarum*) were required to report crimes in their districts, and the inhabitants of their districts, *milites* as well as *pedites*, were required to assist the *ministrales* in capturing malefactors. If they failed to do so the penalties were 10 pounds if the offender were a *miles* or son of a *miles* and 100 *solidi* if he were a *pedes*. The podesta had authority to increase or lower these penalties according to the quality of the person and the nature of the crime.<sup>26</sup> The counterpart in legislation for the *contado*, with similar obligations on the officials (*massarii*) of rural communes,

<sup>23</sup> Frati, *Statuti dall’anno 1245 all’anno 1267*, vol. 3, Bk. XI, Rubric XXXIII, “Quod nulla universitas sive homo tempore rumoris veniat in bon.,” p. 294.

<sup>24</sup> Frati, *Statuti dall’anno 1245 all’anno 1267*, vol. 3, Bk. XI, Rubric XLIV, “Quomodo punire debeat faciens rixam vel rumore[m] in palatio comunis,” (version of 1252), pp. 299–300. Also in 1259–62 redaction, vol. 3, Rubric XLIX, “De hiis qui prestant impedimentum vexilliferis venientibus ad curiam et eius sequentibus,” p. 303: “Item statuimus et ordinamus quod quicumque detinebit vel impediatur vel impedimentum prestabit alicui vexillifero vel eius sequaci qui eum sequi debet cum vexillo ad curiam comunis vel alibi mandato potestatis puniatur miles in C. libris bononinorum et pedes in CCL. lib. bon. [sic in 1260 but “L lib. bon.” in the other codices] et plus arbitrio potestatis et habeat locum ab hodie in antea.” Also Rubric LI, “De confessione assassinorum,” p. 304, in which the penalty for someone who hired an assassin was 500 pounds in the case of a *miles* and 250 for a *pedes*.

<sup>25</sup> Frati, *Statuti dall’anno 1245 all’anno 1267*, vol. 3, Bk. XI, Rubric IX, “De pena tenentium bannitos pro maleficio aliquorum infrascriptorum casuum et de eo qui dari debet capientibus eos,” p. 279.

<sup>26</sup> Frati, *Statuti dall’anno 1245 all’anno 1267*, vol. 3, Appendice, Rubric 20, Statutes of 1261 and 1265, pp. 561–562.

called for a penalty of 50 pounds against a rural commune if it failed to capture a perpetrator of an “enormous” crime, and the payments were to be made by the nobles as well as the inhabitants of the rural commune.<sup>27</sup> There are many other examples, such as the penalties against persons who harbored in their homes hired assassins who were under ban: 500 pounds for a *miles* or son of a *miles* and 200 pounds for a *pedes* or son of a *pedes*.<sup>28</sup>

Gina Fasoli pointed out that the term “magnate” was used earlier at Bologna than it was at Florence (where it was not used until 1281), and indeed the term is used at Bologna in the *popolo* statutes, as noted above, and also in the communal statutes, from 1248.<sup>29</sup> However, it was *not* used in that earlier legislation to connote legal status. Rather it was used to reference magnates as a social group targeted in “public order” legislation, but that same legislation simultaneously retains the *milites-pedites* distinction in legal status for the application of penalties. Thus, one provision sets penalties against anyone who went, with or without weapons, to the home of a magnate during a riot.<sup>30</sup> Although the term “magnate” is used in this rubric, the penalties themselves are attached to the usual legal categories of *miles* and *pedes*.<sup>31</sup> The same rubric also assigns penalties for anyone impeding those coming to quell a riot according to that person’s status as a *miles* or *pedes*.<sup>32</sup> By the late thir-

<sup>27</sup> Frati, *Statuti dall’anno 1245 all’anno 1267*, vol. 3, Appendice, Rubric 23, pp. 563–564. Here, as usual, the podesta had authority “secundum conditionem personarum et qualitatem negocii” and “secundum qualitatem delicti et terre.”

<sup>28</sup> Frati, *Statuti dall’anno 1245 all’anno 1267*, vol. 3, Bk. XI, Rubric CLXXXIV, “Quod omnes assassini qui percutierunt vel vulnerarunt aliquem pretio vel precibus pro homicidis habeantur,” p. 465, same set as prior two rubrics.

<sup>29</sup> Gina Fasoli, “La legislazione antimagnatizia a Bologna fino al 1292,” *Rivista di storia del diritto italiano* 6 (1933): 351–392, esp. p. 356. She cites the *statuto generale* of 1248 (with additions through 1274) from Gaudenzi, *Statuti*, (see above, footnote 19.) For the usage at Florence she cites Nicola Ottokar, *Il comune di Firenze alla fine del Dugento* (Turin: G. Einaudi, 1962), p. 7. (Fasoli cites p. 13 of the original 1926 edition.) Ottokar was citing legislation of 1281 which designated magnates as a category of citizens, all of whom were required to post securities. At Bologna in 1271 the term was used for certain magnates who were sent to places of confinement in the *contado*.

<sup>30</sup> Frati, *Statuti dall’anno 1245 all’anno 1267*, vol. 3, Bk. XI, Rubric LXXVIII, “De penis trahentium ad rixam vel adunanziam vel rumorem tam civium quam comitatorum et aliorum forensium. 59–60,” and “De non trahendo cum armis ad domum alicuius magnatis. 62” pp. 326–329

<sup>31</sup> *Ibid.*, p. 327. The penalty was 400 pounds for the *miles* and 200 pounds for the *pedes*.

<sup>32</sup> *Ibid.*, “Et trahendo vel redeundo cum suo gonfalone vel suis convicinis, publice si inter fuerit sibi impeditum per aliquem vel alios impediens et impediens.” For a *miles* or *nobilis* the penalty was 500 pounds, and if a *pedes*, the penalty was 300 pounds.

teenth century, however, the suitability of *pedes* and *miles* as status terms had greatly eroded. A provision of 1299 on the same theme of punishment for those participating in riots or for anyone going to the house of a magnate at the time of a riot left the penalties to the discretion of the Capitano, who was to decide the penalty upon inspection of the condition of the person and nature of the deed.<sup>33</sup>

Another provision in the 1259 redaction of the statutes admonished the *anziani* to appoint a panel whose members were to accuse those who went to the home of a magnate during a riot.<sup>34</sup> Again, the term “magnate” is used to describe a social group and not to denote legal status. Similarly, in the same provision, which also forbade anyone from the *contado* from coming into the city at a time of riot, penalties were fixed against a *miles vel nobilis* as well as against a *pedes* or cleric from the *contado* if he went to the house of a magnate during a riot.<sup>35</sup> The next rubric provides that no one should ride a horse through the city during a riot, with penalties for a *miles* of 500 and for a *pedes* of 300 pounds.<sup>36</sup> Another version of this law does distinguish between magnates or any individual person in addition to any city, *castello*, or rural commune, but in these cases all were to be considered as mortal enemies of the commune, with no penalties specified by separate legal status.<sup>37</sup> Other uses of the term “magnate” can be found in these

<sup>33</sup> ASB, Comune-Governo, Riformagioni 149, fols. 127r–131v, March 1299.

<sup>34</sup> Fratri, *Statuti dall'anno 1245 all'anno 1267*, vol. 3, Bk. XI, Rubric LXXXVIII, “De penis trahentium ad rixam vel adunanciam vel rumorem tam civium quam comitatunorum et aliorum forensium,” p. 328.

<sup>35</sup> Ibid., pp. 328–329: “Nullus de comitatu bon. vel districtu vel forastanus (forasterius) miles vel nobilis pedes aut clericus... si erit comes vel cataneus vel miles aut nobilis sive clericus sive laicus trahatur per civitatem ad caudam equi et postea amputetur ei caput ita quod moritus si erit pedes qui inventus erit in domo alicuius magnatis et equi venerit cum aliquot de predictis nobilius amputetur ei pes. Si vero fuerit forastanus extra districtum bon. amputetur ei caput ita quod moratur.”

<sup>36</sup> Frati, *Statuti dall'anno 1245 all'anno 1267*, vol. 3, Bk. XI, Rubric LXXIX, “Quod tempore rumoris nullus equitet per civitatem,” p. 329.

<sup>37</sup> Frati, *Statuti dall'anno 1245 all'anno 1267*, vol. 3, Bk. XI, Rubric CXXXII, “De penis forensium venientium in bon. tempore rumoris,” p. 400; Rubrics CXXXV and CXXXVII 60, 62, p. 402, on anyone coming into the city at time of a riot or uprising also do not specify groups. All were to be punished as if they had committed a homicide, with confiscation of their properties: “tamquam homicida et ipse eius heres et bona eius perveniant in comuni.” Also if a foreigner or anyone else came and was wounded, their perpetrators were not to be punished. There also was a harsher penalty against *comitatini* who came into the city at a time of riot or uprising. Rubric CXXXVII, 60, 62, p. 402. Their lands were to be destroyed. Also the next three rubrics, thus in Rubric CXL, “Quod nullus fatiat venire forenses in bon. vel districtu,” 60, 62, pp. 403–404, although the distinctions are specified—“aliquis civis bon. miles vel pedes

statutes, but always, as in those rubrics already noted, it is used as a generic term describing a social group, not a legal status. At the same time the terms *miles* and *pedes* are used for the specification of penalties, as for example, in the description of “many magnates and others from the city of Bologna...who say many disgraceful and shameful things in the *consiglio generale e speciale*,”<sup>38</sup> and in the statute requiring the *anziani* to select men from the societies who in secret were required to accuse those who, with or without weapons, went at the time of a riot “to the home of any magnate.”<sup>39</sup>

The term “magnate” can also be found in the early statutes of the individual guilds and arms societies, but again as a reference to a general group, not as a legal term, and again in the context of riots in the city. In the statutes of the arms society of the Lions of 1256, there are two rubrics referring in this generic sense to magnates. One specifies that at the time of a riot no one from that society is to go “to the home of any magnate, nor enter with or without weapons, day or night, nor for the purpose of taking weapons, nor have any relationship with them, nor associate with them with or without weapons in any way, nor stay in their courtyard or houses.”<sup>40</sup> The other rubric specified “that no one should carry the insignia of any magnate at the time of a riot when going with his society.”<sup>41</sup>

During the same period, one also finds the *miles-pedes* dichotomy used in the communal statutes and in the statutes of the guilds and arms societies to signify the traditional military distinctions, as in the Statutes of the Deers (later called the Dragons) of 1255, and in the comparable provision of the communal statutes for the application of diverse penalties for a *miles* and a *pedes* who failed to serve militar-

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vel districtus tempore alicuius rumoris” who helped or caused a foreigner to come to the city, with or without weapons, was to be punished “tamquam homicida.”

<sup>38</sup> Frati, *Statuti dall'anno 1245 all'anno 1267*, vol. 3, Bk. XI, Rubric CLXXXVI, 1262, p. 478. The penalties in this case were 100 pounds for a *miles et filius militis* and 50 pounds for a *pedes*. The same rubric is repeated with unanimous vote as Rubric CLXXXVII, p. 484.

<sup>39</sup> Frati, *Statuti dall'anno 1245 all'anno 1267*, vol. 3, “Rubricae statutorum conditorum a populo,” Bk. XI, Rubric XIX, “De anziani teneantur eligere per contratas accusatores trahentium ad rumorem,” p. 285.

<sup>40</sup> Gaudenzi, *Statuti* vol. 1, p. 290: “ad domum alicuius magnatis nec entrare cum armis ne sine armis, nec die nec de nocte, nec occasione capiendi arma, nec cum eis habere aliquam familiaritatem, nec asociare aliquem eorum cum armis nec sine armis in aliqua parte, nec stare in eorum curia nec ad domos eorum.”

<sup>41</sup> Ibid., Rubric LII: “quod nullus portet insigna alicuius magnatis tempore rumoris in banno .c. sol. Bon., eundo cum societate.”

ily.<sup>42</sup> The same distinction was used in the communal statutes at mid-century as the fundamental criterion for the application of penalties for criminal infractions.<sup>43</sup>

The 1265 statutes of the Militia of the Glorious Virgin Mary, called the *frati gaudenti*, (who controlled the government at that time) also contain rubrics concerning public safety, with a similar generic use of the term “magnate.” One rubric specifies that the 1,200 members of that Order were not to go to the home of any magnate in case of a riot.<sup>44</sup> The penalties applied to the brothers for transgression of this provision were severe and without any specification to or variation for legal status, that is, without distinction between *miles* and *pedes* (all members were *milites* of the Order). Transgressors were to be deprived of all honors and offices of the commune and *popolo*, to be expelled from the popular societies, were never to be permitted to practice a craft and were to be painted in the communal palace as falsifiers, rebels, and traitors of the commune and *popolo* of Bologna and removed from the protection of the commune. Legal class is specified, however, in the provision against anyone who impeded the 1,200 brothers at the time of a riot, as was noted above in earlier provisions. In this case the definition of a *miles* was expanded to include not only the son of a *miles* but also anyone from the house (*domus*) of a *miles* or

<sup>42</sup> Gaudenzi, *Statuti*, vol. 1, Rubric XXVIII, p. 223: “Quod vexillum sotietatis dari possit pediti et militia pro sotietate. Statuimus et ordinamus quod vexillum sotietatis dari possit pediti et militi, quanvis sit in decena militum, eundo vexillum pedes semper per alienum districtum, et specialiter in districtu inimicorum. Et ille qui vexillum habebit vadat pedes cum illis de sotietate in banno .XX. sol. Bon. et plus ad voluntatem corporis sotietatis.”

<sup>43</sup> Frati, *Statuti dall'anno 1245 all'anno 1267*, vol. 3, Bk. XI, Rubric VII, “De eo qui prebuerit consilium percucienti aliquem,” pp. 277–278: “Sive malefator venerit ad mandata potestatis sive non et hoc si pena minor [500] lib. bon. esset inponenda malefactori cum esset miles vel minor CCC. lib. cum esset pedes. Si vero malefator esset puniendus in persona puniatur miles in [500] lib. bon. et pedes in CCC lib bon.,” *et passim*, pp. 280–306.

<sup>44</sup> Fratri, *Statuti dall'anno 1245 all'anno 1267*, vol. 3, “Statuta facta per dominos fratres Loderengum de Andalo et Catalanum domini Guidonis domine Hostie Ordinis Militie Beate Marie Virginis,” Rubric II, “De mille ducentis quod trahere vel ire non debeant ad domum alicuius vel aliquorum tempore alicuius rumoris,” p. 593: “Item statuimus...quod tempore rumoris aut rixe vel miscle alicuius contrate seu aliquarum contratarum non debeant predicti Mille ducenti seu aliquis eorum trahere vel ire cum armis vel sine armis ad domum alicuius Magnatis vel magnatum. Sed solummodo ad ipsos fratres et vexillum predictum beate Marie. Neque ire ad aliquod axemblamentum vel adunantiam partis alicuius sub dictis penis et bannis et earum qualibet.”



anyone of knightly progeny, and the fine was set at 500 pounds, with a 300-pound fine if the transgressor were *de populo*.<sup>45</sup>

In December 1271 and February 1272, however, in the *Popolo Ordinances* of the First and Second Forty, the term “magnate” was used for the first time to designate a legal group with special penalties and obligations attached to those who belonged to it, in a way that anticipated the more famous Ordinances of 1282 and 1284.<sup>46</sup> The term “magnate” had been transformed from a vague indication of a social group whose homes and insignia were to be avoided in times of riots, as shown above, and of “great and powerful persons” other than nobles and knights and their sons who were excluded from the popular societies, to a term of legal status carrying penalties specific to that status, not replacing, but used with and in addition to, the earlier terms of *miles* and *nobilis*. The term “magnate” thus was *not* defined in 1271 and in 1282 merely as a vague overarching social group, as it had been earlier, but instead the term “magnate” was used as a general term and included *with* other terms to constitute a group of particular juridical status. Against the constituents of that group (magnates, or *milites* or their sons or brothers, or nobles or *potentes* or those of noble progeny) there was a special process of adjudication and penalties in cases where they injured a *popolano* (defined as a member of the popular

<sup>45</sup> Frati, *Statuti dall'anno 1245 all'anno 1267*, vol. 3, “Statuta facta per dominos fratres,” Rubric III, “Quod nemo vetare debeat ante domum nec facere vetari viam illis mille ducentis qui pro tempore alicuius rumoris traherent ad palatium vel ad fratres predictos,” pp. 593–595, esp. p. 594. Their properties, both within and outside the city, including those held by the culprits themselves or their family or others in their name at the time the crime was committed were to be destroyed to the foundations within eight days after the commission of the crime.

<sup>46</sup> On the Ordinances of the Forty, see Fasoli, “La legislazione antimagnatizia,” p. 361. Although there are references to them, the Ordinances of the Forty have not survived. However, one section, that of the penalties against nobles and magnates offending a *popolano*, are incorporated into the Statutes of the Weavers and Sellers of Linens of 1288, published in Gaudenzi, *Statuti*, vol. 2, pp. 533–534, esp. p. 534: “Si aliquis vel aliqui de societatibus populi, Cambii vel Mercandie ab aliquot vel aliquibus nobilibus sive magnatibus aut ab aliquot alio qui non sit de ditis societatibus, qui non sit pater, frater vel filius alicuius, qui sit de aliqua dictarum societatum, qui non sit in fumantibus, ipse vel sui maiores, ledatur in aliquot sive ei aliqua iniuria, offensa vel molestia inferatur dicto vel facto in persona vel avera, infra duos dies ab ora offese el iniurie facte, per potestatem et comune Bononie debite ultionis personalis et pecuniaria [pena] imponatur et exigatur; et procedetur in omnibus et per omnia, et credatur et stetur secundum formam ordinamentorum dominorum Quadraginta primorum et secundorum et reformationum comunis et populi factarum et faciendarum in favorem omnium Artium et Armorum, societatum Cambii et Mercandie, et nichilominus offens, cum digna satisfactione fiant.”

societies).<sup>47</sup> This juridical usage in the Ordinances of the Forty and later in the Sacred and Most Sacred Ordinances of 1282 and 1284 was consonant with the exclusionary usage in practice at the same time, as can be seen by comparison with the lists of those cancelled from the societies in 1272–74.<sup>48</sup> The problem then became, of course, to identify who were the “great” and “powerful,” the *magnates* and *potentes*, who fit this new juridical status. The new definitions were incorporated in part into the criminal provisions of the Statutes of 1288, but at the same time, the use of the older, now archaic terms of *miles* and *pedes* also continued to be used in many criminal statutes.<sup>49</sup>

A *popolano* at Bologna was defined as anyone from the popular societies, or his sons, brothers or fathers. (However, the protection offered to a *popolano* against magnates was extended also to *rustici*, widows and those in religious orders.)<sup>50</sup> The distinctions between *popolani* and

<sup>47</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric II, “De processu faciendo contra magnates et ecclesiasticas personas offendentes homines societatum populi Bononie, et de penis offendentium ipsos de populo et eorum qui darent ipsis malefactoribus consilium vel favorem, et privilegio ipsorum popularium contra magnates et alios qui non sunt de societatibus,” pp. 285–290.

<sup>48</sup> In that list the reasons for cancellation of individuals were given, and included labels such as *miles*, *filius militis*, *nobilis*, and *magnans*. See above, Chapter One.

<sup>49</sup> Fasoli-Sella, *Statuti dell'anno 1288*, Bk. IV, Rubric XXVIII, “De pena parlamentantis cum inimicis comunis Bononie,” p. 194. This statute calls for a fine of 100 pounds for a *pedes* and 200 pounds or more at the discretion of the podesta if the offender were a *miles vel filius militis vel de nobili progenie vel de magnatibus*. There were variations in the formulas, for example, the statutes on adultery, rape and incest called for a fine of 500 pounds for adultery if the condemned person were a *miles vel filius militis vel potens*, and 300 pounds he were a *pedes*. Ibid., Bk. IV, Rubric XXX, “De pena adulterium et strupum vel incestum committentis tam in masculo quam in feminis,” p. 195, or the statute that set a fine of 150 pounds “et plus arbitrio potestatis” for a *pedes* and 300 pounds if he were a *miles vel nobilis vel filius militis vel nobilis*. Ibid., Bk. IV, Rubric XXXXII, “De pena offendentium aliquem occasione alicuius electionis consilii magni vel parvi,” p. 207. At least in one statute the descriptive terms are fuller, as in the penalty of 1,000 pounds for levying a toll (*pedagium*) in the *contado* “if he were a *miles* or son of a *miles* or noble or of noble progeny or a *potens*,” and 500 pounds “if he were another person.” Ibid., Bk. IV, Rubric LXXVII, “De pedagio aliquo non exigendo,” p. 234. According to some of these statutes the penalties were set to a specific fine, but could be increased or decreased by the podesta according to the “quality of the crime and the persons.” Ibid., Bk. IV, Rubric XXXX, p. 206, “De pena vulnerantis aliquem unde sanguis exivierit.” The equivalent of the “coming into the city” rubric from the mid-century statutes discussed above uses simply the *miles-pedes* distinction. Ibid., Bk. IV, Rubric LVIII, “De pena eius qui fecerit venire guarimentum vel venerit ad civitatem,” p. 216.

<sup>50</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric III, “De privilegio rusticorum quibus offenderetur per aliquos magnate[s] vel aliquas infamatas personas,” pp. 293–294.

nobles and magnates also applied to the Lambertazzi. Lambertazzi *popolani* who were confined to particular places outside the city or district posted security for 300 pounds whereas those Lambertazzi who were “de nobilibus et magnatis” posted security for 500 pounds.<sup>51</sup>

This broadening in juridical terms from nobles and *milites* to inclusion of *potentes* and *magnates* reflected the great military and social changes that occurred during the middle decades of the thirteenth century. The term “milites” referred originally to the mounted warriors who received fiscal compensation for the expenses of war, e.g., the wounding or death of a war horse.<sup>52</sup> By the early decades of the thirteenth century, these cavalrymen from the city were organized by the commune into the Ten (*decena*), an organizational counterpart to the Twenty-five (*vigintiquinqua*) in which the infantrymen (*pedites*) were enrolled. In the *contado* the infantrymen were organized into groups of fifty men, with the *milites* serving separately with the *nobiles*.<sup>53</sup> The organizational statute specifies diverse penalties for non-service by a *miles* and a *pedes*, a distinction also to be found in contemporary penalties for non-service by urban *milites* and *pedites*, as noted above. The common presumption in the military as well as in the juridical-penal usage was that a *miles* was someone with sufficient resources to train as a cavalryman and sustain the expense of maintaining a war horse. This financial burden also meant that the *milites* as a group experienced significant changes in its social composition, as new men of means undertook that burden and older participants found the obligation less attractive. Thus by mid-century, as indicated in this same rubric, the *milites* had become a more heterogeneous organization, including not only *milites* “pro honore persone,” but also *milites* “pro districtu comunis.” The *milites* therefore comprised

<sup>51</sup> ASB, Capitano, Giudici, Reg. 302, June 1296.

<sup>52</sup> Giuliano Milani, “Da *milites* a magnati. Appunti sulle famiglie aristocratiche bolognesi nell’età di Re Enzo,” in *Bologna, Re Enzo e il suo mito*, ed. Antonio Ivan Pini and Anna Laura Trombetti Budriesi (Bologna: Deputazione di Storia Patria per le Province di Romagna, 2001), pp. 125–155, esp. p. 126.

<sup>53</sup> Frati, *Statuti dall’anno 1245 all’anno 1267*, vol. 2, Bk. VII, Rubric LXXII, “De hominibus ponendis in decenis et xxv,” pp. 83–85. Every man of the city older than eighteen years up to seventy years had to have himself inscribed if he were a *pedes* in the Twenty-five and if he were a *miles pro districtu comunis, vel pro honore sue persone* in the Ten as a *civis* with the men of his neighborhood. On the organization of the military in Bologna, see Antonio Ivan Pini and Roberto Greci, “Una fonte per la demografia storica medievale: le ‘venticinquine’ bolognese (1274–1404),” *Rassegna degli Archivi di Stato* 36 (1976): 337–381.

not only those who served by lineage or ancestry, but those who served by appointment of the commune.<sup>54</sup>

Thus, there were distinctions among the urban subgroups affected by the anti-magnate legislation, but what was the relationship between *milites* and *nobiles* of the *contado*? Did these terms essentially refer to the same individuals or were there distinctions between those categories? Giovanni Tabacco, in a classic study, concluded that despite ambiguity in the statutes, the *milites pro honore* and the *nobiles* were “convergent ideas.”<sup>55</sup> He analyzed use of the phrase “occasione milicie vel nobilitatis,” which is found in a statute describing tax immunities for those serving as cavalrymen.<sup>56</sup> In this statute, which specifically focuses on fraud arising from immunities from cavalry service, the “convergence” of the two concepts is evident. But one can still question how complete the blurring of the distinctions between these groups actually was, since the two immediately following statutes (not discussed by Tabacco) are also concerned with fraud. However, those cases were concerned with fraud arising from nobles’ exemptions from taxes and obligations *in general*, that is, apart from military service, and with no reference to *milicie* or *milites*.<sup>57</sup> In short, it is only in the

<sup>54</sup> This rubric is analyzed and constitutes a major point in Giovanni Tabacco, “Nobili e cavalieri a Bologna e a Firenze fra XII e XIII,” *Studi Medievali*, series 3, 17 (1976): 41–79. It is also briefly discussed in Carol Lansing, *The Florentine Magnates. Lineage and Faction in a Medieval Commune* (Princeton, N.J.: Princeton University Press, 1991), pp. 149 and 155; Milani “Da milites a magnati,” p. 128; and Jean-Claude Maire Vigueur, *Cavalieri e cittadini. Guerra, conflitti e società nell’Italia comunale* (Bologna: Il Mulino, 2004), pp. 500–501, (Italian trans. of French original published in 2003 as *Cavaliers et citoyens. Guerre, conflits et société dans l’Italie communale, XII<sup>e</sup>–XIII<sup>e</sup> siècles*).

<sup>55</sup> Tabacco, “Nobili e cavalieri,” p. 46.

<sup>56</sup> Frati, *Statuti dall’anno 1245 all’anno 1267*, vol. 1, Bk. VI, Rubric VIII, “De his qui se defendunt occasione militie,” p. 471: “Statuimus quod quicumque jnmunis a publicis factionibus occasione milicie vel nobilitatis quod de cetero debeat esse jnmunis licet ad inopiam iungit si qui se defendunt per militiam tantum debeant tenere per totum annum, et quum precij XXX libr. bononorum quod si fecerint faciant publicas faciones ut alii vicini faciunt, et inquisitores rationis teneantur inquirere omnes illos qui defendunt occasione militie tantum, et qui equos tenere debent, et si invenerint aliquem non habuisse et tenuisse sicut debeat tempore guerre cum vinolensibus condempnet eum in duplum eius quod pro collecta solvere debuisset si pro malicia non defendetur.”

<sup>57</sup> Frati, *Statuti dall’anno 1245 all’anno 1267*, vol. 1, Bk. VI, Rubric IX, “Quod nemo excusetur a publicis factionibus comunis bon, occasione nobilitatis, de qua habeat sententiam vel instrumentum,” p. 472. The rubric specifies that those who claimed to be immune from these obligations had to have documentation unless he were a noble from a noble father and that it was public fame in his rural commune that he was a

case of fraud in military exemptions that the blurring of the two concepts seems to occur. In the *contado*, as in the city, new men entered the *militia* and acquired the status of *milites* who were not recognized as nobles or *milites pro honore*, thereby blurring distinctions.

In fiscal terms, *nobiles* of the *contado* refers specifically to the *comites*, *valvasores* and *cattanei* of the *contado* who were legally recognized by their separate tax status, distinct from other inhabitants of the *contado*—the *fumantes* (non-noble inhabitants enrolled in *contado* tax registers) and the *cives malenutriti* (urban citizens who lived a large part of the year in the *contado* but were registered in the urban tax registers).<sup>58</sup> Fragments of lists of nobles and others exempt (*nobiles et exenti*) from paying taxes with the *fumantes* survive from 1235. The earliest extant complete list is that of the Book of Nobles of 1249. There is also a list from 1282 for Porta S. Procolo (the district covering the eastern area of the mountains south of the city) and a list consisting only of additions from Porta Stiera (the western area of the mountains), also from 1282.<sup>59</sup> The status of a rural *nobilis* also was relatively fluid and even ambiguous in the first half of the thirteenth century, as indicated by the gyrations that Francesca Bocchi and Paola Foschi have found in the number of nobles in these surviving lists. For example, Bocchi found that not all the nobles who declared their properties in the *estimo* of 1245 were included in the Book of Nobles of 1249, and that more nobles from particular rural communes were registered in the list of actual tax payments of 1255 (*collecta*) than had been listed

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noble: “nisi fuerit nobilis nazione ex patre nobili, et de hoc sit publica fama per terram illam, in qua habitat et per alias circumstantes, quod sit nobilis.”

<sup>58</sup> Rolando Dondarini, “Politica e fonti fiscali del basso medioevo bolognese: un nesso sul quale indagare,” in *Le fonti censuarie e catastali tra tarda romanità e basso medioevo. Emilia Romagna, Toscana, Umbria, Marche, San Marino*, ed. Alberto Grohmann (San Marino: Centro di studi storici sammarinesi, Università degli studi della Repubblica di San Marino, 1996), pp. 133–134. Also see footnote 62 below.

<sup>59</sup> Francesca Bocchi, “Le imposte dirette a Bologna nei secoli XII e XIII,” *Nuova rivista storica* 57 (1973): 273–312, esp. pp. 295–300, shows that the nobles were not exempt from all taxes, but paid for specific public works in certain districts, so that not all nobles were called upon to pay for a specific project. Even when the nobles lost their tax exemptions, as evidenced by the statutes of 1288, they were not taxed with the *fumantes*, who were taxed more harshly than *cives*, but “teneantur ut cives publicas factiones subire.” Fasoli-Sella, *Statuti dell'anno 1288*, vol. 2, Bk. IX, Rubric VIII, “De extimis nobilium comitatus Bononie, qui dicebantur exempti et de exemptis de cetero non faciendis,” p. 116.

in the 1249 document.<sup>60</sup> As Bocchi suggests, the changes probably stemmed from new men performing the role of cavalrymen or *milites* in the military contingents from the *contado* who were unable to prove an ancestry of such service.<sup>61</sup> Yet many were indeed able to make their case in 1255 and establish their status as nobles. Two points are to be emphasized here: first, that the ranks of the *contado* nobles as well, as we shall see, as those of the urban magnates, were subject to the inclusion of new men, and second, that the connection between *nobiles* and *milites* in the *contado*, as again in the city, was subject to ambiguity and change.

The list of *contado* nobles from 1282 for Porta S. Procolo, utilized by Foschi, presents a picture of sharp decline in the number of *contado* nobles in comparison with 1249, from 253 to 113 for that quarter.<sup>62</sup> Foschi related this numerical decline to the historiographical tradition

<sup>60</sup> Bocchi, "Le imposte," p. 298, for 1245 and 1249, and pp. 299–300 for 1249 and 1255. For example, the number of nobles in S. Giovanni di Persiceto jumped from forty-six to ninety-four and those from Monteveglio from twenty-four to 170. This topic is also discussed in her "Il comune di Bologna e i signori del contado (secoli XII e XIII)," *Atti e memorie della Deputazione di storia patria per le province di Romagna*, new series, 33 (1982): 79–94. As she points out, the ambiguities probably stemmed from the service as cavalrymen by men newer to that role than the nobles. Bocchi also notes that in cases of doubt, officials were authorized to resolve ambiguous cases by the testimony of witnesses. "Le imposte," p. 300.

<sup>61</sup> Bocchi, "Il comune di Bologna e i signori del contado," pp. 89–90.

<sup>62</sup> Paola Foschi, "I nobili della montagna alla fine del Duecento," *Nuèter. Storia, tradizione e ambiente dell'alta Valle del Reno bolognese e pistoiese* 39 (1994): 8–18, esp. p. 17. The 113 individuals in 1282 (excluding later additions) were from twenty-two rural communes from the quarter of S. Procolo, the 253 in 1249 were from fifty-six localities in that quarter. There is also a list from 1282 for Porta Stiera, to which I have found no reference by other historians, but in this case the list comprises only additions to the original 1282 compilation, made towards the end of the tax-registration process. ASB, Comune, Estimi, series III, 6 D, "Libro dei fumanti Porta Stiera 1282," fols. 62rv. The rural communes in this list include S. Agata, S. Giovanni in Persiceto, Piumazzo, Oliveto, Bagno, Crespelano, Crevelcore, Manzolino, Monte Severo, Monteveglio and Serravalle, with sixty-five individuals. The additions-only nature of the Porta Stiera list raises the question whether the list used by Foschi for Porta Procola is in fact a complete one. In the Porta Stiera list the heading specifies the nature of the list: "In nomine domini millesimo M octuagesimo secundo indictione decima tempore regiminis nobilium virorum domini Mathei de Corgia potestatis Bononie et domini Coradi de Palaza capitanei civitatis eiusdem. Infrascripte sunt additiones fumantum super infrascriptis terris facte per Dominum Federicum de Regretatis legum doctorem iudicem comunis Bononie super fumantibus, videlicet super nobilibus et exentis et civibus male nutritis et aliis qui remanserant composite non errant in libris fumantum comunis Bononie secundum arbitrium datum et concessum predicto iudici in predictis per generale consilium sextentorum comunis et populi civitatis predictae editum tempore regimini predicti potestatis de mense junii." The Porta S. Procolo list, however, has no language of additions and seems to be an integral part of the

of the feudal nobility's decline in the late thirteenth century, especially those who did not insert themselves into urban life and were marginalized politically and economically. As we saw above in Chapter Two, at least some rural nobles had in fact participated in the political life of the commune in the first half of the thirteenth century, even if they did not establish residency in the city, but they lost that political role in the second half of the century.<sup>63</sup> They continued, however, to play a military role, sometimes as allies of the commune, but also, as in the extreme case of the Counts of Panico (who waged war against the commune), as its declared and powerful enemies. These rural nobles of the late thirteenth century may have been facing decline, as many historians contend, but they were far from tamed. One of the great dangers facing the commune in the late thirteenth and early fourteenth century stemmed from these rural nobles and the commune's weak control of the *contado*, about which more will be discussed below in Chapter Five.

Further transformations in the urban *militia* can be traced through the turn of the century. Fragments of the military enrollments have survived from 1273 in which the men of each parish (*cappella*) are listed in separate groups of Twenty-five (infantry) and Ten (cavalry).<sup>64</sup> By this time the relationship between hereditary status and service, which we saw had been weakened in the statutes of 1250, was now lost. For example, in the 1273 list of the Twenty-five for the *cappella* S. Maria Rotonda dei Galluzzi, on the one hand all twelve members of the Galluzzi family (a family of magnates and belted knights) were listed for service among the *pedites*. On the other hand, among the *milites* for the same *cappella* were listed a doctor, a goldsmith, a tailor, and a spice merchant.<sup>65</sup> By the late thirteenth century, moreover, in the only surviving fragments, which are from 1296, cavalrymen are

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compilation. The Porta S. Procolo list is in ASB, Comune, Estimi, series III, n. 6B, "Libro dei fumanti, Porta Procola, 1282," fols. 73v–74v.

<sup>63</sup> At least some of the rural nobles, although they did not maintain houses in the city, did have ties with urban magnates, as, for example, in the case of the Galluzzi and the Counts of Panico. When the latter were in the city, they stayed at the houses of the Galluzzi. ASB, Capitano, Giudici, Reg. 9, fol. 11r, March 18, 1281. The nuncio of the *vicarius* judge reported that he had cited Count Rodolfo da Panico and Count Borniolo da Panico for their conspiracy with enemies and rebels of the commune to appear in court and had done so at the houses and courtyard of the Galluzzi in which at that time they lived in the city of Bologna.

<sup>64</sup> Greci-Pini, "Una fonte per la demografia," p. 356.

<sup>65</sup> ASB, Capitano, Venticinquine, Busta VII, Procola, Fascicolo 24.

almost always simply included in the lists of *pedites* (the Twenty-five), with their cavalry status recognized merely as a marginal notation.<sup>66</sup> In *cappella* S. Maria Rotonda for that year twenty-three members of the Galluzzi family are listed, at least five of whom had horses according to marginal notes in the document.<sup>67</sup> Moreover, at least some of these Galluzzi were also belted knights as, for example, was Comacio Galluzzi.<sup>68</sup>

Massimo Giansante studied the military enrollment of the men of S. Agata, the *cappella* of the Pepoli, as part of his study of Romeo Pepoli. He found that in 1296, on the one hand, some of the Pepoli, including Romeo himself, and other wealthy *popolo* elite of the *cappella* were enrolled in the Twenty-five as infantrymen, and not among the *milites*. On the other hand, while he found some *popolo* elite members, such as the Tettalasini, Cazzetti, and Zovenzoni among the *milites*, he also found in the *milites* individuals from unknown, non-elite families. He concluded that there was no relationship at the end of the thirteenth century between an individual or family's communal military role and their socioeconomic standing in the city.<sup>69</sup> Similar data are found in a list of 1301 of the *milites comunis Bononie* who held horses for the commune of Bologna in *cappella* S. Agata and their reimbursement from a recent *collecta* as payment for their services. In that list one finds, for example, Lippo Pepoli as a *miles comunis* with an *estimo* of 25,000 pounds, but also a Graziano di Bonvisino, laborer, with an *estimo* of 36 pounds and Armanina di Lambertino, wool beater, with an *estimo* of 25 pounds, all serving as *milites comunis*.<sup>70</sup>

There is yet another dimension to the problem, since availability for service as cavalrymen or infantrymen and enrollment in the Ten or Twenty-five did not necessarily translate into actual service in that capacity. Musters of "real" *milites*, that is, of those who were called to serve as cavalrymen for specific military expeditions, consisted

<sup>66</sup> Greci-Pini, "Una fonte per la demografia," p. 357.

<sup>67</sup> ASB, Capitano, Libri vigintiquinquenarum, Busta XVI, Procola.

<sup>68</sup> During the trial held at Todi in 1278 concerning Comacio's service as Capitano of that city in 1268, witnesses from Bologna described Comacio as a belted knight. Jean-Claude Maire Vigueur, "Echec au podestat: l'expulsion de Comaccio Galluzzi podestat de Todi (17 juillet 1268)," *Bollettino della Deputazione di storia patria per l'Umbria* 92 (1995): 5–41, esp. p. 28.

<sup>69</sup> Massimo Giansante, *Patrimonio familiare e potere nel periodo tardo-comunale. Il progetto signorile di Romeo Pepoli banchiere bolognese (1250 c.–1322)* (Bologna: La fotocromo emiliana, 1991), pp. 40–42.

<sup>70</sup> ASB, Capitano, Giudici, Reg. 366, fols. 31r–35r.



mainly of individuals from the most elite families, both magnates and *popolani*, but with no reference to their status, as in a surviving list of *milites* from 1286.<sup>71</sup> In that list of 300 *milites* “who held horses for the commune of Bologna for a year,” one finds not only magnates, for example, Guglielmo di Bartolomeo Guidozagni, Comacio Galluzzi, and Lazarro Liazzari, but also notaries and politically elite *popolani*, such as Francesco di Ugucione Bambaglioli, Albrico da Budrio, Giacobino da Labia, Ansaldino di Alberto Ansaldini, Rosso di Corado Rossi, Paolo Trintinelli, Giovanni Summa (the *barisellus*), and especially members of the mercantile-banking families, such as Zanochio Beccadelli, Lanzolotto Gozzadini, Bernarbo Gozzadini, Matteo Rodaldi, Niccolò Baciacomari, Gualtirone di Egidio Foscherari, Bianchi di Cosa, and Zingolo Pepoli. The list also includes judges, for example, Francesco Gatti, as well as *lupi rapaces*, such as Guidesto di Rolandino Romanzi, Bonifacio Samaritani, Bianco Galluzzi, Pellegrino di Albrico Simonpiccioli, and Tucimano Malavolta.<sup>72</sup> Nearly every person listed belonged to the political-administrative elite of the late thirteenth century as described above in Chapters Two and Three. Lists from 1287, 1291, 1292 and 1293 of those posting securities for their service as *milites comunis* comprise a similar variety of elite subgroups.<sup>73</sup> There is yet another type of list from 1289 of those to whom horses were assigned and approved for service to the commune, that is, those who were obligated to serve as *milites* for the commune. In this list, as in all the others, one finds the same mix of elite social groups and many of the same individuals.<sup>74</sup>

<sup>71</sup> ASB, Podesta, Sindacato, Busta 3, Reg. “1440,” fols. 109r–114r, November 1286–October 1287, for payments to *milites* who were to perform specific service at the district borders.

<sup>72</sup> ASB, Podesta, Sindacato, Busta 3, Reg. “1440,” September, October, November 1286, fols. 109v–114r.

<sup>73</sup> ASB, Camera del Comune, Procuratori del Comune, Busta 4 (1285–1293), Reg. 33, fols. 76r–78v, 85r–87v (Nov. 4–Dec. 17, 1287), *ibid.*, Reg. 37d (November–December 1291), fol. 1r–2v, *ibid.*, Reg. 41 (December 1292), fols. 19v–28r, and *ibid.*, Reg. 41 (there are two separate registers with this same number) (December 1293), fols. 4r–6v.

<sup>74</sup> ASB, Podesta, Sindacato, Busta 6, Reg. 843, fols. 91r–94r, Dec. 30, 1289. Included in this list of the highest political-administrative elite were also a few men of less prestige, such as Pietro the furrier and *Nardus* the horseshoer, fol. 91v. There were sixty-nine men from Porta Ravegnana, seventy-three from Porta S. Pietro, and 154 from Porta S. Procolo. This list is particularly important since the *decene* lists for the thirteenth century are very fragmentary. Greci and Pini, “Una fonte per la demografia,” p. 356.

A third muster list from November 1302 includes the names of 300 *milites*.<sup>75</sup> This compilation was made because of the stated unacceptability of the current lack of money for paying *milites* “since they are poor men and *de populo*” who were, according to the rationale given for the legislation, sustaining a very heavy burden in maintaining their horses without payment. Those on the list were supposed to be paid 40 pounds each. These *milites* differ in general from those on the earlier lists from 1286, 1287 and 1289. To be sure, members of very elite families are included here, as they were earlier, for example, several members from the Prendiparte, several Ramponi, Sabadini, Ariosti, Liazzari, Piantavigne, Garisendi, Galluzzi, Foscherari, Ghisilieri, Malavolta, Guastavillani, Baciacomari, and Rodaldi, and prominent jurists such as Pace *de Pacibus*. But there were also many more listed from non-elite families, and some with simple patronymics and without lineage names. A similar configuration is found in the list of *milites comunis* from the urban quarter of S. Procolo who were paid 10 *solidi* each for eight days of service in a military expedition that was sent to Faenza in June 1303. Service in the *militia* thus had evolved during the thirteenth century from exemptions and reimbursements on the basis of birth, to payments for service for all who served.<sup>76</sup> Yet, as varied as the social origins of the urban *militia* were in the early fourteenth century, it nevertheless remained closed to “newcomers.” Enrollment in the new *militia* of 1317 was closed to anyone who had not been registered in the tax *estimo* of 1277 or did not have ancestors who were registered in that *estimo*.<sup>77</sup>

Although status and service were no longer tied together, the importance of status and the prestige of being a *miles pro honore* had not diminished. The commune recognized the difference between appointing a *popolano* to serve as a cavalryman and the “making” of a belted knight (who, as noted above, might be registered in the infantry). It is one of the paradoxes of communal culture that on the one hand the commune used the status of belted knight as part of the rationale for assigning a juridical status in the anti-magnate legislation that carried harsher penalties and burdens. But, on the other hand, the commune

<sup>75</sup> ASB, Comune-Governo, Provvigioni III, fols. 21r–26r, Nov. 26, 1302.

<sup>76</sup> In the military contingent sent to Faenza in June 1303 there were 138 *milites* listed, plus three from the *familia* of the podesta of Faenza. Ibid., fols. 84r–85r, June 16, 1303.

<sup>77</sup> ASB, Comune-Governo, Provvigioni IV, fol. 86r, June 23, 1317.

also used the status of belted knight (as distinct from appointment to serve in the communal *militia*) as an honor which could be conferred by the commune as a reward for service to it, an honor that was also recognized as a very desirable enhancement of the prestige of its ambassadors. When Bornio Samaritani was proposed as one of four members of an important embassy to Florence and Siena in 1320, he was described as a belted knight (*cingulo milicie decoratus*).<sup>78</sup> In 1303, the executive officials, on the authority delegated to them by the Consiglio del Popolo, in order to show appreciation for the services of certain individuals, ordered the podesta to make belted knights of Antonio Galluzzi (and his sons Comacio and Ubaldino), Pace *de Pacibus*, Alberto Asinelli, and Giacomo Baccilieri (some of whom were jurists).<sup>79</sup>

Not surprisingly, therefore, distinctions between hereditary knights/magnates and cavalrymen appointed by the commune as *milites* were specifically recognized in communal protocols. For example, in 1320 the commune sent a contingent of 300 *milites* to Lombardy. The contingent was to be led by four “excellent men of whom two were to be *milites vel de progenie militis*” from two quarters of the city and two were to be elected “*de populo*” from the other two quarters. Of these, the one *de magnatibus* who received the greatest number of votes was to carry the insignia and standard of Bologna under which the *milites* were to proceed. The four “excellent men” were each to have five horses for which they were each to receive a payment of 100 pounds

<sup>78</sup> ASB, Comune-Governo, Riformagioni 192, fol. 70v. Also cited by Guido Antonioli, *Conservator pacis et iustitie. La signoria di Taddeo Pepoli a Bologna (1337–1347)* (Bologna: Clueb, 2004), p. 86. Bornio Samaritani also served as podesta at Brescia in 1321.

<sup>79</sup> ASB, Comune-Governo, Provvigioni III, fols. 108rv, July 5, 1303, that they be girded with swords and made knights and provided with shoes and spurs: “debeat eis cingere henses et facere eos millites...debeat eis vel alteri eorum calzare et ponere calcaria.” The executive officials in this case comprised the *anziani et consules* for that month, the *defensor* of the twenty guilds, the *preconsulis* of the notaries’ guild, and the *sapientes* elected by those officials. Their authority was based on *riformagioni* which had been approved in April in the Consiglio del Popolo. The *riformagioni* in turn had been authorized by *cedule* which had been sent to the guilds and arms societies and approved by them. The commune when asked by Faenza to send it a Bolognese podesta, decided to elect a person from four men selected one per quarter of the city of noble ancestry and if he were a *domicellus* but not a knight, to make him one: “unus bonus et probus vir, tam miles quam non, dum modo sit de nobili progenie natus per dominum capitaneum anzianos...et si domicelus fuerit et habuit plures voces teneatur et debeat ante accessum sui regiminis honorem milicie et cavalcarie assumere.” ASB, Comune-Governo, Riformagioni 161, fol. 214r, Dec. 19, 1304.

each month.<sup>80</sup> Thus, the distinctions between hereditary *milites* and those appointed to serve in that role were clearly maintained even at this date, although both groups were paid equally by the commune. However, the greater prestige of the former was recognized by giving to a hereditary *miles* the role of standard-bearer. All the hereditary *milites* were considered magnates, but as we shall see, not all magnates were *milites*. Those serving as *milites* still comprised a mix of those who were *milites* by blood and those by appointment, as had been the case twenty-five and even fifty years earlier. But at least some of those made *milites* by communal appointment, as we shall see, had joined the ranks of those by blood by the end of the century, just as had happened earlier. Social mobility meant not only the entrance of newcomers into governing circles but also the inclusion of “new” people into hereditary lists and ranks of prestige.

What the ranks of the urban *milites* and magnates did not include, however, were the descendants of feudal nobles. Tiziana Lazzari has dismantled the myth of the feudal origins of the Bolognese urban magnates, showing how the great urban families had held their lands in a very restricted area near the city, where the feudal lords never succeeded in establishing themselves.<sup>81</sup> Milani’s analysis of a group of magnates from 1271–72 confirms their non-feudal origins and further demonstrates their diverse generational social origins from waves of new men.<sup>82</sup> The group he analysed comprises seventy-two individuals from forty-two families. Milani divided the forty-two families into three groups: to the first group belong twenty-one lineages whose

<sup>80</sup> ASB, Comune-Governo, Riformagioni e Provvigioni, serie cartacea, Busta 220, Reg. 31, fols. 65rv, Aug. 16, 1320. For the magnates were elected Niccolò Baccilieri, who received 314 votes, and Rolando Galluzzi, who received 233 votes. *Pro populo* were elected Napoleone di Salvuzzo Beccadelli, who received 283 votes and (first name left blank) Malvezzi, who received 244 votes.

<sup>81</sup> Lazzari shows the almost total absence of vassalage ties with the bishop and other ecclesiastical institutions at Bologna. Tiziana Lazzari, “*Comitato*” senza città. *Bologna e l’aristocrazia del territorio nei secoli IX–XI* (Turin: Paravia Scriptorium, 1998), pp. 121–129, 151–184; and “Comunità rurali e potere signorile nell’Appennino bolognese: il dominio dei conti Alberti,” in *Signori feudali e comunità appenniniche nel medioevo. Atti delle Giornate di Studio (Capugnano, 2,3,4 settembre 1994)* (Pistoia: Società Pistoiese di Storia Patria, 1995), pp. 81–89; also “I ‘de Ermengarda’. Una famiglia nobiliare a Bologna (secc. XI–XII),” *Studi Medievali*, series 3, 32 (1991): 597–657.

<sup>82</sup> Milani, “Da *milites* a magnati,” pp. 132–140, utilized the prosopographical work of Nicolai Wandruszka. The only exception he notes to the non-feudal nature of the urban magnates is the family of the Fratta, who were originally from Ferrara, and even their claim to have held a fief he evaluates as dubious. *Ibid.*, p. 136.

grandfathers and great-grandfathers had been part for two or three generations of the “consular aristocracy” of the twelfth century (that is, they participated in the government of that period); to the second group belong thirteen lineages whose fathers and grandfathers did not emerge until the early governments of the podesta of the late twelfth and early thirteenth century; and to the third group belong eight families who entered political life only after the advent of the *popolo* in 1228.<sup>83</sup> In a separate study, Milani also compared those magnates from the 1271–72 lists with a fragmentary list of Lambertazzi who were expelled in 1274. He identified fifty-one individuals from twenty-two houses or *domus* who were Lambertazzi magnates. He concluded that despite their heterogeneous background as “consular aristocrats,” merchants, notaries and jurists, all the Lambertazzi magnates from these lists shared a common characteristic: their fathers’ had served in the urban *militia* in 1248.<sup>84</sup> That is, those designated in the 1271–72 lists of magnates represented groups of varied origin, but the families of all of them had already blended into the urban *militia* by mid-century.

However, amalgamation of these families in a process of social mobility did not produce a homogeneous social group, nor did the term “magnate” function well as the identification of a legal class, as discussed below, in part because of the multiple and varied origins of the magnates and in part because the legal definition itself of a magnate was hedged with exemptions. The exemptions, analogous somewhat to those for the Lambertazzi and their effect on Lambertazzi participation in the popular societies, similarly had an impact upon the degree to which magnates were permitted to participate in *popolo* councils and offices. Furthermore, similar again to the situation for the Lambertazzi, these exemptions for the magnates varied considerably over the years. At mid-century nobles and knights, that is, *milites pro honore* (and sons of the latter), were forbidden membership in the guilds. They could still enroll in the arms societies, and although they could not serve as *ministrals* of the arms societies, they could serve as *sapientes* in those societies’ contingents to the Consiglio del Popolo.<sup>85</sup> In 1272, they were also excluded from the arms societies. The range of

<sup>83</sup> Milani, “Da *milites* a magnati,” pp. 132–133.

<sup>84</sup> Milani, *L’esclusione dal comune*, pp. 212–221, esp. p. 219.

<sup>85</sup> Frati, *Statuti dall’anno 1245 all’anno 1267*, vol. 3, Bk. XI, Rubric CXXXI, “Quod non posunt esse de consilio populi nec offitia populi habere,” p. 400. See above, Chapter Three.

a knight's relatives to be excluded from the societies expanded by the 1280s to include their brothers, grandsons and nephews, and by 1289 included their fathers, grandfathers, and paternal uncles. In 1292, the proclamation for those who were designated as illegally enrolled in the popular societies who were to remove themselves included anyone who had "a father, grandfather, brother, godfather, living or not [who was a *miles*], or a judge of noble ancestry."<sup>86</sup> However, there was a major exception to the exclusion of a knight's relatives from the popular societies which marks a significant difference from the practice in other cities, such as Florence and Pistoia, where magnate status was ascribed to all members of a family that had a knight or had had one within the prior twenty years.<sup>87</sup>

At Bologna, although the *milites* themselves were excluded from the merchant and banker guilds, their relatives were permitted to remain in those societies, if they had been enrolled fifteen years earlier. (The *riformagione* is from 1289, which would date the closing to 1274, the year of the first recorded major purge of the guilds and arms societies, for which see above, Chapter One and more below).<sup>88</sup> Similarly,

<sup>86</sup> ASB, Capitano, Giudici, Reg. 183, fol. 3r, May 13, 1292: "[qui] habet patrem, avum, fratrem, patrinum, vivum vel non, vel iudex de nobili progenie natus."

<sup>87</sup> Desiderio Cavalca, *Il bando nella prassi e nella dottrina giuridica medievale* (Milan: Giuffrè, 1978), p. 137, refers to the extremely fluid dimension of the magnate class at Bologna and its indeterminate boundaries. He also notes that there was not a list of all magnates who had to post securities, as at Florence. At Florence the magnate class was closed, according to Cavalca, and artificially composed, on the basis of the criterion of the *militia* (magnate status was ascribed to the *family* which included a knight in the last twenty years), even if there existed integrative criteria which permitted ascription to the magnate class of other families, such as *publica fama*. Also see George Dameron, "Revisiting the Italian Magnates: Church Property, Social Conflict, and Political Legitimization in the Thirteenth-Century Commune," *Viator. Medieval and Renaissance Studies* 23 (1992): 167–187, esp. pp. 168 and 181. He quotes Enrico Fiumi and Gaetano Salvemini on knights and reputation and emphasizes a close association of magnates with church offices, honors and property. Lansing, *The Florentine Magnates*, pp. 13–16, cites the definition of magnates of October 1286, which was cited by Salvemini, "as those houses which had included a knight within the past twenty years, those which popular opinion considered magnate, and those which already posted security as magnates," and directs her study to the "meaning and implications of that definition." See further discussion below in Part II of this chapter.

<sup>88</sup> ASB, Comune-Governo, Riformagioni 128, fol. 171v, Feb. 21, 1289. The relatives specified were the son of a knight or grandson of the masculine line, brother, son of a brother or any noble or one of noble progeny, or one who was a father, grandfather, brother, godfather of a knight, but did not include the brothers and nephews of knights who were then or had been in the merchants' or bankers' guilds prior to the past fifteen years: "filius militis vel nepos militis filius filii masculini nec frater militis nec filius fratris militis masculi vel aliquis nobilis de nobili progenie natus, sive habeat

provisions of December 1291 which called for a new examination of the *matricule* of the popular societies, forbade membership in the societies to nobles and their descendants, *except* for those who had been inscribed for more than fifteen years in the guilds of the bankers and merchants. However, the relatives of knights could not serve as *anziani* or as members of the Consiglio del Popolo.<sup>89</sup> The same exemption was also invoked in a 1292 privilege granted to those who compiled the new Sacred Ordinances of that year. The privilege granted them and their fathers, brothers, sons, grandsons, and sons of their brothers extensive legal protection against magnates, *milites*, nobles and *potentes* of the city and district because they were hated by such people.<sup>90</sup> Yet another exemption for the relatives of knights who were merchants and bankers was built into the provision of the 1292 Sacred Ordinances that replaced the *lupi rapaces* rubric in the 1282–84 Ordinances. The 1292 version required that any magnate, noble, *potens* or *miles* (or any of their sons or grandsons, fathers, brothers or nephews),

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patrem avum fratrem patrinum unius sive non, salvo quod non intelligatur in fratribus militum et filiis fratrum qui nunc sunt et fuerunt de societatibus cambii vel mercadandie populi Bononie a XV annis retro.” The addition of fathers of knights in those guilds to the exempted accompanied the vote that same day, *ibid.*, fols. 171v–172r.

<sup>89</sup> Vitale, *Il dominio della parte guelfa*, p. 60. This exemption is also repeated in the proclamations of May 13, 1292, when it was pronounced as a consequence of the formulation of the new Sacred Ordinances of May 1292. ASB, Capitano, Giudici, Reg. 183, fol. 3r, May 13, 1292. The proclamation gives all the categories of people who should remove themselves from the societies and then adds a proviso that exempted all relatives of knights who were in the merchants and bankers in earlier years: “salvo quod hoc non intelligantur in illis societatibus cambii et mercandentie qui sunt de societatibus cambii et mercandencie populi Bononie si fuerit de ditis societatibus a XV annis retro set solum in persona militis intelligant et locum habeat.”

<sup>90</sup> Fasoli-Sella, *Statuti dell'anno 1288*, Bk. V, Rubric LXXIII, “De privilegio concesso condemptibus ordinamenta predicta et eorum patribus, filiis, fratribus et aliis consiliariis populi,” pp. 381–387: “Et si aliquis sit cui ex forma istius statuti concederetur posse accusare ratione persone patris, filii vel fratris, non possit accusare vel denunciare si fuerit de magnatibus, militibus, nobilibus vel eorum descendentes, vel qui non possit ex forma statutorum esse de societatibus artium vel armorum, Cambii vel Mercandantie vel contra quos eredi debeat ex forma dicti ordinamenti de iniuriis et offensis factis hominibus societatum artium vel armorum, Cambii vel Mercandantie. Salvo quod predicta non preiudicent illis personis (que sunt) si fuerit de societatibus Cambii vel Mercandantie a XV annis retro, nisi esset miles in sua propria persona.” However, the privilege was denied to “aliquis fumans vel filius fumantis vel descendens ex fumantibus qui sunt scripti in libris fumantium communis Bononie factorum tempore domini Federici de Regertatis et socii,” or any Lambertazzi or any foreigner who had not lived in the city and paid taxes for twenty years. The privileged were also given the right to carry defensive weapons in the city without special license. *Ibid.*, p. 388.

or anyone of noble progeny, natural born or legitimate, cleric or lay, who injured and drew blood of any citizen who was a member of the popular societies, or his relatives, had to have his name inscribed in a new book of nobles and knights and *potentes* and their relatives. They were to be required to post a security of 500 pounds every January, guaranteeing not to offend any such person. If they failed to post that bond, they were to be placed under perpetual ban. Exempted from this requirement, however, were the relatives of the merchants and bankers who had been enrolled at least fifteen years or more, unless they were themselves *milites*.<sup>91</sup> However, the fifteen-year requirement for the exemptions was a moving target, used not only in 1289, 1291 and 1292, but also in the earliest version of this exemption, that of the *statuto generale* of the guilds and arms societies of 1248.<sup>92</sup> This exemption obviously explains in part the appearance in the Consiglio del Popolo of members of families known to have *milites* in their families, despite the laws against their participation in that body.

Contemporary tracts and literature on the subject of status, especially on the significance of nobility, not surprisingly flourished in this environment of evolving and ambiguous definitions of elite status. The most famous examples include works by Guido Guinizzelli, Dante and other poets of the *dolce stil nuovo*, who debated whether nobility resided in blood-lines or in qualities of an individual's character.<sup>93</sup> The assumption by those poets was that status was a permanent state, whether determined by birth or revealed by love, even if the descriptive criteria themselves were controversial and elusive. From the viewpoint of communal policies, however, status was an instrument of political policy and was adapted to particular needs and situations and could vary with changing conditions. The communal government promulgated lists of those belonging to particular groups, initially for very specific purposes, for example, to denote fiscal exemptions or obligations for *contado* nobles and *fumantes*, or to identify those

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<sup>91</sup> Fasoli-Sella, *Statuti dell'anno 1288*, Bk. V, Rubric LXVI, May, 1292, "De penis impositis contra magnates et alios committentes malefitium vel fieri facientes in personas alicuius de societatibus populi Bononie vel in quosdam de civitate Bononie, et de securitate prestanda per ipsos magnates," pp. 356–358, esp. 357: "Salvo, quod dictum est de ponendo in dicto libro et securitate prestanda non intelligatur nec extendatur in illis qui sunt de societate cambii vel merchadandie, si fuerint a XV annis retro, nisi fuerit miles in sua propria persona."

<sup>92</sup> Gaudenzi, *Statuti*, vol. 2, pp. 535–536.

<sup>93</sup> See discussion of this topic below, Part II of this chapter.



with specific kinds of military service obligations, e.g., the *milites* in the Ten and the *pedites* in the Twenty-five. Even the earliest lists of Lambertazzi were very pragmatic in nature, for example, a list of those who had paid a special tax. The first inclusive list of Lambertazzi was not compiled until 1277, three years after the first expulsion of the Lambertazzi.<sup>94</sup>

The purpose of the earliest lists of magnates at Bologna, similarly, was not to compile an inclusive list of all magnates, but to specify only those “great” individuals who were considered a threat to public security *at a particular moment in time*. The designated individuals were required to post securities guaranteeing their good behavior, and/or were temporarily confined to their homes or to specific places in the *contado* or even outside the district.<sup>95</sup> The government decided who would be on these lists on the basis of actions of these individuals which indicated they were a danger to public security. The basic premise behind the selection was *not* that of permanent status and *not* recognition of nobility or elitism by blood-line or by character. Rather, it signified recognition of power, a power to be restrained, but also a power that, under certain circumstances, could be used to the commune’s advantage. The commune created and changed an individual or family’s status according to the demands of political expediency and perceived advantage to commune and regime, and sometimes those changes were affirmed, cancelled and then reaffirmed with rapidity.

<sup>94</sup> Giuliano Milani, “Il governo delle liste nel comune di Bologna. Premesse e genesi di un libro di proscrizione duecentesco,” *Rivista storica italiana* 108 (1996): 149–229, esp. pp. 153, 182–183, and Milani, *L’esclusione dal comune*, pp. 251–260.

<sup>95</sup> Fasoli, “La legislazione antimagnatizia,” p. 367. She cites the Statutes of 1288, Bk. IV, 7 on the podesta having authority to send “ad confinia...de magnatibus civitatis et districtus Bononie et de magnis caxalibus popularium...occaxione aliquorum rumorum.” Her reference is to the manuscript version of those statutes, which she and Pietro Sella had not yet published at that time, but I have not found that reference in the ultimately published version. The podesta and Capitano, present and future, were granted authority to send *popolani* to different neighborhoods (*contrate*) within the city or even outside the district in response to the wounding of a *popolano* in the *contrata* of Saragozza and the government’s expressed fear that the incident could lead to riots and the destruction of the Sacred and Most Sacred Ordinances. ASB, Comune-Governo, Riformagioni e provvigioni, serie cartacea, Busta 216, Reg. 5, fol. 127v, July 21, 1288, fols. 132v–133r, July 23, 1288, fols. 158v–10r, Aug. 29, 1288, *ibid.*, Reg. 6, fol. 19r, March 10, 1292.

Restraint of power was the motive behind the earliest magnate lists, those of November 1271 and February 1272.<sup>96</sup> The lists were drawn up to designate those magnates who were to be confined to their homes and who could be temporarily sent outside the city and confined to specific places, as was done in 1272. The authorization to send these magnates into confinement was part of the Forty Ordinances of 1271, the anti-magnate legislation that preceded the Sacred Ordinances. A Book of Securities posted by nobles and magnates of 1279 is also referenced in a *Duecento* inventory, but it has not survived.<sup>97</sup> The most famous list of magnates is the one included in the Sacred and Most Sacred Ordinances of 1282 and 1284, where certain magnates, designated to post securities because of their past turbulent behavior, were labeled as *lupi rapaces*.<sup>98</sup> They posted securities of 1,000 pounds each and promised not to harbor Lambertazzi or those banned for crimes in their homes, to obey the podesta and the Capitano, to present themselves before the officials whenever asked to do so for any reason, and not to “offend” (attack) anyone or anyone’s possessions.<sup>99</sup> Those from the *contado* also could be required to enter and remain in the city at the precept of the podesta for particular periods of time, as happened, for example, in 1286.<sup>100</sup>

The entries in the *lupi rapaces* rubric are usually described by historians as referring to individuals, as opposed to the designating and listing of clans or *consorterie* as magnates that occurred at Florence. According to Fasoli, the *lupi rapaces* list consisted of ninety-two individuals from forty families, and as noted by Bocchi, the families were also divided into twenty-one from the city and nineteen from the *contado*.<sup>101</sup> But some further clarification is needed. Although the lists do

<sup>96</sup> ASB, Comune-Governo, Provvigioni I, fol. 13v. These lists have been discussed by Fasoli, Koenig and especially by Milani, “Da *militēs* a magnati,” pp. 125–155, and also in his *L’esclusione dal comune*, pp. 212–221.

<sup>97</sup> Fasoli, “La legislazione antimagnatizia,” p. 367, footnote 52.

<sup>98</sup> Fasoli-Sella, *Statuti dell’anno 1288*, vol. 1, Bk V, Rubric XVI, “De satisfactione prestanda ab infrascriptis nobilibus civitatis vel districtus Bononie, et de penis eorum qui non darent dictam securitatem et de fidantia eis danda, ratione predicta,” pp. 308–312.

<sup>99</sup> *Ibid.*, and Fasoli “La legislazione antimagnatizia,” p. 366.

<sup>100</sup> ASB, Podesta, Sindacato, Busta 3, Reg. 1448, fol. 17r. In this case the podesta ordered the *contado* nobles to select the days of the month in which they would stay in the city, which seems to mean they periodically had to reside in the city. I discuss the issue of control of *contado* nobles below in Chapter Five.

<sup>101</sup> Fasoli, “La legislazione antimagnatizia” p. 366. Bocchi, “Le imposte,” p. 306, divides the individuals into forty from the city and forty-seven from the *contado*. In

not reflect *consorterie*, it is clear that even those entries consisting of individuals included more than one person, as in the case of entries such as that for “Guglielmo called *Pilizonus*, son of Giacomo Caccianemici and his brothers, legitimate and natural.” Yet one also finds members of the same family listed quite separately, such as the brothers Guglielmo di Guidocherio Galluzzi and Pellegrino di Guidocherio Galluzzi. On the one hand, the preamble to the list states that those posting securities were doing so not only for themselves but for their *domus*, and the term “domus” is used in documents of the period to refer to a lineage or consortium.<sup>102</sup> On the other hand, the list includes brothers who are listed separately but each with their “domus.” The preamble also refers to *domus* with reference to the actual posting of securities, and specifically identifies the *domus* as referring to the individual’s brothers, sons and grandsons, legitimate and illegitimate, lay and clerical.<sup>103</sup> The language of the bans against those who failed to post securities as *lupi rapaces* reinforces the meaning of the term in this context, specifying that the properties of those banned as well as that of their fathers, brothers and sons (those older than fourteen), legitimate and illegitimate, were to be destroyed.<sup>104</sup> Thus, in the original list of 1282, we find “*Manareta* di Lanfranco da Casio” without any reference to his relatives, but in 1286 *Cursolus* son of Enrighetto Lanfranchi da Casio, identified as his grandson, was investigated for an assault against a *fumans*, and was identified as one of the *lupi rapaces* of the *contado*.<sup>105</sup>

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*Atlante storico delle città italiane. Emilia-Romagna*, vol. 2, Bologna. *Il Duecento*, ed. Francesca Bocchi (Bologna: Grafis, 1995), p. 95, Bocchi also notes that of the thirty-eight *lupi rapaces* banned in 1289, thirty-two were *signori* from the mountains.

<sup>102</sup> Fasoli-Sella, *Statuti di Bologna dell'anno 1288*, vol. 1, Bk. V, Rubric XVI, “De satisfactione prestanda ab infrascriptis nobilibus civitatis vel districtus Bononie, et de penis eorum qui non darent dictam securitatem et de fidantia eis danda, ratione predicta,” pp. 308–312, esp. p. 309: “Et teneatur quilibet infrascriptorum et eius securitas, tam pro se quam pro eo vel eis de domo sua, tam ecclesiasticis personis quam laicis, videlicet patribus, filiis vel fratribus, nepotibus tam legitimis quam naturalibus.” For an example from other documents, ASB, Comune-Governo, Provvisioni III, fol. 38r, uses the phrase “de una domo prole casali vel agnatione.”

<sup>103</sup> ASB, Podesta, Sindacato, Busta 8, Reg. 22, fol. 1r: “Ita quod omnes ibi de domibus suis tam clerici et eglesiastice persone quam layci scilicet per omnes fratres filii et nepotes tam leptime quam naturales.”

<sup>104</sup> ASB, Podesta, Accusationes, Busta 5b, Reg. 17, fols. 29r–30r, July 1286.

<sup>105</sup> ASB, Podesta, Inquisitiones, Mazzo 8, Reg. 1, fols. 38r–40v, December 1286. The notification specifically calls for the case to be investigated according to the form of the Sacred and Most Sacred Ordinances.

Comparison of the lists of 1271–72 with the *lupi rapaces* list of 1282 shows that very few individuals and only nine families appear on both lists (there were forty-two families in 1271–72 and forty families in 1282). In part this is due to the banning of Lambertazzi magnates in 1274, such as the Fratta, Principi, Ramisini and members of the eponymous Lambertazzi family, major leaders of the Lambertazzi faction. But in part the disappearance from the lists of some who were still alive, and the appearance of new names in 1282, also indicates that changed circumstances meant new perspectives on who were considered to be individuals and families dangerous to the commune and *popolo*.<sup>106</sup> Thus, Tommaso Ghisilieri was included in the 1271–72 lists of magnates sent to confinement in the *contado*, but is not on the *lupi rapaces* list of 1282. There is further evidence of this ascription of *lupi rapaces* status to new families to be found in the lists of the *lupi rapaces* who failed to post securities and the separate lists of those who actually did post securities.<sup>107</sup> Thus, Mattiolo di Rainerio, *cattaneus*, and *Ramirolus* and Facciolo, sons of Albrico da Castel S. Pietro, appear in the 1285 list and later as posting securities, but were not in the original 1282 list of *lupi rapaces*.<sup>108</sup> Also appearing for the first

<sup>106</sup> Families appearing in both the 1271–72 and 1282 lists are the Baccilieri, Caccianemici, Galluzzi, Ghisilieri, Lambertini, Occelliti, Pizoli, Prendiparte, and Samaritani. The three individuals who appear in both lists are Bianco Galluzzi, Bacciliero di Niccolò Baccilieri and Ramberto, brother of Niccolò Baccilieri.

<sup>107</sup> I have found six lists of those failing to post securities: ASB, Podesta, Accusationes, Busta 4 (1271–85), Reg. 12, fol. 4v (1283 II); *ibid.*, Busta 5b (1286 II), Reg. 17, fols. 29r–30r; *ibid.*, Busta 6b, Reg. 14 (1287 II), fol. 2v; *ibid.*, Busta 8b, Reg. 15 (1289 II), fols. 1r–2r (this list was published in Giovanni Gozzadini, *Delle torri gentilizie di Bologna e delle famiglie alle quali prima appartennero* (Bologna: Zanichelli, 1875), pp. 661–665, without archival citation). Also ASB, Podesta, Accusationes, Busta 9b (1291 I), Reg. 17, fols. 4rv; and *ibid.*, Busta 9b (1291 II), Reg. 37, fol. 5v. I also found seven lists of those who did post securities: ASB, Podesta, Sindacato, Busta 1, Reg. 1541, fols. 1r–9v, 1285 I; *ibid.*, Busta 3, Reg. 1432, fols. 1r–12v, 1286 II; *ibid.*, Busta 5, Reg. 13, fols. 1r–10v, 1288 I; *ibid.*, Busta 6, Reg. 1315, fols. 63r–73r, 1289 I; *ibid.*, Busta 8, Reg. 22, fols. 1r–11r, 1291 I; *ibid.*, Busta 8, Reg. 24; *ibid.*, Busta 9, Reg. without covers or number (the notary for the last register was *Cambius de Sancto Quricho*), fols. 39r–45v, 1292 I.

<sup>108</sup> ASB, Podesta, Sindacato, Busta 1, Reg. 1541, July, 1285, fol. 7v. Facciolo and Mattiolo provide a good example of the enforcement of the system. In 1286, the four men who had served as guarantors for Facciolo when he posted the required security were precepted by the judge of the podesta to produce Facciolo in person. There is also testimony, *ibid.*, fol. 4v, Oct. 9, 1286, by Bacciliero di Niccolò Baccilieri and Bonifacio Samaritani who were asked if they were present when Mattiolo di Rainerio and Facciolo di Fra Albrico da Castel S. Pietro had posted securities, using language from the *lupi rapaces* statute (they did not remember). ASB, Podesta, Inquisitiones, Mazzo 8, 1286 II, Reg. 2, fols. 2rv, Oct. 8, 1286. In this instance Facciolo was imputed

time in the list of 1285 (second semester) is *Plevanus* di Guidotto and Ramberto da Vizzano.<sup>109</sup> Guido *violle domini Aginulfi* from Varignana and Tommaso di Ugolino from *cappella* S. Barbaciano, who appeared for himself and his father, also appear for the first time in the list of 1286 (second semester).<sup>110</sup> *Agnulfus* da Varignana and his sons Rainerio and *Maxolus* appear for the first time in 1286 (second semester).<sup>111</sup> Giacomino di Guido Giovanni from *cappella* S. Cecilia appears for the first time in 1291 (first semester).<sup>112</sup>

*Popolani* who threatened public security also were subjected to punitive status change. Thus, in 1298 Brandelisio Gozzadini and his sons, who were from one of the most powerful banking families, were involved (with their neighbors) in a violent conflict with members of two other prominent mercantile-banking families, the Lamandini and Pegolotti (and their neighbors), which resulted in the severe beating to death of Guidotto Lamandini. The proposal in the Consiglio del Popolo concerning this event described the situation as dangerous and one that could lead to riots, which it noted would be especially perilous during the war at that time with the Marquis of Este of Ferrara. With the strong backing of the executive officials and the *ministrales* of the two preeminent societies, the proposal that was passed called for these particular Gozzadini to be removed from the popular societies

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to have been one of a large group of twenty-five to thirty men who had assaulted and killed two men in the piazza of the rural commune of Castel S. Pietro. Ibid., and fols. 77r–92v, October 1286. Facciolo is identified as Facciolo di Albrico, *cattaneus*. The case also involved the escape from custody of Mattiolo and his sons who were being held by the relatives of the victims. There is more on the posting of securities in ASB, Podesta, Inquisitiones, Mazzo 8, Reg. 14, fol. 3v, Oct. 10, where Bonifacio Samaritani and Bacciliero Baccilieri made their defense as guarantors of Mattiolo and Facciolo, *cattanei* da Castel S. Pietro. The guarantors were charged with not having met their responsibility to produce Mattiolo and Facciolo in court when the latter failed to observe the conditions for which they had posted securities. Ibid., fols. 4rv, and unbound folio, precepts of Oct. 10 and Oct. 12 for Facciolo to appear today or tomorrow (the first precept) and today (the second) before the podesta or his judge and defend himself for having broken the terms for which he posted securities (the precept spells out the conditions). The second precept specifically invokes the *lupi rapaces* rubric.

<sup>109</sup> ASB, Podesta, Sindacato, Busta 2, Reg. 1390, fol. 2v.

<sup>110</sup> ASB, Podesta, Sindacato, Busta 3, Reg. 1432, fol. 3r, July 1286. “Guido *viole* da Ignano” also appears on the list of 1287 as not posting securities. ASB, Podesta, Accusationes, Busta 6b, Reg. 14, fol. 2v, 1287 II.

<sup>111</sup> ASB, Podesta, Accusationes, Busta 6b, Reg. 14, fol. 2v, 1287 II.

<sup>112</sup> ASB, Podesta, Sindacato, Busta 8, Reg. 22, 1291 I.

and declared nobles and *potentes*. The Gozzadini were also temporarily confined to assigned locations in the *contado*.<sup>113</sup>

In 1292, with the brief abrogation of the Sacred and Most Sacred Ordinances in March and their reinstatement in May, the *lupi rapaces* rubric with its list of those who were required to post securities was replaced with a rubric that called for the posting of securities only by magnates who *henceforth* injured *popolani*, thereby eliminating the ten-year-old burden of posting securities against all who heretofore had been classified as *lupi rapaces*.<sup>114</sup> By the turn of the century, the categories of magnate and *lupus rapax* were used as a form of punishment for *popolani* and *magnati*, respectively. For example, in 1297, under the pressure of the war with Ferrara, a *miles* or noble or anyone who had been prohibited from being in the popular societies in 1294 was to be declared a *lupus rapax* if he did not enroll in the Twenty-five.<sup>115</sup> Legislation in 1296 provided for punishment of a magnate who failed to respond to a summons or muster to serve in the army with designation as a *lupus rapax*, and a *popolano* with loss of legal rights for ten years and with designation as a magnate.<sup>116</sup> Thus, in June and July 1297 Bernardo Candele was charged and tried in the court of the Capitano with failure to serve in the army sent to Castel Baragazza. Although initially he claimed he had not served because he was a merchant and at the time had been in Senigallia and Venice (and produced three witnesses to verify his presence in those cities), he ultimately confessed and was convicted. He was therefore removed from his arms

<sup>113</sup> ASB, Comune-Governo, Riformagioni 148, fol. 359r, Nov. 12, 1298, fol. 359r. The vote was 292 with 145 opposing. Ibid., fol. 360r, Nov. 19, 1298, for replacing Governale di Brandelasio Gozzadini who was judge at the *dischum Griffonis*, one of the civil courts. The vote was 309 with six opposing.

<sup>114</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric LXVI, "De penis impositis contra magnates et alios committentes malefitium vel fieri facientes in personas alicuius de societibus populi Bononie vel in quosdam de civitate Bononie, et de securitate prestanda per ipsos magnates," pp. 356–358. The rubric cancelled by authority of the 1292 ordinance is in ibid., Bk. V, Rubric XVI, "De satisfactione prestanda ab infrascriptis nobilibus civitatis vel districtus Bononie, et de penis eorum qui non darent dictam securitatem et de fidantia eis danda, ratione predicta," pp. 308–312, well-known for its opening phrase "Volentes et intendentes quod lupi rapaces et agni mansueti ambulent pari gradu."

<sup>115</sup> ASB, Comune-Governo, Riformagioni 145, fols. 111rv, June 3, 1297. A *popolano* who did not serve was to be cancelled from the guilds and arms societies, lose all his privileges and benefits as a *popolano*, and could not hold any office in the commune.

<sup>116</sup> ASB, Comune-Governo, Provvigioni I, fols. 206r–207r, Nov. 10, 1296.

society (the Griffins) and declared to be a magnate.<sup>117</sup> Furthermore, any noble or magnate who did not pay his taxes or forced loans (*pres-tanze*) was also declared a *lupus rapax* and any *popolano* who failed to pay was cancelled from the popular societies and declared to be a magnate.<sup>118</sup> Deserters during the war with the Marquis of Este also were punished by a status change. If a deserter were a noble of the *contado*, his status was changed to that of a *fumans*, and if he were a citizen, he became a magnate.<sup>119</sup> In 1314, a provision attached to the anti-crime legislation of that year declared that anyone who opposed that legislation was to be understood to be of the magnates, nobles and *potentes* of the city.<sup>120</sup> Similarly, in 1317 new anti-crime statutes called for anyone who opposed those statutes (that is, sought their modification or abrogation), to lose his privileges as a *popolano*.<sup>121</sup>

Status change could also occur as a reward for reasons of political expediency and military necessity. Thus in 1297, again during the difficult war with Ferrara, the commune made a pact with Count Alberto, son of Count Alessandro da Mangone, and the widow of Guido, Count of Baragazza, whereby the commune gained control of vital *castelli* on its border. Count Alberto and his household attendants (*familiaries*) were granted the privilege of carrying offensive and defensive weapons in the city. He was declared a *popolano* and was to be treated as if he were a member of the guilds and arms societies.<sup>122</sup> Lambertazzi mili-

<sup>117</sup> ASB, Capitano, Giudici, Reg. 325, fols. 1r-4v, with sentence on fols. 10rv.

<sup>118</sup> ASB, Comune-Governo, Riformagioni 145, fol. 116v, June 12, 1297. The penalties against a *popolano* also were to apply to his descendants. The harshness of these laws were such that they served to prohibit people from coming forward to enroll in the *estimi*, so the laws were temporarily suspended the following month. ASB, Comune-Governo, Riformagioni 144, fol. 104r, July 19, 1297.

<sup>119</sup> Greci-Pini, "Una fonte per la demografia," p. 352.

<sup>120</sup> ASB, Comune-Governo, Provvigioni IV, fol. 32v, May 29, 1314.

<sup>121</sup> ASB, Comune-Governo, Riformagioni 184, fols. 398v-399r, June 20, 1317.

<sup>122</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, [Provisiones facte anno Domini millesimo ducentesimo nonagesimo sexto et millesimo ducentesimo nonagesimo septimo], pp. 530-539, esp. p. 536: "Item providerunt quod dictus comes Albertus sit et intelligatur esse de populo et de societatibus populi Bononie arcium et armorum populi Bononie quantum est ad sui defensionem, ita quod non possit accusari vel denunciari ab aliquo populari, rustico, vidua vel pupillo vel aliquo alio, nec contra eum procedi ex vigore alicuius ordinamenti seu privilegii concessi popularibus, rusticis, viduis vel pupillis contra nobiles, magnates vel potentes." The count's notary was admitted into the notaries' guild without payment of fees. Also in 1296 a judge of the podesta was made a "true and perpetual citizen" and was to be considered "de populo" and in the societies because of his work in the war. Ibid., vol. 2, Bk. VIII, Addition of November 1296, pp. 105-106.

tary leaders, such as the nobles Gerardo di Giordano Scannabecchi, the Counts of Panico, the *signori* of Roffeno and Monte Severo, had their status changed from Lambertazzi to Geremei, and had their bans cancelled, with specific reference to their help in the war.<sup>123</sup> Urban magnates also were rewarded for their loyalty and service. For example, Cervio Boatteri was a belted knight, but in 1303 a special *rimformazione* declared that he would be treated as a *popolano* because of his help protecting the government against a conspiracy.<sup>124</sup>

Under the pressure of a deepening fiscal crisis in the second and third decades of the fourteenth century, the commune sold the status of urban citizen (*civis*) to inhabitants of the *contado* (*fumantes*), which marked a significant departure from the commune's policy of the late thirteenth century. According to a provision in the Statutes of 1288 (which was originally enacted in 1282), *fumantes* were stringently tied to their heavier-tax-burdened status, and those who had left the *contado* to live in the city were ordered to return to their rural communes.<sup>125</sup> However, in 1315, 1316 and 1326 the commune, unable to pay the salaries of its officials and mercenaries, offered *fumantes* the opportunity to buy urban status.<sup>126</sup> The commune also made ingenious

<sup>123</sup> ASB, Comune-Governo, Provvigioni I, fol. 70v, June 23, 1296 for Scannabecchi, fol. 87v, May 24, 1296 for the counts of Panico and for the descendants of the deceased Ugolino di Caravita da Roffeno and descendants of the deceased Rodolfo da Monte Severo and all others from that *domus*, fols. 89rv, June 1, 1296, for nineteen members from "*domo dominorum de Panico*" and thirty from "*domo illorum de Monseverio*," fol. 135r, June 23, 1296 for two others and fol. 137r, July 1, 1296 for eighteen *familiares* of Count Ugolino da Panico. A similar provision of Oct. 13, 1296 (fol. 169v) specified that the readmitted Lambertazzi were also to be readmitted into the popular societies. In 1306, it was decided that Federico di Conte Ugolino da Panico was to serve in a military expedition despite the fact that he had received a condemnation. ASB, Comune-Governo, Riformagioni 165, fol. 57r, Dec. 7, 1306.

<sup>124</sup> Cervio is listed with the belted knights who were fined because they did not attend a meeting of the Council of 800 in 1293, ASB, Podesta, Accusationes, Busta 12a, Reg. 9, fol. 14r. For his new status, ASB, Comune-Governo, Provvigioni III, fols. 50v–61r. *Ibid.*, IV, fol. 154r, July 30, 1321.

<sup>125</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 2, Bk. IX, Rubric VI, "De fumantibus terrarum de districtu Bononie," pp. 114–115. The rubric specified that no one could be removed from the book of *fumantum* compiled in 1282, nor could anyone be proposed for removal from that book, and that any and all *fumantes* and their sons who were inscribed in that book who had come to live in Bologna since 1271 and ten years earlier had to return to live in their rural communes, despite any special privileges and dispensations granted to them.

<sup>126</sup> ASB, Comune-Governo, Provvigioni IV, fol. 49r, Jan. 28, 1316 (to pay salaries for nuncios and trumpeters, and for bells). Status change from *fumans* to citizen was also offered as a reward for the killing of Romeo Pepoli and his sons, *ibid.*, fol. 175r, May 14, 1322. For 1326, *ibid.*, fols. 304rv, 312v–313r, July 31, 1326. For



special arrangements in order to obtain commitments for the maintenance and guarding of the *castelli*, as in the agreement it made in 1326 with *Seguranus* di Zaccaria da Oliveto and Andrea di Tommasino da Oliveto and their descendants. *Seguranus* and Andrea promised to maintain the *castello* at Oliveto and to garrison it for the following ten years. In exchange they were granted the status of “true and born citizens” and were to be “de populo” with all the privileges and benefits of *popolani* who were inscribed in the guilds and arms societies.<sup>127</sup>

Changes in the designation of those who were considered to be magnates also fluctuated with regime change, most dramatically when whole groups of families had their status changed from *popolo* to magnate and vice versa in 1303, 1306, and 1321.<sup>128</sup> These group changes clearly were closely linked to violent changes in government—overthrow of the White Party in 1306 and the expulsion of the Pepoli in 1321, or in response to a conspiracy, as in 1303. As will be discussed below in Part II, it was political allegiance and sympathies and not distinctions in socioeconomic origins or power or rank or lifestyle that lay at the basis of status changes for the entire period from the 1270s through the early decades of the fourteenth century. All those who were labeled as magnates at one or more points during this period were men of socioeconomic prestige, some from families older in origin than others, but all of prominence prior to the 1270s. But one can

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the commune’s shifting policies towards the *contado* and the *fumantes*, see Pini, “Un aspetto dei rapporti tra città e territorio nel Medioevo,” pp. 365–408. Pini documents the 1315 provision from the *Registro Grosso*, fol. 210r, correcting Vitale’s ascription of the first provision to 1326, *ibid.*, p. 395. In 1326, the commune also sold privileged status, for which see below and Chapter Five.

<sup>127</sup> ASB, Comune-Governo, Provvigioni IV, fols. 290v–291r, Jan. 26, 1326. The provision was designated as “sacred” and carried a very heavy (1,000 pounds and loss of office) penalty for any official who violated it.

<sup>128</sup> Vitale, *Il dominio della parte guelfa*, pp. 75–119; Milani, *L’esclusione dal comune*, pp. 377–413. For 1321, ASB, Comune-Governo, Provvigioni IV, fol. 154r, July 30, 1321. Those made *popolani* in 1321 were Cervio Boatteri and his sons, Guidocheerio Balduini and all others from that *domus*, Alberto and Giacomo, sons of Odaldus Riosti, Bibliobarigi and Maccagnano Azzoguidi (*doctores*), *Muxolus* Sabadini and all others from that *domus*, and Gozzadino Beccadelli. This law also tried to make these changes in status permanent by mandating that there be attached to every *cedula* in the future a provision that no one from the *popolo* could be made a magnate and vice versa. For the list of those banned in 1303–04, ASB, Capitano, Banditi e ribelli, Elenchi di banditi e confinati, Busta 10 (1276–1430). For the status reversal of 1306, ASB, Comune-Governo, Riformagioni e provvigioni, serie cartacea, Busta 19, fols. 3r–6v, March 9, 1306 where the status is restored (back to *popolo*) of those who had been declared magnates in 1303. Twelve men are initially listed, then another twenty-one.

also easily find examples of wealthy *popolano* families, especially but not exclusively of the mercantile-banking families, some of greater, some of lesser antiquity (the Garisendi and Pepoli were politically active early in the century),<sup>129</sup> who like those labeled as magnates, had great wealth, towers, marriage ties with magnates and nobles, included prominent jurists and belted knights and *frati gaudenti* among their members, and participated in ceremonial jousts.<sup>130</sup> Not surprisingly, throughout this period contemporary descriptions of prominent houses and individuals reflect this dissonance between status and socioeconomic prominence: *popolani* who were from “great houses” (*de magnis domibus et caxallibus*) nevertheless remained *popolani* and members of the *popolo* party.

The case of Giuseppe Toschi is often cited as emblematic of the process of social fusion that produced the paradox of a “great” *popolano*. A merchant, son of a judge, and leader of the uprising in 1228 that brought the artisanal guilds and arms societies into the government, he is described in the chronicles as “great man, albeit a merchant.”<sup>131</sup> Nearly 100 years later, the same ambiguities that he personified persisted. In 1320, Pietro di Arardo Albiroli, describing himself as “de populo,” filed an accusation against Giovanni di Salione d’Argelata, whom he described as “of the great houses of the *popolo* of Bologna,” for dispossessing Pietro of his property in the *contado*, which Giovanni had been able to do “because of the extent of his power.”<sup>132</sup> The great families of the Lambertazzi from the magnates and *popolani* were grouped together, as in 1286, when a commission of *sapientes* determined that certain Lambertazzi *confinati* could not choose their own place of confinement.<sup>133</sup> Another provision at that time called for a proclamation to be made throughout the city that anyone could denounce, openly or secretly, anyone from “great houses of the nobles” or “great houses of

<sup>129</sup> Since the merchant-bankers were participants in the early podestarial government, it is not surprising to find evidence of their participation early in the century. Giacobino Pepoli served as *consul merchantorum* in 1212 and sat in the communal council several times in the following years. John Koenig, *Il ‘popolo’ dell’Italia del Nord nel XIII secolo* (Bologna: Il Mulino, 1986), p. 399.

<sup>130</sup> Discussed below, Chapter Four, Part II.

<sup>131</sup> “fuit [magnus] dominus, t[amen me]rcator.” Cited in Alfred Hessel, *Geschichte der Stadt Bologna vom 1116 bis 1280* (Berlin: E. Ebering, 1910), pp. 332–33.

<sup>132</sup> ASB, Comune-Governo, Riformagioni 192, fol. 377v, April 18, 1320.

<sup>133</sup> ASB, Capitano, Giudici, Reg. 97, fols. 2rv, Oct. 16, 1286.

the *popolo*” who were Lambertazzi.<sup>134</sup> In 1290, an award of 100 pounds was provided to those capturing Lambertazzi *milites*, magnates and those “of great and powerful houses,” whether noble or *popolano*, with a 50-pound reward for all others.<sup>135</sup>

In the divisions between the magnates and *popolani*, judges and jurists occupied a particularly anomalous area that split and shifted between the two groups. They and their families could be of either status. *Popolano* judges and jurists, however, until the late thirteenth century could not hold *popolo* office except as *sapientes de massa* for the arms societies. Yet, as noted above in Chapter Three, they served by means of *balie* with the *anziani* as important decision-makers at the center of government. In terms of prestige they ranked with the magnates and great *popolano* families and usually were from families of the politically active elite.<sup>136</sup> The *de Pacibus* family, which played a

<sup>134</sup> ASB, Capitano, Giudici, fol. 3v, Oct. 16, 1286: “Item quod cridetur per civitatem Bononie quod quilibet qui sit aliquem de casalibus magnatum nobilium seu de casalibus magnatum populi qui sit de parte lambertaciorum et non sit conscriptus in libris bannitorum vel confinatorum, veniat ad denunciandum domino capitaneo si vult palam aut secrete...” This provision is cited and transcribed by Milani, *L'esclusione dal comune*, p. 276, footnote 78, but as October 1287 instead of 1286. The same phrase is used in a fourteenth-century copy of the list produced on this occasion, ASB, Capitano, Giudice ai beni dei banditi e ribelli, Elenchi di banditi e confinati, Busta 3, Reg. 1, fol. 162v: “Inquixicio facta per dictos dominos de nominibus et cognominibus omnium illorum de parte lambertaciorum et ipsorum descendentium masculorum tam de domibus magnis nobilium quam popularium, quam de aliis, de quarterio Sancti Proculi.” The latter provision is also cited by Milani, *L'esclusione dal comune*, p. 276.

<sup>135</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol.1, Bk. V, Rubric CLII, “De electione potestatis,” Provisions of 1290, pp. 524–526, esp. p. 525: “Et ille vel illi qui talem banitum presentaverint habeant et habere debeant a communi Bononie pro unoquoque tali presentato, si talis presentatus erit miles vel filius militis vel frater militis, vel si erit de magnis et potentibus casalibus, sive nobilium sive popularium, centum libras bononinorum. Et si de reliquis fuerit, quinquaginta libras bononinorum.”

<sup>136</sup> Jean-Claude Maire Vigueur, “Gli ‘iudices’ nelle città comunali: identità culturale ed esperienze politiche,” in *Federico II e le città italiane*, ed. Pierre Toubert and Agostino Paravicini Bagliani (Palermo: Sellerio, 1994), pp. 161–176, esp. pp. 164–170. Maire Vigueur’s discussion is based on Johannes Fried, *Die Entstehung des Juristenstandes im 12. Jahrhundert. Zur sozialen Stellung und politischen Bedeutung gelehrter Juristen in Bologna und Modena* (Cologne and Vienna: Böhlau, 1974). Maire Vigueur endorses Fried’s conclusion that between 1180 and 1190 almost all *iudices* were recruited from the “ruling class” (*classe dirigente comunale*), that is, from the families that had a monopoly of consular government offices and were part of the episcopal vassalage. Maire Vigueur goes beyond Fried’s conclusions to equate the *iudices* of that period with *milites* and to hypothesize a “thesis of substantial permanence of identity of the *milies-iudices*.” Ibid., p. 167. He also postulates “the adhesion of the *iudices* to the cultural code of the urban nobility...so robust and interiorized as to be able to absorb, without trauma or great suffering of the spirit, the progressive opening of the

prominent role as leaders of the Geremei during the uprisings of 1274, had several judges who were very active in communal administration at the turn of the century, including one of the most famous of Bolognese jurists and administrators, Pace *de Pacibus*.<sup>137</sup> The *de Pacibus*, described by historians as a *popolano* family, had at least one member, Belvillano *de Pacibus*, a judge, enrolled in the popular societies in the 1280s.<sup>138</sup> Pace *de Pacibus* himself was not enrolled in the popular societies. Neither does he nor any other member of that family appear as a member of the Consiglio del Popolo. Pace had his own law practice (he served as advocate of the Templars in 1288), was a *legum doctor*, and was extremely active as a writer of *consilia* for the courts.<sup>139</sup> As a jurist he was not eligible for the office of *anzianus*, but he did serve frequently as a *sapiens* in *balie* and was entrusted with many administrative responsibilities, such as compilation of the *estimo* in 1277–78 and the Lambertazzi properties review of 1286–87, in addition to serving frequently as an ambassador. In 1297, he was one of the Eight Lords of War, and in 1303–04, he was one of the jurists who formed a “*junta*” that wielded great control over the commune.<sup>140</sup> At least one branch of the family simultaneously had magnate status. Bitino di Rodolfo *Pacis* served as a guarantor for prominent nobles

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juridical professions to popular elements” (l’adesione degli *iudices* al codice culturale della nobiltà cittadina... così robusta e interiorizzata da poter assorbire senza traumi né grossi patimenti d’animo la progressiva apertura delle professioni giuridiche agli elementi popolari). *Ibid.*, p. 176. But see part II of this chapter for a discussion of the concept of nobility at Bologna.

<sup>137</sup> ASB, Capitano, Giudici, Reg. 59, fols. 5r–7r, Aug. 16, 1284. A witness described how a person charged with being a Lambertazzi was indeed a Geremei and testified that he knew this since he saw him at the time of the first conflict (*rumor*) fighting alongside the *de Pacibus* and their neighbors continuously against those of the Lambertazzi party.

<sup>138</sup> ASB, Capitano, Giudici, Reg. 44, fols. 21v–22v, Aug. 21, 1283. Belvillano was charged as a magnate and *potens* who had made a fictitious contract. He asserted he was “*de populo et privilegiato comunis Bononie*,” and was acquitted. However, he does not appear as a *popolo* officeholder in my database of officeholders. He presented *consilia* in the Capitano’s court, for example, in 1285. ASB, Capitano, Giudici, Reg. 66, fol. 109v, Feb. 22, 1285. He also held communal offices, for example, as one of the supervisors of the communal mills, ASB, Riformagioni 126, fol. 9r, 1278, and as an ambassador to Imola in 1296. ASB, Tesoreria B, 1–7, Reg. 4a, fol. 27v, March 24, 1296.

<sup>139</sup> Jehn, “Die Versteckte Macht,” for Pace *de Pacibus* as a writer of *consilia*. ASB, Comune-Governo, Riformagioni e provvigioni, serie cartacea, Busta 216 (1288–1296), Reg. 5, fol. 70r, June 24, 1288 for Pace *de Pacibus* as advocate for the Templars.

<sup>140</sup> Cherubino Ghirardacci, *Della historia di Bologna* (Bologna: Simon Parlasca, 1605), vol. 1, p. 298.

and magnates, for example, in 1283 for Borniolo da Panico, son of Count Maghinardo, and in 1292 for Gerarduccio di Comacio Galluzzi when the latter posted security as a *miles comunis*.<sup>141</sup> In 1297, moreover, Rodolfo di Belvillano served as one of the magnate captains of the *castelli* and Pace himself served that year as one of the officials of the *bollechte* with the designation “pro magnatibus.”<sup>142</sup> Belvillano *de Pacibus*, who had successfully defended his *popolo* status in a trial of 1282, served as a magnate guarantor for the syndication of the podesta in 1293.<sup>143</sup> Thus, Pace *de Pacibus* and his relatives probably were declared magnates in the last years of the 1280s or the first two years of the 1290s, at least a decade before he was dubbed a belted knight by the commune in 1303.<sup>144</sup> The family retained magnate status into the fourteenth century, with three members of the *de Pacibus* serving as magnate guarantors for the outgoing podesta in 1313.<sup>145</sup>

Fluidity in political bans, that is, the expulsion and then readmission of political opponents and accompanying changes in status, also characterized changes in status from citizen to infamous person for penal bans and convictions. A person had to be expelled from his guild or arms society because of his juridical status as a *persona infamata* if he were a condemned person or a person banned for a crime, although the distinction between political bans and criminal bans tended to blur in the early fourteenth century. However, if that penal status were removed, usually by payment of the fine, the condemned or banned person could reclaim his *popolo* status and guild membership. For example, Albertuccio di Ubertino da Budrio entered the notaries' guild in 1263.<sup>146</sup> In 1285, he was expelled from that guild and from the arms society of the Dragons by order of the Capitano because he had been

<sup>141</sup> ASB, Capitano, Giudici, Reg. 44, fols. 4r–8v, April 1283. ASB, Camera del Comune, Procuratori del Comune, Busta 4, Reg. 41, fol. 27v, December 1292.

<sup>142</sup> ASB, Capitano, Giudici, Reg. 317, fols. 8v–9v, 1297. Rodolfo di Belvillano *de Pacibus de nobilibus* served as captain of Castel Savigno.

<sup>143</sup> ASB, Camera del Comune, Procuratori del Comune, Busta 4, Reg. 39, fol. 1r, Jan. 2, 1293.

<sup>144</sup> See above, footnote 80.

<sup>145</sup> ASB, Camera del Comune, Procuratori del Comune, Busta 6, Reg. 67, fol. 6v, Jan. 1, 1312. The three were Carlino *de Pacibus*, Folco *de Pacibus*, and Giacomo *de Pacibus*. Folco *de Pacibus* served as a witness in a trial in 1323 and is described there as “miles et legum doctor.” ASB, Podesta, Inquisitiones, Mazzo 109, Reg. 2 (581,406), fol. 138r, May 6, 1323.

<sup>146</sup> *Liber sive matricula notariorum comunis Bononie (1219–1299)*, ed. Roberto Ferrara and Vittorio Valentini (Rome: Consiglio nazionale del Notariato, 1980), p. 228.

convicted of a crime. But later, after he had paid a large condemnation of 1,000 pounds (presumably, given the size of the fine, for a major crime), he appealed his removal from the popular societies and can be found re-enrolled in the new *matricula* of the notaries of 1294.<sup>147</sup> He must have won reinstatement earlier since he was already serving in the Consiglio del Popolo by 1293.<sup>148</sup>

To add further to the *pasticio*, even the exemption for the families of *milites* in the merchants' and bankers' guilds changed. In 1314, in provisions made for another examination of the membership rolls of the arms societies, the usual definition was given of *milites* and their sons, brothers, descendants, etc., as those to be denied membership in the popular societies, with the specific provision that henceforth these knights and their relatives were to be designated as magnates. There is no mention, however, of the exemption discussed above for the relatives of knights who were members of the merchants' and bankers' guilds. Instead, a list of families is given for whom the exemption was to be made. In the case of those particular families, the relatives of a *miles* were *not* to be designated as magnates and were not to be denied membership in the guilds and arms societies.<sup>149</sup> Most of these families were merchant-bankers, but many others from those guilds, with the loss of their exemption, thereby lost their status as *popolani* and their right to participate in the *popolo* councils and offices. This change in the use of exemption from a guild-basis (merchants and bankers) to a family-basis parallels the change in politics described above in Chapter Three, a change in place by 1307. Moreover, as discussed below in Part II of this chapter, several of these families, e.g., the Balduini,

<sup>147</sup> ASB, Capitano, Reg. 81, fol. 27r, Sept. 5, 1285, for the order to expel him. ASB, Capitano, Reg. 120, fol. 36v, Feb. 12, 1289 for his appeal for reinstatement. For his membership in 1294, ASB, Libri matricularum, Busta II, 1294, Notariorum.

<sup>148</sup> ASB, Podesta, Accusationes, Busta 12a, Reg. 9, 1293 II, fol. 9r (but non-paginated), Jan. 23, where he is listed as having been fined 5 *solidi* for not attending a meeting of the Consiglio del Popolo (as a member of the contingent for the notaries), and again, fol. 83r (non-paginated, but has number lxxxvi), in the notaries' contingent for not attending a meeting of the Consiglio del Popolo and fined. The date given of the meeting is April 13 and the sentence is April 27.

<sup>149</sup> ASB, Comune-Governo, Provvisioni IV, May 29, 1314. The list includes those *de domo* of the Boatteri, *de domo* Sabadini, *de domo* Balduini, *de domo* Piatessi, Sandro da S. Pietro, Massimo di Rolandino Tebaldi and his nephews or grandsons ("et nepotibus eius"), Bartoluccio and Bonacursio Romanzi, those *de domo* Beccadelli *vel* Artenisi, *de domo* Mezzovillani, *de domo* Gozzadini, Gerardo Ghisilieri, Mino di Beccadino Beccadelli, Comacio Ghisilieri, Bornio Samaritani, and those *de domo* Gattari.

Piatesi and Tebaldi, had been declared magnates in 1294, but had later regained their *popolo* status.

Changes over time in legal definitions also added to the confusion in other categories of excluded groups. As described above in Chapter One, the definitions of foreigners and *fumantes* changed, as did the requirements for persons of those ranks according to different specified situations. Even the distinctions between citizens and *fumantes* became blurred. On the one hand there were very specific lists of *fumantes* who by definition were supposed to pay their taxes in the *contado* and live in their rural communes, but on the other hand, a citizen could live in the *contado* with his family.<sup>150</sup> Milani has shown how the definition of a Lambertazzi expanded from one who had participated in the conflicts of 1274 to include, after the renewed expulsion of the Lambertazzi in 1306, not only the descendants of original or “ancient” Lambertazzi, but also “new” Lambertazzi. Even the descendants of Lambertazzi who had sworn allegiance to the Gereimei were caught up in this new, much broader definition. Essentially the status of Lambertazzi came to be a category for all enemies of the commune.<sup>151</sup>

The blurring of identity was further deepened by political divisions within families. The most obvious of these divisions are those cases in which families chose differently between the Lambertazzi and Geremei, as in the case of the counts of Panico and the Asinelli who split their allegiance between the Geremei and Lambertazzi in 1274.<sup>152</sup> Two studies by Armando Antonelli, on the Garisendi and the Maggiani, respectively, detail the common ancestry but different political paths and eventual legal status of branches of those families, divided

<sup>150</sup> ASB, Capitano, Giudici, Reg. 226, fols. 42r–42v, Dec. 15, 1293–Jan. 4, 1294, for testimony of such an instance. The *inquisitio* for this case is in ASB, Capitano, Giudici, Reg. 227, fols. 10r–11v, Nov. 3–Dec. 8, 1293.

<sup>151</sup> Milani, *L'esclusione dal comune*, p. 412: “[L]’esclusione fondata sul perseguimento di una condizione (quella di lambertazzo) aveva cominciato a cedere il passo a un’esclusione fondata sull’accertamento di un grave reato, quello di ribellione. In altre parole, l’orizzonte eccezionale dell’appartenza al partito sconfitto cominciò a essere inquadrato in un concetto, quello di *rebellio*, capace di comprenderlo assieme ad altri comportamenti.”

<sup>152</sup> Giuliano Milani, “Lotta di fazione e comunità montane nella documentazione giudiziaria bolognese tardoduecentesca” in *Signori feudali e comunità appenniniche nel medioevo. Atti delle Giornate di Studio Capugnano, 2,3,4 settembre 1994*, ed. Paola Foschi and Renzo Zagnoni (Pistoia: Società Pistoiese di Storia Patria, 1995), pp. 91–100, esp. p. 94.

between magnates and *popolani*, Lambertazzi and Geremei.<sup>153</sup> Differing political choices also could mean a change in status from *popolo* to magnate for certain individuals of the same family. Thus, in 1320 certain *popolano* families were categorized as having to post securities for their good behavior and had imposed upon them the threat of status change for their members. The families were *popolani*, but the law provided that if any member of these families committed an “enormous” crime against another *popolano*, that individual would become a magnate, although the house itself would remain *popolano*. These families were further split, status-wise, by exceptions to this provision, as in the case of the da Sala, with the exemption for seven of that family’s members from the obligation to post securities and from the threat of status change.<sup>154</sup> When the Pepoli were banned in July 1321, Filippo di Zoene Pepoli, from a collateral branch of that family, was exempted from the bans against the rest of the Pepoli.<sup>155</sup> In May 1322,

<sup>153</sup> Armando Antonelli and Riccardo Pedrini, “La famiglia e la torre dei Garisendi al tempo di Dante,” in *La torre Garisenda*, ed. Francisco Giordano (Bologna: Costa, 2000), pp. 23–89. The Garisendi were at the vertex of government in the consular governments of the twelfth century but invested broadly, not only in landed properties, but in trades. They entered the guilds and achieved a prominent role in the *popolo* government. Whereas some of the Garisendi were knights and magnates, those who had entered the societies remained *popolani*. The family also split between those who supported the Lambertazzi and those who adhered to the Geremei. In the case of the Magnani, Antonelli found several branches, two descending from the same Magnano, one of which, the Magnani of *cappella* S. Tommaso della Braina, were *popolani* and Geremei and participated in the government and societies from the 1270s and 80s. In contrast, a second branch, the Guinizzelli, participated in the government from the first decades of the thirteenth century, had marriage ties with urban magnates and *contado* nobles, and allied with the Lambertazzi. They were of magnate status in the late thirteenth century.

<sup>154</sup> ASB, Comune-Governo, Provvigioni IV, fol. 122r, March 27, 1320 and April 1, 1320 for the exceptions for the da Sala. ASB, Comune-Governo, Provvigioni e riformagioni, serie cartacea, Busta 220, Reg. 31, fols. 73v, 79r–82v, Sept. 16 and 19, 1320. The families included the Beccadelli, Bentivoglio, Azzoguidi, Bianchi di Cosa, Gozzadini, Rombolini, Preti, and the da Argelata, in short, some of the most politically powerful *popolano* families of the period. The crimes for which the status change would be applied are given as homicide, assault with effusion of blood, fracture of bones, rape, arson, robbery, theft, dispossession of property by force, false accusation, false testimony, aid to *banniti*, and assistance in committing any of the above. The magnate status would also apply to their descendants. The families were selected by election in the Consiglio del Popolo from a list of names compiled by the anonymous deposit of names into a box (*capsa*). The provisions against eight families and twenty individuals were temporary, however, and were overturned in November. Ibid., Reg. 32, fols. 34r–35v, Nov. 7, 1320.

<sup>155</sup> ASB, Comune-Governo, Provvigioni IV, fols. 140r–141r, July 24, 1321. Also Antonioli, *Conservator pacis et iustitiae*, pp. 78–79 for more on Filippo.



the Gozzadini family plotted with Giovanni da Bisano and the Mantici family against the government and in favor of the Pepoli exiles, but two members of that family, *Poluncinus* and *Bucinus*, sons of Bonifacio Gozzadini (they were both notaries) revealed that conspiracy, which subsequently failed. Whereas the other members of the family lost their privileges as *popolani* and were confined to specific places in the *contado*, the two brothers were recognized as “good citizens and true lovers of the liberty of the *popolo* of Bologna and the Geremei Party,” despite the provisions against their family.<sup>156</sup>

Finally, although the *popolo* party at Bologna was not divided between the greater and lesser guilds, as it was at Florence, there were distinctions within the *popolo* that conferred a special legal status on an inner group—the “privileged.” Just as the magnates included a subset of *lupi rapaces* with legal liabilities, so the *Societas Populi* included a subset of privileged members of the guilds and arms societies, whose status gave them extraordinary legal privileges and benefits. These privileges included the use of summary justice against their enemies, the carrying of offensive and defensive weapons, the application of heavier penalties against those who injured them, and certain immunities from legal prosecution, both civil and criminal. These privileges are discussed below in detail in Chapter Five, section 6, but at this point it should be noted that the number of *popolani* who were privileged varied significantly during the period, from only hundreds of officials in the 1280s and ninety-nine individuals in 1321, to a high point in 1310 of nearly 6,000 individuals—a figure equal to at least half the members of the *popolo* party. (In fact, it constituted an even higher percentage since the relatives of these individuals were also privileged.)

Legal status thus constituted the most important defining characteristic for eligibility to participate in the political and administrative life of the commune, yet the ambiguities of status and the subsequent blurring of identity rendered political life extremely complex and litigious. How the commune resolved problems of identity and the relationship between legal definitions and popular perceptions of status comprise the questions to be addressed in Part II of this chapter.

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<sup>156</sup> ASB, Comune-Governo, Provvigioni IV, fols. 174rv, May 31, 1322.

## CHAPTER FOUR

### PART II. PERCEPTIONS OF IDENTITY AND PROOFS OF STATUS

As described above in the first part of this chapter, ambiguities and confusion characterized the legal definitions of excluded groups throughout the thirteenth century.

During the course of the century, however, as we shall see, the idea that the government determined status by the compilation of binding lists became a dominant principle of exclusion. By the early fourteenth century those lists became the basis for constructing status and identity on a hereditary basis. But the primacy of lists did not establish a fixed nobility nor result in absolute modes of status assignment. Moreover, hereditary-based closure did not produce perceptions of social identity that were consonant with classifications of legal status. What it did produce was a deeply divided society separated by legal barriers.

#### 1. LAMBERTAZZI

The most dramatic and clearly delineated instance of this process of dividing society into distinctive legal groups was the construction of a permanent and hereditary political class of outsiders—the Lambertazzi. In his masterful analysis of the Lambertazzi, the faction excluded by the triumphant Geremei in 1274, Milani shows how the commune's policy evolved from treatment of the Lambertazzi as persons guilty of criminous behavior against the commune and *popolo* of Bologna, to control of a category of second-class citizens.<sup>1</sup> He also demonstrates

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<sup>1</sup> Giuliano Milani, "Dalla ritorsione al controllo. Elaborazione e applicazione del programma antighibellino a Bologna alla fine del Duecento," *Quaderni storici* 94 (1997): 43–74, esp. p. 47. Lambertazzi who remained in the city paid a separate and more onerous *collecta* and had a separate *assignatio equorum* (they themselves could not serve in the cavalry, but had to pay for someone else to ride the horse assigned to them), and were handicapped in the courts of the podesta. The last point is discussed below in Chapter Five. Those who had sworn allegiance to the Geremei and commune could be members of the popular societies (until the final expulsion of the Lambertazzi in 1306), but they could not hold communal or *popolo* office. Also see his *L'esclusione dal comune*, pp. 291–327.

the development of a progressive reliance on lists in the construction of political identity. These lists were compiled by specially appointed commissions. For example, in 1274 each of the guilds and arms societies supplied two *sapientes* who, together with the *anziani et consules*, comprised a commission of over 100 persons. The commission was given authority to compile a list of *suspecti*—those believed to be adherents of the Lambertazzi party.<sup>2</sup>

In the initial years after the expulsion of the Lambertazzi in 1274, the designation of Lambertazzi was based on *publica fama* as the primary means of proof. Milani describes *fama* as comprising not only the reputation of an individual (*fama hominis*), but also the reputation of something or someone existing among men (*fama alterius rei inter homines existentes*), as distinguished by Alberto Gandino in his *duecentesco* treatise on criminal procedure.<sup>3</sup> A register from 1275 comprises a treasure trove of the perceptions on which *publica fama* was based and status as a Lambertazzi established.<sup>4</sup> Witnesses justified their belief that a person was a Lambertazzi for a variety of reasons: attendance at a meeting of party members or at a government council meeting during which the imputed supported the arguments of the Lambertazzi party, or, most commonly, for fighting with the Lambertazzi during the uprisings of April and May 1274 in the communal *platea*. They also cited someone's fighting against the Geremei at Forlì and Faenza or other places to which the Lambertazzi fled after their expulsion from Bologna. Some evidence supplied by witnesses was more indirect, such as the claim that an alleged Lambertazzi must have been a Geremei since he was overheard arguing with his godfather and protesting against the latter's opposition to provisions of the Geremei *sapientes*. Whether testimony concerned an imputed's actions or expressed opinions, however, it generally was based on eyewitness reports as well as on *publica fama*—on how many people believed that

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<sup>2</sup> Milani, *L'esclusione dal comune*, pp. 255–256, 259. The authorizing body for some of the early commissions, e.g., those of 1274 and 1277, is not known, but later commissions were authorized by the Consiglio del Popolo.

<sup>3</sup> Milani, "Il governo delle liste," pp. 197, 205–206. He notes that the distinction between the two is blurred in the trials and his discussion of those records makes it clear that he includes as *fama* the evidence given by eyewitnesses about the behaviors of alleged Lambertazzi.

<sup>4</sup> ASB, Capitano, Giudici, Reg. 1, 1275. This register is discussed in Milani's "Il governo delle liste," pp. 201–213, and in his *L'esclusione dal comune*, pp. 292–299. It was also discussed earlier by Koenig, *Il "popolo" dell'Italia*, pp. 392–398.

the imputed was a Lambertazzi and in how many neighborhoods he had that reputation.

The first of two steps towards the primacy of lists as proof in the identification of Lambertazzi took place in 1277. Until that time the existing lists had consisted of several different types, for example, lists of special tax collections (*collecte*) against the Lambertazzi, or a special assignment for the maintenance of communal horses (*assignatio equorum*), or a list of *suspecti*.<sup>5</sup> There were, however, duplications and omissions among such lists, which sometimes generated confusion rather than clarity in identifying Lambertazzi. In contrast, the list of 1277 comprised all those who had been banned or confined (that is, required to live in certain designated locations in the *contado* or in other cities). While recognizing that *publica fama* continued to constitute important evidence, Milani describes this list of 1277 as marking a major shift towards the authority of lists in identifying Lambertazzi.<sup>6</sup>

The second step towards the primacy of status by lists took place almost ten years later with passage of a law that accompanied the compilation of a new definitive list of Lambertazzi that superseded all earlier lists.<sup>7</sup> The new law of November 1286, later incorporated into the Statutes of 1288, specified that accusations could *not* be made against any Bolognese “who had resided in Faenza or anywhere else with the enemies of the commune of Bologna, or who had sworn allegiance to the party of the Church [that is, to the Geremei], or was obedient to the commune of Bologna, or who was not registered in the books of the banned and *confinati* Lambertazzi since the time of the first conflicts [of 1274], or who was younger than fourteen years at the time he was accused of having resided in Romagna, or in other places with the enemies of the commune.”<sup>8</sup> Milani views this law as the most decisive moment in the transition from *publica fama* to the

<sup>5</sup> Milani, *L'esclusione dal comune*, pp. 254–260.

<sup>6</sup> Milani, “Il governo delle liste,” pp. 223–227, 229 and *L'esclusione dal comune*, pp. 257–260.

<sup>7</sup> Milani, *L'esclusione dal comune*, pp. 274–275.

<sup>8</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk.V, Rubric CXX, “De hiis qui denuntiari non possunt vel accusari quod steterint cum inimicis communis Bononie,” p. 489: “Item quod nulla persona de cetero possit denuntiare, accusare, notificare aliquam personam que steterit in civitate Faventie vel alibi cum inimicis communis Bononie, que iuraverit partem ecclesie vel sit hoberiens communi Bononie, vel que non sit conscripta in libris bannitorum vel confinatorum de parte Lambertationum communis Bononie a tempore primorum rumorum citra, vel que fuerit minor XIII annis eo tempore de quo accusabitur stetisse in partibus Romaniole vel alibi cum inimicis

authority of the lists, and as the “criterio-guida” in the identification of Lambertazzi.<sup>9</sup>

What was the context and impetus to such a significant change? Milani links the change in criteria to the compiling of new lists in 1286–87, and certainly the two developments were closely related, but the context for this transition to the primacy of lists can profitably be examined more closely. Two trials that were in process when the November 1286 law on the criteria was passed were suspended as a result of that law. Both of those trials concerned individuals who were charged with being Lambertazzi on the basis (at least in part) of having fought with the Ghibellines and Lambertazzi at Faenza and Forlì against the Geremei of Bologna.<sup>10</sup> Although this type of charge (based on fighting at Faenza and Forlì) had been relatively rare, there was a flurry of such accusations in the months preceding its prohibition in November 1286. Among the 284 extant trials between April 1283 and March 1286, there are only two charges with references to fighting at Faenza and Forlì (less than 1 percent), but nine of the fifty-eight cases from October and November 1286 (15.5 percent) were of that type.<sup>11</sup> The increase in such charges was probably due in part to the

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communis Bononie, nec possit procedi de cetero in accusationibus porectis factis in aliquo de predictis casibus.”

<sup>9</sup> Milani, “Dalla ritorsione,” p. 48: “Quattro anni più tardi [that is, in 1286] gli elenchi divennero il criterio-guida: una delibera affermò che non poteva essere accusato nessuno che non fosse stato già inserito negli elenchi. Quest’ ultima formulazione fu accolta nello statuto ‘del popolo’ del 1288, accompagnata da tracce di altri criteri connotative (la frequentazione dei nemici ghibellini a Faenza e Forlì).”

<sup>10</sup> ASB, Capitano, Giudici, Reg. 95, fols. 51r–52r, 31r–35r. *Polonus* di Domenico was charged with being at Faenza after the expulsion of the Lambertazzi along with two other Lambertazzi, and having served during his stay there in the armies and expeditions against the Geremei. The trial was initiated on Oct. 25, 1286 and proceeded through Nov. 7. A marginal note explains the trial was not to proceed against the said *Polonus* on the basis of a prohibition of such notifications made by the Consiglio del Popolo. The second trial was initiated on Oct. 16, 1286 against Rolando Bonsignore *Pacualdus*, who was charged with being a Lambertazzi at the time of the uprisings, with having fought with the Lambertazzi in the *platea* at Bologna, and with having gone to Faenza and having served there against the Geremei. The testimony of witnesses concluded on Dec. 1, and in February 1287 the judge ordered a *consilium sapientis*, which resulted in an opinion favorable to Rolando. The *sapientes* gave two reasons for their opinion. First, they determined that Rolando was not the *Pacualdus* who was a Lambertazzi. Second, they quoted the new ordinances forbidding charges in certain cases, as cited above.

<sup>11</sup> The two cases in the first group are from May 1284, ASB, Capitano, Giudici, Reg. 63, fols. 53r–54v, 57v, and March 1285, Reg. 67, fol. 61r. The cases in the second group are two from Reg. 94, fols. 7r–9r, 24r–25r and seven from Reg. 95, fols. 28r, 31r, 51r–52r.

potential application of this type of charge to more individuals, since the fighting referred to included not only that which took place after the first expulsion in 1274, but also to the fighting that took place in 1280, after the second expulsion. During the general interrogation (*inquisitio generalis*) of parish officials (*ministrales capellarum*) that took place each month, one of the questions asked was whether the officials knew of anyone living in their parishes who had fought for the Lambertazzi in August 1280 or since then, or had resided at Faenza and Forlì.<sup>12</sup> Moreover, on Oct. 14, 1286, in the legislative proposals (*provvigioni*) pertaining to those who were permitted to swear allegiance to the Geremei, those who had fought at Faenza and Forlì were specifically excluded.<sup>13</sup>

This type of charge (based on fighting at Forlì and Faenza) had become a preferred mode of accusation in 1286, at the same time that the commune faced a burgeoning and major problem of false accusations in both the Capitano and the podestà's courts. A rare register of bans from the Capitano's court shows the prominence of false accusations that year, including cases in which the charge depended upon evidence of the imputed's having fought at Forlì and Faenza.<sup>14</sup> One of the motives for the new law of November 1286, the "criterio-guida" delimiting the types of charges that could be made against Lambertazzi, was the challenge of false accusations. Indeed, the new law was part of a series of measures concerning false accusations in the courts of the Capitano and podestà. One of those measures gave the Capitano explicit authority over false accusations made in his court.<sup>15</sup> A register

<sup>12</sup> ASB, Capitano, Giudici, Reg. 72, fols. 73r–74v, Reg. 75, fols. 1rv, Reg. 95, fols. 1rv: "Item si sunt illi qui tempore rebellionis facte per lambertaccios contra Romanam ecclesiam in millesimo CCLXXX indictione viii de mense augusti et ab inde citra qui guerrevaverunt comuni Bononie vel steterunt Fauentie et Forlini."

<sup>13</sup> ASB, Capitano, Giudici, Reg. 97, fol. 1v: "In primis providerunt... quod omnes et singuli de parte lambertaciorum qui juraverunt partem ecclesie et geremensium civitatis Bononie secundum formam alicuius specialis aut generalis reformationis consilii comunis vel populi extrahantur et cancellentur de libris bannitorum et confinatorum comunis Bononie pro lambertaciorum, exceptis illis qui post juramentum partis geremensium fuissent (illegible) vel qui discessissent de civitate Bononie et ivissent ad standum Fauentiam vel Forlini vel ibi cum inimicis et rebellibus comunis Bononie."

<sup>14</sup> ASB, Capitano, Giudici, Reg. 91. Three of the ten trials concerned false accusations and one concerned false testimony.

<sup>15</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric CXVI, "Quod acusationes fieri non possint de acusacionibus que dicerentur false esse facte de nobilibus et potentibus, nisi coram ministerialibus qui preherunt aliis societatibus populi," pp. 483–486; Rubric CXVII, "De arbitrio concesso domino capitaneo super acusacionibus,

from the period immediately after the enactment of the false accusation legislation indicates the scope of the problem and the impact of the legislation. Nine of the sixteen trials between Dec. 7, 1286 and March 5, 1287 concerned false accusations or false testimony, and several of those trials concerned cases from the preceding October of 1286.<sup>16</sup>

The ultimate triumph of the authority of the lists and the hereditary principle came with the return to power in 1306 of the “intransigent” or ultra-Guelfs, and with the subsequent third and final expulsion of the Lambertazzi. As Milani shows, in contrast to the earlier expulsions, in 1306 only 200 Lambertazzi were actually banned. Another 100 men, including Lambertazzi, Ghibellines, and leaders of the moderate wing of the Guelf party that had dominated the government during the preceding decades, were placed under confinement. However, all descendants of anyone registered at any time since 1274 as a Lambertazzi were relabeled as Lambertazzi and assigned the status of *interdicti*, which meant they were forbidden all political and military participation in the life of the commune, including exclusion from the popular societies.<sup>17</sup> In 1308, all those who had been listed as banned in the books compiled in 1287–88 (the “criterio-guida” discussed above) were again to be considered under ban and all trials that had annulled the ban status of anyone on those lists were in turn now nullified. The commune had created a permanent, hereditary class of second-class citizens who were also burdened with special heavy taxes and were disadvantaged in the courts of the podesta.<sup>18</sup> The classification of Lambertazzi also served as a receptacle for new groups who

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denuntiationibus et notificationibus falsis faciendis et testibus producendis in certis casibus infra positus,” pp. 486–487; Rubric CXVIII, “De modo et forma accusandi communia, universitates vel singulares personas districtus Bononie de rectinendo banitis de parte Lambertaciorum vel dando eis consilium vel favorem,” pp. 487–488; Rubric CXX, “De hiis qui denuntiari non possunt vel accusari quod steterint cum inimicis communis Bononie,” p. 489; Rubric CXXI, “De arbitrio domino potestati concesso contra accusantes de dampnis datis,” pp. 489–490; Rubric CXXII, “De accusationibus certo tempore non fatiendis de stupla,” p. 490. The 1283, 1284 and 1286 statutes concerning false accusations are discussed by Menzinger, *Giuristi e politica nei comuni di popolo*, pp. 283–284. False accusations are also discussed by Milani, “Dalla ritorsione,” p. 49, and by Jehn, “Die Versteckte Macht,” pp. 304–305, 479.

<sup>16</sup> ASB, Capitano, Giudici, Reg. 88.

<sup>17</sup> Milani, *L'esclusione dal comune*, pp. 377–379.

<sup>18</sup> Milani, *L'esclusione dal comune*, p. 389, for the 1308 decision and the *riformazioni* pertinent to it and p. 395 and his chapter 7 for the taxes. See below, Chapter Five, section 6, for the status of the Lambertazzi in the podesta's courts.

came to be defined as political enemies of the dominant party, e.g., the “Maltraversa” party (hostile to the Pepoli faction), after 1310, and after the exile of the Pepoli in 1321, their followers, the “Scacchesi.”<sup>19</sup> This expansion of the classification of Lambertazzi and narrowing of the base of citizens who could participate in political life corresponds chronologically, and not coincidentally, to the tightening of oligarchy that was discussed above in Chapters One–Three.

Stretching the Lambertazzi classification to include new groups of political enemies gave the category greater elasticity and opened the door to accusations based not on pre-existing lists but on *de novo* labeling of an individual as a Lambertazzi. Such accusations were rare, but the trial against Salvuccio di Gerardo Surici in 1317, particularly remarkable in its evocation of distant memories, shows how in such a case the evidentiary base for the accusation included the same perceptions of Lambertazzi identity that had prevailed in 1275. According to the charge, at a meeting of officials in March 1317 at the residence of the Franciscans, in the presence of the *vicarius* judge of the Capitano and *anziani* who were in office that month, Salvuccio’s name was extracted from the bags of those nominated for that office. He was duly selected to serve as *anzianus* for the month of April. When asked by the *vicarius* if he wished to accept or renounce that office, he said “openly and expressly” that he wished to accept it. However, on April 11 an *inquisitio* was opened that charged Salvuccio with having accepted the post of *anzianus* for the arms society of the Horses in violation of a law of 1299 that forbade any Lambertazzi or descendant of a Lambertazzi from holding any communal or *popolo* office (which was a restatement of the original law of 1284). Unlike earlier trials, but not unique in this later period, there was no accuser in this case. Instead, a notary from the office of the *barisellus* (the official who traditionally protected the Geremei and *popolo* from the Lambertazzi) served as prosecutor or *coadiunctor*. Usually, however, when there was a *coadiunctor*, he was a non-official from outside the court.<sup>20</sup>

<sup>19</sup> Milani, *L’esclusione dal comune*, p. 379.

<sup>20</sup> ASB, Capitano, Giudici, Reg. 630, fols. 2v–18v, April 4–11, 1317. See below, section 11, for more on this trial. For the *coadiunctor* see Chapter Five, section 3. On the *barisellus* see Antonio Ivan Pini, “Manovre di regime in una città-partito. Il falso Teodosiano, Rolandino Passaggeri, la Società della Croce e il ‘barisello’ nella Bologna di fine Duecento,” *Atti e memorie della Deputazione di storia patria delle province di Romagna*, new series, 49 (1999): 281–318. Other trials that involved the *barisellus* have survived from 1321, see ASB, Capitano, Giudici, Regs. 688 and 694.



Again in contrast with the majority of such cases, we know from other sources that the Surici family had long been *popolano* and recently had held a prominent position in the *popolo* party. Three members of that family are listed in a recopy with later additions of the 1233 *matricula* of the arms society of the Claws,<sup>21</sup> and the family was also enrolled by 1274 in the guilds of the notaries and haberdashers.<sup>22</sup> Salvuccio's father was a judge and provided a *consilium sapientis* in the Capitano's court in 1281 in a membership dispute concerning the guild of the weavers and sellers of linens and another on a piece of Lambertazzi property in 1282.<sup>23</sup> Salvuccio himself in 1295 was elected approver (*approbator*) of guarantors for those posting securities, an elevated administrative position which required that he post securities of 3,000 pounds.<sup>24</sup> Members of the family appear seven times in my Consiglio of the Popolo database between 1303 and 1320, and ten times in my anzianate database between 1314 and 1320.<sup>25</sup> *Comissa* and Enrighetto, sons of Pace Surici, were banned in 1305 for their part in a conspiracy against the then dominant pro-Ghibelline White Party.<sup>26</sup> Not surprisingly, Salvuccio's guarantors in this 1317 trial were men from very prominent families, including Taddeo di Romeo Pepoli, the future *signore* of Bologna. That the trial had its origins in conflicts outside the parameters of the trial is indicated by the extremely unusual injunction by the judge that neither the *coadiunctor* nor the defendant were permitted to appear in court on this occasion "with a multitude of persons, but could and were supposed to come with two judges and one or two attorneys on each occasion of the trial."<sup>27</sup>

<sup>21</sup> ASB, Capitano, Società d'arti e d'armi, Busta I. Deotesalvo Surici, *Meglorinus* Surici and his brother Pace Surici. All three are also in the *matricula* of the arms society of the Claws from 1274. ASB, Capitano, Libri matricularum, Busta I.

<sup>22</sup> ASB, Capitano, Libri matricularum, Busta I. Pace Surici was notary in the haberdashers and Geremia di Parte Surici was also a member of that guild in 1274. In 1276, Virgillio *Meglorini* Surici was admitted into the notaries' guild. Ferrara-Valentini, *Liber sive matricula notariorum*, p. 334. Enrighetto di Pace Surici was admitted into the notaries in 1282. *Ibid.*, p. 361.

<sup>23</sup> ASB, Capitano, Giudici, Reg. 15, fol. 12v, Oct. 24, 1281 and Reg. 20, fol. 80r, June 8, 1282.

<sup>24</sup> ASB, Capitano, Giudici, Reg. 280, fol. 17r, June 14, 1295.

<sup>25</sup> See above, Chapter Three.

<sup>26</sup> ASB, Podesta, Accusationes, Busta 27a, Reg. 20, fols. 56r–57v.

<sup>27</sup> ASB, Capitano, Giudici, Reg. 630, fol. 7r: "cum multitudo gentium, set possint et venire debeant cum duobus iudicibus et uno vel duobus procuratoribus pro qualibet occaxione questionis."

There is no reference in the charge to any listing of Salvuccio or any of his ancestors in any list of Lambertazzi *banniti* or *confinati*, nor did Salvuccio claim that any error had been made in any such list. Nor is there any reference in this trial of 1317 to a trial of Lambertazzi identity against Deotesalvo Surici which was held in 1275. The earlier trial ended with acquittal of Deotesalvo, who proved by the testimony of witnesses that he had fought with the Geremei. Deotesalvo also produced documents which showed that he had been approved as a Geremei by his guild and that his father Pace was a Geremei.<sup>28</sup>

In the 1317 trial Salvuccio produced both documents and witnesses for his defense. Two documents concerned assignments of horses to Geremei (one for his brother), a third was a document showing that he, Salvuccio, had served as a member of the Consiglio del Popolo during the regime of the Capitano *Monaldius de Serra*, and another that showed his brother, Deotesalvo di Gerardo Surici, had served as captain of Castel Seravalle. But he also produced five eyewitnesses to address events that took place more than forty years earlier. One witness, in testimony reminiscent of the type given in the early years after the Lambertazzi expulsion, said he was an eyewitness to the events of 1274 when the Lambertazzi were expelled from the city. At that time he had seen Salvuccio's father Gerardo fighting against the Lambertazzi with men from the Rodaldi and Bianchi di Cosa families. He also said he knew Gerardo (also referred to as Gerarduccio) during the years prior to the first expulsion in 1274 and that Gerardo, who had died twenty years prior to this trial, always had been a Geremei. As for Salvuccio, this witness testified that at the time of the first expulsion, Salvuccio was a child of only eight years, but the witness had seen him with his father, shouting "death to the Lambertazzi." He also said that since that time he had always served the Geremei party "in his person and possessions as had other citizens of Bologna." Another witness testified similarly, adding that after the first expulsion Salvuccio had served militarily for the Geremei against the Lambertazzi and maintained horses for the commune, guarded the commune's fortresses and was a member of the councils. The other three witnesses were all very young during the conflicts of 1274 and in subsequent fighting, and testified how they were with Salvuccio when he and they served as hostages for the Geremei for many months at Castel S. Pietro and

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<sup>28</sup> ASB, Capitano, Giudici, Reg. 1, fols. 1r, 5v.

at Imola thirty-six years earlier. On April 19, the judge precepted the *barisellus* to oppose Salvuccio, but he did not do so. Although no verdict is given, Salvuccio was clearly acquitted since he appears in the records as *anzianus* in December 1319.<sup>29</sup>

Thus, as demonstrated in the Surici trial, perceptions of Lambertazzi identity remained remarkably stable over the decades, despite the broadening of the category to include new groups. As we shall see, however, the decision-making process of identifying those who were politically excluded as Lambertazzi did undergo change. Final decisions moved from the court of the Capitano's *vicarius* judge to the Consiglio del Popolo. In a development similar to one that took place during the same period in the podesta's court (discussed below in Chapter Five, section 7), by the 1320s the final decision in a Lambertazzi trial might be made not by the Capitano's judge, but by the Consiglio del Popolo itself. This development can be seen by comparing the treatment across the decades of charges that an individual was a Lambertazzi who was illegally enrolled in the communal and *popolo* councils. As noted above, Lambertazzi who swore allegiance to the Geremei and the *popolo* of Bologna were readmitted to membership in the popular societies until 1306, but after 1284 were not permitted to hold office in those societies or to be members of the communal or *popolo* councils. Those who violated this law were removed from office, either by special commissions periodically appointed to review the membership of the councils, or by charges made against individuals in the court of the Capitano.

Strong concern about the possible presence of Lambertazzi in the Consiglio del Popolo surfaced in 1292, after the readmission into Bologna of many Lambertazzi. On April 11, 1292, shortly after the temporary abolition in March of the Sacred and Most Sacred Ordinances (which were reinstated with major modifications in May), a notification was found in the box (*capsa*) for receipt of anonymous denunciations which was located in the communal palace. The notification lamented the great change that had taken place in the composition of the Consiglio del Popolo and claimed that many who were now enrolled in that Consiglio were Lambertazzi who had gained their posts by bribery. Moreover, the Lambertazzi holding those posts were

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<sup>29</sup> Pancrazio Molinari, *Li Consoli, Anziani Consoli e Gonfalonieri di Giustizia della città di Bologna*, vol. 1, (1143–1375) (Bologna: Istituto delle scienze, 1788), p. 109.

automatically gaining the legal immunities and privileges granted to members of that Consiglio, just like Geremei.<sup>30</sup> On April 25, the Capitano responded by calling an assembly of all the attorneys and *ministrates* of the arms societies and guilds, and ordered them to give him the names of anyone in their societies who was enrolled contrary to the Statutes of the *Popolo*.<sup>31</sup>

As we shall see, the trials that resulted from this concern over Consiglio del Popolo membership carefully followed due process, with verdicts consonant with the evidence presented. One of the first of these trials concerned two members of one of the most elite families, Bongiovanni di Odorico Tettalasini and Tettalasino di Uguccione Tettalasini. A banking family of ancient lineage, in the early thirteenth century it had engaged in hostilities with the Pepoli.<sup>32</sup> The family was among those banned as Lambertazzi in 1274, but had sworn allegiance to the Geremei in 1280.<sup>33</sup> After its reentry, the family became closely allied with its former enemies, the Pepoli. The family's close ties with Geremei leaders is clearly evident in the list of witnesses for the defense in the 1292 trial, which included Rolandino Passaggeri himself, along with Romeo Pepoli and members of the Bambaglioli and Curioni families. The only documentation surviving from the trial consists of the witness list, the *consilium sapientis* commissioned by the presiding judge, and the judge's sentence. The sentence restates the notification and complaint about Lambertazzi in the Consiglio del

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<sup>30</sup> ASB, Capitano, Giudici, Reg. 180, fol. 3r, April 11, 1292: "Notificatur vobis domino capitaneo quod post publicationem ordinamentorum novorum consilium populi est multum transmutatum, videlicet quod ibi conscripti sunt plures et plures de illis qui fuerunt de parte lambertaciorum civitatis Bononie loco illorum de parte ecclesie mediante pecunia. Et si predictam inquiretis magnum honor erit vobis et vestra familia et cum predicta facta fuit contra honorem comunis et populi Bononie et maxime de parte ecclesie. Et predicti qui canzelati sunt de dicto consilio juraverant dictum consilium et ad dictum consilium consueti sunt venire secundum quod faciunt consiliarii qui nunc sunt de dicto consilio. Et predicti lambertacii sive ingeuati [sic] avertur privilegiorum concessorum illis de consilio populi poterat ab inde in antea habere officia et esse de consilio sicut habent illi de parte ecclesie Jerminessium civitatis Bononie contra intentionem hominum illorum et de civitate Bononie."

<sup>31</sup> ASB, Capitano, Giudici, Reg. 180, fol. 20v, April 25, 1292.

<sup>32</sup> Giovanni Tettalasini killed Guido Pepoli in 1202. Cherubino Ghirardacci, *Della historia di Bologna*, vol. 1 (Bologna: Simon Parlasca, 1605), p. 112. Also cited by Milani, *L'esclusione dal comune*, p. 88.

<sup>33</sup> Milani, *L'esclusione dal comune*, pp. 238, 262. Gerdus di Odorico Tettalasini was approved as a member of the bankers in 1283 and Bongiovanni di Enrico Tettalasini was elected *consul* of the bankers in March 1284, with an *estimo* of 5,333 pounds. ASB, Capitano, Giudici, Reg. 36, fol. 28v, March 1283 and Reg. 52, fol. 55v, March 1284.

Popolo which was found in the *capsa* on April 11, and makes clear that this trial against the Tettalasini was initiated by the Capitano and his judge in response to that complaint.<sup>34</sup> In this trial, as in all others described below, except, as we shall see, those which took place in 1324, the verdict was rendered by the presiding judge and Capitano. In the case of the Tettalasini, the sentence, while exonerating the imputed from a fine, removed them from the Consiglio del Popolo, obviously not an easy decision for the judge to make in view of their prominent supporters. To protect himself, the judge ordered a legal opinion (*consilium*) from outside the court by nine of the most prestigious of jurists.<sup>35</sup>

Most, but not all of the remaining trials of this type resulted in acquittals. In 1295, Guglielmo di Gerardo accused Giacomo di Bitino of having accepted election to the Consiglio del Popolo for the arms society of the Tuscans, although he was a Lambertazzi who had sworn allegiance to the Geremei. That trial ended in acquittal of the accused because of non-prosecution by the accuser.<sup>36</sup> In 1299, Giovanni di Benvenuto Santi was accused of being illegally enrolled in the Consiglio del Popolo for the arms society of the Bars since his father was said to be a Lambertazzi who had sworn allegiance to the Geremei. Witnesses

<sup>34</sup> ASB, Capitano, Giudici, Reg. 180, cc. 30v–31v: “Notificatur vobis domino capitaneo quod post publicationem ordinamentorum novorum consilium populi est multum transmutatam videlicet quod ibi conscripti sunt plures et plures de illis qui fuerunt de parte Lambertaciorum... Et cum propter predicta dictus dominus capitaneus seu predictus dominus Raymundus eius vicarius per inquisitionem sui officii inquisitionem fecisset de predictis contra multos de predictis consiliaris et inter ceteros contra Dominum Bonjohanem condamn domini Oderati de Tetalasinis qui conscriptus erat in ipso consilio loco Bintini domini Zonte de Zovenzonibus et contra Tetalasinam filium domini Ugotionis de Tetalaxinis qui conscriptus erat in dicto consilio loco Mathei de Maymelina....” Jehn, “Die Versteckte Macht,” pp. 486–487, discusses the *consilium* in this trial and transcribes it on pp. 532–533. He interprets it as deciding that the Tettalasini had never been Lambertazzi and were acquitted, despite the final phrase “quod ad presens in dicto consilio non remaneant ratione predicta sed removeantur.” They were acquitted from payment of the fine, but were removed from the Consiglio, as is repeated in the sentence itself of the judge: “ipsos diximus absolvendos et eos absolvimus, dicimus tamen et sententiamus predictos Dominum Bonjohanem et Tetalaxinam de Tetalaxinis non posse remanere ad presens in presenti consilio populi set de ipso consilio debere removeri secundum formam consilii predicti....” ASB, Capitano, Giudici, Reg. 180, fol. 30r.

<sup>35</sup> The *sapientes* were Lambertino Ramponi, *doctor legum*, Pace de Pacibus, *doctor legum*, Ubalduino Malavolta, *doctor legum*, Rodolfo Sabadini, Robaconte Paconi, Nicolò Soldaderi, Alegratutti Mezzovillani, Francesco Artenisi, and Giacomo Tencarari, *iudices*.

<sup>36</sup> ASB, Capitano, Giudici, Reg. 278, fol. 9r, April 16–June 15, 1295.

in this trial who testified against Giovanni said that Giovanni's grandfather Santo at the time of the conflicts in 1274 was robbed of a great quantity of cattle in the rural commune of Cento di Budrio because he was a Lambertazzi. One of the men committing the robbery was Guido, brother of one of the witnesses, and according to that witness, Guido in his will bequeathed a certain amount of money to the heirs of Santo in restitution for that robbery. Another witness supported this claim, saying he was a witness when Guido made a restitution of 200 gold florins to Brandelasio Gozzadini on behalf of Benvenuto, son of Santo and father of the imputed Giovanni. However, when Brandelasio was called upon to testify, he said he knew nothing of such a transaction. In his defense Giovanni produced witnesses who testified that Benvenuto fought with the Geremei against the Lambertazzi and that both Benvenuto and Giovanni had been Geremei for the past twenty-five years. No verdict is given for this trial, but in view of the strength of eyewitness testimony for the defense, lack of any reference to the lists of *banniti* and *confinati* and the non-testimony from Brandelasio Gozzadini, it is probable that the imputed was acquitted.<sup>37</sup>

A second case of this type, from 1299, also is without verdict. Guido di Benvenuto admitted he was a member of the Consiglio del Popolo as a *ministralis* for the arms society of the Crossbars, but denied the charge that he was of Lambertazzi descent. Copies of extracts from various lists of Lambertazzi *banniti* and *confinati* were brought to court against him (one from 1275, another from 1277), but in his defense he produced documents and witnesses showing that he had an *estimo*, paid taxes, and served in the armies for the commune as well as in the communal councils of the 800 and 4,000, and finally that he maintained a horse for the commune. Nine witnesses from the Geremei elite served as eyewitnesses for him. Again the verdict has not survived, although his defense seems to have been a very strong one.<sup>38</sup>

In 1304, Francesco di Ugolino *Binie* was elected to the Consiglio del Popolo for the arms society of the Stripes of Saragozza. His father, according to the accusation, had been inscribed in several books of *banniti* and Francesco himself had been inscribed in the *Liber Misericordie*, which contained the names of Lambertazzi who had sworn

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<sup>37</sup> ASB, Capitano, Giudici, Reg. 355, fols. 25r–26r and Reg. 256, fols. 20r–26r, June 19–July 6, 1299.

<sup>38</sup> ASB, Capitano, Giudici, Reg. 355, fols. 37v–38v, Reg. 356, fols. 45r–49r, July 14–July 29, 1299.

allegiance to the Geremei. The six witnesses for the prosecution gave only hearsay evidence, however, and Francesco was acquitted.<sup>39</sup> Two others were charged in March, one as a Lambertazzi elected to the Consiglio del Popolo, again for the arms society of the Stripes of Saragozza, and the other for election in 1299 to the Council of 4,000 for the quarter of Porta S. Procolo and for serving as an elector for the office of *podesta de sacho* for the rural commune of Castel dei Britti in 1301. Both were acquitted, and according to the sentence, both proved they were and had always been Geremei.<sup>40</sup>

In August 1302, Argomento di Pietro was accused by Magister Giovanni di Bartolomeo of being a Lambertazzi who had sworn allegiance to the Geremei, but who in 1299 had accepted membership in the Consiglio del Popolo. The accuser produced witnesses, one of whom testified that he had seen Argomento going to confinement as a Lambertazzi and that Pietro, his father, had been imprisoned as a Lambertazzi. According to that witness, Pietro died in prison without swearing allegiance to the Geremei. Another witness said that he had seen Argomento attend meetings of the Consiglio. The accuser also produced an array of documents, including a copy of the 1284 statute forbidding Lambertazzi from holding office, an extract from a book of those *confinati* to whom permission had been granted to swear allegiance to the Geremei which included the name of Pietro di Argomento, the father of the imputed, and an extract from the lists of *ministrales* and *consiliarii*, with the name of the imputed as a *consiliarius* for the guild of the cordwainers, as well as an extract from the *Liber Misericordie* of 1287 (which contained the names of all Lambertazzi who had sworn allegiance to the Geremei in the Council of 800 and *popolo*), with the names of Argomento and his two brothers. Argomento was convicted.<sup>41</sup>

In 1309, Ventura and Giovanni, sons of Marchisio *de Banbaxe* were both accused of having violated the ordinances of November 1308 when Giovanni (presumably as a member of the Council of 4,000) served as an elector and selected his brother Ventura as *podesta de banderia* for the rural commune of Altedo for the following year.

<sup>39</sup> ASB, Capitano, Giudici, Reg. 438, fols. 13r–14r, April 13–May 6, 1304.

<sup>40</sup> ASB, Capitano, Giudici, Reg. 438, fols. 11r–13v, 17r–20r, March 3, 1302, fols. 14r–25v. The sentences are on fols. 25rv.

<sup>41</sup> ASB, Capitano, Giudici, Reg. 397, fols. 12r–14v, 22r, 26v, Aug. 23–Oct. 27, 1302. See Milani, *L'esclusione dal comune*, p. 277 for the *Liber Misericordie*.

Their accuser, Matteo di Bianco, claimed that both brothers were of the Lambertazzi party. The accuser made no claim that the imputed were in the books of *banniti* and *confinati*, but did produce two witnesses. The first witness said he knew nothing concerning the charge and the second only said that he had heard about the election three months earlier. The defendant, however, produced four witnesses who all said they had known Marchisio, father of the imputed, for thirty or forty years, and that he had always been a Geremei. According to them, Marchisio, who had died three years earlier, had been expelled from Florence by the Ghibellines because he was a Guelf. At Bologna he had served in the armies and expeditions against the Lambertazzi in the Romagna and always had spoken in support of the Geremei. The charge seems to have been without foundation and on June 18 the attorney of the accuser renounced the accusation and Giovanni and Ventura were acquitted.<sup>42</sup>

In 1321, Spinello di Giacomo Geminiani the beltmaker was accused of being inscribed in the books of Lambertazzi and having joined the Crossbars, for which society he was currently serving as *ministralis* and as a member of the Consiglio del Popolo. This charge involved his membership in the society itself as well as his serving as *ministralis* and in the Consiglio, because after 1306 anyone who ever had been labeled as a Lambertazzi was forbidden access to membership in the popular societies as well as participation in the political and military life of the commune, as discussed above. Spinello claimed that the charge against him was based on mistaken identity. Two of the eight prosecution witnesses testified against him (the rest said they knew nothing). Seven witnesses in his defense testified that the imputed was actually the son of Giacomo di Giovanni, not Geminiano the beltmaker and that the latter, who had died forty years earlier, was the godfather of the imputed's father. His parentage thus clarified, Spinello was acquitted.<sup>43</sup>

In all of the above trials the usual procedures were followed, with verdicts, when known, supported by the evidence given. As noted above, charges were made and heard in court even in cases where the imputed had not been inscribed in the books of *banniti* and *confinati*. In all instances the verdicts were given by the *vicarius* judge of the Capitano's court. In 1324, however, there are several more extant trials

<sup>42</sup> ASB, Capitano, Giudici, Reg. 509, fols. 6v–14r, May 10–June 21, 1309.

<sup>43</sup> ASB, Capitano, Giudici, Reg. 694, fols. 7r–16v, Oct. 26–Dec. 14, 1321.



concerned with Lambertazzi allegedly serving as members of the Consiglio del Popolo, and as we shall see, by that date a major change in process was in place, and the Capitano and his judge no longer were the final decision-makers in cases of this type.

The five trials from 1324 concerning illegal membership in the Consiglio del Popolo originated not by accusations or notifications but by petitions or appeals from individuals who had recently been removed from membership in the Consiglio del Popolo. The cancellations from the Consiglio had been made, as usual, by a commission of *sapientes* chosen by that Consiglio.<sup>44</sup> In two of these cases there was also a notification made in opposition to their appeal by a third party. Thus, Giovanni and Francesco, sons of Giacomo the judge, and grandsons of Bongiovanni di Egidio the innkeeper, claimed that they were “de populo Bononie,” members of the societies, and privileged persons in their own right and “ex persona” of their father. They also claimed that their ancestors were Geremei since time immemorial, and that they had been unjustly removed from the Consiglio. They petitioned that they be permitted to attend a meeting of the Consiglio del Popolo and that a vote be taken at that meeting on whether or not they should be readmitted as members. They cited a special sacred *riformagione* authorizing such a procedure.<sup>45</sup> The third party who opposed their appeal, *Armorinus* di Giovanni, claimed that the brothers should not be permitted to petition the Consiglio since the brothers, their father and grandfather, according to him, were all inscribed in the books of the Lambertazzi. The petitioners, however, while admitting that their grandfather Bongiovanni di Egidio the innkeeper and their father Giacomo the judge were listed in a “Book of the *Estimi* of the Lambertazzi

<sup>44</sup> ASB, Capitano, Giudici, Reg. 721, fol. 67r, July 13, 1324.

<sup>45</sup> ASB, Capitano, Giudici, Reg. 721, fols. 55r–64r, July 18–Aug. 18, 1324, esp. fol. 58r: “sunt de populo Bononie et de societatibus artium et armorum et privilegiate persone tam ex persona domini Jacobi eorum patris quam ex persona ipsorum et cuiuslibet ipsorum et quod vere sunt in quasi possessione ipsius juris et ipsorum ascendentes etiam fuerunt per tempora quorum initii memoria non existet. Et dicunt quod indubite et iniuste et contra omnem equitatem tempore examinationis facte de consilio et additione dicti consilii ipsi et ipsorum quilibet fuerunt cancellati et cassi de consilio seu additione consilii de presente mense iulii. Et id circo sequentes formam reformationis sacrate specialiter loquente, petunt et dicunt se admicti debere ut possint venire et esse in consilio populi et esse super aringheria et scrupitum fieri de eis et ipsorum quolibet inter homines dicti consilii cum fabis albis et nigris utrum predicti cancellati seu reprobati debeant esse de consilio nec ne, non obstante quadam scriptura que producit coram vobis ex qua dicit predictos admictendos non esse....”

and those of the Lambertazzi party,” claimed that the inscription had been made by error and that their removal from that list had been validated with a *consilium sapientis* given by the jurist Francesco Gatti.<sup>46</sup> They also maintained that the compilers of the *estimo* did not have the authority to *designate* individuals as Lambertazzi, but only to *describe* those who were of that party. Moreover, they reiterated that they were privileged by a sacred *riformagione*, a law granted specifically for them. That particular law was declared “sacred” at the time of its composition (which meant that it was permanent). Moreover, a sacred *riformagione* (such as the one made on their behalf) could not be derogated by a “simple” *riformagione* (such as the one concerning the *estimo* which had not been declared “sacred”).<sup>47</sup> The crucial issue in this trial was the validity of *riformagioni* and earlier trial sentences that had removed individuals from lists of Lambertazzi. As noted above, legislation of 1308 had overturned such laws and trial verdicts, and apparently in this trial the judge adhered to that restriction since no license was granted to the petitioners to present themselves in the Consiglio del Popolo.

Also in one other trial the judge did not grant a license to the petitioner. Pietro di Rolandino had been removed from his office as *ministralis* of the butchers’ guild and member of the Consiglio del Popolo on the grounds that he was a descendant of a Lambertazzi. He too requested that the Consiglio del Popolo vote to reinstate him. In his defense he submitted extracts from the *estimi*. However, the trial record also discloses that the court found evidence against Pietro when it reviewed several books found in the communal archive (the *camera actorum comunis Bononie*), in particular, the list of April 6, 1275 that was placed in the house of the blacksmiths’ guild, and a list from 1281 of those Lambertazzi *confinati* who had sworn allegiance to the Geremei. The older Lambertazzi lists trumped the more recent *estimi* lists in this as well as in the preceeding trial, and again the judge did not grant a license to the petitioner.<sup>48</sup> This trial marks one of the rare instances in which the judge investigated the archival records himself (or instructed a notary to do so), rather than relying upon the documents presented by the accuser or *coadiunctor* and the accused.

<sup>46</sup> ASB, Capitano, Giudici, Reg. 721, fols. 59rv.

<sup>47</sup> ASB, Capitano, Giudici, Reg. 721, fols. 61rv.

<sup>48</sup> ASB, Capitano, Giudici, Reg. 721, fols. 67r–68v, July 13–Sept. 28, 1324.

In the other three trials from 1324, the petitioners Gilio di Gerardo di Pietro *Cantoffi*, Lippo di Munso, and Giacomo di Albertinello Rafanelli all received licenses from the Capitano to come to the Consiglio del Popolo to present their petitions. In all three instances the Consiglio voted in favor of their petitions.<sup>49</sup> Gilio had based his petition on the contention that his grandfather Pietro *Cantoffi* was not the Pietro di Giovanni Pietro *Cantoffi* who he agreed was indeed a Ghibelline and was inscribed in the books of Lambertazzi and in the 1296 *estimo* in *cappella* S. Maria Maddalena. The petitioner, who referred to himself as from *cappella* S. Vitale and once from *cappella* S. Sigismondo, maintained that the “other” Pietro had died twenty years earlier in Vicenza and had had only three sons, Dino, Niccolò and Nanne. The “real” Pietro, now dead, had always been a Geremei and had lived thirty-six years earlier in *cappella* S. Sigismondo. Eight witnesses supported Gilio’s petition and asserted that Gilio’s grandfather and the Ghibelline Pietro were indeed two different men. Moreover, Gerardino di Pietro Giovanni *Cantoffi*, son of the Ghibelline Pietro, also testified. He admitted that his father Pietro was a Ghibelline and had been expelled from the city as a Lambertazzi, but said that he had never known the Gerardino who was the father of the petitioner nor were they related.<sup>50</sup>

The trial against Lippo di Munso the tailor (also called Lippo di Munso Verardini) similarly revolved around the petitioner’s successful claim that Munso Verardini, who was his grandfather and who had died fifty years earlier, had always been a Geremei and never had been listed in the books of the Lambertazzi, and was not *the* Ghibelline, Munso Verardini, who was indeed listed in the books of 1274. Witnesses testified in support of the petitioner, distinguishing between the two men and their offspring.<sup>51</sup> The trial itself for the third petitioner, Giacomo di Albertinello, has not survived, although his petition and the vote on it have.<sup>52</sup> In addition, several of the *sapientes* from the commission that reviewed the membership of the Consiglio and removed the three petitioners also testified, including the *barisellus*, and all of

<sup>49</sup> ASB, Capitano, Giudici, Reg. 721, fols. 79v–80r, 91v, Aug. 2, 1324. The vote on Gilio’s petition was 240 in his favor with 88 opposed.

<sup>50</sup> ASB, Capitano, Giudici, Reg. 721, fols. 71r–80r, July 13–31.

<sup>51</sup> ASB, Capitano, Giudici, Reg. 721, fols. 81r–86r, July 14–Aug. 2, 1324. The vote on Lippo’s petition was 208 in favor with 122 opposed.

<sup>52</sup> ASB, Capitano, Giudici, Reg. 721, fol. 80r. The vote was 276 in favor with seventy-seven opposed.

them expressed their lack of knowledge about the three petitioners, or repeated hearsay evidence against them, or more often, supported their contentions that they were Geremei.<sup>53</sup> These trials of 1324 thus mark a significant departure in process. Rather than determining the outcome of an accusation, the court was reviewing the petitions of those who had been removed from the Consiglio by a commission as a first step towards review of the petition by the Consiglio del Popolo itself. Decision-making on status was moving from the courts to the legislative body. The change was part of a larger development by which trials that originated by petition came to dominate the court of the Capitano's *vicarius*.

Petitions had become the bulk of this court's activity in the early fourteenth century.<sup>54</sup> There had been trials prior to 1324 concerning Lambertazzi that were based on petitions, particularly from petitioners claiming they had been wrongfully included in Lambertazzi *estimi* and *prestanze*.<sup>55</sup> In those petitions, however, the judge of the Capitano made the final decision and the petition did not go to the Consiglio del Popolo for a vote. On the one hand, the 1324 petitions thus seem to represent a new stage in the politicization of justice, a development which we shall see was paralleled in the court *ad maleficia* of the podesta. On the other hand, the petitions, as evidenced in the above discussion, were diligently and scrupulously tried in the Capitano's court under the usual procedures of the *ordo iudiciarius*, and did not differ in the nature of the accepted proofs from earlier trials on the same charge. In the earlier trials, however, the purpose of the trial was to decide whether or not to remove the imputed from the Consiglio, whereas in the 1324 trials the purpose was to determine whether or not an unjust action needed to be rectified by equity and the petitioner reinstated in the Consiglio del Popolo. In these trials, as shown above, the judges carefully followed the authority of the lists and the validity of the principle of inherited status. Fifty years after the first expulsion,

<sup>53</sup> ASB, Capitano, Giudici, Reg. 721, fols. 87v–89r, July 26, 1324.

<sup>54</sup> Petitions constituted a common form of trial initiation from the 1280s in other courts of the Capitano. In the *vicarius*'s court there had also been a few appeals from individuals who had been cancelled as members of their popular societies. For example, ASB, Capitano, Giudici, Reg. 120, fols. 16r, 31v, 33r, 45r, Nov. 27, 1288. Those trials, however, were decided upon by the judges and not merely recommended for decision to the Consiglio del Popolo.

<sup>55</sup> ASB, Capitano, Giudici, Reg. 478, fols. 3rv, July 5, fols. 4r–7v, July 4, fols. 8r–11r, July 20–Aug. 3, 1308, *et passim*, Reg. 589 (1314) and Reg. 621 (1317).

the commune strictly enforced the policy that those who had ever been on the lists or were descendants of anyone on the lists must remain Lambertazzi and second-class citizens. At the same time, the courts and petition process served as a safety valve, as a source of equity, from the tyranny of the lists, especially in cases of mistaken identity.

## 2. *FUMANTES*

The hereditary principle also became the rule in the identification of *fumantes* (non-noble inhabitants of the *contado* enrolled in special tax registers), who were illegally enrolled in the popular societies and the Consiglio del Popolo. *Fumantes* had earlier been admitted into the popular societies and membership in the Consiglio del Popolo after specified years of residency in the city.<sup>56</sup> In 1282, however, a new *Liber fumantum* was compiled and membership in the popular societies and Consiglio del Popolo was *permanently* forbidden to those registered in that document and to their sons and descendants.<sup>57</sup> The statute itself does not make clear the permanence of status mandated for descendants of those inscribed in 1282, but the trial records do. The statute specified that those who between 1271 and 1281 had immigrated to the city by means of a special dispensation had to be enrolled in the new *Liber fumantum* unless they had paid the required 3 *solidi* for each pound of their *estimo*. Francesca Bocchi discusses this statute and

<sup>56</sup> See above, Chapter One.

<sup>57</sup> The *Liber fumantum* is referenced in the Statutes of 1288 in a rubric which forbade the government from removing anyone from that list. The rubric describes the list as being compiled “per dominum Federicum de Regraratis et socium in millesimo ducentesimo octuagesimo.” Fasoli-Sella, *Statuti dell’anno 1288*, vol. 2, Bk. IX, Rubric VI, “De fumantibus terrarum de districtu Bononie,” pp. 114–114. However, the actual date of the completed compilation was 1282, as referenced in a trial in 1289 against Pietro di Rainerio Alidosi da S. Giovanni di Persiceto, who was accused of having illegally entered the palace of the *popolo* since he was a “magnans.” In his defense Pietro claimed he was a *fumans* who had been registered in the books of *fumantum* in 1282: “In primis quod in millesimo cclxxxii indicio decima, dominus Federicus de Regratis et dominus Bertholinus de Girardis voluntate comunis Bononie fecerunt comites, capitaneos et valvasores et fumantes comitatus Bononie et de ipsis comitatibus, capitaneis et valvasoribus et fumantibus fecerunt libros qui sunt in armario comunis Bononie.” That this reference and not that of 1280 as given in the Statutes of 1288 is the correct date is evidenced by testimony during this trial by Pietro di Uguccone Bambaglioli, member of one of the most prominent of notarial families, who testified that the enabling legislation for the compilation of the *Liber fumantum* was written in August 1281. ASB, Capitano, Giudici, Reg. 136, fols. 69r–76r, November 1289.

notes the harshness of this aspect of the statute, observing that the rate of 3 *solidi* represented 15 percent of the value of the property.<sup>58</sup> Those who had not paid were not only registered in the *Liber fumantum*, but were also required to return to live in the rural commune in which they were registered as *fumantes*.

The severity of the provision marks another stage in the commune's long-standing policy to maintain the level of the *contado's* tax-paying population. In the first half of the century, as Antonio Ivan Pini has shown, the commune pursued this goal by encouraging immigration from other regions with the inducement of tax exemptions for immigrants. That policy failed, and by 1259 the commune turned to force, especially in its efforts to maintain the fortified new settlements (*borghi franchi*) on its borders. In that year those who had left certain *castelli* or *borghi franchi* for the city during the prior twelve years were forced to return to their rural residences and pay their taxes there.<sup>59</sup> The men of servile condition (*servi*) emancipated by the celebrated *Liber Paradisus* of 1256–57 were permitted to live where they wished in the *contado*, but were required within four months to register themselves in the lists of *fumantes*. He who failed to do so was to be treated as one who had committed a homicide. Moreover, those *servi* who had immigrated to the city within the prior five years were forced to return to the *contado* and register themselves among the *fumantes*.<sup>60</sup>

Evidence from the Capitano trials makes it clear that anyone who was registered in the *Liber fumantum* of 1282 and his descendants (not just his sons), could never become *cives*, even if they resided in Bologna for the thirty years specified for gaining citizenship in the Statutes of 1288.<sup>61</sup> In the trials concerning *fumantes* who were charged

<sup>58</sup> Bocchi, "Le imposte," pp. 307–308.

<sup>59</sup> Frati, *Statuti di Bologna dall'anno 1245 all'anno 1262*, vol. 1, Rubric XXIXa, pp. 492–93, vol. 2, pp. 63–64, vol. 1, p. 473, vol. 3, p. 364, cited by Pini, "Un aspetto dei rapporti," p. 381.

<sup>60</sup> Pini, "Un aspetto dei rapporti," pp. 385–386. Frati, *Statuti dall'anno 1245 all'anno 1267*, vol. 1, pp. 485–486.

<sup>61</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 2, Bk. IX, Rubric XI, "De hominibus comitatus Bononie non habentibus extimum vel non existentibus in fumantes," p. 118. The rubric calls for all inhabitants of the *contado* to be enrolled in the *estimo* in the rural commune in which they resided, except for *veros cives* who were defined as "those who were born in the city of Bologna or lived there with their families for thirty continuous years, they or their ancestor, having an *estimo* in the city of Bologna and serving in the army and military expeditions at the time of the first and second wars" (eos qui oriundi sunt in civitate Bononie vel habitaverint cum tota eorum familia per triginta annos continuos ipsi vel eorum ascendentes, habendo extimum in civitate

with being illegally enrolled in the popular societies, one finds repeatedly, even as late as 1321, references in the charge to the imputed's having been registered in the *Liber fumantum* made by *Dominus Federicus de Regraratis* and associates, that is, the document of 1282. The other document cited as evidence of *fumans* or descendant-of-*fumans* status, in this case as late as 1324, was the *estimo* executed in the *contado* in 1286 by *Rafael de Roncho* and *Orsinus de Latere* da Reggio.<sup>62</sup> These documents and the year 1282 remained the point of closure, but the penalties did become harsher for those who infringed upon the laws. In a trial of 1318 a provision of 1315 was cited. The trial was against Castellano *de Zagnis* who was accused of being the son and descendant of *Zagnus* di Senzanome *Zagnis* from the rural commune of Marano. The cited provision of 1315 called for penalties not only of 25 pounds (as, for example in 1292), but also for the loss of legal rights for the convicted *fumans* and his rural commune.<sup>63</sup>

By the same token, inscriptions in lists of *fumantes* or *estimi* of the *contado* made prior to 1282 were never cited in the trials as evidence of *fumans* or descendant-of-*fumans* status. Those who had been enrolled on those earlier lists but had already immigrated to the city (and had paid their 3 *solidi* for each pound of their *estimo*), and had therefore

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Bononie et faciendo exercitus et cavalcas tempore prime et secunde guerre), but goes on to exempt from this definition *fumantes* and their descendants who had not paid the 3 *solidi* required for their exemption: "Ita quod non trahantur predicta ad fumantes vel eorum descendentes veteres vel novos, nisi essent de illis qui absoluti fuerunt per sententiam per dominos de gabella et solverunt tres solidos bononinorum."

<sup>62</sup> ASB, Capitano, Giudici, Reg. 694, fols. 47r-48v, March 22, 1321, where both the *Liber fumantum* of 1282 and the *estimo* of 1286 are cited as evidence against the imputed, and Reg. 736, fols. 18r-21r, April 27-May 30, 1324 for citation of the 1286 *estimo*. The documents represent two different forms of taxation in the *contado*. The *Liber fumantum* served as the basis of a *per capita* tax (heads of households) called the *boateria*. The *estimo*, which gave the value of the registrant's properties or capital goods, served as the basis of the *collecta*. The *estimo* dates from 1235. Bocchi, "L'imposte dirette a Bologna," pp. 291-292, 302-303. In 1303, the two forms of taxation in the *contado* and the particular documents of 1282 and 1286 were combined. Paola Foschi, "Un episodio della contesa fra Bologna e Pistoia per il possesso dell'alta valle del Limentra di Sambuca: Pavana 'bolognese' nel Duecento," in *Pistoia e la Toscana nel Medioevo. Studi per Natale Rauty*, ed. Elena Vannucchi (Pistoia: Società pistoiese di storia patria, 1997), pp. 131-138, esp. pp. 131-132.

<sup>63</sup> ASB, Capitano, Giudici, Reg. 645, fol. 6v, May 9, 1318: "Et quod nichilominus teneantur habere extimi in comitatus Bononie secundum quod superius est expressum et quod extimo sibi facto in comitatus Bononie similiter teneantur solvere collectas et subire honora in comitatus et quod propter extimum alicui predictorum secum in civitatis seu inter cives civitatis Bononie non obstat cytatio aliquod jus nec providecur juri alicuius terre comitatus Bononie."

escaped enrollment in the *Liber fumantum* of 1282, were *ipso facto* “grandfathered” and exempted from the exclusion of *fumantes* from the popular societies and Consiglio del Popolo, as were their descendants. Thus in 1290, Lambertino and Azzolino, sons of *Rappa*, were charged with being illegally in the popular societies because they were descendants of *fumantes*. According to the charge, their father, *Rappa*, was a *fumans* from the rural commune of Castelfranco. Lambertino did not deny that his father had been a *fumans*, but he successfully argued that the trial should not proceed because he had been earlier charged and acquitted for the same charge during the regime of the Capitano *Dominus Bindus de Bascheria* (1288–89). (The records for that trial have not survived.) At that time he had been acquitted on the basis of a *consilium* by *Osbertus* and Giacomo da Ignano, who determined that the said *Rappa* was *not* among the new *fumantes* or their descendants and that the law concerning *fumantes* addressed not those “antiqui” and their descendants, but only those “de novis” and their descendants. On the basis of that objection (*exceptio*), the brothers were once again acquitted.<sup>64</sup> The principle of hereditary status for *fumantes* who had immigrated to the city applied to those enrolled in the *Liber fumantum* of 1282 and thereafter, and not to those who had immigrated prior to that compilation.

The same point is made explicitly in a *consilium sapientis* from a trial of 1292 against Domenico di Alberto Teuzi. According to that opinion, Domenico was to be absolved from the charge that he was illegally enrolled in the arms society of the Stripes of Saragozza because he had proven by the testimony of witnesses that his father Alberto Teuzi had been dead for more than thirty years, and therefore before the list of *fumantes* was made by *Dominus Federicus* and his associates. Furthermore, the imputed, Domenico, had also proven, again by the testimony of witnesses, that the Alberto Teuzi who was inscribed in the *Liber fumantum* with other *fumantes* from Castel del Vescovo was not the Alberto who was the father of Domenico. He proved that this

<sup>64</sup> ASB, Capitano, Giudici, Reg. 135, fols. 12v–13r, Nov. 4, 1290: “de consilio prudentum virorum domini Osberti et Jacobi de Ignano iudicum fuerit absolutus...de dicta societate non admoventur nec cancellaretur rationibus assignatis in eadem sententia cum non fuerit dictus Rappa de fumantibus novis vel de eorum descendenti-bus nec statutum loquatur de fumantibus vel eorum descendenti-bus antiquibus qui desierunt esse fumantes set legitur tantum de novis et eorum descendenti-bus.” For the penalty of 25 pounds in 1292, see the proclamation of that year in ASB, Capitano, Giudici, Reg. 183, fol. 3r, May 13, 1292.



“other” Alberto had come to live in Castel del Vescovo after the death of the Alberto who was the father of Domenico, some twenty years prior to the current trial. Finally, Domenico had proven by documentation that he had paid his taxes with the *cives* of Bologna.<sup>65</sup>

Perceptions of social identity did not enter into the testimony in these *fumantes* trials as they did for the Lambertazzi and magnates because one could not ascertain from a person’s activities or residence or his father’s reputed status whether or not one was a *fumans* or descendant of a *fumans*. A person could be the son of a *fumans*, but be legally enrolled in the societies if he had obtained a special privilege and paid the necessary fee, as had Magister Artusio di Pietro Zogoli and his brother Lazzarino who were acquitted by a *consilium sapientis* in 1292.<sup>66</sup> Or, one could, in fact, be a *fumans* or descendant of a *fumans* and still live in the city, as long as one remained on the tax lists of the *fumantes* and paid taxes in the *contado* as a *fumans*. Thus in 1299, three brothers declared themselves *fumantes* and descendants of *fumantes* from the rural commune of Castagnolo and said they had lived in the city for the past thirty years. During that period they had practiced their profession as merchants and had served in military expeditions with other men of the city, but had continued to pay their taxes together with the other men of their rural commune. At this point they were petitioning the Consiglio del Popolo for permission to continue to live in the city and pay their taxes in the *contado*, since

<sup>65</sup> ASB, Capitano, Giudici, Reg. 180, fols. 15v–17v, April 23–May 12, 1292: “Et sic ante quam fumantes fierent per dominum Federicum et socium et etiam probatum sit per testes illum Albertum Teuzi qui conscriptus reperitur in libro fumantum est alius Albertus quam Albertus pater Dominici denunciati. Item quod iste Albertus qui conscriptus est in libro fumantum venit post mortem Alberti patris dicti Dominici denunciati ad habitandum ad terram Castri Episcopi iam sunt viginti anni. Item quod iste Albertus qui est alius ab Alberto patre dicti Dominici denunciati fuit datus cum aliis fumantibus terre Castri Episcopi dicto Domino Federico. Item quod unus solus Albertus Teuzi reperitur conscriptum in libro fumantum. Item etiam probatum sit per publica instrumenta dictum Dominicum solvisse collectas et fecisse publicas factiones cum civibus civitatis Bononie.” In 1295, a son, Dondideo di Alberto Teuci, was accused of being a magnate illegally enrolled in the societies, but was acquitted because the accuser did not prosecute. See Appendix E, Table IV.1, entry 54.

<sup>66</sup> ASB, Capitano, Giudici, Reg. 180, fols. 46v–48r, June 19, 1292: “That the said Artusio be absolved from the said notification, the sacred ordinance and privilege conceded to the councillors of the *popolo* and their brothers having been reviewed and the sentence that he paid 3 *solidi* for the *gabella* tax having been seen” (quod dictus Artuxius absolvatur a dicta notificatione, suspeto ordinamento sacrato et privilegio concesso consiliariis populi et eorum fratribus et visa sententia quod solvet tres solidos ad gabellam).

their enemies in Castagnolo were seeking to force them to live there.<sup>67</sup> To blur the distinction between residence in the city or *contado* and status as a *fumans* or *cives* further, a *cives* could live in the *contado* from May through October as long as he lived the rest of the year in the city with his family.<sup>68</sup>

Where one paid taxes, not where one lived, was the key distinguishing feature for the perception of status. In a trial in 1295 against a group of men who were accused of illegally attending the meeting of the rural commune of Zena, nine men were identified by witnesses as living in Zena, but were described as not being of the “universitas” of Zena and not being *fumantes* because they had been seen paying their taxes in the city and not in Zena.<sup>69</sup> In addition to individuals with tax exemptions there were also exemptions for entire rural communes, as in the case of the commune of Altedo. That commune had received special consideration in 1231 when it came under the jurisdiction of Bologna, and apparently some aspects of that special status still applied to individuals from that commune and their descendants in the early fourteenth century.<sup>70</sup> Thus in 1302, Magister Parisino di Benvenuto Bressani da Altedo was accused of being illegally in the arms society of the Minivers and the guild of the notaries since he was allegedly enrolled in the *liber fumantum* of Altedo. Magister Parisio, however, when he responded to the summons to appear in court, came with “a sack full of documents.” He demonstrated that he had earlier been acquitted of this charge, and as specified in the sentence of acquittal in this trial (in 1302), maintained that the earlier acquittal was based on evidence of a “sacred and ancient pact between the commune of Altedo and the commune of Bologna.” That pact had apparently granted citizenship

<sup>67</sup> ASB, Comune-Governo, Riformagioni 149, fol. 109r, July 15, 1299.

<sup>68</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. IV, Rubric XI, “Et eos etiam qui meruerunt sententiam citadantie secundum formam statuti comunis Bononie, si habitabunt in civitate Bononie vel burgis vel suburbis cum eorum familiis toto anno exceptis mensibus madii, iunii, iulii, augusti, septembris et octubris, quod si non steterint pro civibus non reputentur et eorum sententie ipso iure nulle sint,” p. 118. *Cives* who lived in the *contado* were called *cives malenutriti*. Rolandino Dondarini, *Bologna medievale* (Bologna: Pàtron, 2000), p. 197.

<sup>69</sup> ASB, Capitano, Giudici, Reg. 279, fols. 19r–26v, June 13–July 20, 1295: “Non sit de universitate terre Gene...nec sunt fumantes...non solvunt collectas nec faciunt faciones in dicta terra set solvant in civitate Bononie.”

<sup>70</sup> For the 1231 concession to Altedo, see Bocchi “Le imposte,” p. 295.

to the inhabitants of Altedo.<sup>71</sup> The same “ancient pact” served to acquit a certain Bianco di Andrea da Altedo, notary, who was a member of the arms society of the Leopards. He was accused in 1319 of being a descendant of a *fumans* registered in the 1282 *Liber fumantum* and in the *estimo* made in 1296.<sup>72</sup> But these exceptions do not detract from the fundamental closing of citizenship to *contadini* and their descendants in 1282. Moreover, in 1306, as discussed above in Chapter One, a law forbade admission into the popular societies and Consiglio del Popolo to anyone who was not himself, or his ancestors, registered in the urban *estimo* of 1279–80. This law effectively categorized *fumantes* and foreigners and their descendants as well as Lambertazzi as members of a permanent, hereditary “outsider” class.

### 3. MAGNATES: THE LIST OF 1294

Identification of magnates and nobles underwent a similar process of change by which the use of lists and the principle of hereditary status became the dominant criteria in identifying who belonged to that excluded group. Blood ties, to be sure, had been important in identification of magnates from the earliest purges of the popular societies’ membership lists. In those purges immediate relatives—sons, brothers, grandsons, and nephews of belted knights, as well as the knights themselves—were excluded from all societies except the merchants and bankers. However, in the latter two guilds, only knights themselves were excluded. But, as stressed in Part I of this chapter, the practice of assigning magnate status only to close relatives of *milites* meant that a family or *domus* could contain both *popolani* and magnates. In the purge of the popular societies’ membership rolls in February and March 1294, the designation of magnate status was applied not only to individuals, but also to entire families and all their descendants, marking a major shift in the legal ascription of magnate status, one that signified a new emphasis on the inclusivity of the blood tie and the inheritance of status.

<sup>71</sup> ASB, Capitano, Giudici, Reg. 397, fols. 8r–10v, esp. fol. 17r, Aug. 4–Oct. 26, 1302: “tam pro antiquo pacto sacro inter comune de Altedo et comune Bononie quam etiam ratione exceptionis specialiter facte de dicto magistro Paruxio tempore quo habitatores terre Altedi reducti fuerunt ad fumantes quam pro duabus exceptionibus rei iudicate per eum magistrum Parixium productis....”

<sup>72</sup> ASB, Capitano, Giudici, Reg. 658, fols. 49r–52r, July 27–Aug. 31, 1319.

In 1294, those families designated as magnates were placed on a list compiled by a special commission and approved by the Consiglio del Popolo. That list of all magnates, individuals and houses, has not survived,<sup>73</sup> but the enabling legislation is referenced in the trial records. It called for fines of 50 pounds against anyone enrolled in the popular societies who did not meet the traditional criteria for membership or who belonged to a house or *domus* labeled as magnate, unless they came to the Capitano's court within a designated period and asked to be cancelled from the societies. Although the list of all magnates has not survived, the names of those who came forward to remove themselves from the societies during February and March 1294, within the set deadline, have survived. Eighty-seven individuals came forward during that period, sometimes together with others or on behalf of others, to request that they or a relative or client be removed from the societies, as listed in Appendix E, Table IV.3. The total number of individuals on the list is 111. Almost everyone who came forward did so because, as they admitted, they were nobles, descendants of knights or nobles, or belonged to the designated magnate houses (*de casalibus nominantis*). Only four men asked to be removed for other reasons: three because they were clerics and wished to retain their privileges as clerics, and one other because he was listed twice in the *matricula* of his society.<sup>74</sup>

Some of those who came forward denied the validity of their new magnate status, even as they acted to remove themselves from the societies in order to avoid the threatened fines.<sup>75</sup> For example, Paganucio di Rambertino da Varignana of *cappella* S. Ambrosio came forward to request that he be removed from the notaries' guild and the arms society of the Quarters, but his petition echoed with anger, since he simultaneously lodged a *protestacio*, making it clear that he had come forward only to avoid the penalty against nobles of the *contado*, and that he reserved his legal rights since he maintained that he was a *popolano* and had always been *de populo Bononie*.<sup>76</sup>

<sup>73</sup> The list is discussed in Giorgio Tamba, "Consigli elettorali degli ufficiali del comune bolognese alla fine del secolo XIII," *Rassegna degli Archivi de Stato* 42 (1282): 34–95, esp. p. 90.

<sup>74</sup> Table IV.3, entries 4, 7, and 64 for the clerics, entry 17 for the person who was inscribed twice.

<sup>75</sup> Table IV.3, entries 18, 83, 84, 86, and 87.

<sup>76</sup> Table IV.3, entry 86. But the judge ordered cancellation of Paganucio from the societies anyway, as he did for the others who lodged a *protestacio* against their new

To be sure, the status assigned to families and individuals in 1294 was not necessarily permanent. Nor did the establishment of a list prevent disputes in court over status. Changes in a family's status could and did occur after 1294, particularly as an accompaniment to political changes in the governing regime, as in 1303, 1306 and 1321.<sup>77</sup> But, as noted above in discussing trials of illegal membership in the popular societies against *fumantes* and Lambertazzi, trials in the early fourteenth century against alleged magnates came to revolve around issues of mistaken identity and whether or not a person belonged to a *domus* labeled as magnate, rather than around the issue of hereditary status. A crucial step in moving from the closure of the 1270s towards the hereditary aristocracy of Renaissance Bologna was thus taken at the end of the thirteenth century.

#### 4. IDENTIFICATION OF MAGNATES: *HABITUS*

Identifying members of the noble-magnate group was more difficult for contemporaries than identifying those who belonged to the Lambertazzi, foreigners and *fumantes*. In contrast to treatment of those groups, against whom the criteria of identity used in earlier trials emphasized specific behaviors, as noted above (e.g., participation in riots and campaigns for Lambertazzi, or factual data such as specific years of residency, or enrollment on tax rolls for *fumantes* and foreigners), there were ambiguities inherent in the very criteria used for constructing the magnate-noble group, as well as in the application of those criteria.

Understanding the significance of magnate and *popolo* status and the conflicts between those groups, especially as exemplified in the Sacred and Most Sacred Ordinances of 1282 and 1284 in Bologna and

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status. The term "protestacio" is used here in its more general sense of a reservation of rights and is to be distinguished from the *protestacio* as appeal from the court of the podesta to that of the Capitano as described above in Chapter One. In this instance those making the *protestacio* were reserving their claims to *popolo* status even though they were removing themselves from the guilds and arms societies.

<sup>77</sup> The status of the Gattari, as shown below in section 7, changed several times, so it is not surprising that the prosecution and defense could both bring documents to court in 1317 that validated conflicting status. The accuser brought a notarial document from the communal archives testifying to the family's magnate status, but the defense produced the same type of document validitating their *popolo* status. ASB, Podesta, Accusationes, Busta 39b, Reg. 220, fols. 5v-6r, Aug. 2, 1317.

the Ordinances of Justice in Florence in 1293, is a long-standing historiographical issue. Gaetano Salvemini and Giacchino Volpe and other historians of the economic-juridical school of the late nineteenth and early twentieth century formulated the issue as class conflict between magnate landowners and *popolano* merchants and tradesmen. That view underwent radical revision by Nicola Ottokar in the 1920s. Ottokar maintained that the magnates and *popolo grasso* of Florence did not differ significantly from each other in socioeconomic terms, and that the magnate-*popolo* conflict could not have been a class conflict, a view that has retained its historiographical predominance to the present.<sup>78</sup>

In 1991, however, in the first major study of the Florentine magnates since the work of Salvemini and Ottokar, Carol Lansing, noting that despite its shortcomings there was still no alternative to Ottokar's revisionist interpretation, tried to break the stalemate by analyzing magnate identity from the perspective of the *Duecento*. Lansing defined the magnates as a "medieval urban nobility" and set as her task "a careful reconstruction of the social category of magnate as it was understood in late thirteenth century Florence."<sup>79</sup> She maintained that "[t]he families named as urban magnates in the Ordinances of Justice to a remarkable degree shared common histories and a common pattern of social organization and style of life." She also found that contemporaries used a "cultural calculus" to identify magnates, one in which "the powerful, nobles or magnates, were those houses which popular opinion held to be magnate, those which already posted security as magnates, and those which contained a knight or had contained a knight within the last twenty years. In effect, magnate status was defined by knighthood and by a past record of violence, implied by their posting security. Magnate status was also determined by *pubblica fama*: everyone knew who they were, although their attributes were not easy to articulate."<sup>80</sup>

Given the nature of the extant Florentine sources, Lansing had to depend upon statutory and legislative evidence in deriving *Duecento* perceptions of the Florentine magnates. For Bologna, however, the

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<sup>78</sup> See above, Introduction. There are many historiographical surveys of this issue. One of the most recent is Milani's introduction to his *L'esclusione dal comune*, which, while brief, has the advantage of being set within the larger framework of *partes*.

<sup>79</sup> Lansing, *The Florentine Magnates*, pp. xiii-xiv.

<sup>80</sup> Lansing, *The Florentine Magnates*, p. 147.

extant Capitano court trials against those accused of being magnates and nobles who were illegally enrolled in the popular societies provides a new perspective on the issue of magnate status and contemporary perceptions of magnate identity. Many of these trials contain the testimony of witnesses for and against the imputed, yielding a unique and unexploited source for clarifying the criteria by which those witnesses deemed an individual to be a magnate or a *popolano*. Testimony of the witnesses should, however, be distinguished between: 1) the personal opinions of witnesses about a given person's social identity and 2) testimony by those witnesses concerning how an individual's status was viewed by *publica fama et vox*.

*Publica vox et fama* in its medieval context has been described as "personal reputation and the talk about it," that is, not only what social identity a particular person ascribed to another, but how that person had heard others describe the person in question.<sup>81</sup> Testimony from witnesses could be about what they themselves had seen or thought, and the latter might include their opinion of a person's reputation. *Fama*, however, was a separate question asked of witnesses, to find out what they had heard said by others constituting a *consensus* of opinion in a neighborhood or throughout the city about a person's reputation. The extent of *fama* (that is, the number of people required to establish a legitimate *fama*) was variable, and was of interest to the judge who often asked witnesses how they defined *fama* and how many persons' opinions they thought constituted *fama*.

*Fama* constituted a ubiquitous argument, and questions concerning *fama* were asked of witnesses in nearly every membership case, but *fama* also was a surprisingly ineffective means of proof, especially in trials concerning magnate status. It rarely, if ever, served as a *sufficient* criterion for conviction or acquittal. Milani has discussed the importance of *fama* during the period 1249–1274, and asserts that the use of *fama* was continued by the *popolo* in subsequent years in their compilation of lists.<sup>82</sup> During the last decade of the thirteenth century in the courts, however, even as the number of witnesses increased dramatically, with dozens called forth by both the prosecution and the defense, verdicts came to rely increasingly and, finally, by the

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<sup>81</sup> *Fama. The Politics of Talk & Reputation in Medieval Europe*, ed. Thelma Fenster and Daniel Lord Smail (Ithaca, N.Y.: Cornell University Press, 2003), p. 3.

<sup>82</sup> Milani, "Da *milites* a *magnati*," pp. 128–129.

early fourteenth century, decisively, upon documentation and not on *fama*. Nevertheless, the testimonies or personal opinions of witnesses are valuable and can be examined on two levels. They can be used to determine which legal criteria were invoked effectively in the law court and to determine if there was congruence or dissonance between the legal definitions of magnate and *popolo* status and perceptions of social identity. They also can be profitably examined from the perspective of Pierre Bourdieu's social theory of *habitus*.

In the Capitano trial documentation, *habitus*, as the term was used by contemporaries, is essentially *fama*, the way a person was "held" or reputed. Thus, in testimony in a 1293 trial, a witness, in describing the relationship between two men as being recognized to the present as father and son, used the terms "sicut habitus et reputatus est [h]actenus."<sup>83</sup> In another trial in 1290, the *intencio* of the accuser described the imputed as always having been reputed to be a magnate: "et ita semper fuit habitus et reputatus."<sup>84</sup> For Bourdieu, however, *habitus* was much more than *fama* or the lifestyle of a particular class, although it encompassed both of those features. *Habitus* as lifestyle he termed "homologous habitus"<sup>85</sup> to distinguish it from the overarching system of classified lifestyles of various classes and groups that comprised *habitus* proper: "The *habitus* is both the generative principle of objectively classifiable judgements [of objectively classifiable practices] and the system of classification (*principium divisionis*) of these practices. It is in the relationship between the two capacities which define the *habitus*, the capacity to produce classifiable practices and works, and the capacity to differentiate and appreciate these practices and products (taste), that the represented social word, i.e., the space of lifestyles, is constituted."<sup>86</sup> *Habitus* thus is "a structured and structuring structure" through which emerge the perceptions and actions of lifestyles—of "a system of classified and classifying practices, i.e., distinctive signs ('tastes')."<sup>87</sup> Bourdieu included in his theory not only

<sup>83</sup> ASB, Capitano, Giudici, Reg. 223, fols. 19v–20v, 1293.

<sup>84</sup> ASB, Capitano, Giudici, Reg. 136, fols. 49r–53r, Feb. 25, 1290.

<sup>85</sup> Pierre Bourdieu, *The Logic of Practice* (Stanford: Stanford University Press, 1990), p. 55. (Trans. Richard Nice of French original published in 1980 as *Le sens pratique*.)

<sup>86</sup> Pierre Bourdieu, *Distinction. A Social Critique of the Judgement of Taste* (Cambridge, MA: Harvard University Press, 1984), p. 170. (Trans. Richard Nice of French original published in 1979 as *La Distinction: Critique sociale du jugement*.)

<sup>87</sup> Bourdieu, *Distinction*, p. 171.



economic conditions (capital), but also cultural, social and symbolic capital, and thereby takes one beyond the dichotomies of class conflict theory. Through the lens of *habitus* we can ask of the Capitano trial records: does the evidence witnesses supplied to justify their opinions of a person's status reveal the existence of a commonly held referential framework of social identity (or "structuring structure" of *habitus*), that shaped their perceptions? Were there, in the eyes of contemporaries, distinctive lifestyles or "systems of distinctive signs" characteristic of the magnates and *popolani*? Was there an urban nobility distinguished from other classes by its own *habitus*? Since both magnates and *popolani* were called to testify, we can also ask: did *popolani* and magnates perceive magnate identity differently?

Eighty-three trials concerning magnate identity have survived in the extant Capitano court records and are listed in Table IV.1. Nearly all these trials concerned illegal membership in the popular societies, but a few cases arose from charges of illegal membership in the Consiglio del Popolo, or illegal entry into the palace of the Capitano. While some of these trials consist only of the charge, others are rich in details of procedure and testimony. But even cases which have only the charge indicate why the person who made the charge thought the imputed belonged to the magnates or nobles. The most frequently cited reason was that the imputed was related to a belted knight or was of noble progeny, reasons which are consonant with the legal definitions of magnates and nobles. But such charges in fact were very difficult to prosecute successfully and the great majority of trials for which we have verdicts ended in acquittal.

The low conviction rates of those charged as magnates contrasts sharply with the initially high conviction rates against Lambertazzi.<sup>88</sup> Only in a few trials of magnate identity was the imputed convicted.<sup>89</sup> Moreover, all the convictions occurred in trials held between 1293 and 1301 (the period of the war with Ferrara and the reentry of Lambertazzi into the city). They included convictions against the d'Argele

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<sup>88</sup> The conviction rates against Lambertazzi were analyzed by Milani, "Dalla ritorsione," pp. 60–61. He found that there were more convictions than acquittals in 1281–82 and that the ratio then inverted and remained so until 1300, the last year of his study.

<sup>89</sup> Table IV.1, entry 43 (Giacobino di Bartolomeo Guidoagni), entries 42, 47, 48 (Betasio and Bulgaro di Aldrevandino Gattari), entries 59, 69 (Bonagratia Armani and Giacomo di Niccolò di Bonagratia Armani), entries 64, 65 (Bartolomeo di Giovanni d'Argele and Isnardo di Giovanni d'Argele).

brothers, against whom there had been trials in the 1280s and who in those earlier trials had been acquitted.<sup>90</sup> In most cases, except for the period 1293–1301, the judicial system in the Capitano's court seems to have functioned well to protect individuals from charges as magnates. The need for protection is understandable in a system that significantly depended on anonymous charges placed in a specially-designated box or *capsa* in the public palace. (Twenty-five of sixty-two trials against magnates between 1284 and 1299 were initiated by anonymous denunciation placed in the *capsa*). The primary instrument of protection was the *consilium sapientis* or legal opinion. In the majority of trials against alleged magnates, the verdict was based on a legal opinion by one or more Bolognese judges or *doctores legum* who were outside the court process except for the giving of the opinion. The judges and jurists (*sapientes*) giving *consilia* sometimes belonged to magnate families. In these trials we find that some *sapientes* belonged to families who were themselves charged as magnates in other trials (and usually acquitted.) For example, Giacomo Balduini was one of the four *sapientes* who wrote a *consilium* in favor of the imputed, Giovanni di Guercio Garisendi, in a trial against the latter in 1293.<sup>91</sup> His son, Giovanni di Giacomo Balduini, was the object of a similar trial in 1298.<sup>92</sup> Bonagratia Armani was convicted in 1297 of being a magnate illegally enrolled in the societies, and was removed from the arms society of the butchers. Prior to his conviction he had written *consilia* in magnate trials.<sup>93</sup>

The *consilium* served to protect not only the imputed, but also the trial judges from recriminations or charges of miscarriage of justice at their syndication (end of term) reviews. In cases of conviction against particularly powerful individuals, the number of *sapientes* was increased by the trial judge or by the Capitano, as in the case of the seven *sapientes* that were deemed necessary in the trial and conviction of Guidottino Ghisilieri.<sup>94</sup> Similarly, as noted above, in the trial

<sup>90</sup> Table IV.1, entries 8 and 32.

<sup>91</sup> ASB, Capitano, Giudici, Reg. 223, fol. 30v, October 1293. Table IV.1, entry 38. Magnate jurists also served as *sapientes* in popular society membership trials, as for example, did Lazzaro Liazzari in 1288 (one year after he had been banned for conspiracy). ASB, Capitano, Giudici, Reg. 118, fol. 27r, June 3, 1288.

<sup>92</sup> Table IV.1, entry 60.

<sup>93</sup> ASB, Capitano, Giudici, Reg. 223, fols. 16r–17r, November 1293 (in a trial against the da Castello). Table IV.1, entry 59 for Armani's trial, and entry 41 for the da Castello trial.

<sup>94</sup> Table IV.1, entry 53.

in 1292 against Bongiovanni di Oderico Tettalasini and Tettalasino di Uguccio, charged with being Lambertazzi who had sworn allegiance to the Geremei party, and who therefore were illegally in the Consiglio del Popolo, the nine *sapientes* who were appointed to give a *consilium* were probably considered necessary by the trial judge in view of the imputed's powerful supporters. Witnesses in defense of the Tettalasini included Rolandino Passaggeri, leader of the *popolo* revolutions of 1274 and 1284, Romeo Pepoli, who became *proto-signore* in the early fourteenth century, and Bernardino Bambaglioli, the most prominent member at that time of the preeminent notarial family.<sup>95</sup>

But can the interweaving of those accused and those giving *consilia* explain all the acquittals against alleged magnates? Were the charges against them, frequently anonymous, therefore without foundation? Or were there ambiguities and deficiencies in the proofs that rendered judgments difficult? Were there disparities between the perceptions of who the magnates were and the legal definitions and proofs required for conviction?

## 5. ANCESTRY VS. LIFESTYLE

Obtaining a verdict against a *contado* noble should have been a relatively straightforward process since *contado* nobles had been listed in special books for tax purposes since the 1230s. Assignment to the Book of Nobles of 1249 was apparently made by reputation as ascertained by the testimony of witnesses. Thus, a certain Pietro di Gerardino had been subjected to a tax assessment in the *contado*. As a noble, he had protested and claimed immunity from such taxes. A *consilium sapientis* written into the margin of the Book of Nobles of 1249 confirms his status as a noble and declares that his status had been proven by witnesses.<sup>96</sup> By the late thirteenth century, the issue theoretically should simply have been to prove that an imputed person was the same per-

<sup>95</sup> ASB, Capitano, Giudici, Reg. 180, fol. 26r, May 16, 1292. Bernardino di Uguccio Bambaglioli served as *gonfalonarius populi Bononie* in 1293. Ibid., Reg. 218, fol. 4v, April 18, 1293.

<sup>96</sup> ASB, Comune, Estimi di città e contado, Series I, Ruoli d'estimo, 2, Elenco di nobili ed esenti, fol. 21v: "Quod dictus Petrus debeat et sit extractus a publicis factionibus terre Ozani et ab omnis debeat esse immunis cum constet e pleno probatum sit per testes ipsum et suos maiores esse et fuisse nobiles et semper fuisse exentes a publicis factio[n]ibus dicte terre. Consilium Johanini et mei Petri Cantinelli." The *consilium* is undated.

son listed in those books or was a descendant of such a person. In fact, there were such relatively straightforward cases. In 1288, for example, Simone di Bonacursio Portinari, when charged with having illegally entered the palace of the Capitano, was able to prove that he was not a member of the *de Portenariis* of the rural commune of Monteveglio, but was a non-noble who lived in that rural commune and practiced the craft of tailor.<sup>97</sup> The case against Pietro di Rainerio Alidosi from the rural commune of S. Giovanni in Persiceto was similar.<sup>98</sup> He was charged with attending a meeting of the Consiglio del Popolo illegally. He successfully defended himself by claiming that he was a *rusticus* who had not been enrolled in the *Liber fumantum* compiled in 1282 since at that time he and his father were living outside Bologna, in the *contado* of Modena. He also asserted, moreover, as evidence of his own status as a *fumans*, that his paternal uncles in fact had been registered in the 1282 *Liber fumantum*.

Actual enrollment in the Book of Nobles, however, could be contested and refuted. Rainerio di Donato da Campeggio (supposedly of the *domus* of the da Varignana) also was acquitted. He was charged in 1290 with being a *contado* noble and the son of a *contado* noble (both of whom were allegedly enrolled in the Book of Nobles), and therefore illegally having entered the society of the notaries.<sup>99</sup> Rainerio, however, was able to prove that he and his relatives were *fumantes* and that they must have been listed among the nobles by error. He proved his case on the basis of his and his father's lifestyles. He brought forth witnesses who testified that they had seen him and his father, over the past twenty to forty years, working their fields and vineyards themselves and even engaging in the heavy labour of breaking stones. The witnesses also said that Rainerio and his father were men of "low condition" who paid their taxes with other *fumantes*. Rainerio also proved that his relatives were *fumantes* (they shared the same uncle) and that his brother Antonio was enrolled in the arms society of the Griffins and in the guilds of the notaries and shoemakers. In short, his evidence of his and his father's economic conditions and lifestyles was able to counter evidence of his father's enrollment in the Book of

<sup>97</sup> Table IV.1, entry 13. Members of the Portinari family are listed as *contado* nobles in the Book of Nobles of 1282 in Porta Stiera. ASB, Comune, Estimi, series 3, Busta 6D, fol. 62r.

<sup>98</sup> Table IV.1, entry 30.

<sup>99</sup> Table IV.1, entry 27.

Nobles. The argument of lifestyle did not protect him, however, from being labeled a magnate in 1294 on the basis of his ancestry.<sup>100</sup> Thus, in this instance at least, in 1290 the principle of status by ancestry was still not solidified. During 1290, the same year in which Rainerio was acquitted, in another trial against Enrighetto and his brother Ghinazzo a key issue was not a mistake in the compilation of the Book of Nobles or mistaken identity, but whether it was necessary for a person to have parents and ancestors who were *contado* nobles in order to disqualify him from the popular societies and the Consiglio del Popolo, notwithstanding lifestyle.<sup>101</sup> At stake was a basic premise of legislation against *contado* nobles, i.e., that not only *contado* nobles themselves, but their descendants as well (noble progeny) were forbidden membership in the popular societies.

The trial against Enrighetto and Ghinazzo is one of the most elaborate and important ones in the surviving documentation. It shows how controversial the issues of parentage, ancestry and lifestyle were at this time for the descendants of *contado* nobles who had embraced a *popolo* lifestyle. Remarkably, in this case the defense claimed that although *contado* nobles themselves were not eligible for membership in the popular societies, their descendants were indeed eligible. The defense claimed, therefore, that the imputed were innocent and should not be cancelled from the societies. The charge originated in an anonymous accusation found in the *capsa* on March 3, 1290. Enrighetto and Ghinazzo, brothers and sons of Ubertino di Enrighetto Diamante and his wife *Domina Briga*, were accused of being *nobiles et potentes* and illegally enrolled in the arms society of the Griffins. The basis of the charge was that their father, Ubertino, who was alive at the time of the trial, was a *nobilis* inscribed in the Book of Nobles and was registered in the *estimo* with other nobles. It was also claimed that he currently was paying taxes that were imposed on men of the *contado* as nobles and had been condemned at the *dischum Ursi* in the past for not paying those taxes.

Fifteen witnesses were summoned to testify between March 9 and March 13. Except for three witnesses who claimed they knew nothing (or knew only that the brothers were indeed enrolled in the Griffins), all the witnesses testified confidently that Ubertino, father of the

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<sup>100</sup> Table IV.3, entry 77.

<sup>101</sup> Table IV.1, entry 29.

imputed, was a noble. One witness claimed that he was a neighbor of Ubertino in the rural commune of S. Maria in Duno and that the witness himself had seen Ubertino paying his taxes as a *nobilis*. Other witnesses also said they had heard that Ubertino paid his taxes as a noble, but were not sure that his sons did so. These witnesses and others also spoke to Ubertino's lifestyle to justify their opinion that he was a noble. One witness described how he had seen Ubertino maintaining horses and servants, dogs and sparrow-hawks. Other witnesses testified in similar fashion, and one described both Ubertino and his sons as having dogs and birds in the rural commune of S. Maria in Duno "in the manner of nobles" (*ad modum nobilium*). Another witness, Tommasino *Indivne*, said that he knew Ubertino well, noting that he, the witness, spent the greater amount of his time in S. Maria in Duno, and some of his time in the city, as did Ubertino. He testified that when he was both in the *contado* and in the city, Ubertino associated with noble and powerful men. Another witness specified that those great and noble men were from the families of the Principi, Baccilieri, and Prendiparte. Moreover, this witness had many times heard Ubertino speak against the *popolo* statutes.<sup>102</sup> Another witness said he knew Ubertino and his sons were nobles because he never had heard them described other than as "nobiles et gentiles homines" and that he knew "pro fama" (since he never saw it himself) that they paid taxes as nobles.

The judge was interested in the putative degree of nobility of the imputed and this same witness said they were described as *cattanei* (nobles of lesser rank than counts), but he did not know from which rural parish (*de qua plebe*). One other witness, Parisio di Guidonino Prendiparte, another neighbor of Ubertino's in S. Maria in Duno, also described Ubertino as a "cattaneus" but also could not specify "de qua plebe." Other witnesses also invoked *fama* and lifestyle in describing Ubertino. The witness *Ugnocius* da Capugnano, who said he had known him for more than thirty years, said that Ubertino was reputed to be a noble and great man,<sup>103</sup> and that the witness himself had seen him going hunting with princes and noble men, and although he did not know of what rank of nobility he was, he knew he was a "gentilis

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<sup>102</sup> "male de statutis populi reprehenda et male dicendo de ipsis statutis, ipso teste defendente ipsa statuta, et ipsum Domino Ubertino respondendo male videbis ea."

<sup>103</sup> "stetit et habitus est nobilis homo et magnus."

homo" who paid taxes as a *nobilis*. Although most of the witnesses spoke to the father and not to the sons' alleged nobility, this witness also noted that he thought the sons were of the same condition and rank of nobility as their father. When asked how he knew this, he responded "because they are his sons." Although he was the only witness to describe the status of Enrighetto and Ghinazzo explicitly on a hereditary basis, that premise was implicit in the testimony of the other witnesses.

Enrighetto and Ghinazzo came to court immediately in response to this charge, on March 3, and while acknowledging that they were the sons of Ubertino and were enrolled in the society of the Griffins, denied that they or their father were nobles. The trial was not completed before the end of the term of the Capitano in March, but was resumed on April 7, with the beginning of the new Capitano's term. At that time a certain Lorenzo Bonazunta presented himself in court and asked to serve as *coadiunctor* in the trial, that is, to serve as prosecutor of the imputed even though he had not made an accusation or notification against them. (The basis for his antagonistic relationship to the imputed or why he decided to play this role is not given.) He was accepted in that role and promptly produced six *instrumenta* or notarial copies of original documents, which spoke to Ubertino's registration in the *estimo* of the *contado* nobles and his condemnation for not having paid taxes as a noble. As was typical by this time, the imputed presented an attorney, in this case Giovanni di *Cretoriboni*, to act in their defense, and he also was accepted by the court. By April 20, the judge declared the testimony of witnesses "open," which meant that the process of gathering testimony had been concluded and the records of that testimony were open to both parties. At the same time he announced his decision to appoint *sapientes* from outside the court to advise him in this case.

The appointment of *sapientes* in such cases was common at that time, but in this instance the *sapientes* did something unusual: they issued two separate *consilia*. They are dated the same day, but one deals in general with the issue at hand, and the other specifically addresses the situation of Enrighetto and Ghinazzo. The more general *consilium* is as follows:

Concerning the said points, the *consilium* of lords Robaconte Panzoni, Antonio Ricoli, Niccolò di Pietrobono Garzoni is the following: since in the statutes of the *popolo* of Bologna, in the second book, under the rubric "Of the men who can be part of the societies of the *popolo* of

Bologna,” towards the beginning of the said statute, in some volumes of the statutes there is contained the disjunctive word “or,” there where it says: “noble or of noble progeny born, etc.” and in some volumes the said disjunctive word “or” is not contained, one ought to believe the volume which is agreed to be the original of the other volumes of the statutes of the *popolo* of Bologna.<sup>104</sup>

The conclusion of the *sapientes* in this first *consilium* was thus that whichever was the “original” version of the statute, was the one to be taken as the valid version. If the original reading did not have the disjunctive word “or” it would mean that the anti-magnate laws did *not* apply to men of noble progeny who were not themselves nobles, since both conditions of personal as well as dynastic nobility would be required. The implications of such a reading were enormous. It would have meant that the provisions and prohibition against *contado* nobles of membership in the popular societies was to apply only to *contado* nobles themselves, but not to their descendants who had become *cives* and were not themselves nobles. If, however, the disjunctive “or” were present in the original volume, then only one of the two conditions—personal nobility or noble ancestry—would be sufficient for exclusion from the societies.

In their second *consilium* the three jurists took a position specific to Enghetto and Ghinazzo:

In the name of Christ amen. Concerning the notification made to the lord Capitano and to the lord Giacobino, his judge and assessor, and to the *ministrates* of the societies which are responsible for the protection of the Ordinances, against Enghetto and Ghinazzo, sons of the lord Ubertino da S. Maria in Duno, which begins thus: “To you, lord Capitano, and to lord Giacobino, your judge, etc” the *consilium* of the lords Robaconte Panzoni, Niccolò di Pietrobono Garzoni, Antonio Ricoli is the following, that is, that the said Enghetto and Ghinazzo ought not to be cancelled from the society of the Griffins and from its *matricula*, since the statute, on the basis of the significance of the words, from which one ought not to deviate, demands two circumstances; that is, that one

<sup>104</sup> ASB, Capitano, Giudici, Reg. 151, fol. 20r, April 27, 1290: “Super dictis postis, consilium dominorum Robaconte de Panzonibus, Antonii de Ricolis, Nicholay domini Petroboni Garzonis tale est: quod cum in statutis populi Bononie, in secundo libro, posito sub rubrica ‘De hominibus qui possunt esse de societatibus populi Bononie,’ circa principium ipsius statutis, in aliquibus libris statutorum contineatur disiunctiva ‘vel’ ibi dum dicit ‘nobilis vel de nobili progenie natus et cetero,’ et in aliquibus libris dicta disiunctiva ‘vel’ non contineatur, quod stetur et credatur originali, id est libro quod constabit esse originale aliorum statutorum populi Bononie.”



be a noble and born from noble progeny, given that the related words without conjunction [without the “or”] are equivalent to the connected form; for which even if were proven the circumstance of paternal nobility and the noble behavior of the father, there would not be proven the circumstance of the noble progeny of the said Enrighetto and Ghinazzo. And this *consilium* is valid if in the original of the statutes of the *popolo* of Bologna the disjunctive “or” is not contained, if on the contrary, that is, if the disjunctive “or” is contained in the original, the *consilium* is that they ought to be cancelled.<sup>105</sup>

Thus, in this second *consilium*, the three jurists advise that Enrighetto and Ghinazzo should in fact *not* be cancelled from the Griffins, because the statute, if there is a disjunctive “or” means that there are two required conditions: the personal nobility of the individual *and* that he be of noble lineage. According to the *consilium*, although the case has been made for their “semi-possession” of paternal nobility and the nobility of their father’s behavior, the second condition of their noble lineage has not been proven. Nevertheless, they also advise that their interpretation and the non-cancellation from the societies of Enrighetto and Ghinazzo depend upon the original document *not* containing the disjunctive “or.”

Not surprisingly, given the serious potential impact of the *consilium*, which would have greatly restricted the definition of nobility and the application of the anti-magnate legislation, it was the Capitano himself and not his judge who that same day, April 27, acknowledged receipt of the *consilia*. It would seem that the original document did not in fact contain the disjunctive “or” and that the Capitano was very aware of the serious implications of his proceeding to a sentence according

<sup>105</sup> ASB, Capitano, Giudici, Reg. 146, fol. 6v: “In Christi nomine amen. Super notificatione facta domino capitaneo et domino Iacobino, eius iudice et assessori, et ministrilibus societatum, que preerant ad conservationem ordinamentorum, contra Henrigiptum et Ghinatium, filios domini Ubertini de S. Maria in Donis, que sic incipit: ‘Vobis domino capitaneo, et domino Iacobino vestro iudici et cetera,’ consilium dominorum Robacontis de Panzonibus, Nicholay domini Petroboni Garzonis, Antonii de Ricolis tale est: videlicet quod predicti Henrigiptus et Ginatius non debeant cancellari de societate Griffonum nec de matricola societatis eiusdem, quia statutum a significatione verborum cuius recedi non potest requiret duo, id est quod sit nobilis et de nobili progenie natus, cum verba solute probata equipolleant copulativis; unde, et si probatum sit de quasi possessione nobilitatis paterne et de quasi possessione nobilium actuum paternorum, non propterea est probatum de progenie nobili predictorum Henrigipti et Ginacii. Et predicta consulunt si in libro originali aliorum statutorum populi Bononie non contineatur disiunctive ‘vel,’ alias consulunt quod debeant cancellari s[c]ilicet si in eo originali contineatur ‘vel.’

to the *consilium*, which would have been the normal process. In a most unusual action, the Capitano immediately offered Lorenzo, the person from outside the court who had volunteered to serve as *coadiunctor*, the opportunity to request that another *consilium* be made. The Capitano also protested that he did not wish to do anything against the Sacred and Most Sacred Ordinances of the Popolo. Moreover, the Capitano, obviously still hesitating to decree a sentence according to these *consilia*, yet again, on April 29, offered Lorenzo the opportunity to request a new *consilium*.

Lorenzo responded in predictable fashion. First he repeated his positions regarding Enrighetto and Ghinazzo and what he viewed as their illegal membership in the popular societies. He also noted that the members of the popular societies were privileged against nobles and those inscribed in the Book of Nobles of the district, which meant special penalties applied to those nobles if they offended or disturbed members of the popular societies in their possession of property. Therefore, he argued, that privilege and the Sacred Ordinances themselves would be diminished if Enrighetto and Ghinazzo were permitted to remain members of the Griffins or any other popular society, since it was forbidden, according to the Sacred Ordinances, for a member of the popular societies to invoke privilege against another member of those societies. He then proceeded to address the *consilia* just presented, noting that if any *consilium* declared that Enrighetto and Ghinazzo could not be cancelled from the societies, such an opinion would be against the Sacred Ordinances and should be declared null. He also contended that if the Capitano implemented the *consilia*, he would violate the provisions given in the "conclusion" of the Sacred and Most Sacred Ordinances and would incur for himself and his judge a penalty of 500 pounds and a ban against the *sapientes* as rebels.<sup>106</sup>

The trial continued, but obviously in an increasingly tense environment. On April 29, the judge issued an unusual precept to both parties forbidding them to appear in court with anyone other than their attorneys and *sapientes*. That same day the Capitano issued a formal and forceful *protestacio* to Lorenzo, with many witnesses present, that he, the Capitano, did not intend to act against the Ordinances, nor

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<sup>106</sup> The "conclusion" referred to is found in Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric XXV, "De conclusione et confirmatione dictorum ordinamentorum et de penis venetium, contra dicta ordinamenta," pp. 323–328.

would he permit anyone to commit any action that would diminish or detract in any way from the Sacred and Most Sacred Ordinances or from the privileges of the members of the popular societies, especially from their privilege against nobles of the *contado* and district and against their sons if they were offended or disturbed by them in body or possessions. But the Capitano also added that he did not believe that the privilege in question would be adversely affected if the sons of Ubertino were registered in the Griffins or any other popular society.<sup>107</sup> Yet he followed this statement with further words of strong support for the Sacred Ordinances and his commitment to justice, and with the proviso that if in fact the Ordinances were violated by the membership of Enrighetto and Ghinazzo in the societies, they would be removed from those societies. The Capitano had thus positioned himself to support the *consilia sapientum* and move to acquittal of Enrighetto and Ghinazzo. At the same time he protected himself by declaring his support for the Sacred Ordinances and the privileges of *popolani* and his willingness to acquiesce in the removal of Enrighetto and Ghinazzo from the societies if it were shown that the Ordinances would be violated by their acquittal.

That same day, April 29, the attorney for the defendants made a lengthy presentation to the court, contending against the argument of the *coadiunctor*, Lorenzo, that privilege for the defendants would detract from the privileges of members of the popular societies. He also denied that the *consilium* which advised specifically that the defendants not be cancelled from the societies was contrary to the Sacred Ordinances. The defense attorney also urged that the Capitano and his judge *not* proceed to having another *consilium* made and that they validate the reading in the original statutes (which presumably did not have the disjunctive “or” and thereby required two conditions) according to the *consilium* already made. Twice that same day both parties reiterated their arguments. At that time the attorney for the defense made the further argument that the disjunctive “or” (which meant either personal or dynastic nobility was sufficient for cancellation from the societies) had been inserted into the statutes on the basis of hatred and therefore should not have validity. But to that point the

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<sup>107</sup> “Et quod ipse non credit quod dicta privilegia suo tempore rupta sint nec etiam ablata .. [sic] dictis popularibus nec alicui persone si filii domini Ubertini Diamantis de Sancta Maria in donis conscripti sint in societate Grifonum vel alia societate populli Bononie...nec credit eos canzelari de societate populli Bononie.”

*coadiunctor* responded that the defense attorney's argument could not be considered because to accept it would constitute an interpretation of the Sacred Ordinances, which was forbidden by the Ordinances themselves.

At this point the situation escalated dramatically when the standard-bearers of the two preeminent societies for that month, who were entrusted with guarding the Sacred and Most Sacred Ordinances, on May 2 convened a special meeting of the Consiglio del Popolo. At that meeting the Capitano again reiterated that he did not want or intend to do or say anything against the Ordinances and that in every way he would uphold them. Furthermore, he declared that if he at any point had done or said anything against them, that act would henceforth be considered erased and invalid.

That same day, May 2, the Capitano yielded to mounting pressure and appointed two new *sapientes* (Guglielmo Rombodivini, *doctor legum*, and Guglielmo da Manzolino, *judex peritus*) to write a new *consilium*. (The *coadiunctor*, although twice given the opportunity to request one had apparently not done so, and it was the Capitano himself, and not his judge, who decided to have a new *consilium* and made the appointments.) On May 13, those two *sapientes* requested appointment of a third *sapiens* (Niccolò Soldaderi *sive* Zovenzoni), whom the Capitano added to the commission. The Capitano also accompanied the appointment of the third *sapiens* on May 13 with an extraordinary warning to the *sapientes* not to present a *consilium* that was contrary to the Sacred Ordinances.<sup>108</sup> Furthermore, he forbade the *sapientes* from leaving his palace until they gave him their *consilium*. The *consilium* itself has not survived, but it obviously called for the removal of the defendants from the Griffins, as evidenced by the last two actions in this trial. The first was a precept of May 27 by the Capitano to the defendants giving them a final opportunity to offer reasons why the Capitano should not proceed to cancel them from the societies according to the sentence he had promulgated, a sentence based on the *consilium* from the three recently appointed *sapientes*. Secondly, that same day the attorney of the defendants was sent a precept to

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<sup>108</sup> "quod ipsi non debeant modo aliquo dicere vel consulere seu consilium vel sententiam dare vel sibi facere super dicte questione aliquid quod scit contra ordinamenta sacrata vel sacratissima vel aliquid eorum."

come to court to witness the removal of Enrighetto and Ghinazzo from the societies.

The trial against Enrighetto and Ghinazzo thus ended with their removal from the popular societies on the basis of their father's reputation and lifestyle as a noble, not on proof of their noble lineage or their own nobility or noble lifestyle. The proofs in the trial had been directed towards establishing the nobility of their father by his reputation and lifestyle, but their own nobility was not an issue. Their defense, however, sought to shift the focus from their father's nobility, which it did not contest, to the lack of proof of their noble lineage. The *sapientes* of the first two *consilia* supported the defense and rested their opinion on the disparity of language in the *popolo* statutes, pointing out that the phrase "vel de nobili progenie" did not appear consistently in the documents and maintaining that the original documentation did not have that phrase. That opinion, if followed, as the Capitano seemed ready to do, would have narrowed significantly those affected by the anti-magnate legislation and permitted their membership in the popular societies. That position was patently unacceptable to many, as evidenced by the defensive reaction of the two preeminent societies and the subsequent prompt reversal in position of the Capitano himself. The latter was particularly careful not only to appoint a new commission of *sapientes*, but to make clear to them that he expected a decision unfavorable to the imputed. The new *sapientes* wrote a *consilium* that went against the imputed and safeguarded a broader interpretation of noble status and subsequent exclusion from the popular societies. But there is a paradox in the outcome of this case. On the one hand it was not necessary in the case of Enrighetto and Ghinazzo to prove their noble lineage, but on the other hand the lifestyle and reputation of the father marked his sons, despite their *popolo* lifestyle, as nobles who must be excluded from the societies. Did this trial mark the triumph of the principle of hereditary status or not? This trial indicates a remarkable degree of ambiguity and uncertainty surrounded the definition of *contado* noble progeny and the role of parentage and ancestry in determining that definition. It also indicates the determination of the *popolo* to enforce a more inclusive definition.

Despite this trial and the crisis it provoked, the principle of hereditary status in the case of the descendants of *contado* nobles illegally enrolled in the popular societies was still not established, and in several later trials the deciding evidence still seems to have been the lifestyle of the imputed. *Zangarellus* and *Guinibaldus*, sons of the deceased

*Benvegnaius* da Borgo Panigale, were charged in November 1293 as being descendants of *contado* nobles who by reason of that status were illegally enrolled in the arms society of the Leopards. It was also claimed that their father, *Benvegnaius*, was a *miles* and that he and others of his family had been or were men with feudal-type dependent ties with others (*homines de maxato*). Their case is particularly important because they argued successfully that they should be acquitted on the grounds that they and their father (who according to them was not a belted knight) did *not* pursue the lifestyle of *contado* nobles. As they put it, they did not live the “knightly life” or the “beautiful and honorable life.” To support their defense, they claimed, with the support of witnesses’ testimony, that their father had not worn spurs of gold (or even of iron), had not had a horse, nor possessed serfs. Moreover, he had worked his land himself. The prosecution provided fifteen witnesses, but the defense provided nineteen and the imputed were acquitted.<sup>109</sup> In 1293, Albergetto di Tommaso *de Zenzonis* also defended himself successfully against the same charge, again on the basis of lifestyle, that is, by asserting that he practiced his craft.<sup>110</sup> In both these cases, there was no evidence presented, however, that the imputed or their ancestors were enrolled in the Book of Nobles. Lifestyle was thus successfully still used as a proof to deny noble status.

The year 1294, moreover, marked a significant affirmation of exclusion from the societies of descendants of *contado* nobles. In that year the hereditary principle was affirmed definitively and applied to all members of a *domus* and to all noble progeny. In the purge of that year, which accompanied the making of new guild *matricule*, twenty-four of the eighty-seven parties who came forward to remove themselves from the societies (in order to avoid a fine), gave as the reason for their cancellations that they themselves or their ancestors were inscribed in the Book of Nobles of the *contado* and district. One other party who came forward should have so specified, but did not do so.<sup>111</sup>

<sup>109</sup> Table IV.1, entry 52. The defense also argued and provided witnesses to show that the opposition witnesses were their mortal enemies because the defendants (*Zangarellus* and *Guinibaldus*) had testified against those witnesses in the properties court. They also described the *vita popularis* which they pursued, as discussed below, section 7.

<sup>110</sup> Table IV.1, entry 40. He also had been accused in 1288 of entering the palace of the Capitano illegally, entry 23.

<sup>111</sup> Table IV.3, entries 4, 7, 14, 19, 20, 38, 43, 51, 55, 57, 60, 66, 67, 68, 69, 73, 75, 76, 78, 79, 80, 81, 83, 84, and 86. Entry 4 is the one that did not so specify.

*Zangarellus* and *Guinibaldus* da Borgo and Albergetto di Tommaso *de Zenzonis*, who as we saw above had defended themselves successfully, just a year earlier, from the charge of being descendants of *contado* nobles on the basis of lifestyle, now came forward and asked to be cancelled from the societies. *Zangarellus* and *Guinibaldus* at this point admitted that their father had in fact been inscribed in the Book of Nobles.<sup>112</sup> Albergetto still claimed he was not a noble or magnate, but asked to be cancelled because he feared the fine.<sup>113</sup> His relative, *Zenzaminus Zenzanis*, however, asked to be cancelled because, as he admitted, he was inscribed “in the book of nobles of the *contado* of Bologna.”<sup>114</sup> By 1294, ancestry thus had triumphed over lifestyle in the assignment of status to *contado* nobles and their descendants. (But as we shall see below, lifestyle continued to be a major means of proof in the identity of urban magnates.)

After 1294, in trials against those accused of being descendants of *contado* nobles, lifestyle still was invoked, but the crucial point that had to be proven in those trials was that the imputed was indeed the descendant of a particular *contado* noble, as in the case in 1304 against Francesco di Caccianemico Gandolfo da Gesso. The issue in that case was whether Francesco was the descendant of Gandolfo di Tommasino da Gesso, who, it was claimed, was “de nobilibus” and was inscribed in the Book of Nobles as belonging to the “cattanei da Gesso” and specifically to the “Aigoni da Gesso.” Gandolfo’s status and inscription in the Book of Nobles was not disputed by the defense which claimed, however, that there were two men with the name Gandolfo da Gesso, one of whom was not a noble, and that the defendant was the grandson of the non-noble Gandolfo.<sup>115</sup> Don Bono, canon of S. Barbaciano in the rural commune of Cerretolo, witness for the prosecution, testified extensively. According to him, Francesco was the son of Caccianemico, grandson of the deceased Gandolfo, and great-grandson of the deceased Rainerio (who was father of the said Gandolfo and also of Tommaso). He also testified that Tommaso too had a son named Gandolfo, that both of the brothers, Tommaso and Gandolfo, were reputed to be “nobiles” in the *cappella* of S. Salvatore in Bologna and

<sup>112</sup> Table IV.3, entry 38.

<sup>113</sup> Table IV.3, entry 61.

<sup>114</sup> Table IV.3, entry 14. Giuliano *de Zenzanis* was a captain at Castel Uccellino *pro nobili* in 1298. ASB, Capitano, Giudici, Reg. 330, fols. 51r–52v.

<sup>115</sup> Table IV.1, entry 74.

also among the people of the rural communes of Tizzano, Gesso and Cerretolo. Furthermore, he maintained that the father of the brothers Gandolfo and Tommaso, a Rainerio, was reputed to be a noble and that he went hunting, sometimes on foot, sometimes on horseback, in the neighborhoods of Gesso. He also testified that twenty or so years earlier he had seen the properties of the imputed's ancestors in Villa Gesso destroyed because of the homicide they had committed against a certain person who was *de populo* and from Gesso.

Domina Beatrice, wife of the deceased Laigono da Gesso, who lived in the city in the *cappella* of S. Isaia, also testified that the da Gesso, and specifically the brothers Tommaso and Gandolfo, were regarded as nobles in both the city and *contado* by all their neighbors, specifically in the *cappella* of S. Isaia and in Villa Gesso and Tizzano. Asked how she knew that they and others of their *domus* were reputed to be nobles, she responded "that they did honor to and offered hospitality to all who traveled through the neighborhoods of Gesso and maintained beautiful horses, weapons, dogs and birds, and often went hunting."<sup>116</sup> Another witness, Francesco Ghisilieri, testified similarly that they were nobles and that he knew this because "those who are from the *domus* of the Aigoni give honor to all foreigners who pass through the neighborhood of Gesso, and maintain dogs and birds and go hunting as nobles do."<sup>117</sup> All three witnesses thus testified that the imputed pursued the lifestyle of *contado* nobles and identified that lifestyle as one of hospitality and hunting. In fact, we know that the Aigoni comprised a famous and powerful *contado* noble family who were the subject of specific legislation concerning Lambertazzi *confinati* in the 1288 statutes.<sup>118</sup> Laigono da Gesso also is among those found in the earliest surviving magnate lists, those of 1271–72.<sup>119</sup>

In his defense, Francesco did not challenge the legal status or reputation for pursuing a noble lifestyle of the Aigoni. Instead, he claimed

<sup>116</sup> "Quod faciebant honorem et servitium omnibus qui transiebant per illas contractas de Gesso et tenebant pularas equas et arma et canes et aves et ibant sepe et sepius ad cazandum et oxelandum."

<sup>117</sup> "Illi quo modo vivunt de dicta domo de Aygonibus faciunt honorem omnibus forensibus qui transeunt per contractam de Gesso et teneant canes et aves et vadunt venando et oxellandum uti faciunt nobilles."

<sup>118</sup> Fasoli-Sella, *Statuti dell'anno 1288*, Bk. V, Rubric CXXXX, "De officio confinatorum complendo, et de domino Laygone de Gisso et filiis confinandis," pp. 500–501. The legislation dates from 1287.

<sup>119</sup> The lists are given in Milani, "Da *milites* ad magnati," pp. 149–152.



that his father Caccianemico and his grandfather Gandolfo had always been *popolani*, that they had been inscribed in the societies for the past fifty years, and that Caccianemico had been privileged for the past forty years. He also claimed that his grandfather Gandolfo, although he had been inscribed in the books of the confined Lambertazzi, had sworn allegiance to the Geremei party in 1287. His basic contention was that the charge against him was one of mistaken identity, that the Gandolfo who was his grandfather was *not* the Gandolfo described in the charge. Witnesses for the defense testified that Francesco's father practiced the craft of notary and had been in the notaries' guild for more than forty years and in the arms society of the Dolphins, and that his father Gandolfo was enrolled in the Eagles. Finally, Gandolfo di Tommasino da Gesso testified that there was indeed another person in the family named Gandolfo with a father named Rainerio, but that they were very distant relatives and were *popolani*, who worked the land and were not *nobiles*. Other witnesses testified similarly, emphasizing that there were indeed two different men named Gandolfo, both having a father named Rainerio and both from the same rural commune of Tizzano, but that the noble Gandolfo was dead and the *popolano* Gandolfo was alive and a lay brother at the monastery of S. Fabiano. Although the defendant provided ample evidence of a *popolo* lifestyle and witnesses described his service, his participation in armies for the *popolo* and how he spoke "male" against magnates, his main defense strategy was to disprove the allegation of noble ancestry by claiming mistaken identity.<sup>120</sup> Lifestyle was a supportive but not a sufficient criterion for determination of status in these cases. Nevertheless, there was a consistent perception of the identity of a *contado* noble in the testimony of witnesses.

The very few trials against putative descendants of *contado* nobles from 1313–1326 (periods 6 and 7 of Table IV.1) concern descendants of individuals whose status was changed from magnate to *popolo* and even back to magnate again by legislative decision and are discussed separately below in sections 9 and 11.

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<sup>120</sup> The trial occurred in two stages, with the first ending in a mistrial since there was not a denunciation by the *ministrales societatis*. The verdict for the second stage is not given.

## 6. URBAN MAGNATES AND KNIGHTHOOD

For magnates of the city (who, according to the legal definitions discussed above in Part I of Chapter Four, were belted knights and their relatives, as distinct from *contado* nobles and their descendants), the trend to full implementation of the hereditary principle (by extension of magnate status to entire families) was similar, but made more complex by ambiguity between what was perceived as the appropriate lifestyles for a *miles* and a very prosperous *popolano* (a *popolano grasso*), respectively. As we shall see below, the lifestyle of a magnate or belted knight was *not* perceived as distinctive from that of a *popolano grasso* since both could live the *vita honorabilis*.<sup>121</sup> Moreover, there was confusion as to what constituted an authentic belted knight. In several trials the issue was not whether the imputed was related to a knight, but whether the knight himself was an appropriately dubbed belted knight or was “only” a “miles” by virtue of enrollment in one of the religious orders of warrior-monks. For example, Pietropino da Castello, son of Alberto Albari, who was a judge enrolled in the arms society of the Claws, successfully argued that his brother, who had been dead for twenty years, was not a *miles* as charged, but was a banker who was also a *frater gaudens*, that is, a member of the Order of the *Beata S. Maria Vergine Gloriosa*.<sup>122</sup>

Ugolino Mussolini, who was charged in 1293, asserted that he had been in the guild of the butchers and arms society of the Keys for more than twenty-four years and that his paternal grandfather, Bombologno, although a *frater gaudens*, was not a *miles* but a butcher, even though he was called a *miles Sante Marie*. Significantly, one of the questions asked of the witnesses in this trial was whether all members of the Order of the *frati gaudenti* were *milites* and reputed to be *milites*.<sup>123</sup> In other words, was a knight of the Order of S. Maria to be considered the equivalent of a belted knight? The verdict is not given in this case, but it must have been an acquittal since we know from other sources that the Mussolini were not magnates. Another member of the family, Niccolò di Pietro Mussolini, was a privileged person and had been

<sup>121</sup> On chivalric and courtly themes in communal culture, see C. Jean Campbell, *The Game of Courting and the Art of the Commune of San Gimignano, 1290–1320* (Princeton, N.J.: Princeton University Press, 1997).

<sup>122</sup> Table IV.1, entry 9.

<sup>123</sup> Table IV.1, entry 35.

acquitted in a trial of 1288.<sup>124</sup> Moreover, Ugolino Mussolini himself was charged again in 1298 as being illegally in the butchers and Keys (indicating he indeed had not been removed from those societies in the earlier trial). He maintained in the 1298 trial that he had never been cancelled from any society. Again he was acquitted.<sup>125</sup> Finally, in 1300, in yet another trial, Ugolino and his brother Niccolò were yet again accused of being illegally in the Keys, butchers and bankers, again because their paternal grandfather Bombologno was a *miles*, and yet again they were acquitted.<sup>126</sup> The grandfather's status as a *frater gaudens* thus did *not* result in ascription of the status of magnates to his grandsons.

The popular perception of knighthood which included those made knights by their membership in the *frati gaudenti* thus was *not* accepted in the Capitano's court as evidence of knighthood and magnate status. Why were the knights of the *frati gaudenti* viewed ambiguously, as other than authentic knights? John Koenig thought that all members of that Order were knights and nobles, but the status of the Order's members was more varied and complex than he assumed.<sup>127</sup> The constitutions of the *capitolo generale* of 1269 specified that only three brothers who were not *milites* per city could be members of the Order and one of the three had to be a notary.<sup>128</sup> Those who entered the Order and were not already knights, however, were required, according to the Rule, to be made knights by a knight of the Order.<sup>129</sup> Members could either live in the convent or continue to live in their homes and those who chose the latter option could continue to practice their craft.<sup>130</sup> According to De Stefano, judges, advocates and especially notaries were numerous in

<sup>124</sup> Table IV.1, entry 16.

<sup>125</sup> Table IV.1, entry 62.

<sup>126</sup> Table IV.1, entry 68.

<sup>127</sup> Koenig, *Il "popolo" dell'Italia*, p. 362.

<sup>128</sup> Domenico Maria Federici, *Istoria dei cavalieri Gaudenti*, 2 vols. (Venice: Stamp-eria Coleti, 1787), vol. 2, document XX, capitolo XXI, "De non militibus recipiendis," p. 46. Also cited (incorrectly) by Marina Gazzini, "Fratres et milites tra religione e politica. Le Milizie di Gesù Cristo e della Vergine nel Duecento," *Archivio storico italiano* 162 (2004): 3–78, esp. p. 50.

<sup>129</sup> Federici, *Istoria dei cavalieri*, vol. 2, document XX, cap. XXVI, p. 47: "Quicumque non Milites nostrum Ordinem de cetero fuerint intraturi, fiant Milites per Fratrem Militem nostri ordinis in habitu laycali ante altare benedicto prius ense et vestibus Ordinis. Post susceptam autem Militiam vestibus Ordinis induatur." Also cited in part (but with incorrect page number) by Antonino De Stefano, "Le origini dei frati gaudenti," *Archivum romanicum* 10 (1926): 305–250.

<sup>130</sup> De Stefano, "Le origini dei frati gaudenti," p. 323.

the Order, a point which also can be seen in Pasquali Alidosi's lists.<sup>131</sup> The prestigious nature of the Order, or at least that of the Bologna chapter, is also seen in the restrictions established in 1314 on dress and armor that specified no gold or silver could be used on the reins of the horses.<sup>132</sup> Although not noted in the identity trials against the Ghisilieri,<sup>133</sup> Giacomo Ghisilieri was prior of the Order in 1281.<sup>134</sup> In 1326, the Order was given responsibility for amplifying and fortifying the ditches that surrounded the city. Two men from the Order from each quarter of the city were elected *sapientes* for that task. All the men elected were high-level political elite and all were either notaries or from families with notaries. Those elected were: Dondiego Piantavigne and Giovanni Orsi from Porta S. Pietro, Pietro da Sala and *Rinucius* da Argelata from Porta Stiera, Guidocherio Balduini and Bernardino Bambaglioli from Porta S. Procolo, and Tommaso Artenisi and Matteo Rodaldi from Porta Ravennana.<sup>135</sup>

The ambiguity concerning the status of *frati gaudenti* extended to other orders of warrior-monks. Senzanome di Rolandino and his cousin *Philiputius* di Alberto Pippini were each charged with being *de nobilibus et potentibus civitatis Bononie et de nobili progenie natus*, and therefore illegally enrolled in the notaries' guild and in the arms society of the Quarters.<sup>136</sup> We know from other sources that they may have had an ancestor in the Book of Nobles of 1249 where a "D. Pipionus" is listed, and probably also had an ancestor who served in the *militia* of 1249.<sup>137</sup> In 1274, Rolandino di Pipino, apparently father of one of the imputed, was removed from the arms society of the Quarters because he was a *magnans et filius militis*.<sup>138</sup> The basis of the charge in the trial of 1292, however, was that Alberto, father of *Philiputius* and uncle of

<sup>131</sup> Giovanni Nicolò Pasquali Alidosi, "Li cavalieri Bolognesi di tutte le religioni et Ordini," in *Operette*, vols 1–8 (Bologna: Bartolomeo Cochi, 1616), pp. 19–25. The list includes the notary Pace da Saliceto and members of the Bambaglioli, Balduini, Gozzadini, Rodaldi, Mezzovillani, and Piantavigne families.

<sup>132</sup> Gazzini, "*Fratres et milites*," p. 51.

<sup>133</sup> Table IV.1, entries 10, 18, 53, 79, 82, 83.

<sup>134</sup> ASB, Capitano, Giudici, Reg. 15, fol. 7r, Aug. 24, 1281.

<sup>135</sup> ASB, Comune-Governo, Provvigioni IV, fols. 301rv, May 31, 1326.

<sup>136</sup> Table IV.1, entry 33.

<sup>137</sup> ASB, Comune, Estimi di città e contado, series 1, Ruoli d'estimo, 2. Elenco di nobili ed esenti, fol. 24r (D. Pipionus de Monsevero). For Alberto Pippini in the *militia* in 1249, ASB, Comune, Estimi di città e contado, series 3, Busta 3D, Extimaciones equorum, Porta Ravennana, fol. 4r.

<sup>138</sup> ASB, Capitano, Libri matricularum, Busta I.

Senzanome, was a *miles*. Three witnesses said they knew Alberto was a knight because of the investiture ceremony Alberto had undergone. One of these witnesses testified that Gentile Lambertini had girded Alberto with a sword and made him a knight “ad domum de Alamanis.” When asked how he knew this, the witness admitted he was not an eyewitness, but said that he had been present at the *domus* and had seen a great crowd gathered there and heard that the ceremony had taken place. The other two witnesses, however, claimed they were indeed eyewitnesses to the ceremony and said that Alberto was a Templar (*miles de templo*) and *miles de allamanis* who went “beyond the sea.” The defendants were acquitted despite the fact that they and their witnesses did not contest Alberto’s status as a knight. However, they were very clear that he was a knight Templar, as was the witness for the prosecution. A knight Templar, like a *frater gaudens*, thus was not considered a belted knight for the purposes of evaluating membership in the popular societies.<sup>139</sup> In fact, in 1294 we find Senzanome di Rolandino Pippini enrolled in the notaries’ *matricula*, and again in 1314 in the arms society of the Tuscans, along with another brother, Barufaldo di Rolandino Pippini.<sup>140</sup>

Acquittal also was ensured if there were doubts about the authenticity of the ceremonies that had made an individual a belted knight. In 1288, Bartolomeo and Pietro Savioli were accused of being illegally inscribed in the arms society of the Claws because their brother Giacobino had been made a *miles*.<sup>141</sup> That Giacobino was their brother was not contested by the defense, nor was there any dispute that a ceremony of investiture had indeed been held in which he was made a *miles*. Instead, the testimony of eyewitnesses for both the prosecution and the defense focused on the issue of whether or not the knight-ing of Giacobino had been carried out properly. Fifteen of the twenty witnesses for the prosecution, including *ministrales* of the defendants’

<sup>139</sup> They also cited in their defense their record of office-holding in the popular societies, noting that Senzanome had served many times as *ministralis* of the arms society of the Quarters.

<sup>140</sup> ASB, Capitano, Libri matricularum, Buste II and III. However, in 1322, Pippino di Giovanni di Senzanome Pippini *seu* Senzanomi was banned as a magnate for assault against a privileged *popolano*. ASB, Podesta, Accusationes, Busta 45b, Register without covers or number, the notaries are *Rizardus* and *Andreas*, fols. 21rv, Sept. 18, 1322.

<sup>141</sup> Table IV.1, entry 11. Bartholomeo Savioli had been approved in 1286 as a Lambertazzi who had sworn allegiance to the Geremei and commune. ASB, Capitano, Giudici, Reg. 97, fol. 4r, Oct. 17, 1286. As such he was eligible for membership in the societies, but could not hold office.

*cappella*, agreed that Bartolomeo was indeed enrolled in the Claws. But not all the witnesses thought his brother Giacobino was a *miles*, or that it was *publica fama et vox* that he was a *miles*. Nine witnesses thought it was *publica fama* that Giacobino had been made a knight or had heard it said so, even if by only one person, and four claimed also to have been eyewitnesses to the knighting ceremony.

Spagnolo Ghisilieri testified that approximately three years earlier he was at the church of S. Gervasio at the time the investiture ceremony in question took place. At the church he saw that many men were present and that Giacobino Savioli was the focus of attention. He said that almost everyone there said that Giacobino had been made a *miles*. Guidottino Ghisilieri in turn testified that he was inside the church during the ceremony and saw Alberto Caccianemici and Bonifacio di Castellano Storlitti participating in the ceremony. He also saw Giacobino rise up, with golden spurs on his boots, saw him accept the sword, and gird himself with it without any assistance. Zaccaria di Testa Ghisilieri said that he too was present at the ceremony, adding to the description of the ceremony given by others by saying that he saw Alberto Caccianemici and then Bonifacio Storlitti bending down to the feet of Giacobino, but he was not actually able to see them attach the spurs because there was such a multitude of people present. However, he reported that everyone present at the church said Giacobino had been made a knight, and afterwards he saw Giacobino leave the church girded with a sword and with golden spurs on his feet. And many people said that he had been knighted because he was to serve in the government at Volterra. The same witness also said he saw Giacobino later wearing his golden spurs in the city of Bologna. The fourth eyewitness, Pelegrino Revaxii, testified along the same lines as the first three witnesses.

Despite four eyewitnesses and additional testimony concerning Giacobino's *fama* as a *miles*, however, his brother Bartolomeo was acquitted. His defense was twofold. First, he proved that the eyewitnesses were his enemies.<sup>142</sup> Secondly, although he did not deny that his brother had undergone a knighting ceremony, he claimed in his *intencio* that the ceremony had not been carried out according to custom and therefore was not valid. He specified that "he intended to

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<sup>142</sup> See below, section 10, for a discussion of the conflictual nature of many of these accusations.

prove...in the first place that it was customary in the city of Bologna that when someone was made a knight, that he was girded with the sword by another knight or baron. Furthermore, in this way knights were made and were accustomed to be made in the city of Bologna and in Lombardy. Furthermore, if anyone were made a knight in any other way, *then he would not be considered to have been correctly made a knight*" (italics added).<sup>143</sup>

The first witness for the defense, Bonfredo di Gandolfo d'Argele, testified that the first argument of the *intencio* was correct and that he knew it was so because he had many times seen men being made knights by the girding of the sword and attaching of the spurs. Asked if he ever had seen anyone take up the sword from the altar and gird himself with it, he responded that he had not. When further asked if anyone could be made a knight who girded himself with the sword in the city of Bologna, he responded that it was possible since he had only seen two or three men knighted in Bologna. However, he believed that a person was not correctly held to be a knight unless he had been girded with a sword by a knight or baron.

Another witness, Pietro da Argelata, also testified as to the appropriate ceremony for making a knight and said that he knew what the ceremony should be because he had seen many men being made knights in Bologna, and in those ceremonies they were girded with the sword by other knights. When asked who those knights were, he named Bonavolta Malavolta, Bacciliero Baccilieri, Alberto Malavolta, and Ramberto Baccilieri.<sup>144</sup> He specified that the last named was knighted at Ferrara by the Marquis of Este (and we know from other sources that the Baccilieri in the late 1280s were indeed confined to Ferrara because of their involvement in a conspiracy against the government of Bologna). Cursio Romanzi in turn testified that he had seen Ubaldino Malavolta girded with the sword at his investiture ceremony and named Bonavolta Malavolta as the knight who performed that part of the ceremony. He also said that the custom of having a knight or baron invest a new knight prevailed not only in Bologna but also in

<sup>143</sup> "Intendit probare...in primis quod consuetudo est in civitate Bononie quod quando aliquis efficitur milix, quod ei cingitur ensis per aliquem militem vel baronem. Item quod hoc modo milites fuerunt et fieri consueverunt in civitate Bononie et per Lombardium. Item quod si quis fieret praeter illum modum non habetur pro recto milite."

<sup>144</sup> The Malavolta and Baccilieri appear on the earliest surviving lists of magnates, those from 1272–1272. Milani, "Da *milites* a *magnati*," pp. 149–152.

Lombardy. This trial against the brothers Savioli ended in their acquittal. Public fame was not sufficient in this case as a proof, nor was the fact that the imputed's brother had been invested as a knight, as proven by eyewitnesses. Instead, flaws in the ceremony itself impugned that person's status as a *miles*. This also meant, therefore, that his brothers were permitted to continue as members of the popular societies. In the determination of status, the authenticity of the ritual was more important than the fact that the ritual had taken place.

The same concern for vetting that an appropriate knighting ceremony had taken place was also an issue in a trial of 1298 against Bartolomeo di Giovanni d'Argele, and again in 1299, against his brother Isnardo di Giovanni d'Argele, both charged with being illegally in the arms society of the Crossbars.<sup>145</sup> We know from the 1274 cancellations' list of the purge of the *matricule* membership that Giovanni di Ugucione d'Argele, probably father of the two imputed men, was removed that year from the arms society of the Crossbars because he was the brother of a *miles*. The main thrust of the charge against them would seem to have been that the same brother, their paternal uncle, Coradino d'Argele, had been made a *miles* in Rome when he was there as part of the entourage of Comacio Galluzzi at the time the latter served as podesta of the Roman commune. The charge also specified that the dubbing was performed either by Comacio or by Charles of Anjou ("Dominum regem Karulum"). The trial record includes the testimony of eyewitnesses who were present at the knighting ceremony, including Comacio himself who said it was he who at that time had made Coradino a *miles*. The witnesses also stated that Coradino was reputed to be a *miles* after that ceremony and that they saw him later at Spoleto "with fur and golden spurs, as a knight, at the time Comacio was podesta of Spoleto."<sup>146</sup> The authenticity of Coradino's status as a belted knight having been established by witnesses' review of the knighting ceremony, the judge ordered Bartolomeo removed from the Cross-

<sup>145</sup> Table IV.1, entries 64 and 65.

<sup>146</sup> "cum vario et calcaria aureata, tanquam militem, tempore quo dominus Comacius fuit potestas Spoleti." Giuliano Milani, "Galluzzi, Comazzo (Comacio)," in *Dizionario biografico degli italiani*, vol. 51 (Rome: Istituto della Enciclopedia italiana, 1998), pp. 258–760, describes Comacio as serving as podesta of Spoleto in 1260, 1266 and 1289, at Todi in 1268, at Forlì in 1272 and at Faenza in 1283, and as Capitano at Modena in 1273. In the trial cited here, both Spoleto and Rome are referred to as places where Comacio served as podesta. Coradino d'Argele apparently served in two different cities with Comacio.



bars. (The verdict for the trial against Isnardo is not given, but most likely was also a conviction.)<sup>147</sup> Thus, Coradino d'Argele's knighthood had resulted years earlier in the exclusion from the popular societies of his brother, and served again years later also to exclude his nephews. But it was a knighthood that had to be carefully authenticated in order to serve as a proof of status and exclusion.

Why was there so much uncertainty concerning the authenticity of knightly status and the appropriate investiture ceremony of a knight? Jean-Claude Maire Vigueur has shown that the diffusion of knighthood and the application of the ceremony of investiture to persons other than great nobles and barons of the highest nobility was a process which began early in the thirteenth century and was not completed until mid-century in northern and central Italy.<sup>148</sup> Moreover, the chronology of that development correlates with the change in the *milites* (as cavalrymen) from a class of mounted warriors to the well-known extension of that type of military service to include not only those who had served as warriors on a hereditary basis with fiscal privileges, but also those who served as *milites pro comune* without fiscal privileges, a transition evident from the early to mid-thirteenth century.<sup>149</sup> The founding of the Order of the *frati gaudenti* in 1261 was a recent enough development to add yet another element of ambiguity to the evolving definition of knighthood. With mounted service no longer the monopoly of a class, the distinction of being a belted knight became the distinguishing honorific of social identity and a determining criterion of legal status as a magnate. But the lifestyle of a belted knight was not the monopoly of those with magnate status. Nor was it possible to distinguish belted knights from *milites pro comune* on the basis of their special gear, as Lansing speculated might have been the case in Florence.<sup>150</sup> Other scholarship shows that neither before nor after the middle of the thirteenth century can one distinguish between the equipment of a dubbed knight (a *chevaliere*) and a cavalryman

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<sup>147</sup> Isnardo had been accused earlier, in a trial in 1288, of being illegally in the societies since he was the brother of a *miles*, but in that case he had been acquitted because he was privileged. He is listed in the statutes as privileged because he served as a *sapiens* for making the ordinances "super domo fabrorum" during the podestaship of *Dominus Gerardus de Glosano* (1287). Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk.V, p. 409.

<sup>148</sup> Maire Vigueur, *Cavalieri e cittadini*, p. 379.

<sup>149</sup> See discussion above in Chapter Four, Part I.

<sup>150</sup> Lansing, *The Florentine Magnates*, p. 155.

(a *cavaliere*), although wealthier cavalrymen at the beginning of the century had worn the “osbergo” which later became characteristic of all mounted warriors.<sup>151</sup> As we saw above in the trial testimony, the “special gear” of the “*vita honorabilis*” consisted of decorative trappings, such as golden reins, bridles and spurs, which also were worn by those who were not belted knights or magnates.

## 7. LIFESTYLE AS PROOF OF STATUS

In several of these trials, as noted above, there is testimony from witnesses describing not only the dubbing ceremony but the lifestyle of the alleged *miles*, emphasizing the wearing of golden spurs, furs (usually of grey and white squirrels), and horsemanship. That there was a popular perception of what constituted the lifestyle of a *miles* is confirmed by testimony in other trials as well, even though as we saw above, lifestyle was not a sufficient criterion for conviction as a magnate illegally enrolled in the popular societies. The difference lies in lifestyle as a popular perception and lifestyle as a proof for conviction. For example, lifestyle was a major issue in 1299 in a trial against seven grandsons of the deceased Artenesio *Codemazo*, and Tommaso, Andrea and Ricardo, sons of the deceased Guaschetto Artenisio *Codemazo*, all members of the Artenisi family.<sup>152</sup>

This trial is particularly illuminative of the issue of lifestyle as a proof of status since it is not supplemented by other types of evidence. The basis of the charge was that Artenisio, grandfather of the imputed, had been a knight and had lived a lavish knightly lifestyle. Five witnesses testified in support of that charge, citing Artenisio's lifestyle as evidence of his status. Prendiparte di Alberto Azzoni testified that Artenisio “was a knight and was in the knightly order and was held as such by all who knew him as was said throughout the city of Bologna at that time.”<sup>153</sup> When asked how the witness knew he was a knight, he described how, during the four years before Artenisio died (forty years earlier), the witness had many times seen him riding through the

<sup>151</sup> Bruno Breveglieri, “Armamento duecentesco bolognese: statuti e documenti d'archivio,” *Bullettino dell'Istituto storico italiano per il Medio Evo e Archivio muratoriano* 94 (1988): 73–122. Cf. Maire Vigueur, *Cavalieri e cittadini*, pp. 99–102.

<sup>152</sup> Table IV.1, entry 66.

<sup>153</sup> “*milex et in ordine militari constitutus et sic habebatur ab omnibus cognoscentibus eum ut dicebatur per civitatem Bononie tunc temporis.*”

city with clothes lined with furs and with reins, saddle and spurs of gold.<sup>154</sup> He also described how Arsenisio had gone through the streets with great bands of men and how he spent money lavishly. He further specified that Arsenisio had been reputed to be a knight by the “greater part of *bolognesi*,” including both magnates and *popolani*. But when asked if he had actually seen him being made a knight, he responded that he had not. The other four witnesses testified similarly, invoking Arsenisio’s lifestyle and *fama*, particularly among the men in “in the streets of S. Stefano and Castiglione.” One witness added that he had heard that the fathers of the imputed (who were dead) had been cancelled from the popular societies because Arsenisio, their father, was a knight.

The defense denied the charge and attacked the reputability of the witnesses, claiming that they were infamous persons. However, the testimony of other witnesses seems to have exonerated those witnesses and the defense moved to other arguments. A major line of defense constituted the claim that the “*vita honorabilis*” was pursued by *popolani* as well as by knights and magnates and did *not* prove that one was a magnate. According to the *intencio* of the defense, Arsenisio had always been a *popolano* and as a *popolano* had lived honorably, that is, he had lived the honorable life of a knight but was not a knight.<sup>155</sup>

Moreover the defense contended that during Arsenisio’s lifetime and at the present time there were many men who were true *popolani* yet lived the honorable life. They wore furs, golden spurs and swords, rode through town on golden saddles and with horses decorated with golden reins, and kept birds and horses for hunting “ad modum militum.” Yet “they were true *popolani* who belonged to the guilds and arms societies of the *popolo* of Bologna and were held and reputed to be *popolani* and were in the *matricule* of the guilds and arms societies of Bologna.”<sup>156</sup>

<sup>154</sup> “cum pannis frodati de varo et cum freno de aurato et sella de aurata et etiam portare calcaria de aurate.”

<sup>155</sup> “Dominus Arsenisius vixit tempore vite sue tamquam homo popularis et plebeus, utendo et conversando cum hominibus plebei et popularibus et faciendum ea que faciunt homines plebei et populares qui honorifice vivunt seu vivebant tunc temporibus absque eo quod ipse dominus Arsenisius tempore vite sue esset miles factus vel pro milite haberetur.”

<sup>156</sup> “Item quod tempore vite sue dicti Domini Arsenisii et ab inde circa et hodie multi qui veniebant tunc temporis seu qui postea vixerunt sive multi qui hodie vivunt in civitate Bononie qui vere populares sunt trahebant seu traserunt seu trahunt vitam honorificam portando varia equitando sella deaurata et equos cum frenis deauratis et

This particular and important point of the defense's *intencio* was supported by five witnesses, including several who had served as *anziani*. They concurred that although Artenisio had lived the "*vita honorabilis*," he was reputed to be a *popolano*. When Bonino di Fra Giovanni Sardelli was asked to distinguish between the lifestyles of *popolani* and knights,<sup>157</sup> he responded that knights acted in common for themselves and moved together in their neighborhoods, and also went out riding together, and that *popolani* circulated together with other *popolani* and rarely with knights.<sup>158</sup> When asked how a knight was made, the witness responded that a baron girded him with the sword and two knights attached the spurs and then he was given the accolade.<sup>159</sup>

This witness also testified that he himself knew *popolani* who lived the honorable life, retaining horses, dogs and birds for hunting, and had insignia, but were "*de populo*" and were reputed to be *popolani*, and were members of the popular societies.<sup>160</sup> When asked to give examples of such *popolani* whom he himself knew and had seen wearing furs, he named Lambertino and Zovenzone Zovenzoni,<sup>161</sup> Caccianemico Cazzetti, Bolognetto da Ignano, Rolandino Pegolotti, Poeta Poeti, and Ugolino da Marano. He added that there were many more whose names he could not remember. When asked to name those *popolani* who lived the honorable life by having insignia, horses, birds and dogs, he named Benino Beccadelli (who kept falcons), Misino di

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portando calcaria deurata et ense deauratum et retiendo aves ad aucellandum et canes ad venandum ad modum militum et vere populares sunt et de societate arcium et armorum populi Bononie et pro popularibus civitatis habentur et reputantur et fuerunt in matriculis societatum Artium et Armorum populi Bononie."

<sup>157</sup> "Interrogatus qualem vitam faciunt populares et qualem milites."

<sup>158</sup> "respondit quod milites faciunt comunia pro se et insimul traversantur in viciniis et in equitando et populares cum popularibus et raro populares cum militibus."

<sup>159</sup> "Interrogatus quomodo fuerunt milites, respondit quare quodam baro cinct eis spatam et duo milites calciant et calcaria et datur ei allapa."

<sup>160</sup> "cognoscit quosdam populares facientes et trahentes vitam honorificam in retinentes equos et aves ad ancillandum, et canes ad venandum et arma et sunt de populo et pro popularibus reputantur et habentur et sunt in societatibus populi."

<sup>161</sup> The Zovenzoni had more members of their family (thirty-three) in the bankers' guild than any other family. Antonio Ivan Pini, "L'arte del cambio a Bologna nel XIII secolo," *L'Archiginnasio* 57 (1962): 20–81, esp. p. 67. The bankers in particular were attracted to an aristocratic lifestyle, as also noted by Massimo Giansante, *L'usuraio onorato. Credito e potere a Bologna in età comunale* (Bologna: Il Mulino, 2008), pp. 117–121.

Niccolò Tebaldi,<sup>162</sup> Gratiolo Boatteri,<sup>163</sup> Giovanni da Ignano, Rizzardo Artenisi,<sup>164</sup> Arrigo and Giovanni Mezzovillani, and again said there were many others, unnamed by him, whom he had seen living thus for a long time. He also supported the *popolo* status of the imputed by a typically tautological argument, citing their membership in the notaries' guild and arms societies of the Horses and Stars and emphasizing that three of the imputed practiced the craft of notary just like other notaries.

Another witness, Pace di Guido Surici, also named as *popolani* living the "vita honorabilis," Testa Rodaldi, Cevernino and Lambertino Zovenzoni, whom he described as bankers who wore furs. He also named Benino Beccadelli who, according to the witness, at that time was a member of the societies and had a falcon, dogs and a horse. He also named the Anzovillani family, Giovanni da Ignano "and many others" who were in the societies and whom he himself had seen living thus. He noted that several of those whom he had named were bankers and had held the high office of *consul* in that guild. Another witness, Lambertino di Gerardello Tencarari, member of a prominent notarial family, testified in similar fashion, including the naming of those who were members of the society and lived the honorable life. He added the names of Giacobino Raccorgitti and Bongiovannino Rossi, noting that all those he named were in the bankers' guild. This witness, like the others, spoke as an eyewitness who had himself seen these men dressed as knights and engaged in hunting. Yet another witness, Ariento Faleccazze, testified the same way, adding *Alliotus* and Bonrecupero Arienti, Mezzovillano Gozzadini, and Azzo Dongelli to those already named by other witnesses as living the knightly life—the "vita

<sup>162</sup> The Tebaldi appear in Table IV.1, entry 15: Dino di Niccolò Tebaldi and Giacobino di Tommasino Tebaldi (1288) and in Table IV.3, entries 15, 28, 44, 50 and 59, with specific reference to their entire *domus* having been designated in 1294 as a magnate house. Dino Tebaldi served *pro nobili* as captain of Castel Bazzano in 1298. ASB, Capitano, Giudici, Reg. 330, fols. 53r–54r, May 1298.

<sup>163</sup> Gratiolo was very active politically and was *anzianus* several times. Another member of the family, Guido di Zaccaria Boatteri, (Table IV.3, entry 25) was declared a magnate in 1294, but apparently not the entire *domus* of the Boatteri. On the designation of a *domus* as magnate with exemptions from that designation, see discussion below, section 11.

<sup>164</sup> Rizzardo was *anzianus* in April 1290 (Molinari, *Li consoli*, p. 30), in 1282 for the arms society of the Castles, in 1289 (*ibid.*, p. 25), and as *sapiens* in 1293 (Ghirardacci, *Della historia*, p. 306), as *sapiens* in 1285 on the *balia* concerning the Lambertazzi (*ibid.*, p. 267), and was in the Consiglio del Popolo in 1283 and 1284 (database of officeholders in late medieval Bologna).

honorabilis." He added that all were members of either the bankers' or merchants' guilds.

All these witnesses emphasized the same crucial point. According to them, *popolani*, especially men from the bankers' and merchants' guilds, at least for the past three generations, had adopted the furs and appurtenances of knighthood, including the maintenance of birds and dogs for hunting and had themselves participated in hunts. But they also asserted that these *popolani*, while living the "vita honorabilis," nevertheless maintained their reputation as *popolani*. According to the witnesses, they maintained their reputation as *popolani* in three ways: by their membership in the popular societies, by practicing a craft, and by the company they kept. What distinguished knights and *popolani* who pursued the "vita honorabilis" from each other, according to these witnesses, was the nature of their work and the people with whom they associated.

Lifestyle was not a sufficient criterion for proving magnate status, but it was effective for denying that status, as can be seen in further testimony from the Artenisi trial. The defense in that trial called for testimony from several members of the 1294 commission who had reviewed the status of many individuals and families and had determined if they were *popolani* or *magnati*. That commission had considered the imputed's status and had determined at that time that they were *popolani*. Giovanni Mezzovillani testified that he, as an *anzianus* at the time, had served on the commission. He recalled that the commission had decided that the imputed Artenisi were *popolani* and descendants of *popolani* and appropriately enrolled in the societies, despite their grandfather's lifestyle as a knight, because their fathers were "vile persons" who sold and rented horses.<sup>165</sup> Romeo Pepoli, another of the commissioners in 1294, testified that during the commission's deliberations the imputed grandsons of Artenisio came under examination, but when it was learned that their fathers dealt with horses, the possibility of their being designated as magnates was met by the commissioners with scorn and they were not categorized as magnates.<sup>166</sup> Other witnesses who had served on the commission testified similarly. Thus, Antonio Ricoli, a judge, repeated that the crucial

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<sup>165</sup> "populares et descendentes ex populari quia patres predictorum denunciatorum s[c]ilicet Buvaellus et Guascherus fuerunt venditores et regratores equorum et viles persone."

<sup>166</sup> "derisum et tunc non fuerunt positi cum magnatibus sicut sibi videtur et credit."

point in the commission's decision had been that their fathers were accustomed to rent out dray-horses.<sup>167</sup> Pietro Merlino, who had served on the commission because at that time he was *preconsulis* of the notaries' guild, testified that the reason he remembered for not ascribing magnate status to the imputed was that he himself had seen Buvalello, one of the sons of Artenisio, buying and selling horses.<sup>168</sup>

The commissioners thus had rejected the sons of Artenisio outright as magnates because of their fathers' "vile" lifestyle. The commissioners' testimony was crucial in this trial and the imputed grandsons of Artenisio (who indisputably had lived a noble lifestyle), were acquitted. The "vile" lifestyle of the sons obfuscated the knightly lifestyle of the grandfather Artenisio in the eyes of the commissioners in 1294, and the knightly lifestyle of Artenisio was not sufficient to convict his grandsons in 1299. Pursuit of a knightly lifestyle by their grandfather thus did not in and of itself serve as a *sufficient* criterion for proving his knightly status, but pursuit of a "vile" profession by their fathers did serve as a *negative* criterion, eliminating the possibility of ascribing magnate status to their fathers and to themselves. With the *popolo* status of both the grandfather and fathers of the imputed thus having been demonstrated, the imputed grandsons of Artenisio were acquitted in the trial of 1299 and remained in the popular societies. In the *matricula* of the notaries' guild of 1294 are listed Enrighetto di Artenisio Artenisi, Niccolò di Buvalello, and Francesco di Buvalello Artenisi.<sup>169</sup>

Another branch of this family was also charged with illegal membership in the popular societies. Giacomo and Francesco, sons of Mattiolo di Enrighetto Buvalello Artenisi were accused of illegal membership in the societies because their grandfather, Enrighetto, was purportedly a *miles* who grandly lived the life of a knight.<sup>170</sup> The defendants

<sup>167</sup> "antecessores... consueverant locare equos ad vetturam."

<sup>168</sup> "vidit Dominum Buvallellum quemque emere et revendere equos in civitate Bononie."

<sup>169</sup> ASB, Capitano, Libri matricularum, fol. 64v. Enrighetto Artenisi, *consul* of the bankers, was privileged in 1283. Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric LXXIII, p. 413.

<sup>170</sup> Table IV.1, entry 67. He was described in the charge as "equitando equos cum freno de aurato et sella de aurata et portando calcaria de aurata et arnesias militares habendo tempore vite sue cum varis et indumentis foldratis varibus et... per civitatem et burgos Bononie cum aliis militibus et nobilibus civitatis Bononie cum indumentis et copertis de sindone frodatis de varibus, et bagerdando [sic] per civitatem et burgos Bononie cum aliis militibus et nobilibus civitatis Bononie cum indumentis et coper-

produced a document showing that their father Mattiolo had been enrolled in the bankers in 1276. That should not have evidenced their grandfather's non-magnate status as they hoped, since at that time the sons, brothers and grandsons of knights in the banker and merchant guilds were exempted from the law prohibiting membership of a knight's relatives (see Chapter Four, Part I). This trial ended in acquittal of the defendants because the accuser renounced his charge. Apparently, once again, the knightly lifestyle and reputation of an ancestor as a knight were not sufficient criteria for proving magnate status.

Not just *popolani* with relatives who lived, or who once had lived, a knightly lifestyle, but even *popolani* who themselves lived that lifestyle were able to successfully defend their membership in the popular societies. Obversely, *popolani* who could demonstrate many years of exemplary pursuit of the *popolo* lifestyle nevertheless were convicted as magnates and cancelled from the societies. Trials concerning the Balduini family provide an excellent example of a *popolano* family that lived a knightly lifestyle while it was shifted from *popolo* to magnate and back again to *popolo* status. The Balduini family was well-established by the early thirteenth century and remained prominent in government and administrative service throughout the thirteenth and early fourteenth century. The family included several judges, including one of the most preeminent jurists of the first half of the thirteenth century, Jacopo Baldovini, teacher of Accursio and Odofredo. He was present in 1218 at Forlì and then at Faenza for the acceptance of a peace treaty with those two communes in the Romagna, and served as podestà at Genoa in 1229.<sup>171</sup> Filippo Balduino served as Capitano at Assisi in 1269.<sup>172</sup> Balduino Balduini was also a judge and appears in the list of those receiving a special privilege in 1278 (as one of the *sapientes* who made ordinances that year against magnates, nobles and *potentes* of the city and district and against others who were not *milites*

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tis de sindone frodatis de varibus et ita habebatur et reputabatur pro milite comuni opinione hominum civitatis Bononie ab omnibus hominibus cognoscentibus eum."

<sup>171</sup> Antonio Ivan Pini, "I maestri dello studio nell'attività amministrativa et politica del comune bolognese," in *Cultura universitaria e pubblici poteri a Bologna dal XII al XV secolo. Atti del 2° Convegno, Bologna, 20-21 maggio, 1988*, ed. Ovidio Capitani (Bologna: Istituto per la storia di Bologna, 1990), pp. 151-178, esp. pp. 159 and 161. Also Roberto Abbondanza, "Baldovini, Jacopo" in *Dizionario biografico italiano*, vol. 5 (Rome: Istituto della Enciclopedia italiana 1963), pp. 521-525, and Nicoletta Sarti, *Un giurista tra Azzone e Accursio. Iacopo di Balduino (1210-1235) e il suo Libellus instructionis advocatorum* (Milan: Giuffrè, 1990).

<sup>172</sup> ASB, Comune-Governo, Riformagioni 127, fol. 44v, 1270.



or *potentes*).<sup>173</sup> In 1281, he served on the anzianate, the highest *popolo* office.<sup>174</sup> He also served as *judex sindicorum* and as one of the grain officials, in 1286.<sup>175</sup>

Two judges in this family, Balduino di Filippo Balduini, and Giacomo Balduini, *doctor legum*, appear in the Capitano court records as judges writing *consilia sapientis*.<sup>176</sup> Moreover, Giacomo served on one of the most important panels of judges giving legal opinions for the Consiglio del Popolo: a panel consisting of twelve *sapientes* advising on the terms of the podesta's salary and how the terms of confinement should be determined for Lambertazzi.<sup>177</sup> He also served as ambassador in 1286 to the Marquis of Este of Ferrara, seeking release of a Bolognese *confinatus* who was imprisoned there, and again in 1288 and 1289,<sup>178</sup> to the *contado* of Modena in 1295,<sup>179</sup> and to Parma that same year.<sup>180</sup> In 1287, he was among the 119 men specified as *popolani* who served as guarantors for the outgoing Capitano at his syndication.<sup>181</sup> In 1288, he served as supervisor (*prepositus*) of the tax office.<sup>182</sup> Finally, he and Balduino Balduini also served in the cavalry, as *milites comunis*.<sup>183</sup>

Another member of the family, Guidocherico Balduini, served as *miles* at the *dischum Ursi* when his brother, Mattiolo, who had been elected earlier to that position, became ill and had to relinquish it.<sup>184</sup> He also held a special privilege because of his service as a *sapiens* in

<sup>173</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric LXXIII, "Quod illi qui erant scripti in statutis populi pro privilegiatis, intelligantur privilegiati [ipsi] et eorum patres, fratres et filii et nepotes et filii fratrum, sicut predicti sapientes et consiliarii populi," p. 415.

<sup>174</sup> ASB, Capitano, Giudici, Reg. 8, fol. 54r.

<sup>175</sup> ASB, Capitano, Giudici, Reg. 70, fol. 2r, April 2, 1285, *ibid.*, Reg. 94, fol. 46v, December 1286.

<sup>176</sup> Jehn, "Die Versteckte Macht," pp. 537 and 543.

<sup>177</sup> ASB, Capitano, Giudici, Reg. 180, fols. 79rv, August 1292.

<sup>178</sup> ASB, Capitano, Giudici, Reg. 83, fol. 4r, 1286, and ASB, Comune-Governo, Riformagioni 128, fol. 115r, Dec. 1, 1288, and fol. 132r, Dec. 30, 1289.

<sup>179</sup> ASB, Capitano, Giudici, Reg. 269, fol. 9v, May 23, 1295.

<sup>180</sup> ASB, Capitano, Reg. 269, fol. 44v, Sept. 27, 1295.

<sup>181</sup> ASB, Camera del Comune, Procuratori del Comune, Busta 4, Reg. 33, fols. 75rv, September 1287.

<sup>182</sup> ASB, Camera del Comune, Procuratori del Comune, Busta 4, Reg. 35, fol. 1r, 1288.

<sup>183</sup> ASB, Camera del Comune, Procuratori del Comune, Busta 4, Reg. 33, fol. 86v, Dec. 5, 1287.

<sup>184</sup> ASB, Camera del Comune, Procuratori del Comune, Busta 4, Reg. 36d, fol. 1v, March 27, 1290.

March 1292.<sup>185</sup> In 1295, he served as a judge in the *officio procuratorum*,<sup>186</sup> and in 1315 was on the panel elected by the *anziani* and given special authority to investigate the salt office.<sup>187</sup> In 1321, he was one of ten *sapientes* from each quarter of the city elected by the *anziani* to deal with disputes in the city.<sup>188</sup>

Judges could be either *popolani* or magnates, but Balduino Balduini's special privilege of 1278 and Giacomo Balduini's service as a *popolano* guarantor for the outgoing Capitano in September 1287 (noted above) indicate that they and their family were of *popolo* status. In 1288, however, Guidocherio and Mattiolo, sons of Filippo Balduini, had to petition (successfully) the Capitano's court for admission into the arms society of the Crossbars, a petition opposed by the officials of that society.<sup>189</sup> The Balduini supported their claim to eligibility in the popular societies by demonstrating their relationship to their paternal uncle, who was a privileged person and thus had endowed privileged status upon them. They also claimed that their grandfather, Giovanni, was a cloth merchant.

Although considered to be *popolani* in the 1280s and the early 1290s (and even holding the office of *anzianus* during those years), the Balduini were designated as magnates by a special commission and by the Consiglio del Popolo in 1294. At that time the brothers Guidocherio, Matteo and Balduino came forward to have themselves cancelled from the arms society of the Crossbars since, as they admitted, they feared being fined because their father was a *miles* in the *frati gaudenti*.<sup>190</sup> (As we saw above, the distinction between belted knights as such and members of the orders of warrior-monks was eliminated at this time.) In 1298, their cousin, Giovanni di Giacomo Balduini was charged with having illegally registered himself in the society of the Crossbars.<sup>191</sup> His admission into that society was allegedly illegal because his paternal uncle Filippo (father of Guidocherio, Matteo and Balduino) had been made a belted knight (*miles et cingulo militari*)

<sup>185</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric LXXII, p. 373.

<sup>186</sup> ASB, Capitano, Giudici, Reg. 269, fol. 37v, Sept. 3, 1295. This office was responsible for communal properties, leases and contracts.

<sup>187</sup> ASB, Capitano, Giudici, Reg. 600, fols. 1r and 8r, July 1315.

<sup>188</sup> ASB, Comune-Governo, Riformagioni e provvigioni, serie cartacea, Busta 221, Reg. 33, fols. 24rv, May 18, 1321.

<sup>189</sup> Table IV.1, entry 24.

<sup>190</sup> Table IV.3, entry 85.

<sup>191</sup> Table IV.1, entry 60.

twenty-six years or more earlier when he served in the government of Assisi. His brother Monte was also reported to be a *miles* who had received the *honorem milicie* four years earlier. Moreover, on his maternal side he was described in the charge as being “de domo Galuciorum,” a reference to the Galluzzi family which was one of the most powerful of magnate families at that time. But especially significant in this trial, from the viewpoint of lifestyle, is the claim that everyone, knights *and* non-knights, in the *domus* of the Balduini maintained birds and hunting dogs and had insignia and arms, tents, vassals and *fideles* and for these reasons were reputed to be nobles.

Giovanni Balduini did not have to contest the charge since the judge and officials of that arms society examined the *matricula* of the society and, not finding him listed, the judge dismissed the charge. What the testimony tells us, however, is that for the Balduini, lifestyle was not a criterion of status. They had pursued the lifestyle of knights for years while serving as prominent *popolani* and even had belted knights in the ranks of the family. They pursued the same lifestyle after 1294 when they became magnates. But some years later the Balduini were again *popolani* and back in the popular societies. Giovanni di Giacomo Balduini served as a *popolano* captain of Castel Monteveglio (with *popolani* guarantors) in 1312.<sup>192</sup> However, their renewed presence in the societies was challenged in a trial that lasted from April 1316 through April 1317.<sup>193</sup> In that trial, Guidocherio, Bindo and Mattiolo (also called Ravignano), who were the sons of Filippo di Giovanni Balduini, and also the descendants of Filippo’s brother Giacomo (Fra Gruamonte, Giovanni and Francesco and in turn their descendants, unnamed), were all charged with illegal membership in the popular societies. According to the accusation, Filippo di Giovanni Balduini “was a belted knight and lived and was reputed to be a knight and noble and thus the house of the Balduini was among the houses of the magnates and nobles of the city and thus it is and was held and reputed.”<sup>194</sup>

<sup>192</sup> ASB, Camera del Comune, Procuratori del Comune, Reg. 67, fol. 2v, Aug. 28, 1312.

<sup>193</sup> Table IV.1, entry 77.

<sup>194</sup> “Fuit milex caligatus et adobatus et quod illic se gessit et habitus et reputatus fuit et nobilis et ita domus de Balduinis inter domos magnatum et nobilium civitatis Bononie fuit descripta in libris domorum nobilium et magnantum dicte civitate et sic est et fuit habita et reputata.”

Although lists of witnesses are given in the extant records, there is no surviving recorded testimony for the 1317 trial. Lifestyle, however, seems to have been a major issue. Filippo Balduini, who acted as attorney in this case on his own behalf and that of his brothers and cousins, gives us his own illuminating perception of himself and other *popolani* in his *intencio*. In his defense and that of his other imputed relatives, he claimed that the Balduini had always been *popolani* and that in the lifetimes of their father and uncle, (yet another Filippo), “almost all honorable *popolani* of the city walked proudly in the knightly style with furs and knightly trappings and it was the custom in the city of Bologna to do so at that time and even in modern times.”<sup>195</sup> He also maintained that the older Filippo “at the time of his death, and many years earlier, wore the habit [of the warrior-monks] of the Order of the Blessed Virgin Mary, who were called *fratres gaudentes*.”<sup>196</sup> His last point was that for the older Filippo, being a *frater gaudens* was not incompatible with being a privileged *popolano*. The Balduini were acquitted in the 1317 trial and remained in the popular societies despite their confessed knightly lifestyle. Significantly, their father and uncle’s status as a *frater gaudens*, which had been the articulated reason for their coming forward to remove themselves from the popular societies in 1294, was no longer viewed, by them or the court, as an impediment to *popolo* status. Their victory in this trial depended upon an array of fifteen documents, including eight *reformagioni*. The documents are only listed and not described in the trial record, but they comprise a series, beginning with 1306 and continuing to 1316, that seems to document the regained *popolo* status of the family.<sup>197</sup>

<sup>195</sup> “Item quod tempus vite domini Phylippi de Balduinis quasi omnes honorabiles populares civitatis Bononie incedebant ad modum militum cum variis et ornamentis militaribus et ita tunc temporis erat consuetudo in civitate Bononie et etiam tempore moderno et ad huc militi ex popularibus incedunt et soliti sunt incedere ad modum militum pedes et eques, cum dictis variis et ornamentis militaribus.”

<sup>196</sup> “Item quod dictus dominus Phylippus tempore mortis sue et ante per plures annos portabat habitum fratrum ordinis beate Marie virginis qui vocantur fratres gaudentes et sic pro fratre milicie beate Marie virginis se gerebat et habebatur et reputabatur in civitate Bononie, tempore mortis sue et ante per plures annos ab omnibus qui eum cognoscebant.”

<sup>197</sup> For example, “unum rodulum pecundinum quod incipit ‘Reperitus in libro privilegiatorum factorum in millesimo trecentesimo decimo indictione octave qui liber est in camera actorum’ et finitus ‘dominus Balduynus domini Philippi de Balduinis’, scriptum et exemplatum per Raynerium Johannis de Bertalia notarium.” Thus, Balduino was privileged (and therefore a *popolano* again) at least by 1310. Since

Living like a knight and belonging to the *frati gaudenti* was thus considered by the Balduini themselves as a lifestyle appropriate to “honorable” *popolani*. Knightly lifestyle for them was not a particular signifier of magnate status nor a characteristic that blocked membership in the popular societies and Consiglio del Popolo. Nor, according to one of the defendants, was this custom a new development, but rather was one that had been characteristic of the previous generation as well.<sup>198</sup> Even in 1294, when these same Balduini came forward to remove themselves from the popular societies, fearing that they *were* magnates in the eyes of the communal government, it was not because of their lifestyle that they did so, but because the older Filippo was a *frater gaudens* and they feared incurring a considerable fine if they did not do so.<sup>199</sup> The legal definitions and political decisions concerning the criteria for identifying magnates clearly changed at the turn of the century, and did so more than once, but the paradoxical self-perception that the Balduini held of themselves as *popolani* who proudly lived like knights and nobles remained constant.

The paradox that constituted the social-political choices of the Balduini and other *popolani* like them is resolved when one recognizes that the *habitus* (in the *homologous* sense of lifestyle) of a knight comprised socioeconomic behaviors and expenditures, but the *habitus* of a *popolano* was an umbrella of political behaviors. The latter included a range of socioeconomic behaviors that extended from those who lived lavishly like knights to those who practiced their crafts in humble shops. The *habitus* of a *popolano* was based on perceptions of political service *as a popolano in popolo offices*, not just military or ambassadorial or administrative service to the commune. One was deemed a *popolano* from the point of view of perceptions of identity if one were enrolled in a popular society, held office in those societies or served as a member of the Consiglio del Popolo, was privileged for extraordinary service as a *popolano* to the *popolo* (e.g. making difficult and dangerous decisions that could bring retribution to the decision-makers), and if one associated with other *popolani*. The perception of a *popolano* thus comprised a tautological argument. One qualified as a member of the *popolo* party because one was a member of that party

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the documentation list begins with 1306, it is probable that the status of the family reverted to *popolo* by that year.

<sup>198</sup> Table IV.1, entry 77.

<sup>199</sup> Table IV.3, entry 85.

and served as a member of that party. But a record of such service was moot unless one's membership was acceptable to the group that dominated the *popolo* party. Nor, as discussed below, section 11, was this situation a corruption of some earlier and more pristine version of *popolo* existence, as some historians have thought.<sup>200</sup> It was inherent in the structure and premises of the *popolo* from the time it emerged as a political party.

These categories of political behavior comprised the major points in defense of one's *popolo* status in the Capitano's court. They also comprised the evidence supplied by witnesses who were asked why they thought a person was a *popolano* or why he was reputed to be a *popolano*. For example, *Zangarellus* and *Guinibaldus* in their trial of 1293 argued successfully that they were "of the *popolo* and were *popolani*, that they were reputed to be of the *popolo* in their neighborhood and in the opinions of their neighbors and others in the city of Bologna, and that they had always managed themselves in the same way as other members of the *popolo* generally were reputed to manage themselves."<sup>201</sup>

Testimony of the witnesses who were called to address the major points (*capitule*) of their *intencio* has survived. Bonaventura da Savignano, when asked to address the first *capitula*, said he knew they were "de populo" because "he saw them going with men from the society of the Leopards and because it was said that they were registered in that society."<sup>202</sup> He thus responded with the usual tautological argument that the imputed were legitimately inscribed in the societies and were *popolani* because they were in the societies. Moreover, the point is made explicitly in this case when the judge pursued the issue and asked if anyone who was inscribed in any society of the *popolo* of Bologna was for that reason to be considered a member of the *popolo*.

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<sup>200</sup> For example, Vitale, *Il dominio della parte guelfa*, and Rodolico, *Dal comune alla signoria*.

<sup>201</sup> Table IV.1, entry 52 (also discussed above): "de populo et popullares... publice habeuntur de populo Bononie in vicinia et contrata habitationis ipsorum et talis est oppinio vicinorum et alios in civitate Bononie... se gesserunt et gesunt tamquam de populo et ut populares et ita et gerunt et gesserunt et habiti fuerunt ex preterito." However, like the Balduini, the following year they were declared magnates. See below and Table IV.4, entry 11.

<sup>202</sup> "vidit eos ire cum illis hominibus de societate lupardorum et dicitur ipsos esse conscriptos in dicta societate Lupardorum."

The witness responded affirmatively.<sup>203</sup> When asked if associating with *popolani* “made” one a *popolano*,<sup>204</sup> the witness responded, however, “that *popolani* associating with *popolani* are *de populo*, but knights and *potentes* [who associated with *popolani*] are not [*de populo*].”<sup>205</sup> Thus, *popolani* who associated with *popolani* were *popolani*, but knights and *potentes* who associated with *popolani* were not thereby held as *popolani*.

When asked to address the third *capitula*, concerning how the imputed managed themselves or lived as *popolani*, the same witness responded that he “saw them going and returning with *popolani* and saying *popolano* words in the city of Bologna,”<sup>206</sup> that is, they associated with *popolani* and expressed the opinions characteristic of *popolani* or sympathetic to them and their values. Other witnesses testified similarly to the same *capitula*. One witness added to the list of things the imputed did that signified to him that they were *popolani*. He included their service as officials of the Leopards and in the army as infantry, and their engagement as wool merchants with a certain Pellegrino Sori.<sup>207</sup> In response to a follow-up question, that witness added that the imputed had been practicing the wool craft for the past fifteen years. Another witness described them as *popolani* because he saw them going with the popular societies to the house of the Dominicans with candles for the festivals of those brothers.<sup>208</sup> The thirteenth witness also described their going to the house of the Dominicans in a procession of men from the guilds. He further said they spoke “*verba popullaria*,” and when asked what such words consisted of, answered “that they said that they loved all the work which the *popolo* did and

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<sup>203</sup> “si quilibet qui est scriptus in aliqua societate populi Bononie est de populo ex eo quia scriptus est in ipsa societate.”

<sup>204</sup> “se utundo cum aliquibus de populo talis usus facit aliquem popularem.”

<sup>205</sup> “quod populares utentes cum popularibus sunt de populo, milites et potentes tamen non.”

<sup>206</sup> “vidit eos ire et reddire cum popularibus et verba popularia dicere in civitate Bononie.”

<sup>207</sup> “vadunt et iverunt in exercitibus tamquam populares et fecerunt artem de lana cum uno qui nominabant Pellegrinus de Soris.”

<sup>208</sup> “ire cum societatibus populi silicet cum una societate populli Bononie ad domum fratrum predicatorum cum certiis ad festa eorum fratrum.”

worked for them.”<sup>209</sup> Finally, the fifteenth witness, Albello Placiti, gave testimony that repeated all the points made by prior witnesses.<sup>210</sup>

Not coincidentally, some of the same qualities and characteristics that defined a *popolano* in contrast to a magnate also served to distinguish a person of “good reputation” from a ruffian or person of *male fame*. Thus, in a trial against several members of the arms society of the Griffins in 1289, Bettino Facioli defended himself from the charge that he was a ruffian and vile person by testifying that he worked as a miller. Similarly, *Marchixianus* di Guido, notary, said he was not a ruffian and that he had worked as a communal nuncio for the past twenty years and more, serving within the city and also on embassies, and that he lived with his wife and children in the home of the Buvalelli (a prominent banking family). Martino Fabiani said he had never been a ruffian, but rather had practiced the craft of wool beater for ten years and now served as a nuncio of the commune. One of the witnesses in defense of Martino also testified that he knew Martino was a man of good reputation because he had seen him speaking with men such as Uguccio Bambaglioli, Taddeo di Adriano and Rolandino di Adriano (all these men were notaries and both the Bambaglioli and Adriani were prominent *popolano* families).<sup>211</sup>

Niccolò Mussolini was acquitted on similar grounds.<sup>212</sup> Among the reasons given in the *consilium sapientis* in his favor were arguments similar to those given by *Zangarellus* and *Guinibaldus*. Niccolò argued that he had been in the societies of the bankers and Keys for

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<sup>209</sup> “respondit quod ipsi dicunt quod diligunt omnia opera que populus facit et per eos operat.”

<sup>210</sup> He said that he knew they were “of the *popolo* and *popolani*, share [life] with men of the *popolo* and belong to the arms society of the Leopards and live the *popolano* life and he saw that and saw that they did *popolano* work... they go with those of the *popolo* and from their society to the festival and to the election of the *ministrales* of the said society and for the doing of that which is necessary for the society” (de populo et populares, quod ipsam utuntur cum hominibus de populo et sunt de societate Leopardorum et faciunt vitam popullarem et predictam vidit et videt quod ipsi faciunt opera popullaria... vadunt cum illis de populo et de societate eorum ad festa et ad elegandum ministrales dicte societatis et ad faciendum ea que sunt necessaria ad ipsam societatem). He also noted that he saw them “practicing the wool trade in the neighborhood of S. Vitale with Pellegrino Sori and staying with men of the society for the purpose of eating and drinking as do good neighbors with their neighbors” (facere artem lane... in contrate S. Vitalis cum Domino Pellegrino Burello de Soris et stare cum illis de societate ipsorum dominorum ad comendum et bibendum sicut faciunt boni vicini cum suis vicinis).

<sup>211</sup> ASB, Capitano, Giudici, Reg. 127, fols. 137r–140v, Sept. 27, 1289.

<sup>212</sup> Table IV.1, entry 16.



eighteen years or more, that his grandfather was a butcher and always had been reputed to be of the *popolo*. Moreover, Niccolò himself had been granted a special privilege as one of the two *sapientes* from each society who had compiled the Sacred Ordinances of 1282.

The *consilium* issued in the 1289 trial against Dino and Bartolomeo, sons of Scannabecco Romanzi, is valuable because it gives the proofs of the imputed's *popolo* status on which the *sapientes* based their recommendation of acquittal.<sup>213</sup> The proofs offered are the same as what can be deduced from testimony of witnesses in the preceding cases. The reasons given in this trial include the many *popolo* offices the father of the imputed had held within the city and externally for the *popolo* in Città di Castello, and the membership of Dino and Bartolomeo in the notaries' guild, their payment of taxes and performance of all obligations just like all other notaries, and their approval, along with their father, for membership in that guild (referring presumably to the membership purges of the 1280s). In short, the *sapientes* concurred with the usual tautological argument that one was a *popolano* because one was in the popular societies and did what other *popolani* did. The *consilium* was accepted by the court and the brothers were acquitted.<sup>214</sup>

Thus, according to the trials described above, being a *popolano* was a matter of social-political choices and behaviors. It meant actively supporting the popular societies by attending their festivals and meetings, participating in the political life of the *popolo* party by attending the elections held in the societies, being elected to office in the societies and to the Consiglio del Popolo, associating with the right people and sharing the political opinions of the *popolo*. It was also the practicing

<sup>213</sup> Table IV.1, entry 20.

<sup>214</sup> ASB, Capitano, Giudici, Reg. 120, fol. 30r: "Quod cum appareat evidenter tam per infrascripta et acta publica quam per testes multos fidedignos et omni exceptione maiores predictos Dinum sive Rolandinum et Bertholazium fratres et filios dicti domini Scanabezi esse et fuisse de populo civitatis Bononie et dictum Dominum Scanabecum eorum patrem multa officia tanquam de populo et pro populo habuisse tam in civitate Bononie quam in civitate Castelle pro capitaneo missum esse per comune Bononie et dictos Dinum et Bertholazium esse de societate notariorum civitatis Bononie et cum eis subire et subisse honora omnia et collectas factas alii notarios societatis predictis et approbatos esse et fuisse et conscriptos in matricula nomine que conscripta sunt nomina et pronomina approbatorum et condempnatos esse in comuni Bononie tanquam populares et de populo tam ipse quam etiam dictus Dominus Scanabecus eorum pater quod predicti Dinus et Bertholazius non eximantur nec chanzellentur de dictis societatibus."

of a craft and socializing with other craftsmen (eating and drinking) as if they were neighbors. But the practicing of a craft cited by witnesses as evidence of *popolo* status in general was limited since many *popolani* belonged only to arms societies (and only officials in a guild were required to practice the craft, rather than, for example, only to invest money in it).

This type of defense was also successful in the trial in 1284 against Oselitto di Gualtiero and his son Giacomo, but it only temporarily protected them from magnate status. That failure points to the ultimately political nature of most status-designation decisions. The imputed were purportedly of the *domus* of the Ariosti. The trial is valuable since it uniquely has the guidelines to be used in questioning witnesses.<sup>215</sup> It shows that the basic issue was the relationship of the imputed to a reputedly noble *domus*. The guidelines anticipated that witnesses would testify that the imputed were offspring of and had ancestors among the lords Ariosti and in that case the questioner was to ask whether they belonged to that *domus* from the mother or father's side, whether everyone who called themselves "de Riosti" were of that *domus*, if related to that house to what degree, and whether the imputed were ever referred to in any way other than "de Riosti." The second set of questions focused directly on the issue of whether that *domus* was reputed to be one of *nobiles et potentes*. If the witness responded positively, he was then to be asked the reasons for that reputation. Thirdly, the questions anticipated the disclosure that two *milites* belonged to that *domus* (Bonifacio and Tommaso) and directed the questioner to ask first if these were the only two *milites* in that *domus* and then to ask if all houses in which there were *milites* were "domos nobilles et potentes," and further if there were any houses that had *milites* that were not reputed to be *nobiles et potentes*.<sup>216</sup> We

<sup>215</sup> Table IV.1, entry 1.

<sup>216</sup> "In primis si dixerint quod dominus Oxelitus domini Gualcheris et Jacobus suus filius sunt nati de prole et parente dominorum de Riosti...item quoniam sunt...ex qua parte patris vel matris. Item quoniam sunt in quo gradu. Item se dominus Oxelitus et Jacobus eius filius possunt esse de allia domo et parentele praeter quam de domo et parentelle illorum de Riosti qui ipse testis siret et si dixerunt quod non...quoniam sunt. Item si omnes qui vocantur de Riosti sunt de prole et parentele illorum de Riosti. Item quoniam sunt. Item si possent dictus dominus Oxelitus et Jacobus eius filius vocare aliter quam de Riosti quoniam ipse testis siret. Item quoniam sunt. Item si possent vocari de Riosti et non esse de prole et parentelle dominorum de Riosti quoniam ipse testis sciret et si dixerit quod non querantur quoniam sciret. Item si agnovit dominum Oxelutum et sui maiores. Item quoniam scirit. Item se dictus Jacobus fuit

also have the *intencio* for the defense and the testimony of witnesses in the actual trial. The points made are the ones we saw made above in other trials in defense of *popolo* status. The defendants sought to dissociate themselves from the Ariosti *domus* that was reputed to be noble by asserting that they were of a diverse branch from that in which the *milites* Tommaso and Bonifacio belonged. In fact, they claimed that their ancestor, Ramberto, was a *fumans* and asserted that they themselves were men of the *popolo* and of humble condition and ancestry. To this they added the usual claim that they were *popolani* because they did what *popolani* did, that they served in the armies and military expeditions as *popolani* and were reputed to be *popolani*. The trial record does not give the verdict in this case, but apparently the defense was successful, since they were still in the popular societies at the time of the purge of 1285. However, in that year they were in fact “disapproved” and removed from the societies. Moreover, in 1294 the *domus* was among those labeled as magnates.<sup>217</sup> The case of the Ariosti indicates the limits of judicial review in establishing status. Although their *popolo* status was upheld by the courts, the Ariosti soon found themselves declared to be magnates. The decision was political, made during the purges of 1285 and 1294.

Since membership in the *popolo* was ultimately contingent upon political decisions by special commissions and the Consiglio del Popolo, one could live the life of a *popolano* and still be convicted of being a magnate. The Gattari and the Piatresi families also provided evidence in their defense that they fitted the *habitus* of a *popolano*, but that line of defense did not prove sufficient to protect them or their *domus* from being labeled as magnates. In the early 1280s, the Gattari were among the ranks of more prominent *popolani* and received privileged status because of their participation in the government that

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fillius domini Oxeliti quem dicunt esse de prole illorum de Riosti. Item quoniam sciret. Item si dictus Jacobus pos[s]et esse fillius alterius domini Oxeliti praeter quam de illo Domino Oxelito quem dicunt esse de prole illorum de Riosti quando ipse testis sciret interrogatus quoniam sit. Item si dixerint super secundo capitullo quod dictus dominus Oxelitus et filii sui Jacobus et dominus Ubaldinus tuerunt et tenent predictos dominorum de Riosti pro eorum agnatis et parentibus vocando eos parentes et agnatos et domini de Riosti qui mortui sunt silicet domini Bonifatius et Tomasinus et hii qui hodie vivunt tuerunt et tenent predictos Jacobum et dominum Ubaldinum filios dicti domini Oxeliti tanquam parentes et agnatos vocando eos ad invicem unus alium parentem et agnationem et gerendo unus negotia alterius tanquam agnati et parentes gerunt negotia....”

<sup>217</sup> Table IV.3, entry 1.

produced the Sacred Ordinances of 1282. In the purge of 1283, however, they were expelled from the popular societies as magnates. In the April 1283 list of those purged that year, Bulgaro Gattari was included as a magnate.<sup>218</sup> In 1288, Betasio may have been reinstated in the list of those privileged in 1282 (as indicated by a precept of the Capitano).<sup>219</sup> But that reinstatement, if it occurred, must have been very short-lived, since a *riformagione* of March 1289 verified his magnate status and the magnate status of his *domus*.<sup>220</sup> Apparently the Gattari had strongly resisted their new magnate status after 1283 and persisted in seeking a reversal of that decision, since the stated intention of the *riformagione* was to forestall any further attempt by them to regain *popolo* status. According to the *riformagione* of March 1, 1289, Betasio di Aldrevandino Gattari and his father, brothers and others from his *domus*, who had been cancelled from the popular societies, and who five years earlier had violated the Sacred Ordinances by entering the palace of the Capitano, had been repeatedly harassing officials in futile attempts to regain their privileged status. The *riformagione* determined that they were *not* to be reinstated among the privileged and ordered the Gattari to maintain perpetual silence on this issue, not to request restoration of their privileged status, nor to molest officials for that purpose, under penalty of a fine of 25 pounds.

The Gattari apparently nevertheless continued to persist in their efforts to regain *popolo* status and were in fact readmitted into the popular societies at some point, since they were convicted of illegal membership in the societies late in 1293. Furthermore, Giacobino and Filippo, the latter a son of Bulgaro, and Bulgaro himself came forward to remove themselves from the societies in the purge of February 1294.<sup>221</sup> Betasio was not included in the list of 1294, which, however, may be a partial list. If he failed to come forward, he was nevertheless removed from the societies, as can be deduced from a trial in 1295 in the podesta's court. In that trial, the attorney for Ubaldino di Guglielmo

<sup>218</sup> ASB, Capitano, Giudici, Reg. 41, fol. 58r.

<sup>219</sup> In 1284, Ubaldo di Ubertino was banned for erasing in November the name of Betasio Gattari from the sacred statutes. ASB, Podesta, Accusationes, Busta 4, Reg. 19, fol. 3r.

<sup>220</sup> ASB, Comune-Governo, Riformagioni 128, fol. 182v and 184v, March 1289. ASB, Capitano, Giudici, Reg. 107, fol. 27v, Reg. 118, fols. 47r and 48v, March 17 and Aug. 25, 27, 1288, for the precept of the Capitano to the compilers of the new statutes ordering them to enter Betasio among the lists of the privileged.

<sup>221</sup> Table IV.3, entries 2, 3, 56.

Malavolta, who was inscribed in the book of those magnates who had committed crimes against *popolani*, (and therefore had been required to post securities),<sup>222</sup> petitioned, together with two other members of that family, that they be released from the ban imposed upon them for failure to post those securities. The basis of their petition was that their accusers had been cancelled from the popular societies in 1294. Their accusers had been Betasio and Bulgaro Gattari.<sup>223</sup> The Malavolta sought to be released from posting the securities since their victims, the Gattari, were no longer *popolani*. But the chameleon-like status of the Gattari still had not stabilized, and yet again they achieved *popolo* status. In a 1317 trial, Betasio Gattari produced a document from 1314 as evidence of his privileged *popolo* status.<sup>224</sup>

Given the shifting status of the Gattari, it is perhaps not surprising to find five trials between March 1288 and November 1293 concerning or related to their status and their membership in the popular societies.<sup>225</sup> The first trial took place March 5–17, 1288 and was against Giacobino *Sanarisii* Gattari (a year before promulgation of the *riformazione* of March 1, 1289 discussed above), but the verdict for that trial has not survived.<sup>226</sup> Giacomo may have been a more remote relative of Betasio and Bulgaro, and may have been acquitted in 1288 since he was among those coming forward in 1294 to remove themselves from the societies.<sup>227</sup> Betasio and Bulgaro, who had been explicitly forbidden membership in the societies in 1289, however, were accused in a trial of September–November 1293 of having had themselves reinstated in the societies of the shoemakers or bootmakers and Eagles.<sup>228</sup> Appar-

<sup>222</sup> “in libro de nominibus nobilium Bononie qui offenderunt aut offendi fecerit aut offendi mandaveret vel mallicium fecerunt . . . in personis popullarum Bononie.”

<sup>223</sup> ASB, Podesta, Accusationes, Busta 16a, Reg. 8, fols. 1v–2r, May 31, 1295. Their petition was granted.

<sup>224</sup> ASB, Podesta, Accusationes, Busta 39b, Register of accusations without number from Porta S. Pietro, fols. 50rv, November–December 1317. The notary of that register is *Manfredinus de Urdellis* da Cremona. Martino di Betasio Gattari also claimed his privileged status in a trial in 1320 against the magnates Sandro di Giacomo da Le Lagune and his son Ugolino, called *Ghidinellus*. Ibid., Busta 43b, Reg. 7, fols. 17v–18v, July 18, 1320.

<sup>225</sup> In addition to the four trials listed in Table IV.1 (entries 20, 41, 46, 47), there was a trial against the *ministrales*, *consules* and notaries of the bootmakers, who were charged with illegally admitting the Gattari into their guild. ASB, Capitano, Giudici, Reg. 223, fols. 37v–38v, Sept. 5–29, 1293.

<sup>226</sup> Table IV.1, entry 21.

<sup>227</sup> Table IV.3, entry 56.

<sup>228</sup> Table IV.1, entry 42.

ently they had successfully enrolled themselves again in the popular societies despite the *riformagione* against them, since in a separate but simultaneous trial the two were also accused of holding office for a society illegally since they did not practice the society's craft with their own hands.<sup>229</sup> The verdicts are not given for those two trials, or for yet another one against the *ministrales* of the bootmakers for having admitted them into their society,<sup>230</sup> but we do have a verdict of conviction in a separate but simultaneous trial against Bulgaro and his son Filippo for their allegedly illegal membership in yet another arms society—the Minivers.<sup>231</sup>

An important point to be extracted from this maze of litigation is that although the Gattari were convicted as magnates, testimony in their trials points to their living the lifestyle of *popolani*, not that of knights and magnates. Their defense for being *popolani* rested on evidence of their having been privileged and having held the high office of *anzianus*. They also produced witnesses who described how they recently began practicing the craft of bootmakers, selling leather and having two apprentices. To be sure, they did serve as cavalrymen or *milites pro comune* as was claimed against them, and as verified by a list of 1291 in which Bulgaro is listed as a *miles comunis*.<sup>232</sup> However, as noted in Part I of this chapter, that post was held by both *popolani* and belted knights. When specifically asked if the Gattari possessed the apparatus of knightly life, such as horses and dogs, witnesses said they did not (although they did describe them as holding a horse for the commune, as *milites pro comune*).

*Fama* or reputation as one who lived a knightly lifestyle when that person was not himself a *miles* or a close relative of a *miles*, was thus not a sufficient criterion for designating someone as a magnate, nor conversely did a *popolo* lifestyle protect one from being designated as a magnate, even if one were not a belted knight or relative of a belted knight. Indeed, in general, *habitus* served effectively as evidence of status in very few of our trials. As discussed above, *habitus* existed on two levels. On the one hand, there was the “structuring structure” that supplied paradigms for denoting lifestyles. In this sense, witnesses, both

<sup>229</sup> Table IV.1, entry 47.

<sup>230</sup> Cited above in footnote 225.

<sup>231</sup> Table IV.1, entry 48.

<sup>232</sup> ASB, Camera del Comune, Procuratori del Comune, Busta 4, Reg. 37d, fol. 1v, Nov. 15, 1291. For the claim, Table IV.1, entry 47.

magnates and *popolani*, concurred in describing what constituted the respective lifestyles of the *vita honorabilis* and the *vita popularis*, as, for example in the trials against the Artenisi and Savioli, described above.<sup>233</sup> On the other hand, witnesses were divided over whether a particular *habitus* fitted the *fama* of certain individuals. Indeed, in some trials witnesses spoke to a division of *fama*, as in the case of Zoene di Guerzio Garisendi, during which some of the witnesses said he was reputed to be *de nobilibus et potentibus* and others *de populo*.<sup>234</sup> In other cases where we have testimony from both sides, the prosecution marshalled witnesses who swore that the imputed was reputed to be of one kind of *fama*, while the defense witnesses swore that he was reputed to be of the opposite *fama*, as in the trial against eight members of the Ghisilieri family. In that trial some witnesses testified that the *domus* of the Ghisilieri was reputed to be magnate, but others said they were *de populo*.<sup>235</sup>

#### 8. OTHER PROOFS OF STATUS

If not lifestyle, did a reputation for violence serve to identify magnates and distinguish those of the knightly lifestyle who were labeled as magnates from those who were not? The criterion of violence is certainly the one most frequently cited by historians as the characteristic that best explains why certain of the elite were labeled as magnates.<sup>236</sup> Certainly at least some of the families who appear in magnate-identity trials were involved in violent conflicts that threatened public security. In 1286, for example, members of the Piatesi, da Castello, Scappi, Caccianemici, Artenisi *sive* Beccadelli and Baciacomari families were sent to designated places in the *contado* because of the violent disputes and riots in which they had engaged.<sup>237</sup> It should be noted, however, that violence *per se* was never brought forward in any of these trials as evidence that the imputed was a magnate. Not once is a witness asked,

<sup>233</sup> Table IV.1, entries 66 and 11.

<sup>234</sup> Table IV.1, entry 38.

<sup>235</sup> Table IV.1, entry 18.

<sup>236</sup> Andrea Zorzi, "La cultura della vendetta nel conflitto politico in età comunale," in *Le storie e la memoria. In onore di Arnold Esch*, ed. Roberto Delle Donne and Andrea Zorzi (Florence, 2002; Reti medievali, [http://www.storia.unifi.it/\\_rm/e-book](http://www.storia.unifi.it/_rm/e-book)), pp.135–169, esp. p. 162, for a list of historians who embrace the "violence" explanation for the designation of magnates.

<sup>237</sup> ASB, Podesta, Inquisitiones, Mazzo 4, fol. 12r, Jan. 16 and 30, 1286.

by either the accuser or the defense, whether the imputed was a person of violent behavior. Violence was not exclusive to magnate families, so was not a queried characteristic in the trials. The subject of violence arises in only four of the eighty-three trials, and then only tangentially to show that the imputed or one of his relatives had been accused earlier as a magnate for a crime against a *popolano*. Thus, in the charge against Girarduccio di Albirolo, of the da Castello branch of the Albari family, it was claimed that he had struck and wounded someone six months earlier and that consequently all shops and law courts had been closed (the action required at that time if a magnate had injured a *popolano*). In this case the imputed successfully proved that although he was enrolled in the arms society of the Swords, he was not the Girarduccio Albari in question and that the charge against him was based on mistaken identity.<sup>238</sup> In one of the trials against the Gattari, the charge cited a *consilium sapientis* in an earlier trial in the podesta's court that had argued that a brother of the imputed, Galeazzo Gattari, should be assigned a penalty as a noble, but the nature of the charge for which the fine was incurred was not given.<sup>239</sup> In 1301, in one of the trials against the Mussolini, it was claimed that one of the imputed, Ugolino, had been accused in the podesta's court as a *nobilis et potens* and had been banned for the death of a *popolano*, Lazzaro Mantici.<sup>240</sup> But Ugolino was twice acquitted in the Capitano's court and remained in the popular societies. In 1288, Gerardo Albertinazzi *sive* Ghisilieri was accused, along with seven other members of his family, of being a magnate and therefore illegally enrolled in the popular societies. The verdict of the trial is not given, but we know that he was a *popolano* in 1316 when he, along with his sons and approximately eighty others, was accused of attacking the *preministralis* of the arms society of the Claws in the communal assembly-place. For that attack he was condemned and he and his descendants made magnates by action of the Consiglio del Popolo, as was mandated by the Sacred and Most Sacred Ordinances of 1292.<sup>241</sup> Violence *per se* was not a perception or

<sup>238</sup> Table IV.1, entry 34.

<sup>239</sup> Table IV.1, entry 42.

<sup>240</sup> Table IV.1, entry 68.

<sup>241</sup> Table IV.1, entry 18. ASB, Comune-Governo, Riformagioni 182, fols. 265rv, April 15, 1316. Similarly, the Consiglio del Popolo granted a petition seeking magnate status for a member of the Beccadelli family because of a violent attack by him against a member of the popular societies. ASB, Riformagioni 153, fols. 254r and 255r, Oct. 29, 1300. Magnate identity was rarely an issue in charges against magnates in



proof of magnate identity, but it was a punishment for an attack upon a privileged *popolano*.

Did other characteristics, not made explicit in the testimony, account for convictions and acquittals in the Capitano's court? Often cited as characteristics of magnates, in addition to their having knights in the family, pursuing a knightly lifestyle, and behaving violently, are ownership of towers, patronage of parish churches (*cappelle gentilizie*), and the appearance of ancestors among the serf-owners in the *Liber Paradisus* of 1256 (the book in which were registered the serfs freed at that time by the commune). In fact, the Pippini, Oselitti, Perticoni, da Gesso, Ariosti, da Sala, Romanzi, Ghisilieri, da Borgo Panigale, Gattari, Piatesi, and Tebaldi families did own serfs in 1256,<sup>242</sup> but although the Ghisilieri and Gattari were convicted, the Piatesi, Tebaldi, Romanzi, Pippini, da Sala, and da Borgo Panigale were acquitted in the trials of the 1280s and 1290s. Similarly cited by historians is the "possession" by a family of a *cappella gentilizia*, to which was even given in some cases the name of that family, for example, the church of S. Maria Rotonda dei Galluzzi, patronized by one of the greatest of magnate families. But the only families in the trials that had such churches: the Piatesi with two such churches, S. Andrea dei Piatesi and S. Giacomo dei Piatesi, and the Garisendi, patrons of S. Bartolomeo and S. Marco, were acquitted, although they were labeled magnates in 1294.<sup>243</sup>

The late nineteenth-century *erudito* Giovanni Gozzadini thought that only nobles owned towers and formed *consorterie*,<sup>244</sup> but Gina Fasoli pointed out years ago that there was no evidence for that conclusion, and using Gozzadini's own published documentation, showed

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the court of the podesta. The exception is a trial in 1324 against six men. The charge of verbal assault (*verba iniuriosa*) was brought by a privileged *popolano*. Two of the accused were counts of Panico (one of whom was banned as a result), and three men from the rural commune of Montetortore. The accuser claimed all of them were magnates but the three men from Montetortore denied that they were magnates. (The charge of verbal assault could only be brought against magnates at this time.) The accuser brought witnesses who testified to the imputed's reputation as *contado* nobles (*cattanei*), but did not prove his case (there is no mention of the *Liber nobilium*), and the three were acquitted. ASB, Podesta, Accusationes, Busta 47a, Reg. 658, fols. 7r–10v, Jan. 19–27, 1324. For the enforcement of anti-magnate legislation, see below, Chapter Five, section 3.

<sup>242</sup> *Il Liber Paradisus con un'antologia di fonti bolognesi in materia di servitù medievale (942–1304)*, ed. Armando Antonelli (Venice: Marsilio, 2007), pp. 11, 34, 47, 51, 60, 62, 65, 67, 70–71, 73–75, 77, 81–83, 87.

<sup>243</sup> Table IV.4, entries 3 and 5.

<sup>244</sup> Gozzadini, *Delle torri gentilizie di Bologna*.

that most of the towers were built in the twelfth century, before the formation of the commune, and that banking-mercantile families constructed towers and had strong *consorterie*.<sup>245</sup> She also pointed out that by 1265 no new towers were being built, and that after that year towers and their attached houses were sold as were any other piece of real estate, sometimes within the same family, sometimes to politically active families, but sometimes, and not rarely, even to people outside the politically active classes.<sup>246</sup> Gozzadini had assigned labels of magnate and *popolano* to tower builders, but as Fasoli noted, it is arbitrary to assign to those families categories of legal status that came into existence in most cases long after the construction of the towers. Her point fits the total lack of reference to towers in the testimony of the identity trials in the Capitano's court. Owning a tower by the 1280s was *not* a criterion of social identity or of legal status. Nor did it necessarily signify that its owner was a member of the elite, in contrast to what Lansing found to be the case in Florence.<sup>247</sup>

Service as a foreign rector, that is, as a podesta or Capitano in another city, does appear in the testimony of identity trials, but only as an explanation for the knighting of an individual, not as a characteristic of a magnate. The real issue in the trials was the legitimacy of the investiture ceremony that preceded the service. Jean-Louis Gaulin, in his valuable study of *bolognesi* who held foreign rectorships, shows that those posts were not, as often thought, the monopoly of magnates or *milites*, despite legislative requirements to that effect by communes.<sup>248</sup> Paralleling Fasoli's conclusion that one can only conclude with reference to the status of those who built towers that they were usually politically active, Gaulin points out that what can be said about the social identity of foreign rectors in the early thirteenth century is only that they were individuals and families who were also active in Bologna's political life, as evidenced by their holding communal

<sup>245</sup> Gina Fasoli, "Ricerche sulla legislazione antimagnatizia nei comuni dell'alta e media Italia," *Rivista di storia del diritto Italiano* 12 (1939): Part I, 86–133, Part II, 240–309, esp. Part II, pp. 242–243.

<sup>246</sup> Gina Fasoli, "Appunti sulle torri, cappelle gentilizie e grandi casate bolognesi fra il XII e il XIII secolo," *Il Carrobbio* 1 (1975): 137–147, esp. pp. 143–145.

<sup>247</sup> Lansing, *The Florentine Magnates*, pp. 84–105.

<sup>248</sup> Jean-Louis Gaulin, "Ufficiali forestieri bolonais: Itinéraires, origines et carrières," in *I podestà dell'Italia comunale*. Part I, *Reclutamento e circolazione degli ufficiali forestieri (fine XII sec.–metà XIV sec.)*, ed. Jean-Claude Maire Vigueur, vol. 1 (Rome: Istituto Storico Italiano per il Medio Evo, 2000), pp. 311–348.

offices.<sup>249</sup> However, Gaulin also found that the situation changed “radically” at the end of the century, when many members of families who were designated magnates, or *lupi rapaces*, or Lambertazzi, continued to serve externally, that is, as foreign rectors.<sup>250</sup> But Geremei and *popolano* families, for example, the Gozzadini, who were very active internally and retained their *popolo* status (until 1298 for some of that family, 1303 for others), had only one member of their family serve as a podesta in the later period.<sup>251</sup> In short, families with foreign rectors focused on that type of service because they were *not* in the inner political circle at the end of the century, but were also not designated as magnates because of their tradition in such service. Such service did not in fact distinguish families who were acquitted from those who were convicted in magnate-identity trials. The Artenisi family provided at least four rectors during the period 1273–1292,<sup>252</sup> but they were acquitted in their trial in 1299. Nor did the issue of having foreign rectors in the family arise during the testimony in their trial.<sup>253</sup>

The blurring of the perceptual boundaries of social identity, even in the late thirteenth century, when the labels of magnate and *popolano* functioned as explicit indicators of legal status, is also manifested in marriage ties between magnates and *popolani* of the mercantile-banking-notarial-juridical elite. (However, marriage was forbidden between Lambertazzi and Geremei). Romeo Pepoli’s sister was married to the magnate Giacomo Caccianemici in 1281, and the Pepoli were allied by marriage by the early fourteenth century with the magnate houses of the Galluzzi and Asinelli and even with the counts of Panico (and later with the Marquis of Este of Ferrara).<sup>254</sup> In 1270, a wedding was celebrated between the Galluzzi and the Guidoagni.<sup>255</sup> There were also

<sup>249</sup> Gaulin, “*Ufficiali forestieri* bolonais,” p. 310.

<sup>250</sup> Gaulin, “*Ufficiali forestieri* bolonais,” p. 346.

<sup>251</sup> Gaulin, “*Ufficiali forestieri* bolonais,” pp. 328–329.

<sup>252</sup> Gaulin, “*Ufficiali forestieri* bolonais,” p. 238.

<sup>253</sup> Table IV.1, entry 66.

<sup>254</sup> Giansante, *Patrimonio familiare*, pp. 36–37. Also ASB, Capitano, Giudici, Reg. 561, fols. 55r–65v, May 1313, for a trial in which Ugolino Zengolo Pepoli said he had recently married *Pizia*, sister of *Panganinus* da Panico, but that his father denied him support and he was unable therefore to fulfill his military service. He petitioned that his father be required to provide for him from his mother’s dowry.

<sup>255</sup> Antonelli and Pedrini, “La famiglia e la torre dei Garisendi al tempo di Dante,” p. 52, for the 1270 wedding. The Guidoagni were designated as magnates in the 1280s, Table IV.1, entry 43. That trial was in 1293, but as asserted at that time, the imputed, Giacobino di Bartolomeo Guidoagni, was listed as a *lupus rapax* in 1288. Fasoli-Sella, *Statuti dell’anno 1288*, vol. 1, Bk.V, Rubric XVI, “De satisfactione prestanda ab infra-

marriage ties between the Guinizzelli and Gozzadini and the Guinizzelli and the Gattari,<sup>256</sup> the Guastavillani and the Baccilieri in 1283,<sup>257</sup> the Lambertini and the Guastavillani, the Lambertini and the Musolini,<sup>258</sup> the Garisendi and Asinelli,<sup>259</sup> the Balduini and Galluzzi, the Pepoli and the Foscherari, the Mezzovillani and the Asinelli,<sup>260</sup> the Guinizzelli and Rodaldi,<sup>261</sup> and the Tettalasini and Caccianemici.<sup>262</sup>

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scriptis nobilibus civitatis vel districtus Bononie, et de penis eorum qui non darent dictam securitatem et de fidantia eis danda, ratione predicta," pp. 308–312.

<sup>256</sup> Armando Antonelli, "Nuovi documenti sulla famiglia Guinizzelli," in *Da Guido Guinizzelli a Dante. Nuove prospettive sulla lirica del Duecento*. Atti del Convegno di Studi Padova-Monselice 10–12 maggio 2002, ed. Furio Brugnolo and Gianfelice Peron (Padua: Il Poligrafo, 2004), pp. 59–105, esp. p. 73 for the Guinizzelli-Gattari marriage and pp. 79–80 for the Guinizzelli-Gozzadini marriage in 1309.

<sup>257</sup> Brian Robert Carniello, "The Notaries of Bologna: Family, Profession and Popular Politics in a Medieval Italian City-State," Ph.D. diss., University of California, Santa Barbara, 2005, chapter 3, p. 120. The Baccilieri appear in the 1271–72 magnate lists given in Milani, "Da *militēs* a magnati," pp. 149–152. The very wealthy Guastavillani were among those jousting at the 1270 wedding feast of the Guidozagni and Galluzzi, but the family, whose members belonged to the butchers and notaries' guilds by mid-century and later also to the bankers, retained their *popolo* status throughout the communal period. They were moderate Guelfs who were prominent in the "pro-Ghibelline" period at the turn of the century and were banned for their role in the conspiracy of 1308. Jean-Louis Gaulin, "Les terres des Guastavillani: Structures et développement d'un grand patrimoine foncier en Emilie au XIII<sup>e</sup> siècle," *Mélanges de l'Ecole française de Rome. Moyen Age et Temps Modernes* 99 (1987): 7–60; *Libro di conti della famiglia Guastavillani (1289–1304)*, ed. Enrica Coser and Massimo Giansante (Bologna: Clueb, 2003). ASB, Capitano, Giudici, Reg. 501, fols. 1r–3v, for the list of those banned in 1308 and Reg. 478, fol. 11v, Aug. 6, 1308 for the conspiracy.

<sup>258</sup> Paolo Montanari, "La formazione del patrimonio fondiario di una antica famiglia patrizia bolognese: i Lambertini," *L'Archiginnasio* 62 (1967): 320–353, esp. p. 324 on the marriage between Egano Lambertini and Tommasa di Villano Guastavillani, Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, "De satisfactione prestanda ab infra-scriptis nobilibus civitatis vel districtus Bononie, et de penis eorum qui non darent dictam securitatem et de fidantia eis danda, ratione predicta," pp. 308–316, for the Lambertini who were designated as *lupi rapaces*. ASB, Capitano, Giudici, Reg. 110, fol. 34r, March 1, 1287, for reference to Bonbolognino Mussolini as the son-in-law of Lambertino Lambertini. The Lambertini were also tied to the Malavolta, and both the Malavolta and Lambertini appear on the 1271–72 magnate lists in Milani "Da *militēs* a magnati," pp. 149–152.

<sup>259</sup> Armando Antonelli, "Appunti sulla formazione socio-culturale del ceto funzionale del tempo di Dante: Sondaggi su documenti e tracce," *Il Carrobbio* 27 (2001): 15–37, esp. p. 17.

<sup>260</sup> ASB, Capitano, Giudici, Reg. 80, fol. 59r.

<sup>261</sup> Antonelli, "Nuovi documenti sulla famiglia Guinizzelli," pp. 73–74.

<sup>262</sup> Antonioli, *Conservator pacis et iustitie*, pp. 30–31.

## 9. POLITICS VS. HEREDITARY STATUS

If neither knightly lifestyle, nor ownership of towers, nor service as foreign rectors, nor violent behavior served as sufficient criteria for identifying an urban magnate, what did serve as the key mark of magnate status? Prior to 1294, the most conclusive evidence was that the imputed or a close relative was an “authentic” belted knight, or that the imputed had been designated as a magnate by a special commission and the Consiglio del Popolo, as in the purge of 1283. But by 1294 the application of the hereditary principle, by which an *entire* family or *domus* was designated as noble or magnate by action of a special commission and the Consiglio del Popolo, was firmly in place for urban magnates as well as for *contado* nobles. Status for magnates and nobles was assigned the same way as it was for the Lambertazzi, that is, by lists determined by political bodies. The technique of designating a permanent, hereditary outsider *political* class (the Lambertazzi) was applied to the construction of a hereditary outsider *social-legal* class (which, however, functioned politically), and both classes were constructed by political decision.

The political nature of magnate identity trials is also indicated by the chronological frequency of such cases. As shown in Table IV.5, thirty-seven of the eighty-three magnate identity trials from 1284–1327 cluster around two years—eighteen in 1288 and nineteen in 1293. This pattern contrasts with that of the Lambertazzi cases extrapolated by Milani, who found that the majority of trials concerned with “belonging to the Lambertazzi party” occurred earlier. From his data we can calculate that fifty-two of the seventy-six trials of that type (68.4 percent), took place between 1281 and 1289, and only eighteen such trials (23.6 percent), occurred between 1290 and 1296.<sup>263</sup>

The 1288 cluster of magnate trials begins with trials initiated in the last three months of 1287, during the aftermath of the dangerous conspiracy in August, a conspiracy that aimed at abrogation of the Sacred and Most Sacred Ordinances and generated extreme tensions in the commune. The 1293 cluster occurs between August and October, immediately after the death of the Marquis of Este and during the great ferment that his death engendered in Bologna.<sup>264</sup> The politi-

<sup>263</sup> Milani, *L'esclusione dal comune*, p. 309, Table 2.

<sup>264</sup> Antonelli and Pedrini, “La famiglia e la torre,” pp. 39–41.

cal thrust of the 1293 trials is especially clear since some of the same individuals and families who were accused and acquitted in 1293 were subsequently labeled a few months later as magnates in the purge of 1294. By 1294, a group controlled politics that was tolerant or even favorable to the reentered Lambertazzi and supportive of a foreign policy of opposition to and war with the new Marquis of Este. By 1300, the split in the Geremei deepened, with the "White" faction continuing its opposition to the Marquis while continuing to support a moderate attitude towards the returned Lambertazzi. However, the "Black" faction—the "intransigent" or ultra-Guelfs—remained fiercely opposed to the reentered Lambertazzi. They launched a series of conspiracies that attempted to overthrow the Whites by turning the city over to the Marquis.<sup>265</sup> Those who refused to accept the new policy of internal reconciliation were vulnerable to status change and some were declared magnates, a status which was then reversed in 1306 when the "intransigent" Guelfs were again in control. The point is further evidenced when one notes that certain families with members serving in the executive council from October through January 1294 or even the individuals themselves, were named as magnates in the purge of February–March 1294, but none, of course, appear in the executive council in the following months.<sup>266</sup>

The complete list of magnate houses from the 1294 purge has not survived, but we do have the names of those who came forward after publication of that list to remove themselves from the popular societies in order to avoid incurring a penalty. The list of those who came forward shows how prior court decisions, earlier legislative exemptions, and grants of privilege were swept away by political action based

<sup>265</sup> Milani, *L'esclusione dal comune*, pp. 381–383, for the period 1300–1306.

<sup>266</sup> ASB, Capitano, Giudici, Reg. 231, fols. 1r–28r, October 1293–April 1294. In October Guido di Benvenuto Boatteri and Simone di Albertino da Sala were *ministrates* of the arms society of the Lions, one of the two preeminent societies for that month (fols. 4rv), Gilio Guidotto Ghisilieri was a *sapiens* for the sellers of rough cloths' guild and Pietro Zaccaria Baciacomari was a *sapiens* for the arms society of the Dragons in November (fols. 5v–6v), Artenisio Garisendi was *anzianus* for the sellers of rough cloths' guild, and Brandelisio Garisendi for the merchants' guild in November (fols. 8v–9r), Bettino di Ramberto Piatasi was a *sapiens* for the arms society of the Stars in December (fols. 9v–11v), Artenisio Garisendi again was *sapiens* for the sellers of rough cloths in January (fols. 13v–15v), Brandelisio Pietro Garisendi in January was *anzianus* for the drapers *pro armis* (fol. 16r), Mino Artenisi was *sapiens* for the Castles in February (fols. 17v–19v) and Guidolotto Balduini was *sapiens* for the Crossbars in October (fols. 1r–3v).

on the principle of hereditary status. In fact, over half of those who came forward to remove themselves from the societies—fifty of the eighty-seven entries (57.4 percent) in Table IV.3—were individuals or from houses who had been charged in earlier trials which challenged their membership in the popular societies. Only three of those trials had ended in convictions. As shown in Table IV.1, the Tebaldi, Piateti, Ghisilieri (Albertinazzi), Albari (da Castello), Balduini, da Borgo Panigale, Garisendi, da Sala, Zenzanis, Romanzi, Portinari and da Varignana (Campeggio), had all been acquitted in trials held between 1288 and 1293, some more than once, but all were included in the magnate list of 1294.<sup>267</sup> (Also included in the 1294 list were the Gattari and Guidozagni, who had been convicted in trials prior to 1294.)<sup>268</sup>

Earlier grants to individuals of privileged status (*popolani* with special legal immunities), which had been legislated by the Consiglio del Popolo, also were overturned by action of the commission and Consiglio del Popolo of 1294. Prior to that year the legal immunities of privileged status had protected individuals from charges that as magnates they were illegally enrolled in the societies. For example, in the 1288 trial against Beccaro and Toresano, sons of Landolfo di Pietro Martino (of the Beccari family), the defense claimed privilege and that claim was recognized in the sentence of acquittal as the basis for the acquittal.<sup>269</sup> Similarly, Niccolò di Pietro Mussolini that same year defended himself by invoking the privilege that had been granted to him as one of the *sapientes* responsible for writing the Sacred Ordinances of 1282.<sup>270</sup> The Ghisilieri and Romanzi had held *popolo* status by special

<sup>267</sup> Table IV.4, entries 1, 2, 3, 4, 6, 7, 8, 10, 11, 12, 13, 14, 15.

<sup>268</sup> Table IV.4, entries 1 and 17.

<sup>269</sup> Table IV.1, entry 19. The defendants, who were both enrolled in the merchants' guild, admitted they had once been cancelled from the Stars, but claimed that happened because they had failed to pay their dues. They denied that their grandfather was a *miles* and that they had been cancelled from that society for that reason. "Becharius est privilegiatus ipse et frater eius ex forma statutorum sacratissimum facte tempore Domini Tibaldi de Bexadis [1284] quod non possit obizi quoniam semper sit de societatibus." ASB, Capitano, Giudici, Reg. 104, fol. 44v, Feb. 5, 1288.

<sup>270</sup> Table IV.1, entry 16. His acquittal was based on a *consilium sapientis* which cites his privilege. ASB, Capitano, Giudici, Reg. 118, fol. 51r: "Super notificatione facta de Domino Nicolao de Muxolis qua continetur ipsum extrahendum fore et canzelandum de societatibus camporum et clavium quod cum appareat Dominum Nicolaum predictum esse conscriptum in matricula ca[m]psorum et fuisse iam sunt decem et otto anni et ultra et quod condam dominum Ugolinum eius avum paternum fuisse becharium et semper habebatur de populo et etiam Dominum Nicholaum predictum esse privilegiatum tempore Domini Jacobi de Rivola olim capitanei populi Bononie [1287]

privilege, and had used that privilege to defend themselves successfully in trials in 1288. The charge against the Ghisilieri was against eight members of that family, including three sons of Guidottino Ghisilieri who were enrolled in the arms society of the Claws. The family at that time had seven members who were *milites*.<sup>271</sup> In their defense the Ghisilieri did not deny that close members of their family were belted knights, but claimed that family members who were not *milites* were held and reputed to be *popolani* and that Guidottino Ghisilieri, their father, had a privilege that guaranteed that he and his sons were always to be “de populo Bononie.” They were acquitted.<sup>272</sup> In 1294, however, the Ghisilieri were included among the houses labeled as magnate, and six members of the *domus* came forward to remove themselves from the societies.<sup>273</sup> Guidottino Ghisilieri himself, however, did not come forward to have himself cancelled from the popular societies during the purge of February–March 1294, and subsequently was tried in April–May of 1294 for being illegally enrolled in the Eagles and bankers.<sup>274</sup> Guidottino was condemned and removed from those societies, but only after seven jurists had argued in a *consilium sapientum* that he was indeed from one of the houses designated as magnate in the legislation of 1294, and therefore had to be cancelled from the societies. The Romanzi had similarly been protected by special privilege and had been acquitted in 1288.<sup>275</sup> But they too were included among the magnate houses of 1294 (two members of the *domus* came forward

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et gaudere omni privilegio et beneficio quo gaudent duo sapientes qui fuerunt ad ordinationem sacra facta tempore Domini Mathey de Corigio olim potestatis Bononie [1282], ac si de verbo ad verbum et nomine ad nomen quilibet eorum conscripti erunt in dictis privilegiis et etiam cum per testes receptos super dicta notificatione vel alio modo nichil probatum vel ostensum quod Dominus Nicolaus predictus sit vel fuerit de potentibus vel nobilibus civitatis Bononie vel eorum ascendentes, set penius et contrario plene probatum est quod est et fuit de populo, ipse et eius maiores, et de societatibus populi Bononie. Consilium mei Thomaxini condan Domini Guidonis Ubaldini legum doctoris dei nomine et beate Marie virginis invocato, est tale, quod dictus Dominus Nicholaus ab hiis que in dicta notificatione continentur absolvatur et intelligatur esse de societatibus predictis.”

<sup>271</sup> Table IV.1, entry 18.

<sup>272</sup> ASB, Capitano, Giudici, Reg. 104, fol. 43r, March 5, 1288: “Dominus Guidochinus de Gisleis pater predictorum habet privilegium quod ipse et sui filii semper esse debent de populo Bononie.” Tommasino Ghisilieri was among the magnates in the 1271–72 lists given in Milani, “Da *milites* a magnati,” pp. 149–152.

<sup>273</sup> Table IV.3, entries 44, 46, 52, 53, 57, and 64.

<sup>274</sup> Table IV.1, entry 53.

<sup>275</sup> Table IV.1, entry 20.



to remove themselves from the societies for that reason).<sup>276</sup> Similarly, Isnardo d'Argele was acquitted in 1288 and 1290 and in both trials the reason specified for his acquittal was that he was privileged.<sup>277</sup> But in 1299, he and his brother Bartolomeo were condemned and removed from the popular societies.<sup>278</sup>

The 1294 list refers to entire houses as having “recently” been designated as magnate, but the list also contains individuals who came forward to remove themselves from the societies, not because their *domus* was magnate, but because, as they explained, they were illegally enrolled for other reasons, e.g., as a *frater gaudens* or close relative of a knight. The inclusion of such individuals probably explains why certain families had individual members listed as magnates in 1294, but had other members who continued to serve in *popolo* organizations. (See the discussion below, section 11, on the Boatteri and other families.)

The principle of hereditary status which was invoked in 1294, as noted above, was also a criterion employed in later trials. If one's ancestors had been designated as magnates or nobles, that status was inherited regardless of whether or not there were belted knights in the family, or whether or not one pursued a knightly lifestyle (as long as one did not pursue a “vile” occupation). In 1301, Giacomo di Niccolò<sup>279</sup> was convicted of being illegally enrolled in the arms society of the Swords and the butchers' guild because he was the grandson of Bonagratia Armani, who in turn had been convicted of illegal membership in the butchers in 1297.<sup>280</sup> Giacomo denied he was the grand-

<sup>276</sup> Table IV.3, entries 29 and 73.

<sup>277</sup> Table IV.1, entries 8 and 32. In the *consilium sapientum* by Guglielmo Romboivini and Antonio di Guido Ricoli in the 1288 trial, his acquittal was also justified by his approval by the commission of 1283. ASB, Capitano, Giudici, Reg. 104, fol. 26r. For the *consilium* from the 1290 trial, Reg. 137, fols. 24rv, according to which Isnardo was privileged by reason of the privileged status of his father, Giovanni di Ugucione d'Argele.

<sup>278</sup> Table IV.1, entries 64 and 65.

<sup>279</sup> Table IV.1, entry 69. In April 1306, however, he recovered his *popolo* status, as we know from a petition by him to the Consiglio del Popolo later that year. In his petition he referred to his removal from the popular societies in 1300 [sic] as a “nobilem et potentem” and his reinstatement in April as a *popolano*, and sought ratification of that reinstatement. ASB, Comune-Governo, Riformagioni 165, fol. 58v, Dec. 16, 1306. For others who were declared magnates in the 1290s, but then were returned to *popolo* status in 1306, with the return of the “intransigent” Guelfs, see below, Chapter Five, section 11.

<sup>280</sup> Table IV.1, entry 59.

son of Bonagratia and his trial depended upon testimony regarding his parentage and ancestry. The sentence against Giacomo rested upon evidence that he, in fact, was the grandson of Bonagratia. Bonagratia in his trial was charged with having been expelled from the Eagles in the purge of 1283, but having later registered himself in the butchers *pro armis*. Bonagratia was a judge, not a knight, and had a record of service to the commune, which was cited in the trials. He was one of the compilers of the statutes of 1288 and had received privileged status for that work. He also served as an ambassador to the Romagna, and was an official in the compilation of a new *estimo* in 1296. But none of those offices were forbidden to magnates, and the court in 1297 upheld his expulsion from the societies that had originally been determined in 1283. The court in 1301 in turn convicted his grandson on the basis of ancestry.

#### 10. MAGNATE IDENTITY TRIALS AS A TOOL OF CONFLICT

Most magnate identity trials after 1294 differed in several ways from those that preceded the purge of that year. There were a few trials that proceeded along the same lines as earlier trials, with charges resting on the relationship of the imputed to a *miles*. For example, in 1301, in a trial against Enrico di Ribaldo Foscardi and his son Francesco, the basis of the charge again was that Enrico's father had been a belted knight. As in earlier trials, witnesses described the investiture ceremony, at which they had been present. According to them, the investiture of Ribaldo purportedly took place in the church of S. Maria Rotonda dei Galluzzi, before the great altar of that church. Ribaldo took the sword from the altar and girded himself with it, with two others putting on his spurs. (There is no verdict given for the Foscardi case.)<sup>281</sup>

There were fewer trials in the later period, however, and, as happened with trials against those charged with being Lambertazzi in the early fourteenth century, the majority of trials against magnates illegally enrolled in the popular societies from 1313 through 1327 revolved around issues of ancestry or mistaken identity. These trials also became part of the arsenal of legal weapons to be used in conflicts

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<sup>281</sup> Table IV.1, entry 73. "debeat cingeri et ipse idem cinsit sibi et Dominus Marchisinus Ricchodopone calciavit dicto Domino Ravaldo unum calcar deauratum et Dominus Ricardinus de Principibus alterum calcar deauratum."

that originated and were concluded outside the courtroom. To be sure, charges of being a magnate who was illegally enrolled in the popular societies had clearly been made at least since the 1280s in order to harass one's enemies or even gain vengeance against them. The system of anonymous notifications deposited in the *capsa* facilitated the masking of motives. Thus in December 1287, an anonymous notification charged that Bartolomeo and Pietro Savioli were "de magnis" and were illegally enrolled in the arms society of the Claws.<sup>282</sup> The notification specified that the two imputed men were brothers of Giacobino Savioli and that Giacobino had been made a *miles* in the church of S. Gervasio. The charge specified that those who had knighted him were Alberto Caccianemici and Bonifacio di Castellano Storlitti, and provided a list of ten witnesses who "knew the truth."

For the 1287 trial against the Salvioli we have the testimony of witnesses named in the notification as well as that of those witnesses brought forward by the defense, specifically against and for Bartolomeo. In his defense he proved that the knighting ceremony was not authentic (that aspect of this trial is discussed earlier in this chapter, section 6), and also issued a countercharge against the eyewitnesses. He claimed that it was *publica fama et vox* that they were his "capital enemies" and produced witnesses to testify to the hatred between them. Those witnesses testified that there was a "war" between the Ghisilieri and the Toschi families, and in a trial in the court of the podesta after a particular riot between the two families, Rainaldino, a brother of Bartolomeo Savioli, had testified against the Ghisilieri, resulting in their being fined 300 pounds. The three members of the Ghisilieri family who testified had obviously supplied the anonymous charge. With the support of one other witness, they sought to avenge themselves by having Rainaldino's brothers expelled from the arms society of the Claws.

The pulsations of revenge between the imputed Salvioli and the Ghisilieri witnesses who testified against them had even deeper roots: the reason Rainaldino had intervened on behalf of the Toschi, according to one witness, was that Berto, nephew of Bartolomeo Savioli, had been detained by the podesta for a crime. Guidottino and Zaccaria Ghisilieri had prosecuted Berto for the crime, resulting in the decapitation of Berto. In addition, according to another witness, Folchino

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<sup>282</sup> Table IV.1, entry 11.

and Alberto, nephews of Bartolomeo and sons of his brother Rainaldino, had killed Leo da Isola, maternal uncle of the Ghisilieri witnesses, a year earlier. At that time Bartolomeo and the Ghisilieri had confronted each other at the court of the podesta, since Bartolomeo had defended his nephews, and the three Ghisilieri witnesses had also come to that trial to defend their brother. In short, the trial against the Salvioli was merely one episode in an ongoing series of acts of vengeance.

The conflictual nature of these membership trials is also indicated by instances in which a person accused of being illegally in the societies also can be found making the same charge against another person. For example, the Tebaldi, who were thus accused in 1288 and were acquitted,<sup>283</sup> made an accusation against the da Sala in 1293.<sup>284</sup> They also were acquitted. Both families, however, were among those *domus* declared magnate houses in 1294.<sup>285</sup> The Cazzetti, accused by anonymous accusation in 1288, were the accusers of the Foscardi in 1304.<sup>286</sup> In the trial against the Artenisi, the accuser was another member of the family.<sup>287</sup>

At least by the end of the thirteenth century, however, there was a shift in motivation. Increasingly in the early decades of the fourteenth century, enemies were using the Capitano's court not for the purpose of avenging themselves by causing their enemies to be expelled from the societies, but more frequently in order to exert leverage and force them to come to an agreement in some dispute that had arisen earlier, a practice occurring simultaneously in the court of the podesta.<sup>288</sup> The goal of the accusers was to negotiate an out-of-court settlement with the accused. Paralleling this process was a transition in the Capitano's court from a more active government role of surveillance and prosecution of putative magnates in the societies to a more passive one. In the earlier stage, as part of the purge process conducted by special

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<sup>283</sup> Table IV.1, entry 15.

<sup>284</sup> Table IV.1, entry 49.

<sup>285</sup> Table IV.3, entries 15, 28, 44, 50 and 59 for the Tebaldi and entry 52 for the da Sala.

<sup>286</sup> Table IV.1, entries 14 and 73.

<sup>287</sup> Table IV.1, entry 66.

<sup>288</sup> Massimo Vallerani, *La giustizia pubblica medievale* (Bologna: Il Mulino, 2005), chapter 3, "Il sistema accusatorio in azione: Bologna tra XIII e XIV secolo," pp. 147–148, published originally as "I processi accusatori a Bologna fra Due e Trecento," *Società e storia* 78 (1997): 741–788, esp. pp. 778–782.

commissions, many trials were initiated by anonymous accusations placed in a special *capsa* located in the palace of the Capitano. In the later stage, trials more frequently stemmed from a more passive format (in the sense of a lesser role for the government), in which prosecution depended upon an explicitly named accuser. Twenty-four trials have survived from 1298–1321, but only three, from 1298–99, originated from anonymous denunciation. Moreover, in one of those three trials, an accuser came forward to prosecute the case.<sup>289</sup> Accusers wanted those they accused to know their identity. In a trial from 1296, it was specified that an infrajudicial agreement (*laudum*) had been reached between accuser and accused, thereby ending the trial.<sup>290</sup> In other cases it can be assumed that the trial ended in an agreement because the accuser did not pursue prosecution of his accusation. Thus, six of the eight trials that have survived from 1315–1321 concluded with acquittal of the imputed because the accuser did not prosecute, or because he renounced the charge.<sup>291</sup> By 1318, use of anonymous accusations by *capsa* for noble identity cases seems to have been discontinued, as implied in a trial of that year against a member of the Ghisilieri family and in another trial in 1319 against two men of the da Varignana family.<sup>292</sup>

## 11. POLITICAL PROFILES

To what degree did court decisions on magnate status depend on political decisions? Two trials from 1315–1321 both concern alleged descendants of the *contado* noble family of the da Varignana.<sup>293</sup> For one of those trials, that of 1315, we do not have the verdict, but the trial must have ended in acquittal given the continued participation of the imputed in the Consiglio del Popolo (see below).<sup>294</sup> The trial in

<sup>289</sup> Table IV.1, entries 60, 61, 63. Another trial from 1319 originated from both a petition and a notification by *capsa*. Table IV.1, entry 80. The trial proceeded with the petitioner serving as *coadiunctor*.

<sup>290</sup> Table IV.1, entry 56.

<sup>291</sup> Table IV.1, entries 77, 78, 79, 81, 82, 83.

<sup>292</sup> Table IV.1, entries 79 and 80.

<sup>293</sup> Table IV.1, entries 76 and 80.

<sup>294</sup> In 1320, legislation that described the groups who could not be privileged (Lambertazzi, *fumantes*, descendants of *milites*, *nobiles*, *potentes*, etc.), also gave the names of those who were (presumably) of the latter group but who were exceptions and would be permitted to be privileged. The privileged included “*Cornaldus* and

1319 ended in an acquittal by *consilium sapientis* and was fully prosecuted by a *coadiunctor*. That trial exemplifies the degree to which political intervention could overcome the principle of heredity, which paradoxically had been established by political intervention in 1294. Ignored in this case was the principle of heredity that theoretically and in general practice had come to dominate issues of status by 1294. The da Varignana were charged with being illegally enrolled in the societies because they were descendants of the *contado* noble Orlando Pagano. Orlando, in fact, was enrolled as a *contado* noble in the Book of Nobles of 1249, but had been erased from that book when he was granted a special privilege which gave *popolo* status to him and his descendants. During the purge of 1294, however, that privilege was rescinded, and the da Varignana were once again declared *contado* nobles. The name of "Orlandus Pagano" was then rewritten into the 1249 Book of Nobles in the same place from which it had been erased.<sup>295</sup> Accordingly, seven members of the da Varignana *domus* came forward in 1294 and were removed from the societies.<sup>296</sup> In two trials of 1315 and 1319, however, the sons of Benino da Varignana were charged with being illegally in the popular societies since they were descendants of Orlando Pagano.<sup>297</sup> The verdict for the 1315 trial is not given, but in the trial of 1319, the charge was not prosecuted against one of the brothers, Francesco, because he had already received several verdicts of acquittal, which he documented. The trial proceeded against his brother, Ghinazzo, but he also was acquitted. Their ancestry was not disputed by the defendants. Instead, they successfully rested their defense on documents, including a privilege granted them in 1318, signifying that the turn of the political wheel had once again granted them *popolo* status by legislative action. In individual cases, political decision could trump the principle of hereditary status.

Political privilege also exempted Bettino Zangnarini Grimaldi da Lamola from magnate status. In his trial in 1313 he did not contest

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Francesco di Beno da Varignana and their descendants," who were brothers of the imputed in the 1319 da Varignana trial. Table IV.1, entry 80. By this legislation the commune made an exception to the principle of hereditary status, but also invoked the hereditary principle to safeguard the newly-conferred status for future generations. ASB, Comune-Governo, Riformagioni 188, fols. 306r–312r, Jan. 28, 1320.

<sup>295</sup> ASB, Comune, Estimi di città e contado, Series 1, Ruoli d'estimo, 2. Elenco di nobili ed esenti, fol. 13r.

<sup>296</sup> Table IV.3, entries 4, 7, 73, 75, 83, 84, 86.

<sup>297</sup> Table IV.1, entries 76, 80.

the inscription of his ancestor in the “Book of Nobles and Exempted in the *Contado* of Bologna,” but rather produced an exemplar of a *riformagione* that had cancelled his noble status.<sup>298</sup> It is not surprising that Bettino gained such a privilege given how well-connected he was politically, as indicated by the identity of his attorney in this trial, Bernardino Bambaglioli, and the inclusion among his guarantors of a member of the Balduini family. But these two cases remain exceptions. By the early fourteenth century, the principle of hereditary status in the case of *contado* nobles had been institutionalized and *required* legislative interference in order to be overcome.

What was the situation for urban magnates? Having a properly-invested *miles* in a family meant magnate status for the knight’s relatives and descendants, but designation of status ultimately rested upon political decisions, such as the designation of certain families for whom this rule did not apply, as noted above. Individuals and families designated as magnates included those whose members or ancestors were *not* knights and who did *not* live a knightly lifestyle. Moreover, political decisions depended upon the dominant sympathies of a particular regime in an era when regimes changed rapidly and dramatically.

Had the role of politics and the political pressures behind the designation of magnate-*popolo* status changed in the late thirteenth and early fourteenth century? Historians usually interpret the magnate-*popolo* struggle and the designation of status in the second half of the thirteenth century as more “authentic” than the conflicts and status-designations of the early fourteenth century. The latter are usually described as “factional” in scope and therefore as a corruption of earlier political conflicts.<sup>299</sup> Certainly much of the evidence presented above points to the importance of political intervention in status-ascription. The question, however, can be better illuminated by taking a longer perspective and following the office-holding paths of

<sup>298</sup> Table IV.1, entry 75. The da Lamola entries in the 1249 Book of Nobles comprise eleven men, including *Dominus Spinabellus domini Grimaldi* and *Zangarinus domini Grimaldi*, probably the ancestors of Bettino Uguccione *domini Zangnarini domini Grimaldi* da Lamola. ASB, Comune, Estimi di città e contado, series 1, Ruoli d’estimo, 2, elenco di nobili ed esenti, fol. 21r.

<sup>299</sup> Vitale, *Il dominio della parte guelfa*, pp. 85–86; Massimo Vallerani, “Il processo inquisitorio nella lotta politica a Bologna fra Due e Trecento,” in *La giustizia pubblica medievale*, pp. 253–254, (originally published as “Il potere inquisitorio del podestà: limiti e definizioni nella prassi bolognese di fine Duecento,” in *Studi sul Medioevo per Girolamo Arnaldi*, ed. Giulia Barone, Lidia Capo, and Stefano Gasparri (Rome: Viella, 2001), pp. 379–417).

several individuals and families in depth over several generations. For example, in 1274, *Granibaldus* (*Ghinebaldus*) *Benvegnai* was cancelled from the arms society of the Leopards as a “nobilis.”<sup>300</sup> He appears earlier, in the *Liber Paradisus* of 1256 as an owner of serfs, with his brothers Guido and *Zangarelus*.<sup>301</sup> In 1281, his brother, *Zangarellus* da Borgo, was one of the two *milites* in the entourage of Alberto Asinelli to the city of Pistoia.<sup>302</sup> In 1284, *Ghinebaldus* served as attorney for Ubertino Guarini, a *popolano* (a magnate could not serve as lawyer for a *popolano*).<sup>303</sup> In May 1285, both brothers were approved by the special commission of that year for membership in the popular societies, despite an anonymous accusation received by that commission.<sup>304</sup> In 1286, *Zangarellus* served on a commission reviewing those of Lambertazzi status.<sup>305</sup> In 1287, he served as supervisor of a bridge-building project in the *contado*,<sup>306</sup> and in 1291 he was a *miles comunis* with a *popolano* guarantor.<sup>307</sup> In 1287, *Zangarellus* also served as a *conductor* for confiscated Lambertazzi properties. At that time his guarantor was again a *popolano*.<sup>308</sup> Thus, despite their noble and serf-owning ancestors, *Zangarellus* and *Guinibaldus* gained and held *popolo* status from the early 1280s until the early 1290s. However, in November–December 1293, the brothers were charged as magnates who were illegally enrolled in the popular societies.<sup>309</sup> They were acquitted, but two months later were included in the 1294 list of magnates who came forward to dismiss themselves as magnates from the societies. After that they disappear from political and administrative office.<sup>310</sup> Thus, they were given magnate status by the Consiglio del Popolo in 1274, *popolo* status by that same body in 1285, were acquitted in a trial in

<sup>300</sup> ASB, Capitano, Libri matricularum, Busta I.

<sup>301</sup> Antonelli, *Il Liber Paradisus con un'antologia di fonti bolognesi*, pp. 70–71.

<sup>302</sup> ASB, Capitano, Giudici, Reg. 5, fols. 27r–28r, 1281. That embassy is cited by Antonelli, “Appunti sulla formazione socio-culturale del ceto funzionariale,” p. 15.

<sup>303</sup> ASB, Capitano, Giudici, Reg. 61, fols. 81r–84r, April 22–May 2, 1284.

<sup>304</sup> ASB, Capitano, Giudici, Reg. 70, fol. 34r.

<sup>305</sup> ASB, Capitano, Giudici, Reg. 97, fol. 1r, Oct. 13, 1286.

<sup>306</sup> ASB, Capitano, Giudici, Reg. 102, fol. 57r.

<sup>307</sup> ASB, Camera del Comune, Procuratori del Comune, Busta 4, Reg. 37r, fol. 2r, Dec. 3, 1291.

<sup>308</sup> ASB, Camera del Comune, Procuratori del Comune, Busta 4, Reg. 33, fol. 30r, Sept. 23, 1287.

<sup>309</sup> Table IV.1, entry 52.

<sup>310</sup> Table IV.3, entry 38.



1293, and then again removed from the popular societies in 1294, again by action of the Consiglio del Popolo.

For *Zangarellus* and *Guinibaldus* da Borgo, their fall from political participation was permanent,<sup>311</sup> but for others the ostracization decreed in 1294 was brief. The Balduini, Gattari, Ghisilieri, Piatesi, Romanzi, Tebaldi and da Varignana families were among those designated as magnates in 1294, but were all returned in the following years to *popolo* status and political activity. Earlier in the century, the Balduini had been very prominent in *balie* and embassies, and had served in the Council of 800.<sup>312</sup> They do not appear in the *matricule* of the popular societies in 1272–1274, but apparently achieved *popolo* status by the 1280s, when Balduino Balduini held the office of *anzianus* in 1283 for the arms society of the Crossbars, and *Torerias* Balduini held that office in 1288.<sup>313</sup> Then, in 1294, they were again declared magnates. However, in 1309, fifteen years after being declared magnates, Guidocherio di Filippo Balduini appears among the new members of the notaries' guild.<sup>314</sup> The Balduini also appear in 1314 in the *matricula* of the Crossbars.<sup>315</sup> After 1316, moreover, and the trial of that year affirming their regained *popolo* status, the family appears frequently in the Consiglio del Popolo and anzianate samples.<sup>316</sup>

The Gattari (also discussed above, section 7) only appear once in the *popolo* office-holding sample, in 1282, when Betasio Gattari served as *anzianus*, although he also held communal office, serving as one of

<sup>311</sup> Bartolino da Sala, who was acquitted as a magnate illegally enrolled in the societies in 1293 (Table IV.1, entry 49), but included in the list of 1294 (Table IV.3, entry 52), also remained a magnate. In 1313 he acted as one of the magnate guarantors for the outgoing podesta. ASB, Camera del Comune, Procuratori del Comune, Busta 6, Reg. 67, fol. 6v, Jan. 1, 1313.

<sup>312</sup> See above, section 7, for discussion of the Balduini.

<sup>313</sup> ASB, Capitano, Società d'arti e d'armi, Busta III. In the *matricula* of the Crossbars of 1255, which is a copy with names crossed out and entries dated 1271 and 1272, there are no Balduini listed.

<sup>314</sup> ASB, Capitano, Libri matricularum, Busta II, 1294, *matricula notariorum*, fol. 81r.

<sup>315</sup> ASB, Capitano, Libri matricularum, Busta III, 1314. Guidocherio, Ravignano and Balduino, sons of Filippo Balduini, appear in the original 1314 list; Francesco di Fra Guaramonte Balduini and Balduccio di Balduino Balduini among the additions of 1316; Paolo di Ravignano Balduini, Tommaso di Balduino Balduini, Guidocherio di Balduino Balduini and Giacomo di Guidocherio Balduini among the additions of 1321, and Filippo di Ravignano Balduini among the additions of 1323.

<sup>316</sup> Database of officeholders in late medieval Bologna.

the officials who approved the posting of securities in 1291.<sup>317</sup> Declared *popolani* in 1283, the Gattari were changed to magnate status after their trial in 1293 and are included in the magnate list of 1294. But by 1313 they once again held *popolo* status. Betasio himself appears in the Consiglio del Popolo sample in 1313, 1320 and 1321.<sup>318</sup>

The explicit relationship between shifting political alliances and ascription of magnate-*popolo* status is particularly illuminating in the case of the Tebaldi. Family members were in the popular societies very early in the thirteenth century. *Mainittus* Tebaldi entered the notaries in 1221, Giacobino di Silvestro Tebaldi in 1228, Tebaldo di Giacomo Tebaldi da Montasego in 1233, Gregorio di Andrea Tebaldi in 1237,<sup>319</sup> Niccolò di Tommaso Tebaldi in 1259,<sup>320</sup> Bonacosa di Martino Tebaldi in 1266, Tebaldino Niccolò Tebaldi in 1272, and *Thebaldatus* di Giacobino Tebaldi in 1272.<sup>321</sup> Members of the family also appear in the rough cloths' guild and in the arms society of the Eagles in the 1274 *matricule*.<sup>322</sup> The Tebaldi were politically active and served in the anzianate (Tebalduccio Tebaldi in January, 1278 and in 1281, Rolandino Tebaldi in 1289), and in the communal councils, on *baliè* and embassies. They were also members of the Consiglio del Popolo in 1283, 1284, and 1286.<sup>323</sup> In 1285, the *popolo* status of Giacomo Tebaldi, Niccolò Tebaldi and Bonacosa Tebaldi was confirmed by a special commission and the Consiglio del Popolo.<sup>324</sup> In 1288, Dino Niccolò Tebaldi and Giacobino Tommasino Tebaldi were accused of being magnates illegally enrolled in the popular societies, but were acquitted.<sup>325</sup> In 1290, Antolino Tebaldi served as *consul* of the notaries.<sup>326</sup> Nevertheless, despite seven decades of membership in the *popolo* and confirmation of their *popolo* status in 1285, the Tebaldi were declared

<sup>317</sup> ASB, Camera del Comune, Procuratori del comune, Busta 4, Reg. 37a, fol. 1r, 1291.

<sup>318</sup> Database of officeholders in late medieval Bologna. Betasio's son, Martino, as accuser in a trial in 1320 against two nobles, proceeded as a privileged person "ex persona" of his father. ASB, Podesta, Accusationes, Busta 43b, Reg. 7, fols. 17v-18v, July 18, 1320.

<sup>319</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, pp. 25, 53, 68, 83.

<sup>320</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, p. 161.

<sup>321</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, pp. 246, 293, 294.

<sup>322</sup> ASB, Capitano, Libri matricularum, Busta I, 1274.

<sup>323</sup> Database of officeholders in late medieval Bologna.

<sup>324</sup> ASB, Capitano, Giudici, Reg. 70, fols. 32v, 33a, 33v.

<sup>325</sup> Table IV.1, entry 15.

<sup>326</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, p. 601.

magnates in 1294, including those very same individuals who had been affirmed in 1285 and acquitted in the trial of 1288.<sup>327</sup> But their return to *popolo* status and political power was rapid. In August 1297 Dino was *anzianus* and others from that family held appointments in the *anzianate* in 1315 and 1317 and were in the *Consiglio del Popolo* in 1307 and 1313.<sup>328</sup>

The da Varignana family also was declared magnate in the purge of 1294. Apparently they were *popolani* prior to that year, despite their obvious *contado* noble origins, as discussed above. They too regained their *popolo* status after the purge of 1294, but apparently not until after the return to power in 1306 of the “intransigent” Guelfs, re-expulsion from Bologna of the Lambertazzi *banniti*, and removal from political life of those Lambertazzi who had earlier sworn allegiance to the Geremei. Thus, the same individuals listed as magnates in 1294 (the sons of Benino da Varignana) appear in the *Consiglio del Popolo* sample in 1309, 1317, 1321 and 1322.<sup>329</sup>

In the case of the Romanzi, their ascription to magnate status can be traced first to individuals of that family and then to the entire *domus* in 1294. The Romanzi are listed in the *matricule* of the popular societies of 1274 with Guidesto and *Guazus* in the guild of the salt-sellers.<sup>330</sup> They were also in the notaries’ guild by the 1280s, when Guidesto di Rolandino Romanzi was described in a trial of 1288 as having been registered in that guild during the early 1280s.<sup>331</sup> Rolando Romanzi was charged in 1281 with having committed extortion in the *contado* and was referred to in that trial, along with his sons Scannabecco and Guidesto, as having previously been banned for homicide, with no mention of any magnate status.<sup>332</sup> In 1285, Conte Romanzi, Galvano and *Centarinus*, sons of Bartolotto Romanzi, and Dino and Bartolo, sons of Scannabecco Romanzi, were all approved for membership in the societies despite an anonymous accusation that they were

<sup>327</sup> Table IV.3, entries 15, 28, 44, 50, 59.

<sup>328</sup> Database of officeholders in late medieval Bologna.

<sup>329</sup> Database of officeholders in late medieval Bologna. In the 1314 *matricula* of the Quarters Baldicino di Benino da Varignana is enrolled among the additions of 1321 and Niccolò Paganucio da Varignana is enrolled in the Bars among the additions of 1319. ASB, Capitano, Libri matricularum, Busta III. In a trial in 1320, Niccolò Paganucio da Varignana made an accusation as a privileged person against a Lambertazzi. ASB, Podesta, Accusationes, Busta 43a, Reg. 349, fols. 25v–26r, July 2–7, 1320.

<sup>330</sup> ASB, Capitano, Libri matricularum, Busta I.

<sup>331</sup> Table IV.1, entry 20.

<sup>332</sup> ASB, Capitano, Giudici, Reg. 6, fol. 5v, March 5, 1281.

magnates.<sup>333</sup> In 1286, Bartolo di Scannabecco Romanzi was charged with carrying a sword in the streets. In the course of testifying in his defense, he said he was in the guild of the notaries.<sup>334</sup> In March 1288, Dino (Rolandino) and Bartolo (also given as Bartoluccio) were charged as magnates who were illegally enrolled in the notaries, but the trial ended in their acquittal.<sup>335</sup> In January 1290, Bonacursio di Arimondo Romanzi also was acquitted of a charge of illegal membership in the cordwainers.<sup>336</sup> However, Guidesto di Rolandino Romanzi was listed as a *lupus rapax* in the statutes of 1288,<sup>337</sup> and in January 1291, Dino and Bartolo were cancelled from the notaries' guild by the review commission of December 1290 as "de nobilibus civitatis Bononie."<sup>338</sup> The assignment of magnate status to the Romanzi apparently was viewed as a dangerous task, since the two *sapientes* from each of the popular societies who were specifically appointed for this purpose were granted special privileges for their protection.<sup>339</sup> But the privilege of protection was for designating only Scannabecco Romanzi and his sons, and not the entire *domus*, as "de nobilibus civitatis Bononie." In 1294, some members of the family still were *popolani* and in the societies. During the purge of that year, Bartolomeo di Guidotto, member of the merchants' guild, and Bonacursio di Arimondi, member of the cordwainers' guild, came forward to remove themselves from those societies because, as they said, they were of the *domus* Romanzi, one of the recently declared magnate houses.<sup>340</sup> By 1294, the entire *domus* was thus of magnate status. Yet in 1309, following the familiar pattern, Bartolomeo Romanzi and Galvano di Bartolomeo Romanzi entered the merchants' guild, and in 1314 Romanzo di Bartolomeo Romanzi

<sup>333</sup> ASB, Capitano, Giudici, Reg. 70, fol. 33r.

<sup>334</sup> ASB, Podesta, Inquisitiones, Mazzo 8, Reg. 12, fol. 5v, Aug. 4, 1286.

<sup>335</sup> Table IV.1, entry 20.

<sup>336</sup> Table IV.1, entry 26.

<sup>337</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric XVI, "De satisfactione prestanda ab infrascriptis nobilibus civitatis vel districtus Bononie, et de penis eorum qui non darent dictam securitatem et de fidantia eis danda, ratione predicta," pp. 308–312, esp. p. 310.

<sup>338</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, pp. 548–549.

<sup>339</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric LXXVIII, "Quod illi qui erant scripti in statutis populi pro privilegiatis, intelligantur privilegiati [ipsi] et eorum patres, fratres et filii et nepotes et filii fratrum, sicut predicti sapientes et consiliarii populi," p. 421. They were granted the privileges for having declared Scannabecco Romanzi and his sons "de nobilibus civitatis Bononie."

<sup>340</sup> Table IV.3, entries 30 and 74.

was in the arms society of the Lions.<sup>341</sup> Paradoxically, although the Romanzi appear in the communal councils of the late thirteenth century (Bonacursio Romanzi was in the Council of 800 in 1292)<sup>342</sup> and on *balie*, they appear in the sample of *popolo* officeholders only in the early decades of the fourteenth century, despite their pre-1294 *popolo* status. Bonacursio di Arimondo Romanzi, who had been acquitted in 1290<sup>343</sup> and declared a magnate in 1294,<sup>344</sup> served as *anzianus* in April 1322 and April 1325 and was a member of the Consiglio del Popolo in 1321.<sup>345</sup> Romanzo di Bertolaccio Romanzi, who was *anzianus* in 1325, was probably the son of the Bartolomeo who was declared a magnate in 1294.<sup>346</sup>

The shifts from *popolo* to magnate status in 1294, and then again to *popolo* status in 1306 of some families is also illustrated in the changing status of the Piatresi. Members of the family were enrolled in the popular societies at least since 1275, when Gerardo di Bartolomeo Piatresi was admitted into the notaries.<sup>347</sup> Bettino di Ramberto Piatresi was approved as a member of the popular societies by the commission of 1285, despite an anonymous accusation made against him at that time,<sup>348</sup> but twice he was charged with illegal membership in the popular societies (the Stars, notaries and shoemakers) as a magnate, in 1288 and 1293.<sup>349</sup> He was acquitted both times, producing copies of the many privileges granted to him. Other members of his *domus* also faced trials. Niccolò Faxani Piatresi (of the merchants' guild) in 1288 (he was acquitted), and Bartolomeo di Guido Tagliamenti Piatresi (of the Stars) in 1293 (no verdict given).<sup>350</sup> But in 1294 the *domus* was declared magnate and Niccolò, Bettino and their sons, all came forward to remove themselves from the societies.<sup>351</sup> During the war against the Marquis of Este, in 1297, Bettino served as one of the cap-

<sup>341</sup> ASB, Capitano, Libri matricularum, Busta II, 1294, additions; *ibid.*, Busta III, 1314, fols. 42r–61r.

<sup>342</sup> Database of officeholders in late medieval Bologna (Ghirardaci, *Della historia*, p. 297).

<sup>343</sup> Table IV.1, entry 26.

<sup>344</sup> Table IV.3, entry 74.

<sup>345</sup> Database of officeholders in late medieval Bologna.

<sup>346</sup> Table IV.3, entry 30.

<sup>347</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, p. 319.

<sup>348</sup> ASB, Capitano, Giudici, Reg. 70, fol. 32v.

<sup>349</sup> Table IV. 1, entries 17 and 39.

<sup>350</sup> Table IV.1, entries 12 and 27.

<sup>351</sup> Table IV.3, entries 39, 48, 49, 70, and 87.

tains of the fortifications “de nobilibus.”<sup>352</sup> But in 1306, three grandsons of Bettino (now deceased), were admitted into the notaries.<sup>353</sup> In addition, Giacomo di Bettino Piatasi is listed among the additions of 1306 in the merchants’ guild, along with his son, Filippo, and Zoene *sive* Uguccione di Bettino Piatasi.<sup>354</sup> Both Filippo and Zoene had been specifically designated as magnates in 1294.<sup>355</sup> The pattern of the family’s participation in political life parallels their status changes. Bettino and Niccolò di Niccolò held *popolo* offices in 1283 and 1292 (Bettino in the Consiglio del Popolo for the Stars in 1283, and Niccolò di Niccolò in 1292 for the merchants). Bettino also served as *anzianus* in March, 1284. Then the family does not appear again in the sample of the *popolo* officeholders until 1307. From 1307 until 1326, however, members of the family appear repeatedly in the sample, including the sons and grandson of Bettino.<sup>356</sup>

As was the case in the above profile of the Romanzi, not everyone from the *domus* of the Piatasi was removed from the societies during the purge of 1294. Pellegrino Piatasi is listed in the *matricula* of the notaries for 1294,<sup>357</sup> a *matricula* made *after* the purge of that year and the listing of the Piatasi *domus* as magnate. The list of 1294 specifies that certain families and houses were designated as magnates in their entirety. However, as indicated for the Romanzi and Piatasi, such was not the case at that time for every *domus* which was designated as magnate. The bifurcation of a *domus* into magnate and *popolo* wings is well-illustrated in the case of the Baciacomari. Nobles and leaders of the Geremei in 1274, they had been subsequently granted *popolo* status and became prominent officeholders in the 1280s and ’90s.<sup>358</sup> Bolognino di Albertuccio Baciacomari came forward in 1294 to remove himself from the bankers because, as he stated, he was a descendant of a *contado* noble, without reference on his part to any ascription of magnate

<sup>352</sup> ASB, Capitano, Giudici, Reg. 317, fols. 8v–9v, July, 1297. Another member of the family, Pietro *Maluxii* Piatasi, was captain of Castel Monteveglio at the same time. Bettino was captain of Castel Piumazzo.

<sup>353</sup> ASB, Capitano, Libri matricularum, Busta II, matricula notariorum.

<sup>354</sup> ASB, Capitano, Libri matricularum, Busta II, matricula merchatorum, fol. 34v.

<sup>355</sup> Table IV.3, entry 70.

<sup>356</sup> Database of officeholders in late medieval Bologna.

<sup>357</sup> ASB, Capitano, Libri matricularum, Busta II, matricula notariorum, fol. 41r. Pellegrino does not, however, appear in the database sample as an officeholder.

<sup>358</sup> Database of officeholders in late medieval Bologna for their *popolo* officeholding.

status to his *domus*.<sup>359</sup> Bolognino was a person of great prestige, serving in 1309 as captain of the Geremei from the seven arms societies, but he does not appear in the sample of officeholders in a post requiring *popolo* status.<sup>360</sup> Others of that family, however, entered the popular societies in the late thirteenth century and held *popolo* office before and after 1294. Thus, Conte and Bonvisino, sons of Pietro Guercio Baciacomari entered the notaries' guild in 1281, Conte (or a brother with the same name) re-entered in 1291, and Zaccaria di Pietro Guercio in 1293.<sup>361</sup> Conte Baciacomari served as *consul* of the guild in 1296 and 1299 and as *sapiens de massa* in 1299.<sup>362</sup> Pietro Baciacomari was *anzianus* for the bankers in 1281. Many other appointments were held by family members in the 1280s and 90s and early decades of the fourteenth century.<sup>363</sup> Thus, for those members of the family already in the guilds there seems to have been no break in their *popolo* status in 1294. In fact, Matafellone di Pietro Baciacomari appears in the *matricula* of the merchants' guild in 1294, a list compiled after the purge of that year, and two more Baciacomari appear among the additions to that guild in 1299 and one more in 1306.<sup>364</sup> Furthermore, Zaccaria di Pietro Baciacomari and Conte di Pietro Baciacomari appear in the 1294 *matricula* of the bankers.<sup>365</sup> Final indication that certain members of the family retained their *popolo* status while others were designated as nobles and magnates is the appearance of family members as captains of military fortifications *pro nobili* in 1298, at the same time that others of that family were in the popular societies.<sup>366</sup>

Similarly, one member of the Oselitti family appears on the 1294 magnate list (Lanzalotto di Zaccaria, who removed himself from the notaries' guild and the arms society of the Horses), but there is an

<sup>359</sup> Table IV.3, entry 50.

<sup>360</sup> Database of officeholders in late medieval Bologna (Ghirardaci, *Della historia*, p. 533).

<sup>361</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, pp. 352, 408, and 442.

<sup>362</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, pp. 495, 615, and 611.

<sup>363</sup> Database of officeholders in late medieval Bologna.

<sup>364</sup> ASB, Capitano, Libri matricularum, Busta II, matricula merchatorum, fol. 24r, and database of officeholders in late medieval Bologna.

<sup>365</sup> ASB, Capitano, Libri matricularum, Busta II, 1294, matricula camporum.

<sup>366</sup> Guido di Bartolomeo Baciacomari, Berto di Giovanni Baciacomari, Pietro di Giovanni Baciacomari, Baxinus Baciacomari, Niccolò Baciacomari, and Bolognino Baciacomari were captains. ASB, Capitano, Giudici, Reg. 330, fols. 14v–16r, 51r–54r, 55r–58v. Also database of officeholders in late medieval Bologna.

Oselitti in the merchants' *matricula* of 1294 and also in the bankers.<sup>367</sup> The family was an ancient and prestigious one (there was a *cappella* S. Maria degli Oselitti), and a member of the family, Oselitto Oselitti, also appears among the nobles given the posts of captains of the *castelli* in 1298 and in 1318.<sup>368</sup>

The Boatteri's political profile yields another instance in which an individual, but not the entire *domus*, was labeled as magnate in 1294, with variations on the pattern. The family was a mercantile one with members who also entered the notaries' guild in 1275 in the person of Bonincontro di Cambio Boatteri.<sup>369</sup> His brother Cervio di Cambio Boatteri entered that guild in 1289, as did two other members of the family in 1285.<sup>370</sup> Moreover, it seems that Bonincontro was *not* declared a magnate in 1294, since he appears again in the notaries' *matricula* for that year, as does Alberto di Zerra Boatteri.<sup>371</sup> However, another member of the family, Guido di Zaccaria Boatteri, was given magnate status in 1294 just prior to the compilation of the new *matricula*.<sup>372</sup> According to Guido's own declaration, he came forward to remove himself from the Lions and merchants because his father Zaccaria was a nephew of Cervio Boatteri who was a *miles*. Yet Guido Boatteri, probably the same person, served as a *popolano* captain of the *castelli* in 1298.<sup>373</sup> During the same period, other members of the family were politically prominent. Gratiolo Boatteri was one of the Twelve Lords of War in June 1294. *Popolo* status was not required for that position, but he also held a *popolo* office, e.g. the *anzianate* in 1291, 1298 and 1303.<sup>374</sup> Giacomo Boatteri also served as *anzianus* in 1297, 1300, and 1308, and Bonincontro di Cambio did so in 1300 and 1306. Finally, Guido himself, the family member declared a magnate in 1294, who had served in the Consiglio del Popolo in 1286, was

<sup>367</sup> Table IV.3, entry 26; ASB, Capitano, Libri matricularum, Busta II, matricula merchantorum, fol. 25v, matricula campsorum, fol. 12v; ASB, Capitano, Giudici, Reg. 70, fol. 35r, 1285.

<sup>368</sup> ASB, Capitano, Giudici, Reg. 330, fols. 14v–16r, Feb. 19, 1298, fols. 51r–52r, April 1298, Reg. 317, fol. 7r, May 1318. The family also appears on the list of magnates of 1271–72, as given in Milani, "Da milites a magnati," pp. 149–152.

<sup>369</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, p. 325.

<sup>370</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, pp. 325, 394, 370, 373.

<sup>371</sup> ASB, Capitano, Libri matricularum, Busta II, matricula notariorum, fols. 44v, 45r.

<sup>372</sup> Table IV.3, entry 25.

<sup>373</sup> ASB, Capitano, Giudici, Reg. 330, fols. 55r–56r.

<sup>374</sup> Database of officeholders in late medieval Bologna.



among the additions to the merchants' *matricula* in 1306, when the "intransigent" Guelfs came back to power.<sup>375</sup> The family thus seems to have experienced two levels of status change. On the one hand, certain individuals of the family were knights or close relatives of knights and as such were assigned magnate status, as in the case of Guido, probably when his uncle became a knight. On the other hand, other members of the family, who had been prominent in *popolo* office, fell out of favor during the "pro-Ghibelline" period at the turn of the century and returned to political participation in 1306 with the return of the "intransigent" Guelfs.

Vulnerability to charges as magnates and removal from the popular societies became greater for a family when it became more prominent politically or found itself in the faction opposing the government. For example, the Surici were enrolled in the popular societies from the 1230s (in the arms society of the Claws) and in 1274 were enrolled in the guilds of the notaries and haberdashers. In 1275, Deotesalvo Surici successfully defended himself against the accusation he was a Lambertazzi (see above, section 1). Although one member of the family was a *sapiens* who presented a *consilium* in the Capitano's court in 1281 and another served as an approver of guarantors in 1295, the family kept a low profile politically until the early fourteenth century. In 1305, Comissa and Enrighetto, sons of Pace Surici, were banned, along with members of the Beccadelli, Galluzzi, Bianchi di Cosa and Guidoza-gni families, for conspiring to assassinate Bonincontro dello Spedale and other members of the ruling junta.<sup>376</sup> In 1306, the "intransigent" Guelfs, to whose faction the Surici belonged, were back in power. Between 1314 and 1320, members of the family held appointments in the anzianate ten times (nine times between 1316 and 1320).<sup>377</sup> Given that pattern, the Surici probably also belonged to the Scacchese or Pepoli faction, which was dominant in those years. Only in 1317 and 1320 (after nearly a hundred years as *popolani*), and at the height of the conflict between the Scacchesi and their opponents the Maltraversi, were charges made against the Surici as alleged Lambertazzi

<sup>375</sup> ASB, Capitano, Libri matricularum, Busta II, fol. 34v.

<sup>376</sup> ASB, Podesta, Accusationes, Busta 27a, Reg. 20, fols. 56r–57v.

<sup>377</sup> Database of officeholders in late medieval Bologna.

and as magnates who were thereby illegally enrolled in the popular societies.<sup>378</sup>

But was the close tie between political allegiance and magnate status a new phenomenon in the early fourteenth century? The status changes of 1303 and 1306 did not mark a descent into corrupt politics and factionalism from an earlier, more pure state, with the assignment of magnate status as simply a weapon against the enemy faction, as is sometimes portrayed. As shown above, contrasting changes in status and political participation of individuals and families took place according to the decisions of commissions and the Consiglio del Popolo in 1274, 1283, 1285 and 1294, as well as in 1303 and 1306. Magnate status was never a pre-existing concept or category with permanent qualifications attached to it into which individuals could be placed. Legal definitions changed over the decades, becoming more exclusionary even as certain individuals and families regained *popolo* status with the shifting of the balance of power within the political classes. From the “coming of the *popolo*,” the ascription of status entailed a political judgment that included the amorphous category of the *potentes*—those powerful individuals and families who, in addition to *contado* and urban nobles and knights, comprised the groups from whom the *popolo* had to be protected and who therefore were to be excluded from *popolo* institutions. The *potentes* who were not sympathetic either to the *popolo* or to the dominant faction could be distinguished as such and ascribed magnate status. The concept of a “magnate” group as one of legal status denoting political exclusion came into existence with the process of closure. It was not an absolute concept, but was rather marked by fluidity in definition and application over a period of many decades, serving to meet particular needs at points of crisis and change. Contrary to another assumption often made by modern scholars, contemporaries did not “know” who the magnates were, nor were *publica fama* or lifestyle sufficient criteria in the ascription of magnate status.

Furthermore, reinstatement as *popolani* of some of those who had been declared nobles can be seen in the earliest purges. Guido di Lambertino da Stifunti was cancelled from the arms society of the

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<sup>378</sup> ASB, Capitano, Giudici, Reg. 630, fols. 2v–18v, April 4–11, 1317. See discussion of this trial given above in this chapter, Part II, section 1.

Quarters in 1272–74, but was admitted into the notaries in 1275.<sup>379</sup> Niccolò di Allemanno Guarini entered the notaries in 1277, even though his brother, Pietro di Allemanno Guarini (who had entered the notaries in 1271), was cancelled in 1274 as a “nobilis” and was probably the Pietro Guarini among the magnates sent *ad confinia* in 1271.<sup>380</sup> Others who were declared nobles or magnates in the 1270s had sons who were *popolani* in the 1280s. For example, Rolandino Pippini was cancelled from the Quarters in 1274 because he was “magnans et filius militis,”<sup>381</sup> but his son Senzanome was in the Quarters by the 1280s, at the height of *popolo* power and the period in which the Sacred and Most Sacred Ordinances were established.<sup>382</sup> He was also admitted into the notaries in 1292.<sup>383</sup> As noted above, in 1292 he and his nephew were charged as magnates who were illegally enrolled in the popular societies because Alberto Pippini, Senzanome’s brother (and father of his nephew), was a *miles*. Both he and his nephew were acquitted.<sup>384</sup> Nor was Senzanome caught in the net of the 1294 purge, despite his brother’s being a knight Templar. Senzanome appears in the 1294 *matricula* of the notaries and in that of the Crossbars in 1314 with another brother, Barufaldo di Rolandino Pippini.<sup>385</sup> Senzanome also served as *anzianus* in 1299 and 1303 and was in the Consiglio del Popolo in 1306 and 1322.<sup>386</sup>

Finally, even the family which produced the leader of the first *popolo* revolution was not immune from the twists and turns of status and political participation under the governments of the *popolo*. The profile of this family also points to the relationship between the ascription

<sup>379</sup> ASB, Capitano, Libri matricularum, Busta I, fol. 4v, for his cancellation in 1272–74, and Ferrara-Valentini, *Liber sive matricula notariorum*, p. 320 for his admission in 1275.

<sup>380</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, pp. 341, 288, 507–513. The list for 1271 is given in Milani, “Da *militis* a magnati,” p. 129.

<sup>381</sup> His cancellation is found in ASB, Capitano, Società d’arti ed armi, Busta I, Quarters, fol. 2r, for Rolandino di Pippino “cancellatus quia de magnatibus,” and in *ibid.*, Libri matricularum, Busta I.

<sup>382</sup> ASB, Capitano, Giudici, Reg. 82, fol. 57v, Sept. 26, 1286. He served as *sindicus* of the Quarters in 1286, although as the grandson of a knight he fit the legal definition of a magnate at that time.

<sup>383</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, p. 422. The Pippini are also discussed above, and in Part I of this chapter.

<sup>384</sup> Table IV.1, entry 33.

<sup>385</sup> ASB, Capitano, Libri matricularum, Busta II, fol. 60r for the notaries, and fols. 169v and 170v for the arms society of the Crossbars.

<sup>386</sup> ASB, Capitano, Giudici, Reg. 366, fol. 2r, December 1299, and database of office-holders in late medieval Bologna.

of magnate status and Lambertazzi allegiance. The Toschi were politically active from at least the beginning of the thirteenth century when Giuseppe Tommaso Toschi was among those swearing an oath in 1212 as a member of the Consiglio di Credenza.<sup>387</sup> Giuseppe Toschi, a man described in the chronicles as “magnas” and a merchant (and himself the son of a judge who was one of the twelve *consules* in 1193) led the *popolo* revolution of 1228.<sup>388</sup> He probably is the Giuseppe Toschi who, with his son Viviano, *doctor legum*, was inscribed in the 1248 *matricula* of the arms society of the Tuscans.<sup>389</sup> Another Toschi was a judge in the examination of new notaries in 1259,<sup>390</sup> but the family does not appear in the 1272–74 *matricule*. (One branch of the family adhered to the Lambertazzi, but their non-appearance in the *matricule* of 1272–74 cannot be attributed to their Lambertazzi status since the *matricule* were compiled before the expulsion of the Lambertazzi.)<sup>391</sup> Members of the Geremei branch of the family, however, reappear in the 1280s as politically active *popolani*. For example, Bonafede Toschi and Guidotto Toschi were in the Consiglio del Popolo in 1284 and 1285. The former also served as *anzianus* in 1288 and 1290, and the latter in 1284.<sup>392</sup> Francesco di Gerardo Toschi was listed in the merchants’ guild in 1294.<sup>393</sup> In addition, Lambertazzi who had sworn allegiance to the Geremei could be members of the societies, and members of that branch of the family had apparently re-enrolled in the societies in the 1280s. Then in 1294, Enzo di Silvestro Toschi *sive de Useppis*, Viviano di *Sclate de Useppis*, and Tommaso Toschi (all members of the Lambertazzi branch of the family) were removed from the societies as

<sup>387</sup> Paola Foschi, “Il giuramento di pace dei cittadini bolognesi e pistoiesi del 1219,” *Bullettino storico pistoiese*, series 3, 31 (1996): 25–48, esp. p. 43.

<sup>388</sup> Antonio Ivan Pini, “Magnati e popolani a Bologna nella seconda metà del XIII secolo,” in *Magnati e popolani nell’Italia comunale. Atti del Quindicesimo Convegno di Studi, Pistoia, 15–18 maggio 1995* (Pistoia: Centro Italiano di Studi e d’Arte, 1997) pp. 371–395, esp. p. 384.

<sup>389</sup> ASB, Capitano, Società d’arti ed d’armi, Busta III, fol. 71r.

<sup>390</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, p. 183.

<sup>391</sup> Milani, *L’esclusione dal comune*, p. 359, gives Accarisio Toschi as among the *confinati* listed in the *Liber* of 1277, along with two of his brothers, Silvestro and Tommasino. They swore an oath of allegiance to the Geremei in 1280. In 1287, several unspecified members of the family (*illorum de Tuschi*) were listed among a group of Lambertazzi *confinati*. ASB, Capitano, Giudici, Reg. 101, fol. 77r, August 1287. Also cited by Milani, *L’esclusione dal comune*, p. 279, footnote 84.

<sup>392</sup> Database of officeholders in late medieval Bologna.

<sup>393</sup> ASB, Capitano, Libri matricularum, matricula merchantorum, fol. 29r.

magnates because they were descendants of *militēs*.<sup>394</sup> But members of the Geremei branch of the family remained in the societies, with Bonafede Toschi serving again as *anzianus* in 1298 and others from that branch of the family holding that office in 1303 and 1318 and serving in the Consiglio del Popolo in 1309.<sup>395</sup> Lambertazzi who had sworn allegiance to the Geremei and re-entered the societies may thus have been more vulnerable to designation as magnates.

However, most of the prominent *popolani* who lived a lifestyle undistinguishable from those labeled as magnates, including those with knights in their families, and even those who were charged and brought to trial as magnates, successfully defended themselves against those charges and were *not* labeled as magnates, e.g., the Mussolini and Sabadini. The Mussolini were charged four times as magnates who were illegally enrolled in the popular societies and in each instance they were acquitted: Niccolò in 1288, Ugolino in 1293, and again in 1298, and both brothers again in 1301.<sup>396</sup> The family belonged to the bankers, butchers and notaries and the arms society of the Keys. They entered the notaries in 1275.<sup>397</sup> Pietro and Petrone Mussolini served as notaries for the commune and *popolo* archives in 1292.<sup>398</sup> Like others in the banking-mercantile-juridical-notarial elite, they had ties with magnate families. For example, Ugolino himself was married to a daughter of Lambertino Lambertini. In the division of family properties between Niccolò and Ugolino, the family tower and house went to Niccolò.<sup>399</sup> That Bombologno Mussolini, their paternal uncle, was indeed a *miles* of the *frati gaudenti*, was admitted by them in their trial and can be verified by the presence of Bombologno as a witness in a trial in 1288, where he is identified as Fra Bombologno Mussolini of the Order of the Blessed Virgin Mary.<sup>400</sup> Nevertheless, the Mussolini escaped magnate status and remained politically active throughout the period. Mussolino di Aimerico Mussolini is listed in the notaries' *matricula* of 1294.<sup>401</sup> Members of the family served as *anziani* in 1282,

<sup>394</sup> Table IV.3, entries 13 and 5.

<sup>395</sup> Database of officeholders in late medieval Bologna.

<sup>396</sup> Table IV.1, entries 16, 35, 62, 68, and Table IV.2.

<sup>397</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, p. 326.

<sup>398</sup> ASB, Capitano, Giudici, Reg. 180, fol. 95v, September 1292.

<sup>399</sup> Gozzadini, *Le torri*, pp. 381, 601.

<sup>400</sup> ASB, Capitano, Giudici, Reg. 127, fols. 55r–80r, 1288.

<sup>401</sup> ASB, Capitano, Libri matricularum, Busta II, *matricula notariorum*, fol. 62r.

1283, and 1291 and were in the Consiglio del Popolo in 1278, 1284, 1287, 1289, 1291, 1297 (Ugolino himself), 1304 and 1325.<sup>402</sup>

The Sabadini also were a mercantile-banking-notarial family (with members in the judicial profession), one emblematic of the guild and professional ties of the highest of the most politically active of the *popolo* elite. Among the earliest families appearing in political life, from the end of the twelfth century,<sup>403</sup> the Sabadini maintained their political preeminence in *popolo* institutions throughout the thirteenth and early fourteenth century, even though Niccolò Albertuccio Sabadini was cancelled from the notaries' guild in 1274 as a grandson of a *miles*.<sup>404</sup> Together with Uguccio di Albertuccio (his brother, who had entered the notaries in 1270),<sup>405</sup> Niccolò was also cancelled in 1274 from the Leopards.<sup>406</sup> But not all the Sabadini were eliminated from that arms society.<sup>407</sup> The four members of the family who remained in the society may have been able to do so because they did not fall within the definition of close relatives of a knight, since entire houses were not at that time designated as magnates. Moreover, one of the Sabadini remained in the *matricula* of the merchants of 1274 (the *matricula* for the bankers of that year is lost). He is listed among the associates (*servientes*) of the company (*stacio*) of Martino di Alessio as Rolando di Guido Sabadini.<sup>408</sup> In March 1283, four Sabadini were reviewed and approved for membership in the bankers' guild and Sabadino di Guido Sabadini was approved at the same time for the merchants' guild.<sup>409</sup>

Thus, despite having had at least one *miles* in the family, the Sabadini (like the Mussolini) escaped the magnate list of 1294. Granted, the list of magnate houses itself has not survived and only the list of those who came forward to remove themselves from the societies is extant,

<sup>402</sup> Database of officeholders in late medieval Bologna.

<sup>403</sup> Gozzadini, *Le torri gentilizie di Bologna*, p. 464.

<sup>404</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, pp. 507–513.

<sup>405</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, p. 274.

<sup>406</sup> ASB, Capitano, Società d'arti ed d'armi, Busta II, second fascicolo (the smaller of the two copies).

<sup>407</sup> Of the two versions of the *matricula* of the Leopards, the smaller and older version lists six Sabadini with the names of Uguccio di Albertuccio (who was also at that time cancelled from the notaries) and that of Niccolò di Albertuccio crossed off. In the later version those two names are missing and the other four remain. ASB, Capitano, Società d'arti ed d'armi, Busta II, second fascicolo.

<sup>408</sup> ASB, Capitano, Libri matricularum, Busta I, matricula merchatorum.

<sup>409</sup> ASB, Capitano, Giudici, Reg. 36, fol. 28v and fols. 25rv.

but the conclusion is not an argument *ex silencio* since fifteen Sabadini are listed in the bankers' *matricula* of 1294, which was compiled after the purge of that year. Members of the family are also among the additions to that guild in 1298, 1299, and 1311.<sup>410</sup> Four of the Sabadini also appear in the 1294 *matricula* of the merchants, with others in the additions to that guild—one in 1296 and three more in 1308.<sup>411</sup> Ugucio di Albertuccio Sabadini, who, as noted above, was cancelled from the arms society of the Leopards in 1274 as the grandson of a *miles*, is listed in the *matricule* of the merchants, bankers, and notaries in 1294.<sup>412</sup> Another of the Sabadini is listed in the notaries' *matricula* in 1294, and Alberto di Uguccione Sabadini is among the additions of 1303 in the notaries' guild (along with two others from that family), with yet another added in 1310.<sup>413</sup> Rolando Sabadini served as attorney for the merchants' guild in 1296 and held high *popolo* office both during the "pro-Ghibelline" period and after the return of the "intransigents" in 1306.<sup>414</sup> The family retained their *popolo* status into the early decades of the fourteenth century, with thirteen Sabadini listed in the *matricula* of the Leopards in 1314.<sup>415</sup> To be sure, the Sabadini were challenged in court three times as magnates illegally enrolled in the popular societies, but each time they successfully defended their *popolo* status.<sup>416</sup> The family, although one of ancient lineage, with knights and judges among its members, and possessor of a tower society, remained *popolano* as a *domus* and held a large number of *popolo* offices. They not only survived the purges of the 1280s and 1294, but even eventually outmaneuvered the Pepoli and successfully led the opposition against them in 1321.

Thus, a family might have in its ranks knights, judges, foreign rec-tors, *frati gaudenti*, *milites pro comune* (e.g., in the lists of 1248–1249),

<sup>410</sup> ASB, Capitano, Libri matricularum, Busta II, *matricula campsorum*.

<sup>411</sup> ASB, Capitano, Libri matricularum, Busta II, *matricula merchatorum*.

<sup>412</sup> ASB, Capitano, Libri matricularum, Busta II, *matricule merchatorum, campso-rum, notariorum*.

<sup>413</sup> ASB, Capitano, Libri matricularum, Busta II, *matricula notariorum*, fol. 76v. The father of Alberto had entered the notaries' guild in 1270. Ferrara-Valentini, *Liber sive matricula notariorum*, p. 279.

<sup>414</sup> ASB, Capitano, Giudici, Reg. 305a, fol. 5r, December 1296 and database of officeholders in late medieval Bologna.

<sup>415</sup> ASB, Capitano, Libri matricularum, Busta III, fols. 149v, 200r–201v.

<sup>416</sup> Table IV.1, entries 56, 70, 72. In the 1301 trial, the sentence of acquittal specified that they were legitimately in the popular societies according to the legislation of 1294 (the legislation that had designated which houses were magnates).

ancestors in the list of *contado* nobles of 1249, and have been possessors of serfs in the *Liber Paradisus* of 1256, as well as have wealth, ancient lineage, a tower society, a *cappella gentilizia*, and even have pursued the *vita honorabilis* of hunting and hospitality and the wearing of furs and golden spurs, yet could remain among the most politically active of *popolano* families. These features marked, in part or wholly, many of the most politically active families in communal offices or *popolo* offices, or both, but did not constitute the characteristics of a homogeneous class or fixed urban nobility. Prestige and lifestyle were shared by diverse hierarchies of power, by distinctive elites that in part were accorded separate legal status of magnate and *popolano*, yet overlapped and shared power and responsibilities. Some *popolani* served as ambassadors, captains of *castelli*, and/or foreign rectors; some magnates entered the decision-making process of the *popolo* executive body of the *anzianate* as *sapientes* from the popular societies, even though they themselves were magnates, or by means of special commissions or *balie*, appointed by the *anziani* and/or the Consiglio del Popolo.

Why then were some families who shared the characteristics of knightly lifestyle, ancient lineage, towers, and *cappelle gentilizie* labeled as magnates while others remained *popolani*? As indicated in the profiles of families given above, status designation was dependent at least partially upon whether or not an individual or family was perceived as constituting a threat to the stability of the *popolo* regime, as in those designated as *potentes* in 1271. It also depended in great part on a family's skill in adjusting to changing political realities. This point is well-illustrated in the divergent fate vis-à-vis the status of two families: the Gozzadini and Pepoli, who comprised two of the most politically prominent of *popolano* families and were rivals for political supremacy in the early fourteenth century. Both families were primarily bankers and held high office in that guild, although both also entered the notaries and other guilds later in the century. The Gozzadini were in the notaries by 1251 and the Pepoli by 1281.<sup>417</sup> Both families had histories

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<sup>417</sup> Tucimano di Tommasino Gozzadini entered the notaries in 1251 (Ferrara-Valentini, p. 131), Napoleone Gozzadini was one of the witnesses to the admission of new notaries in 1253 (Ferrara-Valentini p. 137), Amadore di Bonifacio Gozzadini entered in June 1282 (Ferrara-Valentini, p. 357), Vinciguerra di Gozzadino Gozzadini in July 1286 (Ferrara-Valentini, p. 374), Benno di Gozzadino Gozzadini in October 1286 (Ferrara-Valentini, p. 376), Brunorio di Gozzadino Gozzadini in 1289 (Ferrara-Valentini, p. 393), Matteo di Giacobino *Minagli* Gozzadini in 1289 (Ferrara-Valentini,



of political activity in the commune that reached deep into Bolognese history. Giacobino Pepoli was one of the members of the Consiglio di Credenza taking an oath in 1212.<sup>418</sup> Ugolino and Zoene appear in office at mid-century and Alberghetto and Pepolo in the 1280s. Romeo Pepoli was politically active from the 1280s.<sup>419</sup> The Gozzadini appear in the records of those serving as foreign rectors as early as 1191 (there were at least twenty-four men from that family who held that office between 1191 and 1309).<sup>420</sup> By mid-century the Gozzadini were very active politically, serving in the councils, as *sapientes* and as ambassadors. Both families also engaged in violent rivalries—the Pepoli with the Tettalasini, the Gozzadini with the Arienti, and both were reconciled with their enemies under the peace agreements forged for many families by the *frati gaudenti* in 1267. Both families had members who committed homicide, a Gozzadini in 1263 and a Pepoli in 1272. Both had members who joined the *frati gaudenti*, owned towers and had marriage ties with magnate families. Towards the end of the thirteenth century both families increasingly diverted their economic activities from credit to agricultural entrepreneurship, using their consolidated landed holdings as platforms for building political power.<sup>421</sup> There were some differences between the two families: the Gozzadini, but not the Pepoli, were listed in the *Liber Paradisus* in 1256 as owners of serfs and the Gozzadini comprised a larger clan.<sup>422</sup>

Although they shared a very similar socioeconomic-political profile, towards the end of the century the political paths of these two

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p. 396), Bonifacio di Bonifacio Gozzadini in 1291 (Ferrara-Valentini, p. 414), and Gozzadino di Castellano Gozzadini in December 1293 (Ferrara-Valentini, p. 444). Balduino di Filippone Pepoli entered the notaries in 1281 (Ferrara-Valentini, p. 354), Balduino di *Philiutius* Pepoli in 1283 (Ferrara-Valentini, p. 56), Romeo di Zerra Pepoli in December 1285 (Ferrara-Valentini, p. 374). Romeo served as syndic of the guild in 1291 for outgoing officials of the society (Ferrara-Valentini, p. 601).

<sup>418</sup> Foschi, "Il guiramento di pace dei cittadini bolognesi e pistoiesi del 1219," p. 43.

<sup>419</sup> Giansante, *Patrimonio familiare*, pp. 22–23.

<sup>420</sup> Federica Vezzali, "Dall'attività del cambio alla proprietà terriera: Il caso di Napoleone e Bernabò Gozzadini nel periodo tardo-comunale," *Atti e memorie della Deputazione delle province di Romagna*, new series, 50 (1999): 253–274, esp. p. 257, and Koenig, *Il "popolo" dell'Italia*, p. 399.

<sup>421</sup> Giansante, *Patrimonio familiare*, p. 23 for the homicide in 1272, and Vezzali, "Dall'attività del cambio," pp. 255–256.

<sup>422</sup> Vezzali, "Dall'attività del cambio," p. 262, for Licario Gozzadini's ownership of five serfs, and p. 261 for the four collateral branches of the Gozzadini family by the end of the thirteenth century.

families diverged sharply. The Pepoli very skillfully negotiated the rapidly-changing political developments of the 1290s, allying themselves always with the dominant party. That positioning was made possible by a marriage alliance policy that gave the family ties with various factions. On the one hand, they played a leading role in the expulsion of the Lambertazzi in 1274 and again in 1279. On the other hand, they also ended decades of rivalry with the Lambertazzi family of the Tettalasini by the marriage of Romeo Pepoli in 1280 to Azzolina Tettalasini. But at the same time the family allied with the radical Guelfs (led by Rolandino Passaggeri) by the marriage of Romeo's sister with Giacomo Caccianemici, thereby supplementing their earlier marriage tie with the Simonpiccioli and the moderate Guelfs.<sup>423</sup> Having ties with both the moderate and the intransigent wings of the party enabled Romeo Pepoli to survive the years between 1298 and 1306, when the moderates dominated, and to become even stronger with the return to power of the intransigents in 1306.<sup>424</sup> In 1294, Romeo served on the commission that determined who should be designated as magnates and ingratiated himself in the next decade with the moderate regime by lending money to the commune, managing to survive the conspiracy of 1303. Yet in 1306, with the overthrow of the moderates, he emerged as a supporter and then leader of the intransigent branch of the Guelfs. In contrast, as Vezzali notes, the Gozzadini consistently remained staunch leaders of the intransigent Guelfs. From 1298 to 1306 they faced continuous prosecution from the moderate Guelfs. In 1298, six of the Gozzadini were cancelled from the bankers and declared "nobiles et potentes" because of their militant role in the Marchesana or intransigent faction.<sup>425</sup> In 1303, several Gozzadini were confined outside the city and their properties were destroyed. But in 1306, with the return of the intransigents to power, all the Gozzadini were returned to their *popolo* status and political role.<sup>426</sup> As Giansante

<sup>423</sup> Giansante, *Patrimonio familiare*, pp. 21, 35–36.

<sup>424</sup> Giansante, *Patrimonio familiare*, pp. 36, 44.

<sup>425</sup> Vezzali, "Dall'attività del cambio," p. 260. One branch of the family, that led by Bernabò Gozzadini, remained more aloof politically and was not confined or banned. The branch that was prominent in the Marchesana party was led by Napoleone Gozzadini who became a leader of that faction. Therefore members of his branch were confined or banned in March 1303 when that party's conspiracy failed. Vezzali, "Dall'attività del cambio," p. 265. The action in 1298 that precipitated their cancellation from the societies and designation as magnates was a murder during a riot, for which see above, Chapter Four, Part I.

<sup>426</sup> Vezzali, "Dall'attività del cambio," p. 266.

notes, a policy of compromise thus served the Pepoli well (as it did for many other families), “enabling them to move from the bellicosity of the 70s and 80s to the conciliatory efforts with Ghibelline exiles of the moderate governments of the 90s and the reentry in that decade of the Lambertazzi, a situation demanded by the precarious military situation of Bologna and the Guelf alliance which gave Bologna needed fiscal and military resources.”<sup>427</sup> Those who opposed the new policies of compromise and conciliation were vulnerable. In the case of the Gozzadini and probably some of those who were newly declared magnates in 1294, the result of their opposition was their being assigned magnate status at that time, as happened to those who opposed the moderate Guelfs in 1303. The same thing happened in turn to the moderates themselves when the intransigents recovered control in 1306 and brought back to *popolo* status many who had been declared magnates during the prior twelve years.

Paradoxically, despite the subsequent changes in individual status that followed twists of the political kaleidoscope, the *intent* of status designation was to divide society into a *permanent*, hereditary configuration of insiders and outsiders. The process of closure that began in 1272–74 had transformed society from one that welcomed immigrants and assimilated them into the highest ranks of political participation, to a society that closed its ranks to newcomers (*fumantes* and foreigners) and organized political life according to hereditary status, excluding Lambertazzi and magnates, even if some participants in that last category were shifted from one role to another. As we shall see in Chapter Five, this environment, imbued as it was with the perception that everyone was either an insider or an outsider in terms of *legal status*, facilitated and indeed fostered the use of summary justice against those deemed outsiders.

## 12. THE DEBATE ON NOBILITY

How does the social-political configuration at Bologna of overlapping elites and the flexibility and fluidity of the magnate/urban noble class depicted in this study relate to the well-known debates on nobility and concern with virtue held by contemporaries of the period? Dante

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<sup>427</sup> Giansante, *Patrimonio familiare*, pp. 45–46.

expounded on the theme of nobility, and before him Guido Guinizelli, Guittone d'Arezzo, and Bonagiunta Orbicciani engaged in poetic debates on whether nobility arose from blood or virtue. Guido Guinizelli (c. 1240–1276) was a Bolognese, son of Guinizzello Magnani and Ugolina da Tignano.<sup>428</sup> Founder of the “dolce stil nuovo” genre of lyric poetry, Guinizelli extolled the ennobling power of love, asserting that nobility was not dependent upon birth alone.<sup>429</sup> Guittone d'Arezzo, c. 1230–1294, who lived at Pisa and Bologna and joined the *frati gaudenti* in 1268, defined nobility as a status granted by birth.<sup>430</sup> Dante was influenced by Guido Guinizelli and Brunetto Latini, but especially wrote in reaction to Aquinas' views of nobility.<sup>431</sup> In the fourth *canzone* of his *Convivio*, Dante refuted the arguments that wealth and ancestry defined nobility and described nobility as the flowering of seeds of happiness and virtue, seeds placed in the soul by God and nourished to fruition by love. When one gained virtue, one gained nobility, and likewise, when one lost virtue, one lost nobility.<sup>432</sup>

The perceptions of social identity in the Capitano court trials and the definitions of legal status of nobility in the Bolognese statutes do not fit well with the literary tradition of the *Duecento* as analyzed above,

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<sup>428</sup> Antonelli, “Nuovi documenti sulla famiglia Guinizelli,” p. 80. Armando Antonelli, “I Guinizelli, discendenti di Magnano, residenti nella cappella di San Benedetto di Porta Nuova,” in *I Magnani. Storia, genealogia e iconografia*, ed. Giuliano Malvessi Campeggi (Bologna, Costa, 2002), pp. 27–43.

<sup>429</sup> *The Age of Dante. An Anthology of Early Italian Poetry*, trans. and introd. Joseph Tusiani (New York: Baroque Press, 1974), p. 102; *Rimatori del Dolce Stil Nuovo*, ed. Vittore Branca, (Milan, Rome, Naples, Città di Castello: Dante Alighieri, 1965 (reprint of 1941 edition).

<sup>430</sup> Tusiani, *The Age of Dante*, p. 66. For the role of Bonagiunta, see Paolo Borsa, “Foll'è chi crede sol veder lo vero: la tensione tra Bonagiunta Orbicciani e Guido Guinizelli,” in *Da Guido Guinizelli a Dante. Nuove prospettive sulla lirica del Duecento*, Atti del Convegno di studi Padova-Monselice 10–12 maggio 2002, ed. Furio Brugnolo and Gianfelice Peron (Padua: Il Poligrafo, 2004), pp. 171–188; also his *La nuova poesia di Guido Guinizelli* (Fiesole: Cadmo, 2007).

<sup>431</sup> Marie Corti, “Le fonti del *Fiore di Virtù* e la teoria della ‘nobiltà’ nel Duecento,” *Giornale storico della Letteratura italiana* 136 (1959): 1–82. There is also a discussion on the concept of nobility in Lansing, *The Florentine Magnates*, pp. 212–228, where she contrasts Aquinas' views with Dante and the chroniclers Giovanni Villani and Dino Compagni. She ties the “less sanguine” views of that generation and its doubts about the virtuous nature of nobility by birth to the “violent and divisive roles of the nobles within the commune” at that time which “gave these ideas a new immediacy.”

<sup>432</sup> Corti, “Le fonti,” esp. pp. 63–81; and *Knowledge, Goodness, and Power: The Debate over Nobility among Quattrocento Italian Humanists*, ed. and trans. Albert Rabil, Jr. (Binghamton, New York: Medieval & Renaissance Texts and Studies, 1991), pp. 6–12.

other than to mirror the uncertainties regarding nobility and doubts about the hereditary nature of that status. Nor are juristic writings of the *Duecento* more helpful. Alberto Gandino in his *Tractatus* included a brief discussion on whether poor and rich, nobles and “ignobles” should be assigned equal penalties. There are also peripheral references in Dino da Mugello and Cino da Pistoia.<sup>433</sup> The first treatise on nobility, however, is the *De dignitatibus* of Bartolus de Saxoferrato, written in the mid-fourteenth century (he also wrote a justification of the exclusions of magnates from government in the *De regimine civitatum*).<sup>434</sup> Bartolus wrote in opposition to Dante’s view of nobility as gained by love and virtue, and identified three kinds of nobility: theological, natural, and political (“politica et civilis nobilitas”). Political nobility was the focus of Bartolus’s attention, and he based his interpretation “not on considerations of principle but on conditions of fact (law).” Dante had condemned wealth, but Bartolus viewed wealth as contributing indirectly to nobility. Although he agreed with Dante that ancestry was not a defining condition of nobility, Bartolus rejected the idea that virtue evoked nobility. He also argued against Dante’s contention that nobility was a status that could change, as one gained and lost virtue, as for example, after one committed a crime but then returned to a life of virtuous conduct. For Bartolus it was the ruler or ruling body that conferred or took away nobility, presumably but not necessarily on the basis of virtue. Nobility depended upon the decisions of civic authorities, not on the actions or ancestry of individuals.<sup>435</sup>

But do Bartolus’ views represent a change not only over the poets of the previous generation, but earlier legal theorists as well? There are no earlier surviving legal treatises on nobility, but there are *consilia*

<sup>433</sup> Fasoli, “Ricerche sulla legislazione antimagnatizia,” Part II, p. 262.

<sup>434</sup> Fasoli, “Ricerche sulla legislazione antimagnatizia,” Part II, p. 263.

<sup>435</sup> Rabil, *The Debate over Nobility*, pp. 12–13; Claudio Donati, *L’idea di nobiltà in Italia. Secoli XIV–XVIII* (Bari-Rome: Laterza, 1988), pp. 3–5; Gianluigi Barni, “Appunti sui concetti di *dignitas*, *nobilitas*, *officium* in Bartolo da Sassoferrato,” *Archivio giuridico* “Filippo Serafini” 154 (1958), 130–144. Donati cautions against exaggerating the precision of Dante’s thoughts on nobility by basing an interpretation of his views on nobility solely on the *Convivio* selection. For more on the relationship between Dante and Bartolus’s views on nobility, see Paolo Borsa, “Sub nomine nobilitatis: Dante e Bartolo da Sassoferrato,” in *Studi dedicati a Gennaro Barbarisi*, ed. Claudia Berra and Michele Mari (Milan: CUEM, 2007), pp. 59–121. Also see Mario Ascheri, “La nobiltà medievale: nella glossa e in Bartolo da Sassoferrato,” in his *Diritto medievale e moderno. Problemi del processo, della cultura e delle fonti giuridiche* (Rimini: Maggioli, 1991), pp. 55–80, esp. p. 76 for the variety of definitions in the Glosses—a nobility of blood as well as a nobility of office, of personal virtue.

*sapientum* that were rendered in cases of magnate and noble identity (and almost all other types of trials) in the Capitano's court. Did the *sapientes* in their *consilia* develop or parse definitions of magnate and noble status? The *consilia* of Italian jurists of the fourteenth and fifteenth century have been studied by scholars as valuable supplements to legal treatises, and three scholars, Mathias Jehn, Giuliano Milani, and Massimo Vallerani, recently have discussed late thirteenth century Bolognese *consilia*.

Mathias Jehn describes the *consilia* in the Capitano's court in late thirteenth century Bologna as interpretive documents that established legal precedents, a hierarchy of proofs, and "created law." Jehn cites in particular a trial in 1288 based on a petition from Ubaldino and Deotecherio da Loiano, Trebaldo da Vado, Simone d'Alberto da Vado, and Bonacursio da Scopeto, who claimed that they were exempt from a recent law that required *contado* nobles to come reside in the city. Jehn portrays the *sapientes* who wrote the *consilium* in this case as consulting prior sentences of a similar case and thereby deciding that the petitioners could return to the *contado*. But the "similar case" referred to was a *compromissum* and *laudum* which had been made between the petitioners and the *sindicus* of the commune (and then approved by the Council of 600) which had given the petitioners permission to reside in the *contado* as part of their swearing allegiance to the commune and Geremei party. It was not a precedent-setting trial decision. Moreover, the two earlier sentences had concerned these same individuals in earlier instances in which their exemption had been challenged.<sup>436</sup> In addition, Jehn describes the *sapientes*, Pace de Pacibus and Francesco d'Accursio, as having in this *consilium* opposed the policies of the *popolo* government and having "placed themselves against the valid decisions of the *consilium populi*...the *consilium sapientis* created law and at the same time relativized the strict political decisions of the *Popolo* through the courts...the legal norm had become altered in the courts first by the legal decision of the *sapientes*." But in fact the *consilium* had merely (and characteristically) upheld the validity of an

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<sup>436</sup> Jehn, "Die Versteckte Macht," pp. 481–485. Jehn sets his view that the *consilia* established precedents in opposition to "other scholars," presumably, since he cites him in his bibliography, scholars such as Julius Kirshner. The latter shows that contemporary ruling elites "would have treated a rule of precedent as preposterous." Julius Kirshner, "Consilia as Authority in Late Medieval Italy: The case of Florence," in *Legal Consulting in the Civil Law Tradition*, ed. Mario Ascheri, Ingrid Baumgärtner, and Julius Kirshner (Berkeley: The Robbins Collection, 1999), pp. 107–140, esp. p. 138.

*exemption* to the law.<sup>437</sup> The *sapientes* in this *consilium* (and others) were upholding the rights of five individuals, not the rights of *contado* nobles as a group, and the petitioners themselves were not opposing the law and the Sacred and Most Sacred Ordinances, but were seeking implementation of their personal exemption to that law. In protecting individual exemptions, the *sapientes* were not opposing the *popolo* or its policies.

Other supposedly precedent-setting references to earlier *consilia* that Jehn cites are actually references to a very specific set of *consilia* that accompanied the work of a commission headed by the jurist Pace *de Pacibus* in the mid-1280s. That commission reviewed the ownership of Lambertazzi properties and accompanied its decisions with validating *consilia*. In trials that later developed over those properties, those decisions and *consilia* were indeed referenced, not as precedent-setting opinions, or as decisions by prestigious jurists, but as prior factual decisions on ownership of those particular properties.<sup>438</sup> Again,

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<sup>437</sup> Jehn, "Die Versteckte Macht," pp. 481–482: "Wie stets entschieden die *sapientes* in der Curia del Capitano del Popolo gegen die Kommune und urteilten im Interesse der Einselpersonen.... In dem Moment, die mit den *Ordinamenti sacratissimi* eine nochmalige Gesetzesverschärfung... des *consilium populi*. Das *consilium sapientis* schuf Rect und relativierte gleichzeitig die strengen politischen Entscheidungen des Popolo auf dem Gerichtsweg. Zugespitzt ließe sich formulieren, daß die gesetzliche Norm erst durch die juristische Entscheidung der *sapientes* vor Gericht umgewandelt wurde." Jehn seems not to have realized that the petitioners were all *lupi rapaces* and that the order was not for all *contado* nobles to come reside in the city, but only for those who had to post securities. The proclamation requiring them to come reside in the city which provoked this trial is in ASB, Capitano, Giudici, Reg. 62, fol. 58v, June 17, 1284. The proclamation declared that all nobles, *potentes* and *magnates* who were obliged to post securities had to come live in the city with their families and could not leave without permission. For the *lupi rapaces*, Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric XVI, "De satisfactione prestanda ab infrascriptis nobilibus civitatis vel districtus Bononie, et de penis eorum qui non darent dictam securitatem et de fidantia eis danda, ratione predicta," pp. 308–312, esp. p. 311. The *consilium*, transcribed by Jehn, "Die Versteckte Macht," pp. 527–528, is in ASB, Capitano, Giudici, Reg. 61, fols. 89r–90v.

<sup>438</sup> Jehn, "Die Versteckte Macht," pp. 484–485: "Die *consilia* entwickelten sich anhand von Fallentscheidungen und demzufolge aus einem Vergleich mit älteren Prozessen. Der Orientierungspunkt eines berühmten *sapiens*-Vorgänger verhalf der Urteilsbegründung." For the commission, ASB, Capitano, Giudici, Reg. 82, fol. 65v, Sept. 24, 1286, where the judge precepted Niccolò Zovenzoni, Pace *de Pacibus*, Ronaldo Lamandini and Niccolò Rodaldi, who were the officials elected to examine the judicial inquiries and rights of those who had bought or held properties or goods of the Lambertazzi ("questiones et jura illorum qui emerunt vel habent de bonis vel rebus Lambertaciorum"). He ordered them to expedite the process and give him their *consilia* on those *questiones*. A few days later, that judge again precepted Pace *de Pacibus* and Niccolò Zovenzoni and associates and ordered them to determine if a

in none of these instances did the *sapientes* in their *consilia* advise or effect changes in policy or change norms.

Jehn also thought that the *sapientes* researched “communal literature” in order to find precedents and evidence to support their recommendations.<sup>439</sup> His evidence for this point is simply the reporting by the *sapientes* in their *consilia* of the documents that they have reviewed. What Jehn did not realize, but is clear when one reads the trials themselves and not just the *consilia*, is that the documentation was provided by the attorneys for the prosecution and defense.

Milani’s reading of the role of the *sapientes* is also problematic. According to him, the *sapientes* acted on behalf of the person requesting the *consilium*. The *sapientes* “on the one hand made selections between general norms and specific dispositions which had been issued up to that point, while on the other hand they had recourse to prior verdicts, for the purpose of demonstrating the innocence of the person who had requested the *consilium*.”<sup>440</sup> However, as discussed above in Chapter One, either party in a trial could request a *consilium*. The decision to have one rendered belonged to the presiding judge, who might on his own volition decide to have one. When the judge initiated the appointment of a *consilium sapientis*, as he frequently if not always did in this period, the jurists were expected to act impartially, not as advocates for particular parties. Milani, like Jehn, gives several examples of *consilia* in which a wide range of documents were cited, but the documents were not the result of research and investigation by the *sapientes*. Rather the *sapientes* in their *consilia* were citing

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*questio* was appropriate to their charge and if they should give a *consilium* on it (“si ad eorum officium spetat sive autem dictus iudex comittirir dictis dominis et sociis predictam questionem facere consulendum”). ASB, Capitano, Giudici, Reg. 84, fol. 27r, Sept. 28, 1286.

<sup>439</sup> Jehn, “Die Versteckte Macht,” p. 293: “Im Falle der Akkreditierung bestand die Aufgabe des *sapiens* in der Durchsicht und Prüfung des kommunalen Schrifttums, um die Parteibehauptungen zu bekräftigen oder abzuschwächen.”

<sup>440</sup> Milani, “Dalla ritorsione,” p. 59: “Un registro che riporta i *consilia* difensivi prodotti dai confinati non trovati nei luoghi assegnati nel 1293 mostra come i sapienti operassero da un lato una certa selezione tra norme generali e disposizioni particolari fino a quel momento emanate, mentre dall’altro ricorressero a precedenti verdeti, emanati in sede giudiziaria, al fine di dimostrare l’innocenza di chi aveva richiesto il *consilium*.” Unlike Jehn, however, Milani recognizes that the documentation available, while in theory constituting a hierarchy of values or general norms to be applied to individual cases (with Sacred Ordinances, for example overriding *rimformagioni*), could not be used as such since so often those norms were contradictory. Milani, “Dalla ritorsione,” p. 51.



documents produced by the parties, in these cases by the defendants' attorneys since the decision of the *consilia* was in favor of the imputed. For example, in describing the trial against Bencevenne di Bonaventura Melloni who was accused of being a Lambertazzi, Milani notes that "thanks to the intervention of a *sapiens* who produced a simple notarial instrument which contained his oath [as a Geremei], he was absolved."<sup>441</sup> But the *intencio* of the defense attorney makes this point, and in such cases it was common practice for the attorney to have also supplied the corroborating documentation.<sup>442</sup>

But few of these *consilia*, despite the wide array of documentation some of them cited, were interpretive in nature. The "general norms" they cited were *riformagioni* and the prior court decisions were not precedent-setting decisions of a normative nature, but strictly confined to prior decisions concerning the imputed himself or members of his family. Indeed, it is exceedingly rare to find any interpretive *consilia* from any of the Capitano's courts. There are exceptions, such as a *consilium* which invoked a general norm when it advised that a *riformagione* was invalid since it contradicted the Sacred and Most Sacred

<sup>441</sup> Milani, "Dalla ritorsione," p. 60: "Grazie all'intervento di un sapiente che produsse un semplice strumento notarile in cui era riportato il suo giuramento, egli fu assolto." The *consilium* by Alberto di Odofredo, *doctor legum*, and Lazzaro Liazzari stated that Bencevenne should be released from prison "since he appears to be of the party of the Geremei and ought to be treated as other citizens of the city of Bologna who are of that party, especially since his name is found inscribed among others of the Tettalasini and their neighbors and friends who swore allegiance to the party and were received into the party as we saw contained in a public document written by Balduino di Filippone, notary, and indeed his name was inscribed in the book made during the regime of Ugolino Rossi, once Capitano del Popolo of Bologna [1281] where are inscribed the names of those who swore allegiance to the party" (cum apareat ipsum esse de parte geremiensium et tractari debere tanquam alii cives civitatis Bononie qui sunt de ipsa parte, maxime cum nomen eius reperiatur conscriptum inter alios de Tettalasini et eorum propinquos et amicos ipsorum qui juraverunt partem et quod incepti fuerunt ad partem ut vidimus contineri publico instrumento scripto manu Balduini condam Phililiponis notarius et etiam nomen suus conscripta fuit in libro facto tempore domini Ugolini de Rubeis olim capitanei populli Bononie ubi fuerunt conscripta nomina illorum qui juraverunt partem). ASB, Capitano, Giudici, Reg. 34, fol. 93r, December 1282.

<sup>442</sup> ASB, Capitano, Giudici, Reg. 34, fol. 65v, November 1282. For examples of the attorneys (of both parties in this case) producing exemplars of *instrumenta*, see *ibid.*, Reg. 99, fol. 58r and Reg. 94, fol. 3r. Milani also cites two other trials and *consilia* in which he believes the *sapientes* had produced documentation in order to absolve the imputed, but again he is assuming that it was the *sapientes* who did the documentary research cited in the *consilia*. He also assumes that the *sapientes* were clients serving the defendant. Milani, "Dalla ritorsione," pp. 59–60. The trials cited were those against Petrone or Pietro di Pietro Bellitti in 1287 and Giovanni di Alberto Scannabecchi in 1293.

Ordinances, which were self-declared to be the highest law of the commune (and which forbade interpretation of their provisions).<sup>443</sup>

Even finding an abstract principle invoked to support an opinion is a rarity. It does appear, at least once, among the extant *consilia* from the Lambertazzi properties court of the Capitano. The issue was whether or not the Capitano and his judge had met the deadline set by a *riformagione* that required them to have a *consilium* read within the Council of 600 within a period of six days, specifically whether the day the *riformagione* was promulgated was to be included in the calculation of that six-day term. The Capitano and his judge thought the deadline had passed and that they were upholding the law by not permitting the *consilium* to be read in the Council. An attorney for one of the parties, however, argued that the deadline had in fact been met because the day on which the *riformagione* had been promulgated should not have been included in the calculation of the deadline. A new *consilium* then decided that indeed that day should not be included in the calculation and therefore the original *consilia* could and should be read in the Council. What is unusual in this instance is that the rationale given for this decision invoked an abstract principle, i.e., that to use a shorter period in the calculation would infringe upon the “rights of men” (*ne jura hominum pereant*).<sup>444</sup> This is not to say that the *sapientes* were

<sup>443</sup> ASB, Capitano, Giudici, Reg. 139, fol. 33r, Jan. 30, 1290. This *consilium* was given in the public works court of the Capitano.

<sup>444</sup> ASB, Capitano, Giudici, Reg. 20, fols. 91rv, June 3, 1282: “Super questione que vertitur coram Domino Aymerico de Axandris capitaneo populi Bononie et coram Domino Guidone Codrata iudice eiusdem deputato ad bona bannorum super eo quod dicebatur proprio dictum dominum capitaneum et per dominum iudicem quedam consilia scripta super questionibus pendentibus coram dicto domino capitaneo et dicto iudice occasione depositarum factarum occasione quarundam processum que sunt descripte in libris bononorum bannitorum non fuisse nec debere aperiri sive pronunciari per predictos dominos cum dicant tempus sex dierum limitatum per consilium sexcentum populi fore elapsum et hoc dum predicti domini capitaneus et predictus iudex in defensione comunis Bononie ex diverso allegabantur per Pasqualinum Megarelli procurator nomine Jacobi Dulce Fayre quod petabat suum consilium pronunciari et per quosdam alios quarum consilia num dum pronunciata erant quod predicta consilia super predictis questionibus depositarum posunt periri et pronunciari per predictum dominum capitaneum sive predictum dominum iudicem tota die lune cum dies illa non debeat computari sua consilium factum fuit et multa alia iura allegabantur per predictos pro hoc parte. Consilium dominorum Rolandini...super predicta questione tale est. Quare domini in concordia predicta consilia oblata et scripta posse pronunciari et aperiri per predictos capitaneum et iudicem infra dictum terminum dies illa reformationis non videatur computatio et cum hoc contineat favorem ne jura hominum pereant que non videantur tam brevi tempore negligentes ut res valeat fieri quia pereat pronunciatum fuit dictum consilium per predictum iudicem.”

mere technicians or played a minor role in the courts. In fact, the trial judges almost always accepted the *sapientes' consilia*.<sup>445</sup>

In general, however, the *consilia* usually either simply declared a case proven or not proven, and almost always supported acquittal of the imputed (the latter is a point made by Jehn, who tied this phenomenon to the danger of false accusations).<sup>446</sup> Jurists in their *consilia* also affirmed the authority of *riformagioni* made by the Consiglio del Popolo, as in a *consilium* from 1284 that affirmed an individual's reinstatement into the societies on the basis of an earlier *riformazione*, even though he did not have an *estimo*.<sup>447</sup> In cases concerning magnate-noble status, the *sapientes* in their *consilia* did not interpret the characteristics of a magnate or noble, but affirmed the authority of the Consiglio del Popolo to determine status, as in a *consilium* of May 1294 by seven *sapientes* concerning the status of Guidottino Ghisilieri. The trial was initiated by an anonymous *cedula* found in the *capsa* in April. Guidottino had denied the charge and claimed that he had been enrolled in the societies of the Eagles and bankers for more than fifteen and forty years, respectively.<sup>448</sup> On May 5, the *sapientes* simply advised that since Guidottino was from a *domus* that had been described as magnate in the February 1294 purge, but had failed to remove himself from the societies in which he was enrolled within the mandated period, he must now be removed from those societies.<sup>449</sup>

<sup>445</sup> For a very positive view of the *sapientes* and their *consilia* as determining court decisions and holding a "monopoly of the interpretation of the law," see Massimo Vallerani, "The generation of the *moderni* at work: Jurists between school and politics in medieval Bologna (1270–1305)," in *Europa und sein Regionen. 2000 Jahre Rechtsgeschichte*, ed. Andreas Bauer and Karl H.L. Welker (Cologne: Böhlau, 2007), pp. 139–156.

<sup>446</sup> Jehn, "Die Versteckte Macht," pp. 479–481.

<sup>447</sup> ASB, Capitano, Giudici, Reg. 66, fols. 2v–3r, Nov. 24, 1284, and Reg. 180, fol. 91v, September 1292.

<sup>448</sup> ASB, Capitano, Giudici, Reg. 239, fols. 2r–3v, April 7–May 6, 1294. Table IV.1, entry 53.

<sup>449</sup> ASB, Capitano, Giudici, Reg. 240, fol. 1v, May 5, 1294: "In Christi nomine et beate gloriose virginis Marie amen. Super notificatione facta in cassa de Guidotino de Ghiselleris qui dicitur esse de societate Cambii et Aquile contra formam ordinatorum et provisionum factarum tempore Domini Florini de Pontocarali olim capitanei populi Bononie [1294] et contra descriptiones factas de domibus magnatum nobilium et potentium civitatis Bononie que non possunt esse de societatibus arcium et armorum civitatis Bononie inter quas domos descripta est domus de Ghysleriis que descriptiones provisiones et ordinationa habentur pro sacratis et sacratissimis secundum Reformationem populi factam super predictis. Consilium Dominorum Albertini Ugheci de Coathanis, Martini Silimani, Pacis de Pace legum doctorum, Juliani Cambii Gratiadei, Rodulfi de Sabbatinis, Brandallixii de Goczadinis, et mei Bertholomei con-

In short, the *premised* definition of nobility in the *consilia* of the late thirteenth and early fourteenth century was the “political nobility” described by Bartolus a generation later. Status as determined by the law courts of Bologna was not a quality inherent in the individual, to be stimulated by love, as Dante and Guido Guinizzelli postulated, nor was it conferred simply by blood, as Guittone argued. Noble-magnate status in late medieval Bologna, as predicated in the opinions of the *sapientes*, resided in the familial and political relationships of the individual, but above all in the decisions of his government.

The primacy of communal authority in decisions of status in the courts also meant that the concept of nobility could and did vary among the communes, a reality recognized by the jurists. As Claudio Donati notes, Bartolus (and another fourteenth-century jurist, Albericus de Rosate), “emphasized the primacy of the urban statutes, with respect to common law, on the subject of nobility . . . [thereby] opening the door . . . to the consequent impossibility of defining nobility according to universally valid parameters.”<sup>450</sup> The concept of nobility juridically in the thirteenth and fourteenth centuries remained anchored in the political particularities of the communes and city-states, and included the ambiguities of its *popolo* context. Bartolus also recognized the paradox of freighting the concept of nobility with negative as well as positive features, as in the anti-magnate legislation, a conundrum that he could acknowledge but not resolve. Nobility as an honor class that was totally privileged and not burdened in the eyes of the law emerged in slow motion over a long arc extending between the second half of the thirteenth century through the early sixteenth century, as Stanley Chojnacki has demonstrated in the case of Venice.<sup>451</sup> In late

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dam domini Johanini iudicium est tale. Quod dictus Guidoctinus de Ghisleriis iuxta provisiones predictas et descriptiones predictas de dictis societatibus cancelletur.” On May 7, Guidotto paid his fine and that same day the Capitano ordered the notaries of his societies to remove him from their membership rolls. ASB, Capitano, Giudici, Reg. 240, inside back cover, May 7, and Reg. 242, fol. 1r, May 7, 1294. Jehn references this *consilium*. According to him, “[f]ollowing the return of the Lambertazzi, measures against the nobles and aristocratic families were again intensified, as is indicated by a *consilium* against Guidoctinus de Ghisleriis with reference to the *Ordinamenti sacri et sacratissimi* of 1282 and 1284.” Jehn, “Die Versteckte Macht,” p. 485. However, the references in the *consilium* were not to the Ordinances of 1282–84, but to the legislation of 1294 which named magnate houses and was given the status of “sacred and most sacred ordinances.”

<sup>450</sup> Donati, *L'idea di nobiltà*, pp. 4–5.

<sup>451</sup> Stanley Chojnacki, “Social Identity in Renaissance Venice: The Second Serrata,” *Renaissance Studies* 8 (1994): 341–58, and his “Identity and Ideology in Renaissance

thirteenth and early fourteenth century Bologna, the privileges and honor of the *popolo* held the honor claims of the evolving nobility at bay, but at a cost to the integrity of *popolo* institutions, as we shall see in Chapter Five. Moreover, the *habitus* of the “*vita honorabilis*” was *not* the monopoly of a legal class, but was shared by many magnates and prominent *popolani*.

### 13. STATUS AND SOCIETY

What does the lack of an overarching system of effective *habitus* and fixed hereditary nobility signify for an interpretation of Bolognese society? Beyond undercutting the class conflict view of late medieval Bologna, as revived, for example, by Koenig, it also casts doubt on the variation of that theme espoused by historians such as Hessel, Pini, and Carniello, whereby magnates and merchant-bankers are juxtaposed against the artisanal guilds, led by the notaries.<sup>452</sup> First, analysis of magnate identity trials from the Capitano’s court and of the 1294 list of those who removed themselves from the societies shows that members of the mercantile, banking, and notarial societies were the most frequently represented in the trials, as given in Table IV.1. Members of the notaries were charged in eleven trials, the bankers in ten, and the merchants in twenty of the eighty-three trials—members of the mercantile-banking-notarial elite comprised 50 percent of those charged as magnates. Similarly, in the 1294 list, as given in Table IV.3, the notaries held first place, the merchants second and the bankers tied for sixth place. Nor were the notarial families designated as magnates in 1294 simply from those mercantile-banking families who had recently entered the notarial guild. The Tebaldi, as noted above, entered the notaries in the early decades of the thirteenth century, and the Boatteri, Caccianemici Pizoli, and Pietro *Mori* were in that guild by mid-century, as were the Artenisi, Ghisilieri and Garisendi.<sup>453</sup>

Rolandino Passaggeri, great leader of the notaries and of the *popolo* reforms of 1272 and 1284, exemplifies the close ties between the

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Venice. The Third Serrata,” in *Venice Reconsidered. The History and Civilization of an Italian City-State, 1297–1797*, ed. John Martin and Dennis Romano (Baltimore and London: Johns Hopkins University Press, 2000), pp. 263–294.

<sup>452</sup> See discussion in Chapter Three of that historiography.

<sup>453</sup> Ferrara-Valentini, *Liber sive matricula notariorum*, and see discussion above, section 11 and in Chapter Three.

banking-mercantile elite and the notaries in his role as notary to the bankers and author of the preface to that society's statutes, a preface that extolled the professional virtues of the bankers.<sup>454</sup> In the preface, written in 1245, as Pini notes, Rolandino rested his hopes for society, which he saw as submerged in a world of decadence and iniquity, on the model for exemplary behavior set by three guilds—the notaries, bankers, and merchants. These groups he believed would lead others to building a better society by virtue of the “scrupulous honesty and most sincere faith” demanded by their professions.<sup>455</sup> In the eyes of the man who would become the leader of *popolo* radicalism, the notaries were portrayed in *partnership* with, not in opposition to, the merchants and bankers. The ideas expressed in the preface preceded promulgation of the Sacred Ordinances by nearly forty years, and as Massimo Giansante maintains, was a decisive step in the development of the *popolo* ideology of social peace. Even the reforms of 1256, which removed the predominance of the bankers and merchants in the *popolo* councils, did not simply constitute an anti-elite action. In fact, it was supported by at least some of the banking elite, for example, by Zoene Pepoli, who was very active in the bankers' guild and yet was one of

<sup>454</sup> Pini, “L'arte del cambio,” 48–49 and Antonio Ivan Pini, “Un principe dei notai in una ‘repubblica di notai’: Rolandino Passaggeri nella Bologna del Duecento,” *Nuova rivista storica* 84 (2000): 51–72, esp. p. 59, and Massimo Giansante, *Retorica e politica nel Duecento. I notai bolognesi e l'ideologia comunale* (Rome: Istituto Storico Italiano per il Medio Evo, 1999), pp. 9–11, 21–49.

<sup>455</sup> Pini, “L'arte del cambio,” p. 48: “Verum non sic divine maiestatis pietas eorum quos redimere sanguine pretiose descendit in omnibus et oblita, ut generali elloquentia sit dicendum, quod prorsus omnes hos discrimine usque ad infima permiserit dilabari et quod adhuc ipsius veritatis partem in aliquibus non servaverit digniorem: quia hos nostro tempore quidam etiam asque ipsis religiosis existunt, licet sint in vite presentis exilio et mundi tenebris constituti: qui asque vero vivere vel conduci non possunt, eo quod artes ipsorum quibus reguntur non valent sine fide ac veritate plenissima exerceri. Ex hiis quodam a sacris constitutionibus ordinatos tabelliones vel scrineros appellamus... Sunt etiam alii quidam in quibus multum veritatis et fidei quam hunc tenent homines reservatur, scilicet ubicumque in mundi partibus constituti negotiatores auri, argenti, monetarum, lapidum pretiosorum et per consequens multarum aliarum rerum, qui campsores et mercatores vulgari elloquio nuncupantur. Hos quidem de necesse oportet ut omnem veritatem, fidem et legalitatem artem ipsorum eis exercentibus immittantur, quod solo verbo et nutu promittunt fide adimpleant illibata, et sibi a quolibet in fideli negotio precaveant diligenter: sic enim sunt in legalitate constantes, quod quicquid in eadem arte dicunt vel agunt ab ipsa sola progreditur veritate. Eorum itaque nobilis et comendanda generatio in civitate Bononie locum preceteris obtinere dignoscitur principalem et in eadem evidenti consortio commendabili prefulgere...” “Statuto della società dei cambiatori del 1245,” in Gaudenzi, *Statuti*, vol. 2, pp. 57–60.

the supporters of the 1256 reforms.<sup>456</sup> Nor was the vision of partnership among these guilds lost at the height of notarial leadership in the 1280s. In 1287, when the Sacred and Most Sacred Ordinances were threatened by a dangerous conspiracy, the successful resistance to it depended upon the cooperation of leaders of the notaries, bankers, merchants, and prominent judges.<sup>457</sup>

The notarial profession had long been one of great prestige and had attracted even *contado* nobles early in the century. In the 1249 Book of Nobles there are at least two notaries whose profession is explicitly recognized, *Andante notarius* da Badalo and *Azetante notarius* da Monte S. Giovanni.<sup>458</sup> Many notaries also had close ties with magnate and mercantile-banking families through their service in the entourage of those serving as foreign rectors. For example, in March 1296 Giovanni Artenisi, *doctor legum*, a *popolano* from the mercantile-banking family of the Artenisi, and Guglielmo di Guidocherio Galluzzi, from a pre-eminent magnate family, were sent to Parma as ambassadors, along with their *popolano* notary, Giacobino da Medicina.<sup>459</sup> As Armando Antonelli has shown, these itinerant foreign rectors, with their knights, judges and notaries, formed a coherent class of functionaries—magnates and *popolani*—who shared and were responsible for the diffusion of a common courtly and chivalric literary tradition throughout central and northern Italy.<sup>460</sup> Notaries and merchant-bankers also served together as ambassadors. In May 1289, the notary Mattiolo da Roncore was an ambassador, along with the merchant-banker Bettino Piatesi and the magnates Alberto Asinelli and Bonavolta Malavolta, in an embassy to the Marquis of Este to arrange for the release of the Bolognese magnate, Giacobino di Ramberto Baccilieri, from prison in Ferrara.<sup>461</sup> In 1288, Pietro Merlino served as notary for an embassy of judges and knights sent to Castelfranco to make an accord between the *extrinseci* and the

<sup>456</sup> Giansante, *Patrimonio familiare*, p. 23.

<sup>457</sup> Giuliano Milani, "Bologna's Two Exclusions and the Power of Law Experts," in *Europa und seine Regionem. 2000 Jahre Rechtsgeschichte*, ed. Andreas Bauer and Karl H.L. Welker (Cologne: Böhlau, 2007), pp. 123–138.

<sup>458</sup> ASB, Comune, Estimi di città e contado, series 1, Ruoli d'estimo, 2, Elenco di nobili ed esenti, fols. 22v and 24r.

<sup>459</sup> ASB, Camera del Comune, Tesoreria, Reg. 4a, fol. 29v.

<sup>460</sup> Antonelli, "Appunti sulla formazione socio-culturale del ceto funzionariale," pp. 15–37.

<sup>461</sup> ASB, Comune-Governo, Riformagioni 128, fol. 8r.

*intrinseci* of Reggio.<sup>462</sup> As shown above in Chapter Three, notarial families comprised a prominent part of the banking-mercantile-judicial elite, with members of the most prominent Bolognese families distributed throughout all four professions during the thirteenth and early fourteenth century. The aristocratic society of the *frati gaudenti*, whose members, as we saw above, were knights or were made knights before entering the Order, consisted largely of merchants, bankers and especially notaries, and the members of the Order who continued to live outside the convent could and did continue to practice their craft. In short, prominent notarial families were *not* separate from the *popolo grasso*, but rather formed an integral part of that class and had done so at least from the earliest decades of the thirteenth century.

Secondly, evidence from the Capitano court trials, while supporting in part the overview of *Duecento* politics recently offered by Cammarosano in lieu of class conflict theory, also calls for modification of his views as they apply to Bologna. For Cammarosano, the dynamic of *Duecento* political development stemmed from a dialectic between general expansion and social mobility on the one hand, and increasing concentration of wealth and social rigidity on the other.<sup>463</sup> Cammarosano was not the first to emphasize the importance of social mobility for understanding political change and conflict in the thirteenth century, but he nuanced that theory significantly by emphasizing that one should not simply portray the *popolo* as congeries of “new men,” but should also take into account how the ranks of the magnates were replenished and increased by the new rich.<sup>464</sup> Cammarosano also postulated an “amalgam” from 1175 to 1220 of diverse groups into a relatively homogeneous consular aristocracy, one that was replaced from 1220–1280 by an aristocracy of greater diversity with the advent

<sup>462</sup> ASB, Camera del Comune, Tesoreria, Reg. 3, fol. 37r and fol. 49r, Sept. 18 and Oct. 9, 1288. The judges in that embassy were Lambertino Ramponi, Pace *de Pacibus*, Antonio da Nugareto and Guglielmo Rombodivini; the *milites* were Alberto Asinelli and Cervio Boatteri.

<sup>463</sup> Paolo Cammarosano, “Il ricambio e l’evoluzione dei ceti dirigenti nel corso del XIII secolo” in *Magnati e popolani nell’Italia comunale. Quindicesimo convegno di Studi del Centro Italiano di Studi di Storia e d’Arte, Pistoia 15–18 maggio 1995* (Pistoia: Centro Italiano di studi di storia e d’arte, 1997), pp. 17–40.

<sup>464</sup> For the “school” of social mobility, including David Herlihy on Pisa and Marvin Becker on Florence, see Sarah Rubin Blanshei, *Perugia, 1260–1340: Conflict and Change in a Medieval Italian Urban Society*, Transactions of the American Philosophical Society, new series, vol. 66 (Philadelphia: American Philosophical Society, 1976), pp. 10–12.



of new *popolo* institutions.<sup>465</sup> Cammarosano cast his essay in general terms that were applicable to northern and central Italy, but Giuliano Milani, working explicitly within Cammarosano's paradigm, analyzed the earliest surviving magnate lists from Bologna, those of 1271–1272, which comprised those magnates (fifty-six individuals of forty-two lineages) who were deemed a threat to public security and were required to leave the city and remain *ad confinia*.<sup>466</sup> As discussed above, Chapter Four, Part I, Milani divided those magnates into three groups who had entered political life at diverse periods between the late twelfth and early thirteenth century. He describes the last group as originally *popolani* and contends that the aristocrats were extending their base by incorporating new men into their ranks. They were doing this because they had been provoked by the advent of the *popolo* and needed the support of the new men in order to influence political decisions.

Milani's analysis of the 1271–72 lists is valuable, but it is based, as is Cammarosano's interpretation, on the assumption that the magnates of the thirteenth century can be described as an aristocracy. What his analysis lacks is a control group by which one might check the ancestry of the most prominent *popolani* of the early 1270s. Yet we know (as discussed above, section 11) that many in the *popolo* leadership (the Gozzadini, Sabadini, and Pepoli, for example) were also of ancient lineage and yet were not designated as magnates in the 1270s or 1280s. Indeed, one of the major points of this study is that the magnates were *not* synonymous with any putative aristocracy or nobility of the *Duecento*, and that Gina Fasoli was particularly insightful when she attacked the application of those labels to that period.<sup>467</sup> Although the earliest trials in this study date only from the 1280s, some of the witnesses spoke to their memory and understanding of the social and political life of earlier generations. Testimony from the trials (e.g., the Balduini case) indicates that the blurring of "class" lifestyles extended

<sup>465</sup> Cammarosano, "Il ricambio e l'evoluzione dei ceti dirigenti," pp. 35–38.

<sup>466</sup> Milani, "Da *mīlites* a magnati."

<sup>467</sup> Gina Fasoli, "Oligarchia e ceti popolari nelle città padane fra il XIII e il XIV secolo," in *Aristocrazia cittadina e ceti popolari nel tardo Medioevo in Italia e in Germania*, Annali dell'Istituto storico Italo-Germanico, vol. 13, ed. Reinhard Elze and Gina Fasoli (Bologna: Il Mulino, 1984), pp. 11–39, esp. pp. 13–14. There is a broad range of viewpoints on this problem, from Fasoli to Carol Lansing. The latter, while cognizant of some historians' criticism of the concept, labels the magnates of Florence a nobility and uses the term "patriciate" to "refer loosely but conveniently to the larger group of wealthy and important Florentines that included both magnati and grandi popolani." Lansing, *The Florentine Magnates*, pp. 25–26.

back at least two generations, to the “coming of the *popolo*” in the mid-thirteenth century. The “new men” who led the *popolo* revolutions of 1228, 1256 and 1274 comprised a banking-mercantile-notarial-juridical elite that had participated fully (as Gaulin has shown, and as discussed above, section 8) in the governments of the late twelfth and thirteenth century, serving as councillors, foreign rectors, *milites*, and judges together with the most prominent families of the “consular aristocracy.” As Maureen Mazzaoui cautioned years ago (and Giansante more recently), the revolution of 1228 was “composed of both aristocratic and popular elements.”<sup>468</sup> Mazzaoui also noted: “The revolution was thus primarily a *displacement* of power within the old ruling class accompanied by the admission, in a controlled and limited sphere, of new organizations previously excluded from the government. These new organizations are usually denoted as ‘popular’ to distinguish them from the aristocratic mercantile and banking guilds. While the term is convenient, it must not be taken too literally. Some of the minor guilds were actually controlled by aristocratic members.”<sup>469</sup>

Intrepretations of the *popolo* revolutions either in terms of social mobility, such as those of Cammarosano and Milani, or as a conflict between notarial and artisanal guilds on the one hand, and the magnates and merchant-bankers on the other, as described by Pini and Carniello, remain nevertheless within certain structural and hierarchical limitations of traditional class conflict historiography. The revisionist interpretations, like class conflict theory itself, leave groups and classes separated from each other in stable vertical polarities. But stability was the quality most lacking in communal society. The consolidated hierarchies of wealth, social prestige, lifestyle and political power of the late twelfth and early thirteenth century (an oligarchy fitting Michels’s concept of oligarchy, as described above in Chapter Two), were fractured in the second half of the thirteenth century, not simply into divisions between *popolani* and *magnati*, or established families versus “new men,” or major versus minor guilds, or merchant-bankers versus notaries, but into interacting and interdependent yet conflictual elites (administrative, military, political, cultural, legal and social). Early in

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<sup>468</sup> Maureen Mazzaoui, “The Organization of the fine Wool Industry of Bologna in the thirteenth century,” Bryn Mawr College, Ph.D. diss., 1966, p. 19.

<sup>469</sup> Mazzaoui, “The Organization of the fine Wool Industry,” pp. 19–20. She gives as an example of the last point the *matricula* of the *societas bixileriorum* of 1304–1315. For more detail on this phenomenon, see above, Chapters One and Three.

the fourteenth century, even as the cohesion of oligarchy fragmented, it was replaced by a new more narrow and fractious oligarchy of families that shaped and dominated the political classes.

Not dichotomies, but changes in the nature of oligarchy are crucial to understanding the politics of late medieval Bologna. Politics during that period followed a trajectory that shifted from private to corporate dominance in the early thirteenth century as political configurations came to revolve around guilds and arms societies, with preponderance in governmental structures of the merchant-banker guilds. In the second half of the century the predominance of the merchant-bankers was eroded in structural terms (see Chapter Three above), but that erosion must be viewed with caution, since the merchant-bankers from the earliest years of the century had controlled some of the artisanal guilds. By the turn of the century politics by corporation was superseded, again as noted in Chapter Three, by configurations of familial networks, allied with magnate families, and expressed through government by *balie*.<sup>470</sup> But the growing rigidity of the oligarchy was not a continuous evolution. Rather it was marked by vacillations and resurgencies of broader-based governments, as in the period after the expulsion of the Pepoli in 1321. Emphasis on the hereditary principle in the ascription of status at the end of the thirteenth and early fourteenth century marked a significant step towards the formation of a hereditary aristocracy, but not its establishment.

Do these conclusions on status and oligarchical structures mean that politics of the period consisted of power struggles devoid of meaning and that the ideology of the *popolo* was empty rhetoric? As blurred as were the perceptions of social identity between *popolani* and magnates, the legal distinctions between those classes, like those between Gere mei and Lambertazzi, and citizens and foreigners, carried specific and onerous burdens for the magnates and important privileges for many *popolani* in the courts of law. Did legal distinctions of class correlate with ideology? In the next chapter I shall examine that question and show that the roots of summary justice lay in anti-magnate legislation, in the growth of legal privileges, and in the responses of government to war, conspiracy, and famine.

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<sup>470</sup> This point concerning government by *balie* is also made by Giansante, *Patrimonio familiare*, p. 42, and Massimo Giansante, "Romeo Pepoli. Patrimonio e potere a Bologna fra Comune e Signoria," *Quaderni medievali* 53 (2002): 87–112, esp. p. 101.

## CHAPTER FIVE

### THE POLITICIZATION OF CRIMINAL JUSTICE

The focus of this chapter is the impact of Bologna's bitter political rivalries on its system of criminal justice, especially the effects of the coming of the *popolo* to full power in the 1280s, the narrowing of oligarchical ranks, and the division of society into legally distinct, hereditary groups in the early fourteenth century. As we shall see, the new government of the *popolo* established institutions and practices of summary justice that were intended to protect *popolani* from injustice from the more powerful members of society. The original purpose of the reforms was to provide deterrence and to level the playing field in the law courts. But the purpose shifted as the extent of oligarchy deepened, so that the dominant political groups came to wield significant advantages in court. Moreover, despite the resistance of the judges to corruption of the *ordo iudiciarius*, these innovations had the unintentional consequence of undermining the integrity of the law courts, and in turn adversely affected the coherence and strength of the *popolo*.

#### 1. EQUALITY

One of the greatest achievements in Western legal history was the development in the twelfth century and the subsequent significant expansion in the thirteenth century of the *ordo iudiciarius*, the congeries of Romano-canonical theories and practices that became the basis for the legal systems of continental medieval Europe.<sup>1</sup> The civil and criminal

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<sup>1</sup> There is a vast literature on the *ordo*. A relatively recent work with bibliography that is particularly pertinent to the themes discussed in this chapter, especially summary justice, is that of Kenneth Pennington, *The Prince and the Law, 1200–1600. Sovereignty and Rights in the Western Legal Tradition* (Berkeley, Los Angeles, Oxford: University of California Press, 1993). See also his articles, “Due Process, Community, and the Prince in the Evolution of the *Ordo iudiciarius*,” *Rivista internazionale di diritto comune* 9 (1998): 9–47 and “Il diritto dell'accusato. L'origine medievale della procedura legale,” in *La parola all'accusatio*, ed. Jean-Claude Maire Vigueur and Agostino Paravicini Bagliani (Palermo: Sellerio, 1991), pp. 33–41, and Pennington's website “The Development of Criminal Procedure in the *Ius commune*,” <http://faculty.cua.edu/pennington/Law508/CriminalProcedure.htm>. In addition, see Mario Sbriccoli,

law courts of Bologna and other city-states attracted many litigants, including people from nearly all walks of life. They sought resolution of their conflicts in court, although the trial itself was often only one phase in the conflict-resolution process.<sup>2</sup> The dominant procedure for initiating such a trial was that of private accusation: the *accusatio*, that is, a complaint made by the victim or victim's relatives. The accuser was responsible for prosecuting the charge and could (and often did) stop prosecution after coming to an out-of-court, or infrajudicial, settlement, marked by a notarized peace agreement (*instrumentum pacis* or *pax*), made by him or her with the accused.<sup>3</sup> The overwhelming majority of such trials were for assault, a broad category that ranged from verbal insult and blows with hands and fists, to attacks that resulted in the drawing of blood, or even debilitation of a limb. Trials initiated by private accusation also concerned, although to a much lesser degree, more serious crimes such as kidnapping, robbery and homicide.<sup>4</sup>

By the late thirteenth century, however, although assault cases continued to dominate accusation-procedure trials, serious crimes were more likely to be prosecuted by *inquisitio*. In *inquisitio* procedure, the trial was initiated either by a *denuncia* from an official (the *ministralis* of an urban parish or the *massarius* of a rural commune), or by a

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"'Vidi communiter observari'. L'emersione di un ordine penale pubblico nelle città italiane del secolo XIII," *Quaderni fiorentini* 27 (1998): 231–268, and his "Legislation, Justice and Political Power in Italian Cities, 1200–1400," in *Legislation and Justice*, ed. Antonio Padoa-Schioppa (Oxford: Clarendon Press, 1997), pp. 37–55. For a general introduction, see Thomas Kuehn, "Conflict Resolution and Legal Systems," in *A Companion to the Medieval World*, ed. Carol Lansing and Edward D. English (Malden, MA and Oxford, UK: Wiley-Blackwell, 2009), pp. 335–353, and for the Italian communes in particular, see Elena Maffei, *Dal reato alla sentenza. Il processo criminale in età comunale* (Rome: Edizioni di storia e letteratura, 2005).

<sup>2</sup> On the processual or instrumentalist use of the courts, see the summary of scholarship in Trevor Dean, *Crime and Justice in Late Medieval Italy* (Cambridge: Cambridge University Press, 2007), pp. 18–20, and the discussion below in this chapter.

<sup>3</sup> For the *pax* see Glenn Kumhera "Making Peace in Medieval Siena: Instruments of Peace, 1280–1400," Ph.D. diss., University of Chicago, December 2005, and Shona Kelly Wray, "Instruments of Concord: Making Peace and Settling Disputes through a Notary in the City and *Contado* of Late Medieval Bologna," *Journal of Social History* 42 (2009): 182–209.

<sup>4</sup> Massimo Vallerani, *La giustizia pubblica medievale* (Bologna: Il Mulino, 2005), pp. 113–131 (published originally as "I processi accusatori a Bologna fra Due e Trecento," *Società e storia* 78 (1997): 741–788). In the decade 1286–1296 there was a constant increase in the number of trials initiated by accusation. The number of trials initiated by *accusatio* averaged between 650–700 each semester, and reached an apogee of 3,118 trials in 1294, *ibid.*, p. 120. For the high level of assaults, *ibid.*, p. 125. The crimes which could be initiated by *inquisitio* procedure were specified by statute.

notification by the victim or someone on his or her behalf, or by the judge *ex officio*. In the latter case the initiation of the trial by the judge was usually on the basis of the manifest nature or notoriety of the criminal act or the infamous reputation of the imputed person, and the judge would proceed summarily. In cases of burglary, the imputed person who was caught in the act might quickly be subjected to torture. In inquisitorial trials, in contrast to the largely conflict-resolution goal of the private accusation trials, the courts chiefly sought the maintenance of public order, punishment of criminals and the deterrence of major crimes.<sup>5</sup> Historians now question the traditional bifurcation of private accusation and *inquisitio* into distinct spheres of “private” (reconciliation) and “public” (repressive) justice; nevertheless, there was a line of demarcation—albeit blurred—along that axis. A charge of assault, for example, could not be initiated by *inquisitio* procedure unless the attack took place in certain delineated public spaces such as the great piazza, in a rural commune, or anywhere at night. Torture was a tool in *inquisitio* trials but was rarely used in trials initiated by private accusation. The use of summary justice was *ipso facto* restricted to *inquisitio* trials. Massimo Vallerani in particular has shown that the line between *inquisitio* and private accusation was not as clear-cut as had been assumed and that the increase in *inquisitio* procedure in the thirteenth century did not mark a triumphant growth of state power. According to Vallerani, a private citizen, for example, could effectively initiate an *inquisitio* by acting as *promotor* of the trial and proving by the testimony of witnesses that the imputed was an infamous person.<sup>6</sup>

Other historians have also challenged the traditional view that the compelling characteristics of the late medieval law courts were the growth of *inquisitio* procedure and the concomitant use of torture. Historians such as Brian Tierney and Kenneth Pennington have portrayed the *ordo iudiciarius* as a monument to the tradition of due process and respect for the rights of citizens to the pursuit of justice.<sup>7</sup> Tierney

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<sup>5</sup> Ibid., pp. 247–270, (published originally as “Il potere inquisitorio del podestà. Limiti e definizioni nella prassi bolognese del Duecento,” in *Studi del Medioevo per Girolamo Arnaldi* (Rome: Viella, 2001), pp. 379–417.

<sup>6</sup> Ibid., p. 43, and “I processi accusatori a Bologna,” pp. 116–117. I discuss the differences between *accusatio* and *inquisitio* in more detail below. For a rare example of the use of torture in an accusation-initiated trial, see below, section 2.

<sup>7</sup> Brian Tierney, *Rights, Laws and Infallibility in Medieval Thought* (Brookfield, VT: Variorum, 1997) and *The Idea of Natural Rights, 1150–1625* (Atlanta: Scholars Press, 1997). Also see the articles by Tierney cited in Pennington, *The Prince and the*

argues that recognition of human rights in the West did not begin with the Enlightenment, but rather with the medieval jurists. Human or natural rights were those that people had, not by virtue of any particular role or status in society, but by virtue of their very humanity.<sup>8</sup> Pennington, however, while also extolling the achievements of the medieval jurists, is careful to distinguish between what he calls the medieval concept of “natural rights” and the “human rights” movement of the twentieth century. The medieval jurists, although they “did not call these rights natural...developed doctrines that supported a theory of subjective, immutable, individual rights” such as “an individual’s right to own and protect private property.”<sup>9</sup> A characteristic that distinguishes these “natural rights” from “human rights” is their lodging in and relationship to citizenship. As Lynn Hunt describes the human rights “invented” by the eighteenth century, their definition “require[s] three interlocking qualities: rights must be *natural* (inherent in human beings); *equal* (the same for everyone); and *universal* (applicable everywhere).”<sup>10</sup> Hunt also notes that “[i]t turned out to be easier to accept the natural quality of rights than their equality or universality.”<sup>11</sup> How limited or expansive was the medieval concept of equality in justice when measured against Enlightenment and modern concepts? To what degree did theory correspond to practice?

As Pennington notes, medieval jurists “began to argue [in the second half of the thirteenth century] that the *ordo* was not derived from civil law, but from natural law or the law of nations...[and in so doing] begot an inviolable right to due process,”<sup>12</sup> which meant not only the right to a trial, but other features of the modern concept of due process, such as proper citation, the presentation of evidence, the right to remain silent, and conviction only on the basis of “clear and

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Law, esp. chapter 4. “The twelfth- and thirteenth-century jurists had a well-developed general conception of rights, but these rights or norms were not, for the most part, sacrosanct. They could be violated.” Ibid., pp. 123–124. In addition to Vallerani on *inquisitio* and due process, especially in heresy trials, see Henry Ansgar Kelly *Inquisitions and other Trial Procedures in the Medieval West* (Aldershot and Burlington USA: Ashgate/Variorum, 2001).

<sup>8</sup> Tierney, *The Idea of Natural Rights*, p. 2.

<sup>9</sup> Pennington, *The Prince and the Law*, p. 124.

<sup>10</sup> Lynn Hunt, *Inventing Human Rights. A History* (New York and London: W.W. Norton, 2007), p. 20.

<sup>11</sup> Ibid., p. 21.

<sup>12</sup> Pennington, *The Prince and the Law*, pp. 148–149.

unambiguous" evidence.<sup>13</sup> However, the jurists limited these rights to citizens. Moreover, the government authority that validated and granted citizenship could also take it away, as it did in the case of people banned (for contumacy, that is, for not appearing in court), or exiled, or those given the status of the infamous (*infamato*)—that is, those who had been previously "convicted of a serious public crime."<sup>14</sup> In the case of those captured while under ban (*banniti*), the judge usually proceeded to sentencing after merely ascertaining the identity of the captive. In the case of an infamous person or notorious crime, the judge could proceed summarily and employ torture.<sup>15</sup> The medieval jurists thus developed a doctrine of due process based on natural rights, but they also justified the suspension of that process and the employment of summary justice and torture.

Peter Riesenbergh has claimed that a doctrine of "functional equality" did exist in medieval jurisprudence, even though it applied only

<sup>13</sup> Ibid., pp. 155–156.

<sup>14</sup> Laura Ikins Stern, "Public Fame in the Fifteenth Century," *The American Journal of Legal History* 44 (2000): 198–222, esp. p. 215. On the difference between "fama" and "notorium" which she traces to the thirteenth century, Stern describes the former as a device for "bringing forth information when no real witnesses to a crime existed or surfaced. It was the main vehicle through which the voice of the community was heard by the court system." *Notorium* comprised "[t]hings that proceeded from sight [which] were called notorious or manifest and were not the same as fame... the purpose being to allow for summary procedure in crimes that were this manifest... [and] denoted a much higher level of publicity than fame." Ibid., pp. 198 and 203. On the term "infamy," see Edward Peters, "Wounded Names: The Medieval Doctrine of Infamy," in *Law in Medieval Life and Thought*, ed. Edward B. King and Susan J. Ridyard (Sewanee, TN: Press of the University of the South, 1990), pp. 43–89. Although the use of *publica fama* is ubiquitous in the Bolognese trial records, I have found only one case that is labeled as notorious. In 1326, Antonio and Pietro, the latter a notary, sons of Bittino Aleghetti from the *cappella* of S. Cecilia, were charged with falsifying their father's *estimo*, or tax declaration. The charge is given as "*publica fama ac etiam notum et notorium est*" because this charge emerged out of the already completed trial against the father. One brother and the father were acquitted, but Pietro, who actually wrote the *estimo*, was sentenced by ban for amputation of his right hand if ever in custody and 500 pounds for removing the ban. ASB, Podesta, Inquisitiones, Mazzo 119, Reg. 2, fols. 132r–137v, Oct. 1–19, 1326 for the trial against Antonio and Pietro, and ibid., fols. 78r–83v, Sept. 9–Oct. 13, 1326 for the trial against the father, Bittino. Two officials of the tax office testified against Bittino, but he proved his innocence by maintaining that he was illiterate and had entrusted the actual writing to his son.

<sup>15</sup> Stern, "Public Fame," p. 204: "*Notorium*, or a publicly committed crime, was the one instance the entire *ordo iudiciarius*, or steps of procedure, could be completely omitted and the court proceed directly to conviction." As Pennington notes, however, the "summons and judgement must be observed" even though the judge could proceed summarily in other aspects of the trial. Pennington, *The Prince and the Law*, pp. 162–163.



to citizens.<sup>16</sup> Like Tierney, he strives to rescue the achievements of medieval jurists from the monopolistic claims made for the Enlightenment. For Riesenbergs, the late Middle Ages made a major contribution to the eventual emergence of the modern doctrine of the equality of all before the law.<sup>17</sup> In staking that claim, however, he ignores the legal privileges and immunities that were granted to certain citizens and the differences in penalties that were applied to citizens of different legal status, such as the larger monetary fines paid by *milites* than *pedites*, as discussed above in Chapter Four, Part I.<sup>18</sup> These differences in the application of penalties did not depend on perceptual inequality by the judge: that is, imposing harsher penalties, for example, for the killing of children, or imposing milder penalties in favor of certain socioeconomic groups. The differences stemmed instead from a statutory linkage of penalty and status. The podesta at Bologna in fact had little discretion in pronouncing sentences.<sup>19</sup> Therefore, one does not find the kinds of differences in the application of penalties that Henry Lundesgaarde, for example, found in testing sanctioning theory against the penalties given for homicide in a modern American city.<sup>20</sup> Instead, when harsher penalties were applied in the Bolognese law courts, the authority to do so came from *ad hoc* legislation by the Consiglio del

<sup>16</sup> Peter Riesenbergs, "Citizenship and Equality in late Medieval Italy," *Studia Gratiana* 15 (1972): 425–439, and his *Citizenship in the Western Tradition. Plato to Rousseau* (Chapel Hill and London: University of North Carolina Press, 1992), pp. 140–186.

<sup>17</sup> Others have extolled justice in late medieval and Renaissance Italy, e.g., Judith Hook, describing Siena during its "golden age" from the late thirteenth to the mid-fourteenth century, emphasizes that "all citizens were to be equal before the law, and to have free access to justice." Judith Hook, *Siena, a City and its History* (London: H. Hamilton, 1979), p. 34. Anthony Molho, "The Florentine Oligarchy and the *Balie* of the Late Trecento," *Speculum* 43 (1968): 23–51, esp. p. 24: "Both humanists and their numerous disciples defined *libertas* as the equality of all citizens under communal law...."

<sup>18</sup> For statutory penalties at Bologna (and Perugia) that depended on the legal status of the perpetrator and also the victim, see Sarah R. Blanshei, "Criminal Justice in Medieval Perugia and Bologna," *Law and History Review* 1 (1983): 251–275, esp. pp. 262–63, and above, Chapter Four, Part 1.

<sup>19</sup> On limitations in general to the authority of the podesta at Bologna, see Valletani, "Il potere inquisitorio del podestà," pp. 379–417, republished in his *La giustizia pubblica medievale*, pp. 247–275.

<sup>20</sup> Henry P. Lundesgaarde, *Murder in Space City. A Cultural Analysis of Houston Homicide Patterns* (New York: Oxford University Press, 1977). Lundesgaarde showed, for example, that more severe penalties were applied for killing a stranger than a spouse.

Popolo, as in the case of a kidnapping of a Bolognese judge or the killing and robbery of pilgrims at Conchola in the Bolognese *contado*.<sup>21</sup>

Claudia Storti Storchi, in contrast to Riesenberg, while claiming that the principle of equality was crucial to medieval jurisprudence, acknowledges that it was not based on the principle of equality of all *before the law*—that is, the equal application of penalties regardless of the defendants' legal status. What she sees instead is an equality of *procedure* that was to be applied even-handedly *before the judge* to both of the parties, accuser and accused. Both parties, for example, were to receive the same number of summons to court (*citationes*) and specified time periods (*dilationes*), usually three, for presenting their respective charges and defenses.<sup>22</sup> Thus, although penalties differed according to the legal status of an individual, the process by which a conviction was derived and a penalty applied was theoretically equal for all, unless the imputed were of infamous status or the crime was notorious.

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<sup>21</sup> ASB, Podesta, Accusationes, Busta 42a, Register of condemnations without numeration (fragment of four folios, two of which are blank). There are two sentences, one of which is a ban, dated March 26, 1320 against thirty-five men, including Parte di Bonifacio Ariosti, for the robbery and homicide of fifty pilgrims at Conchola, situated in the *contado* towards Ferrara. The sentence called for them to be treated as rebels and traitors if ever captured. There is also a sentence, also dated March 26, 1320, against *Cambiolus* di Guiduccio da Dugliolo who had been captured and tried for the crime at Conchola. He had confessed to that crime and others and was sentenced to be tied to the tail of an ass, dragged to the place of justice, and there hanged. ASB, Podesta, Inquisitiones, Mazzo 101, Reg. 5, fols. 68r–70r, March 23, 1320 for the *inquisitio* trial against thirty-seven men for this crime, including Parte di Bonifacio Ariosti, Brandelasio di Calorio Maranesi, Guiduccio di Filippo Ramponi, *Cosola* di Michele Maranesi, and Berto di Appolonio di Giuliano Cambio, all from magnate and elite *popolano* families (the last one the grandson of one of the most prominent of *popolano* jurists.) Next to the names of Brandelasio and *Cambiolus* Guiduccio da Dugliolo are marginalia that they were executed March 27 and 26, respectively. Given special authority (*arbitrium*) in this case, the judge moved swiftly. The trial began March 23 and the *grida* and *bannum* were proclaimed on March 24, 1320. See below for the special legislation for this crime. In the case of the killing of the Bolognese judge, the sentence specified that the special penalties applied to those banned for the crime at Conchola were to be applied to those banned in this case. Fifty-two men were banned, but sixteen men, charged as accomplices, not as the primary malefactors, appeared in court. ASB, Podesta, Inquisitiones, Mazzo 103, Reg. 1, fols. 25r–35v, Aug. 23, 1320 and Mazzo 104, Reg. 7, fols. 1v–2v, Aug. 26, 1320.

<sup>22</sup> Claudia Storti Storchi, “‘Aequalitas servanda est in iudiciis.’ Il principio dell’uguaglianza delle parti nel processo del diritto comune classico,” *Rivista internazionale dei diritti dell’uomo* 4 (1991): 376–399. Storchi sees the “progressive affirmation” of the doctrine as taking place in the thirteenth and fourteenth centuries and also traces its decline beginning with the work of Paulus de Castro (1441). *Ibid.*, p. 396 *et passim*.

Tierney, Pennington, Riesenbergh, and Storti Storch based their arguments on the writings of the jurists and statutes of the city-states. What was the reality of medieval practice? However entrenched in theory due process was, by legislative action and in practice there were many exceptions to a procedure of equality between the parties before the judge, as I will show in this chapter. Moreover, in the early fourteenth century, the growth of those exceptions and the spread of summary justice and application of torture were significantly expanded and constituted a major threat that challenged the great achievement of the *ordo iudiciarius*. The evidence of this crisis is threefold: 1) an increase in the basic inequality before the law, both according to the statutes and in practice, that is, an increasing diversity of treatment according to one's legal status; 2) an erosion of due process as the Consiglio del Popolo more frequently interfered in the workings of the courts with grants of summary justice power in particular cases, thereby undercutting equality of process between parties in court; and 3) a deepening dysfunction of the courts in both the spheres of conflict resolution and prosecution for deterrence as evidenced by a sharp decline in the number of trials in both spheres. As we shall see, behind all three developments of this crisis in the law courts were the increasing wars and factionalism that together comprised the twin blades of the scissors that rent the fabric of criminal justice.

## 2. TORTURE

Torture, as we shall see, was an integral part of due process, a legitimate procedure, but it also was deeply feared. As early as the 1220s, the author of the *osculus pastoralis*, a handbook for podestas, had Justice say that "The podesta's collective vice was... the indiscriminate use of torture in judicial proceedings. When proof was lacking, podesta immediately resorted to torture."<sup>23</sup> The mid-thirteenth century statutes specifically delineated the use of torture. It could be used against famous thieves, counterfeiters, the givers of false testimony, highway robbers, the perpetrators of homicide, treason, and for the wounding, killing and stealing of cattle, the cutting of vineyards, and arson.

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<sup>23</sup> Quoted by Pennington, *The Prince and the Law*, p. 42.

Except in the case of famous thieves, "strong suppositions" (*violente presumptiones*) were needed to justify proceeding to torture.<sup>24</sup>

By the late thirteenth century, certain citizens were guaranteed protection against torture. However, the statutes explicitly did *not* protect all citizens from torture, but only those citizens who were members of the guilds and arms societies, the "privileged *popolani*." Such persons could be tortured only by special permission of the Capitano del Popolo and in the presence of six *anziani* (executive officials of the commune).<sup>25</sup> The line of demarcation was not merely between persons who were *infamato* on the one hand, and citizens on the other (as was the case in certain other city-states, for example, Vercelli and Chieri),<sup>26</sup> but between members of the popular societies and all other citizens, i.e., between the privileged *popolani* and those citizens and groups excluded from the *popolo* party, such as magnates, Lamber-tazzi, *fumantes*, foreigners, and members of those guilds and occupations that were without political status, as discussed above in Chapters One–Three.

This distinction at Bologna between those citizens protected and not protected from torture also differs from Piero Fiorelli's conclusion that city-state statutes in general limited torture to those other than "citizens of good reputation."<sup>27</sup> Having a good reputation provided significant protection from torture in most cities, but at Bologna

<sup>24</sup> *Statuti di Bologna dall'anno 1245 all'anno 1267*, ed. Luigi Frati, vol. 1 (Bologna: Regia Tipografia, 1869), Bk. II, Rubric XXXVI, "De latronibus famosis quod quilibet possit eos tormentare," pp. 295–296, and Rubric XXXVIII, "Quod nullus ponatur ad tondolum seu tirellum," pp. 296–298. The torture had to be carried out in the presence of four officials, two of whom had to be judges.

<sup>25</sup> *Statuti di Bologna dell'anno 1288*, ed. Gina Fasoli and Pietro Sella (Vatican City: Biblioteca Apostolica Vaticana, 1937–1939), vol. 1, Bk. IV, Rubric XVII, "De tondolo et tormento," pp. 184–185. In 1292, the minimum number of *anziani* was reduced to two when the torture was ordered by the Capitano for use in his courts. ASB, Comune-Governo, Riformagioni 145, fol. 141v, August 1297. By 1323, only four *anziani* had to be present when the podesta had a *popolano* tortured. ASB, Comune-Governo, Riformagioni 198, fols. 37rv, Dec. 9, 1323. The rules concerning permission to torture a privileged *popolano* were changed in 1310 and henceforth required, in addition to the approval of the Capitano, the approval of a majority of the *anziani et consules*, the *barisellus*, *preconsulis* of the notaries, and the *preministralis* of the organization of the seven arms societies. These officials faced a penalty of 100 pounds if they did not come the same day to the meeting to vote if they were already in the city and not ill. ASB, Comune-Governo, Provvigioni III, fol. 299r, June 19, 1310.

<sup>26</sup> Pennington, *The Prince and the Law*, pp. 159–160, for the citations to the Statutes of Vercelli from 1241 and those of Chieri from 1311.

<sup>27</sup> Piero Fiorelli, *La tortura giudiziaria nel diritto comune*, 2 vols. (Milan: Giuffrè, 1953–54). Also cited by Pennington, *The Prince and the Law*, p. 160.

there was the additional protection of *political status* that one gained as a member of the guilds and arms societies. Indeed, at issue in several instances was the question of whether or not the legal protection from torture of a privileged *popolano* was lost if he became a person of ill-repute. The answer was that *popolo* privilege was not to be derogated by an erosion of the person's reputation. Thus, in two separate instances in which the person tortured protested that he had been tortured unjustly by the podesta and without permission of the Capitano, the podesta responded that the person tortured had forfeited his privileged status by living a life of crime for the past year. That response, however, was not acceptable to the Capitano.<sup>28</sup>

What process was employed when torturing a person? First of all, torture was permitted only for certain crimes, as defined by the 1288 statutes (a definition broader than that given above from the earlier statutes)—theft, highway robbery, receiving stolen goods, counterfeiting, forgery, false testimony, homicide, hired assault or assassination, poisoning, treason, arson, sodomy, procuring or harboring sodomites, kidnapping, rape, and sacrilege.<sup>29</sup> Judges had to be very cautious or face charges and heavy fines at their syndications (end-of-term reviews) for the unjust application of torture. For example, Alberto Gandino, a famous jurist who served as a judge for both the Capitano and the podesta of Bologna in different periods in the late thirteenth century, describes in his *Questiones* how he was charged at his syndication with having the servant of a *doctor legum*, Alberto di Odofredo, tortured for the rape of a child, a crime that allegedly was not included among those for which torture was permitted. Gandino had interpreted the crime of rape, or *raptus* (which could mean either kidnapping or rape), as a crime for which torture could be employed.

<sup>28</sup> ASB, Capitano, Giudici, Reg. 650, fols. 76r–95v, Sept. 16–26, 1318 for the alleged torture of Bertoluccio, son of Francesco di Giuliano the swordmaker, of *cappella* S. Maria Maggiore and *ibid.*, Reg. 653, fols. 73r–74v, March 11–12, 1319 for that of Bartolomeo di Cessabuoi (Cessabo). In both cases the podesta claimed that he could ignore the person's privileged status because that person had become a ruffian and gambler. See Appendix F, Table V.5, *Protestacio* 18 and 20.

<sup>29</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. IV, Rubric XVII, "De tondolo et tormento," pp. 184–185. There were exceptions, for example, in 1286 Giovanni di Andrea from England was tortured for assaulting and wounding a *scolaris*. ASB, Podesta, Inquisitiones, Mazzo 10, Reg. 8, fol. 9r.

The complainant maintained that *raptus* signified only kidnapping. Gandino reported, however, that he was exonerated.<sup>30</sup>

If the crime, according to the statutes, was appropriate for the application of torture, and if the judge had preliminary evidence that indicated the possible guilt of the imputed, the judge still had to ascertain whether or not a person was protected from torture by privilege, which would require that the podesta on behalf of the judge seek permission from the Capitano to torture a defendant. If the imputed were not a privileged *popolano*, the judge could make that decision himself. Thus, when a certain Deolai appeared in court on a charge of theft, the judge questioned his status and Deolai specifically and freely admitted that he was *not* a member of any popular society. The judge then had him tortured in order to obtain the names of his accomplices, a list of other thefts he had committed, and the prices he had received for his stolen goods.<sup>31</sup> However, when *Petruzinus* di Ventura from the rural commune of Monte Caldararo made a notification against three men for burglarizing his house, the judge decided not to torture Vandolo di Guiduccio *de Sovrasaxo*, who was the only one of the three imputed in custody. Vandolo had not been captured, but had responded to the summons to court, and presented two guarantors for his payment of any condemnation. There were several witnesses who, however, provided no evidence, except for one whose testimony was only hearsay. Given the lack of *violente presumptiones* and Vandolo's ability to provide guarantors, the judge apparently decided not to torture Vandolo and acquitted him.<sup>32</sup>

Sometimes, however, the podesta on behalf of his judge requested permission from the Capitano to have the imputed tortured, even in cases where he was not required to do so by the statutes. He might request permission to torture someone who was *not* a member of the popular societies, perhaps to ensure that he and his judge would not face charges at syndication.<sup>33</sup> The Capitano weighed his decisions carefully, in consultation with his judges, and might refuse permission,

<sup>30</sup> Hermann U. Kantorowicz, *Albertus Gandinus und das Strafrecht der Scholastik*, vol. 2, *Die Theorie* (Berlin and Leipzig: Walter De Gruyter & Co., 1926), pp. 398–399.

<sup>31</sup> ASB, Podesta, Inquisitiones, Mazzo 11, Reg. 6, fol. 20r, July 22, 1287. Deolai was a maker of parchment from Forlì.

<sup>32</sup> ASB, Podesta, Inquisitiones Mazzo 108, Reg. 1, fols. 41v–44r, Sept. 23, 1322.

<sup>33</sup> ASB, Capitano, Giudici, Reg. 87, fol. 61v, March 20, 1286. The podesta in this case against a certain Giuliano sought permission to torture him as an imputed assassin and sodomite, submitting circumstantial evidence (*indicia*) and the testimony of

as he did in the request from the podesta to torture a certain Lorenzo and his servant Domenico, who were two of the four attackers who allegedly had killed Pietro *Zanchi*, a prison guard (but in a home, not at the prison).<sup>34</sup>

The actual act of torture took place not in the courtroom but in the dining room of the podesta, sometimes in the presence of the podesta himself, and always with at least one *ad maleficia* judge and four other officials present (usually judges and notaries of other courts, civil or criminal). If the person to be tortured was a member of the popular societies, six *anziani* (only four at least by 1323) had to be present.<sup>35</sup> If the imputed person confessed, he or she was returned, usually after a one-day interval, to the courtroom and confessed again, this time without torture.<sup>36</sup> The records almost never describe the actual type of torture employed, although in at least two instances we learn that water, stones and the cord were the methods used.<sup>37</sup>

Not all who were tortured, however, confessed. Some few withstood the torture and confessed nothing: “*nichil dixit*.”<sup>38</sup> For example, in

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witnesses to support his request, and the Capitano, with advice from two of his judges who had reviewed the trial records, granted him permission.

<sup>34</sup> ASB, Podesta, Inquisitiones, Mazzo 96, Reg. 5, fols. 54r–77v, Oct. 7–Nov. 30, 1318.

<sup>35</sup> For the officials and *anziani* required to be present, see above.

<sup>36</sup> There are many examples in the *inquisitiones* documents, but for a published one, see Hermann U. Kantorowicz, *Albertus Gandinus und das Strafrecht der Scholastik*, vol. 1, *Die Praxis* (Berlin: J. Guttentag, 1907), Urkunden 21, pp. 203–218, Dec. 5–14, 1299. The imputed was charged with burglaries and after testimony from witnesses was tortured in the presence of the required officials.

<sup>37</sup> ASB, Podesta, Inquisitiones 33/1, fols. 8rv, Jan. 15, 1295. Those tortured were three nuncios of the commune who had stones tied to their legs and water poured on their backs. Also *ibid.*, Mazzo 36, Reg. 5, fols. 8v–9r, May 27–28, 1296, for the torture of Giacomo di Zambone, who was charged with seduction and sodomy of *Bonandus*, son of Francesco the ragman. He was tortured “with cord and stones and water many times,” but said nothing and was acquitted. Also ASB, Podesta, Accusationes, Busta 16a, Reg. 4, fols. 8v–9r, 1295, for Upizino di Ugolino from *cappella* S. Omobono who was tortured with “a great stone tied to his legs and back.” But Upizino withstood the torture and said nothing (“*nichil dixit*”). This description is from a fragment of notes the notary took during the torture procedure itself and included with his condemnations register. Upizino was one of the three nuncios whose torture is also described above from the *inquisitio* records. Kantorowicz published a document giving the hearing of a *bannitus* captured in 1289 for homicide. He was tortured (*positus ad cordam*) and confessed to other crimes as a hired assassin. Kantorowicz, *Albertus Gandinus*, vol. 1, Urkunden 108, pp. 332–334, Jan. 14–15, 1289. For a brief description of certain types of torture, see Edward Peters, *Torture* (Philadelphia: University of Pennsylvania Press, 1996), expanded edition of original edition of 1985, p. 68.

<sup>38</sup> On the phenomenon of the person silent under torture (*taciturnus*), see Mario Sbriccoli, “‘Tormentum id est torquere mentem.’ Processo inquisitorio e interrogato-

1292 three men were tortured for theft. Two of them, *Cechus* di Zeno da Caprenno and Pietro di Pace, “said nothing,” even though one of them was tortured three times. The third one, Michele di Rolando da Labante, admitted only to one theft (for which he had been captured) but to nothing else.<sup>39</sup> The implicit purpose of torture was often to elicit information of crimes other than the one for which the person had been brought into custody, as in the case of Michele di Rolando, or to probe for the possibility that a particular crime was part of a larger plot or conspiracy, as in the case of Guido di Pietro Paganelli, who was tortured for committing a homicide in the *platea*, to which he confessed. He then was tortured a second time, and confessed a second time, but only to the same crime. (Attacks in the *platea* might be or were often suspected of being committed as part of a riot or plot to overthrow the government.) One poor woman, Domina *Gysalina*, daughter of Bonaventura the shoemaker, was found in possession of 6 gold florins (presumably counterfeit) and was tortured *five times* in the presence of four *anziani* and three bankers. (According to the jurists, three times was the maximum a person should be tortured, but in this case that precept was ignored.) The *anziani* were present not because she was a member of a popular society (women were not members), but because of the seriousness of the crime and the commune’s concern about the circulation of counterfeit money. The purpose of these repeated acts of torture was obviously to elicit information, not merely confessions.

All did not always go smoothly in the transition from a first confession in the torture-chamber to the required repeated confession in the courtroom. Niccolò Bandi from Parma was charged in 1323 with burglary “as a public and famous thief and burglar.” He had been caught in the act of committing a burglary and confessed to that and other thefts, but then when given, as was usually done, a term of one day for his defense, Niccolò, in contrast to most others in his category of criminals, produced a defense and denied that he had committed any of the thefts except the one for which he was caught. He claimed that he had confessed “by error and fear of torture” and that he had committed that one theft because he was inebriated and therefore out of

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rio per tortura nell’Italia comunale,” in *La parola all’accusato*, ed. Jean-Claude Maire Vigueur and Agostino Paravicini Bagliani (Palermo: Sellerio, 1991), pp. 17–32.

<sup>39</sup> ASB, Podesta, Accusationes, Busta 10, Reg. 6, fols. 3v–7v, March and June 1292.



his mind. He also produced five witnesses to testify to his good reputation. At stake was the nature of his punishment. Had he been convicted as a notorious thief for multiple thefts and burglaries he would have been hanged. His defense was successful and his punishment was “merely” to be flogged through the city streets, the common penalty for a first-time offense of theft.<sup>40</sup> In 1324, a certain *Nerius* confessed to theft under the threat of torture, but then reneged on his confession in court.<sup>41</sup> Furthermore, torture itself might be suspended in certain cases if the medical doctors believed that further torture would be life-threatening.<sup>42</sup> Captured *banniti* were usually not tortured since their contumacy was the equivalent of confession, and judges did not seek a confession in such a case. However, a captured *bannitus* might be tortured if the judge was not certain of his identity, as in the case of Bonmartino, alias *Clericus*,<sup>43</sup> or if the judge suspected that the *bannitus* was guilty of other crimes and merited a harsher penalty than the one for which he had been captured.<sup>44</sup> Or a new accusation might be made against a *bannitus* after his capture, as happened to Andrea *Senerii* di Uguccione. He was captured in 1318 because he was under a ban from 1317 for assault against a woman. However, after his capture he was tried and tortured for the attack and killing eleven years earlier of a certain Bianco, a privileged *poplano*, whose brother made the accusation against him. The brother of the victim was most likely responding to the public proclamation announcing the capture of the *bannitus*.<sup>45</sup>

<sup>40</sup> ASB, Podesta, Inquisitiones, Mazzo 108, Reg. 3 (old number 529), fols. 3r–4r, Jan. 8, 1323.

<sup>41</sup> ASB, Podesta, Inquisitiones, Mazzo 114, Reg. 2, fol. 78r, Dec. 12, 1324.

<sup>42</sup> ASB, Podesta, Inquisitiones, Mazzo 112, Reg. 4, fols. 95v–96r, May 28, 1324. Three doctors examined Pietro Foscholi who was charged with plotting to turn the tower of the rural commune of Cavagli into the hands of political exiles. They reported that he had broken ribs, a fractured arm, and a hernia (he had already been tortured twice) and could not be tortured a third time without grave danger to his life.

<sup>43</sup> ASB, Podesta, Inquisitiones, Mazzo 111 bis, fols. 32r–33r, July 26, 1323. He was presented as a “man called Bonmartino who sometimes is called Tinarello and sometimes *Clericus* son of Antonio Bonmartino Castagnoli from *cappella* S. Cecilia.” He was under ban as an assassin.

<sup>44</sup> As happened with Armanino *Marchafasse* from Parma who was captured as a *bannitus* for an assault with blood, but was tortured and confessed to six other crimes, one a homicide in the course of horse theft, two instances of hired assassination and two other murders, the latter “because he had words” with the victims. ASB, Podesta, Accusationes, Busta 5b, Reg. 16, fols. 2r–34, July 16, 1286.

<sup>45</sup> For the capture and then trial against Andrea, ASB, Podesta, Inquisitiones, Mazzo 97, Reg. 3, fols. 56r–59v, Nov. 17–Dec. 2, 1318 and Accusationes, Busta 40b, Reg. 2, fols. 71r–72r, Nov. 23, 1318. For an example of a proclamation, ASB, Podesta, Inquisi-

Who was tortured, how often was torture used, and for what crimes? Did the frequency of torture change? Historians have raised these questions, but as Pennington noted, until actual court cases were studied, he and others could only assume that the protection from torture mandated by the jurists and statutes actually limited torture.<sup>46</sup> Vallerani has estimated that the use of torture at Perugia was very rare, but his data were based on one register from 1258, which, while complete, was from a very formative period and prior to the coming of the *popolo* to power.<sup>47</sup> How emblematic are the data from Perugia for the late medieval commune? Was torture in fact rarely used?

Fortunately, the extant court records from Bologna yield valuable evidence about these issues and permit us to test the frequency of torture a generation later than the Perugian data. Four registers of those tortured (Books of Confessions) have survived, one each from the first and second semesters of 1286, and one each from the first semesters of 1287 and 1292.<sup>48</sup> After that, for lack of funds, the commune discontinued the practice of having a notary dedicated to transcribing confessions separately.<sup>49</sup> Therefore information on torture after that change must be gleaned from the trial records themselves (the *inquisitiones*), or from the separate books of condemnation sentences (the *condemnationes corporales*).

According to the four registers of confessions, nineteen and five persons respectively were tortured in the first and second semesters of 1282, sixteen in the first semester of 1287 and thirteen in the first semester of 1292, for a total of fifty-three persons. Of these fifty-three, only one person was a member of the popular societies. Giacobino di Ubaldo the salt-seller was charged with falsification for having replaced

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tiones, Mazzo 97, Reg. 8, fol. 28v, Sep. 15, 1318. In the trial six witnesses testified. Two knew nothing, four testified to *publica fama*. On Dec. 21 he confessed.

<sup>46</sup> Pennington, *The Prince and the Law*, p. 160.

<sup>47</sup> Massimo Vallerani, "Conflitti e modelli procedurali nel sistema giudiziario comunale. I registri di processi di Perugia nella seconda metà del XIII secolo," *Società e storia* 48 (1990): 267–299, esp. p. 279. Vallerani found two cases in a collection of 560 accusations and approximately eighty inquisitions. *Ibid.*, p. 281.

<sup>48</sup> ASB, Podesta, Inquisitiones, Mazzo 7, Reg. 1 (Jan. 13–June 21, 1286), Mazzo 8, Reg. 11 (July–September 1286), Mazzo 10, Reg. 8 (January–July, 1287), Accusationes, Busta 10, Reg. 6 (January–July 1292).

<sup>49</sup> ASB, Comune-Governo, Provvigioni I, fol. 263r, July 11, 1298. Elimination of this office was part of a general reduction of staff because of the expenses of war. The work was to be done by the notaries of the podesta with no extra payment to them.

a communal grain-measuring instrument with a false one.<sup>50</sup> In addition, Giovanni di Pietro *de Alegiptis*, who was not himself a member of the popular societies but was a member of a prominent *popolano* family, was tortured and confessed to a burglary in the rural commune of S. Giovanni in Persiceto and to several instances of cattle theft.<sup>51</sup> In the case of Giacobino, but not Giovanni *de Alegiptis*, the *anziani* as well as the required officials were present during the torture, in accordance with the *de tondolo* rubric of the 1288 statutes. In the 1280s at least, that statute thus seems to have worked effectively to protect privileged *popolani* from torture. The majority of those tortured, according to the Books of Confessions, were *fumantes* or foreigners, who were usually caught in the act of burglary by officials of the commune and who confessed to other crimes at Bologna and elsewhere.<sup>52</sup> Giacomo di Guido, for example, was apprehended by the night watchmen in the street without a lantern and with a piece of timber over his shoulder. He confessed that he had stolen the wood from a certain carpenter and was taking it to a tavern where he was going for the stated purpose of having sex with a prostitute who lived there. He also confessed to other thefts—sometimes with accomplices—to being a cutpurse, to assaults, to serving as a hired assassin and having sodomized many young men while serving as a guard in the communal prison.<sup>53</sup>

Data from the Books of Confessions can be tested against data from other documents—in particular, the condemnations and *inquisitio* trial records. From a sample of approximately 1,000 *inquisitiones* from 1285–1326 I have extracted sixty-nine instances of torture. As shown in Appendix F, Table V.3, the largest categories of crimes for which torture was utilized were multiple crimes by notorious thieves (thirty-three), thefts and burglaries (eleven), and cattle and horse theft

<sup>50</sup> ASB, Podesta, Inquisitiones, Mazzo 7, Reg. 1, fol. 6r, Feb. 9, 12, 28, 1286. The trial itself is in Mazzo 7, Reg. 12, fols. 2r, 4v, 5rv, 7r, where he is further identified as Giacobino di Ubaldo *de Bergondellis*. The issue was not Giacobino's guilt, but whether or not the grain officials were involved in the fraud, that is, whether Giacobino had the measuring vessel made and substituted for the proper one with their knowledge.

<sup>51</sup> ASB, Podesta, Inquisitiones, Mazzo 8, Reg. 11, fols. 4v–5, no date given, probably late July or early August 1286.

<sup>52</sup> In the Confessions register of the first semester of 1286, nine of the nineteen tortured were foreigners and four were from the *contado*. In the Confessions register of the second semester of 1286, there was one foreigner and two men from the *contado*. In 1287, first semester, seven of the sixteen tortured were foreigners.

<sup>53</sup> ASB, Podesta, Inquisitiones, Mazzo 7, Reg. 1, fols. 1r–2r, Jan. 13, 1286.

(four), comprising 70 percent of the sample.<sup>54</sup> Most of these instances involved *infamato persone* or persons of *male vite et opinionis*, *fuman-tes* and foreigners, a pattern consistent with that found above in the Books of Confessions. However, ordinary citizens, not *persone infamato*, dominate the less frequently occurring categories of falsification (four), homicide (four), treason (three), false testimony (two), sexual abuse of children (one), arson (one), bigamy (one) and captured *ban-nitus* (one). In the entire sample of sixty-nine instances of torture, there are, moreover, only three privileged *popolani*. Parisio di Aldrevandino was tortured and condemned for falsification, and Guido di Biagio da Medicina for forging a will. Guiduccio di Giacomo Ugolini was tortured and hanged as a “famous thief,” for arson and kidnapping.<sup>55</sup>

To identify the crimes for which privileged *popolani* were most likely to lose the protection of their privilege and be submitted to torture, one must look beyond the above sample to instances of major conspiracy and uprisings, as tried in both the courts of the Capitano and the podesta. During the investigation in 1287 of a major conspiracy to abolish the Sacred and Most Sacred Ordinances of the *popolo*, prominent individuals, both privileged *popolani* and magnates, were tortured by the podesta.<sup>56</sup> In 1288, Giacomo di Ventura, *syndicus* of the fishmongers’ guild, and Garelo, a butcher from *cappella* S. Maria del Tempio, were tortured by the Capitano for their roles in a riot

<sup>54</sup> The sixty-nine instances represent trials in which torture was employed. Because of the statutory requirement that a minimum number of officials be present during the torture, the notaries of trials included those data and we can be reasonably confident that we can recognize when torture was used. However, in the condemnations records, identifying the use of torture is more problematic, as discussed below. Although each trial almost always involved the torture of one person, there is one notable exception—fourteen men were charged, tortured and convicted in one trial in 1322. All fourteen were from outside the city and district of Bologna. They were charged with coming together with many others from the *contado* of Modena to the *contado* of Bologna at the request of one of the counts of Panico and trying with him to seize Castel Rodiano and of planning to kill and rob the men of that *castello*. All confessed and were hanged. ASB, Podesta, Inquisitiones, Mazzo 108, Reg. 1, fols. 56r–58r, Oct. 14, 1322.

<sup>55</sup> ASB, Podesta, Inquisitiones, Mazzo 4 (only register in that mazzo), fols. 41r–44v for Parisio, *ibid.*, fols. 4r–5v for the Ugolini, Mazzo 6 (only register), fols. 62r–75r for Guido Biagio. All three instances are from second semester 1285.

<sup>56</sup> ASB, Podesta, Inquisitiones, Mazzo 11, Reg. 4, fols. 58r–91v, July–August. *Popolani* tortured and confessing included Giacomo di Bonagratia Alberti *Machadini* (fol. 76r), Tancredino Sabadini (fol. 78v), Bernabo Gozzadini (fol. 78r), Pietro di Musolino d’Argela (fol. 78v) and Lanzalotto Gozzadini (fol. 79r), all political leaders of the *popolo*. The magnates were Lazzaro Liazzari, Ubaldino Malavolta, and Comacio Galluzzi.

against the podesta.<sup>57</sup> In 1295, in a trial against members of the shoemakers' guild for conspiracy, members of that guild were tortured by the Capitano.<sup>58</sup> In 1303, the leader of the March conspiracy of that year, Castellano Piantavigne, from one of the most prestigious *popolano* families, was captured for plotting to turn the city over to the Marquis of Este of Ferrara and was almost certainly tortured, since his confessions follow the pattern that occurred when torture was used. His first confession was before the podesta and his judge in the *sala* (presumably the podesta's dining room) of the communal palace, in which he provided details of his plotting. He then repeated his confession in court. Also tortured for this conspiracy, penalized with fines, and then sent *ad confiniam* outside the district of Bologna were members of the politically prominent *popolano* families of the Beccadelli, Artenisi *sive* Beccadelli, Calamatoni, Battagliucci, Bianchi di Cosa, and Gozzadini.<sup>59</sup> But torture was not applied systematically in instances of treason. For example, in 1321 a ban was issued against Francesco Buvaelli and Paolo di Bonifacio Ariosti, members of prominent families, for having contacts with exiles and *confinati* "to the detriment and subversion and perfidy of the commune and *popolo*." The ban was harsh and issued summarily. The first summons was issued Oct. 21 and called for their immediate appearance in court (instead of the usual three days), and instead of the usual issuing of further summons, the ban was read the next day. It gave them only two days (instead of eight) to appear, and if they failed to do so, they were to be fined 1,000 pounds and decapitated. Francesco appeared on Oct. 26, beyond the deadline, but was not tortured or bodily punished. Instead, he was sent *ad confiniam*.<sup>60</sup> Torture was used in cases of treason and conspiracy, but not when the commune wished to control certain people, rather than

<sup>57</sup> As required by law, six *anziani* were present at their torture. The investigation was an elaborate one, and the torture of the two came after the testimony of eighty-six men. ASB, Capitano, Giudici, Reg. 115, fols. 37r–44r, July 1–9, 1288.

<sup>58</sup> ASB, Capitano, Giudici, Reg. 260, which is dedicated entirely to that conspiracy, much of which is published in Kantorowicz, *Albertus Gandinus*, vol. 1, pp. 264–65, 270–277.

<sup>59</sup> ASB, Podesta, Inquisitiones (old numeration Reg. 256), fols. 37r–43r, April 3 and 4, 1303 for Castellano, who was decapitated for treason. *Ibid.*, fols. 8r, 10v–15v, April 12, 1303 for the other sentences. The Piantavigne conspiracy is discussed by Vallerani and Vitale, but not the trial itself, or the use of torture in that trial. Vallerani, "Il potere inquisitorio," pp. 397–398; Vitale, *Il dominio della parte guelfa*, p. 90.

<sup>60</sup> ASB, Podesta, Inquisitiones, Mazzo 106, Reg. 1, fols. 28r–29v, Oct. 21, 1321.

solicit information from them or punish them, depending upon the political circumstances.

Privileged *popolani* and ordinary citizens were also most likely to be tortured in instances of fraud, forgery and false testimony. In these instances, as in conspiracy cases, good reputation or even privilege did *not* protect citizens from torture. For example, in 1287 Giovanni di Ubertino da Rodiano and two others were tortured and confessed to having testified falsely at the *dischum Ursi* in support of the archbishop Barufaldo da Roffeno's claim that certain properties confiscated by the commune in a homicide case belonged to him and not to the imputed.<sup>61</sup> In 1295, four women were charged with false testimony, tortured, and then condemned. Three were immolated, but the fourth was spared because she was pregnant.<sup>62</sup> In 1304, Rodolfo di Giacobino da Borgo Peradelli was tortured and confessed to testifying falsely when he claimed he saw, through a fissure in the wall of a room, Michele di Giovanni, Bernardo di Michele da *Signano* and Nascimbene di Alberto plotting with the Marquis of Este of Ferrara (because those three had caused his father to be tortured).<sup>63</sup>

Not surprisingly, notaries, whose guild was one of the most prestigious and powerful of the popular societies, were most likely to be charged and tortured for forgery. As noted above, two of the four trials for falsification from the sample of sixty-nine instances of torture involved privileged *popolani*. In addition, Pietro di Guglielmo of *cappella* S. Martino dell'Aposa, a notary, was tortured for audaciously forging a document which he used at Piacenza to present himself falsely as a special nuncio of the commune and people of Bologna (ostensibly sent to Piacenza to recruit mercenaries), and for forging a peace agreement two years earlier (which the beneficiary used fraudulently to have his ban lifted).<sup>64</sup> In 1304, Magister Giacomo di Bonmercato was tortured and confessed to having committed fraud by substituting three military projectiles of wood for three authentic ones of metal

<sup>61</sup> ASB, Podesta, Inquisitiones, Mazzo 11, Reg. 4, fols. 123r–125v, Nov. 17, 1287.

<sup>62</sup> ASB, Podesta, Inquisitiones, Mazzo 33/II, Reg. 4, fols. 7r–24r, May 17–June 27, 1295, and ASB, Podesta, Accusationes, Busta 16a, Reg. 4. False testimony in a homicide case carried the death penalty and in other criminal cases amputation of the right hand. In civil cases the penalty was a fine of 300 pounds. Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. IV, Rubric 51, "De pena falsorum testium et facientium instrumenta falsa et eum vel ea producentium," p. 213.

<sup>63</sup> ASB, Podesta, Inquisitiones, Mazzo 62, Reg. 3, fols. 29r–30r, Sept. 22, 1304.

<sup>64</sup> ASB, Podesta, Accusationes, Busta 12b, Reg. 12, fols. 3v–4v, Sept. 30, 1293.

owned by the commune. He also confessed that he had committed other similar acts of fraud against the commune.<sup>65</sup>

Although there are as many instances in our sample of torture for homicide (four) as for falsification (four), ordinary citizens and privileged *popolani* were relatively seldom tortured for homicide, given the far greater number of trials (in comparison to those for falsification) in which they were accused of homicide. The reason for this disparity is that in most instances of homicide the culprits were not captured at the scene of the crime. Instead, they fled and were placed under a ban that called for their execution by decapitation if they were ever captured. If captured as a *bannitus*, they were usually not tortured since their contumacy (their failure to respond to the summons to court and subsequent ban) was viewed as the equivalent of confession. But, as the sample shows, if brought to trial for homicide, and if the preliminary evidence was sufficient, then again a good reputation did not protect an ordinary citizen from torture.

Protection against torture was one of the most zealously guarded rights of due process of the privileged *popolani*, as is indicated by a trial for conspiracy and riot brought against members of the very prominent *popolani* families of the Mantici and Gozzadini in 1289. The riot itself was provoked by the outrage that arose when the Capitano and *anziani* permitted the torturing of a certain Bartolino, a privileged *popolano*.<sup>66</sup> In a similar vein in 1294, at the syndication (end-of-term review) of the Capitano, Giovanni di Giovanino successfully sought punishment of the Capitano for having threatened Giovanni, a privileged member of the popular societies, with torture.<sup>67</sup> Particularly in the environment of increased factionalism and fear at the turn of the century, when false accusations and false testimony constituted a serious problem, the threat of torture was real even for an innocent privileged *popolano*. Thus, in a trial in 1324 against witnesses charged with having given false testimony, one of the chief concerns was that

<sup>65</sup> ASB, Podesta, Accusationes, Busta 26b, Reg. 12, fols. 7r–8r and Reg. 1, 1304. He was dragged by the tail of an ass to the gallows and hanged.

<sup>66</sup> ASB, Capitano, Giudici, Reg. 127, fols. 55r–80v, 125r–128v, July–August 1289.

<sup>67</sup> Kantorowicz, vol. 1, *Albertus Gandinus*, Urkunden 20, pp. 201–202, Oct. 14, 1294: “quia eidem Johani intullit minas tormentorum, ducendo eum sub tondolo in pallatio primiciriariorum...et eidem in ea parte dicto Iohani non servavit statutum de tondolo et tormento, ut tenebatur, et maxime quia constat ipsum Iohanem esse privilegium et de societatibus populli.” The Capitano was fined 100 pounds by the syndics.

the false testimony had led to the torture of Marco di Lorenzo of *cappella* S. Cristoforo di Saragozza and others who were members of the popular societies and were innocent of the crime.<sup>68</sup>

What percentage of trials used torture? Almost always a trial with torture and confession was initiated by *inquisitio* procedure.<sup>69</sup> In order to derive a percentage of those tortured, one should therefore calculate the cases in the Books of Confessions against the total number of *inquisitio* trials for those years, or extract the number of torture cases from the *inquisitio* trial records. But the surviving *inquisitiones* records, as massive as they are, are incomplete. As Vallerani noted, we do not have definite data on the total number of such trials. However, Vallerani also concluded that the number of *inquisitio* trials was very low, ranging between fifty and 100 cases per semester. If we therefore assume that there were 200 to 400 trials in a four-semester period, then our fifty-three trials with torture from the Books of Confessions (which represent all torture instances for four semesters) would comprise a low of 13.2 percent or a high of 25.5 percent of *inquisitio* trials. However, such a high percentage would probably be exaggerated, since in selecting his sample of *inquisitio* trials, Vallerani did not consider the role of the *maleficia nova* courts (the courts dealing only with *contado* cases), or proportionately include data from those courts

<sup>68</sup> ASB, Podesta, Inquisitiones, Mazzo 112, Reg. 3, fols. 68r–76v, 89r–90r, April 14, 1324.

<sup>69</sup> I have only found three instances of torture in a trial initiated by accusation procedure. ASB, Podesta, Accusationes, Busta 40b, Reg. 2, fols. 71r–72r, Nov. 23, 1318. Andrea *Senerii* di Ugucione from the rural commune of Pontevecchio (formerly Ponte Maggiore) was charged with attacking and killing Bianco, son of the notary Giacomo di Leonardo from *cappella* S. Maria Porta Ravegnana. Both father and son were members of the popular societies and therefore privileged *popolani*. Andrea was tortured, confessed to the murder and named his associates who were *banniti*. For the testimony in this case, see ASB, Podesta, Inquisitiones, Mazzo 92, Reg. 3 (old numeration VR 165), Liber Testium. A second *accusatio* trial in which torture was probably used is that against Antonino di Giovanni from Padua, accused by Bianco *Megli* from *cappella* S. Maria degli Allemanni of being a “divinator et incantator” and of having defrauded the accuser of 18 gold florins. ASB, Podesta, Accusationes, Busta 48b, Reg. 766, fols. 4rv, March 26–April 1, 1326. The third instance constitutes a particularly interesting case, because the charge was against two men from Ferrara, both of whom were in custody, but only one of whom was tortured. The two men were brothers. Giovanni was accused of committing a homicide, and Michele was accused of ordering the killing and assisting in its execution. Giovanni seems to have been tortured and confessed, but Michele (whom Giovanni insisted was not involved) was not tortured and was acquitted. ASB, Podesta, Accusationes, Busta 39b, register without number, fols. 5v–6v for the *accusatio*, *ibid.*, Reg. 107, fol. 31r for the condemnation of Giovanni, and *ibid.*, Inquisitiones, Mazzo 94, Reg. 4, fols. 10r–14v for the testimony.



in his sample. (He included only one *mazzo* from that court in his sample.) The *maleficia nova* courts were headed, not by foreign judges and notaries from the entourage of the podesta, as were the *ad maleficia* courts, but by Bolognese judges and notaries, acting under the authority of the podesta's *ad maleficia* judge, and assigned to certain cases that originated in the *contado*, including cases of major crimes. As part of a major overhaul of the judiciary in 1294, these courts were shorn of their responsibilities for major crimes and their functions were limited to adjudicating over minor property damages and cases arising from the confiscation of properties.<sup>70</sup> The judges of the *maleficia nova* courts were not permitted to use torture in their trials, even prior to 1294 when their court included major crimes. Therefore, if a sample from the years prior to 1294 has a disproportionate mix of *ad maleficia* trials (where torture was permitted) and *maleficia nova* courts (where torture was not permitted), the frequency of torture can be exaggerated or minimized. Inclusion of the *maleficia nova* trials in a calculation of the incidence of torture in *inquisitio* trials would reduce the percentage of trials with torture at least by one half, to between seven and 12 percent.

That the range of seven to 12 percent from the confessions data is an accurate estimate, especially the lower figure, is confirmed by our sample of approximately 1,000 *inquisitiones*, as given in Tables V.1 and V.2. The percentage of trials between 1285 through 1296 in which torture occurred was 5.5 percent and the comparable figure between 1304 through 1326 was 7.7 percent. These data, moreover, are roughly comparable with Vallerani's data from Perugia in 1258. Vallerani had eighty completed *inquisitio* trials, of which fifty ended in acquittals and twenty-six in condemnations (the remaining four may not have

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<sup>70</sup> An addition to the statutes of 1288, dated Jan. 29, 1294 calls for the *ad maleficia* court to have an additional judge and two more notaries, for a total of two judges and six notaries. Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. I, Rubric IIII, "De sacramento domini potestatis," pp. 8–18, esp. pp. 17–18. The reorganization can also be deduced from the increased number of judges and notaries in the *ad maleficia* court after 1294–95 and the total disappearance of *maleficia nova* registers from the podesta series despite the continued existence of the latter court. For the statutory authorization of an extra *miles* and four more notaries for the *ad maleficia* court, see below, footnote 103. Vallerani apparently was unaware of this reorganization, and describes this court as dealing only with minor cases. Massimo Valerio Vallerani, "Sfere di giustizia. Strutture politiche, istituzioni comunali e amministrazione della giustizia a Bologna tra Due e Trecento," tesi di dottorato, Università degli Studi di Torino, 1992, pp. 265–267.

had verdicts given). In his monograph on Perugia, which has more detailed information than his article, we find that torture occurred in three trials (but only in two did the tortured person confess). Using his data, we can calculate that torture was used in 3.7 percent of the eighty completed *inquisitio* trials. We also can use Vallerani's data to calculate the percentage of condemnation sentences at Perugia (not including bans—that is, condemnations in which the imputed was in custody) in which torture occurred—25 percent (four of twelve sentences).<sup>71</sup> As we shall see, a similar picture emerges from the Bolognese data. Torture, when viewed not in absolute terms, but in the context of those who were actually in custody and available to be tortured, looms much larger than when viewed in the context of all *inquisitio* trials.

The Bolognese condemnation records comprise a much richer series than the Bolognese Books of Confessions, but the condemnation registers vary considerably in terms of their completeness. Each of the criminal court notaries wrote his sentences on folios separate from the trial records, and these folios were then bundled together to form the condemnations series, with each bundle or register often containing just the sentences of a few notaries or even one notary and rarely those of all the criminal court notaries (for most of our period there were eight notaries).<sup>72</sup> I have compiled a sample of thirty-one condemnations registers, from the second semester of 1286 through the second semester of 1325, providing 369 sentences of condemnation.<sup>73</sup> In some registers, particularly in the first two decades of our

<sup>71</sup> Massimo Vallerani, *Il sistema giudiziario del comune di Perugia. Conflitti, reati e processi nella seconda metà del XIII secolo* (Perugia: Deputazione di Storia Patria per l'Umbria, 1991), pp. 31, 88, 114, 118–122. All three of those tortured in Vallerani's sample were men of *male fame*.

<sup>72</sup> ASB, Podesta, Accustationes, Busta 44b, Reg. 452, fol. 16v, Jan. 2, 1322. At this point there were two judges *ad maleficia*, with jurisdiction each over two quarters. Each was assigned four notaries. ASB, Podesta, Accusationes, Busta 45b, Reg. 1, unbound two-folio fragment, 1322. The number of notaries can also be deduced from the registers themselves when they form a complete series, for example, the registers of absolutions for 1302. ASB, Podesta, Accusationes, Busta 24, Regs. 6 and 7.

<sup>73</sup> There is no analytical inventory for the *Accusationes* documents in which the condemnation records are found, so I provide here the citations for the condemnation registers: ASB, Podesta, Accusationes Busta 5b, Reg. 16, 1286 II; (hereafter the first number in parentheses is the busta and the second is the register), 6b.13, 7a.4 & 5, 7b.16 & 17, 9a.3, 9b.27, 10.14, 12b.12, 16a.4, 22b.21–22, 25b.15–40, 26b.11–14, 27a.19, 27b. 46–47, 28a.5, 28a.19, 30b.29, 32a 5, 7–9, 32a (two registers, no numbers), 37b. 995, 39b.107, 41a.16–20, 40.213, 43a, 339 & 346, 44a. (no number), 46b. 572, 47b (unbound folios), 47a. 653, 48a. 914, 48a (no number), 48b.733.

sample period, the notaries indicated whether or not the condemned had been tortured and confessed, but in later records of the series they simply referred to the condemned as having confessed spontaneously (*sponte*), which means we cannot know for certain whether or not they were tortured.

In the first condemnations register, from 1286, the number of trials with individuals tortured is high—eleven of twenty trials (55 percent). In another four instances the imputed confessed, but the notary does not refer specifically to the torture of the imputed. None of the sentences involve members of the popular societies or elite, but one person, Giovanni di Pietro Alegretti, was from a *popolano* family, as noted above in discussion of the Books of Confessions (in which members of the family also appear). Eight of the twenty persons condemned were foreigners and another five were from the Bolognese *contado*. Only one of the tortured was a woman, Giacobina di Giacomo of *cappella* S. Maria Maggiore, who had been banned for the strangulation of her daughter “and many other crimes,” not specified. The number of captured *banniti* was also relatively high, comprising seven of the twenty (35 percent) condemned persons.<sup>74</sup> For all extant condemnations from the 1280s, the proportion of condemned who were tortured remains high—twenty-six of fifty-six persons (46.4 percent), with an additional seventeen persons who confessed, at least some of whom were probably tortured. Fifteen of the fifty-six (26.7 percent) were captured *banniti*. From the 1290s there are eight extant registers and the pattern of torture, confession and captured *banniti* persists, with twenty-three of eighty-three (25 percent) tortured. Two notaries, however, recorded only confessions and did not indicate torture. If we look at the total of those who confessed, at least some of whom would have been tortured, the total is fifty-five of eighty-three (66 percent). The number of captured *banniti* was twenty-seven (32.5 percent).

In the opening decades of the fourteenth century, the notaries almost consistently fail to indicate whether a confession had been extracted by torture. For example, in 1300 twenty-three men were condemned and all are noted as having confessed, but the notaries do not indicate whether torture was applied.<sup>75</sup> Thus, of the total of 103 sentences for the first decade of the fourteenth century, eighty-seven confessed,

<sup>74</sup> ASB, Podesta, Accusationes, Busta 5b, Reg. 16, July–December 1286.

<sup>75</sup> ASB, Podesta, Accusationes, Busta 22b, Reg. 21.

but only in the case of fifteen sentences did the notaries indicate that torture had been applied, an artificially low figure. For the rest of the period the same problem in notarial formulas persists, making it difficult to calculate torture rates in the early fourteenth century (and later) from condemnations records. For the late thirteenth century, however, the data clearly support the conclusion that between 25 and 50 percent or even more of those who suffered corporal punishment had been tortured, even though the condemnation records do not permit us to know whether those figures were sustained or increased in the opening decades of the fourteenth century. Another weakness of the condemnations records is that they of course do not include any indication of those who were tortured, but did not confess and were acquitted. Fortunately, by turning from the condemnation sentences to the trials themselves as found in the *inquisitiones* records we can overcome these problems to a certain extent. More importantly, we can place these data in the broader context of the system's functioning. By seeing how acquittals and convictions were derived and how the decision to torture was made, we can better understand the role of torture and especially whether or not the courts adhered to the principles and rules of due process.

### 3. DUE PROCESS

How frequently did the courts rely upon witnesses and evidence for conviction and how much on torture and confession? What was the ratio of convictions to acquittals? The historiography behind these questions has undergone significant revision recently. Traditionally, historians have viewed criminal justice in the late medieval Italian city-states as weak and ineffectual, as evidenced by low conviction rates, high numbers of perpetrators who fled and who were consequently placed under ban, and were never captured. Also deemed a sign of system failure were the expediency measures employed by the communes, such as amnesties and the peace agreement (the *pax*), used to reconcile the offender with his or her victim, with mitigation or cancellation of the penalty or ban. The revisionist ("processual" or "instrumentalist") interpretation, however, sees the commune seeking punishment mainly against those from the marginalized classes, and not against all offenders. Those revisionist historians maintain that the system's low level of condemnation sentences was not a symptom

of its weakness, but rather an indication that it was more concerned with reconciliation than revenge, with conflict resolution rather than prosecution and punishment, even in the case of certain major crimes by citizens, such as homicide. Trevor Dean sums up the processual interpretation by noting: "Public justice thus constituted a system for the mediation or containment of citizens' conflicts, not for the punishment of their transgressions."<sup>76</sup> Glenn Kumhera reaches a similar conclusion in his study of the *instrumenta pacis*:

The commune's inability to enforce its statutes effectively and punish every crime to the extent dictated by statute, with peace agreements precluding inquests from the podesta and reducing fines, has been taken as demonstration of the commune's weakness. In this scheme, the communes were forced to employ peace agreements because of the lack of effective enforcement. This interpretation, though, assumes that the goals of the commune were to punish every offender and, in Weberian terms, to monopolize the sources of legitimate violence.<sup>77</sup>

The evidence from our sample of Bolognese *inquisitiones* certainly points to the weakness of the courts if one judges them by the modern yardstick of conviction/acquittal ratios.<sup>78</sup> As shown in Tables V.1 and V.2, acquittals and suspensions of trials comprised 35 percent of the verdicts from 1285–1296, and 46.6 percent for 1304–1326. Bans and condemnations combined (the latter for those in custody) comprised 45 and 48 percent for the two periods, with bans constituting more than twice the number of condemnations. Only 16 percent of all verdicts were for the punishment of the imputed and that figure includes a significant percentage of captured *banniti*. In the condemnations register from 1286, for example, seven of the twenty persons condemned (35 percent) were captured *banniti*. The figure for all condemnation records of the 1280s is fifteen of fifty-six (26.7 percent).

<sup>76</sup> Dean, *Crime in Late Medieval Italy*, pp. 19–20.

<sup>77</sup> Kumhera, "Making Peace in Medieval Siena," p. 181.

<sup>78</sup> For the sample I have chosen registers of the period that were complete, undamaged, and most importantly, contained trial verdicts, which were written into the margins of the trials after the sentence had been rendered. Unfortunately, not all notaries returned to the registers to add the verdicts. The data in the tables are based on trials and verdicts (occasionally a trial would yield two or more differing verdicts) and not on the basis of the number of defendants. To use the number of defendants would have distorted the findings on process, since although most trials comprised a single defendant, an occasional trial could have as many as fourteen or more defendants.

But was the high percentage of acquittals and suspensions of trials a sign of weakness, or an indication that due process was followed carefully and the rights of the imputed safeguarded, or both? At least some of the acquittals and suspensions reflect how differently the medieval courts functioned in contrast to modern courts. Policing outside the auspices of the courts was very limited, restricted to the infantrymen (*berorarii*) and guards (*familia*) of the podesta who mainly were responsible for patrolling the streets to ensure that laws against walking outside at night with weapons or without a lantern were enforced, and that gambling did not take place except under the control of specially designated persons. There were also 108 night watchmen (*super-guardie noctis*) whose main task was to guard the walls and closed gates of the city at night.<sup>79</sup> Sometimes it was one of these officials who caught a culprit in the act of committing a crime, especially a burglar, but it was just as likely to be neighbors who raised the alarm and captured the suspect. Consequently, the medieval courts were burdened with responsibilities of a police nature. The judges served as "police detectives," sifting through the reports of *ministrales* and *massarii* and private citizens, evaluating them and deciding whether or not to continue a case or simply to abandon it as such. For example, in one assault case the judge determined that the trial should not proceed because the blow struck was accidental and therefore not a crime, as well as because of the youth of both the putative offender and victim.<sup>80</sup> Sometimes the *ministrales* would report a homicide, but not even be able to provide the name of the victim, nor would an investigation by the court, even the interrogation of as many as thirty-three witnesses, yield that minimum piece of evidence.<sup>81</sup> But each of these cases appears in the records as a trial, no matter how preliminary in nature the *inquisitio* was. When an alleged culprit was presented to the judge with no notification or denunciation, the judge had to begin

<sup>79</sup> ASB, Comune-Governo, Riformagioni, serie cartacea, Busta 216, Reg. 5, fols. 120v–121v, July 14, 1288 and ASB, Comune-Governo, Riformagioni 137, fols. 315rv, July 13, 1293.

<sup>80</sup> ASB, Podesta, Inquisitiones, Mazzo 117, Reg. 3, fols. 44r–45v, July 17, 1326. This type of report occurred more frequently in 1325 and 1326, possibly because of a recent law reiterating that urban *ministrales* and rural *massarii* must report all crimes within three days. ASB, Comune-Governo, Riformagioni 199, fols. 232v–233r, April 19, 1325.

<sup>81</sup> ASB, Podesta, Inquisitiones, Mazzo 92, Reg. 3, fols. 21rv, May 1, 1317. The trial concluded with the decision not to proceed, specifically because neither the name of the person killed nor the name of the killer was known.

the trial by trying to find out why the culprit had been captured.<sup>82</sup> In a trial for arson, the judge, by interrogating witnesses, determined that the fire had been accidental and ruled that no crime had taken place.<sup>83</sup> In 1287, the judge carried out an *inquisitio* concerning the death of Domina *Belda* Garisendi, seeking to determine whether or not she had died from natural causes. Six women testified that she had died a natural death and a medical doctor who had treated her testified that she was old and infirm and had died from apoplexy, not poisoning.<sup>84</sup> The courts and judges also had direct responsibility for determining the cause of death when an unidentified body was found. For example, in 1285 the *ministrals* of an urban parish reported that they had found the body of a dead woman next to the church of the Franciscan Minorites, between the rivers of the Aposa and Reno. In this and similar cases, the parish officials merely reported finding the body and did not even seek the woman's identity. The judge pursued the same process in this type of case as he would when the notification of a crime by the parish officials included the names of the victim and perpetrator—he sent his *miles* and a notary to the scene of the crime to interrogate witnesses and to ascertain, first of all, whether a crime had been committed at all. The *miles* heard the testimony of seven witnesses, none of whom knew the name of the dead woman, but all of whom had seen her lying dead on the ground. One witness saw someone fleeing and heard the alleged victim screaming “stop him, he killed me.” That witness reported that he had chased the alleged perpetrator and although he failed to catch him, he was able to identify him as “the bastard son of a certain man called Coradello who had a furnace at the head of of borgo S. Pietro.” On the basis of this testimony, and with the failure of that person to respond to the summons to appear in court, the judge and podesta issued a sentence of perpetual ban

<sup>82</sup> ASB, Podesta, Inquisitiones, Mazzo 8, Reg. 1, fols. 36r–37r, Nov. 24, 1286. In this case the imputed person had been captured by several men from the *contado* who heard he had stolen some clothes. The imputed turned out to be a cleric and was turned over to the *vicarius* of the bishop. The judge questioned four witnesses in his efforts to determine who the imputed was and why he had been captured and brought into custody.

<sup>83</sup> ASB, Podesta, Inquisitiones, Mazzo 119, Reg. 3, fols. 13rv, Sept. 25, 1326, and fols. 19rv, 20r–21v, Jan. 12–27, 1327. The trial was against the *massarius* of the rural commune of S. Giovanni in Triario for not reporting the arson. The judge determined that the fire was accidental and there had been no crime to report.

<sup>84</sup> ASB, Podesta, Inquisitiones, Mazzo 10, Reg. 7, Liber Testium, fols. 23rv.

against Coradello.<sup>85</sup> Similarly, in 1289 the *maleficia nova* court was informed that Gualtiero Cople from the *contado* of Pistoia who lived in the Bolognese rural commune of Camugnano had been robbed and wounded by five unknown men on the road to Savignano or Casio. The robbers had taken the victim's clothes, weapons, 4 gold florins, other assorted coins, and a gold ring. The judges investigated and found witnesses who reported they had heard from certain pilgrims that a man was robbed by five men, in that particular place and month, and supplied the name of one of those alleged culprits. The judges placed him and the man who had given him shelter under ban.<sup>86</sup> Such cases would not be viewed as trials in modern record-keeping systems. In the Bolognese records, not only those trials, but also trials in which it was determined that a crime had *not* in fact even been committed are also treated as trials, i.e., as trials that augmented the number of suspensions (a specific type of verdict) and acquittals. For example, in 1323 the judge, again *ex officio*, conducted an *inquisitio* against anyone and all who had said anything defined as "treasonous," i.e., by calling for an uprising, saying that the city should be ruled by the Ghibelline, Lambertazzi, Scacchese or Maltraversa parties, or advocating the readmission into the city of any *bannitus* or *confinatus* from the political turmoils of 1306 through 1321.<sup>87</sup> In this case no one was found suitable for investigation and the trial was cancelled.

The judges could perform a strong prosecutorial as well as police role. They might take the initiative to obtain evidence other than the testimony of witnesses, but only rarely did they do so. Thus, in 1305 an entire register, comprised of the writings of all eight of the *ad maleficia* court's notaries, was dedicated to a single investigation concerning the circulation of counterfeit money in the city. In the course of that trial, ninety-seven witnesses were interrogated in a successful effort to identify offenders. Both of the judges *ad maleficia* conducted the trial, and were empowered to use "presum[p]tiones or *fama*...or any other kind of proof." In the course of the trial, several men were tortured.<sup>88</sup>

<sup>85</sup> ASB, Podesta, Inquisitiones, Mazzo 3, (only register in this mazzo), fols. 43v–45r, July 30, 1285.

<sup>86</sup> ASB, Podesta, Inquisitiones, Mazzo 15, Reg. 3, fols. 1r–3r, May 24, Liber Testium.

<sup>87</sup> ASB, Podesta, Inquisitiones, Mazzo 109, Reg. 4 (old numeration 586), fols. 142rv, June 21, 1323.

<sup>88</sup> ASB, Podesta, Inquisitiones, Mazzo 64, Reg. 3, fols. 1r–38v, July 10–15, 1305. *Arbitrium* to use torture and summary procedure was authorized by the Consiglio del Popolo, *ibid.*, fol. 28r, July 10, 1305.



In a trial concerning the killing of a Bolognese judge, Giacomo di Bon-giovanino, by a member of the prominent Bentivoglio family, again (coincidentally) ninety-seven witnesses were interrogated. This time, however, the multitude of witnesses, with only one exception, swore they knew nothing.<sup>89</sup> Moreover, the judge often did not limit himself to questioning only the witnesses listed in the notification or *denuncia*. For example, in a case of arson, robbery and homicide in Castel Scopeto, in which the judge did not know from the notification who the culprits were, he interrogated more than eighty persons, bringing in witnesses from several rural communes that were not listed in the notification as involved in that crime.<sup>90</sup> When a prostitute claimed that one of her clients had stolen some of her goods, the judge ordered one of his officials to search the imputed's house for evidence of the

<sup>89</sup> ASB, Podesta, Inquisitiones, Mazzo 104, Reg. 7 (second half), fols. 1v–2v, 4r–10v, Aug. 26, 1320. The defense produced twenty-four witnesses. The defendant was charged with aiding his two brothers who actually committed the crime. The killing took place in the midst of a riot. The defendant with many men prevented his brothers from being captured and brought them into his home after the crime. The notification was made by the son of the victim, who gave his *estimo* as 3,500 pounds. The crime had tremendous repercussions and the killers were banned under the same terms as those banned a few months earlier for killing pilgrims at Conchola, for which see below.

<sup>90</sup> ASB, Podesta, Inquisitiones, Mazzo 3 (only register in the mazzo), fols. 88r–111v, Oct. 16, 1285. In this case the judge *ad maleficia* himself went to the scene of the crime for the initial investigation, instead of sending his *miles* and notary or consigning the case to the judges of the *maleficia nova* court. According to the witnesses, the culprits comprised a large band of approximately eighty-nine men. In addition to homes, the church and rectory of S. Pietro da Scopeto were burned. Mostarda, son of Count Maghinardo da Panico was one of those eventually charged, but he appeared in court and was able to prove that he had been in the *contado* of Florence, at the place to which he had been confined by the commune of Bologna, at the time of the crime. Another trial, again involving some of the same great *contado* nobles, concerned the kidnapping of a four or five-year old boy. The notification again did not name the culprits, but instead used the language of supplication to ask that the crime be investigated and the culprits identified. During the interrogation of witnesses, one of the culprits was identified as of the da Cuzzano family and another as the son of Rustigano da Scopeto. ASB, Podesta, Inquisitiones Mazzo 4, (only register in the mazzo) fols. 142v–147v, Sept. 21, 1285. Both the *ad maleficia* and *maleficia nova* courts investigated the kidnapping. The judges' aggressive role in these cases probably stemmed from the commune's concern over the feuds between the da Scopeto and other *contado* nobles of which these two crimes seem to have been a part. The feud continued beyond the 1280s, as indicated by the making of a peace accord between the da Cuzzano and Monteveglio on the one side with the da Scopeto on the other side in 1296, a peace accord brokered by the banker and merchants' guilds. The arbiters were given authority to cancel bans in making the accord. ASB, Comune-Governo, Provvigioni I, fol. 124v, May 12, 1296.

theft.<sup>91</sup> In 1323, in a trial in which the notifier claimed an assassination had occurred over a failure to pay owed money, the judge ordered an inspection of the person's financial records (*rationes*).<sup>92</sup> The judge also acted as prosecutor in a trial in 1326. In that particular case the podesta had ordered his judge to investigate the accounts (*rationes*) of the notary Guglielmo di Matteo Giovanni of *cappella* S. Barbaziano, who had served as treasurer (*massarius*) at the tax office (*officio gabelle grosse*). The imputed appeared in court and the judge ordered him to produce his books and accounts. After reviewing those materials and other documents submitted by the notaries who had served with the imputed, the judge himself introduced into the trial certain proofs against the imputed, which included copies of statutes concerning the accounts, the *arbitrium* of the podesta, and penalties for crimes, as well as the confession of the imputed, the calculations made by the two notaries, and a list of payments made to the imputed (which contradicted the list of calculations). The judge itemized twenty instances of fraud based on the accounts and testimony of witnesses.<sup>93</sup>

These occasional displays of prosecutorial and investigative activities, however, were not the norm. Indeed, Vallerani has portrayed the courts as largely reactive and triadic (with the judge serving as referee between dueling parties), not only in accusation-initiated trials, but also in *inquisitiones*. In his view, the role of the notifier in an *inquisitio* trial was largely comparable to that of the accuser in a private accusation trial. In both kinds of trials the triad format was used, in which the judge served as a referee and the two parties, actor or accuser and the accused (and/or their attorneys), dueled with each other or settled out of court, using the court trial merely as an instrument in their efforts at conflict resolution. As noted above, the purpose of the trial was generally reconciliation between the conflicting parties, not revenge and punishment of the offender. Also, as in the case of private accusations, notifiers had to be citizens and be registered in the tax rolls (*estimi*).<sup>94</sup>

<sup>91</sup> ASB, Podesta, Inquisitiones, Mazzo 4 (only register in the mazzo), fols. 87rv, Sept. 4, 1285. A nuncio of the judge went to the imputed's house and there found a *parolus* which did not belong to the imputed, who claimed that a friend had lent it to him a few days earlier. He was acquitted.

<sup>92</sup> ASB, Podesta, Inquisitiones, Mazzo 109, Reg. 4 (old number 586), fols. 18r–44r, March 10, 1323.

<sup>93</sup> ASB, Podesta, Inquisitiones, Mazzo 119, Reg. 5, fols 5r–16r, Oct. 8, 1326.

<sup>94</sup> ASB, Podesta, Inquisitiones, Mazzo 103, Reg. 2, *passim*, for listing of *estimi*. As in accusation trials, the notifier also had to pay a *gabella* in order to make a notification

However, the question remains as to what extent *inquisitio* trials were dominated by notifiers and to what extent notifiers actually served an active, prosecutorial role. In general, as Vallerani also noted, it is difficult to distinguish between notifications that originated with a private citizen as opposed to those reported by officials. In most of the extant records, only occasionally does one find a clear indication of how the trial originated. Vallerani did not attempt a statistical analysis of the frequency of trials with notifiers (*cum promovente*). Fortunately, in 1326 the notaries exceptionally and explicitly noted trial origins so we can see the relative frequency with which trials originated by notification from a private citizen, *denuncia* by an official, or *ex officio* by the judge. Our sample contains 132 trials, which divide into sixty-seven (50.8 percent) by *denuncie*, thirty-six (27.3 percent) by notification, and twenty-two (16.6 percent) *ex officio*. The origins of seven (5.3 percent) of the trials are not given, usually because the trial was a continuation from the prior semester. It is rare, however, to find cases in any of the extant records of *inquisitio* trials that can be identified as “*cum promovente*,” that is, an *inquisitio* trial with the notifier actually serving as prosecutor as he or she would in a trial initiated by private accusation. There is an *inquisitio* trial in 1285 in which the notifier was the father of the alleged rape victim and clearly was using the trial to pressure the imputed to settle out of court, a goal he apparently accomplished, since the trial ends with the marriage of perpetrator and victim.<sup>95</sup> This particular *inquisitio* trial is exceptional in that it proceeded as if it were a trial by private accusation, with the advantage to the notifier that he was not responsible for trial costs as he would have been in a private accusation trial. Most notifiers, however, even when identified, did not play the role in an *inquisitio* trial that the accuser played in a private accusation trial. They made the notification, but did not perform the role of prosecutor. A *promotor*, that is a private citizen registering notification of a crime, seems generally not to have served in the prosecutorial role that an accuser would perform in an *accusatio*.

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and present a *carta bullata* to show that payment had been made at the time of the notification.

<sup>95</sup> ASB, Podesta, Inquisitiones, Mazzo 4 (only register in the mazzo), fols. 50v–52v, Aug. 29, 1285. The father made the charge of rape after the birth of the child. When asked by the judge why she had not made a complaint earlier, the victim said she had been expecting the imputed to marry her.

Given the fact that the notifier did not have to pay trial expenses, why would a person go the private accusation route instead of the notification-*inquisitio* route? One motivation was the leverage the notifier lost in an *inquisitio* since he could neither control the process of calling and questioning the witnesses nor force the trial to closure before sentencing. In a private accusation case the accuser could settle out of court and cancel the trial by paying a small fine, thereby using the trial itself as a means of bringing his opponent to settlement. In order to play that role in a notifier-*inquisitio* trial, the notifier had to take on (at least some) of the responsibilities of a prosecutor or serve as *coadiunctor*. In only a very few cases, such as the case above in which the rape victim's father served as notifier, is there evidence of the notifier playing an active role as prosecutor. In another example from 1326 of a notifier who assumed at least some prosecutorial responsibilities, the notifier, Benino di Galvano Gozzadini, administrator of the church of S. Maria di Liano, made a notification with payment of the *gabella* and presentation of his *estimo*, against twenty men from Liano. He charged that they had formed an armed band (*guarimentum*) and had entered the properties of his church and occupied them. All twenty of the imputed appeared in court and their attorney made an objection (*exceptio*), claiming the trial should not continue because the case should be under the jurisdiction of the bishop. The attorney of the notifier, however, made a criticism (*reprobatio*) of the *exceptiones* and claimed the trial should proceed. In turn, the attorney for the defense responded that the criticism was "frivolous" and that the *exceptiones* should be admitted. The judge's sentence is given in full in the text, which is a rarity in itself, and was issued in favor of the defense. This trial follows the process of an accusation-initiated trial, except that there is no evidence that the notifier posted securities or presented witnesses.<sup>96</sup> In the case of a *coadiunctor*, however, that person did take responsibility for presenting witnesses and guarantors for the witnesses. In addition, he might provide the judge with the interrogatories the judge would use in questioning the witnesses. However, and this difference is crucial, if the notifier opted to play the *coadiunctor* role (that is, to act not merely as the notifier but officially

<sup>96</sup> ASB, Podesta, Inquisitiones, Mazzo 119, Reg. 2, fols. 186r–196v, Dec. 12–31, 1326.

as prosecutor, with specific recognition by the court of that role), he or she then became responsible for the expenses of prosecution.<sup>97</sup>

The *coadiunctor* was usually not the person who made the notification, but a relative of the victim. For example, Quiriaco di Zaccaria Alerari made a notification against eleven men for entering his property in the rural commune of Crespellano and also entering the properties of Giacomo di Quiriaco Alerari, and pillaging those properties. The trial began with the usual interrogation by the *miles* of witnesses at the scene of the crime, produced by the *massarius* and three good men of the rural commune. In this case all the witnesses provided only hearsay and *publica vox et fama* testimony. Two weeks after the beginning of the trial, Guinizello di Quiriaco Alerari, brother of the notifier, appeared in court as attorney and “*coadiunctor* of the office of the said lord podesta” and produced witnesses and guarantors for himself and his witnesses.<sup>98</sup> Another case in which we find a private citizen serving in an *inquisitio* as prosecutor or *coadiunctor* is a trial against four women for testifying falsely in a homicide trial. The *coadiunctor*, unlike the notifiers in most trials (who did not serve as prosecutors), posted securities for himself and for his witnesses, as one would in an *accusatio* trial.<sup>99</sup> If the notifier chose not to prosecute the case, he or

<sup>97</sup> ASB, Podesta, Inquisitiones, Mazzo 117, Reg. 12, fols. 4r–9r, Feb. 25, 1326, and fols. 16r–21r, Feb. 27, 1326, Liber Testium, for the *coadiunctor* presenting witnesses and guarantors for those witnesses. In this case the *coadiunctor* was the husband of the victim. The charge was kidnapping or rape (*raptus*) and the trial was initiated by the *ministrals* of the *cappella* S. Procolo. ASB, Podesta, Inquisitiones, Mazzo 119, Reg. 1, fols. 52r–62r, Sept. 6–Oct. 22, 1326, for payment of the *gabella* by the notifiers. Not coincidentally, the charge in this case of stealing grapes masked the real issue between the parties—that of ownership of the property. The expenses of a trial could be significant. They are usually not given, but we have the expenses incurred by the defense in an accusation trial. They comprised 8 pounds for an advocate, 6 pounds for an attorney, 19 pounds and 8 *solidi* to taverners who provided food and drink for the detainees and witnesses, 6 pounds for another advocate, 10 *solidi* for another taverner, for a total of 42 pounds and 19 *solidi*. In this case the accuser was required to pay the defense’s expenses. ASB, Podesta, Inquisitiones, Mazzo 8, Reg. 14, unbound folio at the end of the register, July 14, 1286. Also *ibid.*, Mazzo 111, Reg. 1, fol. 54r, Oct. 14, 1323, for expenses that totaled 23 pounds, 11 *solidi*.

<sup>98</sup> ASB, Podesta, Inquisitiones, Mazzo 119, Reg. 1, fols. 73r–82r, Sept. 21–Nov. 14, 1320. The *coadiunctor* in this case is the alleged victim in another trial against the same individuals, but in this case the charge is threatened assault with offensive weapons. *Ibid.*, fols. 83r–91v, Sept. 24–Nov. 13, 1326.

<sup>99</sup> The *inquisitio* trial with *coadiunctor* in which these witnesses were charged with giving false testimony is in ASB, Podesta, Inquisitiones, Mazzo 33/II, Reg. 4, fols. 7r–24r, May 17–June 27, 1295. Their condemnation is in ASB, Podesta, Accusationes, Busta 16a, Reg. 4, fols. 1r–2r. They were charged with having testified falsely

she might supply a list of "those who know the truth" in the notification; however, the notifier in such a case was not responsible for the expense of calling those witnesses to court, nor was the judge limited to questioning only those witnesses.

A key point in trial origins and *inquisitio* versus *accusatio* procedures was who paid the trial expenses. The government, rather than seeking to expand its authority through the use of *inquisitio* procedure (the view of traditional historiography), preferred that disputes be resolved by *accusatio* procedure, where the accuser bore the costs unless the imputed was convicted. The notifier in an *inquisitio* trial did not pay costs, but did pay at least some costs if he or she prosecuted the case, as for example, if he or she provided the interrogatories to be used by the judge in questioning the witnesses.<sup>100</sup> The more the notifier or *coadiunctor* acted in an *inquisitio* as if he were an accuser in an *accusatio* trial, the more he paid. There was a hierarchy in trial origins. If the judge initiated an *inquisitio* and found that an *accusatio* had been lodged, the *inquisitio* was suspended. Similarly, a notification by a private individual replaced a *denuncia* by an official.<sup>101</sup> In the same vein, if a petitioner lodged a *querela* with the Consiglio del Popolo and that body gave special authority (*arbitrium*) to the podesta to prosecute that case, and if an *inquisitio* was already underway, the *querela*-initiated trial superseded the *inquisitio*. Furthermore, as in the case

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in a homicide trial the prior March. In the course of the trial for false testimony the imputed were tortured. Their penalties were amputation of their right hands and tongues for two of the women and amputation of the right hand for the third. In a related trial for false testimony against three men there is also a *coadiunctor* for the prosecution, and he also posts securities and produces witnesses. ASB, Podesta, Inquisitiones, Mazzo 33/II, Reg. 4, fols. 25r–29r, May 17–28, 1295.

<sup>100</sup> ASB, Podesta, Inquisitiones, Mazzo 119, Reg. 1, fol. 61r, Oct. 7, 1326.

<sup>101</sup> ASB, Podesta, Inquisitiones, Mazzo 119, Reg. 4, fols. 11r–21r, Aug. 18–Oct. 23, 1326. In this case the *ministralis* of *cappella* S. Matteo degli Accarisi made a *denuncia* against Zoene di Filippo Foscherari of *cappella* S. Maria dei Carrari for an attack with drawing of blood against Zovenzone di Giovanni Zovenzoni that occurred in *cappella* S. Matteo degli Accarisi. That trial was dismissed the next day and a new trial initiated when Biancholino di Giovanni Zovenzoni of *cappella* S. Maria Porta Ravegnana, brother of the alleged victim, made a notification concerning the same attack. Biancholino, the notifier, served as *coadiunctor* and as such presented his guarantors and his own list of witnesses. His witnesses took an oath. Ibid., Reg. 6, fols. 48r–51r, Sept. 14, 1326 for a *denuncia* by the *massarius* of the rural commune of S. Martino in Soverzano of an assault with drawing of blood which proceeded to the appearance of the imputed and the setting of three terms (*dilationes*) for their defense on Oct. 14, but on Nov. 26 the judge declared that the trial would not proceed. From Reg. 7, fols. 11r–18r, the Liber Testium of this notary, we learn that the trial did proceed, but as an accusation-initiated trial.

of an *accusatio*, the petitioner had the right to lodge a *renuncia* and terminate the *querela*-initiated *inquisitio* trial before its conclusion.<sup>102</sup> The primacy of accusation procedure was not a sign, *ipso facto*, of the weakness of the state, but it did stem from the fiscal pressures the government faced. It could not afford to be aggressive, given its limited fiscal and human resources, to use *inquisitio* procedure as a weapon against all offenders. In December 1295 the Consiglio del Popolo, concerned about public order because of the onset of a major war with the Marquis of Este of Ferrara, broadened the *arbitrium* of the podesta to enable him to use *inquisitio* procedure without the usual restrictions to assaults in public places, the *contado*, etc. Indeed, it specified that the podesta would have *arbitrium* for all crimes described in Book IV of the statutes. But within weeks it was found necessary to withdraw that authorization because the courts were overwhelmed with the ensuing workload.<sup>103</sup>

The high rate of acquittals and suspensions in *inquisitio* trials did not, therefore, stem from notifications serving the same role as private accusations, with the latter's high rate of infrajudicial settlement and *renuncie*.<sup>104</sup> Nor can they be explained only by the investigative "pre-trial" role of the courts. As we shall see, most of the acquittals and suspensions occurred because of 1) jurisdictional restrictions on the

<sup>102</sup> ASB, Podesta, Inquisitiones, Mazzo 119, Reg. 2, fols. 174r–179v, Oct. 31, 1326.

<sup>103</sup> ASB, Comune-Governo, Riformagioni 139, fols. 139rv, Jan. 24, 1295. The original legislation, which was reversed on Jan. 24, 1295, is found *ibid.*, fol. 115v, and is dated Dec. 17, 1294: "Et multitudo casium contemptorum in dictis statutis, ordinamentis, et reformationibus sit quod per ipsum dominum potestatem et eius familiam nullo modo possint vel valeant explicari. Et occasione confusionis et inpesibilitatis officium mallificiorum non possit comode terminare...." The new legislation then goes on to itemize all the crimes for which the podesta would now have *arbitrium*. At this time extra staff for the podesta was added (another *miles* and four more notaries to enable the podesta to fulfill his responsibilities). In a further streamlining of process, this legislation decreed that witnesses "de nichillo" would no longer be used in accusation trials. The point on the witnesses "de nichilo" is noted by Massimo Vallearani, "I processi accusatori a Bologna fra Due e Trecento," *Società e storia* 78 (1997): 741–788, esp. p. 779.

<sup>104</sup> I have found only two instances of *renuncie* by notifiers. In one case, the trial (property damages) was suspended because of a *renuncia* made by the *massarius* and the rural commune. ASB, Podesta, Inquisitiones, Mazzo 103, Reg. 1, fols. 35r–38v, Sept. 3, 1320. In the second case, against the *massarius* of a rural commune for permitting a *bannitus* to live there, the trial was suspended when the notifier renounced the charge. ASB, Podesta, Inquisitiones, Mazzo 103, Reg. 2, fols. 10r–13v, July 21, 1320. There are also *renuncie* in *querela*-initiated *inquisitiones*, as in the case of an assault in 1326, ASB, Podesta, Inquisitiones, Mazzo 119, Reg. 2, fols. 174r–179v, Oct. 31–Nov. 3, 1326.

*arbitrium* of the podesta, 2) a system of anonymous charges that was permitted in the earlier years, 3) the impunity permitted to offenders of victims under ban and those who had not paid their taxes or loans, 4) interference from the Consiglio del Popolo, and 5) above all, adherence to due process in the face of a lack of evidence.

The jurisdictional problems usually arose in assault cases, which is not surprising given the restrictions placed on the podesta's *arbitrium* for that crime. Thus, in 1324 an assault case was suspended because the imputed was a *scolaris*, and the attack itself took place during the day.<sup>105</sup> In another trial, the assault took place, according to the charge, in the *platea*, but the defendant claimed that the attack took place outside the boundaries of the *platea* and went on to prove his case with the testimony of thirteen witnesses.<sup>106</sup> Trials for assault were also suspended, even when the assault took place in a public place such as the Trivio Ravegnana, if the victim were not a *civis* and member of the popular societies.<sup>107</sup> Conversely, assault charges were dismissed if the alleged perpetrator was a member of the popular societies specifically privileged with certain legal immunities.<sup>108</sup> Changes in the podesta's *arbitrium* also caused ambiguities, and subsequently the suspension of trials, as when his authority to initiate a trial by *inquisitio* procedure was curtailed. (Such crimes would then have to be initiated only by *accusatio* procedure). For example, in 1324 he seems to have lost his authority to initiate an *inquisitio* over those charged with assisting someone in the commission of a homicide. *Bonafesca* and *Balduccio* were present along with many others when their brother Guido struck and killed *Liardinus* di Pietro in the *platea* of the rural commune of Sassonero, and were charged with assisting their brother. The medical doctors reported, however, that there was only one mortal wound, and despite the testimony of nine witnesses, including one eyewitness who testified that the brothers were at the scene and participated in the attack, the trial did not proceed, specifically because the podesta did not have jurisdiction for such a crime.<sup>109</sup> In a similar case, the

<sup>105</sup> ASB, Podesta, Inquisitiones, Mazzo 112, Reg. 1, fols. 14r–16v, March 10–May 2, 1324.

<sup>106</sup> ASB, Podesta, Inquisitiones, Mazzo 93, Reg. 3, fols. 11r–15v, July 20, 1317.

<sup>107</sup> ASB, Podesta, Inquisitiones, Mazzo 119, Reg. 4, fols. 49r–51v, Oct. 27–Dec. 4, 1326.

<sup>108</sup> ASB, Podesta, Inquisitiones, Mazzo 112, Reg. 1, fols. 78r–8lr, June 2–28, 1324.

<sup>109</sup> ASB, Podesta, Inquisitiones, Mazzo 112, Reg. 2, fols. 24r–30r, March 27–April 20, 1324. There is a similar case, *ibid.*, Reg. 4, fols. 39r–53v, April 24–May 2, 1324. The podesta's *arbitrium* over assault also changed, as in 1296, with the beginning of



defendant claimed the podesta did not have jurisdiction and the judge ordered a *consilium sapientis* (a legal opinion from a Bolognese jurist outside the court), which declared the trial should not proceed because the nature of the help was not specified.<sup>110</sup> (A trial for assisting in a homicide did go forward, in fact, during the same period, but that case was initiated by a *querela*, that is by special authorization from the Consiglio del Popolo and with the nature of the aid specified.)<sup>111</sup> Crimes that took place outside the city, *contado* and district of Bologna also were sometimes tried, but ended in suspension for that reason. For example, a certain Aimerico di Bernardo was in custody and charged with a homicide. Eyewitnesses identified him as the killer, but he denied the attack and also made a defense based on the crime having occurred in the *contado* of Count Alessandro da Mangone, outside the Bolognese court's territorial jurisdiction. He was tortured, and when he confirmed the place of the attack, he was released.<sup>112</sup> Similarly, a charge of kidnapping and robbery at Cento (north of Bologna towards Ferrara) against Bartolomeo di Giacomo Caccianemici, a *lupus rapax* (a magnate or noble required to post securities guaranteeing his good behavior), and seven others was dismissed because that location was under the jurisdiction of the bishop of Cento, not the commune.<sup>113</sup>

Anonymous charges, which were permitted in the late thirteenth century, but disappear from the records in the early fourteenth century, tended to consist of frivolous charges and usually ended in suspension or acquittal. Anyone could deposit a slip of paper with charges of crimes allegedly committed in either of two boxes (*capse*) placed one each in the communal and *popolo* palaces. The Capitano

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the war against the Marquis of Este, and was again restricted after the conclusion of that war in 1299. Sarah Rubin Blanshei, "Crime and Law Enforcement in Medieval Bologna," *Journal of Social History* 16 (1982): 121–138, esp. 127.

<sup>110</sup> ASB, Podesta, Inquisitiones, Mazzo 117, Reg. 7, fols. 2r–4v, Jan. 8–Feb. 7, 1326.

<sup>111</sup> Ibid., fols. 74r–78v, March 18, 1326.

<sup>112</sup> ASB, Podesta, Inquisitiones, Mazzo 4 (only one register in this mazzo), fols. 56r–59v, 71r, 75r–78v, Aug. 20–Sept. 9, 1285. A witness testified that he knew the scene of the crime (the rural commune of Mangone or *terra Mugonis*) was in the jurisdiction of the Counts of Mangone because he had seen the counts have men hanged there. The defense also produced a document from the notary Giacomo di Lorenzo Bonacatti that he had read the names of all the communes, *castelli*, and places in the district of Bologna in the books of *fumantes* and had not found the name of "terra Mugonis." It was established by the testimony of several witnesses that the crime had taken place in Mangone, but that the victim had been carried to nearby Casio, in the territory of Bologna and there he had died.

<sup>113</sup> ASB, Podesta, Inquisitiones, Mazzo 12, Reg. 5, fols. 7v–10v, Jan. 6, 1288.

and the *anziani*, with other officials as witnesses, regularly opened these boxes and transmitted the charges eligible for initiation to the podesta for action. In the 1285 sample alone there were seventeen such charges.<sup>114</sup>

Direct interference in judicial matters from the Consiglio del Popolo also contributed to the number of trials that ended in suspension. In 1296, the war-time *junta* of Eight Lords and five *anziani* that controlled the government interfered in at least two trials. Those officials had negotiated a *pax* between the parties in both cases and required that the judge suspend the trials.<sup>115</sup> A trial against twenty men from the rural commune of Casio, who were charged with acting as a armed band (*guarimentum*) to commit property damages, was suspended in 1326 by order of the *anziani*, again because they had arranged a *pax* between the parties.<sup>116</sup> Giacomo di Gandolfino, a tailor from *cappella* S. Cristoforo di Saragozza, and Marcello his son, were charged with assault in 1324, with six eyewitnesses testifying against them, but the defendants appeared in court and presented a copy of a special *riformagione* passed by the council of *sapientes* of the Standard-bearer of Justice and the Consiglio del Popolo. The *riformagione* declared that the defendants could not be harassed or aggravated with this charge. The judge appointed a *consilium sapientis* which was in favor of the defendants and the judge did not proceed with the trial.<sup>117</sup>

One of the larger barriers to obtaining a conviction was the *exceptio*, for example, one that prevented the culprit's prosecution because of the status of the victim or the offender.<sup>118</sup> We have already seen that

<sup>114</sup> ASB, Podesta, Inquisitiones, Mazzo 3 (ten charges), Mazzo 4 (three charges), Mazzo 6 (four charges).

<sup>115</sup> ASB, Podesta, Inquisitiones, Mazzo 36, Reg. 5, fols. 52rv, 199r, March and May, 1296, and *ibid.*, fols. 53r–61v, March 27 and May 13, 1296.

<sup>116</sup> ASB, Podesta, Inquisitiones, Mazzo 119, Reg. 3, fols. 4r–6r, Sept. 6–16, 1326. As was often the case with such bands, they came with many others to the victim's home, in this case in the rural commune of Vigo, with flags and pennants flying. They entered his home by force and robbed him of money, clothes, and linens, valued at 100 pounds.

<sup>117</sup> ASB, Podesta, Inquisitiones, Mazzo 112, Reg. 2, fols. 11v–17r March 14–June 2, 1324.

<sup>118</sup> On the *exceptio* in Bolognese trials in the early fourteenth century, see also Vallerani, "Il potere inquisitorio" pp. 409–413, and his "I processi accusatori a Bologna," pp. 773–774. Between bans and *exceptiones*, Vallerani estimates that 70 percent of *inquisitio* trials ended for reasons external to the will of the judge. He also postulates a major change of diminution of privileges and trial interruptions with the lordship of Cardinal del Poggetto in 1327.

the podesta could not prosecute an assault case if the victim were a foreigner. Clerical privilege also comprised an exemption from prosecution, if the perpetrator were of that status.<sup>119</sup> Another obstacle to obtaining a conviction arose if the victim were a *bannitus*, since *banniti* could be injured or even killed with impunity. For example, in an assault case in 1321, the defense produced documents showing that the victim was under ban and the judge, after reviewing the documents, declared that the trial could not proceed.<sup>120</sup> In 1320, a homicide trial was suspended because the victim was a *bannitus*.<sup>121</sup> One of the most frequently used *exceptiones* was the claim that the victim had lost his or her rights to justice in the criminal and/or civil courts, usually because he or she had failed to pay taxes.<sup>122</sup> Even in a trial initiated by a *popolano* against magnates, in which case the accuser was buffered with significant legal advantages, the delinquent tax payer status (*malpaghus*) of the accuser invalidated the charge. Thus, in 1323, Domina Aldie di Cambio Vetri (*que est de populo*), charged twenty-four *contado* nobles with coming as an armed band (*guarimentum*) to attack her home in the rural commune of Ancognano. There were eight eyewitnesses at the scene of the crime, but the defense successfully claimed that she was *malpagha* four different times. She denied she was *malpagha*, but two *consilia sapientis* went against her and the case was dismissed.<sup>123</sup> The same loss of protection of the law was applied

<sup>119</sup> ASB, Podesta, Accusationes, Busta 4, Reg. 17, fol. 4r, July 8, 1284. The charge was property damages.

<sup>120</sup> ASB, Podesta, Inquisitiones, Mazzo 106, Reg. 4, fols. 30r–34r, Oct. 27, 1321. The trial originated *ex officio* and *publica fama*. The charge was assault with drawing of blood of a woman, *Benasuta* di Giovanni from Viceno. The attorney for the defense produced copies of the pertinent statutes and a copy of the ban against the victim made in 1314. The attorney for the victim denied she was under ban and claimed the *Benasuta* who was banned was another person. But the attorney for the defense brought witnesses who testified that the banned *Benasuta* and the victim were the same person and the judge suspended the trial.

<sup>121</sup> ASB, Podesta, Inquisitiones, Mazzo 103, Reg. 7, fols. 26r–33v, December 1320. The imputed was Gilino di Pasino da Scanello who had been called Gilino da Loiano. Gilino had been banned in 1319 and at that time moved from Scanello to Loiano. The imputed was Gerardino di Giovanni *de Dentibus*, a tailor, and the killing took place in Loiano as a result of an argument between the two men.

<sup>122</sup> Vallerani, “Il potere inquisitorio,” traces the “criminalization of fiscal evasion” to the early years of the fourteenth century, but the process began at least twenty years earlier, as noted below, footnote 127.

<sup>123</sup> ASB, Podesta, Inquisitiones, Mazzo 108, Reg. 2 (525, 401), fols. 32r–59v, Jan. 16, 1323. For other *malpaghus*–interrupted trials, see ASB, Podesta, Inquisitiones, Mazzo 112, Reg. 1, fols. 8r–13r, Feb. 28–April 12, 1324, and *ibid.*, fols. 48r–62v, April 11–May 28, 1324.

to those enrolled in the Twenty-five (an urban military unit) if they failed to produce an obligatory horse for service,<sup>124</sup> to those who did not make required purchases of salt,<sup>125</sup> and to those not serving in a military expedition.<sup>126</sup> Nor could a victim bring a charge to court, either by notification or accusation, if he or she were not enrolled in the *estimo*. Thus we find trials suspended for that reason, as in a trial in 1285 and another in 1286.<sup>127</sup> Depriving people of their legal rights in order to ensure their compliance with government orders was a practice in place at least by the 1280s, but it accelerated considerably at the turn of the century under the pressures of war and famine. For example, in 1296 the Consiglio del Popolo declared that anyone from the city or *contado* who did not pay a tax of one *denarius* for each pound of their *estimo* or a forced loan (*prestanza*) of two *denarii* per pound would lose their rights in the civil courts for the next five years.<sup>128</sup> It also declared that debtors of the commune who did not pay their debts within the next eight days were also to lose their rights in the civil courts for the next five years.<sup>129</sup> That same year it also decided

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The claimants, be they victim or defendant, supplied precise information concerning for which *collecte* and *prestanze* the victim or defendant was *malpaghus*.

<sup>124</sup> ASB, Comune-Governo, Riformagioni 148, fol. 326v, Aug. 16, 1298. For example, ASB, Podesta, Inquisitiones, Mazzo 109, Reg. 4, fols. 2v–9r, Feb. 26, 1323. The *exceptio* was valid unless the charge was homicide. Any *cives* who lived in the *contado* and did not enroll in the urban Twenty-five was punished by having his status changed to that of a *fumans*. ASB, Comune-Governo, Riformagioni 145, fol. 123r, June 21, 1297.

<sup>125</sup> ASB, Podesta, Inquisitiones, Mazzo 93, Reg. 3, fols. 43r–44r, Aug. 22–Sept. 19, 1317.

<sup>126</sup> ASB, Podesta, Inquisitiones, Mazzo 62, Reg. 2, fols. 9v–11v, Oct. 16, 1304. The podesta was not required to use full proofs (*plenas probationes*) when prosecuting *militēs* who left a military expedition without license. He could use *indicia et presumptiones*, depending on the deed and status of the person. ASB, Comune-Governo, Riformagioni 145, fols. 123v–124r, June 12, 1297.

<sup>127</sup> ASB, Podesta, Accusationes, Busta 4, Reg. 22, fol. 21r, Oct. 1, 1285. ASB, Podesta, Inquisitiones, Mazzo 8, Reg. 6, fols. 1r–6v, Aug. 13, 1286. In this trial the defendant cited a law made in 1281 or 1282 (in one of the regimes of the Capitano Aymericus *de Alantis*) that the accuser could not make an accusation because those “not having an *estimo* ought not to be rendered justice in civil or criminal cases by authority of a *riformagione* made during the time of Dominus Aymericus *de Alasandris*” (non habentibus extimum jus non debet reddi in civilibus neque criminalibus vigore reformationis facte tempore domini Aymerici *de Alasandris*). A *consilium sapientis* on this issue was in favor of the defendant. The same law is cited in ASB, Podesta, Accusationes, Busta 7b, Reg. 10, fol. 30r, unbound folio, located between fols. 9r–10r, where the law is dated April 16, 1281. This law would have been enacted right after the compilation of the new *estimo* by Pace *de Pacibus*.

<sup>128</sup> ASB, Comune-Governo, Provvigioni I, fol. 68r, June 19, 1296: “Non reddatur ei jus in causa civili hinc ad quinque annos.”

<sup>129</sup> *Ibid.*, fol. 69r. They also lost their right to hold office for five years.

that those who did not perform their duty of garrisoning Castel S. Pietro were to lose their rights in both the civil and criminal courts for five years.<sup>130</sup> The Consiglio also decided in 1296 to revise the tax rolls in order to raise more money and declared that anyone who did not enroll in the new *estimo* would lose his or her rights in the civil courts for the next ten years.<sup>131</sup> The ten-year period for loss of rights, in this case in both civil and criminal courts, also applied to everyone between the ages of eighteen and seventy who did not respond to the call to serve in the army at the siege of Bazzano.<sup>132</sup> Penalties became more drastic as the war continued. In 1297, magnates who did not pay the *collette* or *prestanze* within eight days were assigned the status of *lupi rapaces*, *popolani* became magnates and their properties were confiscated, those who belonged to the guilds and arms societies were cancelled from those societies, and the officials of rural communes were imprisoned until their communes paid their taxes. The people of those communes also lost their legal rights in civil cases.<sup>133</sup> At the same time it was also decided that members of the Council of 4,000 who did not pay the 20 *solidi* required for membership would lose their posts and be declared *malpaghi*, thereby losing their legal rights.<sup>134</sup> Not surprisingly, the use of *exceptiones* became more frequent in the courts as the loss of legal rights became a more common penalty for failure to pay taxes or serve militarily. Finally, in 1325, the Consiglio del Popolo, specifically recognizing “that crimes remain unpunished” because of *exceptiones* for non-payment of taxes or salt, for debt to the commune, for not being enrolled in the Twenty-five, or not having an *estimo*, decided that such *exceptiones* would no longer be valid in either an *inquisitio* or an *accusatio* trial. The motive for the change was loss of revenue, estimated as 10,000 pounds per year.<sup>135</sup>

More trials ended in acquittal than suspension, however, and the primary reason for acquittals was that the courts followed due process

<sup>130</sup> Ibid., fol. 107v, April 5, 1296.

<sup>131</sup> Ibid., fol. 113v, April 12, 1296.

<sup>132</sup> Ibid., fols. 206v–207r, Nov. 10, 1296. During that ten-year period they could not hold office and could be attacked in their person or property with impunity by any offender. If members of the popular societies, they were to be removed from those societies and given the status of magnates. If they were magnates, they were to be declared *lupi rapaces*.

<sup>133</sup> ASB, Comune-Governo, Riformagioni 145, fols. 116v–117v, June 12, 1297.

<sup>134</sup> ASB, Comune-Governo, Riformagioni 145, fol. 117r, June 12, 1297.

<sup>135</sup> ASB, Comune-Governo, Riformagioni 199, fol. 232v, April 19, 1325.

punctiliously and defendants were released for lack of evidence. The standard of proof was high. The courts had to have two eyewitnesses or a confession for conviction.<sup>136</sup> Confessions usually happened only under and after torture.<sup>137</sup> Only in rare cases did a conviction occur with lesser proofs if the podesta had not received a special *arbitrium*. For example, in a homicide case in 1324, the culprit was convicted with only one eyewitness at the scene of the crime and other witnesses.<sup>138</sup> Circumstantial evidence alone, however, no matter how compelling, was not sufficient for conviction. For example, the *ministralis* of a *cap-pella* reported that a woman had been assaulted with a drawing of blood by her husband. Witnesses testified that they had seen her running out of the house, bloodied and crying that her husband had struck her. They also saw the husband chase her to her brother's house. The brother also testified that she had come running to him with her husband chasing her. Nevertheless, no one had seen the husband actually strike the blow and he was acquitted because he was "not found guilty" (*non inventus culpabilem*).<sup>139</sup> The use of half-proofs or *fama* required specific authorization from the Consiglio del Popolo. For example,

<sup>136</sup> Richard M. Fraher, "Conviction according to Conscience: The Medieval Jurists' Debate concerning Judicial Discretion and the Law of Proof," *Law and History Review* 7 (1989): 23–88. The use of some combination of half-proofs, *publica fama* or *presumptiones* for conviction, as done in later years, for example at Reggio in the late fourteenth century, was not permitted at this point at Bologna without special *arbitrium* granted to the podesta for each instance of its use, as we shall see below. Joanna Jill Carraway, "Inquisition Procedure, Due Process, and Defendants' Rights: Reggio Emilia, 1371–1409," Ph.D. diss., University of Toronto, 2007, p. 6, citing John Langbein, *Torture and the Law of Proof: Europe and England in the Ancien Régime* (Chicago: University of Chicago Press, 1977), pp. 6–8.

<sup>137</sup> In the face of strong evidence, however, the imputed in a false testimony trial from 1320 confessed, apparently without torture. ASB, Podesta, Inquisitiones, Mazzo 103, Reg. 4, fols. 35r–37v, 43r–50v (first half of register), fols. 1r–8v (second half of register), July 31–Aug. 18, 1320. In an *ex officio* assault case, in which torture could not and was not used, Giacomo di Pietro [da] Friuli, described as a foreigner, was seized by bystanders and taken to the podesta. At his trial three of the four witnesses were eyewitnesses to his attack. He confessed, was fined 400 pounds and imprisoned. ASB, Podesta, Inquisitiones, Mazzo 112, Reg. 1, fols. 55v–57v, April 29–May 29, 1324.

<sup>138</sup> ASB, Podesta, Inquisitiones, Mazzo 112, Reg. 1 (612), fols. 98r–96r, June 1324. In this case the imputed was presented to the judge by the *massarius* and eight other men from the rural commune of Crespellano. The imputed expressed his willingness to be tortured, possibly hoping that by resisting torture he could prove his innocence. But torture was apparently not used in this case, and the imputed was condemned to decapitation.

<sup>139</sup> ASB, Podesta, Inquisitiones, Mazzo 109, Reg. 3 (old number 582), fol. 30r, April 1, 1323. On the limits of circumstantial evidence, see Fraher, "Conviction according to Conscience," and Massimo Vallerani, "I fatti nella logica del processo medievale,"

in 1299 the Consiglio del Popolo, in its provisions of how properties would be reallocated to Lambertazzi whose bans had been lifted, was concerned with the problem of “fictitious contracts.” In such contracts, the properties of Lambertazzi had been hidden from confiscation by fabricated sales of property to non-Lambertazzi. In such cases it was decided the Capitano could act “by legitimate or half-proofs or by *publica fama*.”<sup>140</sup> Only in certain crimes, for example, in trials for gambling, was *publica fama* a sufficient proof for conviction.<sup>141</sup> As we shall see (section 8 below), summary justice and the use of half-proofs were also granted to the podesta on a case-by-case basis in response to petitions. In those cases the *arbitrium* of the podesta was carefully delineated, with distinction, for example, between an *arbitrium* that was “generale,” which usually meant a grant of jurisdiction, and an *arbitrium* that was “absolutum,” which usually meant the podesta was given discretion in the use of evidence and even torture.<sup>142</sup>

Even a captured *bannitus* had his day in court, despite the fact that his contumacy was equivalent to confession. In one instance, a petitioner in the Capitano’s court sought to have the judge execute the penalty for a captured *bannitus* without interrogating him, but the judge rejected the claim, insisting that according to the statutes, he was obligated to do so.<sup>143</sup> Identity of the *bannitus* had to be established, and the imputed might seek to mask his identity. For example, a certain man was captured by the *miles* of the podesta while he was patrolling the streets, and taken into custody for carrying weapons without a license. Initially he gave a false name, but his real identity and status as a *bannitus* was ascertained and he was fined 50 pounds for falsification.<sup>144</sup> The hearing for a captured *bannitus* could also become a trial if anyone responded to the announcement of his capture by lodging additional charges against him. For example, in 1318, in response

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*Quaderni storici* 108 (2001): 665–693, esp. p. 691, republished in his *La giustizia pubblica medievale*, pp. 75–111.

<sup>140</sup> ASB, Comune-Governo, Provvigioni I, fol. 281r, Jan. 31, 1299.

<sup>141</sup> ASB, Comune-Governo, Rifformagioni 137, fol. 332r, Aug. 14, 1293.

<sup>142</sup> ASB, Comune-Governo, Rifformagioni 200, fol. 406r, Dec. 8, 1326.

<sup>143</sup> ASB, Capitano, Giudici, Reg. 733, fols. 68r–70v, July 13–15, 1325.

<sup>144</sup> ASB, Podesta, Inquisitiones, Mazzo 106, Reg. 3, fols. 31r–32r, Sept. 26, 1321. Apart from his ban, he was convicted of falsifying his identity and fined 50 pounds. Another captured *bannitus*, Giacomo di Magister *Flori* da Medicina, who had been captured by the Capitano delle Montagne, also claimed mistaken identity and had an attorney who argued his case with four witnesses. ASB, Podesta, Inquisitiones Mazzo 99, Reg. 4, fols. 2r–3r, May 24, 1319.

to the proclamation that a *bannitus*, Andrea *Senerii* di Ugucione da Pontevecchio, was in custody, Giacomo di Leonardo made an accusation against him for another crime that had occurred eleven years earlier.<sup>145</sup> In another case, it was determined that a man captured by mercenaries of the commune as a *bannitus* was not in fact under ban, and he was therefore released.<sup>146</sup> Another captured *bannitus* claimed successfully that his bans had been cancelled by a government-sponsored peace-making process. He had been under two bans, one from 1316 for assault, and one from 1319 for homicide. At his trial, he produced a copy of the *reformagione* by the Consiglio del Popolo that had validated the nullification of those bans.<sup>147</sup>

In most acquittals the reasons for issuing the verdict are obvious—there was simply no evidence. Assault was the crime for which acquittal was most likely, and it was a crime for which the podesta and his judge could not use torture. For example, in one assault case six witnesses testified, but all “knew nothing” and the imputed was acquitted, a pattern that was frequently repeated.<sup>148</sup> Only infrequently did the

<sup>145</sup> ASB, Podesta, Inquisitiones, Mazzo 97, Reg. 3, fols. 56r–59v, November–December 1318, and Accusationes, Busta 40b, Reg. 2, fols. 71r–72r, Nov. 23, 1318.

<sup>146</sup> ASB, Podesta, Inquisitiones, Mazzo 9 bis, fol. 177r. In the case of *Paghinus* di Ubertino da Savigno, in custody as a captured *bannitus*, a nuncio of the commune reported on Oct. 16 that he had proclaimed at the assembly place of the commune and at the stairs of the communal palace that *Paghinus* was in custody and that if anyone wanted to say anything against him, they should do so within three days. Apparently no one came forward because on Oct. 17 he was released from prison. ASB, Podesta, Inquisitiones, 97, Reg. 8, fols. 25rv, Oct. 16–17, 1318.

<sup>147</sup> ASB, Podesta, Inquisitiones, Mazzo 107, Reg. 3 (452), fols. 19r–22v, Feb. 1, 1322. An *exemplum* of the peace accord (*pax*) which was made Dec. 24, 1321, is included in the trial record. The *pax* was made by the “Standard-bearer of the societies and men of the guilds and of justice and liberty of the city of Bologna,” as authorized by the Consiglio del Popolo. The two reconciled parties consisted of thirty-three men on one side and twenty-four men on the other side. Many years might pass before a *bannitus* was captured or a ban cancelled because of an amnesty, thereby blurring the memory of the crime and identity of the *bannitus*. For example, Viniano from Villa Roffeno, son of Magister Riccio da Musiolo, and his brother Giacomo were banned in 1321 for homicide and kidnapping. In the margin of the ban record we find that Viniano was never captured and had his ban cancelled finally on Jan. 12, 1335 as part of an amnesty for those who had a *pax* and paid the *gabella*. ASB, Podesta, Accusationes, Busta 44b, Reg. 455, fols. 8rv, Sept. 26, 1321. At one point the captured *bannitus* who had made a *pax* with his victim would have had his penalty mitigated, but in 1311 that law was declared of “nullus valoris” and removed from the statutes. ASB, Comune-Governo, Provvigioni IV, fols. 2v–3r, July 23, 1311.

<sup>148</sup> ASB, Podesta, Inquisitiones, Mazzo 117, Reg. 6, fols. 1v–6v. The imputed was charged with assault by a *denuncia* from the *ministrales*, but the six witnesses knew nothing. Also *ibid.*, Mazzo 93, fols. 62r–66v, Nov. 11–Dec. 23, 1317. The charge was



imputed actually mount a defense, and in such cases the variety of defense options was very limited. The most common defense strategy was to claim that the witnesses against the defendant were his or her mortal enemies.<sup>149</sup> Another strategy was to interrupt the original trial by an accusation of false testimony against the prosecution witnesses, which suspended the original trial with a new trial against the alleged false witnesses. For example, in 1296 two *coadiunctores* led a trial for a riot and homicide and assisting in a homicide against six men. That trial was interrupted when the defense charged that the prosecution witnesses had testified falsely and proved that charge in a separate trial.<sup>150</sup> An alibi provided an excellent defense in the face of false witnesses. In a trial for brigandage in 1317, Bosio, the bastard son of Enrico Mezzovillani, was charged with participating in an armed band (*guarimentum*) of more than forty men, some on horseback, who met at the home of Giovanni *Maxonis* da Monterenzio and then together pillaged Giovanni's vineyards for three days. But Bosio was able to prove he was in the city at the time of the pillaging.<sup>151</sup> But why was it often so difficult for officials to find anyone who knew anything about a purported crime? At least in part this occurred because notifications by *inquisitio* and anonymous charges by the *capsa* system provided an opportunity for harassing one's enemies rather than reporting actual crimes. Even serious charges could arise from malice, as in the trial against a certain *Matasia*, who was charged anonymously (*de capsa*) with being a *mala femina* and prostitute who gave women potions for abortions. Five witnesses testified that they knew nothing. However, one witness, Antonio d'Isnardo, testified that it was *publica fama* that

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against sixteen men for property damages in the *contado*. There were four witnesses at the scene of the crime, three of whom knew nothing. The fourth heard only that unnamed malefactors from Bologna had done the damage. A marginal note says the imputed was acquitted because "non est probatum." Also *ibid.*, Mazzo 3 (only one register), fols. 137r–138v, Oct. 8, 1285. Ten witnesses, including the *massarius* of the rural commune of S. Benedetto, knew nothing about the charge (made anonymously—*de capsa*) that a magnate, Paolo di Giacomo da Castello, attempted to extort the men of that rural commune.

<sup>149</sup> ASB, Podesta, Inquisitiones, Mazzo 36, Reg. 5, fols. 72v–79r, Jan. 7, 1296. The attorney for Bettino, his father and Mattiolo di Pietro argued that all nine of the witnesses against the defense were the defendants' "capital enemies" and hated the defendants "to the death." The witnesses for the defense described how they had seen the defendants and the witnesses against them fighting in the past.

<sup>150</sup> ASB, Podesta, Inquisitiones, Mazzo 36, Reg. 5, fols. 62r–67v, April 2, 1296.

<sup>151</sup> ASB, Podesta, Inquisitiones, Mazzo 93, Reg. 3, fols. 21r–28v, Aug. 1–Sept. 27, 1317 for the trial, and Reg. 6, fols. 6r–10v for the testimony.

she made potions and fetishes (*facturas*) for other women, but then admitted he did not know from whom he had heard this. *Matasia* denied the charge and pointed out that Antonio had also lodged an accusation against her in the *maleficia nova* court for cutting vines in his vineyard. She was acquitted.<sup>152</sup>

Rarely was the motive for a crime or the question of whether or not the culprit intended to commit the crime an issue in reaching a verdict, although as discussed above, trials were suspended by the judge if the alleged crime was ascertained to have been committed by accident. The statutes defined homicide simply as killing, and only in cases of accidental death or the madness of the perpetrator might the killer escape punishment. There were no other extenuating circumstances that would mitigate the penalty to a lesser one, as in the modern manslaughter charge. The statutes also called for a double penalty in cases of revenge (*vindicta*), however, and in such cases motive had to be established, as happened in a trial in 1322. In that case the penalty was 2,000 instead of 1,000 pounds because the crime was committed *ad vindictam*.<sup>153</sup> The judges could become very interested in motive, moreover, if they were seeking to ascertain the cause of an uprising or riot, as in the trial for the killing of a certain *Athelardus* in a riot in the rural commune of Settefonti. There were several eyewitnesses to the murder itself, so the identity and guilt of the culprits were not in doubt, but in order to establish whether the outbreak of the riot was an instance of planned or spontaneous violence, the presiding judge had five men tortured.<sup>154</sup>

The motive or cause of behavior was also pertinent to a verdict in a trial for theft in 1326. The imputed was charged with the theft of property from the putative victim's home, but was able to defend himself successfully by demonstrating that he was the owner of the property and furnishings and that he was evicting his tenant, not robbing her.<sup>155</sup> Whether a homicide was planned or spontaneous was investigated and determined only under exceptional circumstances, as in a trial against

<sup>152</sup> ASB, Podesta, Inquisitiones, Mazzo 3 (only one register), fol. 40r, July 21, 1285.

<sup>153</sup> ASB, Podesta, Inquisitiones, Mazzo 109, Reg. 1, fols. 2v–9r, April 12, 1323. The ban was described as for a “most grievous crime.”

<sup>154</sup> ASB, Podesta, Inquisitiones, Mazzo 8, Reg. 2, fols. 39r, 47r, Aug. 28, 1286.

<sup>155</sup> ASB, Podesta, Inquisitiones, Mazzo 117, Reg. 7, fols. 6r–18v, Feb. 3, 1320. The primary defendant was Giovanni, son of Filippo di Zoene Pepoli. He submitted as evidence not only the testimony of witnesses but a copy of a rental agreement between himself and the deceased husband of the alleged victim.

fifteen men who went into the *contado* with infantrymen (*berorarii*) of the podesta, ostensibly in search of *banniti*. In the course of their attack upon a *castello* where they believed *banniti* were being sheltered, they killed Francesco Beccadelli, who was not a *bannitus*. However, several men from the band were captured and when tortured, they revealed that the band was deliberately and maliciously organized by four brothers from the Ariosti family, for the purpose of murdering Beccadelli. The pursuit of *banniti* was a cover for the homicide. The four men in custody were executed and the others placed under a capital ban.<sup>156</sup>

In addition, only infrequently was factual evidence presented in pursuit of a verdict. For example, in a rape case from 1326, one piece of evidence in the notification (made by the brother of the victim) was that the door to the house had been broken down by the alleged perpetrator in order to gain access to his victim. During the trial both sides provided witnesses as to whether that door was damaged or whether the damage was recent or whether the door showed signs of recent repair.<sup>157</sup> Sometimes, but not frequently, an acquittal was gained not by *exceptiones* but by witnesses for the defense who supported the claims of the defendant. In 1322, for example, Pace di Pietro Candele from *cappella* S. Maria della Mascarella was charged with having committed a burglary with some accomplices. According to the charge, he came with them at night and with weapons to the home of Domina Francesca di Buvallo, forcibly entered the house, created an uproar, and with knife in hand took by force certain items from that house. It was claimed that Domina Francesca was pregnant and near delivery and it was feared that she would die from the shock. But Pace, who was a member of the guild of the salt-sellers, produced a different version of events, which he substantiated by eyewitnesses' accounts. According to Pace, he and his friends had gone to the house of Ubaldino the shoemaker for drinks. Ubaldino lived next door to Domina Francesca, who came to them while they were at Ubaldino's house and urged them to come over to her house to eat calves' brains (*cervellaros*). This they

<sup>156</sup> ASB, Podesta, Inquisitiones, Mazzo 96, Reg. 2, fols. 21r–31r, July 16–25, 1318.

<sup>157</sup> ASB, Podesta, Inquisitiones, Mazzo 119, Reg. 4, fols. 31r–35r, Aug. 29, 1326 for the *inquisitio* and Reg. 7, fols. 4r–5r for the *intencio* and testimony of the defense witnesses.

did, paying her for the food and some items they purchased from her. Pace was acquitted.<sup>158</sup>

Due process was also adhered to in trials in which the podesta and his judge were granted special *arbitrium* that empowered them to suspend the formalities and solemnities of the law, as in the case of trials where a magnate was the perpetrator and a privileged *popolano* the victim. Indeed, the judge might be particularly cautious before issuing a ban in such a case, as in the trial against the magnate Guidesto di Rolandino Romanzi, who was charged with attacking Giacomo di Guido Monteveglio, member of the popular societies. According to Giacomo, Guidesto, in the company of many others, accosted Giacomo at the tax office, seizing him by his hair, knocking off his hat, striking him with his fists and saying many injurious words against him and the Sacred and Most Sacred Ordinances, saying he was not afraid of them. In making his charge against Guidesto, Giacomo invoked the Sacred and Most Sacred Ordinances and the privilege which he and his father held. Guidesto did not respond to the summons to court. But the judge proceeded cautiously, interrogating twenty-one witnesses before issuing a ban against Guidesto and his two companions for the considerable sum of 500 pounds each. Before the ban went into effect, Guidesto appeared in court and agreed to post securities for 2,000 pounds to guarantee his good behavior for the rest of the podesta's term of office.<sup>159</sup>

According to the Sacred and Most Sacred Ordinances of the Popolo, the judge could proceed in trials against magnates with no evidence at all except the word of the *popolano* victim or his heirs;<sup>160</sup> but I have found only one instance in which the judge proceeded so summarily—a trial in 1285 in which Munso Sabadini, a prominent *popolano*, charged Aimerico and Gerardo Galluzzi, powerful magnates, of verbal assault (*verba iniuriosa*). The only evidence Munso supplied was proof of his privileged *popolo* status, that is, his membership in the popular societies,

<sup>158</sup> ASB, Podesta, Inquisitiones, Mazzo 108, Reg. 1, fols. 59v, 16r–18v, Oct. 29, 1322.

<sup>159</sup> ASB, Podesta, Inquisitiones, Mazzo 4 (one register), fols. 100/tris, r-100/quatuor, v., fols. 99v–100v, 102r–104v, Sept. 8, 1285. There were actually two *denuncie*, one from Giacomo and one from his father.

<sup>160</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric II, "De processu faciendo contra magnates et ecclesiasticas personas offendentes homines societatum populi Bononie, et de penis offendentium ipsos de populo et eorum qui darent ipsis malefactoribus consilium vel favorem, et privilegio ipsorum popularium contra magnates et alios qui non sunt de societatibus," pp. 285–290.

but the Galluzzi were convicted.<sup>161</sup> However, this trial was exceptional. In trials against magnates involving the suspension of the *ordo iudiciarius*, the judges almost always limited their use of summary procedure to a greatly accelerated timetable for the summons to court.<sup>162</sup>

With the exception of politically-motivated torture, as discussed above, the judges proceeded very cautiously with the implementation of torture, which resulted in the acquittal and release of the imputed for lack of evidence. For example, in 1304 the judge held an *inquisitio* in a case where several people, including two children, were attacked, robbed and killed after they left a market in the *contado*. The judge interrogated nine witnesses. The first three only knew that the victims were killed. The fourth saw the imputed fleeing down the road, away from a location from which he heard a great uproar; when he arrived there, he saw the wounded and heard from those still alive the names of their attackers. The fifth witness corroborated the testimony of the fourth, but added that there were ancient animosities between the fathers of the attackers and the victims. The sixth and seventh witnesses testified similarly to the fourth and fifth, but the sixth added that the attackers had also robbed their victims and both the sixth and seventh witnesses said that they had heard others say that the imputed had committed the crime. The eighth witness testified only that it was *publica fama* that the imputed had committed the crime, and the ninth testified that he saw the imputed fleeing the crime and also that it was *publica fama* that the crime had been committed by the imputed. The judge thus did not have evidence to convict, but did have strong circumstantial evidence (*indicia*) which he used to seek and gain permission from the Capitano to torture.<sup>163</sup> Even when a culprit (who was

<sup>161</sup> ASB, Podesta, Inquisitiones, Mazzo 4 (one register), fols. 168rv, Oct. 19, 1285. The crime of “*verba iniuriosa*” appears in the statutes only as an offense against the podesta and his *familia*. In the case of an insult against the podesta, the judge or the notary of the court, the offense could be punished by the word of that official. Fasoli-Sella, *Statuti dell’anno 1288*, vol. 1, Bk. IV, Rubric XXIII, “De pena eius qui iniuriam vel opprobrium vel contumeliam fecerit domino potestati vel eius familie,” pp. 191–192. *Verba iniuriosa* exchanged between the litigants at court were also prosecuted, but such trials usually ended in acquittal. For example, in 1285 Bencevenne di Pietro, *ministralis* and *massarius* of the rough cloths dealers’ guild accused Dondideo di Benvenuto of *verba iniuriosa* against him at the criminal court, saying “I will kill you,” and “I will take out your tongue from your throat.” ASB, Podesta, Accusationes, Busta 4, Reg. 22, fol. 20v, Sept. 29, 1285.

<sup>162</sup> See the discussion below in section 13.

<sup>163</sup> ASB, Podesta, Inquisitiones, Mazzo 62, Reg. 2, fols. 1r–6v, Aug. 22–Sept. 9, 1304.

not a privileged *popolano*) was caught in the act of committing a theft, and the judge wanted to torture him on his own authority in order to establish whether or not the culprit had committed other crimes which would merit a harsher penalty, he proceeded with caution to establish the imputed's reputation. In one such case, for example, the judge interrogated fourteen witnesses about the imputed's reputation and in another case seventeen witnesses.<sup>164</sup>

However, the judge acted very differently in the case of non-citizens, giving us further evidence of the relationship between citizenship and the right to due process. In a trial in 1304 against three vagabonds from Scotland and England (the three had been found in the streets by guards of the podesta), the judge decided that their letter of permission to wander (a type of document commonly in use) was a false document. He had them tortured forthwith, without the testimony of any witnesses, and gained their confessions to a variety of crimes.<sup>165</sup> A person without standing in the community could also be stripped of due process rights. In 1285, a certain *Amanatucius* da Capugnano was handed over to the *ad maleficia* court as a thief and highway robber by the notary of the rural commune of Casio in the name of the podesta of that commune. Two men told the *ad maleficia* judge that they were in the *contado* when they heard from two women that they had been robbed by a certain man of their shoes and clothes in the woods four or five *miliaria* away. Those men, together with others, then went to the woods and captured *Amanatucius*, tied him up, and brought him to the podesta of Casio, who sent him to the judge at Bologna. The same day the judge then questioned three men who, although they said they knew *Amanatucius*, maintained that they knew nothing about his *fama* or circumstances (*condicio*). The next day, despite the lack of witnesses concerning *Amanatucius*'s reputation, the judge proceeded to have him tortured. He confessed to a series of petty thefts and lost his eyes and one foot to the executioner.<sup>166</sup> The contrast between the judge's treatment of *Amanatucius* the homeless *contadino* and Guidesto the powerful magnate is telling: the higher the rank of the imputed, the greater the caution of the judge and his adherence to due process.

<sup>164</sup> ASB, Podesta, Inquisitiones, Mazzo 93, Reg. 1, fols. 41r–48r, Oct. 3, 1317, and fols. 25r–31v, Aug. 26, 1317.

<sup>165</sup> ASB, Podesta, Inquisitiones, Mazzo 62, Reg. 3, fols. 53r–58r, Dec. 16, 1304.

<sup>166</sup> ASB, Podesta, Inquisitiones, Mazzo 4, Reg. 1, fols. 28r–29r, Aug. 1, 1285.

*Inquisitio* was thus used in general with the *intention* (on the part of notifiers as well as the judges) to convict and punish, but resulted in low conviction rates. The low rates were primarily due to the judges' close observance of due process and the high level of alleged culprits who successfully fled the scene. They were subsequently banned, but were seldom captured. To be sure, *inquisitio* was also used as an instrument for reconciliation in ongoing disputes, especially by the elite, but whereas this reconciliation purpose was predominant in *accusatio* procedure, it was relatively rare in *inquisitio* trials. There is some evidence in the *inquisitiones*, however, of ongoing conflicts among the elite. For example, there is a trial by notification made by the *ministrales* in 1326 against three men, Tommaso, Matteo and Folco, all of the Bianchetti family and all from *cappella* S. Donato, for the homicide of Gerardo di Gabriele Calamatoni from the same *cappella*. The trial was suspended, however, since the victim had been under a ban since 1324 for wounding one of the imputed, Tommaso Bianchetti, and for having broken the peace accord and kiss of peace which had been made between the victim Gerardo and Tommaso.<sup>167</sup> However, in accusation trials one much more frequently finds the same families appearing in different trials, weaving a web of charges and countercharges against each other. This practice increased in the early fourteenth century.<sup>168</sup> But rarely does one find the same parties appearing in different *inquisitio* trials with reversal of their roles as accuser and accused, as one finds in the *accusatio* trials. The exception proves the rule—in 1320 a notification was made of assault, kidnapping and rape, but in another case in the same semester a charge was made against the notifier of the earlier case. In both instances, the trials were suspended because other trials for these charges were initiated by private accusation.<sup>169</sup>

Why then do we find more elite appearing in Table V.2 (15.5 percent in 1304–1326) than in Table V.1 (5.3 percent in 1285–1296)? In reviewing the charges for which members of elite families were brought to court by *inquisitio* procedure, one finds that they appear more frequently in the later period because of an increase in treason trials and violence in the *contado*. Brigandage by *contado* nobles, to

<sup>167</sup> ASB, Podesta, Inquisitiones, Mazzo 119, Reg. 2, fols. 89r–90v, September 1326.

<sup>168</sup> Blanshei, "Crime and Law Enforcement in Medieval Bologna," p. 129, and Valerani, "I processi accusatori a Bologna," pp. 741–788, esp. pp. 755–756.

<sup>169</sup> ASB, Podesta, Inquisitiones, Mazzo 103, Reg. 3, fols. 32r–33v, Sept. 25, 1320 (a rape and robbery case), and fols. 49r–52v, Oct. 22, 1320, (an assault case).

be sure, had been a major concern in the 1280s. Especially infamous were the acts of kidnapping, arson, robbery and murder that the da Cuzzano, da Scopeto, and Tignano nobles and the counts of Panico had wreaked upon each other and their followers. An outbreak in 1285 of violence between the *contado* nobles of Tignano and Panico on the one side and the da Scopeto on the other had involved both the *ad maleficia* and *maleficia nova* courts and the interrogation of fifty-two witnesses.<sup>170</sup> In 1287, a feud between the da Cuzzano and da Scopeto nobles and those of Tignano resulted in a massive attack on the rural commune of Samoggia by the da Cuzzano and da Scopeto, with over 100 of their followers. In this instance they committed a homicide, and in another attack, a few days later at Tignano, they killed a young child because he was the son of their enemy, Comacio da Tignano.<sup>171</sup> But between 1317 and 1326, concomitant with the commune's loss of control over its own *contado*, the number of incidents of violence by *contado* and elite *popolani*, as well as *contado* nobles, increased (Tables V.1 and V.2). For example, Bosio, bastard son of Enrico Mezzovillani of *cappella* S. Michele dei Leprosetti, was charged in 1317 with leading a large band of at least forty brigands to the lands of Francesco di Enrico Mezzovillani in the rural commune of Zena and there destroying many trees, vines and crops.<sup>172</sup> In 1321, Bettuccio di Pietro, Niccolò di Giovanni, and another Niccolò and his brother Giovanni of

<sup>170</sup> ASB, Podesta, Inquisitiones, Mazzo 3 (one register), fols. 88r–111v, Oct. 16, 1285. ASB, Podesta, Accusationes, Busta 4, Reg. 22, fols. 38v–39r, Dec. 10, 1285. (The accusation trial was against sixty-three men who gave aid to those banned for the crimes.) The seriousness of the occasion is indicated by the fact that the judge *ad maleficia* himself and not his *miles* went into the *contado* to conduct the initial investigation. For the ban, ASB, Podesta, Accusationes, Busta 4, Reg. 27, fol. 4r and Reg. 28, fols. 9rv. Fifteen men were banned (with one of those bans cancelled because the imputed appeared before the ban was *exemplatum*.) Ultimately, the feud was settled by a *compromissum* made by Albertino Galluzzi, *archipresbiter* of Pieve S. Lorenzo in Collina, between the lords da Cuzzano and Scopeto and their followers on the one side and the lords of Tignano, Samoggia and Nugareto on the other side. Since some of the participants were under ban, and some were under age twenty-five, the parties petitioned the commune to validate the *compromissum* despite those problems, which it did. ASB, Comune-Governo, Riformagioni 128, fols. 190rv, March 9, 1289.

<sup>171</sup> ASB, Podesta, Inquisitiones, Mazzo 10, Reg. 1, fols. 147r–152v, March 20 and fols. 158r–169v, March 27, 1287. The mother of the child testified that she pretended she was nursing a poor child, but the murderer, Minello di Rustigano da Scopeto, declared he knew it was the son of Comacio and seizing the child, killed him with his knife in front of the mother and then struck and wounded her.

<sup>172</sup> ASB, Podesta, Inquisitiones, Mazzo 93, Reg. 3, fols. 21r–28v, Aug. 2, 1317.



the Prendiparte family of *cappella* S. Simone were charged with coming to the rural commune of Fiesso and there stealing grain.<sup>173</sup>

Tensions were higher in the city as well. For example, the judge conducted a trial *ex officio* against Niccolò and Francesco, sons of the deceased Buvalello Buvalelli, Massimo di Guaschetto Buvalelli and others on the one side, and Giovanni da Bisano and Bernardo his son and another relative, Bencevenne da Bisano and his son Paolo on the other side, with their followers, for their rioting against each other in *cappella* S. Vitale in November 1317.<sup>174</sup> Pace di Giovanni Zovenzoni and Zoene di Filippo Foscherari were both banned in 1326 for their attacks against each other.<sup>175</sup> In addition treason—relatively rare in the earlier period—also became more frequent after 1296, with the war that began that year with the Marquis of Este, and brought more members of the elite into the *inquisitio* trial records.

#### 4. CAPTURED *BANNITI*

Yet another method of gauging the degree of equality before the law is to see who among the many *banniti* were actually captured, and against whom sentences of corporal punishment were actually carried out. It is usually assumed that *banniti* who were elite members of society (*popolani* as well as *magnati*) were generally successful in eluding capture; their ability to do so has been attributed to a variety of factors: living outside Bologna and its district, remaining in the *contado* with the support of friends and the silence of neighbors, achieving reconciliation with the victim or the victim's family and reintegration into the community after a minimum number of years under ban (usually ten years for homicide, two years for assault with drawing of blood),<sup>176</sup> or receiving a pardon as part of a general amnesty by the

<sup>173</sup> ASB, Podesta, Inquisitiones, Mazzo 106, Reg. 1, fols. 21v–25v, Oct. 12, 1321.

<sup>174</sup> ASB, Podesta, Inquisitiones, Mazzo 93, Reg. 3, fols. 63r–73v, Nov. 8, 1317.

<sup>175</sup> ASB, Podesta, Inquisitiones, Mazzo 117, Reg. 3 (759), fols. 2r–8r, June 27, 1326.

<sup>176</sup> In 1282 the Sacred Ordinances made the bans for capital crimes perpetual, that is, they never could be removed, with or without a *pax*. In 1287, this provision was the focus of a major conspiracy that sought its annulment. After 1292, with renewal and modification of the Sacred and Most Sacred Ordinances, bans returned to the usual ten-year and two-year minimums, but in 1303 the perpetual ban rubric of 1282 was renewed temporarily. ASB, Comune-Governo, Provvigioni III, fols. 38rv, January 1303. A *pax* was usually required for removing a ban after the minimum period had been observed, and sometimes even during a general amnesty. Prior to 1311 it could

government. Were the elite in fact sheltered from capture? Certainly many were. The *bandi* records contain many instances, for example, of ban sentences against the counts of Panico, but I have not found a single sentence executed against any of them. From the condemnations data, however, we find that of the 363 condemnations that have survived between 1286 and 1326, ninety-three are for captured *banniti* and a surprisingly significant number of those *banniti* (eighteen, or 19.3 percent) were *popolani* (members of popular societies), magnates or *contado* nobles, or persons from either urban or *contado* families of sufficient prestige and socioeconomic position to have surnames. When the commune captured members of the elite, it punished them. If it could not do so, it sought their reconciliation and reintegration into the community.

Thus, in 1288 Martino di Pellicino, formerly a nuncio of the commune, was immolated for false accusation by privilege.<sup>177</sup> Guglielmo di Adelardo Accarisi, from *cappella* S. Matteo degli Accarisi, was decapitated in 1291 because he was under a ban for homicide (he was captured by an official of the podesta in the city at night for carrying a weapon). Giovanni di Alberto Belleboni from the rural commune of Montasico was also captured while under a ban for homicide.<sup>178</sup> Lorenzo di Pellegrino, also a former nuncio of the commune, had his foot amputated and his tongue cut out when he was captured in 1292 while under ban for making false proclamations and summons to court.<sup>179</sup> Niccolucio di Girardo *de Fabris* from the rural commune of Bisano was decapitated for multiple bans for homicide, robbery and hired assassination in 1292.<sup>180</sup> Mattiolo, son of Giovanni, rector of the church of S. Martino di Caprara, was decapitated in 1300 as a captured *bannitus* for homicide.<sup>181</sup> Giovanni di Vandino Pizzigotti, when under multiple bans for assault, homicide, and rebellion (service in the army of the emperor with the Ghibellines and Lambertazzi), was

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also serve to mitigate the penalty of a captured *bannitus*. In that year the rubric in Book IV that had provided mitigated penalties for captured *banniti* who held a *pax* was annulled and removed from the Statutes. Under the mitigation practice, a *bannitus* with a *pax* was held in prison until he paid a reduced fine, 100 pounds for capital crimes, and 50 pounds for crimes that carried the penalty of loss of a limb. ASB, Comune-Governo, Provvigioni IV, fol. 1v, July 23, 1311.

<sup>177</sup> ASB, Podesta, Accusationes, Busta 7, Reg. 4, fol. 2r, March 4, 1288.

<sup>178</sup> ASB, Podesta, Accusationes, Busta 9, Reg. 27, fol. 1v, Aug. 1291, fol. 2r, August 1291.

<sup>179</sup> ASB, Podesta, Accusationes, Busta 10, Reg. 14, fol. 5v, Aug. 30, 1292.

<sup>180</sup> Ibid., fol. 13v, July 26, 1292.

<sup>181</sup> ASB, Podesta, Accusationes, Busta 22b, Reg. 21, fol. 5r, July 2, 1300.

captured by the *barisellus*, and decapitated in 1312.<sup>182</sup> In 1315, Filippo, bastard son of Zannoco Beccadelli, was captured and decapitated for a ban issued only months earlier for homicide and for a more recent murder-robbery of a *scholaris in legibus*.<sup>183</sup> That same year, Albergetto, son of Simone Calamatoni from *cappella* S. Donato, who had been banned in 1314 for an assault with drawing of blood against Guido di Guglielmo *de Perticonibus* from *cappella* S. Donato, had his right foot amputated and was then returned to prison until he paid a fine of 500 pounds.<sup>184</sup> In 1317, Bonifacio di Benvenuto *de Morisiis* from the rural commune of S. Giovanni in Persiceto was captured for a ban for homicide and decapitated.<sup>185</sup> That same semester Accursio *de Accurssis* from *cappella* S. Martino dei Caccianemici was captured and probably tortured. He confessed not only that he was under ban for homicide, but also that he had committed a robbery two years earlier and a burglary four years earlier. He was decapitated.<sup>186</sup> The son of a privileged *popolano*, Raimondo di Magister Alberto the carpenter, from *cappella* S. Maria Maddalena, was banned for homicide in 1312 and captured and executed in 1320.<sup>187</sup> In 1319, Niccolò di Guglielmo Guidoagni, a magnate, was executed because he had been banned for murder of a *popolano*.<sup>188</sup> Pietro di Ugolino *de Mazzatis* from the rural commune of Bisano, was hanged in 1321 for a homicide and cattle theft and two other bans for robbery and arson (committed with many others).<sup>189</sup> Bonmartino di Antonio Castagnoli of *cappella* S. Cecilia was executed in 1323 for four bans for thefts, robberies, horse theft, and hired assassination.<sup>190</sup> Giacobino di Nascimbene Restani of *cappella* S. Maria Maggiore, who had been sent to confinement fifty *miliaria* from Bologna after the 1321 overthrow of the Pepoli, but had violated the terms of that confinement and therefore had been banned as a rebel and traitor,

<sup>182</sup> ASB, Podesta, Accusationes, Busta 32a, Register without number, notary is *Petrucius de Cologni*, fol. 3r, June 15, 1312.

<sup>183</sup> ASB, Podesta, Accusationes, Busta 37b, Reg. 995, fols. 29rv, Sept. 26, 1315.

<sup>184</sup> ASB, Podesta, Accusationes, Busta 36a, Reg. 857, fols. 3rv, Jan. 14, 1315.

<sup>185</sup> ASB, Podesta, Accusationes, Busta 39b, Reg. 107, fol. 13r, Aug. 30, 1317.

<sup>186</sup> ASB, Podesta, Accusationes, Busta 39b, Reg. 107, fols. 24rv, Dec. 1, 1317, for the condemnation. The trial is in ASB, Podesta, Inquisitiones, Mazzo 93, Reg. 1, fol. 57r. He was captured by Paolo di Bonifacio Ariosti and Giovanni *massarius* and the men of the rural commune of S. Martino in Soverzano and presented to the judge.

<sup>187</sup> ASB, Podesta, Accusationes, Busta 43b, Reg. 391, fols. 35rv, March 22, 1320.

<sup>188</sup> ASB, Podesta, Accusationes, Busta 41a, Reg. 16, fols. 1rv, May 26, 1319.

<sup>189</sup> ASB, Podesta, Accusationes, Busta 43b, Reg. 391, fols. 21r–22v, Jan. 8, 1321.

<sup>190</sup> ASB, Podesta, Accusationes, Busta 46b, Reg. 542, fols. 27r–28v, July 29, 1323.

was captured and decapitated on Oct. 11, 1323.<sup>191</sup> *Margenius de Marzonibus* from the rural commune of Budrio was captured in 1323 for four bans for thefts, robberies, horse theft, and hired assassination.<sup>192</sup> Finally, two *banniti* were captured and executed in 1325: Giovanni di Giacomo Salvioli of *cappella* S. Gervasio, from a prominent *popolano* family, had his foot amputated because he was under a ban issued in 1316,<sup>193</sup> and Petruccio, son of Aspetato di Laigone da Gesso, a powerful *contado* noble, was executed for homicide and robbery.<sup>194</sup>

### 5. *PROTESTACIO*

Tables V.1 and V.2 indicate that the level of torture was the same in the early fourteenth century as it was in the late thirteenth century. Although the frequency of torture may not have changed, the social composition of those tortured did. As we saw above, the Capitano was the protector of the *popolani* from the illegal use of torture. Unlike other Italian communes, the podesta and Capitano at Bologna did *not* have overlapping jurisdictions for criminal justice (see Appendix A, "Jurisdictions of the Capitano del Popolo"). Their areas of competency were distinctive, with the podesta responsible for the criminal and civil law courts. The Capitano's courts were concerned instead with political matters such as the prosecution of individuals who were illegally enrolled in *popolo* institutions such as the guilds and arms societies and the Consiglio del Popolo, and with litigation that arose from administration of the properties of those banned for political reasons, especially the Lambertazzi (the Capitano and podesta issued separate registers of bans). As protector of the *popolo*, the Capitano was the official to whom a *popolano* could appeal if he thought he was being illegally tortured or that his legal rights were being infringed upon by the podesta. This right of appeal, exclusive to *popolani*, was particularly important since at Bologna, unlike some other communes, such as Perugia, there was no standing appeals court for criminal cases, and only during the syndication process at the end of the podesta's term

<sup>191</sup> ASB, Podesta, Accusationes, Busta 46b, Reg. 472, fols. 41r–42r, Oct. 11, 1323.

<sup>192</sup> ASB, Podesta, Accusationes, Busta 46b, Reg. 542, fols. 27r–28v, July 29, 1323.

<sup>193</sup> ASB, Podesta, Accusationes, Busta 48a, Register without number or pagination. Notary is *Bonihannes de Andreis* from Parma.

<sup>194</sup> ASB, Podesta, Accusationes, Busta 48a, Register without number or pagination. Notary is *Bonihannes de Andreis* from Parma.

could a citizen bring charges of procedural errors, or corruption by bribery or injustice against the podesta's judges and notaries.<sup>195</sup> Theoretically, one could appeal a sentence to the Consiglio del Popolo, but I have found only one instance of such a petition. In 1307, Giacomo di Ventura from *cappella* S. Giuseppe had been sentenced by the podesta to amputation of his right hand unless he paid a fine of 200 pounds within ten days. He petitioned the Consiglio, lamenting that he was a pauper and could not pay his fine, that he had a large family of six small sons who would perish without his support, and that he should be succored "especially since he is a Guelf and of the party of the Church and Geremei." He asked that his fine be reduced to 50 pounds, which he would be able to pay. His petition was approved with 388 voting in favor and only two opposing.<sup>196</sup>

The frequency of *popolano* appeals or *protestaciones*<sup>197</sup> to the Capitano (rather than petitions to the Consiglio del Popolo, which were rare) can serve as a barometer for measuring the incidence of torture against privileged *popolani*. Given what we have seen above from the Books of Confession, it is not surprising to find only three instances

<sup>195</sup> At Perugia appeals were heard in the court of the *giudice sgravatore*, later called the *giudice di giustizia*, for which see John P. Grundman, *The Popolo at Perugia. 1139-1309* (Perugia: Deputazione di Storia Patria per l'Umbria, 1992), esp. pp. 205, 233, 280-81, 284. For the statute at Bologna forbidding appeals in criminal trials, see Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. IV, Rubric 80, "De Condenpnationibus et absolutionibus legendis et publicandis," pp. 236-237: "Dicimus etiam quod nullus possit vel debeat appellare vel restitutionem impetrare contra aliquam condenpnationem factam vel faciendam in causa aliqua criminali, quocumque modo fiat per dominum potestatem vel eius vicarium vel dominum capitaneum vel eius vicarium, vel nullam dicere vel supplicare, contra aliquem processum qui fieret per dominum potestatem vel dominum capitaneum vigore aliquorum ordinamentorum sacrorum et sacratissimorum vel aliquorum aliorum dependentium vel occasionatorum ab eis vel altero eorum." The penalty for doing so was extremely heavy—2,000 pounds if the condemnation was for 300 pounds or less and 3,000 pounds if the condemnation was above 300 pounds. Although there was no criminal appeal, litigants could request that the judge order a *consilium sapientis*, a legal opinion by one or more local jurists who were not officials of the courts. However, the judge was not required to have a *consilium* made unless he was in doubt about the procedure to be pursued.

<sup>196</sup> ASB, Comune-Governo, Riformagioni 167, fols. 185rv, Nov. 17, 1307.

<sup>197</sup> The word *protestacio* was used, as noted here, specifically to denote an appeal to the Capitano from a defendant in a trial in the court of the podesta. It was also used, albeit rarely, to refer to an *exceptio* made in the court of the podesta. For example, ASB, Podesta, Inquisitiones, Mazzo 62, Reg. 2, fol. 22r, Oct. 31, 1304. In that case the imputed, Giovanni di Silvestro, raised an objection that the trial against him should not proceed because the victim of the assault, Giovanni di Giuliano Carrari, was not enrolled in a military expedition of the prior July. He refers in the document to his own objection not as an *exceptio*, but as a *protestacio*.

for the thirty-five year period 1282–1317 in which a *popolano* protested to the Capitano that the podesta and his judges were not honoring his privileged legal status (see Table V.5). One of those complaints was from a *popolano* who claimed he was subjected to illegal torture.<sup>198</sup> In July 1317, however, there is a dramatic change in the records documenting the incidence of such appeals. There were four *protestaciones* between July 4 and 14, 1317 charging that the podesta had disregarded a *popolano's* legal status, and another twelve charges of illegal torture by the podesta between September 1317 and January 1318, with all the January charges referring to instances that occurred between July and December 1317. For the next eight years, up to 1327 and the submission of Bologna to the lordship of the papal legate, Cardinal del Poggetto, an additional ninety-eight *protestaciones* have survived, in sharp contrast to the few prior to 1317.<sup>199</sup> Nor is the larger number of *protestaciones* from 1317–1326 a function of the surviving number of registers from the Capitano's court. For the thirty-six years from 1281 through 1316, eighty-six registers from the court of the *vicarius* (the judge who heard the appeals) have survived, with gaps only in the years 1310–1312 and 1315. Aside from the four missing years, that yields a yearly average of 2.7 registers. For the ten years from 1317–1326, twenty-three registers survive, yielding a yearly average of 2.3. Appeal to the Capitano by *popolani* had become a new institution that gave the latter special protection for their legally privileged status, thereby adding to the inequality in criminal justice. That the

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<sup>198</sup> ASB, Capitano, Giudici, Reg. 180, fol. 73r, Aug. 14, 1292. The first appeal was from Giovanni di Bonvisino, who claimed special privileged status because his brother was one of the compilers of the Sacred Ordinances. He protested that his privileged position was threatened by a ban that had not been approved by two-thirds of the societies, as required because of his privileged status. The response of the judge was that the *cedula* had indeed been approved as required. He also questioned his claim to privileged status. The second *protestacio* was twofold. First, there was a petition against a ban by the podesta against a certain Spagnolo and Ugolino by the former's father, in which the father claimed that due process had not been observed in the issuance of that ban. But then Magister Alberto *Malaroche* protested that the Capitano should not accede to the protest, and denied that there was any defect in the process of issuing the ban. *Ibid.*, Reg. 424, fols. 20v–22r, Oct. 14, 1304. The third *protestacio* was made by Tebaldo Marchesi on behalf of Marchesino di Pietro Marchesi of the arms society of the Lions, asking the podesta to protect Marchesino from torture by the podesta. The Capitano in response sent a precept to the podesta, who responded that he would take no action without the consent and presence of the Capitano. *Ibid.*, Reg. 419, fol. 18v, Sept. 25, 1303.

<sup>199</sup> For summaries of all the *protestaciones*, see Table V.5.

*protestacio* was viewed as a new institution is evidenced by the podesta's initial resistance to its deployment against him in January 1318. Within a few days, however, the attorney for the podesta yielded to the competency of the Capitano and promised to pay any penalties and presented his guarantors.<sup>200</sup> But the podesta repeatedly rejected the Capitano's claims to jurisdiction in *protestationes* concerning torture. In at least two instances, one in September 1318, and the other a year later, the Capitano faced repeated refusals by the podesta to permit him to examine an allegedly tortured *popolano*, a certain Bertoluccio who was a member of the guilds and arms societies. In order to execute his responsibility to protect such privileged *popolani* from torture, the Capitano sent not only his judge, but also four of the current *anziani* to the podesta to demand access to Bertoluccio. The podesta refused, claiming that the *protestacio* was frivolous and that Bertoluccio had forfeited his privileged status by his delinquent lifestyle of the past year.<sup>201</sup> However, the Capitano persisted in claiming jurisdiction, and when the podesta refused for the third time to yield Bertoluccio, the Capitano moved to the drastic and dramatic measure of summoning the *ministras* of the two preeminent popular societies to come with 100 armed men and take Bertoluccio by force from the podesta, which they did.<sup>202</sup>

Also at issue was whether or not a *protestacio* could be lodged against the outgoing podesta during his syndication period. A *consilium sapientis* resolved the issue by acknowledging the Capitano's jurisdiction, but advised against its validity during the syndication period.<sup>203</sup> After

<sup>200</sup> ASB, Capitano, Giudici, Reg. 639, fols. 36r–41v, Jan. 4–14, and fols. 83r–84r, Jan. 16, 1318.

<sup>201</sup> The podesta maintained that witnesses had testified that Bertoluccio was a ruffian and low-life and could not enjoy the benefit of privilege.

<sup>202</sup> ASB, Capitano, Giudici, Reg. 650, fols. 76r–95v, Sept. 16–26, 1318. The trial itself has survived. ASB, Podesta, Inquisitiones, Mazzo 96, Reg. 2, fols. 66r–73v. There were ten witnesses concerning his reputation and *publica fama* concerning one of his robberies and an eyewitness on the other. Despite his father's *protestacio*, he was tortured twice, found guilty, and hanged. The Capitano also resorted to the armed force of the *ministras* in his implementation of the *protestacio* made by Biagio di Bartolo on behalf of his son Bartolomeo di Cessabo in September 1319. Biagio served as *anzianus* in January 1319. In this case, as in the one against Bertoluccio, the podesta claimed he could ignore Bartolomeo di Cessabo's privileged status because Bartholomeo was a ruffian and gambler.

<sup>203</sup> The *consilium* was written by Maccagnano Azzoguidi, *legum doctor*, and Giovanni d'Andrea, *decretorum doctor*, two extremely prestigious jurists, at the request of the attorney for the podesta against a *protestacio* by Gregorio di Giacomo Ferri who

1319, the *protestaciones* were consistently lodged against the current, not the outgoing podesta. The only reference to syndication was a threat by the protesters that if their appeals were not recognized, they would move against the podesta at the time of his syndication. The podesta presented no argument against the competency of the Capitano and moved immediately to consideration of the charges against him.

Torture formed the focus of the initial surge of *protestaciones*, comprising twelve of the sixteen appeals lodged between July 1317 and January 1318, indicating that *popolani* had become more vulnerable to the illegal use of torture against them.<sup>204</sup> What caused this erosion of their privileged protection against torture? Distrust and anger against the podesta were not new in 1317, but by that year political tensions had reached an exceptionally high level, as Romeo Pepoli attempted, but ultimately failed, to establish himself as lord of Bologna. Behind his attempt at lordship and the exacerbation of factionalism in these years was a society that, as discussed earlier in Chapter Three, had become more oligarchical than it had been a generation earlier, with political rivalries and alliances more vertical or family-oriented than horizontal or guild and arms society-oriented.

That the original spate of *protestaciones* in 1317 was political in origin and related to an increase in factional tensions is indicated by an analysis of who the protesters were and what sort of events precipitated their appeals. Of the sixteen *protestaciones* from July 1317 through January 1318, all but two were lodged by or for individuals who themselves (or whose close relatives) had held the highest political office—the *anzianate*—and/or were members of the Consiglio del Popolo. Indeed, one protester, Paolo di Giovanni Alberghi, was serving as *anzianus* at the time of his alleged detention and torture by the

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complained that he had been wrongfully and unjustly detained by the outgoing podesta and sought a 500-pound penalty against him. The *sapientes* advised the Capitano that he was competent in the case, but should not proceed since in fact Gregorio had the case in syndication and his complaint to the syndics preceded his *protestacio* to the Capitano by two days. ASB, Capitano, Giudici, Reg. 639, fols. 36–41r, Jan. 4–14, 1318.

<sup>204</sup> The first four *protestaciones*, from July 1317, were against the outgoing podesta, *Nicholaus Bandini* from Siena. The next three *protestaciones*, dating from September and October 1317, were against the then current podesta, *Maloxellus de Maloxellis* from Genoa. The next nine were also against *Maloxellus*, but were made in January 1318, after his term had ended and while he was still in Bologna, undergoing syndication by elected Bolognese officials. See Table V.5.



podesta in July 1317.<sup>205</sup> The incident that had provoked his detention and torture was a riot between his family and followers and those of a rival family, the *de Recchis*.<sup>206</sup> The trial for that riot also resulted in the detention and torture of two members of the most politically powerful of notarial families, the Bambaglioli, who were also among the leaders of the opposition to Pepoli.<sup>207</sup> Indeed, nearly all the *protestaciones* of January 1318 refer to the outgoing podesta and his order to torture very politically prominent individuals without permission from the Capitano del Popolo. The torture without approval from the Capitano of such politically prominent individuals, except in the context of overt and major conspiracies (such as those of 1287, 1295 and 1303), was an extraordinary event. Riots between families, which occurred relatively often, were normally treated by isolating the families and their followers to different parts of the city or by confining them to different locations outside the city or district.<sup>208</sup>

<sup>205</sup> ASB, Capitano, Giudici, Reg. 639, fols. 73r–74r, Jan. 5, 1318. *Protestacio* 13, Table V.5. The political office-holding of those protesters and their close relatives is given in that Table.

<sup>206</sup> The protester and victim of torture, Paolo, had had a petition submitted by his brother Francesco to the Consiglio del Popolo on June 28 on behalf of Paolo and his other brother Domenico. In that petition it was claimed that Domenico and Paolo were attacked by Manello di Giacomo Manelli and Rodolfo *domine Recche* as part of an armed band (*guarimentum*) that involved more than forty men. Invoking a law of 1313 for the protection of privileged *popolani* (for which see the discussion below in section 6 on privilege), the petitioner sought the punishment of the alleged perpetrators. The petition was approved and the podesta was given *purum merum et liberum arbitrium* to investigate and punish those responsible. ASB, Comune-Governo, Riformagioni 184, fol. 399v, June 28, 1317. The opponents of the Alberghi in the riot, the *de Malaconellis*, were among those confined and interdicted as a result of the ban of Romeo Pepoli and his followers in July 1321. ASB, Comune-Governo, Provvigioni IV, fols. 144v–45r, July 24, 1321.

<sup>207</sup> Bernardino di Uguccione Bambaglioli and Amico di Geminiano Bambaglioli lodged their complaints in January 1318. *Protestacio* 9, Table V.5. For the Bambaglioli as leaders of the opposition to Pepoli, see Cherubino Ghirardacci, *Della historia di Bologna*, vol. 1 (Bologna: Simon Parlasca, 1596), p. 612. Bambaiolo Bambaglioli was *preconsulis* of the notaries' guild in 1320 and successfully opposed Pepoli in his support of a renewal of the Capitano in office for another six months. Another Bambaglioli, Bernardino, was *prior anzianorum* in July and August 1321, and during the actual expulsion of Pepoli. ASB, Comune-Governo, Riformagioni, serie cartacea, Busta 221, Reg. 33, fol. 9r, Aug. 12, 1321. Bambaiolo Bambaglioli served as *preconsulis* of the notaries at the end of June, 1321 and was also one of the *anziani* in August 1321, right after the expulsion of Pepoli. ASB, Comune-Governo, Riformagioni 195, fols. 75r–77r, June 24, 1321 and Riformagioni 196, fols. 96v–97v, Aug. 7, 1321.

<sup>208</sup> For example, in 1286 members of the Piatresi, da Castello, Scappi, Caccianemici, Artensì *sive* Beccadelli and Baciacomari families were confined to certain places in the *contado* because of the disputes and riots among them. ASB, Podesta, Inquisitio-

Why were the podesta and his judges, normally so cautious in their application of torture, so willing to overstep the existing boundaries of their authority? In fact, the controversies may have arisen, at least in part, because they thought they were acting within the boundaries of a special *arbitrium* that had been granted them by the Consiglio del Popolo. Thus, the brother of Paolo Alberghi, one of the victims of torture in the aftermath to the riot in June 1317, that same month had earlier petitioned the Consiglio del Popolo for redress from an assault that took place during the riot. He claimed in his petition that his brothers had been attacked by Manello di Giacomo Manelli and Rodolfo *domine Recche*, and invoking a law of 1313 that granted special protection for privileged *popolani*, asked that the podesta be given full authority to avenge the crime, which was granted.<sup>209</sup> It is most likely that the podesta was acting by authority of this *arbitrium* when he tortured various *popolani* in connection with the riot.

In part as well, difficult ambiguities arose for the podesta when confronted with a privileged *popolano* who gained an infamous reputation. Did he thereby lose the protection of privilege? In September 1317, Rainerio da Savinella, from *cappella* S. Maria di Porta Ravegnana, protested that his son Guido was being detained by the podesta. Fearing that his son would be tortured, he produced documents showing that the petitioner and his father, and therefore his son, were privileged and protected from torture. The Capitano responded with a mandate to the podesta not to torture Guido.<sup>210</sup> The next day the *preministralis* of the organization of thirteen arms societies and the father of Guido jointly lodged a *protestacio*, protesting that Guido had indeed been tortured, despite the mandate from the Capitano. The Capitano responded by sending his judge to see Guido, but the podesta refused that request. Two days later the Capitano himself went to the podesta and demanded the release of Guido, but was again rebuffed.<sup>211</sup> Three days later, on September 15, Rainerio da Savinella lodged a third *protestacio*, in this case claiming that his son had by now been imprisoned

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nes, Mazzo 7, Reg. 10, fol. 12r, Jan. 16 and 30, 1286. Also Faciolo and Riccardo da Castel S. Pietro were confined to the districts of Porta Ravegnana and S. Pietro and their opponents to Porta Stiera and S. Procolo, all under a penalty of 1,000 pounds each. ASB, Podesta, Inquisitiones, Mazzo 8, Reg. 2, fols. 22r–23r (unbound folios).

<sup>209</sup> ASB, Comune-Governo, Riformagioni 184, fol. 399v, June 28, 1317. For the law of 1313, see below, section 6.

<sup>210</sup> *Protestacio* 5, Table V.5.

<sup>211</sup> *Protestacio* 5a, Table V.5.

by the podesta for nine days and had been tortured many times. The Capitano responded by summoning the podesta to appear before him, but the podesta, through his attorney, denied the Capitano's jurisdiction. The Capitano then postponed his summons of the podesta because he had learned that the *anziani*, *preconsulis*, *barisellus*, *preministralis* of the organization of thirteen arms societies, and the *ministrales* of the two preeminent societies, were examining the records of the trial against Guido. On Oct. 8, the new Capitano reviewed the case, and after noting that the podesta had tortured Guido without permission of the prior Capitano, stated his intention to act against the podesta. He himself went to the palace of the podesta and so informed him.<sup>212</sup>

Nothing else is given on this case in the Capitano's records, but from the *riformagioni* records we find that the podesta had petitioned to the Consiglio del Popolo against the *protestacio* made earlier against him by Rainerio da Savinella. He protested in his petition against the threats from the Capitano to fine him 500 pounds and deprive him of office for having tortured Guido. The basis of the podesta's defense was that Guido was a *persona infamata*. The Consiglio concurred (thus the investigation of the trial by the executive officials, as noted above) and granted the podesta immunity from prosecution by the Capitano.<sup>213</sup>

Action by the Consiglio del Popolo, however, could also work against the podesta. A petition to the Consiglio del Popolo was the last recourse for a citizen who believed he or she had been treated unfairly by the podesta, to be invoked only if the *consilium sapientis* requested during a trial and the *protestacio* or *denuncia* at syndication had failed. I have found only one such instance, a petition by Giovanni di Gerardino Garafini, in 1319. He petitioned that he had had a com-

<sup>212</sup> *Protestacio* 5b, Table V.5.

<sup>213</sup> ASB, Comune-Governo, Riformagioni 184, fol. 419r, Sept. 21, 1317. Rainerio had more than one son who led a life of infamy. In 1320, his son Giacomo was condemned for the theft of clothes from a home in *cappella* S. Maria in Solario. He was charged as a *publicus et famosus latro et homo male condicionis*. Two witnesses testified that they saw him leaving the house with the stolen goods. The defendant was in custody, was probably tortured, and confessed to thirteen other similar instances of theft within the past year. He was condemned. ASB, Podesta, Inquisitiones, Mazzo 103, Reg. 3, fols. 67r–70v. Rainerio himself was a person of some prominence. He was elected communal accountant (*calcholerius rationum comunis*) in 1320 and also was elected in 1321 to serve as one of the two officials who were to calculate the *collecta* to be imposed on the *contado*. ASB, Comune-Governo, Provvigioni IV, fol. 132v–133r, May 1320 and fol. 149r, July 39, 1321. He was also elected to the Council of 800 and the Consiglio del Popolo (see Table V.5).

plaint before the Capitano that a judge of the podesta at the *dischum Ursi*, a civil court, had treated him unfairly. The podesta, learning of the complaint, initiated a trial against the petitioner for falsification and told him to desist in his complaint to the Capitano. The petitioner asked the Consiglio to remove him from the podesta's jurisdiction.<sup>214</sup> The decisions of the Capitano in response to *protestaciones* had to be approved and implemented by the legislative bodies, as in an action by the *consilium partis* (Council of the Geremei Party) for two *protestaciones* in 1317. Rolandino di Gerardo Rombolini and Bonacosa di Galvano Gozzadini had claimed the former podesta had rejected their *exceptiones*, despite their privileged status. In both cases the podesta had been acquitted of the charges at his syndication and the protesters had then lodged *protestaciones* with the Capitano. The Capitano heard the *protestaciones* and decided to have a *consilium sapientis* from five *doctores*, who advised him that the podesta had incurred a penalty in the case of Gozzadini, but not in the case of Rombolini. The *consilium partis* then authorized the withholding of 500 pounds from the salary of the podesta.<sup>215</sup>

The torture of *popolani* thus did change over time, and became more frequent during the tensions that preceded the exile of Romeo Pepoli in 1321, resulting in 1317 in the development of a new institution, the *protestacio*. However, the advent of the *protestacio* was due not only to the ambiguities of who could be tortured and the heightened occurrence and threat of torture for elite citizens, but also was due to the expanding legal privileges of the *popolani*. We have already seen that inequality *before* the law became greater in the opening decades of the fourteenth century. As we shall see next, inequality *between* the litigants in the courtroom also became significantly greater during the same period.

## 6. PRIVILEGE

Claudia Storti Storch, as noted above (section 1), has shown that the principle of equality between the litigants in the courtroom was the bedrock of due process in the writings of the late medieval jurists. But was there such equality in courtroom practice? We have already

<sup>214</sup> ASB, Comune-Governo, Riformagioni 189, fol. 258r, Oct. 22, 1319.

<sup>215</sup> ASB, Comune-Governo, Riformagioni 184, fol. 420r, Sept. 28, 1317.

discussed some evidence that points to inequality in procedures, but the most frequently occurring violations of citizen rights to equal treatment in trials were caused by the legal immunities or privileges (other than the torture privilege) enjoyed by certain citizens. In the late thirteenth century these privileges were restricted to *scolares*, to certain officials, and to *popolani* when attacked by magnates and non-members of the popular societies, or, after 1306, by Lambertazzi. By 1310 even the special privileges that had been granted earlier only to officials were extended to over 5,000 citizens (and their relatives, male and female). This expansion of privilege ensured that inequality in court procedure would prevail in many trials between citizens as well as between privileged *popolani* and the members of “outsider” groups such as Lambertazzi and magnates.

Privilege was firmly entrenched in legal and political assumptions of the commune at least by the middle of the thirteenth century.<sup>216</sup> It is within this historic context that the anti-magnate legislation, itself comprising a series of privileges for members of the popular societies against magnates and, as is usually forgotten, other “outsider” groups, should be reviewed. Throughout our period, privilege, as we shall see, was at least fourfold: 1) the right to carry weapons, offensive and defensive, 2) legal immunities from prosecution by the courts except in the case of major crimes, 3) the right to have their charges against others dealt with by suspension of due process, including having the charges believed by their word alone, and 4) harsher penalties for those who attacked them in their person or property. Earlier studies have treated the expansion of privilege as a progressive development, highlighting points of expansion such as 1308, 1310 and 1313, but this approach overlooks the contractions in the scope and nature of privilege that also marked the commune of the *popolo*, and thereby

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<sup>216</sup> There are brief discussions of certain aspects of privilege in Blanshei, “Crime and Law Enforcement in Medieval Bologna,” pp. 128–129; Gina Fasoli, “La legislazione antimagnatizia a Bologna fino al 1292,” *Rivista di storia del diritto italiano* 6 (1933): 351–392, and “Ricerche sulla legislazione antimagnatizia nei comuni dell’alta e media Italia,” *Rivista di storia del diritto italiano* 12 (1939): 86–133, 240–309; Giuliano Milani, *L’esclusione dal comune. Conflitti e bandi politici a Bologna e in altre città italiane tra XII e XIV secolo* (Rome: Viella, 2003), pp. 390–398 (Milani is particularly helpful on privileges against the Lambertazzi and the relationship between privilege and fiscal obligations); Vallerani, “Il potere inquisitorio,” and Vitale, *Il dominio della parte guelfa*. None of those studies is comprehensive on privilege, however, and none includes references to “pre-*popolo*” privileges or (except for the brief discussion by Vitale) the privileges of 1318–1326.

obscures the tensions and limited choices faced by the commune. The commune and *popolo* of Bologna created a system of entitlement that was deemed necessary even as it became a threat to the stability and survival of the government. How and why was this system created, and why was it resisted?

The original motivation for granting these privileges was to protect certain individuals and groups, physically and legally, from the hatred they had incurred in the course of their efforts on behalf of the commune. The earliest instance of this type of privilege that I have found is from the Ordinances of 1259 of the *domini bladi*. These officials, responsible for the communal grain supply, were given special authority during a time of famine and promulgated a series of harsh laws. For example, one of their provisions called for expelling prostitutes and ruffians from the city and district. If such persons were found within those boundaries, they were to have their noses amputated. Their accusers' names were kept secret and the accusers were rewarded with half the monetary penalty.<sup>217</sup> To protect the *domini bladi* from repercussions against them because of the harshness of their legislation and actions, a new law provided that if the *domini bladi* were attacked by anyone, they should be believed by their word alone.<sup>218</sup> The attacker was to be punished by the podesta within fifteen days of receiving the denunciation of the attack, and subjected to an extraordinary penalty of 1,000 pounds, depending upon the quality of the crime and the culprit. If the official's property were damaged, the fine would be 300 pounds. If the fines were not paid within a month, the culprit was to be placed under a ban for homicide.<sup>219</sup> In 1265, according to the statutes of the Order of the *Militia* of the Blessed Virgin Mary (the *frati gaudenti*), the government, controlled by the *frati gaudenti*, attempted to stabilize factional unrest with heavy penalties, and as in the case of the *domini bladi*, attempted to protect themselves from repercussions with similar provisions. They also specified that the culprits were to be punished and condemned within three days after a *denuncia* was made

<sup>217</sup> Frati, *Statuti dall'anno 1245 all'anno 1267*, vol. 3, Bk. XII, Rubric IV, "De plubicis meretricibus latronibus et Rufianis besazeriis expelendi de comitatu," p. 509. (They were expelled because it was decided that they were consuming too much food in a time of famine).

<sup>218</sup> "credendo de hoc solo verbo offensi."

<sup>219</sup> Ibid., Bk. XII, Rubric XXXII, "(Quod aliqua persona non offendat nec offendi faciat eos qui sunt et fuerunt constituti per populum bon. ad officium bladi et victualium)," p. 535.

(an extraordinarily accelerated timetable). Their trials were to be conducted summarily, with suspension of all due process.<sup>220</sup> If the culprit did not respond to the summons to court, he was to be banned and his properties confiscated (as payment for the fine), “with no defense being heard” (*nulla defensione audita*).

In 1271–74, a similar privilege was incorporated into provisions extending special protection to all members of the guilds and arms societies. The original Ordinances of the Forty of 1272 in which the privileges were promulgated have not survived, but a description and reference to a pertinent passage is included in the guild statutes of the linen weavers of 1288.<sup>221</sup> The provision has been described by Fasoli, Koenig, and Pini as anti-magnate legislation predating the famous Sacred and Most Sacred Ordinances of 1282 and 1284,<sup>222</sup> but it is also in the tradition of the privileges given to the *domini bladi* and *frati gaudenti*, as just discussed. It gives the members of the popular societies not only protection against nobles and magnates, but against *anyone* who was not a member of the popular societies (or the father or brother of a member), or a *fumans*. The podesta was required to punish the culprit for any injury, in deed or word, within two days from the hour and day of the injury, and was to do this on the basis of the word alone of the victim.<sup>223</sup> These privileges of the Forty, like those of the *frati gaudenti*, did not last beyond the regime that produced them.

<sup>220</sup> Ibid., *Statuta facta per Dominos Fratres Loderengum de Andalo et Catalanum domini Guidonis domine Hostie. Ordinis militie beate marie virginis*, 1265, “Quod nullus offendat fratres Ordinis militie beate virginis gloriose,” pp. 610–612: “omni sollempnitate juris et statutorum comunis et populi Bononie obmissa.”

<sup>221</sup> The statutes of the weavers and sellers of linen are published in Augusto Gaudenzi, *Statuti delle società del popolo di Bologna*, vol. 2, *Società delle arti* (Rome: Forzani e C. tipografi del Senato, 1896), pp. 533–534.

<sup>222</sup> Fasoli, “La legislazione antimagnatizia a Bologna;” John Koenig, *Il “popolo” dell’Italia del Nord nel XIII secolo* (Bologna: Il Mulino, 1986), pp. 375–376; Pini, “Magnati e popolani a Bologna.”

<sup>223</sup> Gaudenzi, *Statuti delle società del popolo*, vol. 2, p. 534: “quod si aliquis vel aliqui de societatibus populi, Cambii vel Mercadandie ab aliquo vel aliquibus nobilibus sive magnatibus aut ab aliquo alio qui non sit de dictis societatibus, qui non sit pater, frater vel filius alicuius, qui sit de aliqua dictarum societatum, qui non sit in fumanibus, ipse vel sui maiores, ledatur in aliquo sive ei aliqua iniuria, ofensa vel molestia inferatur dicto vel facto in persona vel avera, infra duos dies ab ora offense vel iniurie facta, per potestatem et comune Bononie debite ultionis [sic] personalis et pecuniaria [pena] imponatur et exigatur; et procedatur in omnibus et per omnia, et credatur et stetur secundum formam ordinamentorum dominorum Quadraginta primorum et secundorum et reformationum communis et populi factarum et faciendarum in favorem omnium Artium et Armorum, societatum Cambii et Mercadanei. et nichilominus offens. cum digna satisfactione fiant.”

At approximately the same time, in 1274, a similar and this time permanent privilege was granted to university *scolares*. They too were to have their attackers convicted and punished on the strength of their word alone.<sup>224</sup> In addition, officials appointed to several commissions or *balie* were granted special privileges because of the sensitivity of the legislation they promoted. Privileges granted to selected officials and commissions include those privileged in 1274 or 1275 (during one of the two regimes of the podesta *Dominus Rolandus Putaglia*) who had made ordinances concerning wheat and food supplies, and the officials privileged in 1278 because of their legislation concerning the “wars” of Saragozza, as well as those privileged because of their ordinances, again in 1278, against magnates, nobles, and *potentes*, and finally, for those “rendering justice” in 1275 or 1283.<sup>225</sup>

The Sacred Ordinances of 1282 and 1284, however, marked a permanent and sweeping stage in the granting of privilege. In a series of provisions similar to those of the Forty, members of the popular societies (and their sons, brothers and fathers) gained legal protection against groups the *popolo* had earlier excluded politically from the guilds and arms societies—magnates and *all those who did not belong to those societies*. The provisions against the magnates and non-society members called for special heavy fiscal penalties against the attackers of privileged *popolani*, pegged according to the severity of the attack. If insulted verbally, without physical contact (*verba iniuriosa*), they were also protected by a 100-pound penalty against their offender. The latter was a charge that could be made only by a privileged *popolano* (or an official of the government),<sup>226</sup> and became, as we shall see, the most frequently constituted charge by a privileged *popolano* against

<sup>224</sup> The original of the 1274 document has not survived, but an exemplar was included in a collection of documents concerning the privileges of *scolares* by a communal notary in 1317 in response to the issue of whether or not a person who took examinations for teaching canonical or civil law had to take an oath not to teach anywhere else than in Bologna. ASB, Comune-Governo, Provvigioni IV, fols. 87r–89r, esp. fol. 87r.

<sup>225</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, pp. 410–417.

<sup>226</sup> *Ibid.*, Bk. IV, Rubric XXVIII, “De pena eius qui iniuriam vel opprobrium vel contumeliam fecerit domino potestati vel eius familie,” pp. 191–192. The penalty was 50 pounds, more or less, depending upon the *qualitas* of the person and words. The inclusion of *verba iniuriosa* against privileged *popolani* as a crime to be punished reflects the *popolo* party’s achievement of a position of honor within the commune. Citizens in general could be divided into those of good and ill-repute, but only members of the guilds and arms societies, like government officials who represented the commune itself, could claim a status of civic honor.



a magnate. If the culprit was not captured and was banned, that ban would be perpetual and could not be lifted or ameliorated by a *pax*. (This was changed in 1292 and “perpetual” bans again became term bans, e.g., ten years for homicide, during which period the ban could not be lifted, whether or not the offender had made a *pax* with the victim’s heirs.) The podesta had to complete the process of charging and punishing the imputed within eight days (a process that normally took one to two months), or face a fine of 500 pounds and removal from office. If the podesta failed to act, the Capitano or *anziani* were required to do so, and if the Capitano failed to act he was subject to the same penalties as the podesta. The *anziani* faced a lesser penalty of 100 pounds, but also loss of office. Further, if the crime against a privileged *popolano* was a major crime (homicide, wounding or kidnapping), no action could be taken in the courts until the culprit was sentenced. All shops had to remain closed, with a penalty of 25 pounds for infractions. In these cases, as in the earlier privileges of the *frati gaudenti* and the *popolo* privilege of the Forty of 1272, the privileged *popolano*’s word was to serve as full proof that the crime had been committed.<sup>227</sup> That same protection was also extended to those who paid taxes in the *contado* (called *rustici* in this law but usually referred to as *fumantes*) if they were attacked by a magnate, *potens*, noble or one of noble progeny, or a *persona infamata* or a *miles*.<sup>228</sup>

<sup>227</sup> Ibid., Bk. V, Rubric II, “De processu faciendo contra magnates et ecclesiasticas personas offendentes homines societatum populi Bononie, et de penis offendentium ipsos de populo, et eorum qui darent ipsis malefactoribus consilium vel favorem, et privilegio ipsorum popularum contra magnates et alios qui non sunt de societatibus,” pp. 285–290. Accusations by privilege against magnates made by *rustici* seem to have been particularly difficult to control. In 1294, a law declared that because of false accusations, no accusation or *denuncia* could be made by *rustici* against magnates for acts committed during the past four years. ASB, Comune-Governo, Riformagioni 139, fols. 116rv, Dec. 17, 1294.

<sup>228</sup> Fasoli-Sella, *Statuti dell’ anno 1288*, vol. 2, Bk. V, Rubric IIII, “De privilegio rusticorum quibus offenderetur per aliquos magnates vel aliquas infamatas personas,” pp. 293–294. As Pini, “Magnati e popolani,” pp. 392–393, points out, the section in the 1245–67 statutes on closing the shops had applied only to the killing of an *anzianus*, but had not applied to all privileged *popolani*. The rubric is in Frati, *Statuti dall’anno 1245 all’anno 1267*, vol. 3, Bk. XI, Rubric LII, “De vindicta facienda vulneris in persona antianorum vel consulum,” pp. 304–305. The podesta had *arbitrium* to punish such offenders “according to the quality of the crime by legitimate proofs or presumptions or by *fama*, notwithstanding any other statute, specific or not specific” (secundum qualitatem delicti per legitimas probationes vel presumptiones vel per famam, non obstante aliquo statuto preciso vel non preciso), and neither he nor his associates could be prosecuted for those actions at syndication.

Even more extraordinary were the privileges assigned to those who had written the Sacred Ordinances—the *anziani et consules*, their notaries and *sapientes*, and the two *sapientes* from each society in office at that time, as well as their fathers, sons, brothers, and grandsons or nephews (“nepotes” could mean either grandsons or nephews), if they belonged to the Geremei party. In addition to the privileges held by all members of the societies, these officials could carry offensive and defensive weapons throughout the city and district, day or night, without license, and those who physically offended them, if captured, were to be considered as “murderers, rebels and traitors” and punished within two days of their capture, “with no *exceptio* or defense heard or admitted” (*nulla exceptione vel defensione audita vel amisa*). Thus, any physical attack against them was to be considered a capital crime and their assailants were not to be permitted to defend themselves. Anyone who helped the attackers was to be fined 2,000 pounds and decapitated if ever captured. Furthermore, these officials could not be required to participate in any military expedition or compelled to hold any office, ordinary or special, or serve in any embassy. They could not be tortured except in notorious cases of falsification, homicide, or theft and then only if the witnesses against them were above suspicion. Finally, they were immune from prosecution for any crime they committed in self-defense.<sup>229</sup>

These extraordinary privileges granted to the founders of the Sacred and Most Sacred Ordinances (or some aspects of them) were extended periodically to other officials and individuals who were considered to be in special danger because of the nature of their responsibilities or particular circumstances, as had been done earlier with the privileges accorded by the Forty. For example, in 1287 privileges were granted to those who passed certain laws at a meeting held in the house of the blacksmiths’ guild. The statute version of the privilege tells us who was to be privileged (the *anziani et consules*, the *ministrales* of the pre-eminent societies, four *sapientes* from each society and the attorneys of the merchant and bankers’ guilds), but not why they were to be protected with privilege. From the *riformagioni*, however, we find that

<sup>229</sup> Fasoli-Sella, *Statuti dell’anno 1288*, vol. 1, Bk. V, Rubric XXIII, pp. 317–322, “De privilegio contemptum ordinamenta, et eorum patrum et filiorum.” The immunities from military service and office-holding were, however, overturned in 1285. Ibid., Bk.V, Rubric C, “Quod unus privilegiatus non habeat privilegium contra alium et quibus prestacionibus vel muneribus ratione privilegii nemini liceat excusare,” p. 459.

these were the officials who were on the commission that responded to the conspiracy of 1287 with a series of provisions to ensure the “good, peaceful and calm state of the city, district and *contado* of Bologna” and the preservation of the Sacred and Most Sacred Ordinances. The commission was a powerful one and their provisions did not require review and approval by the Consiglio del Popolo.<sup>230</sup> The first of their provisions reaffirmed the perpetual ban rubric of the Sacred and Most Sacred Ordinances which had been the target of the conspirators.<sup>231</sup> They also confined the magnate Ramberto Baccilieri to either Florence or Lucca and offered a reward of 2,000 pounds for the capture or killing of Rambertino di Niccolò Baccilieri and identified him as the author of the conspiracy.<sup>232</sup>

In 1288, however, in a reversal of policy, these privileges were also granted to the officials who dealt with ameliorating the now considered “excessive” penalties made earlier against Ramberto Baccilieri and his sons.<sup>233</sup> That same year the *anziani* and the *ministrales* of the two

<sup>230</sup> ASB, Comune-Governo, Riformagioni 126, fols. 30v–31r. The award of privilege for this commission specifies that privilege was needed for the members of this commission because what they had done was “to the injury and damage of many magnates and nobles of the city and district of Bologna. And indeed to the *banniti* who continuously carry out acts to the damage and detriment of the commune of Bologna and the Sacred and Most Sacred Ordinances... [and] because those who are their enemies and hate and threaten them may increase” (ad lexionem et dampnum multorum magnatum et nobelium [sic] civitatis Bononie et districtus. Et etiam bannitorum omnibus comunis Bononie qui continue eorum operas ingerebant in dampnum et detrimentum comunis Bononie et ordinamentorum sacrorum et sacratissimorum... propter que inimicantur et hodio habentur et mine eis multiplicint), and that therefore they are to have the same privileges as the founders of the Sacred Ordinances.

<sup>231</sup> ASB, Comune-Governo, Riformagioni 126, fol. 27r, Sept. 5–Oct. 8, 1287. This provision and nine others from the commission are published in Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, pp. 496–503. The perpetual ban rubric is in *ibid.*, Bk. V, Rubric CXXXVIII, “De pena tractancium de eximendis aliquibus bannitis de banno qui prohibentur exire de banno de forma ordinamentorum sacrorum vel eis affidandis vel aliquid aliud propter quod esset vel esse posset dissensio in populo Bononie,” pp. 496–97, which was reaffirming a part of the Sacred and Most Sacred Ordinances, made bans for major crimes perpetual rather than for minimum periods. The language of the statutes is ambiguous since fixed term bans were also called “perpetual.”

<sup>232</sup> ASB, Comune-Governo, Riformagioni 126, fol. 28v. These provisions and several others from the set are not published in Fasoli-Sella.

<sup>233</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, pp. 418–419, for the list of those privileged (*anziani et consules et sapientes*) “because they restored properties to the heirs of the deceased Ramberto Baccilieri which had been confiscated by the commune of Bologna” (eo quod restituerunt bona heredibus condam domini Ramberti de Bazaleriis, que publicata erant in comuni Bononie). ASB, Comune-Governo, Riformagioni 128, fol. 130r, December 1288, for the privileges granted the *anziani et consules*, their notaries and the *ministrales* of the preeminent societies (the butchers *pro armis* and

preeminent societies and their notaries were also given these privileges because of the “excessus” they had made against Giacobino the advocate because of the *denuncia* by privilege made by him concerning the abbot of S. Felice.<sup>234</sup> The privileges granted to the writers of the Sacred Ordinances were extended in 1290 to fifty-three officials because of the hatred they incurred when they ordered the destruction of the properties of the powerful *contado* nobles of da Gesso. The destruction was called for because Tommasino *Ammonitus* was killed by Alberto di Laigono da Gesso and his brothers. The victim’s father had been *mas-sarius* and *ministralis* of the blacksmiths’ guild.<sup>235</sup>

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the salt-sellers) who originally levied the penalties against Ramberto Baccilieri and his sons and properties. Also *ibid.*, 126, fols. 17rv, Nov. 24, 1286 for the destruction of the properties of Ramberto Baccilieri and Lambertino *de Benis* and their brothers for the murder of Guglielmo di Martino, steward (*guastaldus*) of the arms society of the Claws. In that instance the privileges accorded the officials of the preeminent societies (the Crossbars and blacksmiths), the *anziani et consules* and their notaries, as well as their fathers, brothers, nephews and grandsons, from both the male and female lines, were given the privileges of the founders of the Sacred Ordinances, but the privileges were limited to protection against those who had committed the crimes and their relatives. The last privilege is not in the published Statutes.

<sup>234</sup> ASB, Comune-Governo, Riformagioni 128, fol. 105v, Nov. 24, 1288, and fol. 122r, Dec. 13, 1288, for a *compromissum* between the abbot of S. Felice in Porta Stiera and his monks. Also Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, pp. 417–418. The Statutes do not explain what happened in this instance, but in the *Riformagioni* we find that the *ministrales* of the two preeminent societies of that month (the Crossbars and blacksmiths) had determined that a certain Giacomo, an advocate and member of the popular societies, had instituted a false accusation by privilege against the abbot of S. Felice, claiming he had been “disturbed” (*turbatus et inquietatus*) in possession of his houses, lands, vineyards, woods, etc. The *ministrales* had met and fourteen of the fifteen had voted that they believed the accusation was false, as did fifty-six of the sixty-three *sapientes* who were present to ensure adherence to the Sacred and Most Sacred Ordinances. The Consiglio del Popolo subsequently voted that the podesta should have full *arbitrium* to act against Giacomo. ASB, Comune-Governo, Riformagioni 128, fol. 98r, Nov. 7, 1288. The vote granting privilege to those officials was passed the next day, *ibid.*, fols. 99rv. These provisions concerning the abbot are also discussed in Valeria Braidì, “Il contributo delle ‘Riformagioni del Consiglio del Popolo e della Massa (1273–1337)’ allo studio della storia di Bologna,” *Atti e memorie della deputazione di storia patria per le province di Romagna*, new series, 13 (2003): 145–182, esp. pp. 162–164.

<sup>235</sup> ASB, Comune-Governo, Riformagioni 131, fols. 409v–410r, September 1290. The newly privileged were the *ministrales* of the societies of the Claws, curriers, and blacksmiths, the two preeminent societies of that month (the latter two guilds served together as one society for this purpose), and their notaries. The da Gesso comprised a particularly powerful and threatening family. In 1302, in response to a petition from Bonaparte di Rolandino da Gesso, *fumans*, the Consiglio del Popolo granted the *fuman-tes* of Gesso the same privileges as members of the guilds and arms societies vis-a-vis the heirs of Laigono because they were suffering from crimes committed by Laigono

In 1292, the Sacred and Most Sacred Ordinances were renewed in a modified form (their original promulgation had been for a ten-year period). The privileges of the officials responsible for this new promulgation (the same as those issued in 1282) were extended to all members of the Consiglio del Popolo.<sup>236</sup> However, these grants of privilege to officials, above and beyond the privileges granted to members of the popular societies, were to specific officeholders, and were not an ongoing grant to future holders of that office. Indeed, in 1303 the privileges granted to the *anziani* changed from month to month as the government faced the turbulence generated by a major conspiracy.<sup>237</sup>

The goal of privilege-granting by the early fourteenth century, however, especially after the coup of 1306 and the re-expulsion of the Lambertazzi from the popular societies, was to give the dominant faction protection against political enemies. As the *popolo* fractured into narrower factions, the new political opposition was specified and the number of protected officials expanded, as in the privileges granted in 1309 to officials who had promulgated new anti-crime legislation. The provisions were made in a special meeting held in the church of S. Maria Maggiore by the Capitano, the *ministrates* of the two preeminent societies (the notaries and arms society of the Swords), the *preministrates* of the organization of the seven arms societies (formed in 1306), and their *sapientes*, on the basis of authority given to them by the Consiglio del Popolo. Their privileges were for protection “against those removed in 1306 and since then from the Consiglio del Popolo and the Council of 4,000 and from the *militia* of the commune—Lambertazzi as well as ‘bad’ Guelfs and members of the Maltraversa party.”<sup>238</sup>

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da Gesso and his followers. They were also given tax relief (since they could not use their lands). ASB, Comune-Governo, Riformagioni 157, fols. 116rv, Nov. 9, 1302.

<sup>236</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric LXXII, pp. 377–381, “Nomina consiliariorum populi societatum artium, cambii et mercadandie,” pp. 377–381, and *ibid.*, Bk. V, Rubric LXXIII, “De privilegio concesso condemptibus ordinamenta predicta et eorum patribus, filiis, fratribus et aliis consiliariis populi,” pp. 381–391. In both the privileges of 1282 and 1292, the privileged, in addition to their juridical rights, were empowered to carry weapons without the need to have a license for that purpose. The privilege of 1292 covered defensive weapons only; that of 1282 covered both offensive and defensive weapons.

<sup>237</sup> ASB, Comune-Governo, Provvigioni III, fol. 55r, for the privileges granted to the *anziani et al* in March, and fol. 63r for the privileges given in April. The privileges included carrying offensive and defensive weapons without license anywhere and any time except in the communal palace. *Ibid.*, fol. 56v, March 27, 1303.

<sup>238</sup> “Contra cassatos de consillio populi et quatuormillium et de millicia comunis Bononie tam pro parte lambertaciorum quam pro malis guelfis et maltraversis.” ASB, Comune-Governo, Provvigioni III, fols. 290r–292r, Feb. 21, 1309.

In addition, those privileges were granted to the *preministralis* of the Claws arms society and to the *ministrales* as well as the *preministralis* of the organization of the seven arms societies, every *anzianus* and *consul* in office since March 1306, their notaries and all councillors of the Consiglio del Popolo, with the additions to that council, beginning with June 1307 to July 1308 (except those who had been purged). It also included the then present *ministrales* of the two preeminent societies and those in the then present Consiglio del Popolo who were not already covered by membership in the two councils of 1307 (semester II) and 1308 (semester I), and the present *ministrales* of the organization of the seven arms societies.<sup>239</sup> The privileges for officials in 1308 went further than preceding grants of privilege not only by specifying that the officials were immune from prosecution by the podesta for all crimes except homicide, treason, robbery, arson and falsification, but also by requiring that the podesta act in those cases only with permission of the *anziani*, *barisellus*, *preconsulis*, and *massarius* of the arms society of the Claws (or whoever sat with the other executive officials on behalf of the organization of the seven arms societies).<sup>240</sup>

This deepening and broadening of privilege in 1308 and 1309 corresponds to the demarcation point for a significant narrowing of the Bolognese oligarchy in those years, as described above in Chapter Three, which took place after the coup of 1306. Nor is that correlation a coincidence. Political life narrowed as judicial privilege expanded at the beginning of the fourteenth century. After the expulsion of Romeo Pepoli and his faction in 1321 and the subsequent broadening of political participation, the circle of the privileged once again contracted, albeit temporarily. In 1310, moreover, as the Pepoli faction tightened its grip on the commune, the more extensive type of privilege usually granted only to officials became available to many members of the popular societies (5,500 individuals and their sons, grandsons, brothers, nephews and fathers), creating a situation whereby approximately half the politically active adult male population<sup>241</sup> held extraordinary

<sup>239</sup> ASB, Comune-Governo, Provvigioni III, fols. 291rv.

<sup>240</sup> ASB, Comune-Governo, Riformagioni e provvigioni, serie miscellanea, Busta 315 (1301–1335), Fascicolo 13, April 10, 1308, exemplar by the notary Marco di Matteo Bambaglioli of a 1308 original document, and Fascicolo 14, exemplar by the notary Bombologno di Niccolò of a 1308 original document. The provision was reaffirmed in 1309, *ibid.*, Fascicolo 16, notary is Tomasso Bambaglioli.

<sup>241</sup> The population estimate is Vallerani's, "Il potere inquisitorio," pp. 408–409. The number of privileged given by Vallerani is "approximately 5,500," that given by Milani is 5,600. As Milani notes, the treatment of new groups of political opponents as

leverage in court over anyone not privileged and were themselves immune from prosecution for most minor crimes.<sup>242</sup> The purpose of the privilege was again political—the privileges were not only against magnates but against all who had been purged from the councils and communal cavalry since March 1306, against all Lambertazzi and all their male descendants, and those who had been banned or assigned *confinatus* status or forbidden access to the communal palace (*interdicti* as a result of the treason committed at *Monte Cantagle* and the *castelli* of Casio, Tedaldi, Stagno and Panico, and the descendants of those persons).<sup>243</sup> To receive privileged status, members of the arms societies and guilds had to pay 12 *denarii* to the two notaries who were compiling the lists of the privileged. Excluded from privileged status were foreigners or anyone *de lingua forasteria* who (or whose ancestors) had not been registered in the *estimo* for at least twenty-five years.<sup>244</sup>

The 1310 privileges included the “anti-magnate” privileges of protection against physical attacks by magnates as provided in the 1282–84 Sacred and Most Sacred Ordinances, and from verbal assault from magnates and from anyone who was not a member of the guilds and arms societies (but not against *fumantes*). The monetary penalties in 1310, however, were higher than those set in 1282–84.<sup>245</sup> In the case

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“Lambertazzi” had the effect of dividing citizens into two vast groups—the privileged and the *interdicti*. Milani, *L'esclusione dal comune*, pp. 378–379.

<sup>242</sup> ASB, Comune-Governo, Provvigioni III, fols. 295r–300v for the privileges granted in 1310, and fols. 300v–318r for the list of those privileged in 1310 with a few additions made in 1313 and 1319. ASB, Comune-Governo, Riformagioni 172, fol. 198r, June 13, 1310 for the legislation empowering the making of the new privilege lists. The stated purpose of having the new lists was to purge those who were enjoying the benefits of privilege “unfairly and unjustly and were unworthy” (*indebite et injuste et indigni*) because six months earlier the *anziani* at that time, under the pretext of authority granted to them, had supposedly clandestinely granted privilege to people who should not have been privileged. The newly privileged were to be listed by the Capitano and the *anziani* and then approved or rejected by the Consiglio del Popolo.

<sup>243</sup> *Interdicti* comprised a category of political outsiders separate from the *banniti* and *confinati*. It was not a new category in 1310. For example, in 1303, after the conspiracy of that year, a list was promulgated of thirteen *interdicti*, that is, those who could not enter the communal palace, serve in a council or as a *sapiens*. They had to be removed from all popular societies and could not hold any office for commune or *popolo*. ASB, Comune-Governo, Provvigioni III, fol. 40r.

<sup>244</sup> *Ibid.*, fol. 300v.

<sup>245</sup> The penalty for debilitation of a limb was 2,000 pounds, for a wound or blow 1,000 pounds, and for *verba iniuriosa* 200 pounds.

of physical attacks, the protection also applied against accomplices of the perpetrator, an important concession, since as we saw above, the podesta's jurisdiction over that crime was sometimes challenged. New also was the provision that if the persons to whose homes the culprits had fled did not surrender the culprits within three days, their houses were to be destroyed and could not be rebuilt. This destruction was to be carried out, as in the application of all privileged penalties, with the homeowner deprived of the right to offer a defense. Another significant change from the 1282–84 Ordinances is that not only were the privileged protected against broader groups, but that they were granted immunities from prosecution in the courts for certain criminal offenses. They could not be prosecuted by any official for any offense except for the major crimes of homicide, treason, robbery, arson, falsification and kidnapping or for crimes committed at night, or for meeting with the counts of Panico or other enemies of the commune, or receiving nuncios or letters from them or sending them letters, or for gambling. They also could not be detained if an accusation was made against them.<sup>246</sup> Although they were not immune from prosecution for major crimes, nevertheless the privileged *popolani* now were immune from lesser charges such as assault (the most dominant crime in the criminal courts), property damages, brigandage, and all civil lawsuits. With the granting of the 1310 privilege, approximately half the adult male population of the city was essentially given free rein to attack with impunity their enemies in their person and property (unless those enemies were themselves privileged). Furthermore, the use of torture against a privileged *popolano* now required not only the permission of the Capitano, but that of a majority of the *anziani et consules*, the *barisellus*, the *preconsulis* of the notaries, and the *preministralis* of the seven societies.<sup>247</sup> If any of those officials did not attend the meeting to decide if the privileged *popolano* was to be tortured, then that official was to be fined 100 pounds, unless he were ill or away from the city. The only ones not vulnerable to the considerable disadvantages of litigation with a privileged person were other privileged persons, who could not be charged on the basis of privilege unless a license had been granted to the accuser by the *ministrales* of his guild

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<sup>246</sup> Ibid., fols. 298v–299r.

<sup>247</sup> Ibid., fol. 299r.



or arms society. In short, privileged *popolani*, in giving themselves legal advantages, had deprived themselves of the use of the law courts for conflict resolution against each other except in the case of the most major of crimes. This development must have contributed at least in significant part to the precipitous fall in the number of court trials, especially those initiated by accusation, that occurred in the early fourteenth century.<sup>248</sup> Moreover, the expansion of privilege, intended as protection against the effects of factionalism, itself exacerbated political rivalries. The higher and more expansive the level of privilege, the greater became the stakes and the sharper the bitterness of conflicts. The ideology of exclusivity and privileged legal protection that was the foundation of *popolo* political life magnified the impact of the political premise of “winner-take-all” and the fear of opposing factions. Not coincidentally, the expansion of privilege in 1310 corresponds to the period when Romeo Pepoli emerged as *proto-signore* of Bologna, with tremendous influence over all decision-making and with the special privilege of being present at the election of all *anziani*.<sup>249</sup>

The privileges of 1310 marked the broadest extent of the awarding of privilege and make a mockery of any claim to equality (before the law or between parties, in penalty or process) in criminal justice in late medieval Bologna. But the institution of privilege never had the consensus of all participants in political life, and the weapons-carrying privileges in particular had been withdrawn periodically, especially in times of public insecurity or anticipated upheavals. Law enforcement officials complained that privilege prevented them from taking action against culprits. As early as 1294, when privilege was restricted to far fewer people, the podesta *Bonacursius de Donatis* complained that he was hampered in his prosecution of culprits because of their privileges or connections to people with privilege.<sup>250</sup> When Biancolino di

<sup>248</sup> For the decline in accusation trials in the criminal courts, see Vallerani, “I processi accusatori a Bologna,” pp. 778–779 and p. 784. Unfortunately, the civil court records have not survived.

<sup>249</sup> Ferruccio Papi, *Romeo Pepoli e il comune di Bologna dal 1310 al 1323* (Orte: Tipografia Egidio Marsili, 1907), p. 18.

<sup>250</sup> ASB, Comune-Governo, Rifirmagioni 126, fol. 32v, Aug. 12, 1288. The podesta, *Dominus Bonacursius de Donatis*, complained in a petition to the executive officials that there were many crimes occurring in the city and *contado* that he could not investigate because of the privileges and ties privileged persons had with assassins and infamous persons. He asked for authority to act against such persons and also requested that the carrying of offensive weapons be forbidden. ASB, Comune-Gov-

Brunino Bianchi di Cosa from *cappella* S. Stefano attacked certain men in the entourage of the podesta himself, the Consiglio del Popolo had to grant special authority to the podesta in order for the podesta to proceed against Biancolino despite his privileged status.<sup>251</sup> Grants of *arbitrium* to the podesta, both in special instances and as part of anti-crime proposals, often carried the proviso that the podesta could take action regardless of whether or not the imputed were of privileged status, as illustrated in a grant of extended authority to the podesta in a poisoning case in 1304.<sup>252</sup> False accusations made by privilege also posed a problem, which the commune tried to safeguard against by empowering the *ministrales* of the two preeminent societies to intervene in such cases. The accused person, or someone on his behalf, would complain to the *ministrales*, who would come to court and order suspension of the trial. After reviewing the testimony of witnesses and the proofs presented, the *ministrales* made a decision as to whether or not the accusation was false, and if it were, the trial ended with acquittal of the accused.<sup>253</sup> In 1317 and 1318, there was a particularly

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erno, Riformagioni 126, fol. 32v, Aug. 12, 1288. The complaint of the podesta is also cited by Vallerani, "Il potere inquisitorio," p. 392.

<sup>251</sup> ASB, Comune-Governo, Riformagioni 172, fol. 167v, April 24, 1310.

<sup>252</sup> ASB, Comune-Governo, Riformagioni 160, fols. 88v, 89v, May 4, 1304. The poisoner was a certain Benvenuta from Loiano who was charged with poisoning the entire family (including the family dog) for whom she worked as a servant. She did this for payment from enemies of her employer. The judge was also given summary justice authority in this case.

<sup>253</sup> ASB, Podesta, Accusationes, Busta 39b, Reg. 220, fols. 3rv, July 9, 1317. In this example, Niccolò di Ugolino of *cappella* S. Maria Maggiore, a privileged person, had accused Egidio di Guglielmo Malavolta, Francesco Camanni da Castello, Alberto di Bonaparte Albari, and Ubaldino di Rambertino Scappi "qui sunt de nobilibus et magnatibus civitatis Bononie" of threatened assault and *verba iniuriosa*. The accused were then summoned to court by accelerated process on July 11, 12 and 13, but on July 14 twelve *ministrales* of the arms society of the Horses and the shoemakers, the two preeminent societies for that month, came to court and ordered the podesta to suspend the trial (since they feared the accusation was false and malicious), while they investigated. On July 25, the accuser renounced his accusation and paid the *gabella*. A person found guilty of presenting a false accusation was subject to harsh penalties. In 1319, Niccolò di Licanorio from *cappella* S. Cristina della Fondazza made an accusation by privilege against two Lambertazzi for threatened attack and *verba iniuriosa*. But the accused, Bartolomeo and Dondideo, went before the *ministrales* of the two preeminent societies to complain. The *ministrales*, together with the two *sapientes* for each society that served as their advisory council, made a "diligent" investigation and a majority voted that the accusation was false. At that point, on May 11, an *inquisitio* was instituted against Niccolò that consisted of lighting a candle at the assembly place of the communal palace and summoning him to appear before the candle burned out.

strong reaction against privilege by lawmakers and contingents from the popular societies, against both arms-carrying and legal advantages and immunities, and those privileges were excluded in the new statutes on crime of 1318. The anti-magnate, anti-Lambertazzi and privilege laws were renewed in 1318, but the lists comprised fewer although still significantly large numbers of people—over 4,000 *popolani* were registered as privileged.<sup>254</sup> In 1319, however, the Consiglio del Popolo “because there is so much enormous crime, homicides, thefts, robberies and injuries committed daily” which stem from a “defect of government which is not able to perform as it ought,” temporarily granted the Capitano and podesta authority to exercise their office “notwithstanding any innovation and concession of privileges made in December or since.” The privilege lists were then reviewed and purged, and the anti-magnate, anti-Lambertazzi laws and privilege provisions once again renewed.<sup>255</sup> In contrast, when the Pepoli were overthrown and banned in 1321, the new regime granted special privileged status (that is, privileges in addition to those granted by the original anti-magnate legislation) only to ninety-nine persons.<sup>256</sup>

But were privileges honored in practice or was the podesta’s complaint against privilege in 1294 merely an anomaly? Traditionally, historians have dismissed the anti-magnate legislation’s efficacy and maintained that those laws were not enforced. We have already seen, however, that the *popolo* privilege against torture was honored and that when it was threatened in 1317, the effective response of the privileged *poplani* was use of the *protestacio* to reinforce that privilege. The view that the anti-magnate legislation was not enforced at Bologna rests on Gina Fasoli’s review of court trials against magnates in the 1280s and early 1290s. She made the valid point that in those trials the imputed magnate was not convicted by the word alone of the alleged *popolano*

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He did not appear and was banned on May 14. ASB, Podesta, Accusationes, Busta 41a, Reg. 23, fol. 1r, May, 1319.

<sup>254</sup> ASB, Comune-Governo, Riformagioni 190, fols. 297r–310v, June 1318.

<sup>255</sup> ASB, Comune-Governo, Riformagioni 190, fols. 298v–304v, June 15, 28, and 29, 1319.

<sup>256</sup> ASB, Comune-Governo, Provvigioni IV, fols. 152r–153r, July 30, 1321. The grant consisted of all privileges that had ever been granted and was extended to their fathers, brothers, and sons. The privileges were valid against all the usual political groups, including of course the new political *banniti* of July 1321. They did not, however, grant legal immunities for assault and property damages, etc, as had the privileges of 1310 and 1318.

victim, as called for in the Sacred and Most Sacred Ordinances, albeit the trials did proceed on an accelerated timetable (a conclusion I validate on the basis of a much larger sample).<sup>257</sup> But should one conclude

<sup>257</sup> Fasoli, "La legislazione antimagnatizia a Bologna," p. 385 and "Ricerche sulla legislazione antimagnatizia," pp. 261–262. Her sample is not, however, one of all extant magnate trials from that period. Other examples of historians who maintain that the anti-magnate legislation was not enforced or served merely as a mask for factional conflicts include Ovidio Capitani, "Dal comune alla signoria," in *Storia d'Italia*, ed. Giuseppe Galasso, vol. 4 (Turin: Unione Tipografico-Editrice Torinese, 1981), pp. 149–150. He describes the "failure" of the anti-magnate legislation. Vitale regards the anti-magnate legislation of the early fourteenth century as only a mirage and actually in favor of the White Guelfs in 1306 and the Pepoli in 1319. Vitale, *Il dominio della parte guelfa*, p. 165. More recently, Antonio Ivan Pini, "Magnati e popolani a Bologna," p. 395, maintains that after 1292 the anti-magnate laws "were in practice almost never applied, but were brushed up from time to time in a function exclusively anti-Ghibelline." However, he offers no evidence for that interpretation. He also views the 1292 version of the "volentes" rubric that required certain magnates and nobles to post securities for their good behavior as weaker than the original version. He sees the original as a preventive measure, and the later version as weaker since in the latter only those who had actually committed a crime against a *popolano* were required to post securities. However, I have found bans in the criminal court records against many of those magnates and nobles listed in the original, 1282 version of the rubric that were issued before the listing of these magnates in the "volentes" rubric in 1282, so both rubrics were in a sense preventive. My own earlier interpretation followed this approach of minimizing the significance of the anti-magnate laws. Blanshei, "Crime and Law Enforcement," p. 130. In contrast, Massimo Giansante takes the more tenable position that the periodic renewals of anti-magnate legislation served to enhance cohesion within the *popolo* and gain support of the artisanal classes against threats to stability, as in the early years of the fourteenth century from magnates who were "pro-Ghibelline" Guelfs. Massimo Giansante, *Patrimonio familiare e potere nel periodo tardo-comunale. Il progetto signorile di Romeo Pepoli banchiere bolognese (1250 c.-1322)* (Bologna: La fotocromo emiliana, 1991), p. 55. Factionalism revolved around issues of foreign policy and alliances with Guelf allies against Ghibelline opponents. But the joining of policies on the Sacred Ordinances and internal threats to policies towards external threats should not be viewed as vitiating the validity of the internal policies or mean that they were merely a "mask" for factionalism. Andrea Zorzi, "Politica e giustizia a Firenze al tempo degli ordinamenti antimagnatizi," in *Ordinamenti di giustizia fiorentini. Studi in occasione del VII centenario*, ed. Vanna Arrighi (Florence: Ministero per beni culturali e beni ambientali, 1995), pp. 105–147, esp. pp. 139–140, in a revisionist study aimed at showing that the magnates did not represent a particularly violent group, cites the repetitive enactments of the Ordinances of Justice as a measure of their inefficacy as a punitive provision. In this sense, he postulates the "coercive failure of the anti-magnate provisions" for Bologna as well as Florence, citing Fasoli for Bologna. However, Zorzi then goes on to say that this is a judgment based on an anachronistic point of view, and that the Ordinances should be viewed as successful inasmuch as they served as a point of negotiation for the renunciation of violent behavior by members of the elite. *Ibid.*, pp. 144–145. Carol Lansing, *The Florentine Magnates. Lineage and Faction in a Medieval Commune* (Princeton: Princeton University Press, 1991), pp. 16–17, views the Florentine anti-

from that observation that the anti-magnate laws were not enforced or that they “failed”? Fasoli cites sixteen trials involving magnates, but most of them are fragmentary and without verdicts (as in the case of the five trials from the *accusationes* records), or, in the case of three trials, were charges for false accusations made by privilege. Of the four trials with verdicts, all were from the *inquisitiones* records. Three of the trials ended in bans and one, against a cleric, in the loss of the commune’s protection, that is, all ended in convictions. The pattern of bans from the trials that were initiated by *inquisitio*, although Fasoli’s sample was very small, is actually a higher conviction rate than the average for *inquisitio*-initiated trials. In general, going beyond Fasoli’s sample, one finds most trials against magnates initiated by accusation were for threatened assault and verbal assault (a charge which could only be brought against magnates and those insulting officials) and ended in acquittals or suspension of the trial. But acquittals and suspensions are the dominant verdicts in all trials initiated by accusation. The purpose of an accusation against a magnate no more had a goal of conviction and punishment than did those accusations by and against non-magnates. *Inquisitio*-initiated trials were much more likely to end in conviction, as was the case in Fasoli’s sample. One also finds condemnations of magnates in the lists of fines paid by those condemned for both minor and major crimes.<sup>258</sup> Moreover, charges

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magnate legislation as “enforced only mildly,” for which argument she cites Marvin B. Becker, “A Study in Political Failure: the Florentine Magnates, 1280–1343,” *Medieval Studies* 27 (1965): 246–308. But Becker’s evidence is thin. He notes that the attempts of magistrates “to bring the *potentes* and *magnates* of the city to justice” were impeded by “repeated grants of judicial dispensation.” He also notes that the guarantors for magnates (all magnates at Florence, in contrast to Bologna, were required to post bonds) were *popolani* as well as other magnates (at Bologna *popolani* were not permitted to serve as guarantors for magnates). This practice, according to Becker, “meant that great *popolani* were much involved in the fate of lawless magnates and, therefore, ambivalence tended to be nurtured.” Becker, “A Study in Political Failure,” p. 255. It is only after 1343 that Becker finds a “stringent enforcement of communal law” and then temporarily. On judicial dispensations and that “the enforcement of law was less than forthright,” see *ibid.*, pp. 270–271. But Becker also concludes that “no matter how often these laws were violated in practice, they managed to retain a forceful hold upon the popular imagination, and each time the *Signoria* was democratized, their precepts were reasserted.” *Ibid.*, p. 278. Koenig, writing about the Bolognese anti-magnate legislation of the 1280s, maintains that there was “considerable evidence of its enforcement,” and cites in general volume 4 of the *Accusationes* records (1271–1285). Koenig, *Il “popolo” dell’Italia*, p. 377, footnote 19.

<sup>258</sup> ASB, Podesta, Accusationes, Busta 12a, Reg. 9, Condanne Pecuniarie, fol. 10r, for a condemnation against “Apolanium filium naturale et legiptimum domini Alberti de Hencola et Montanarium filium naturalem tantum dicti domini Alberti

initiated by privilege relatively frequently resulted in the ban of the accused. For example, of 111 extant bans from the second semester of 1320, at a time when privilege lists were extensive, twenty-two (20 percent) originated in an accusation made by privilege, with eleven of the twenty-two charges made against magnates.<sup>259</sup>

Should one measure the efficacy of anti-magnate and privilege laws by the rate of convictions for those actually held in custody in a system where such trials were a distinct minority, as discussed above? Or should one not consider the deterrent effect and the leveling of the playing field that the *threat* of conviction by word alone of a privileged *popolano* brought to a trial against a magnate? Moreover, the threat of conviction by ban also had a potent deterrent effect. Those placed under ban for major crimes, for example, even if never captured (and we have seen above in section 4 that magnates and *contado* nobles were in fact captured as *banniti* and executed), still suffered the loss and destruction of their properties when they were placed under ban. In accusation trials the purpose of the trial often was to bring the

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de Henzola...de nobilibus et potentibus et nobili progenie natis civitatis Bononie." The fine was 250 pounds for their attack against Magister Giacomo *de Mantighellis* who was a member of the arms society of the Crossbars. They had chased him with offensive and defensive weapons to his house. The trial was initiated by *inquisitio*. Both paid the fine (Jan. 26 and 30, 1293). They were also fined, this time "only" for 50 pounds for armed assault against Magister Giovanni *de Lande, scolaris Bononie in medicina*, which occurred at night in his house. Ibid., fol. 17v. Similarly, Massimo di Bartolomeo Carbonesi "qui est de nobilibus potentibus et magnatibus civitatis Bononie et de nobile progenie natus" was fined 100 pounds for his attack (consisting of *verba iniuriosa* and chasing the victim to his home) against Martino, whose father was a member of the arms society of the Stripes of Saragozza. That trial was initiated by accusation brought by the father. Ibid., fol. 42r, Feb. 14, 1293. In 1317, Galeotto di Napoleone Malavolta "qui est de nobilibus et potentibus civitatis Bononie" was charged in an *inquisitio* of having assaulted and killed Pietro di Rainerio from Stiatico, a *rusticus*, in the rural commune of Pianoro. Galeotto did not strike the mortal blow, but was charged with giving Accursio Accursi, who did, assistance (*auxilium consilium et favorem*) and helping him escape. The assault took place in the city streets in the Trivio of the Gardini. Most of the witnesses said Accursio struck the mortal blow. Galeotto appeared and denied the charge against him, but testified that Accursio had struck and killed the victim. He later confessed that he had given assistance to Accursio, was imprisoned and paid a fine of 600 pounds. Accursio was banned. ASB, Podesta, Inquisitiones, Mazzo 92bis (one register), fols. 46r-51r, April 2-22, 1317. For another condemnation against magnates, ASB, Podesta, Accusationes Busta 12b, Reg. 11, fols. 63r-64r, Aug. 25, 1293. Ubaldino and Giliolo, sons of Guglielmo Malavolta and Castellano di Uberto Malavolta were convicted of assault with the drawing of blood against Betasio and Bulgaro Gattari, members of the popular societies. The penalty was a fine for the very large sum of 500 pounds.

<sup>259</sup> ASB, Podesta, Accusationes, Busta 43b, Regs. 344, 347, 341, and 342.

accused to an out-of-court settlement and end the trial with a *renuncia* and acquittal of the imputed. When this happened in the case of accusation trials initiated by privilege, why should it be viewed as a failure of the anti-magnate and privilege laws?

Clearly, whether a person was tried as a magnate or as a *poplano* meant a great deal to the persons involved. In 1324, for example, Giovanni di Antonio from *cappella* S. Maria Maddalena, a privileged *popolano*, made an accusation against six men of the *contado*, including two sons of the counts of Panico. He charged them with committing verbal assault against him when he tried to collect taxes from them. Three of the six men made an *exceptio* in which they claimed they were not magnates. The issue of their legal status was the focus of the trial against them. They successfully proved their non-magnate status and were acquitted. However, Bonifacio, son of Count Ugolino da Panico, a *contado* noble charged in the same trial, was banned with a substantial penalty of 200 pounds.<sup>260</sup> In 1322, a privileged *popolano*, Cambio di Riccardo Vetri, accused Muzolo da Vizzano and his son Aspetato, whom he claimed were *contado* nobles, of threatened physical assault and *verba iniuriosa* against him in the rural comune of Ancognano. The imputed denied that they were nobles and the focus of the trial became whether or not the trial should proceed by privilege. A *consilium sapientis* was obtained by the judge, which recommended that the trial be halted and each party be given ten days to prove or disprove the alleged noble status of the imputed. Thus, it was vitally important to the defendants *not* to be brought to court on charges made by privileged procedure. Indeed, if they were not magnates or nobles, there often was no basis for a charge against them, since verbal assault charges could only be made by privileged *popolani* against magnates and nobles and government officials.<sup>261</sup> It was also very important to the accuser to be able to make his accusation by privilege. When Cambio di Riccardo Vetri, member of the popular societies, found that the judge would not permit him to make a charge by privilege, he was not satisfied with that decision and lodged a petition against the court decision with the Consiglio del Popolo. In that petition he reiterated what had happened in court, and complained

<sup>260</sup> ASB, Podesta, Accusationes, Busta 47a, Reg. 658, fols. 7r–10v, Jan. 19, 1324.

<sup>261</sup> ASB, Podesta, Accusationes, Busta 45a, Reg. 494, fols. 23v–31v, May 14–Aug. 18, 1322. The imputed claimed they were of the prominent *popolano* family of the Battagliucci and sons of the deceased Pietrobono Battagliucci.

that his right to make a charge against a magnate and to have that person accepted as a magnate on his word alone had been violated.<sup>262</sup> He also complained that it was very difficult for him, indeed impossible, to prove the magnate status of Muzolo and Aspetato, since in the books of *contado* nobles their family was described simply as “all [being] *cattanei* da Vizzano,” without the names of the individuals who comprised that group. He therefore petitioned that Aspetato and Muzolo be declared magnates and nobles of the *contado* by the Consiglio del Popolo and that the podesta be required to permit Cambio to proceed against them in court by privileged accusation. But the Consiglio, in a relatively rare negative decision, rejected his petition and stipulated that the trial must proceed by normal process (*de jure*), and not by privilege.<sup>263</sup> Anti-magnate privilege was a powerful conflictual weapon, as the commune recognized when it arbitrated a peace accord between the privileged *popolano* family of the Rovisi and the magnate family of the da Sala. When the Consiglio gave the Capitano and *anziani arbitrium* to end the disputes between those two families, it specified that in the future Albertuccio, Pietro and Bartololino, sons of *Frullanus* da Sala, or any of their sons could not be accused or denounced by privilege by anyone of the Rovisi family, but that the latter could proceed in court by “*jus ordinario*.” It also lifted the sentence of ban against one of the da Sala which had been made as a result of a privileged accusation by one of the Rovisi.<sup>264</sup> In this case, where two powerful families were in conflict, the commune leveled the playing field by disarming the privileged position of the *popolano* family.

By permitting charges of verbal assault to be made by privileged *popolani* as well as by officials, the anti-magnate laws demanded that privileged *popolani* be treated with the respect and honor that the commune and its officials commanded. The ultimate purpose of the laws, the expressed rationale of their rhetoric, was to protect privileged *popolani*, i.e., to level the playing field and deter attacks of the stronger against the weaker,<sup>265</sup> and this seems to have been accomplished if

<sup>262</sup> “spreti et non servata forma ordinamentorum sacrorum loquentium et dicentium quod credatur de magnate quod sit magnas et de nobili et potente.”

<sup>263</sup> ASB, Comune-Governo, Riformagioni 197, fol. 277r, June 28, 1322.

<sup>264</sup> ASB, Comune-Governo, Riformagioni 166, fol. 127r, June 28, 1307.

<sup>265</sup> As in the famous rubric which introduced the statute that required certain magnates and nobles to post securities for their non-violent behavior against *popolani*: “Volentes et intendentes quod lupi rapaces et agni mansueti ambulent pari gradu providerunt....” Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric XVI, “De



one notes the relative rarity of magnate attacks on *popolani* that went beyond threatened physical attack and *verba iniuriosa*, the severity of the reaction to actual physical attacks, and the outrage that ensued if the podesta did not enforce the laws. To intervene in the application of justice against a magnate carried serious consequences. Thus in 1316, when Romeo Pepoli sought to prevent the destruction of the properties of a magnate from the Garisendi family, who had been banned for the killing of a privileged *popolano*, Romeo himself was briefly banned as a “disturber of the peace.”<sup>266</sup> The issue of non-enforcement is itself misleading, and to dismiss the anti-magnate legislation on the basis of non-enforcement is to fall into the fallacious thinking of John Austin and the English Utilitarians who maintained “that unenforced legislation is meaningless.”<sup>267</sup> The anti-magnate and Lambertazzi laws were regularly proclaimed by heralds throughout the city, thereby demonstrating the authority of the commune against political “outsiders” and performing a deterrent function. The deterrent aspect of the anti-magnate laws was crucial to the purpose of those laws. The goal was not merely to punish offenders, as evidenced by the pattern of enforcement, but to deter violence by the stronger against the weaker by enhancing the position of a privileged *popolano* in the courtroom against the intimidating power of a magnate or noble. The goal was not one against violence *per se*. Violence was reconcilable in the long run by means of the *pax*, but not in the short-term. If the culprit was captured, be he magnate or *popolano*, he was executed. What was unacceptable and not tolerated was gross *inequality* between offender and victim. To postulate the goal of the anti-magnate legislation as merely one of “anti-violence,” or to interpret it as assuming that only the magnates were violent, is to obscure the point that a major goal of

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satisfactione prestanda ab infrascriptis nobilibus civitatis vel districtus Bononie, et de penis eorum qui non darent dictam securitatem et de fidantia eis danda, ratione predicta,” pp. 308–312. This statute was in fact enforced, as seen, for example, in the banning of those *lupi rapaces* who failed to post securities. ASB, Podesta, Inquisitiones, Mazzo 8, Reg. 14, unbound folio between fols. 3v–4r, and fol. 4r, Oct. 10, 1286 for the precept against the *lupus rapax* Facciolo di Fra Albriccio, *cattaneus* of Castel S. Pietro, and Reg. 2, fols. 2v–4v, Oct. 8, 1286 for the trial and claim by Facciolo that he did not have to post the security. Also see above, Chapter Three. On the rhetoric of the *popolo*, see Massimo Giansante, *Retorica e politica nel Duecento. I notai bolognesi e l'ideologia comunale* (Rome: Istituto per il Medio Evo, 1998).

<sup>266</sup> Papi, *Romeo Pepoli*, p. 43.

<sup>267</sup> James Brundage makes this point in another context, in his review of Matthew Strickland's *War and Chivalry* in *American Historical Review* 103 (1998): 863.

the legislation was to equalize the conflict in the courtroom between *popolano* and magnate. One can easily demonstrate that violence permeated all levels of Bolognese society, and that many of the privileged *popolani* elite were just as engaged in violent discords as were their magnate counterparts.<sup>268</sup>

What advantage did the privileged *popolani* gain from the anti-magnate laws? To be sure, as Fasoli pointed out and as noted above, rarely did the judges adhere to the provision that a privileged *popolano*'s word be taken as full proof.<sup>269</sup> But they did carefully follow the accelerated timetables required by privilege, which in itself gave a tremendous advantage to the privileged plaintiff. For example, in 1287 Giacomo di Orello Caccianemici assaulted and killed Guido di Petrizolo *Godrii*, whose father was a member of the popular societies. Giacomo was summoned to court, and failing to appear that very day, was banned that same day in a flurry of furious court activity. His trial revolved around determining the nature of his properties so that they could be destroyed.<sup>270</sup> An indication of how helpless a magnate might feel in litigation made against him by a privileged *popolano* is found in a petition by Francesco di Buvallello from *cappella* S. Tecla who was temporarily of magnate status during the regime of the pro-Ghibelline White Party. He made his petition in 1307 after the fall of the White Party which had dominated Bologna in the early years of the decade. In his petition to the Consiglio del Popolo, he claimed that he had been the victim of extortion during the rule of the White Party, but had not resisted the extortion because he feared an accusation or *denuncia* would be made against him, and as a magnate he would not have been able to defend himself.<sup>271</sup> Moreover, there are examples

<sup>268</sup> The commune struggled constantly with intra-party violence, for which see the discussion of commune-mandated peace accords below. To prove the existence of violence by elite *popolani*, however, as Zorzi did for Florence, does not undermine the significance of the anti-magnate legislation at Bologna, since at Bologna elite *popolani* who attacked other *popolani* were given magnate status. Andrea Zorzi, "La cultura della vendetta nel conflitto politico in età comunale," in *Le storie e la memoria. In onore di Arnold Esch*, ed. Roberto Delle Donne and Andrea Zorzi (Florence, 2002), pp. 135–169, (Reti medievali, [http://www.storia.unifi.it/\\_rm/e-book](http://www.storia.unifi.it/_rm/e-book)).

<sup>269</sup> Fasoli, "La legislazione antimagnatizia," pp. 385–386.

<sup>270</sup> ASB, Podesta, Inquisitiones, Mazzo 10, Reg. 4, fols. 1r–4r, 7r, March 12, 1287. The *ministralles* of the *cappella* in which the assault took place were fined 100 *solidi* for not reporting the crime nor ringing the bells to call the community to chase the culprit.

<sup>271</sup> ASB, Comune-Governo, Riformagioni 166, fol. 106r, April 22, 1307: "quia se defendere non potuisse ad dictam accusationem, eo quia erat de magnatibus tunc

of how privilege did in fact protect its holder from prosecution in the law courts. *Richus* di Orlando, a notary, claimed privileged status because of his relationship to Niccolò Tebaldi, who was one of the writers of the Sacred Ordinances. When the judge expressed doubt, *Richus* proved his claim by supplying a copy of the privilege.<sup>272</sup> Certain privileges trumped over other privileges. Thus, a privileged *popolano*, who was charged with committing *verba iniuriosa* against a *solaris*, was acquitted because of his *popolano* privilege, despite the privileged *solaris* status of the victim.<sup>273</sup> In 1287, Guido Pietro da Monteveglio successfully appealed his and his son's removal from the arms society of the Lions by the *ministrales* of that society by claiming that he was protected from such action by privilege.<sup>274</sup> In 1292, a member of the Consiglio del Popolo, Bettino di Rafanello, against whom the Capitano held a trial to see if he was too young for membership (he was eighteen and the requirement was twenty years), successfully defended himself, even after admitting his age, by pleading that he was privileged. The *consilium sapientis* declared that, given his privileged status, the Capitano could not proceed against him.<sup>275</sup> Privilege also protected another *popolano* from action by the officials of the tax office.<sup>276</sup> Privilege also protected *Jacomuccius*, son of Piero di Ugolino Sabadini from *cappella* S. Vitale, in 1321 when he was charged with illegal trade in salt. *Jacomuccius* confessed, but claimed that he could not be prosecuted since he was protected by privilege. The Capitano ordered a *consilium sapientis* which was in *Jacomuccius*'s favor and specifically cited his privileged status as the grounds for his acquittal.<sup>277</sup> In 1294, Tommasino di Gerardo da Campiano and Bertolo Bentivoglio from *cappella* S. Lorenzo dei Guarini claimed they were privileged because

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temporis civitatis Bononie, et quia facile erat sibi eidem expellere de civitate Bononie tunc temporis." His petition was granted and the podesta was given authority to use summary justice to recover the 50 pounds that had been extorted from him.

<sup>272</sup> ASB, Podesta, Inquisitiones, Mazzo 7, Reg. 9, fols. 13r–15r, Feb. 5, 1286.

<sup>273</sup> ASB, Capitano, Giudici, Reg. 688, fol. 1r, June 6–July 10, 1321.

<sup>274</sup> ASB, Capitano, Giudici, Reg. 104, fol. 21r, Nov. 25, 1287. Isnardo di Giovanni d'Argela, a notary from *cappella* SS. Pietro and Marcellino, was charged with being a magnate and therefore illegally enrolled in the popular societies, but he pleaded privilege and was acquitted by a *consilium sapientis* that upheld his privileged position. Ibid., fols. 8r and 26r, Oct. 18, 1287.

<sup>275</sup> ASB, Capitano, Giudici, Reg. 180, fol. 30v, May 28, 1292. Calorio Maranesi also successfully defended himself against the same charge by invoking privilege. Ibid., fols 41v–42r, June 7, 1292.

<sup>276</sup> Ibid., fol. 93r, Sept. 17, 1292.

<sup>277</sup> ASB, Capitano, Giudici, Reg. 694, fols. 21r–23v, Dec. 1, 1321–Jan. 30, 1322.

their respective brothers were privileged, and successfully argued that the *inquisitio* against them therefore could not proceed.<sup>278</sup> In 1289, the towers, palaces and other properties of the *contado* noble Ugolino di Bonifacio da Tignano were destroyed because of his crime against a *popolano*.<sup>279</sup> Once razed to the ground, the *castelli* and properties of banned nobles were to remain destroyed—as seen in a trial in the court of the Capitano where the charge was rebuilding on the ruins of the Principi family and the rebuilding of a *castello* of the counts of Panico, who had been banned as Lambertazzi.<sup>280</sup> In 1280, when the *contado* nobles of Vedrana struck and wounded Bonacosa di Anselmo who was enrolled in the societies of the Bars and rough cloth dealers, a proclamation was read aloud throughout the city, ordering all shops to close under penalty of 25 pounds.<sup>281</sup> The law courts were closed in 1290 when Tommaso Arigentis, a blacksmith, was killed by Alberto, son of Laigono da Gesso, a *contado* noble, and the properties of the latter were destroyed.<sup>282</sup> In 1300, when a privileged *popolano* was attacked by magnates, the podesta was given *arbitrium* to prosecute summarily those shopkeepers who failed to close their shops.<sup>283</sup> As we saw above in our *inquisitiones* sample, *banniti* who were magnates and nobles were punished when captured. The chronicles tell us of others. Several

<sup>278</sup> ASB, Podesta, Inquisitiones, Mazzo 30, 1294, Reg. 5, fols. 3r–4r, January 1294.

<sup>279</sup> ASB, Comune-Governo, Riformagioni 129, fols. 212r–214v, April 1, 1289. Each person was paid 4 *solidi* for two days work. The bricks from destroyed properties were sold in the *platea* after claims of the victims and creditors were met. ASB, Capitano, Giudici, Reg. 103, fol. 32r, 1287.

<sup>280</sup> ASB, Capitano, Giudici, Reg. 44, fol. 4r, April 4, 1283.

<sup>281</sup> ASB, Podesta, Sindacato, Busta 6, Reg. 533 (old archival number), July 24, 1289. The culprits were Lambertino, Bonifacio, Gabriele *sive* Tommaso, Castellano, and Ariverio, sons of the deceased Alberto *clericus* da Vedrana, and Gerardo and Guglielmo, sons of Pietro da Vedrana.

<sup>282</sup> ASB, Comune-Governo, Riformagioni 131, fols. 403r and 404v, Sept. 19, 1290. The actual destruction of the properties of Alberto and his father was accomplished by the men of the guilds of the masons and carpenters and the men of the two preeminent societies for that month, the Claws and curriers, for a total of 690 men, who were paid for that work. The Sacred and Most Sacred Ordinances specified that the two preeminent societies were responsible for the destruction. Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric I, “De coniunctione societatum artium et armorum, cambii et mercantie et de modo elligendi singulis mensibus unam societatem artium et unam societatem armorum que presint ad observandum ordinamentum de duobus sapientibus pro qualibet societate elligendis, qui procurent ordinamenta servare, et de officio ipsarum societatum tempore malleficii commissi in personas hominum de populo. Et quod nemo possit esse in duabus societatibus armorum.” pp. 284–285.

<sup>283</sup> ASB, Comune-Governo, Riformagioni 152, fol. 188r, March 16, 1300. The magnates were Bertoluccio Torelli and his father Alessandro di Salinguerra.

members of the powerful *contado* noble family, the da Cuzzano, for example, were executed in 1292.<sup>284</sup> As in the case of non-magnate *banniti*, only a relatively few of the magnate *banniti* were captured and punished, but again, within the constraints of the prevailing system, such acts of punishment served equally as exemplary acts of deterrence against both *popolani* and *magnati*.

There is also ample evidence in the court records for the use of privilege by *popolani* against magnates, Lambertazzi, *fumantes* and non-privileged *popolani*. But the pattern of prosecution by privilege changed at the turn of the century. In a sample of accusation records from the late thirteenth century,<sup>285</sup> twenty-eight of 862 trials—only 3.2 percent—were conducted on the basis of the privileged status of the accuser. The majority of those accusations (sixteen of the twenty-eight) were against magnates and *contado* nobles, but there were also two against *popolani* who were not members of the popular societies, four against *fumantes*, and six that were lodged by *scolares*. After 1306, privileged accusations could also be made against Lambertazzi and there is one such accusation among the seventeen accusations made by privilege in a sample of sixty-three trials from that year.<sup>286</sup> Three of the trials by privilege were against *fumantes* and again the majority (thirteen trials) was against magnates. But the percentage of trials by privilege had increased significantly over that for the late-thirteenth-century sample, from 3.2 percent to 26.9 percent. Trials by privilege did not remain at that high level in the second decade of the fourteenth century, but spiked significantly with each renewal and expansion of privilege, as shown in Table V.4, reaching a peak of 54 percent of all trials in the sample after the renewal of privilege at the end of 1318. By the end of the second decade of the fourteenth century, with the remarkable expansion of privileged status that characterized that decade, the percentage had increased dramatically. The most targeted group comprised the magnates (51.7 percent of the trials initiated by privilege), followed by 20.2 percent against *fumantes*. The use of privilege against a non-privileged *popolano* remained much less common than charges against magnates, but did occur, comprising 5.3 percent

<sup>284</sup> Pini, "Magnati e popolani," p. 394.

<sup>285</sup> The sample consists of records from 1284, 1285, 1286, 1288, 1289, and 1296. ASB, Podesta, Accusationes, Busta 4, Regs. 16, 17, 22, 23, Accusationes, Busta 5, Reg. 3, Accusationes Busta 7, Regs. 1, 2, Accusationes, Busta 8, Reg. 14.

<sup>286</sup> ASB, Podesta, Accusationes, Busta 27, Reg. 25.

of the privilege trials.<sup>287</sup> Accusations by privileged *popolani* against *fumantes* became particularly frequent in 1319, reaching five times the highest number of earlier years.<sup>288</sup> By the end of our period, in 1326, the level of privileged accusations had subsided, but was still considerably higher than it was in the late thirteenth century. In a sample of accusation registers from the first semester of 1326 there are seventy-three trials, of which nineteen (26 percent) were initiated by privilege.<sup>289</sup> Accusations by privilege were still dominated by those against magnates (fifteen). There were also two trials against Lambertazzi, and one each against a *fumans* and against a *popolano* who was not a member of the popular societies. Review of the anti-magnate privileges in the broader context of all types of juridical privileges thus supports the view that the anti-magnate legislation was not a manifestation of class conflict *per se*. As I have shown, it stemmed from the broader exclusionary policies of the *popolo*, policies of closure that were advanced not only against groups above the *popolo* (the magnates and *contado* nobles), but also laterally (against the Lambertazzi), and downwards (against *popolani* who were not members of the popular societies and against *fumantes*), as discussed above in Chapters One–Three.

Evidence of the importance and perceived efficacy of the anti-magnate and privilege laws on the part of contemporaries is also to be found in the periodic instances of strong resistance to those laws, by *popolani* as well as magnates, which would then be followed by reinstatement of those laws. Thus in 1287, as noted above, there was a major conspiracy by certain magnates and *popolani* with the goal of

<sup>287</sup> For example, ASB, Podesta, Accusationes 39b, Reg. 220, fols. 52rv, Nov. 17, 1317. Bonagratia di Carbone who was of the societies and privileged by “novus privilegio” through his brother, Niccolò di Carbone, accused Bartolomeo di Domenico Martinelli the fishmonger and Pace *Ghealli*, both of *cappella* S. Maria della Mascarella “qui non sunt de societatibus arcium vel armorum populi Bononie” of an assault with drawing of blood against him. The summons of the imputed to court were made speedily, but on Nov. 22 the *ministrales* of the bootmakers and the Dragons (nine of them) appeared in court and stopped the trial for eight days because they suspected the charge was a false accusation. Apparently it was a valid accusation, moreover, since the imputed were banned on Dec. 2.

<sup>288</sup> ASB, Podesta, Accusationes, Busta 39b, Reg. 109, 1317, for accusations by the Gozzadini, Pepoli, and other elite *popolani* against men from the *contado*. Thus, on the one hand, the *popolo* extended privilege to inhabitants of the *contado* to be used by them as protection against nobles and magnates, but on the other hand, privileged *popolani* used privilege in disputes against those *contadini*.

<sup>289</sup> The sample consists of six registers from ASB, Podesta, Accusationes, Busta 48b, Regs. 755, 757, 766, 713, 765 and vii no. 10 (all old archival numerations).

revoking the Sacred and Most Sacred Ordinances (which was successfully thwarted).<sup>290</sup> In March of 1292, those Ordinances were actually revoked by the Consiglio del Popolo, but were quickly reinstated a few weeks later, albeit in a modified form.<sup>291</sup> In January 1303, a strong set of privileges which had been granted to the *anziani* of that month were cancelled because they were deemed to be detrimental to the “calm and state” of the *popolo* and commune, but in March 1303, and again in November 1306, they were reinstated.<sup>292</sup> Privilege was eliminated from the new anti-crime statutes of 1317–1318, but reinstated fully later in 1318, and confirmed in 1319.<sup>293</sup> The renewal of anti-magnate privilege in 1319 was still in effect in 1326, at the end of our period, as evidenced by the court records themselves and by a reference in those records to the privilege legislation of June 1319 by a plaintiff to justify the making of his charge by privilege against certain magnates.<sup>294</sup>

<sup>290</sup> ASB, Podesta, Inquisitiones, Mazzo 11, Reg. 4, fols. 58r–91v, Reg. 8, fols. 11r–33v. The conspiracy is discussed most recently in Giuliano Milani, “Bologna’s Two Exclusions and the Power of Law Experts,” in *Europa und seine Regionen. 2000 Jahre Rechtsgeschichte*, ed. Andreas Bauer and Karl H.L. Welker (Cologne: Böhlau, 2007), pp. 123–138. Also see the discussion in the Epilogue below. In trial testimony, one elite *popolano* was specifically described as being sympathetic to the overthrow of the Ordinances because a magnate relative of his was under perpetual ban. As noted above, the perpetual ban rubric of the Ordinances was in fact modified in the 1292 revision of the Ordinances, at which time “perpetual” again meant a term ban.

<sup>291</sup> Fasoli, “La legislazione magnatizia,” pp. 380–383.

<sup>292</sup> ASB, Comune-Governo, Riformagioni 157, fol. 155v, 159v–160r, March 1303. ASB, Comune-Governo, Provvisioni III, fols. 277v–278v, Nov. 21, 1306. Vitale, *Il dominio della parte guelfa*, p. 89 for the conspiracy of January in favor of Charles of Valois that was behind the new privileges. Ibid., p. 10 for the uprising in March in favor of the Marquis of Este.

<sup>293</sup> ASB, Riformagioni 187, fol. 145v, Nov. 20, 1318. This law renewed the privilege made in the regime of the last Capitano and all other privileges for all who were privileged before the making of the new statutes of 1318 and those of the present Consiglio del Popolo, the *anziani et consules* and their notaries who were not already privileged. All had to pay 11 *solidi*. Not coincidentally, Vallerani found a decline in 1318 in the number of *exceptiones* made by privilege in the courts. He hypothesized that the new crime laws were responsible, as we see here was indeed the case. Vallerani, “Il potere inquisitorio,” pp. 412–413. For the 1319 renewal of the anti-magnate legislation, see ASB, Comune-Governo, Riformagioni 188, fol. 215v, June 28, 1319.

<sup>294</sup> ASB, Podesta, Accusationes, Busta 48b, Reg. 766 (old numeration), fols 14rv, June 17–18, 1326. The trial was initiated by Giovanni di Mattiolo Cavagli, a member of the popular societies and a privileged person, against five men of the Prendiparte family, “qui omnes et quilibet ipsorum sunt de nobilibus mangnatibus [sic] et potentibus civitatis Bononie scilicet de domo illorum de Prindiparibus.” He charged that they, with many accomplices, had seized him in the *contado* and would have taken him to their home except for the intervention of people who came running to the scene. The reference to the statutes on privilege cites specifically the rubric on a magnate seizing or kidnapping a privileged *popolano*. The plaintiff also produced a notarial copy from

Why did the granting of privilege ebb and flow? Why was privilege so much more extensive in 1310 and 1318 and so restricted in 1321? The pressures for granting privilege clearly arose in a climate of fear and the policy of excluding political opponents from full rights of citizenship even if they were not banned, confined or interdicted—a “winner-take-all” mentality that did not tolerate the concept of loyal opposition.<sup>295</sup> As Vitale has shown, the renewal and expansion of privilege against magnates and Lambertazzi correlated with threats, both internal and external, to public security, and with the promulgation of special anti-crime legislation.<sup>296</sup> It also coincided with the affirmation and rejection of the *cedula* process by which it was required that important legislation receive the approval of two-thirds (later three-fourths) of the popular societies before that proposed legislation could be put to a vote in the Consiglio del Popolo. For example, in 1318 the *cedula* process was suspended with the promulgation of the new anti-crime statutes and the revoking of privilege, but was reinstated later in 1318 when privileges were re-established.<sup>297</sup> The advance and retreat of privilege correlated with the waves of coups and counterattacks of factional politics, particularly between 1318 and 1321 when the Pepoli faction, the *Scacchesi*, struggled to maintain Romeo Pepoli’s claims to a proto-*signoria* against the Maltraversa faction.

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the book of magnates showing the inclusion in it of the “domo de Prindipartibus et eorum descendentes.” The case ended in a *renuncia* by the accuser and acquittal of the imputed. The moratorium on accusations by privilege against *fumantes* had been lifted, however, as evidenced by the appearance of such a trial in 1326. For example, *ibid.*, Reg. 713, fols. 8r–9v, March 12–23, 1326, wherein Guicciardino di Zaccaria di Quiriaco Alerari, member of the Lions and “privilegiata persona” charged by privilege three brothers from the rural commune of Vigorso for attacking and kidnapping him. This trial also ends with a *renuncia* and acquittals of the imputed. Vitale, *Il dominio della parte guelfa*, p. 178, refers to a renewal of the anti-magnate laws in 1324.

<sup>295</sup> On this mentality and its comparable and deleterious effects on a 21st century society, see Thomas L. Friedman, “A free election in Bahrain. Grandmother is getting her say,” *International Herald Tribune*, Oct. 29, 2002, p. 6.

<sup>296</sup> Vitale, *Il dominio della parte guelfa*, pp. 158–164.

<sup>297</sup> The *cedula* process was also suspended during the war with the Marquis of Este from 1296–1299. For example, provisions were to be made to find money necessary for the war and those provisions were to be valid without the usual sending of *cedule* through the societies. ASB, Comune-Governo, Provvigioni I, fols. 68r–70v, June 19, 1296. The reinstatement of the *cedula* process in Dec. 18, 1318 was done, according to the legislation, because “a great murmur had arisen among the men of the popular societies whose main concern was that their right to have *cedule* circulate through them had been taken away.” ASB, Comune-Governo, Riformagioni 187, fol. 154v, Dec. 18, 1318.



There were fiscal pressures as well, however, that led to paradoxes in policy. For example, on the one hand, in times of danger the commune wanted fewer people armed in the streets. On the other hand, it desperately needed money to pay for mercenaries and the other costs of warfare. Although the anti-crime statutes of 1318 had specifically, for the sake of public order, revoked the weapons-carrying privileges of 1316 (which had granted the privilege to approximately 2,156 men),<sup>298</sup> the Consiglio del Popolo in September 1318 reversed itself and renewed the much more extensive weapons-carrying privilege of 1306, which had been granted to all members of the guilds and arms societies, for payment of 15 *solidi*. The original proposal had come to the Consiglio from the officials responsible for mercenaries (*officio masnadarum*) and appointed *sapientes*, whose stated rationale was the need to find money to renew the contracts of mercenaries.<sup>299</sup> Even foreigners were permitted to carry weapons in 1299 if they paid the relatively large sum of 3 pounds for that privilege.<sup>300</sup> When the commune sought to raise or recover money from unpaid taxes, privilege was often suspended, as in 1308 when a tax collector (*exactor pecunie dationum*) was given special *arbitrium* to act summarily against not only the Lambertazzi but privileged *popolani* as well.<sup>301</sup> On a grand scale, the government in 1318 sold political recognition and full privileges to the guilds of the spice merchants and apothecaries, weavers and sellers of fine wool, and barbers, because of its need for money to

<sup>298</sup> The 1316 list consists of working sheets with names crossed out and added. ASB, Comune-Governo, Riformagioni e provvigioni, serie miscellanea, Busta 315 (1301–1355), Fascicolo 22, dated Dec. 20, 1318, but including the list of 1316.

<sup>299</sup> ASB, Comune-Governo, Riformagioni 187, fols. 127v–132r, Sept. 18, 1318. Vitale, *Il dominio della parte guelfa*, p. 164, footnote 4, cites this provision as evidence that all men of the societies were awarded full privileges, but this provision of September refers only to arms-carrying. The renewal of full privileges dates from November 1318, as noted above, ASB, Comune-Governo, Riformagioni 187, fol. 145v, Nov. 20, 1318, *consilium partis*. The *Riformagioni* series does not have the Consiglio del Popolo vote on this proposal, but it is referenced in ASB, Comune-Governo, Riformagioni, serie cartacea, Busta 219, Reg. 27, fols. 24v, 25r, Nov. 20, 1318.

<sup>300</sup> ASB, Comune-Governo, Riformagioni 149, fol. 113r, July 20, 1299. The weapons could, however, only be defensive ones.

<sup>301</sup> ASB, Comune-Governo, Riformagioni 186, fols. 85v–86r, May 22, 1308. Similarly, the officials of the *officio averis* in 1318 had conducted investigations into tax fraud, but found it could not recover the monies because of the privileges of those involved. The Consiglio del Popolo suspended those privileges so they could proceed. ASB, Comune-Governo, Riformagioni 185, fols. 3rv, Jan. 4, 1318. Privilege in financial trials was a problem for the commune as early as 1288. ASB, Comune-Governo, Riformagioni 128, fols. 83rv, Oct. 13, 1288.

repair and garrison the fortifications of the *contado* “lest it be invaded and occupied by the enemies of Bologna.”<sup>302</sup> War was thus the cause on the one hand of expanding privileges, but also was the cause of restricting them, as when the commune annulled the exemption from military service of the privileged because of the war with the Marquis of Este in 1297.<sup>303</sup> Furthermore, the right of privileged *popolani* to make accusations on the basis of privilege against *fumantes*, which was included in the 1319 legislation (in a renewal of the 1318 privileges),<sup>304</sup> was revoked only six months later, in 1320, because, as specified in the legislation, the *fumantes* banned by privileged accusation since December 1318 were needed to pay taxes and serve in the armies.<sup>305</sup> Still, the major cause of the ebb and flow of privilege was pendulum swings of political power from one faction to another. Privilege served as an instrument of factionalism, as a means of protecting through legal advantage the position of the dominant faction. The expansion of privilege did *not* necessarily equate to or signify *ipso facto* a constriction of the power base. Privilege was used to gain and retain supporters and to purge “outsiders” from participation in government, but it does not serve as a yardstick for measuring the breadth of

<sup>302</sup> ASB, Comune-Governo, Riformagioni 186, fols. 32r–37rv, March 30, 1318, *ibid.*, 185, fol. 32r, March 29, 1318, *ibid.*, 187, fol. 157r, Dec. 20, 1318. Each new member had to pay 10 *solidi*. Each society was to have four *ministrali*.

<sup>303</sup> ASB, Comune-Governo, Riformagioni 144, fol. 84r, June 21, 1297.

<sup>304</sup> The 1319 renewal of privileges differed significantly from that of 1318 by including relatives from the feminine as well as the masculine line of the privileged as people who were also protected from magnates. ASB, Comune-Governo, Riformagioni 188, fol. 215v, June 28, 1319. In a trial in 1318, the law against using privilege in an accusation against *contadini* is cited. ASB, Podesta, Inquisitiones, Mazzo 97, Reg. 8, fols. 25v–31v, Oct. 20–Nov. 17, 1318. However, such accusations could apparently be made only if the majority of the *ministrali* of a *popolano*’s guild or arms society concurred, as in a trial early in 1320. ASB, Podesta, Accusationes, Busta 42a, Reg. 4, fols. 48r–49r, Jan. 10, 1320. The privileged person in this case was Licanorio di Napoleone Gozzadini, member of the arms society of the Keys, who made an accusation by privilege of threatened assault with weapons against thirty men from the rural commune of Varignana.

<sup>305</sup> ASB, Comune-Governo, Riformagioni 190, fol. 306v, January 1320. The legislation of that date is misleading, since the first nine proposals are a repetition of earlier legislation, but beginning with the tenth proposal, and including the removal of privilege against *fumantes*, the proposals belong to this later date. The new material of January 1320 is found on fols. 306r–312r. The first nine proposals duplicate the 1319 material from Reg. 188, fols. 215r–220r. The legislation provided that all *fumantes*, *comitatenses*, *extimati* and foreigners (*forenses*) and their descendants who paid the *gabella* were eligible for cancellation of all the bans and condemnations made against them since December 1318.

participation in decision-making. It did coincide with a more restricted oligarchy in the first decades of the fourteenth century. It would seem to have been restricted as government participation expanded when the Pepoli and their faction were ousted in 1321. At that time the size of the governing councils was expanded to include many new men (as discussed in Chapter Three) and special privileges were restricted to ninety-nine men. However, as we shall see below, after 1321 the councils themselves were limited in their functions, and decision-making was reduced to a small group.

### 7. QUERELE AND SUMMARY JUSTICE

Privilege thus had a powerful and crippling effect upon the courts, but it was not the only phenomenon with a negative impact on the *ordo iudiciarius* and due process. In addition to privilege, in 1320 the *popolo* devised another powerful instrument, the *querela*, to give itself and especially the dominant faction significant advantages in litigation. The *querela*, like privilege, had its roots deep in communal institutions, in this case the petition (*peticio*). However, the nature and function of the petition was transformed under the deepening intensity of factionalism and the narrowing of the oligarchy in the opening decades of the fourteenth century. The new type of petition, the *querela*, was a petition from an individual to the Consiglio del Popolo in which the petitioner asked the Consiglio to grant to the podesta special *arbitrium* to use summary procedure in an *inquisitio* against someone whom the petitioner claimed had injured him or her, in person or property. In far fewer instances, it could also be used to initiate a trial by normal process that had been blocked by certain circumstances, such as the tax-delinquent status of the victim. The special *arbitrium* of summary procedure usually included an accelerated timetable within which the trial had to be completed. The grant of authority to the podesta and his judges usually specified they were to prosecute the trial “simply and plainly, without clamor and the normal forms of procedure,”<sup>306</sup> that is, with suspension of due process—by summary justice.

Summary justice is sometimes viewed by historians as synonymous with *inquisitio*, but in the late thirteenth and early fourteenth century

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<sup>306</sup> “Simpliciter, de plano, sine strepitu et figura iudicii.”

the use of summary justice required special *ad hoc* authorization to the podesta and his judges from the Consiglio del Popolo, except in certain cases of notorious crime by infamous persons and other instances described below.<sup>307</sup> Summary procedure was first developed in canon law, but in the late thirteenth century it was still in fluid form. The Council of Vienne issued a canon that listed which cases could be treated summarily, but did not define what the procedure itself should be and what solemnities could be omitted. This was accomplished only with the issuance in 1317 of the constitution *Saepe contingit* (which was actually written in 1314). According to *Saepe*, the areas of the *ordo iudiciarius* that could be omitted in the ecclesiastical court under summary procedure consisted of the *libellum* and the observance of holidays. Aspects of a trial that could be limited included objections, appeals, and witnesses.<sup>308</sup> There has been very little scholarly work on how summary justice functioned in the secular courts. Antonio Pertile, the encyclopedic historian of the nineteenth century, gathered his examples of summary procedure mostly from property and commercial law. He cites four examples from the Bolognese statutes: 1) in 1250, summary procedure could be used in cases in which the value of goods was below 20 *solidi*; 2) and in cases of “persone miserabili,” as in 1262 in the case of Beatrice Cappelli, who needed to litigate with the rural commune and men of Altedo, but because of her poverty did not have the money to do so;<sup>309</sup> and 3) in cases of university faculty

<sup>307</sup> John Brackett maintains that a fusion of *inquisitio* procedure and summary justice at Florence did not take place until the early sixteenth century, under the Medici grand dukes. John K. Brackett, *Criminal Justice and Crime in late Renaissance Florence, 1537–1609* (Cambridge and New York: Cambridge University Press, 1992). Laura Stern sees summary process replacing inquisition procedure in the second half of the fifteenth century. Laura Ikons Stern, *The Criminal Law System of Medieval and Renaissance Florence* (Baltimore and London: John Hopkins University Press, 1994), p. 231.

<sup>308</sup> Pennington, *The Prince and the Law*, p. 189. For the dating of the constitution, see Stephan Kuttner, “The Date of the Constitution ‘Saepe.’ The Vatican Manuscripts and the Roman Edition of the Clementines,” in *Mélanges Eugene Tisserant*, vol. 4 *Archives Vaticanes Histoire Ecclesiastique*, Part I (Vatican City: 1964). Kuttner (p. 427) describes *Saepe* “as the most important single piece of medieval legislation in the history of summary judicial procedure.” Historical investigation of this topic is meager, however, and virtually non-existent regarding actual practice.

<sup>309</sup> “Quia...habet litigare cum Comune et quibusdam hominibus de Altedo, propter nimiam paupertatem non habet aliquid ad expendendum, potestas—teneatur summarie cognoscere, non servata solemnitate juris vel statuti, videndo et audiendo tantum jura utriusque partis.”

and students in 1274 in civil and criminal cases;<sup>310</sup> and 4) in fairs and markets in 1250.<sup>311</sup> In these instances summary procedure was used as a device in favor of a plaintiff who could not afford the time or the expenses of regular procedure.<sup>312</sup>

Two other scholars have referred to summary justice at Bologna. Luigi Casini observed that rural officials in the *podesterie* of the Bolognese *contado* had jurisdictions in civil cases (disputes among the *fumantes* for amounts under 5 *bolognini*). He found the same jurisdiction granted to those officials in both the Statutes of 1288 and the Statutes of 1335, but in the latter set he found the officials could use summary procedure—"de plano, sine strepitu et figura iudicii."<sup>313</sup> Massimo Vallerani describes as "political summary justice" examples he found in the chronicles of the execution of political enemies, apparently without any form of legal procedure, for example, the execution of *banditi* captured in the *contado* in 1273 and 1278, the executions of Baldino da Panico and four allies in 1304 and of Maghinardo da Panico in 1307, during the wars of the commune with the Counts of Panico. He also cites the case of Alberto Azzo Galluzzi, whose infamy was such that his capture was aided by his own father and several other relatives in 1314.<sup>314</sup> However, in such cases there probably was

<sup>310</sup> "in eorum (scolarium, rectorum, doctorum et familiarium) causis civil. aut criminal. agendo et defendendo ius summarium et favorabile fieri debeat."

<sup>311</sup> "Jus fori et mercati reddatur secundum consuetudinem fori sive mercati, non servata solemnitate statutorum Communis Bon." Antonio Pertile, *Storia del diritto italiano dalla caduta dell'impero romano alla codificazione*, 6 vols. (Bologna: Arnaldo Forni, 1965–1966 reprint of second edition of 1962, original edition 1892–1902), vol. 6, Part 2, pp. 114–139.

<sup>312</sup> One of the few studies of summary procedure, but for a later period, is by Simonetta Cerruti, *Giustizia sommaria. Pratiche e ideali di giustizia in una società di Ancien Régime (Torino XVIII secolo)* (Milan: Feltrinelli, 2003). She concentrates on the use of summary procedure to meet commercial needs. Also on summary process in civil procedure, but for the earlier period, is the work by Alessandro Lattes, *Studii di diritto statutorio*, Part I, *Il procedimento sommario o planario negli statuti* (Milan: U. Hoepli, 1886), pp. 3–66, which is included in Pietro Sella, *Il procedimento civile nella legislazione statutaria italiana* (Milan: U. Hoepli, 1927), pp. 216–267. There is a brief overview of summary justice in late medieval Bologna in Sarah Rubin Blanshei, "La giustizia sommaria nella Bologna medievale," *Atti e memorie della Deputazione di storia patria per le province di Romagna*, new series, 55 (2005): 261–271.

<sup>313</sup> Luigi Casini, *Il contado bolognese durante il periodo comunale (secoli XII–XV)*, ed. Mario Fanti and Amedeo Benati (Bologna: 1991, reprint of 1909 edition, with additional material), pp. 270–271.

<sup>314</sup> Massimo Valerio Vallerani, "Sfere di giustizia. Strutture politiche, istituzioni comunali e amministrazione della giustizia a Bologna tra due e trecento," tesi di dottorato, Università degli studi di Torino, 1992, pp. 318–321. These events are garnered

a *riformazione* passed by the Consiglio del Popolo which authorized immediate execution of the individual or a reward for his capture as a *bannitus*, dead or alive, as we shall see was the case in the capture and execution of Paraclino da Cuzzano.<sup>315</sup> In fact, in the case of Alberto Azzo Galluzzi there is a *riformazione* against him which was passed by the Consiglio del Popolo in 1313. The inhabitants of Castel Gesso in the *contado* complained to the Consiglio del Popolo that Galluzzi was daily plundering their properties. The Consiglio responded by appointing a commission of *sapientes*, four from each quarter of the city, to make proposals on how to capture Galluzzi and his followers. The proposals were sent to and approved by the popular societies before being approved by the Consiglio del Popolo. They dealt not only with Galluzzi, but with crime in general and extended the *arbitrium* of the podesta to include a broader range of crimes for which he could take the initiative, instead of relying upon private accusations, similar to the *arbitrium* that had been granted to the podesta in 1294–95 and 1311. The provisions on Galluzzi, who had been banned, included a huge reward of 1,000 florins (supplied by Romeo Pepoli) for anyone who captured him, dead or alive. However, since those under ban could be killed with impunity, the actions called for against Galluzzi were not summary justice, but normal procedure. The *riformazione* did not authorize summary justice to any official, nor did it need to protect those who might claim the reward after killing him. The offering of a reward for capture of a *bannitus* was also common, but the amount was usually much lower, “only” 50 pounds.<sup>316</sup>

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by Vallerani from the chroniclers and the sixteenth-century *erudito*, Cherubino Ghirardacci, *Della Historia di Bologna* (Bologna: Simon Parlasca, 1605). Some of these events are also described in Giovanni Gozzadini, *Delle torri gentilizie di Bologna e delle famiglie alle quali prima appartennero* (Bologna: 1875).

<sup>315</sup> ASB, Comune-Governo, Riformagioni 192, fols. 345rv, March 7, 1320. Also ASB, Comune-Governo, Riformagioni 164, fols. 28r–29r, Sept. 28, 1306 for a reference to legislation that called for the capture, dead or alive, of the Counts of Panico and Bonincontro dello Spedale.

<sup>316</sup> ASB, Comune-Governo, Riformagioni e provvigioni, serie cartacea, Busta 218, Reg. 23, fols. 34v, 41rv, 49v–50v, Nov. 23, 1313, fol. 57v, December 1313, fol. 63v, Dec. 21, 1313, fols. 66r–67r, Dec. 23, 1313, fols. 67v–68r, Dec. 28, 1313. The capture of Galluzzi is described in Ghirardacci, *Della Historia*, vol. 1, Bk. 17, pp. 563–564. For an example of a 500-pound reward: ASB, Comune-Governo, Riformagioni e provvigioni, serie cartacea, Busta 216, Reg. 5, fol. 117v, July 9, 1288. For legislation offering such a reward for the capture of any *bannitus*, *ibid.*, and for other examples, *ibid.*, fols. 157r, Aug. 27, 1288.

In criminal justice, the courts were extremely limited in their use of summary procedure, which usually required a special grant of *arbitrium* from the Consiglio del Popolo for any deviation from the *ordo iudiciarius*.<sup>317</sup> Only in exceptional instances did the podesta have ongoing authority to use summary procedure. For example, the statutes of 1259–62 permitted the podesta to convict and punish the person who had hired an assassin. If the assassin named that person under torture, the podesta could convict him if there were *publica fama*, and without full proofs.<sup>318</sup> (That rubric was also included in the 1288 statutes.)<sup>319</sup> If an *anzianus* was wounded, the podesta was to avenge that assault within eight days and had *liberum arbitrium* to investigate and punish by “legitimate proofs or suppositions or by *fama*, notwithstanding any statute to the contrary, specific or not.”<sup>320</sup> The podesta also had *arbitrium* against anyone who gave false testimony or forged a document (*instrumentum*), in which case he and his judges could proceed on the basis of “circumstantial evidence and strong suppositions” (*inditia et violentas presumptiones*), that is, without full proofs.<sup>321</sup> The podesta

<sup>317</sup> Vallerani has shown that the *arbitrium* of the podesta and his judges was generally very carefully guarded by a distrustful Consiglio. “Il potere inquisitorio del podestà,” pp. 379–417, republished in Vallerani, *La giustizia pubblica medievale*, pp. 247–275.

<sup>318</sup> Frati, *Statuti dall’anno 1245 all’anno 1267*, vol. 3, Bk. X, Rubric LI, “De confessione assassinatorum,” p. 304: “si fama publica vel verisimile vel presumptio sibi fieri maleficium.” The penalty for a *miles* was 500 pounds and for a *pedes* 250 pounds or more at the discretion of the podesta.

<sup>319</sup> Fasoli-Sella, *Statuti dell’anno 1288*, vol. 1, Bk. IV, Rubric L, “De pena assaxinorum et eorum qui tenent eos in domo,” pp. 211–212.

<sup>320</sup> Frati, *Statuti dall’anno 1245 all’anno 1267*, vol. 3, Bk. XI, Rubric LII, “De vindicta facienda vulneris in persona antianorum vel consulum,” 50–60, and “De vindicta,” Cod. 62, pp. 304–306: “per legitimas probationes vel presumptiones vel per famam non obstante aliquo statuto preciso vel non preciso vel capitulo statuti.” The podesta also could not be charged for his actions in such a case at the time of his syndication. In such an instance, all shops of the guild members were to be closed until the crime was avenged. This authority is also included in the 1288 statutes where it includes striking as well as wounding an *anzianus*. Fasoli-Sella, *Statuti dell’anno 1288*, vol. 1, Bk. IV, Rubric VII, “De inquisitionibus et quomodo et qualiter debeat procedi in eis et in quibus casibus potestas habeat arbitrium,” p. 176, in which it describes the podesta’s authority to proceed “per legiptimas probationes vel presumptiones vel fama” in such a case.

<sup>321</sup> Frati, *Statuti dall’anno 1245 all’anno 1245–67*, vol. 3, Cod. 62, Rubric CXXV, “Quod potestas habeat liberum arbitrium contra illos qui falsum tulerunt testimonium,” Cod. 62a, p. 390: “Statuimus et ordinamus quod potestas bon habeat liberum arbitrium in procedendo contra illos qui falsum tulerunt testimonium et contra illum qui falsum fecerit instrumentum si contra testem habuerit inditia et violentas presumptiones quod falsum dix(erit) in sua falsificatione et si contra eum qui fecerit

also was given authority in 1284 to convict by *publica fama* in the case of false accusations made by privilege.<sup>322</sup> In addition, the podesta was required to prosecute infamous hired assassins within three days of their presentation in court, with no defense permitted to the imputed (*nulla defensione recepta*).<sup>323</sup> He also was to act against gamblers on the basis of *publica vox et fama*.<sup>324</sup> The grain officials had authority to use summary procedure and issue condemnations up to 25 pounds, which the podesta had to execute "rapidly and summarily" upon the word alone of those officials.<sup>325</sup> By 1288, the podesta was to prosecute and execute anyone who took possession of a rural commune or fortification of the commune without the commune's consent, and was to accomplish this within three days, with no defense being heard.<sup>326</sup> In those statutes it is also specified that anyone who committed an act of revenge against anyone except the offender could be prosecuted by a combination of half-proofs (*fama, aliquod inditium, vel presumptio*).<sup>327</sup>

The commune also employed summary justice procedure in *ad hoc* investigations or actions. For example, the grain officials were empowered to proceed summarily against those who had defrauded

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instrumentum falsum habuerit inditia et violentas presumptiones quod falsum fecerit instrumentum et contra illos qui produxerit falsum testem et qui uterentur falso instrumento non obstante aliquo statuto vel capitulo statuti."

<sup>322</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric LXXXVIII, "De pena accusatum calumpniase aliquos qui non sunt de magnatibus ex vigore ordinamentorum, et quod rustici et alii qui non sint de magnatibus ad ipsorum defensionem intelligantur esse de societatibus populi si accusentur ex vigore ordinamentorum; et modificatione ordinamenti quod concedebat privilegium contra eos qui non erant de societatibus populi nec erant de magnatibus," pp. 428–433. Conviction was also automatic if a majority of the *ministrales* of the popular societies or a majority of the two preeminent societies determined that an accusation made by privilege was false.

<sup>323</sup> Frati, *Statuti dall'anno 1245 all'anno 1267*, vol. 3, Rubric CLXXXIV, "(Quod omnes assassini qui percutierunt vel vulnerarunt aliquem pretio vel precibus pro homicidis habeantur)," Cod. 62, Jan. 15, 1260, p. 465.

<sup>324</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. IV, Rubric LXVI, "De pena ludentium ad azardum vel ad aliam bescazariam," pp. 223–225.

<sup>325</sup> ASB, Comune-Governo, Provvisioni I, fol. 47v, 1290: "celeriter et summatim."

<sup>326</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. IV, Rubric XXV, "De pena eius qui occupaverit vel intraverit aliquam rocham, fortilicium, vel munitionem aut terram comunis Bononie vel tenuerit contra voluntatem comunis Bononie," p. 192.

<sup>327</sup> *Ibid.*, vol. 1, Bk. IV, Rubric XXXV, "De pena eius qui fecerit vindictam vel fieri fecerit in alium preter quam in offendentem," pp. 209–210. The podesta was also to act "summarie, sine strepitu iudiciorum vel alia iuris sollempnitate" to confiscate the properties of anyone banned for this crime and transfer them to the victim or his heirs.



the commune in 1288.<sup>328</sup> After 1280, when the commune decided to force all *fumantes* who had come to live in Bologna recently to return to their rural communes, it authorized the podesta and his judges to execute that law “*summarie sine strepitu iuditii*.”<sup>329</sup> In 1299, the Capitano del Popolo was authorized to use “legitimate or half-proofs or *publica fama*” when dealing with the restoration of properties to pardoned political *banniti*.<sup>330</sup> After the March 1303 uprising, the podesta was required by the Consiglio to act summarily against anyone identified by the executive officials as trying to call the *popolo* to arms.<sup>331</sup> Similarly, the podesta acted summarily in issuing a ban against twenty-two men for conspiracy and a riot against the Standard-bearer (*gonfalonarius*). The entire summons to court process was omitted. A candle was lit in the assembly place of the communal palace by the *bannitor* of the commune in the presence of the podesta, with the declaration that if the imputed did not appear before the candle was extinguished, they would be held as traitors and rebels, and if ever captured were to be hanged.<sup>332</sup> With the increased warfare that marked the end of the thirteenth century and the first decades of the fourteenth century, Bologna found itself facing ever-mounting financial pressures and responded with grants of summary justice powers to special tax-collection agents. At the beginning of the war with the Marquis of Este the commune had a new *estimo* compiled and gave the podesta summary powers against certain persons who failed to make payments.<sup>333</sup> A few months later, in view of the especially severe enmities incurred by the *sapientes* who had compiled the *estimo*, the Consiglio granted the podesta special *arbitrium* to prosecute anyone who attacked any of the *sapientes*, their notaries and close relatives, specifically empowering him to use *fama* and half-proofs in place of full proofs and to

<sup>328</sup> ASB, Comune-Governo, Riformagioni e provvigioni, serie cartacea, Busta 216, Reg. 5, fols. 133rv, July 23, 1288, fol. 141v, Aug. 6, 1288.

<sup>329</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. IX, Rubric VI, “De fumantibus terrarum de districtu Bononie,” pp. 114–115. The law is included without date in the Statutes of 1288, but cites the redaction of the book of *fumantum* compiled in 1280. For correction of that date, see above.

<sup>330</sup> ASB, Comune-Governo, Provvigioni I, fol. 281r, Jan. 31, 1299: “probationes leiptimas vel semiplenas vel per publicam famam.”

<sup>331</sup> ASB, Comune-Governo, Provvigioni III, fol. 60v, April 23, 1303.

<sup>332</sup> ASB, Podesta, Accusationes, Busta 45b, *bandi* fragment of eight folios, fols. 5v–6v, 1322.

<sup>333</sup> ASB, Comune-Governo, Provvigioni I, fol. 69r, June 19, 1296.

proceed with solemnities omitted.<sup>334</sup> During that same period, in order to find money to pay mercenaries, the commune mandated a forced purchase of salt and gave to the special official responsible for the sale authority to proceed “*summarie et sine strepitu iudicii*” against the properties of those not making payments.<sup>335</sup> The use of summary justice in tax collecting and for public security was repeated whenever a financial or military crisis struck the commune. In 1320, for example, the Consiglio appointed four special collectors for six months and granted them summary powers to act against the person and property of those who did not pay.<sup>336</sup> In 1319, in order to raise 1,800 pounds for payment of mercenaries to send to its allies in Lombardy, the commune gave the *conductor datii* and his associates authority to compel payment from tax delinquents by summary procedure—“*sine strepitu et figura iudicii*.”<sup>337</sup> In 1322, when the commune needed money for defense “without delay,” it called upon all tax delinquents of the past two years to pay their taxes within fifteen days. It also empowered officials to go through the city and *contado*, accompanied by mercenaries, to enforce payment by action against person and property with no order of law served.<sup>338</sup> Faced also with rebellion and violence in the *contado* by political *banniti*, the commune appointed a special official, the *persecutor* [sic] *bannitorum*. He was given *arbitrium* over all people of the *contado* and district, including nobles, and was to exercise his office by imposing penalties, bans and fines “*sine strepitu et figura iudicii*.”<sup>339</sup> The *barisellus*, who was responsible for controlling intra-party strife, also was empowered to act with summary justice

<sup>334</sup> ASB, Comune-Governo, Provvigioni I, fol. 221r, December 1296.

<sup>335</sup> ASB, Comune-Governo, Provvigioni I, fol. 196r, Oct. 13, 1296.

<sup>336</sup> ASB, Comune-Governo, Riformagioni 192, fols. 404v–405r, June 10, 1320.

<sup>337</sup> ASB, Comune-Governo, Riformagioni 189, fol. 252r, Oct. 5, 1319. The podesta was also given authority to proceed *realiter et personaliter*, at the wish of the *conductor*, against all who owed money.

<sup>338</sup> ASB, Comune-Governo, Riformagioni 197, fol. 273v, June 21, 1322: “*realiter et personaliter, nullo juris ordine servato*.” It also replaced a forced loan with an obligatory distribution of salt, with changes in status as penalties—an urban magnate to become a *lupus rapax*, a *popolano* to become a magnate, and a *contado* noble to become a *fumans*.

<sup>339</sup> ASB, Comune-Governo, Riformagioni 186, fol. 112r, July 7, 1318 and fols. 113v–114r. The *persecutor* was also to bring into obedience those rural communes not recognizing communal authority and expel rebels from the fortifications. He had twenty mercenary cavalymen and 200 foreign infantrymen, a notary and other officials. The *persecutor* was not a new official, but I have not found evidence of his summary justice power in earlier appointments.

powers. He did not have to receive authorization for each instance of summary procedure against Lambertazzi, as the podesta had to do, and consequently we do not find grants of *arbitrium* to the *barisellus* in the *reformagioni* as we do for the podesta.<sup>340</sup> However, there is a petition from someone seeking mercy from a sentence issued by the *barisellus* that gives evidence of his summary justice powers. In 1314, *Butigacius* di Giacobino from *cappella* S. Tommaso di Strada Maggiore petitioned that he had been captured by the *barisellus* and his infantrymen and imprisoned as a Lambertazzi and therefore as a man not permitted to remain in the city. He had to pay a fine of 300 pounds within eight days in order to be released from prison, and if unable to pay, the podesta was to apply a corporal penalty against him (*executio personalis*). He could not pay and was petitioning for permission to sell his properties (which he could not normally do since he was a Lambertazzi), in order to pay the fine and avoid the corporal penalty. Thus, the *barisellus* apparently could condemn a Lambertazzi without trial and the podesta was required to carry out his sentences.<sup>341</sup> The commune used summary procedure in other areas of public security as well. In order to ensure that it had sufficient supplies of grain, the commune gave summary justice power to the *executor* of the granary, giving him authority to investigate, condemn, fine and ban anyone carrying grain out of the city or district without a license.<sup>342</sup>

But summary justice became an even more widely used and important procedure than the above examples indicate. By the second decade of the fourteenth century, as we shall see, it was a widely authorized procedure in the law courts, although every instance of its usage had to be authorized by the Consiglio del Popolo. Why were these grants made to the podesta on behalf of individual petitioners? To what degree were the solemnities of due process in fact suspended? What was the

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<sup>340</sup> For example, ASB, Comune-Governo, Riformagioni 165, fols. 75v–76r, Jan. 22, 1306, for a grant of such powers against those Lambertazzi who had committed a crime against a certain Pietro Nascimbene. The podesta was to proceed “by deed or word to investigate, proceed, punish, condemn, fine, send to confinement and ban at his own volition, with all solemnity of law and statute set aside” (*facto vel verbo inquirendi procedenti puniendi condenandi multandi confinand et banpnendi ad ipsius omninodam voluntate omni solenpitate juris et statutis obmissa*).

<sup>341</sup> ASB, Comune-Governo, Riformagioni 179, fols. 13rv, May 31, 1314. The petition was approved with the proviso that the fine was to be applied toward the expenses of the *barisellus*’s office or for an army to be sent to Frignano (on the western boundary between Bologna and Modena).

<sup>342</sup> ASB, Comune-Governo, Riformagioni 186, fols. 78rv, May 10, 1318.

social and legal status of persons to whom the grants were made? The *riformagioni* of the Consiglio del Popolo and the criminal court records of the podesta enable us to answer these questions. The *querela* or special petition requesting that the podesta be given summary justice power was not established until 1320 (with a precursor established in 1313 for privileged *popolani* only), but its general predecessor, the traditional petition, can be found in the late thirteenth century in the earliest surviving *riformagioni* of the Consiglio del Popolo.<sup>343</sup> The traditional petition (*peticio*), which continued to function throughout our period, including the years after the establishment of the *querela* in 1320, served as a safety valve in a criminal justice system that operated by very explicit rules with very little discretion allowed to judges. At times the podesta was given discretion to make judgments based on the “qualitas” of the persons involved as well as the circumstances of the crime. But usually “qualitas” meant the imputed’s legal status as a magnate or *popolano*, Geremei or Lamberazzi, *miles* or *pedes*, with penalties pegged by statute accordingly. To permit needed flexibility and balance in such a rigid system, the commune used the *peticio* by which anyone, from all levels of society, could submit a request to the Capitano and *anziani*. If they approved its suitability for submission, it then was reviewed by the Consiglio del Popolo. After the overthrow of the republic and dissolution of the Consiglio del Popolo in 1327 with establishment of the lordship of the papal legate, Cardinal del Poggetto (1327–1334), and again under the lordship of Taddeo Pepoli (1337–1345), the apparatus of privileges was swept away and the petitions to the Consiglio del Popolo were replaced by supplications (*suppliche*) to the *signore*.<sup>344</sup> Petitions in the communal period resemble the

<sup>343</sup> The word *querela* did not become a technical term referring to a specific type of petition until 1313 (and again in 1320), but was used occasionally earlier to signify a complaint in a general sense. Thus in 1285, a defendant in court explained that he had acted because he feared a certain person would lodge a complaint against him (“post modum timendo ipse Matheus ne querela veniret ad dominum potestatem”). ASB, Podesta, Inquisitiones, Mazzo 3 (only one register), fol. 124r, Oct. 2, 1285. The word “querela” is also used in the 1288 statutes to signify a complaint made against the podesta or Capitano or their staffs at the time of syndication. Fasoli-Sella, *Statuti dell’anno 1288*, vol. 1, Bk. V, Rubric CLI, “De sindicatu,” p. 519.

<sup>344</sup> Although she does not analyze the petitions, there are references to petitions in the study by Valeria Braidì of the contents of the first three volumes (126–128) of the *riformagioni* from the 1280s. Braidì, “Il contributo delle ‘riformagioni del consiglio del popolo e della massa,’” pp. 179–180. The supplication at Bologna has been studied by Gianfranco Orlandelli, *La supplica a Taddeo Pepoli* (Bologna: Pàtron, 1962) and by Massimo Vallerani, “La supplica al signore e il potere della misericordia,”

later supplications in many ways. However the *querela*, as we shall see, played a very different role from both traditional petitions under the commune and the *suppliche* under lordship.

#### 8. PETITIONS AS PREDECESSORS TO THE *QUERELA*

The traditional petitions submitted to the Consiglio del Popolo, Bologna's most powerful legislative body, often involved matters of a mundane and bureaucratic nature. In 1287, for example, Giacomo di Amonetto, notary and ambassador of the commune, went to the Roman curia with another notary, Gerardo *Ferarii*, concerning removal of the interdict that had been placed upon Bologna. He was to be paid for one month's work. However, he was delayed in Rome and therefore submitted a petition in order to get paid for the extra work he had done. Another petition, approved at the same meeting, was from the inhabitants of the *contado* who lived near the river Idice. They had been given permission to rebuild a road which had been damaged by flood. An earlier law had authorized the construction, but had not specified the width of the road, and the petitioners now requested that the width be fifteen feet, which required the passage of another law.<sup>345</sup>

One of the most frequent types of traditional petitions was a request for the suspension of laws protecting dowries. For example, in her petition, Francesca di Guiduccio recounted how her husband and her husband's mother had received 40 pounds for her dowry from her

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*Quaderni storici* 44 (2009): 411–441. The *supplica* was similar to the petitions and pardons (*gratie*) of fourteenth-century Venice, as analyzed by Dennis Romano, "Quod sibi fiat gratia: adjustment of penalties and the exercise of influence in early Renaissance Venice," *The Journal of Medieval and Renaissance Studies* 13 (1983): 251–268. The petition is one of the most neglected of medieval sources. As Peter Blickle noted: "Political representation, judicial process, and violent resistance were all related to the grievance, the *gravamen*, the 'supplication,' which as a rule was first articulated by the commune. The right to voice a grievance and to receive an answer belonged to the juridical culture of Old Europe and gave the subjects a political power which should not be underestimated. This right was never contested in theory, and in practice it was enforced again and again in the face of opposition and obstacles. The political significance of *supplicationes* and petitions has never yet been adequately acknowledged. In all likelihood, it will not be possible to make any definitive statements about political culture and judicial theory and practice without including the factor of 'grievances.'" *Resistance, Representation, and Community*, ed. Peter Blickle (New York and Oxford: Oxford University Press, 1997), p. 335.

<sup>345</sup> ASB, Comune-Governo, Riformagioni 129, fol. 216v, April 19, 1289.

mother and brother. Her husband had made poor use of the dowry, but her mother-in-law had invested part of the dowry in a house in Bologna. Now Francesca, her mother and her brother had become paupers (the husband and mother-in-law having disappeared from the picture), and Francesca sought permission to sell the house because of their poverty.<sup>346</sup> Another common petition was a request for replacement of a horse that had died, either in battle or from natural causes, submitted either by *bolognesi* serving as cavalymen in the commune's service, or by the commune's mercenaries.<sup>347</sup> Almost any exemption in civil law could be the motivation for a petition. Thus, Martino Sulimani, a famous jurist, and his brother petitioned that their nephew's maternal relative and neighbor be given guardianship of their nephew and his patrimony, since their business obligations did not permit them to undertake this responsibility.<sup>348</sup> In another petition, two students at the university petitioned for permission to continue their studies even though their father was in the entourage of the newly elected podesta. An exemption was required since the podesta was not permitted to have any relatives in the city in order to avoid what we would call conflicts of interest, but more likely, from the viewpoint of contemporaries, was a regulation to ensure that the podesta did not become embroiled in local conspiracies.<sup>349</sup> Another common petition was one to have an illegitimate child legitimized, as did a petitioner in 1289 for his son, his only child, so the child could inherit 100 pounds.<sup>350</sup> There were also petitions to constrain someone from ruining himself financially, as in the petition of a guardian whose ward had dissipated much of his estate through gambling and who sought to have him forbidden from entering into any contract without his guardian's permission. He also requested that his son's inability to enter into a contract be proclaimed throughout the city and suburbs by public heralds, to warn would-be creditors.<sup>351</sup> The father of Sandro Personaldi went even

<sup>346</sup> Ibid., fols. 218v–219, April 27, 1289.

<sup>347</sup> Ibid., fol. 270r, Aug. 26, 1289. This petition was from twelve mercenaries whose horses had been killed or rendered useless in a battle between the Florentines and the Ghibellines of Arezzo. The replacement rate was 40 pounds for each horse.

<sup>348</sup> Ibid., fols. 240v, 249r, July 1, 1289. The guardian was to have responsibility for the child, his patrimony, and his business affairs until the child reached age twenty-five and was to have a salary for his labor at the *arbitrium* of the child's mother.

<sup>349</sup> Ibid., fol. 249r, July 1, 1289. The petition was made on behalf of the two students by the student rectors of the university.

<sup>350</sup> Ibid., fols. 234v–235r, June 17, 1289.

<sup>351</sup> ASB, Comune-Governo, Riformagioni 153, fol. 240r, Sept. 16, 1300.

further when faced with his son's gambling—he petitioned that the podesta have authority to place his son in prison and keep him there as long as requested by his father.<sup>352</sup> Unique, however, was the petition from the sisters of the convent of S. Croce. The sisters complained that they were suffering from the stench of nearby piles of horse excrement and begged for a law that would forbid any citizen, foreigner, or any other person from letting his animal foul the area near their church, under a penalty of 25 pounds for each offense.<sup>353</sup> The common thread to this variety of petitions was the need to make exceptions to the law in the name of equity or to fill a gap in the stated laws that was consonant with the intention of the laws.

Although most of the petitions concerning exemptions in law dealt with civil law matters, there were a few in which petitioners sought flexibility in cases of criminal justice. For example, in one case the petitioner (a man from the rural commune of S. Giovanni di Persiceto) sought to have the ban against his wife declared valid, even though the courts had nullified it. The petitioner's wife had been banned for adultery, but the ban had been invalidated because the multiple summons to court required to be made by nuncios and *bannitores* at specified intervals at the home of the accused had not been performed correctly.<sup>354</sup> Similar is the case of an alleged murderer who had escaped from prison. He could not be banned because when the charge was originally made against him he had appeared in court, before the conclusion of the warning period preceding declaration of a ban.<sup>355</sup> There were also petitions for mercy, a type that was to become very prevalent as a *supplica* under Cardinal del Pogetto. In 1304, Domina Agnese, wife of Cambio the ragman, from *cappella* S. Sigismondo, submitted a petition concerning her two sons—Giacomo, aged ten and Bulgaro, aged eight. The two boys had been playing one day in the cemetery of the church of S. Sigismondo when they saw a small cat or dog (*catula*). Wanting to strike the animal, Giacomo picked up a stone and threw it, but Bulgaro was in front of him, and instead of hitting the animal, he struck Bulgaro, who suffered a head fracture, later a fever, and died after fifteen days in bed. Domina Agnese was submitting a petition because a blood relative intended to lodge an accusation or

<sup>352</sup> ASB, Comune-Governo, Riformagioni 150, fol. 147v, Aug. 31, 1299.

<sup>353</sup> ASB, Comune-Governo, Riformagioni 129, fol. 234v, June 17, 1289.

<sup>354</sup> ASB, Comune-Governo, Riformagioni 160, fols. 66rv, April 10, 1304.

<sup>355</sup> ASB, Comune-Governo, Riformagioni 153, fol. 272v, Dec. 8, 1300.

notification against Giacomo, in order to have him banned. With Giacomo banned, he could usurp the properties of Bulgaro. She begged that since Giacomo did not inflict the wound maliciously and because he was of minor age (*pupilaris*), that the podesta and his judges be directed not to proceed against Giacomo, notwithstanding the laws of the commune.<sup>356</sup>

One type of traditional petition, although infrequent, foreshadows one of the two major types of *querele*. This type of petition was for restitution of property that had been seized by violence. For example, in 1300 Domina Bontadina di Guidofredo Accarisi complained that a house she held from her dowry had not been returned to her at the death of her husband, but had instead been forcibly seized by her husband's heirs. She described herself as a widow and pauper who, because of her poverty, could not litigate for possession of the house. She therefore petitioned that the podesta or Capitano be given authority to eject the current possessor from that house within eight days.<sup>357</sup>

There was also a precursor among the traditional petitions to the second major type of *querela*, although this type of petition also was relatively infrequent. These petitions usually concerned crimes viewed as of exceptional enormity which called for *ad hoc* expansion of the podesta's authority. For example, in 1288 Rustigellus di Bonmartino, member of the arms society of the Griffins, petitioned the Consiglio del Popolo because he had been kidnapped and robbed of his horse and 65 pounds when returning from the market at Parma. The culprits were political exiles from Reggio who were living in Castel Gesso in the Bolognese *contado*. He asked that letters and nuncios be sent to Reggio to seek restitution of his money. He also asked that the Bolognese podesta be authorized to proceed against the culprits according to Rustighellus's wishes, and that Rustighellus be permitted to capture and detain the culprits on his own authority in order to gain restitution

<sup>356</sup> ASB, Comune-Governo, Riformagioni 160, fols. 122rv and 124v, June 22, 1304.

<sup>357</sup> ASB, Comune-Governo, Riformagioni 151, fol. 174v, Dec. 30. A similar petition was presented at the same time by another poor widow, Domina Gerardina di Pietro Azzolini, who said that over a year ago she had won in court title to properties in the *contado* that belonged to her dowry. She had paid taxes for those properties, but still did not have possession of them, nor did she receive any income from them. She petitioned that the podesta and Capitano "sumarie sine strepitu iudiciorum" have those properties placed in her possession so she could pay her taxes. Ibid.



from them.<sup>358</sup> In 1299, Baldo di Guido Biagio, a notary and member of the popular societies, was in the episcopal church of S. Pietro during the celebration of mass. At the elevation of the host he was attacked by several armed men who sought to kill him, but he was able to escape into a crowd of women who were present and his attackers fled. Baldo asked that special *arbitrium* be given to the podesta against his attackers and anyone else who had helped them, and that the podesta's actions be considered as done "correctly and solemnly."<sup>359</sup> In 1300, Tommasina di Bonifacio *Rusini*, daughter of a notary, went out with many other women and was seized in the street by Egidio and Guiduccio, sons of Guglielmo Malavolta (of a prominent magnate family), for the purpose of forcing her to marry him, an act described in the petition as a "great intemperance and crime committed in opprobrium and damage to the ruin of the entire *popolo* of Bologna."<sup>360</sup> The petitioner asked that the kidnappers be condemned for 1,000 pounds or placed in ban, with their pictures to be painted in the communal palace and their place of habitation destroyed, and that their trial should proceed without admitting any defense, allegation of proof, or *exceptio* of law or of fact."<sup>361</sup> In all three of these petitions, the justification for the petition and the grant of special authority was the perception that the crime was particularly heinous.

In another crime petition from 1300, thirty-eight men, both magnates and *popolani*, claimed that they had been fraudulently declared *malpaghi*—debtors who had not paid their taxes, which meant the loss of their legal rights. The petitioners asked the Consiglio del Popolo to direct the podesta to reopen their case, and, on the extremely serious charge of fraud, ban the man who had falsely implicated them. They also asked that he be banned if he did not appear in court within fifteen days, which was a shortening of the usual time period, and that his ban not be cancelled unless he first made a peace agreement with

<sup>358</sup> ASB, Comune-Governo, Riformagioni e provvigioni, serie cartacea, Busta 216, Reg. 5, fols. 109v–110r, June 28, 1288.

<sup>359</sup> ASB, Comune-Governo, Riformagioni 150, fol. 171v, Dec. 18, 1299: "rite et solempniter."

<sup>360</sup> "magno excessu et delicto comisso...in obprobrium dampnum pro vituperone totius populi Bononie."

<sup>361</sup> ASB, Comune-Governo, Riformagioni 151, fol. 183r, Feb. 18, 1300: "non admissa aliqua defensione alegatione exceptione iuris vel facti alegandi oponendi vel excipiendi." Tommasina was to be restored to her family and any *instrumentum* of sale or concession of property that she might have made was to be null and void.

all thirty-eight petitioners, who included members of prominent magnate families.<sup>362</sup> Their petition was granted. An assault upon one of the student rectors of the university by hired assassins provoked a similarly strong response. Assault was usually considered a minor crime, but assault by hired assassin was a serious matter. Moreover, in this case the victim was a prominent official of the university, an institution vital to the city's reputation and economy, which made this particular assault a totally unacceptable crime. The *arbitrium* granted to the podesta in response to this petition specified that the podesta and his judges could use half-proofs in convicting the assailants and those who had sheltered them in their houses after the attack.<sup>363</sup> In 1299, an ambassador and nuncio from Florence made a petition on behalf of a Florentine merchant, Tino da Montecarlo, who was attacked in the Bolognese *contado* when he was bringing foodstuffs to Bologna. His goods were stolen and he was taken by force to Camugnano, imprisoned, tortured and forced to pay 160 gold florins in ransom. The ambassador petitioned that the podesta of Bologna have special *arbitrium* against the perpetrators and against the rural commune of Savignano where the crime was committed.<sup>364</sup> In these cases, the response of the commune to the enormity of the crime was to grant special authority to the podesta to act beyond the confines of the law.

Women as well as men could submit petitions related to crime to the Consiglio del Popolo, as did Domina Francesca, widow of *Branca Boschetti*, who claimed that her six-year old son, Adriotto, had been poisoned by his uncles Edoardo di Pietro Boschetti and Catalano di Orso Boschetti. She made one petition in March 1300 with her uncles, Provenzale and Foscheraro Foscherari, members of the popular societies, about the "enorme malefitium" itself, seeking special authority for the podesta to prosecute the crime, and asked that the perpetrators of the crime not be recognized as heirs of the victim. That petition was

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<sup>362</sup> ASB, Comune-Governo, Riformagioni 153, fols. 250rv, the last Friday of September 1300. The falsifier's picture was to be painted in the public palace and the podesta faced a 500-pound penalty if he did not carry out the terms of this *riformagione*. The falsifier had apparently fled to Ferrara and the petitioners also requested that ambassadors be sent to the Este lord of Ferrara to ask that he not be permitted to reside there. The magnate families among the petitioners included Rolandino Ramponi (a famous jurist), Giovanni Simonpiccioli, Filippo Lambertini, the heirs of Alberto Novello Caccianemici, the heirs of Paolo Lambertini, Guglielmo Guidoagni, and Ugolino Garisendi.

<sup>363</sup> ASB, Comune-Governo, Riformagioni 158, fol. 177r, May 24, 1303.

<sup>364</sup> ASB, Comune-Governo, Riformagioni 151, fol. 161v, Oct. 30, 1299.

approved and the next month she made another petition, this time on her own, seeking restitution of certain of the properties of the inheritance that had been seized by the murderers.<sup>365</sup>

Moreover, *fumantes* as well as citizens could petition the Consiglio del Popolo when they were the victims of outrageous crimes. In 1290, Albertuccio and *Campionus*, sons of Dulcinello, and Grandeo di Rolandino *Fanazii*, all *fumantes* and inhabitants of the rural commune of Tignano, petitioned the Consiglio for permission to live in the city and to carry weapons when going out of the city. They explained that they were being hounded in their properties and personally attacked by the *contado* noble Ugolino di Bonifacio da Tignano, a *bannitus* and *lupus rapax*. They sought protection from the *massarius* and men of Tignano who intended to force them to return to their rural commune and pay their taxes there.<sup>366</sup> In 1302, a man from the rural commune of Gesso petitioned against the repeated robberies and assaults in his community made by Laigono da Gesso, a powerful *contado* noble, and his followers. The podesta needed and received special *arbitrium* in this case because, as was specified in the petition, no one in the community, out of fear of this great lord, would testify in an *inquisitio* or bring forward a private accusation. All inhabitants of Gesso and Lauro who described being terrorized were given the privileges enjoyed by members of Bologna's popular societies, which meant their accusations or *denuncie* against Laigono and his sons henceforth had to be taken at their word, with no defense permitted.<sup>367</sup> One of the remarkable features of the petition was thus its availability to people other than privileged *popolani*: to *fumantes*, magnates and women, as well as members of the guilds and arms societies. Participation in the Consiglio del Popolo was limited to members of the guilds and arms societies, but the Consiglio, in its response to these petitions, reached out to meet the needs of groups that were excluded from it.

The Consiglio del Popolo, however, in the early fourteenth century, became especially concerned with the needs of the *popolo*. A change in the organization and presentation of petitions took place in 1303 with the creation in January of a new official, the *defensor* of the twenty guild societies and his council of forty *sapientes*, an office established

<sup>365</sup> ASB, Comune-Governo, Riformagioni 152, fol. 188v, March 18, 1300, and fol. 200v, April 29, 1300.

<sup>366</sup> ASB, Comune-Governo, Riformagioni 132, fol. 11v, Jan. 12, 1290.

<sup>367</sup> ASB, Comune-Governo, Riformagioni 157, fols. 116rv, Nov. 9, 1302.

at the same time as a renewal of anti-magnate legislation by the pro-Ghibelline White Party, which now controlled the commune.<sup>368</sup> The responsibilities of this official were broad and his function was mainly to take the initiative in bringing proposals, especially for public security, to the Capitano and *anziani* for presentation to the Consiglio del Popolo. Petitions at this point could be submitted either directly to the Capitano and *anziani* as was done previously, or first to the *defensor* and his *sapientes*. If approved by the latter, they were then submitted to the Capitano and *anziani* and, again if approved, to the Consiglio del Popolo. In 1307, after the return to power of the more intransigent wing of the Guelf party, the *defensor* was replaced by another new magistrate, the *barisellus*, an important official responsible for protecting Guelfs from infra-party disputes (similar in that function to the *defensor*) and from Ghibellines. However, the role of the *defensor* in reviewing and forwarding petitions to the Consiglio del Popolo was dismantled and was not renewed again until 1321, when a new official was created, the Standard-bearer of the Guilds and Justice (*vexillifer* or *gonfalonierius artium et de giustizia*) and his council of two *sapientes* from each quarter. Those officials, together with the syndics of the guilds, were given responsibility, *inter alia*, for reviewing petitions.<sup>369</sup> Both periods, 1303–1307 and 1321–1326, were marked by fierce factionalism, extreme threats to the *libertas* of Bologna, and a greatly sharpened perception on the part of the *popolo* of the need for protection against their internal as well as external enemies. Both periods also were characterized by the dominance of the guild societies in government, as opposed to the dominance of the arms societies in the intervening period, i.e., the period in which Romeo Pepoli sought to establish a *signoria*. In both 1303 and 1320, crime in the *contado* was a particular spur to legislation enabling the use of special petitions.

In 1304, the *defensor* was explicitly given responsibility for receiving and acting upon crime petitions. The immediate occasion for the new legislation was the apparently growing or perceived problem of crime in the *contado*, the untamed power of *contado* nobles, and the fear of collusion between *contado* nobles and those banned

<sup>368</sup> On the *defensor* see Vitale, *Il dominio della parte guelfa*, pp. 86–88.

<sup>369</sup> Vitale, *Il dominio della parte guelfa*, pp. 170–172. The Standard-bearer's office was created July 23, 1321, as part of the new security measures taken after the expulsion of the Pepoli faction. Both the *defensor* and the Standard-bearer had to be members of the guilds and had to practice their craft with their own hands.

the prior year for conspiracy with external enemies, an alliance that threatened the *libertas* of the commune and *popolo*. The situation in 1304 marked a worsening of a situation in place at least since the war with the Marquis of Este at the end of the thirteenth century. The link between war and disorder in the *contado* is illustrated in a petition from a powerful feudal noble, Ubaldino Malavolta, *legum doctor*, who petitioned because Alidosio and *Littus* da Massa were continuously harassing the Malavolta in a “*castello* of the Malavolta lords” which was outside the territory of Bologna, in the mountains south of the city. Ubaldino complained that Alidosio was seeking to occupy that *castello*, which indeed they had succeeded in occupying earlier during the war between Este and Bologna. Ubaldino wanted a law made that would forbid any Bolognese from giving aid to Alidosio or *Littus* or giving them refuge in their homes. He also asked for permission to make accusations against them in Bologna’s law courts for the crimes they were committing in the *contado*.<sup>370</sup>

The provision enabling the new *defensor* to review crime petitions was only one of eight major anti-crime provisions passed in May 1304.<sup>371</sup> It required the Capitano, *anziani* and *ministrals* of the two preeminent societies to hear and respond immediately to a crime petition that had been approved by the *defensor* and his *sapientes*. Within three days they had to present such a petition to the Consiglio del Popolo.<sup>372</sup> In general, the crime petitions from the *defensor* did not differ from those submitted earlier directly to the Capitano and *anziani*. Thus, a petition to the *defensor*, which was approved by him, was submitted in response to an assault and robbery made against Enrighetto Feliciani, a notary and prominent privileged *popolano*, which was carried out against him while he was in the *contado*. The petitioner sought special *arbitrium* for the podesta against his attackers and anyone who helped him escape.<sup>373</sup> In 1305, a petition to the *defensor* described the rape of a ten-year old girl, Vilana, daughter of a former *defensor*, Giovanni di Pietro da S. Ruffillo, as “ugly and enormous.” Vilana had gone to the shoemaker’s shop of Michele di Martino in *cappella* S. Giovanni in Monte and there was raped by him. In response to the petition, the Consiglio del Popolo gave sweeping authority to the podesta to pro-

<sup>370</sup> ASB, Comune-Governo, Riformagioni 157, fol. 123v, Nov. 21, 1302.

<sup>371</sup> ASB, Comune-Governo, Riformagioni 160, fols. 106r–109v, May 14, 1304.

<sup>372</sup> ASB, Comune-Governo, Riformagioni 160, fols. 90rv, May 8, 1304.

<sup>373</sup> ASB, Comune-Governo, Riformagioni 161, fols. 200rv, Nov. 22, 1304.

ceed in any way he wished against the shoemaker and specifically gave him authority to torture.<sup>374</sup> All his actions and those of his officials were to be considered “correctly and legitimately made.”<sup>375</sup>

Even after the *defensor* was given responsibility for reviewing crime petitions, both traditional civil law petitions and occasionally even a crime petition continued to be made directly to the Capitano and *anziani* and from them to the Consiglio del Popolo, without the intervening stage of review by the *defensor* and his *sapientes*.<sup>376</sup> Why did a person select one process over the other for submission of a petition? Petitions that went to the *defensor* may have been perceived as having greater validity than those that went directly to the Capitano and *anziani* since petitions from the *defensor* had to be dealt with within a specific time period. They also had the added stature of having been approved by two-thirds of the popular societies, as did all proposals from the *defensor*.<sup>377</sup> Moreover, and of particular significance, by 1305 all petitions from the *defensor* were submitted only on behalf of members of the twenty guild societies. The Consiglio del Popolo was giving precedence to outrageous acts committed against guildsmen, the men who were the backbone of the *popolo* and particularly the supporters of the dominant government regime. Crime petitions, however, remained infrequent, whether the petition was submitted through the traditional process directly to the Capitano and *anziani* or indirectly through the *defensor*. In both instances, civil petitions were overwhelmingly predominant. After the dismantling of the *defensor*'s office in 1307, both civil and crime petitions continued to be submitted to the Consiglio del Popolo, but the latter happened only rarely. In 1307, Romeo Pepoli submitted a petition in which he declared that it was “public knowledge and notorious” that a crime had been committed against a certain Andrea di Bartolomeo and that a trial had been held for that crime against Zingolo di Ugolino Pepoli, but he claimed that it

<sup>374</sup> “purum, merum, liberum et generale arbitrium inquirendi ubicumque volerit cognoscendi, procedenti et veritatem investigandi per fama, indicia vel presumptiones... non obstante statuta quod loquitur de tondolo et tormento.”

<sup>375</sup> ASB, Comune-Governo, Riformagioni e provvigioni, serie miscellanea, 315 (1302–1335), Reg. 9 (a single folio), Dec. 20, 1305; ASB, Comune-Governo, Riformagioni 163, fols. 414v–415r, Dec. 20, 1305.

<sup>376</sup> ASB, Comune-Governo, Riformagioni 161, fols. 189rv, Oct. 19, 1304, fols. 181r, 184rv, Oct. 23, 1304.

<sup>377</sup> As specified in the introduction to the petitions presented at the meeting of Jan. 29, 1305, the petitions as well as the general proposals (*poste*) from the *defensor* had been sent as *cedule* through the societies. Ibid., fols. 247v–248v.

was also “public knowledge and notorious” that Zingolo was innocent. He asked that the podesta and his officials be forced to stop the trial against Zingolo and his son Ugolino, and that the bans against them be declared null and void. He also asked that the Capitano impose a penalty of 500 pounds against the podesta and his officials if they published those bans. The vote in favor of the petition was 300 with only twenty-six members of the Consiglio opposed.<sup>378</sup> That this rare instance in this period of a crime petition should be in favor of a Pepoli is not surprising given the Pepoli faction’s growing dominance and the commune’s continued dependence on him for loans.<sup>379</sup> The only other crime petition I have found in this period is one submitted by Giacobino di Gabriele Paconi, a member of the popular societies, who had been robbed in the *contado*. The response of the Consiglio del Popolo was to give both the podesta and Capitano full authority (*merum purum liberum et generale arbitrium*) to investigate and proceed not only against the culprits of this crime, but against any other robberies committed that month and against any accessories to that crime. The officials could “compel” anyone to testify and no *exceptiones* were to be permitted in the trials.<sup>380</sup> But in general the years after the removal of the *defensor*’s office were characterized by a return to traditional civil petitions and the rarity of a crime petition. In 1313, however, this situation changed again with establishment of a new law concerning crime petitions.

## 9. LEGISLATION OF 1313

In 1313, new provisions turned the crime petition into a special form of protection and privilege for members of the guilds and arms societies. The context for this innovation was once again a crisis in the often perilous situation in the *contado*, coupled with a major threat from external enemies, in this case the resurgence of the Ghibellines that was precipitated by the descent into Italy of the emperor, a situation exacerbated even further by floods and the threat of famine.

<sup>378</sup> ASB, Comune-Governo, Riformagioni 166, fol. 117v, May 25, 1307.

<sup>379</sup> He made a major loan in the 1290s, and again as recently as 1305 for 2,000 pounds, and another loan in 1306. ASB, Comune-Governo, Riformagioni 161, fol. 272r, March 12, 1305, and ASB, Comune-Governo, Riformagioni, serie cartacea, Busta 218, Reg. 20, fol. 2r, March 4, 1306.

<sup>380</sup> ASB, Comune-Governo, Riformagioni 172, fol. 204v, July 29, 1310.

On May 20, 1313 the Consiglio del Popolo sent a *cedula* through the popular societies asking for authority to legislate new anti-crime provisions.<sup>381</sup> The subsequent *riformagioni* have not survived, but the *provvigioni* from May 23 and 25 are extant.<sup>382</sup> Some of the proposals are similar to earlier anti-crime legislation, such as harsh penalties against anyone giving aid to or harboring a *bannitus*, forbidding the carrying of offensive weapons in the city and suburbs, and the hiring of twenty-five foreign mercenaries for the pursuit and capture of *banniti*.<sup>383</sup> One key proposal, however, was innovative.

In order to prevent crimes against the men of the popular societies, it was proposed that if anyone of the *popolo* of Bologna were enormously offended or wounded or killed, the Capitano or the *anziani*, at the request of the victim or his heirs, on the same or following day, was to ascertain from the Consiglio del Popolo what action was to be taken so that the offense would be well punished and avenged.<sup>384</sup> Furthermore, the proposals provided that "the offended person or his heir if he is killed, if not a member of the Consiglio del Popolo, personally and without punishment may be present in such a council to expound his *querela*."<sup>385</sup> If the podesta did not act to avenge the offense and

<sup>381</sup> ASB, Comune-Governo, Riformagioni 178, fol. 303r, May 20, 1313.

<sup>382</sup> "Provvigioni" comprised the proposals prepared by the executive officials or *sapientes* of a commission and did not always become *riformagioni* approved by the Consiglio del Popolo, but in this case the notary at the end of the proposals wrote that he copied these provisions and also the subsequent *riformagioni*.

<sup>383</sup> ASB, Comune-Governo, Provvigioni IV, fol. 17r, May 25, 1313. If any *bannitus* or *confinatus* was found in any home, that home was to be destroyed and never rebuilt for any reason in order that the ban remain perpetual and public in the memory of the commune. The penalty given to anyone rebuilding the house, if he were a noble, was 300 pounds, and if a *popolano*, the penalty was 100 pounds. If the person were a cleric, he was removed from the protection of the commune and *popolo*.

<sup>384</sup> Ibid., fols. 20rv, May 23, 1313: "Quod si contingerit decetero aliquem de populo Bononie offendi sive vulnerari henormiter in persona vel occidi, dominus capitaneus populi Bononie qui nunc est vel pro tempore fuerit vel qui vices capitanei gereret sive anziani et consules precise possint teneantur et debeant precise ad requisitionem et instanciam talis offensi sive vulnerati vel eius heredis ea die vel sequenti qua requisitus fuerit proponere in consilio populi quid sit generaliter faciendum super tali offensa sive vulnere vel morte ut viriliter et bene puniatur et vendicetur."

<sup>385</sup> Ibid., "Et possit talis offensus vel heres eius si ocisus esset sit vel non sit de consilio populi tali consilio personaliter interesse inpune et querelam suam ibidem exponere." If the murder victim had no sons, at that time the *preconsulis* of the notaries, *barisellus*, *preministralis* of the organization of the seven arms societies, the *ministrals* of the two preeminent societies and the syndics of the guilds who were at that time in office were held to assume the responsibility for the revenge of such a person and would be prosecuted and penalized 100 pounds by the Capitano if they did not fulfill that responsibility. If the Capitano or his *vicarius* or the *anziani* neglected



punish the culprits, the *preconsulis* of the notaries' guild, the *barisellus*, the *preministralis* of the organization of the seven arms societies and the *ministrales* of the two preeminent societies were to meet with the syndics of the guilds to determine how the injury should be avenged by the podesta. The meeting, however, could take place only by license of the Capitano and the *anziani*.<sup>386</sup>

As noted in the above quotation from the 1313 law, in that law itself the crime petition for privileged *popolani* was called a *querela*. However, it is not referred to by that title again until 1320, just before it was opened up to all persons, not just members of the guilds. In this study, for the sake of clarity, I therefore refer to petitions as *querelle* only if they were submitted as such during the period 1320–1327. I refer to the crime petitions from 1313–1320 as “privileged *popolani* petitions,” and all petitions, civil and criminal, prior to 1313 as “traditional petitions” (except for those submitted to the *defensor* between 1303–1307). It should be noted, however, that the “traditional petitions” continued to be submitted through all these years, sometimes appearing side by side with the specifically designated *defensor*, *querelle*, and “privileged *popolani*” petitions.

Was the 1313 law enforced? What kind of action did the Consiglio del Popolo authorize in response to petitions from privileged *popolani*? The *riformagioni* of 1314 and 1315 have in part been destroyed and the extant material from those years does not contain any petitions from privileged *popolani*. However, from 1316 there are three such petitions. In January 1316, the Consiglio reviewed the “enormous and oppressive crime and homicide” committed against Fabrino di Uguccone the horseshoer, member of the guild of the blacksmiths. The complaint had been presented to the Capitano and *anziani*, and subsequently to the Consiglio del Popolo, by Fabrino's sons and by the *ministrales* of the two preeminent societies, the *barisellus* and the syndics of the guilds. The Consiglio decided that the podesta was to have full authority against the unnamed assailants who were to be treated as magnates. If banned, their bans were not to be cancelled without a peace agreement made not only with the heirs of the victim, male and female, but with all the men who belonged to the two

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this responsibility, the Capitano and *vicarius* would be penalized 500 pounds and an *anzianus* 100 pounds and loss of office.

<sup>386</sup> Ibid.

preeminent societies of that month—the Crossbars and blacksmiths.<sup>387</sup> In April, another petition was presented to the Consiglio del Popolo which began by quoting the legislation of 1313.<sup>388</sup> In this case Gerardo Albertinazzi *sive* Ghisilieri together with his sons and a great multitude of men, both magnates and *popolani* of the guilds, approximately eighty persons, carrying offensive weapons, had entered a meeting of the *ministrales* of the two preeminent societies. They shouted insults at the *ministrales* and threatened to strike them. Domenico di Giuliano Pisani, notary and *ministralis* of the arms society of the Claws, confronted them and said “You are speaking and doing badly, because we are *ministrales* of the societies which are preeminent over the other societies of the *popolo* of Bologna for the present month, and we are gathered together here for doing good and great tasks of the commune and *popolo* of Bologna and the Party [Geremei] of that city.” At that point, Bitinello, one of Gerardo’s sons, seized Domenico and struck him in the face with his fist “against the honor and status of the commune and *popolo* of Bologna and the said societies.”<sup>389</sup>

In response to this attack, the syndics of the guilds, the *preministrallis* and *ministrales* of the seven arms societies, the *ministrales* and men of the two preeminent societies of that month (the Claws, goldsmiths, and curriers), petitioned that Gerardo and his sons be declared “de nobilibus et potentibus civitatis Bononie” and that their male descendants henceforth be considered magnates, nobles, and *potentes*, and that they be removed from the *matricule* of the popular societies. Moreover, the podesta and his judges were to prosecute the offenders in this case as if they were magnates. All shops were to be closed and the flag of justice (*vexillum justicie*) flown over the communal palace while they were tried and until revenge (*vindicta*) was achieved. Finally, the syndics of the guilds were to appear before the syndic of the notaries’ guild and each exchange the kiss of peace with each other.

<sup>387</sup> ASB, Comune-Governo, Riformagioni 181, fol. 221r, Jan. 6, 1316.

<sup>388</sup> ASB, Comune-Governo, Riformagioni 182, fol. 265r, April 15, 1316: “quod quicumque aliquis de populo et societatum populi Bononie... fuerit enormiter offensus per aliquem vel aliquos de potentibus de populo Bononie, anziani et consules illius mensis de quo aliquis de populo Bononie fuerit offensus, teneantur proponere ad consilium populi quid sit de vindicta talis maleficii comissi generaliter faciendi.”

<sup>389</sup> Ibid., “Vos male dicitis et facitis, quia summus ministras societatum que presunt aliis societatibus populi Bononie de presente mense, et summus hic congregati pro bonis et magnis negociis comunis et populi Bononie et partis dicte civitatis.” “... contra honorem et statum comunis et populi Bononie et dictarum societatum.”

The *riformagione* hints at what caused the uproar by also legislating that the *preconsulis* of the notaries' guild, the *barisellus*, the *preministralis* of the seven societies, and the *ministrals* of the preeminent societies were to ensure, together with the Capitano and the *anziani*, that henceforth those who organized or participated in armed bands or meetings in response to the recent making of the new *estimo*, or for any other cause, were punished and condemned by the podesta. It would seem that the making of the new *estimo* was responsible for the intra-*popolo* violence in this instance. The point of the *querela* legislation of 1313 was that in general the privileged *popolani* needed protection not just from magnates but from each other, and especially from the most powerful among the *popolo*.

These two petitions of January 1316 concern very different crimes but share important features; they deal with crimes by powerful members of the popular societies, committed against other members of the societies. The *popolo* had given itself protection not only from magnates and other "outsider" groups, but from each other. Their response to the violence of fellow privileged *popolani* was to deprive those individuals of their status as privileged *popolani*, declare them magnates, and give the podesta the authority to try them in the courts by summary justice. To ensure that the actions by the podesta in court and the bans against the Ghisilieri were deemed valid and were not changed in the future, the Consiglio also sent *cedule* through the societies to affirm the validity of the trials against the Ghisilieri. The bans were to be understood to have been made "correctly and according to the solemnities."<sup>390</sup>

There is only one other privileged *popolano* petition from 1316. In September of that year Giacomo di Domenico d'Aposa and his son Francesco submitted a petition to a meeting of the *massarii* and *ministrals* of the cordwainers and curriers' guilds and the *barisellus* and *massarius* of the butchers' guild, which was then submitted to the Consiglio del Popolo. Both Giacomo and Francesco were members of the cordwainers' guild. They described in their petition how they and certain of their neighbors and friends had gathered together for the wedding of Tommaso di Cambio Maranesi when the said Tommaso uttered many insults against Giacomo and his son Francesco and

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<sup>390</sup> ASB, Comune-Governo, Riformagioni 182, fols. 269rv. The victim, Domenico, together with two attendants, was given permission to carry weapons and all members of the Consiglio permission to carry knives.

struck and seriously wounded Domenico with a knife. Immediately after the attack Tommaso also began shouting “death to the thieves and evil men, I must kill you and burn your houses and rob you of all your goods.” Giacomo and Francesco, fearing for their lives and mindful of the many great and enormous crimes that Tommaso had previously committed, and for which he had never been punished because of the power he possessed owing to his many friends and wealth, fled to their home and locked themselves inside. Meanwhile, Tommaso came to their house with over 200 men, armed with offensive and defensive weapons and began throwing stones at their house, and broke down four doors and windows. In the tumult, Francesco was seriously wounded several times. When Domina Egidia, wife of Giacomo, tried to come to the aid of her husband and son, she also was seriously wounded, as was their daughter, Filippa. All four escaped by fleeing over the roofs of nearby houses. Meanwhile, Tommaso and his followers robbed the house of approximately 200 pounds of goods and would have destroyed the house except for the arrival of the podesta’s guards. The *posta* presenting the petition describes how the *massarii* and *ministrates* of the preeminent societies met with the *barisellus* and syndics of the guilds and immediately agreed to go to the Capitano and *anziani* and petition for a *riformagione* to punish this enormous crime. The podesta was to be given special authority to impose fines and corporal penalties upon everyone named by Giovanni d’Aposa, brother of Giacomo and godfather of Francesco. The *riformagione* in response to this petition granted special authority to the podesta to punish “in body and property” thirteen specified individuals, including Tommaso and Brandelasio, sons of Calorio Maranesi, all *popolani*. The special *arbitrium* to the podesta gave him the authority to suspend the statutory penalties in this case in favor of harsher bodily penalties to be set by the podesta. In this case, as in the other two petitions, the petition was justified by referencing the legislation of 1313 made in favor of members of the guilds and arms societies.<sup>391</sup>

Use of the privileged *popolano* petition remained rare until the end of the decade. There are only two crime petitions from 1318, one of which specifically references the 1313 law. In March, Paolo di Giovanni Alberghi, member of the popular societies (the same Paolo who submitted a *protestacio* as discussed above in section 5) petitioned, with

<sup>391</sup> ASB, Comune-Governo, Riformagioni 182, fols. 310rv, Sept. 3, 1316.

specific reference to the law of May 25, 1313, that he had been attacked and wounded by Giacomo di Domenico and Bonifacio di Prencivale Artenisi and was in danger of dying. The *reformanze* granted full authority to the podesta to punish Giacomo and Bonifacio “vigorously” (*viriliter*) and specified that the procedures used in the trials would be considered to be “correctly and legitimately done.”<sup>392</sup> In July, the sisters and daughters of Pace di Fra Tanielli da S. Georgio, member of the *popolo* and Geremei party, said in their petition that Pace had been led by Albrico di Magister Bencevenne to the episcopal church of S. Pietro into a certain room where the said Albrico lived, and there slept with him. When Albrico was confident that Pace was asleep, he rose and struck him three mortal blows. The petitioners also said that he committed this homicide in order to rob Pace of his clothing. Albrico was in the custody of the bishop (since the crime took place in an area under his jurisdiction) and the petitioners wanted him punished. The *reformagione* stipulated that the Capitano and *anziani* should go the bishop and ask on behalf of the commune that Albrico pay for his crime with his life and remain in the communal prison until his execution.<sup>393</sup> In 1319, there is only one petition that probably was a privileged *popolano* petition, although it does not specify the 1313 legislation nor does it give the popular society membership of the victim. But, like both petitions from 1318 mentioned above, it specifies a “viriliter” punishment for the culprit.<sup>394</sup>

This rare use of the crime petition changed dramatically in 1320. The context and trigger was a deterioration of the perennial problem of crime, especially in the *contado*. Two crimes in particular were responsible for the issuance of new crime provisions. One was a crime in March 1320 against a wealthy and prominent *fumans*, Gerardino de Ghidulfis (his family name is also given as *Ghinulfis* and *Gaydulfis*) da S. Andrea in Corneliano, a crime that provoked an exceptionally strong response from the Consiglio del Popolo.<sup>395</sup> The victim and his brother, who lived in Castello Serravalle, were attacked and kidnapped

<sup>392</sup> ASB, Comune-Governo, Riformagioni 186, fol. 22v, March 3, 1318.

<sup>393</sup> ASB, Comune-Governo, Riformagioni 186, fols. 110v–111v, July 10, 1318.

<sup>394</sup> ASB, Comune-Governo, Riformagioni 188, fol. 207v, May 25, 1319. The petitioner was Paolo Bonacatti, heir of the victim, Don Bonacatto di Lorenzo Bonacatti, who had been killed by certain men, both nobles and *popolani*.

<sup>395</sup> ASB, Comune-Governo, Provvigioni IV, fol. 298v, May 14, 1326, for a list of rural communes and their *estimi*. The rural commune of S. Andrea in Corneliano had an *estimo* of 16,000 pounds, of which 13,000 belonged to Gerardino and his brother

while traveling to Castello Montevoglio by Pietro *de Canbiis* (member of the da Cuzzano *domus*) and a large band of his followers. The men of Castello Serravalle gathered in the piazza of the rural commune in an uproar over the kidnapping, which may in part explain the government's strong response. Also, both Serravalle and Montevoglio were near the *contado's* southeastern border in the mountains and were strategically important to Bologna. Pietro and his brother Paraclino da Cuzzano had been terrorizing the *contado* for years. Just six months earlier, in response to complaints by ambassadors from Modena and letters from officials in the Bolognese *contado* about the murders and plunder committed by that band, the commune had sent a military contingent into the *contado* in a futile attempt to capture them.<sup>396</sup> Now, in March, the Consiglio determined that the crime against Gerardino should be punished "viriliter" and with actions that would serve as a deterrent against such crimes in the future. The podesta was given a particularly strong and sweeping *arbitrium* against not only Pietro *de Canbiis* and his followers who had committed this particular crime, but against all individuals, legitimate and illegitimate, of the *domus* of the da Cuzzano. The podesta was to call a meeting immediately ("today or tomorrow") of all members of the da Cuzzano family. Those who did not present themselves at that meeting were to be declared rebels, traitors, and Lambertazzi and to have their pictures painted on the walls of the communal palace. All of their properties were to be destroyed and the depositor general of the commune was authorized to pay the men of the popular societies and the *milites* for carrying out the destruction. Furthermore, any rural commune that captured any of these men and brought them into the podesta's custody "alive or dead" would receive 500 pounds, with a reward of 1,000 pounds for the capture of the principal culprits, or they could have that amount applied for them against a future tax levy. For the capture of anyone connected to the crime itself, the reward was 300 pounds. The podesta also was to have *arbitrium* to act against particular rural communes (*Castellum Umbratii*, Monte Leone, Giugla and Rochetta de Setta) and others that had been in rebellion during the past year if they associated with Pietro or Paraclino.

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Ubaldo *de Gaydulfis*. Both brothers, although *fumantes*, are given the title of *dominus* in that document.

<sup>396</sup> ASB, Comune-Governo, Riformagioni 189, fols. 2354, 336v, 240v–241r, Sept. 17, 1319.

The podesta also was to have *arbitrium* for a second crime, referred to in this legislation simply as against those who had committed the “crime at Conchola” and against any pilgrims. The crime at Conchola referred to in this legislation was the plundering and killing of fifty pilgrims on the road to Ferrara by a band of men from elite Bolognese families and their followers, including the Ariosti, the Ramponi, and the Prendiparte. They were banned as traitors and rebels. The podesta’s *arbitrium* in the Conchola case was to be in force only for the month of March. In addition, this set of provisions mandated that the podesta would have the same *arbitrium* that had been granted him against the *domus* of the da Cuzzano and against anyone from a magnate house of the city or *contado* who committed any robbery, arson, kidnapping or wounding with flow of blood against anyone of the *popolo* of Bologna or anyone from the *contado*. Finally, the Capitano delle Montagne, in order to better defend the *contado* against robberies by *banniti*, was not to stay with his entourage in any rural commune more than ten days, under a penalty of 200 pounds.<sup>397</sup>

The legislation, however, apparently was not effective, since a week later new anti-crime provisions were passed. Given the continuation of robberies and violence in the *contado*, especially towards Uccellino, on the northern plain near the border with Ferrara, the Consiglio del Popolo on March 14 decided to take further action against the da Cuzzano. All members of the da Cuzzano family in custody were to be held in prison until Gerardino (the kidnapping victim) was released, and if Gerardino were injured by his kidnappers then one by one the da Cuzzano in custody were to be subjected to the same injuries inflicted upon Gerardino. And if Gerardino suffered a monetary loss as a result of his kidnapping, then the da Cuzzano family members were not to be released until they had paid an amount equivalent to that monetary loss. In addition, anyone offering shelter to Paraclino, Pietro *de Canbiis* or the other *banniti* involved in the kidnapping were to suffer the same penalties as Paraclino and Pietro. The Consiglio also specifically renewed a law of 1314 which called for providing a com-

<sup>397</sup> ASB, Comune-Governo, Riformagioni 192, fols. 356rv, March 7, 1320. For the crime at Conchola, ASB, Podesta, Inquisitiones, Mazzo 101, Reg. 5, fols. 68r–70r, March 23, 1320. For the bans, ASB, Podesta, Accusationes, Busta 43b, Reg. 391, fols. 28r–29r, March 13, 1320, and fols. 30rv, March 29, against Brandelesio di Calorio Maranesi. There is also a sentence against Domenico di Negro the fishmonger, who was captured. Ibid., Accusationes, Busta 47b, unbound folios, 1324, second semester.

mission consisting of four of the most important executive officials (the *preconsulis* of the notaries, the *barisellus*, the *preministrales* of the organizations of the seven and thirteen arms societies), with special *persecutores* holding summary justice powers, and with twenty-five mercenary horsemen at their disposal.<sup>398</sup>

The kidnapping of Gerardino *de Ghidulfis* was simply the latest in a long list of notorious crimes by the da Cuzzano family that extended over decades. In 1302, for example, the Consiglio del Popolo had directed the *anziani* to submit a proposal on how to deal with the “many enormous crimes” committed daily by *Dexolus* di Guido da Cuzzano, Gualterio da Cuzzano and Guidinello da Montecucoli “and many others, banned and non-banned.”<sup>399</sup> But Paraclino exceeded even his own family’s reputation for outrageous criminality. In 1319, the year prior to his death, a petition referring to the “enormous crimes” by Paraclino and his rebel followers described how he came to Serravalle and entered the home of Giacomo di Alberto for the purpose of killing the said Giacomo. When he found no one in the house except for a son of Giacomo who lay mortally ill in bed (he had already received holy oil and final communion), Paraclino killed the dying man by thrusting his sword in his throat. The inhabitants of that rural commune pleaded in their petition that the Consiglio provide for their safety. The Consiglio, also provoked by robberies by da Cuzzano at that time in the rural commune of Spilamberto, sent a special military expedition to the mountains against him. His crimes were listed as part of the rationale for establishing yet another commission on crime.<sup>400</sup>

Crime in the *contado*, to be sure, was not a new problem, nor was it limited to the da Cuzzano family. The commune’s control of its *contado* had always been fragile in the face of powerful feudal lords who dominated the *contado*, some of whom only nominally recognized Bologna’s authority. A key target of the anti-magnate legislation of the 1280s had been *contado* nobles.<sup>401</sup> Approximately half of

<sup>398</sup> ASB, Comune-Governo, Riformagioni 192, fols. 357rv, 362r–363r, March 14 and 24, 1320.

<sup>399</sup> ASB, Comune-Governo, Riformagioni 157, fol. 116r, Nov. 9, 1302. For Paraclino da Cuzzano, see Ghirardacci, *Della Historia*, vol. 1, pp. 606–609.

<sup>400</sup> ASB, Comune-Governo, Riformagioni 189, fols. 231r, 233r, 235r and 238v, Aug. 14 and 23 and Sept. 7, 1319.

<sup>401</sup> Fasoli, “La legislazione antimagnatizia,” pp. 365–69, and see discussion above, Chapter One, Part II.



the *lupi rapaces* who were listed in the Sacred Ordinances of 1282 were from the *contado*.<sup>402</sup> In the early fourteenth century, however, Bologna's strategic location and external policies changed dramatically and these changes resulted in a growing instability in the *contado*. In the late thirteenth century, Bologna had enjoyed a brief interval of relative peace, internally and externally. The strife of papal Guelfs versus imperial Ghibellines, which had divided northern and central Italy for decades into opposing leagues of warring city-states, had abated after the death of Frederick II. Bologna, as a Guelf or papal city, benefited from the decline of Ghibelline power. By the 1270s, Bologna had gained dominance in the Romagna region to the east and faced no threatening rival in the Emilia region to the west. By the turn of the century, however, Bologna's strategic position shifted from being the dominating power in the region to a city engaged in a defensive war against the revived and expanded power of the neighboring Este lord of Modena, Reggio and Ferrara. Moreover, Bologna was adversely affected by a significant shift in the overall external political situation in northern and central Italy. The power and ambitions of the Ghibelline cities and exiles had been revived by the appearance in Italy of Henry of Luxemburg, successful claimant to the imperial title. Increasingly, these Ghibelline powers threatened Guelf Bologna, drawing a noose tighter around the city's neck.<sup>403</sup>

In this new environment, the feudal nobles in the mountains south of the city rebelled and flouted the commune's authority. The counts of Panico waged war with Bologna, seizing several fortifications in 1294 and again in 1307–08,<sup>404</sup> and the da Cuzzano supported the Marquis of Este in Bologna's struggle against him at the turn of the century.<sup>405</sup>

<sup>402</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric XVI, "De satisfactione prestanda ab infrascriptis nobilibus civitatis vel districtus Bononie, et de penis eorum qui non darent dictam securitatem et de fidantia eis danda, ratione predicta," pp. 308–312.

<sup>403</sup> Rolando Dondarini, *Bologna medievale nella storia delle città* (Bologna: Pàtron, 2000), pp. 237–251 (the image is his). Alma Gorreta, *La lotta fra il comune bolognese e la signoria estense* (Bologna: Arnaldo Forni, reprint without date of original 1906 edition), and Vitale, *Il dominio della parte guelfa*.

<sup>404</sup> ASB, Comune-Governo, Riformagioni 139, fol. 116, Dec. 17, 1294 and ASB, Comune-Governo, Provvisioni III, fol. 287r, March 22, 1307.

<sup>405</sup> ASB, Comune-Governo, Riformagioni 159, fols. 208rv, Oct. 11, 1303. The men of Samoggia, in the mountains southwest of Bologna, in a petition described the suffering that rural commune had endured from *banniti* who belonged to the party of Gualtiero da Cuzzano and the Marquis of Este of Ferrara.

Repeatedly, and especially in 1294, 1302, 1304, 1306, 1311, 1313 and 1320, Bologna, in the face of war and the threat of war, was compelled to pass legislation dealing with crime and the loss of communal authority in the *contado*.<sup>406</sup> The continuing failure of the commune to capture *banniti* contributed in a major way to disorder in the *contado*. Many *banniti* sought refuge across the border of neighboring city-states. From there bands of outlaws and rebels launched raids into Bologna's territory. Moreover, every change in governmental regime resulted in more political *banniti* joining criminal outlaws, thereby adding to brigandage and upheavals in the *contado*. It is in this context that the commune's response to the kidnapping of Gerardino *de Ghidulfis* and the robbery and killing of the pilgrims at Conchola should be viewed. The reaction of the commune was not just a response to particular crimes, as heinous as they might be, but to a deteriorating situation in the *contado* that threatened the *libertas* of Bologna.

In March 1320, however, the commune's particularly strong response to the kidnapping of Gerardino *de Ghidulfis* finally produced results. Paraclino was killed by his own brothers. "Because of the devotion which they had for the *popolo* and commune of Bologna," Chiozzo and Muzzarello killed Paraclino and then sought the promised reward "in recognition of such a great deed for the honor of the commune and *popolo*." The grateful executive officials proposed that Chiozzo's ban for a prior homicide be removed as a reward. In a rare negative response, the Consiglio del Popolo rejected the proposal by a vote of eighty-seven in favor with 232 opposed.<sup>407</sup> However, although the kidnapping victim, Gerardino *de Ghidulfis*, was released, his problems continued. A few weeks after his release, Gerardino and his brother

<sup>406</sup> For the 1294 legislation, ASB, Comune-Governo, Riformagioni 138, fols. 115v–117v. For the 1302 legislation, which focused on the *contado* exclusively, Riformagioni 157, fols. 116r and 121r, Nov. 9 and 16, 1302. For 1304, Riformagioni 160, fols. 90rv, 106r, May 8 and 14, 1304; for 1306 Riformagioni 165, fol. 50r, Nov. 27 for 1311; Provvigioni IV, fols. 1v–3r, July 23, 1311; for 1313, Provvigioni IV, fols. 17r–24r, May 23–31, 1313. For 1318, Riformagioni 186, fols. 78rv, 80r–81v, 89r, May 10, 19 and 29. For 1320 Riformagioni 192, fols. 356r–363v, March 7, April 14–15. There was an even more rapid progression of anti-crime legislation in the years 1321–1326, for which see the Epilogue below.

<sup>407</sup> ASB, Comune-Governo, Riformagioni 192, fol. 381r, April 25, 1320. Pietro *de Canbiis* survived and continued his career of crime. In 1323, he was banned yet again in an *inquisitio* against him and Muzzarello di Gualtiero da Cuzzano for committing a robbery with an armed band (*guarimentum*). ASB, Podesta, Accusationes, Busta 45b, Register of bans without covers or number, notary is *Nicolinus*, fols. 7r–8r, Feb. 11, 1323.

Ubaldo submitted a petition, which they called a *querela*, to the Consiglio del Popolo, complaining that Gerardino was being harassed by those who had been banned for his kidnapping so that he no longer felt secure in his own home in the *contado*. Moreover, his kidnappers still possessed all the properties and goods he had given them for his ransom. The Consiglio responded by declaring that all the contracts and obligations that Gerardino had made out of fear while in the hands of his kidnappers were null and void. If anyone tried to obtain satisfaction for any of those contracts the penalty would be 500 pounds and the podesta was to proceed summarily within ten days.<sup>408</sup>

The notorious crimes against Gerardino *de Ghidulfis* and the pilgrims at Conchola were followed by petitions from other victims. In May, Mino, Gabriele and Bartolomeo, sons of Pietro da Reggio, members of the popular societies, petitioned that Domenico, the sixteen-year old son of Gabriele, had been robbed and murdered as he was returning from the market of S. Giovanni in Persiceto by men who were also members of the popular societies. Theirs was a petition in the mold of those authorized by the 1313 law. The Consiglio del Popolo granted *arbitrium* to the podesta against the perpetrators and against anyone who had given assistance to them either before or after the crime and added rewards of 100 pounds for their capture.<sup>409</sup> Also in May there was a petition from Don Giovanni, rector of the church of S. Michele in the rural commune of Gaggio Montana, in the name of the “poor and unfortunate persons living in that commune” who were suffering from the arsons and kidnappings of many men and women committed by Guidinello da Montecuccoli and his followers.<sup>410</sup> At that same meeting there was another petition, again (as in the case of the petition by the *de Ghidulfis*) called a *querela*, from Alberto di Parente, a blacksmith, on behalf of his brother, Pasquale, who was a member of the blacksmiths’ guild. The petitioner described how his brother had been killed without provocation while standing in a city street in front of the church of S. Giuliano. Specifically invoking the 1313 law, he asked “humbly...that action be taken for the commission of such an enormous crime and homicide.” The Consiglio responded that the podesta was to have a sweeping *arbitrium*, including the use of torture,

<sup>408</sup> ASB, Comune-Governo, Riformagioni 192, fol. 378r, April 18, 1320.

<sup>409</sup> ASB, Comune-Governo, Riformagioni 192, fols. 387rv, May 8, 1320. They also ordered that the woods where the assault and murder took place be cut back.

<sup>410</sup> ASB, Comune-Governo, Riformagioni 192, fol. 389r, May 20, 1320.

and that all his actions were to be considered as done “correctly and with solemnities.”<sup>411</sup>

#### 10. THE NEW *QUERELA* OF 1320

Thus, after a period of years in which it rarely had received crime petitions from privileged *popolani*, as authorized by the 1313 law, the Consiglio was suddenly faced with several within a brief period of one month. It was in the context of these petitions and grave instances of disorder in the *contado* that the Consiglio decided in its response to the next petition to take a significant new action regarding petitions. In this case, in May 1320, the petitioner, Guido da Settefonti, who was “of the *popolo* and a man of humble condition,” but not a member of the popular societies, described six hectares of land he possessed in the *contado*, for which he had paid taxes over the past eighteen years. He related how Giacobino Sachetti of *cappella* S. Tommaso della Braina had trespassed on his land and had set men working for him on that land against the wishes of the petitioner. Because of the “malice and power” of this Giacobino, Guido could find no one willing to work the land on his behalf. He petitioned that “the said offense be halted and avenged” and that the land be restored to his possession so that he could receive income from its use. The Consiglio del Popolo approved the petition.

Furthermore, in its response to the petition from Guido, the Consiglio also made provisions establishing a new process for submitting petitions which it called *querela*.<sup>412</sup> In contrast to the law of 1313,

<sup>411</sup> ASB, Comune-Governo, Riformagioni 192, fols. 391v–392r, May 20, 1320.

<sup>412</sup> As noted above, the word *querela* appeared at least by 1285 and occasionally afterwards in the general sense of a complaint. In 1319, the word was used on at least two occasions. One was legislation that referred to complaints or *querelle* that people were enrolled in the Council of 4,000 who were ineligible to be in that council. ASB, Comune-Governo, Riformagioni 189, fols. 256v–257r, Oct. 22, 1319. That same year there was a traditional petition in which merchants going from Ferrara to Bologna on the canal between those two cities complained that they were being extorted with high rates by the boatmen. It was called a *querela* by the petitioner even though it did not fit the criteria of the 1313 legislation. ASB, Comune-Governo, Riformagioni 189, fols. 276rv, Nov. 21, 1319. The *querela* has not been studied by the historians of Bologna. The only ones who even refer to it, but merely in passing are Vitale, *Il dominio della parte guelfa*, p. 165, and Giorgio Tamba, “Le riformagioni del consiglio del popolo di Bologna,” *Atti e memorie della Deputazione di storia patria per le province di Romagna*, new series, 46 (1995): 237–257, esp. p. 241. Tamba refers to the jurisdictional as

also called a *querela* in its enabling legislation, which had limited the petition right to privileged *popolani*, that is, members of the popular societies, the 1320 legislation called for *anyone* to be able to come to a special meeting of the Consiglio del Popolo to complain if he or she were the victim of personal violence or if his or her possession of property was violated. The Capitano and *anziani*, present and future, were to be required to submit the *querela* petition to the Consiglio and execute the response of the Consiglio, under a penalty for non-response of 500 pounds against the Capitano and 100 pounds against each *anzianus*. Possessors of property were to be understood to be those who had rights (*iura*) by documents or court sentences. The podesta and his judges were to proceed by summary procedure (*summarie*) to restore or defend the petitioners' possession of their properties within eight days of the resolution of the petition, under penalty to the podesta of 500 pounds and to the judges of 200 pounds. If a person sought to prove his possession by witnesses instead of by documents or court sentences, and those witnesses were found to be false, then the podesta was to have *arbitrium* to act against those witnesses with the authority to torture them. Finally, the response to the petition in Guido's case specified that possession of Guido's property was to be returned to him within eight days or the podesta would be penalized 500 pounds at syndication.<sup>413</sup>

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well as normative and executive functions of the Consiglio and notes that a *popolano* of the societies, if injured by a magnate, could present a *querela* to the Consiglio by means of the Capitano.

<sup>413</sup> ASB, Comune-Governo, Riformagioni 192, fols. 392v–393r, May 21, 1320: “Et eciam quod licitum sit unicuique posse venire in consilio populi ad arengariam ad se conquerendum si eidem foret vel fieret violenciam in personam vel res vel si eidem foret turbata possessione aliqua et nominare eum vel eos qui dictum talem conquerentem turbaret in sua possessione vel in res vel in persona. Et quod dominus capitaneus presens vel qui pro tempore fuerit et etiam presentes anziani vel qui pro tempore fuerint possunt teneantur et debeant querelam illius talis quod se conqueretur de aliquo vel aliquibus qui tali conquerenti faceret violenciam in aliquo ex supradictis casibus ad penam et banum domini capitanei 500 librarum bononinorum et cuilibet anziano centum librarum bononinorum tunc temporis existentibus dictam querelam proponere seu proponi facere et legi facere ad consillium populi et secundum quod placuerit dicto consillio vel maiori parti ipsius consillii ita procedatur et fiat. Et quod possesores intelligantur esse et sint illi qui habunt priora iura per instrumentum vel instrumentum vel sentencias et quod dominus potestas et eius iudices possint teneantur et debeant eum vel eos sic molestatos manutenere in sua possessione et etiam teneantur et debeant in dicta questione summarie procedere et terminare secundum quod firmabitur in dicto consillio infra octo dies a die mote litis sub pena dicto domino potestati 500 librarum bononinorum. Et cuilibet ex suis iudicibus 200 librarum bononinorum et quod si contingerit aliquem probare per testem possessionem suam fore et sine instrumento

The 1320 legislation differed from that of 1313 in two significant ways—first, by extending the right to make a *querela* to anyone, and secondly, by making property dispossession as well as bodily violence eligible for a *querela* petition. In focusing upon this particular pair of crimes, the legislation was echoing key provisions of the Sacred and Most Sacred Ordinances of 1282 and 1284, which had privileged the *popolani* against magnates and those not belonging to the popular societies from bodily injury and dispossession of property.<sup>414</sup> But the major difference in 1320 was that the legislation offered protection to *anyone*, not just to privileged *popolani*, and not just against magnates, but again against anyone who committed those offenses, including privileged *popolani*.

It was extremely unusual for such significant legislation to be passed without a *cedula* having been sent to and approved by the popular societies, and this was exactly what was done next, with new legislation before the Consiglio del Popolo on May 31. Before the presentation of those new proposals, however, yet another petition came before the Consiglio on May 28. In this petition Cambio *Cenzolini* from the rural commune of Montepolo described how he and his ten-year-old son were in the church of S. Maria in that rural commune with the priest of that church for the purpose of having letters written, when two men, *Lisignolus* and Martello di Benvenuto from Monte S. Giovanni

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vel sententie et ille que possidet exproba-verit per instrumenta predictos primos testes esse falsos tunc et in eo casu primi testes qui deponsuerint in dicta questione possint et valeant acusari de falso. Et quod dominus potestas habeat arbitrium purum merum et liberum et absolutum tormentandi illum vel illos testes qui sic fuerint reprobati non obstantibus aliquibus statutis provisionibus reformationibus comunis vel populi Bononie loquentibus de tondullo et tromento [sic] quod testes ita reprobati careant omnibus privilegiis et beneficiis eis concessis. Et quod dominus potestas presens et qui pro tempore fuerit teneatur et debeat dictum Guidonem ponere in sua possessione et eum manutenere infra octo dies postquam fuerit requisitus per dictum Guidonem sub pena 500 librarum bononinorum eidem auferendo per syndicos qui preerunt ad sindicandum dictum dominum potestatem...."

<sup>414</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric II, "De processu faciendo contra magnates et ecclesiasticas personas offendentes homines societatum populi Bononie, et de penis offendentium ipsos de populo, et eorum qui darent ipsis malefactoribus consilium vel favorem, et privilegio ipsorum popularium contra magnates et alios qui non sunt de societatibus," pp. 285–290, and Rubric III, "De privilegio popularium, viduarum, pupillorum, conventuum religiosorum et rusticorum, qui turbarentur in eorum possessione mobilium vel immobilium rerum per magnates et ecclesiasticas personas et de predictis turbantibus possessiones, et qualiter tales possessiones per communia terrarum debeant laborari et de penis non laborantium," pp. 290–293.

and many other “bad men” came into the church and kidnapped the child. The petition, which was approved, sought *arbitrium* for the podesta to act against the kidnappers and their accomplices and to punish them in body and property (*realiter et personaliter*) as he deemed appropriate. If the victim were not released to his father within the next five days, he also asked that the podesta have the same *arbitrium* and power over those culprits as he had had in the case of Gerardino *de Ghinulfis* against the da Cuzzano and the others guilty of the crime against *de Ghinulfis*. He also asked that all the podesta’s actions be regarded as having been accomplished “correctly and by law and with solemnities” (*rite et de jure solemniter*). In addition, the podesta was to accomplish all this within fifteen days from the date of the *ristorazione* made in response to this petition, under penalty for non-compliance of 500 pounds.<sup>415</sup>

On May 31, 1320, the Consiglio del Popolo reviewed proposals that had been sent to and approved by three-quarters of the popular societies. Among them was a proposal that affirmed the new *querela* petition process and made further pertinent proposals. It clarified that the “anyone” referred to in the legislation of May 21, 1320 included women as well as men of any status, but excluded clergy and magnates and nobles from the city and *contado*. It also broadened the scope of crimes for which a *querela* could be made to include false testimony and forgery and false accusation. It further specified that a special meeting of the Consiglio del Popolo was to be held within three days of the beginning of each month which was to be devoted exclusively to reviewing *querelle*. In addition, it clarified that actions authorized by the Consiglio del Popolo in response to a *querela* would be limited to the persons named in the petition.<sup>416</sup> The proposals were approved by a vote of 444 in favor with only twenty-six opposing, with an amendment that approval of the *querela* petition did not derogate the law of 1313 which had granted special petition rights to members of the popular societies.

Thus in May 1320, the Consiglio del Popolo recognized formally the *querela* petition, marking an expansion of a right that had been held since 1313 only by privileged *popolani*, but one which had seldom been

<sup>415</sup> ASB, Comune-Governo, Riformagioni 192, fols. 395rv, May 28, 1320. The vote is on fol. 396r.

<sup>416</sup> ASB, Comune-Governo, Riformagioni 192, fols. 396v–397r, May 31, 1320.

invoked in the intervening seven years. In 1320, however, at the first special meeting dedicated to *querele* on June 4, the Consiglio reviewed ten *querele*. Why was its use revived and expanded in 1320 to *popolani* of all ranks and status? In 1320, as in 1303 and in 1313, the petition legislation was made in the context of a deepening crisis: in 1320 again to a rapidly deteriorating situation in the *contado* and the multiple military threats from the *signori* Cangrande della Scala of Verona and Passarino of Mantua, the coming to Lombardy of Philip and Charles of Valois, and the turning against Bologna of their sometime ally from nearby Frignano, Guidinello da Montecuccoli.<sup>417</sup> But, as we shall see from analysis of the *querele* themselves, the *querela* was created not only as a safeguard against the power of *contado* nobles such as the da Cuzzano, but against the large number of *exceptiones* that to an alarming degree were crippling the efforts of the courts to adjudicate conflicts. As noted above, these *exceptiones* stemmed in great part from the immunities from legal prosecution and privileges which the members of the popular societies had granted themselves (and which they had renewed in recent years), and from the loss of legal rights suffered by litigants because of their delinquency in tax payments or military service, losses that had been increasing under pressure of the worsening military situation. The petitioners turned to the *querela* and the Consiglio del Popolo for redress either because they could not litigate at all (e.g., as in the case of one privileged *popolano* against another, or because of the power of their opponents), or because their attacker was a privileged *popolano* and immune from prosecution. In one *querela* the petitioner lamented that the assailant at the time of the attack had boasted that he could attack him with impunity since he, the assailant, was a privileged person.<sup>418</sup>

What kinds of *querele* were initially submitted to the Consiglio? To begin with the ten *querele* submitted at the first special meeting of the Consiglio held June 4, 1320 to review *querele*, we find that six of the ten petitions were for property dispossession by *potentes* (#2, 5, 7, 8, 9, 10), one for property damages (#6), one for restitution of a dowry squandered by the husband of the petitioner (#4), one for a “kidnap-

<sup>417</sup> ASB, Comune-Governo, Riformagioni 192, fols. 408v–409r, June 10, 1320, and *ibid.*, fols. 422r and 423r, July 11, 1320. Guidinello became an ally of Bologna again in 1322. ASB, Comune-Governo, Riformagioni 197, fols. 270rv, June 13, 1322.

<sup>418</sup> ASB, Comune-Governo, Riformagioni 196, fols. 91rv. July 23, 1321. The victim died from his wounds. His attacker was given magnate status.



ping” in which the three brothers-in-law of the petitioner took their sister back to their mother’s house by force (#3), and one for an assault (#1).<sup>419</sup> Four of the petitioners were women (#4, 7, 8 and 10). Domina Francesca di Fra Bonifacio of *cappella* S. Salvatore said that at the time of her marriage with Magister Bondo di Simone *de Pessis* her father had given her husband 600 pounds for her dowry. Her husband from the beginning of their marriage had treated her not as a wife, but as a concubine (*amaxia*) and servant, with cruelty and threats. He had died, but she was receiving nothing from her dowry for her sustenance and would be forced to become a beggar unless she received money to support herself from that dowry (#4). Domina Tommasina di Ranucino of *cappella* S. Martino dell’Aposa petitioned for the restitution of properties she had put up as security for a loan that had not been returned to her by the heirs of the lender (#7). Another of the petitions from women was from two women whose monetary dowries had been spent by their mutual father-in-law who had also dispossessed them of their dotal properties (#8). The final petition from a woman was from a certain Domina Aleta.<sup>420</sup> She petitioned that she had been deprived “by force and injury” of her dowry of 1,905 pounds at the death of her husband by Niccolò di Buvaello, because of a debt owed to him by her husband (#10). It should be noted that these dowry petitions differed significantly from the traditional dowry petition discussed earlier, in section 8. The traditional dowry petition, which continued to be presented to the Consiglio separately from the *querela* petition, was a request for permission to sell dotal properties because of the petitioner’s poverty. The focus of *querela* petitions concerning dowries was the forcible dispossession or squandering of a dowry.

Except for the “kidnapping” and property damages petitions (#3 and 6), and three of the petitions from women (#4, 7 and 10), the querelants specified that the acts against them had been committed by *potentes*. These powerful persons, however, were *popolani*, not magnates. For example, Francesco di Antonio of *cappella* S. Prospero, who described himself as of the *popolo* and Geremei Party, but not as a privileged *popolano*, had multiple complaints. He had been robbed

<sup>419</sup> ASB, Comune-Governo, Riformagioni 192, fols. 400r–404v, June 4, 1320.

<sup>420</sup> Her full name is given as Domina Aleta, daughter of Enrighetto di Andalo d’Argele and wife of the deceased Calorio di Guglielmo Lambertini *Capicii*.

by his wife Agnese of 42 gold florins which she had taken with her when she returned to the house of her father. Moreover, the petitioner, Francesco, had been brought to court by his brother-in-law, Giovanni di Giacomo, in a trial initiated by privilege, which ended in Francesco's acquittal. Francesco then had sought payment for the expenses he had incurred in the trial. The litigation over expenses had ended in a *consilium sapientis* by Taddeo Pepoli in Francesco's favor. But instead of making payment for the expenses, his brother-in-law's son, Federico, had attacked Francesco and severely wounded him. Francesco lamented that his brother-in-law and nephew were "rich, proud, and powerful" and that he was a pauper and without friends. He petitioned that he be protected from oppression or murder by his in-laws. The Consiglio responded by giving the podesta special *arbitrium* to act summarily against Federico for the assault and to compel Giovanni di Giacomo to pay Francesco for his expenses from the trial he had made by privilege, with all *exceptiones* suspended. In addition Giacomo, the father-in-law, again with every *exceptio* rejected, was to return Agnese to Francesco along with the 42 gold florins. All this was to be accomplished by the podesta within fifteen days from the passage of this *riformagione*, under a penalty of 500 pounds. In this case, summary procedure was seen as needed specifically to counter the obstacles of privilege and *exceptiones* to rendering justice.

In the *querele* concerning forcible land dispossession, the Consiglio ordered the podesta to place and maintain the querelants in possession of their properties within specified periods of time ranging from four to ten days. In the case of the two women who had lost their dowries to their father-in-law, the Consiglio ordered the podesta not only to restore their lands to them, but to force the father-in-law to restore the revenues from the lands that he had collected. The podesta was to do this "sumarie et de facto sine strepitu et figura iudicii" (#8). In the case of Domina Aleta, however, who had claimed that her dowry had been taken by one of her husband's creditors at his death, the Consiglio decided that the Capitano and *anziani* should elect two *sapientes* in civil law to settle the case out of court, and if they could not come to agreement they were to elect a third *sapiens*. The Capitano was responsible for ensuring that the *sapientes* completed their task within one month and for the implementation of their decision. In all the other cases, the podesta was to obtain the required results under a penalty for non-compliance against the podesta of 500 pounds. In the Consiglio's response to these petitions, except in the case of Domina

Aleta, summary justice was seen and granted as a procedure to be used *in favor of the querelant*, as a means to give immediate relief from the crimes that had been committed against him or her. Like the anti-magnate and privilege laws and the law of 1313 in favor of members of the popular societies, these *reformagioni* in response to *querele* called for suspension of the *ordo iudiciarius*. Unlike the anti-magnate and privilege laws and the law of 1313, however, the legal advantages to be gained from the *querele* were open to *popolani* from all walks of life and were not limited to the privileged *popolani*. On the one hand the Consiglio del Popolo with its anti-magnate and privilege legislation had contributed strongly to the increasing dysfunctionality of the law courts. On the other hand, with its institution of the *querela* and its response to those petitions, it sought to cut through the judicial difficulties it had created. In both instances, however, it contributed to the growth of summary justice.

Those responsible for the *querela* legislation sought to protect it by declaring the laws “sacred” and by specifically forbidding future officials from derogating the laws by sending *cedule* through the societies (*cedule* were necessary to change a sacred ordinance).<sup>421</sup> At the same time, the Consiglio continued to receive and consider at other meetings petitions from members of the popular societies, as authorized by the 1313 law and affirmed in the *querele* legislation of May 1320. Thus on June 23, 1320, Tommaso di Matteo, associate and brother of Nanino Cavagli, a merchant and member of the popular societies, was attacked as he returned from Ferrara and robbed of his clothes, leather goods, 49 pounds and 13 *solidi*. He was severely wounded in the attack and was in danger of dying. Moreover, when the podesta’s judge went to the scene of the crime to investigate, he could not find anyone who dared to testify “because of the power of the said malefactors.” The petition was brought to the Consiglio by the victim’s brother.<sup>422</sup> In its response, the Consiglio granted the podesta special *arbitrium* to investigate the crime and punish the culprits in body and property and to compensate the victims for their losses by confiscating properties

<sup>421</sup> ASB, Comune-Governo, Riformagioni 192, fol. 209v, June 10, 1320.

<sup>422</sup> ASB, Comune-Governo, Riformagioni 192, fols. 411rv, June 23, 1320. A second petition two days later on the same crime and the same victim identifies the victim’s guild as that of the rough cloth dealers of Porta Ravegnana, but is otherwise identical to the first petition. The vote on the second petition was 600 in favor with ninety opposing and the vote on the first version was 590 in favor with sixty-six opposing.

belonging to the culprits. In particular, the podesta was authorized to force all neighbors to testify who lived within twenty *perticas* of the place where the robbery occurred (in Borgo Galleria, one of the suburbs of the city). The podesta also was to ban the culprits, if they did not come immediately to court, with the same bans issued against those persons who had committed the crimes at Conchola and against Paraclino da Cuzzano. Moreover, the new podesta, coming into office at that point, was to accomplish all of the above within five days of taking office. The *riformagione* ends with naming six culprits.

Three days later, on June 26, another petition from a privileged *popolano* came before the Consiglio. In this one the complaint was from Francesco di Ugolino Albergati, one of the *anziani* appointed for the present month of June, who said he was at his shop in the Trivio Porta Ravegnana when Gilino di Bonacursio Rombolini approached him with insulting words and struck him with his hands, knocking off his hat. He also struck him in the face and chest, which was against "God and justice and against the honor of the *anziani* and *consules* of the *popolo* of Bologna." He asked that the podesta be given *arbitrium* to investigate, punish and ban Gilino in body and property. The Consiglio decided to make a general provision that the podesta in this case and any future case of attack against an *anzianus* was to have *arbitrium* to punish the culprit in body and property. The Consiglio also declared null and void a law from 1299 that stipulated that privileged persons were exempt from punitive action taken by the podesta against the attackers of an *anzianus*.<sup>423</sup> In addition to the July and August 1320 meetings dedicated to the *querele*, the Consiglio during that period approved two other petitions from privileged *popolani*, both of which were referred to as *querele*, but which were the type of petition authorized by the 1313, not the 1320 legislation.<sup>424</sup>

Soon after its establishment in May 1320, the *querela* law was challenged and modified. The first modification proposal, in September 1320, was made under peculiar circumstances. It was not initiated by the usual process of a straightforward proposal from the executive

<sup>423</sup> ASB, Comune-Governo, Riformagioni 192, fol. 414r and 415r, June 26, 1320.

<sup>424</sup> ASB, Comune-Governo, Riformagioni 192, fols. 437rv, Aug. 21, 1320. Both of the petitions from privileged *popolani* were for physical assaults. In the first of these, the Consiglio granted the podesta the authority his predecessor had been given in June against the culprits at Conchola and against Paraclino da Cuzzano, to use for ten days against the new culprits.

officials that had first been sent as a *cedula* through the popular societies, but as a proposal, also called a *cedula*, that had been drawn from a certain box (*capsa*). In that box the executive officials and the *sapientes* of the two preeminent societies had been required to place, within a period of two days, *cedule* that were blank or written, the keys to which were held by six of the highest officials of the commune. The use of the *capsa* of six keys was approved on Sept. 16, 1320 and apparently was designed to permit officials to suggest controversial legislation anonymously and to bypass the usual Consiglio review and vote before sending proposals to the popular societies for approval. Thus, the proposals drawn from the *capsa* of six keys were to be sent immediately to the popular societies for approval or rejection, without any intervening vote and decision by the Consiglio del Popolo to approve the sending of the *cedule* to the societies, which was the usual procedure. According to this legislation, the stated purpose of the process was to find ways that "crimes cease and the perpetrators and harborers [of criminals] be punished and captured."<sup>425</sup> The first *cedula* to come to the Consiglio by this process was a proposal on Sept. 17 concerning the *querela*. The proposal affirmed the original May 1320 *querela* legislation, but nullified the 1313 law which served only privileged *popolani*. Therefore, if anyone of the *popolo* and Geremei Party, including privileged *popolani*, were killed or seriously attacked, he or his heirs were to make a *querela* instead of invoking the 1313 law for privileged *popolani*. The Capitano or his *vicarius* was required to submit such a petition immediately (that day or the next) to the Consiglio, under a penalty for non-compliance of 1,000 pounds and loss of office. The podesta was to execute the *reformagione* made in response to the *querela*, under a penalty of 1,000 pounds. If a *popolano* were killed, half the penalty would go to the heirs and half to the commune.<sup>426</sup>

According to another proposal drawn from the "*capsa* of six keys," the executive officials were to draw, again from the "*capsa* of six keys," the names of malefactors or those considered dangerous and present

<sup>425</sup> ASB, Comune-Governo, Riformagioni 193, fols. 450rv: "mallificia decetero cessent et committentes et receptatores puniantur et capiantur." The *capsa* had six keys, one each for the podesta, the Capitano, the *preconsulis* of the notaries' guild, the *barisellus*, the *prior anzianorum* of the present month, and one for the *ministrales* of the two preeminent societies. The *cedule* found in the *capsa* would then be sent through the popular societies and if approved by them would be submitted to the Consiglio del Popolo.

<sup>426</sup> ASB, Comune-Governo, Riformagioni 193, fols. 452rv, Sept. 17, 1320.

them to the Consiglio del Popolo. The Consiglio would then select from that list twenty persons who were not Ghibellines, Lambertazzi, nobles or clerics. If any of the selected twenty committed a major crime—homicide, grave assault, kidnapping, rape, arson or robbery—or instituted a false accusation or produced false witnesses or harbored *banniti*, or committed brigandage (*guarimentum*), that person and his descendants were to be given magnate status and prosecuted in the courts as magnates. Finally, the podesta, present and future, would have special *arbitrium* against false accusations and false testimony, except in the case of accusations against nobles, magnates, or Lambertazzi.<sup>427</sup> Not surprisingly, the twenty chosen included members of preeminent *popolano* families—the Bianchi di Cosa, Gozzadini, Albi-rolì, Preti, Maranesi, Malorecchi, Gandoni, Sabadini, and Buvaelli. According to Vitale, these families belonged to the Maltraversa faction that opposed the Pepoli (Scacchese) faction.<sup>428</sup> At the same meeting the Consiglio passed legislation restricting the authority and political role of the *preconsulis* of the notaries' guild, the *barisellus*, and the *preminis-trales* of the organizations of the seven and thirteen arms societies. The legislation restricting those officials mentions an uprising concerning those officials, described as "between men of the party of the Church and Geremei." The uprising probably was an attempted coup against Pepoli and this legislation against the *preconsulis et al* was the reaction to the coup.<sup>429</sup> This seems likely since when Romeo Pepoli was expelled from the city the following year, it was under the leadership of the *preconsulis* of the notaries' guild.<sup>430</sup> The institution of the *querela*, the anti-crime legislation of September 1320, and the modifications to

<sup>427</sup> ASB, Comune-Governo, Riformagioni 193, fols. 453rv, Sept. 17, 1320. Also ASB, Comune-Governo, Riformagioni e provvigioni, serie cartacea, Busta 220, Reg. 31, esp. fols. 79r–82v for the complete list of ninety-three names from which the twenty were chosen.

<sup>428</sup> Vitale, *Il dominio della parte guelfa*, p. 166.

<sup>429</sup> ASB, Comune-Governo, Riformagioni e provvigioni, serie cartacea, Busta 221, Reg. 33, fols. 23rv, May 15, 1321.

<sup>430</sup> ASB, Comune-Governo, Riformagioni 195, fols. 88v–89v. In place of the Capitano, who had died, the meetings of July 16 and 18, the day before and after the expulsion of Pepoli, were chaired by the *prior anzianorum*, Bernardino Bambaglioli, from one of the most prominent of notarial families. Another of the Bambaglioli, Bambagliolo Bambaglioli, *preconsulis* of the notaries' guild the prior year, had opposed Pepoli's attempt to have the Capitano reappointed, to which Pepoli responded by restricting the role of the *preconsulis* in the executive councils of the government. Bernardino himself had been tortured in 1317 and had subsequently made a *protestacio* on that occasion, Table V.5, *Protestacio* 9.

the *querele* of 1321 thus seem to have been enmeshed tightly in political turmoil. Like the *protestacio*, the *querela* was a procedure that arose out of factional conflict, but, again like the *protestacio*, it remained in place after the political circumstances that gave rise to it had changed. When Pepoli was expelled in July 1321, a new official, the Standard-bearer (*gonfalonarius*) of the guilds was immediately established, who, together with the syndics and two *sapientes* from each of the popular societies, was given responsibility for reviewing the *querele* before their submission to the *anziani* and subsequently to the Consiglio.<sup>431</sup>

The *querela* remained a controversial institution and an issue of factional conflict after its inception in May 1320. A law passed in February 1321 specified that all *querele* made contrary to the provisions of September 1320 were nullified. At the same time it renewed the laws against Lambertazzi and specified, in contrast to the original legislation of May 1320 that had been affirmed in September 1320, that Lambertazzi and their descendants could *not* make a *querela*.<sup>432</sup> On June 12, 1321 it was proposed in the Consiglio del Popolo that one be permitted to submit a *querela* retroactively, for injuries that took place or were initiated within the past five years. Others opposed that measure and proposed instead that *querele* be limited only to those injuries that dated from or were initiated since May 1320. The latter proposal was passed.<sup>433</sup> However, given certain ambiguities in the language of the law, it was subsequently interpreted as not only limiting *querele* to those that had taken place since May 1320, but also only to petitions concerning violent property dispossession which had occurred since May 1320. That interpretation meant that *querele* could be made for property dispossession (*querele de realibus*), but not for bodily injury

<sup>431</sup> The Standard-bearer had to be a guildsman who practiced his craft with his own hands. Each month a guild in rotation elected the new Standard-bearer. The full title of this official was *gonfalonarius* (or *vexillifer*) *societatum artium et hominum populi Bononie et libertatis eiusdem et partis ecclesie et Jereminsis civitatis Bononie conservator*.

<sup>432</sup> ASB, Comune-Governo, Riformagioni e provvigioni, serie cartacea, Busta 220, Reg. 32, fol. 89r, Feb. 3, 1321, and fols. 100rv, Feb. 25, 1321: "Quod ghibelini seu lambertacii vel descendentes ab eis non po[s]sint aliquam querelam exponere in consilio populi et cetero." The vote was 352 in favor with 170 opposing.

<sup>433</sup> ASB, Comune-Governo, Riformagioni e provvigioni, serie cartacea, Busta 221 (1321–1327, Regs. 33–37). Reg. 33, fol. 34v, June 12, 1321. The vote was taken on the five-year proposal and was 271 in favor with 314 opposing, which meant the counter-proposal limiting the *querele* to those since May 1320 passed by default. This proposal survives only in this *serie cartacea* series and is not to be found in the *riformagioni* or *provvigioni* documents.

(*querele de personalibus iniuriis*). According to a later proposal of Sept. 25, 1321, however, this limitation was contrary to the intention of the *popolo*. The September provision therefore reaffirmed that the Standard-bearer and his *sapientes* and the syndics of the guilds had authority to review *querele* for bodily injury as well as property dispossession. The exception was any crime that had occurred between July 17 and 21, 1321, the period in which Pepoli had been overthrown. For those crimes no *querela* at all could be made.<sup>434</sup>

In October 1321, three months after the expulsion of Pepoli, there were additional new proposals concerning the *querela*. On Oct. 23, 1321, the Consiglio confirmed the validity of all *querele* made since May 1321 by men and women of the city and *contado* who were not nobles or *potentes* or Lambertazzi, and who were of the *popolo* and Geremei Party.<sup>435</sup> This provision thereby would have placed a distinct restriction on those who could make *querele* since the original legislation of May 1320 had not excluded the Lambertazzi. That proposal of Oct. 23 failed, in a rare negative vote, but pressure for its passage obviously continued, since on Oct. 30, 1321, a codicil or *salvo* was added to other legislation which forbade proposing any legislation that would derogate the provisions about *querele* from May and September 1320 and also reaffirmed the affirmation of *querele* from September 1321.<sup>436</sup> Nevertheless, the very next day, Oct. 31, 1321 there were further proposals for restrictions on the *querele*. On the one hand, these proposals affirmed the earlier legislation of May and September 1320, on the other hand, however, they sought to weaken the *querela* laws by limiting the circumstances under which a *querela* could be proposed. *Querele* were not to be made involving sentences of the courts, cases that were in the process of litigation, or which had been annulled by consent of the parties or by out-of-court settlements (*laudum* or *compromissum*), or for any crimes committed during the ouster of Pepoli (July 17, 18, or 19, 1321). Furthermore, the proposals required the submission of the *querele* the day before their presentation to the Consiglio del Popolo, if the person against whom the *querela* was made was

<sup>434</sup> ASB, Comune-Governo, Riformagioni 196, fols. 140rv, Sept. 25, 132: "quod dicta reformatio et provisio querelarum seu etiam loquitur de querelis decetero locum habeat in iniuriis et offensionibus tam personalibus quam realibus illantis et initiatis vel intiandis a millesimo CCCXX de mense maij et ab inde citra et que fierent vel inferentur in futurum."

<sup>435</sup> ASB, Comune-Governo, Riformagioni 196, fols. 164v–165r, Oct. 23, 1321.

<sup>436</sup> ASB, Comune-Governo, Riformagioni 196, fols. 168v–169v, Oct. 30, 1321.



a *civis* or inhabitant of the city, and two days prior if he or she were from the *contado* or a foreigner. Advance notification of the *querela*'s submission was to be made to the persons targeted by the *querela*, in the presence of two witnesses.<sup>437</sup>

In yet another negative vote, an extraordinary occurrence in itself, this attempt to weaken or control the *querela* as an instrument of legislative interference in the courts and judicial processes failed, by a vote of 368 opposing the proposals with only 125 in favor. But the pressure continued and was ultimately successful. On Nov. 27, 1321, similar restrictions on the *querele* were proposed by the Standard-bearer.<sup>438</sup> This time the legislation passed. First, this set of proposals reaffirmed the validation of *querele* for personal violence, with reference to the agitation (*scandalum*) that had arisen when it was thought that submission of *querele* for personal violence had been forbidden. The new proposals of November 1321 also allowed the use of *querele* to certain people who had not been previously eligible: those who were tax delinquents (*malpaghi*) or debtors of the commune, or were not registered in the tax rolls. They could now make a *querela* if they paid the tax or debt or registered on the tax rolls within three days of submitting the *querela*.

Safeguards were also built into the *querela* process. For example, the time required prior to a *querela* meeting, within which a *querela* had to be submitted to the Capitano, was extended. It had to be submitted four days in advance in the case of a property *querela* (if the person against whom the complaint was made was a *civis*), and eight days prior to the meeting if that person was from the *contado* or district. The person against whom the *querela* was made had to be notified of the pending *querela* at his home by one of the nuncios of the commune. If that person were a foreigner, or a person without permanent residence, the announcement of the pending *querela* (*citatio*) was to be made in the assembly place (*arengheria*) of the commune, with the sounding of a trumpet. An approved property *querela* had to be executed by the podesta with no *exceptio* or defense being heard, within twenty days of its approval. The new provisions gave a list of those who could *not* submit *querele*: no noble or magnate from the city, *contado* or district, nor any cleric or ecclesiastic, nor anyone banned,

<sup>437</sup> ASB, Comune-Governo, Riformagioni 196, fols. 174rv, Oct. 31, 1321.

<sup>438</sup> ASB, Comune-Governo, Riformagioni 196, fols. 189r–190v, Nov. 27, 1321.

confined or interdicted in the uprising of 1306 or any other uprising since then, or any of their male or female descendants, or those inscribed in the books of Lambertazzi. Moreover, no one whose ban for any crime had been removed could submit a *querela* for the injuries or offenses he had committed and for which he had been banned. Like other approved provisions from the Standard-bearer, these *querela* provisions were to be considered sacred ordinances. Anyone who proposed, acted, counseled, etc., against them was to be fined 1,000 pounds if a magnate and 500 pounds if a *popolano*. If they could not pay the fine they were to be considered as *banniti* and treated as traitors and rebels of the commune.

The *querela* was thus valued and successfully retained by its supporters as a new institution of legislative interference in the law courts, despite certain restrictions and safeguards placed upon it. By 1321, the *querela* also was an instrument of factionalism, of the Geremei *popolani* versus the Lambertazzi, consistent with the exclusionary policies that formed the bedrock of the *popolo* party. But in contrast to the 1313 petition law, the *querela* was also available to *popolani* who were *not* members of the popular societies, and to *fumantes*. The *querela* was swept away with the coming of the lordship of Cardinal del Pogetto, but was re-established in 1334 with the return of the Pepoli and republican government. However, in the new statutes of 1335, it was expressly forbidden, because of the many discords that arose between citizens as a result of its use.<sup>439</sup> The *querela*, intended to resolve conflicts, became itself an instrument of division.

## 11. EXPANSION OF SUMMARY JUSTICE: ITS SIGNIFICANCE

Summary justice was more broadly used by the second decade of the fourteenth century than it had been a generation earlier, both as an instrument against delinquent tax payers and those who threatened public security, and as a response to *querele* petitions—as a means of granting special summary justice authority to the podesta on behalf of certain persons of the *popolo* and Geremei. As such it marked an expansion of government power and authority and would seem to

<sup>439</sup> ASB, Comune-Governo, *Statuti di 1335*, Bk. IV, Rubric 99, “De querelis et pectitionibus de cetero coram domino capitaneo vel ancianis non proponendis.” I owe this citation to Guido Antonioli, who is preparing an edition of the 1335 statutes.

complement the thirteenth-century growth of *inquisitio*. But was it part of a growth of public over private power? Recent historians have viewed as anachronistic the application of such modern concepts to the late medieval commune. At Bologna, in fact, the private and public spheres of judicial and infrajudicial procedures, which are separate spheres in modern perspective, comprised an interwoven resource to be used as needed to meet challenges to communal peace and security. For example, certain government practices combined the instrument of “private” justice: the *pax* or peace agreement, with summary procedure, the “public” instrument of punitive government action. The government used the *pax* to pacify warring families and entire neighborhoods. For example, in 1289 the podesta was authorized to negotiate a *compromissum* between members of the prominent families of the Baciacomari and the Artenisi concerning “all the wars, hatreds, discords, rancors and offenses, general injuries, excesses, lawsuits and complaints” that existed between them. The *compromissum* was to establish the boundaries of arbitration that would lead to a *laudum* between the parties. The *laudum* itself would then be treated not only as a binding communal law but also as a “sacred ordinance.” Peace agreements between private individuals were common, but what makes this type of *compromissum* and *laudum* special is that it was not only arbitrated by the podesta, but also incorporated into the laws of the community.<sup>440</sup>

Moreover, the government-sanctioned *compromissum* and *laudum* incorporated actions of summary justice into the settlement. For example, in response to another petition from 1289, the Consiglio del Popolo agreed that the “wars, hatreds, rancors, injuries and discords and complaints” between the men who lived within the walls of Borgo S. Felice and those living outside the gatehouse (*seralium*) in the second circle of medieval walls, should be arbitrated by a *compromissum* and *laudum*. The arbitrator in this case would be the Capitano del Popolo, who was to proceed by using or not using the solemnities of law as he deemed appropriate, that is, he was authorized to proceed by summary justice.<sup>441</sup> That same year the Consiglio approved a third petition for a *pax*, *concordia* or *laudum*, to be made between two of the most prestigious of magnate families—the Asinelli and the

<sup>440</sup> ASB, Comune-Governo, Riformagioni 129, fols. 238v–239v, June 26, 1289.

<sup>441</sup> ASB, Comune-Governo, Riformagioni 120, fols. 281r, 283r–284r, September 1289.

Prendiparte and their followers. The arbitration was to be carried out by the podesta, the Capitano del Popolo, and a group of extremely prominent jurists, including Tommaso di Guido Ubaldini and Pace *de Pacibus*, both *legum doctores*, Giovanni Baciacomari and Giuliano di Cambio Gratiadeo. The settlement forged by them was to be valid notwithstanding any omitted solemnity or ignored statute.<sup>442</sup> In 1292, testimony in an *inquisitio* involving homicides, arson and robberies provoked even more lawsuits and complaints between the involved parties. This escalation of conflict motivated the *ministrals* of the two preeminent popular societies to petition the Consiglio del Popolo, for the “good and pacific” state of the neighborhood in which those parties lived, to authorize that a *compromissum* and *laudum* be made between those parties and be executed by the podesta and his judges. If either of the parties tried to bring forward an accusation in court related to the work of the arbitrators, the penalty against that person would be 1,000 pounds. In this instance, private arbitration was not only recognized by the Consiglio as a substitution for the work of its own officials and courts, but was also to be accomplished by those same officials.<sup>443</sup>

In addition, the Consiglio approved and sanctioned peace agreements made by non-governmental parties. For example, again in 1292, the bishop of Forlì forged a *compromissum* and *laudum* between two parties for their wars and discords which had stemmed from a particular homicide. The settlement included provisions for the marriages and future dowries of the parties. Although this was a privately made agreement, the petitioner wanted the provisions to be considered “full strength” (*plenum robor*) and to be enforced by the present and future podesta and Capitano del Popolo and their officials, notwithstanding any laws to the contrary, other than the Sacred and Most Sacred Ordinances.<sup>444</sup> Sometimes the peace agreements negotiated by the government were on a level similar to peace treaties. For example, in 1301 the government took the initiative in deciding to promote a peace agreement between the Counts of Panico and many others, many of whom had been condemned or banned for an offense against Delfino di Simone, and the wars and discords that had consequently ensued between them and other nobles from Badalo or Vizzano. In this case,

<sup>442</sup> ASB, Comune-Governo, Riformagioni 130, fol. 296r, Oct. 31, 1289.

<sup>443</sup> ASB, Comune-Governo, Riformagioni 135, fols. 175r–176v, April 29, 1292.

<sup>444</sup> ASB, Comune-Governo, Riformagioni 135, fols. 206v–207r, Aug. 8, 1292.

the executive officials first sent a *cedula* through the popular societies, and obtained approval from two-thirds of them prior to presenting the proposal to the Consiglio del Popolo.<sup>445</sup>

By the second decade of the fourteenth century, the peace accords negotiated and authorized by the government often would specify a grant of summary justice power to the government officials who served as arbitrators. Thus, in 1315 the podesta, the Capitano del Popolo (or his *vicarius*), the *anziani*, and two *sapientes* from each quarter were given full authority<sup>446</sup> to force two prominent *popolano* families to come to a peace accord—the *domus* of the Bianchi di Cosa, the sons of Tommaso Guasconi and the *domus* of the Personaldi on one side, and those of the *domus* Rodaldi and their followers on the other side. To accomplish this, they were to proceed “summarily and beyond dispute” (*summarie et arbitrarie*) in condemning, fining, banning and confining the parties to specific locations outside the city, according to the will of the majority of the officials.<sup>447</sup> The government-authorized peace agreement was also used for conflicts between popular societies, as in 1318, when authority was granted to the Capitano del Popolo to resolve the dispute between the guild of the cordwainers on one side, and the guilds of the bootmakers-tanners and shoemakers on the other side, that had brought the men of those guilds to physical violence. The Capitano was to proceed summarily<sup>448</sup> and was to compel the men of those societies to obey his commands by the use of corporal punishment and fines. Moreover, the Capitano was to impose fines and bans without permitting the presentation of *exceptiones*.<sup>449</sup>

The commune also used the *compromissum* and *laudum* to settle conflicts in the *contado* during times of particular danger and concern about security. In 1295, just as the war with Este was breaking out, the Consiglio authorized a peace agreement to be guaranteed by the commune for the rural commune of Vedrana, located on the plain northeast of Bologna. There was a “great war” in Vedrana between powerful men of that commune, with many assaults and homicides taking place.<sup>450</sup> In 1318, a quarrel broke out between certain men in the rural com-

<sup>445</sup> ASB, Comune-Governo, Riformagioni 153, fol. 294r, March 24, 1301.

<sup>446</sup> “purum, merum et liberum arbitrium atque absolutum.”

<sup>447</sup> ASB, Comune-Governo, Riformagioni 180, fols. 146v–147r, Aug. 13, 1315.

<sup>448</sup> “de plano summarie sine strepitu et quaquam iudicii iuris ordine.”

<sup>449</sup> ASB, Comune-Governo, Riformagioni 186, fols. 111v–112r, July 7, 1318.

<sup>450</sup> ASB, Comune-Governo, Riformagioni 139, fol. 133v, Jan. 17, 1295.

mune of Borgo Panigale, located close to the city on the plain to the west, and the whole community became involved in that conflict. The Consiglio guaranteed that the peace agreement would be full strength (*plenum robor*), notwithstanding any law to the contrary.<sup>451</sup> In 1321, when a violent division arose among the men of the rural commune of Crevalcore, located northeast of the city in the plain near the Modena border, the Consiglio decided that each side would name a person in whom they had confidence to the Standard-bearer of the Guilds and Justice, who was entrusted with keeping the peace within the ruling party. Those named by each side would have authority to bring the parties to a peace agreement, with every *exceptio* of law prohibited, notwithstanding any laws to the contrary. In addition, the podesta was to serve as executor of the agreement, acting summarily.<sup>452</sup>

The peace accord and summary justice did not represent separate spheres of public and private justice. Rather than coexisting, they were interwoven strands in the whole cloth of criminal justice. The commune was not seeking to strengthen the power of the "State" but rather was pursuing goals of peace and justice, and in that pursuit employed tactics that were pragmatic. It is only to us, with our modern concepts of public and private justice, that these tactics seem contradictory. Similarly, at the same time that the commune gave officials punitive summary justice power, it also acted leniently toward offenders, by lifting bans, annulling condemnations, and releasing convicted men from its prisons. It did this in exchange for a small payment in lieu of a much steeper monetary penalty in order to raise revenues for mercenaries, fortifications and aid to allies. In 1303, for example, all *banniti* who had obtained a *pax* from their victims could have their bans lifted, except for certain major crimes. This law was part of a set of provisions that simultaneously called for harsh penalties against tax delinquents (*malpaghi*). The stated purpose for provisions both of leniency and harshness was to raise money for payment of mercenaries.<sup>453</sup> In 1300, in order to find money to buy wheat, the commune commuted sentences for those in prison for any crime, as long as they had made a *pax* with the victims or heirs, and lifted bans, and again, as long as the *banniti* had made peace agreements with their victims.

<sup>451</sup> ASB, Comune-Governo, Riformagioni 186, fol. 18r, Feb. 20, 1318.

<sup>452</sup> ASB, Comune-Governo, Riformagioni 196, fol. 119v-120r, Aug. 31, 1321: "sumarie sine strepitu et figura iudicii iuris etiam statutis."

<sup>453</sup> ASB, Comune-Governo, Riformagioni 158, fol. 191v, June 21, 1303.

Except for the crime of falsification, the bans eligible for annulment included all major crimes, even treason. They were annulled despite the fact that they were “perpetual,” that is, according to the statutes they could not be annulled before a minimum period of time had passed, e.g., ten years for homicide. The annulment of the treason bans, however, which had been really perpetual, required payment of extraordinarily high fines, even as much as 6,000 pounds.<sup>454</sup> An amnesty granted in 1307 made everyone eligible for having their bans lifted if they had a *pax* with the victim or the victim’s heirs and paid the *gabella*, the usual tax paid at the time a ban was lifted. In this case, however, only the *gabella*, and not the monetary fine was required. The only bans not included by this amnesty were those for fraud and those issued against the accomplices of Azzo Galluzzi for the excesses committed by him.<sup>455</sup> The same pragmatic attitude prevailed in 1315, when the commune faced extraordinary military expenses because of the uprisings in Lombardy and Tuscany that required the dispatch of soldiers and mercenaries to allies in those regions. With money thus being spent on allies, the commune did not have money to repair and strengthen the garrisons of its own *castelli*. It therefore decided that a group of twenty-four men who had been banned (but who had the necessary military expertise), would have their bans lifted and their fines annulled, whether or not they had made a *pax* with their victims. In return, they would garrison the *castelli* for six months. Many of the men whose bans were lifted were from the Bianchi di Cosa and Personaldi families who had been banned only a week earlier because of the “wars” between their families, as noted above.<sup>456</sup> Pragmatism also ruled the commune’s policies during its war against the Marquis of Este. The commune granted pardons to major feudal nobles, some of whom were *lupi rapaces* who had been banned for arson and homicide, in order to enlist them as allies, including the da Cuzzano, the da Panico, the da Roffeno, the Monte Severo, Alberto, son of Count Alessandro da Mangone, and the da Montecuccoli.<sup>457</sup> In 1326, on the occasion of the coming to Lombardy of the new emperor, the commune appointed

<sup>454</sup> ASB, Comune-Governo, Provvigioni I, fol. 300r.

<sup>455</sup> ASB, Comune-Governo, Riformagioni 165, fols. 85v–86r, Feb. 10, 1307. Azzo Galluzzi had already been pardoned, in October 1306. Vitale, *Il dominio della parte guelfa*, p. 115, footnote 350, with document on pp. 208–209.

<sup>456</sup> ASB, Comune-Governo, Riformagioni 180, fols. 150v–151r, 152r, Aug. 22, 1315.

<sup>457</sup> ASB, Comune-Governo, Provvigioni I, fols. 87rv, May 24, 1296. Ugolino, count of Panico, one of those whose bans were annulled, was shortly thereafter appointed

Barba Sabadini, Giuliano Malvezzi (both from prominent *popolano* families) together with the *contado* nobles Guiduccio da Monzuno, Maghinardo son of Count Ugolino da Panico, the da Cuzzano, and the da Vizzano to serve together on a commission to investigate ways to capture and expel enemies and rebels from the mountains and to recover *castelli* and fortifications from those enemies and rebels. As discussed above, the last three named had at one point been declared enemies of Bologna.<sup>458</sup>

It is in this context of pragmatic policies that the *querela* should be viewed. The response to a *querela* usually was a grant of summary justice to the podesta which thereby served to strengthen the punitive powers of government officials, but the *querela* and the grants of summary justice did not stem from any conscious attempt to increase the power of the "State" as such. The *querela* was an instrument of recourse for those people who believed they had been treated unfairly by the law, or that the law had failed them. In this sense it acted as a safety valve, as an alternative to riots that threatened the overthrow of the government, as happened in 1303 with the killing of Zolo Algardi.<sup>459</sup> But the effect of this safety valve was to weaken the independence of the judiciary, as the Consiglio del Popolo, the major legislative body of the commune, consistently and repeatedly set itself above the law and interfered with due process in the law courts. Historians have been well-advised not to reduce criminal justice and the law to mere instruments of factionalism,<sup>460</sup> and certainly one finds precedents within the law itself and the practice of traditional petitions for the *querele*. But in the case of the 1313 privileged *popolano* petition and the *querela* of 1320 we have clear examples of the politicization of justice.

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Capitano delle Montagne with authority over the armies of the commune in that area. Ibid., fol. 203v, Nov. 1, 1296.

<sup>458</sup> ASB, Comune-Governo, Riformagioni 200, fol. 307v, Feb. 7, 1326.

<sup>459</sup> ASB, Comune-Governo, Provvisioni III, fol. 65v, May 19, 1303.

<sup>460</sup> Massimo Vallerani, "Conflitti e modelli procedurali nel sistema giudiziario comunale. I registri di processi di Perugia nella seconda metà del XIII secolo," *Società e storia* 48 (1990): 267–299, esp. p. 268. Douglas Hay, "War, Dearth and Theft in the eighteenth century: The record of the English Courts," *Past and Present* 95 (1982), 117–160.



12. IMPLEMENTATION OF THE *QUERELA*

The *querela*, at least in theory, represents a sweeping intrusion of legislative and factional power upon the law courts. The question remains, however, as to whom the *querele* actually served and the nature of the Consiglio del Popolo's responses to individual *querele*. Did the Consiglio grant summary justice powers to the podesta as requested, or did it seek alternative methods of conflict resolution? Who actually submitted *querele* to the Consiglio del Popolo and for what kinds of complaints? Were all the *querele* submitted to the Consiglio approved by that body?

The *querela* procedure was in place for six years, from May 1320 through January 1327. For analysis I have compiled a sample consisting of all *querele* from the first year (1320–21) and the last year (1326–27) of that period, which yields a total of 313 *querele*. Of these, 185 are property (civil offenses) or *querele de realibus*, and fifty-seven are personal (criminal offenses) or *querele de personalibus*, from the fourteen months of 1320–1321. The remainder of the sample consists of all twenty-five property *querele* and forty-six personal *querele* from the thirteen months of 1326–27.<sup>461</sup> The majority of querelants were men (women were only permitted to register property *querele*), but 16 percent of the property *querele* in 1320–21 and 36 percent in 1326–27 were by women (mostly widows), reflecting the large number of *querele* that concerned disputes over dowries.<sup>462</sup> A large portion of the querelants were either from the popular societies or were of sufficient social rank to have family names: 39 percent in 1320–21 and 42 percent in 1326–27 of the property *querele*, and 53 percent in 1320–21

<sup>461</sup> The individual *querele* were not always labeled as *personales* or *reales* by the querelants and notaries, so this categorization is in part my estimate of how they divided.

<sup>462</sup> By 1326, the law against women registering *querele personales* apparently had been changed, since the sample for that year has two such *querele* by women from semester I and five from semester II. ASB, Comune-Governo, Rifformagioni 200, fol. 304r, Jan. 27, 1326 (actually a "mixed" type since the two sisters asked for prosecution of their father's murderer and protection of their property), fols. 326rv, April 4, 1326 (witnesses bribed not to testify in the trial for her kidnapping), fol. 360r, Aug. 8, 1326 (for the murder of her father), fol. 360rv, Aug. 8, 1326 (kidnapping and rape of the querelant, a virgin), fols. 403rv, Dec. 3, 1326 (on behalf of her father who had been assaulted and killed), fol. 403v, Dec. 3, 1326 (for the beating and subsequent death of her son while he served as an apprentice to a blacksmith). All except the last one were approved.

and 30 percent in 1326 of the personal *querelle*. The rest of the querelants were either men from the *contado* or non-privileged *popolani* from the city.<sup>463</sup> Unlike the 1313 petition law, the *querela* in theory and reality was thus open to and acted upon by a broad segment of urban and rural society.

The total number of *querelle* is much lower in 1326–27 than in 1320–21. The monthly average of property *querelle* declined precipitously, from 14.2 in 1320–21 to 2.5 in 1326–27, whereas the average of personal *querelle* rose slightly from 3.5 in 1320–21 to 4.07 in 1326–27. The relationship between personal *querelle* and those concerning property actually reversed itself between the two sample years. Property *querelle* had been twice the number of personal *querelle* in 1320–21, but in 1326–27 there were more, almost twice the number, of personal over property *querelle*. Two trends had coincided. The earlier high proportion of property *querelle* in 1320–21 in part represented pent-up demand as querelants sought redress for grievances that extended back in time, sometimes for many years. One querelant, Colaccio di Zonoco Beccadelli, a prominent privileged *popolano*, lodged a complaint in 1321 against seven men who had held the office for confiscated properties of *banniti* and rebels during the regime of the pro-Ghibelline White Party in 1303–1306. At that time his brother Mattiolo had been banned as a traitor and rebel, and those officials claimed that the querelant had a horse of his brother's that should have been confiscated. Those officials therefore had him imprisoned for a month until he paid a fine of 130 pounds, but that money was pocketed by those officials and never went into the coffers of the commune. The querelant requested that those former officials within five days be compelled to reimburse him for that sum and an additional 100 pounds for the expenses he had incurred in prison fifteen to eighteen years ago. In response, the Consiglio decided, by a vote of 268 to 160, that the podesta and his judges should hold a trial summarily (*summarie de jure*) within fifteen days between the querelant and his opponents.<sup>464</sup> Another *querela* in April 1321 reported a grievance that went back twenty years, to the time of the death of a certain Domina Agnese's husband. During all

<sup>463</sup> These represent minimal figures since the notaries did not always label members of the societies as "de societatis." In some cases I have identified them despite the lack of that label from their prominence as privileged *popolani* or because their craft is given.

<sup>464</sup> ASB, Comune-Governo, Riformagioni 194, fol. 10v, March 13, 1321.

those years she had been unable to recover her dowry of 50 pounds, and now her stepson, to whom she had ceded her rights, petitioned by *querela* for return of that dowry property within five days.<sup>465</sup> Seven other *querele* concerned disputes that went back ten, eight, six, five and two years.<sup>466</sup>

The slight increase in personal or criminal-offense *querele* had two sources—first, the forbidding of such *querele* that extended from June to September 1321 (as discussed above in section 10) of course had lowered the level of personal petitions for that year. Removal of that prohibition brought the level of such *querele* back up. Secondly, the long-threatened collapse of the commune's control of the *contado* that occurred in 1325, with the capture by Bologna's enemies of several *castelli* and the defeat in November 1325 at Zapolino, brought *querele* related to those disasters to the Consiglio, swelling the number of personal *querele* in 1326 and shifting the ratio between *querele* for assault and homicide strongly in favor of the latter. There were ten and thirty-one *querele* for homicide and assault respectively in 1320–21, but thirteen for homicide and fifteen for assault in 1326–27. Two brothers described in their *querela* in 1326 how their father, Enrighetto di Guido da Lana, from *cappella* S. Giorgio in Poggiale, was serving at Castel Baragazza, when he was killed by the commune's enemies as he and others sought to resist the betrayal of that *castello*. They were seized, taken to the *castello*'s highest point and thrown to their deaths. The querelants asked that the culprits, three brothers who were counts of Cervaria, be banned within eight days.<sup>467</sup> Another *querela* described how the victim, Ugolino di Zanino from the rural commune of S. Vitale (who lived in Padule di Sala), was killed and robbed when fleeing an attack on Padule by the enemies who held Borgo Panigale.<sup>468</sup> Zardo di Dondideo, from the rural commune of Roffeno, described in his *querela* how the counts of Panico, while holding Castel Caprara sopra

<sup>465</sup> ASB, Comune-Governo, Riformagioni 194, fols. 29rv, April 10, 1321. The querelant was Giacomo di Tederisio from *cappella* S. Isaia. The vote was 304 in favor with 295 opposing.

<sup>466</sup> ASB, Comune-Governo, Riformagioni 192, fol. 430v, Aug. 5, 1320 (ten years), Riformagioni 194, fol. 16v, March 20, 1321 (eight years), fols. 22rv, March 27, 1321 (six years), fols. 42v–43r, May 4, 1321 (six years), Riformagioni 195, fol. 56r, June 5, 1321 (five years), and Riformagioni 194, fol. 36v, April 29, 1321 (two years).

<sup>467</sup> ASB, Comune-Governo, Riformagioni 200, fols. 307rv, Feb. 14, 1326. The vote was 216 in favor with ninety-six opposing.

<sup>468</sup> *Ibid.*, fols. 318v–319r, March 7, 1326. The vote was 254 in favor with fifty-five opposing.

Panico as rebels of the commune, came as an armed band (*guarimentum*) of more than 100 men to the rural commune of Toletto, committing arson and robbery and killing his son.<sup>469</sup> *Richelda* di Alberto Bonvisini from the rural commune of Predosa registered one of the very few personal *querele* made by a woman. She reported that while Castel Caprara sopra Panico was in the hands of the rebel counts of Panico, nine men from Predosa, all from the Rossi family, and two brothers from the Carbonesi family of the city who were of the Lambertazzi party, came and occupied the *castello*. From there they made a *guarimentum* of more than thirty men. They came to her house, seized and kidnapped her and took her, a virgin, to Castel Caprara sopra Panico where they kept her in a private prison for three days and raped her.<sup>470</sup>

In both sample years assault and homicide comprised the majority of the personal *querele*, with the rest scattered, one or a very few each, among robbery, arson, *guarimenta*, kidnapping, and false accusations. Property *querele* were strongly dominated in 1320–21 by refusals of payments (forty-one), land dispossessions (twenty-nine), non-return of dowries (twenty-five), and property disputes (twenty-three), with disputed wills (sixteen), fictitious loans (thirteen)<sup>471</sup> and property disturbances (twelve) also occurring frequently. In 1326, dowry disputes (six) and contested wills (four) stand out among the much smaller number of property *querele*.

What did the petitioners of these *querele* seek from the Consiglio del Popolo and how did that body respond to them? Many petitioners justified their requests by claiming they were too weak to face the power of their opponents in court, a claim often expressed by widows. Domina Francesca di Giovanni Montanari in her *querela* said that she was the heir of Domina Madalla, widow of Giovanni Bianchetti. In order to obtain her inheritance she had litigated “many and endless lawsuits and complaints” with a debtor of Domina Madalla.

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<sup>469</sup> Ibid., fols. 336v–337r, May 5, 1326. The vote was 353 in favor, with sixty-five opposing.

<sup>470</sup> Ibid., fols. 360rv, Aug. 8, 1326. The vote was 223 in favor with 181 opposing.

<sup>471</sup> A fictitious loan was made in the guise of a sale of a house. The creditor received ownership of the house and paid the debtor a price much lower than the value of the house. The debtor received back ownership of the house when he repaid the loan. This type of loan became a flashpoint of controversy when the creditor refused to return the house or demanded payment, not for the sum loaned, but for the full value of the house.

The litigants had finally agreed to make a *compromissum* and *laudum* on their dispute, which resulted in a decision in her favor. But her opponent “against God and justice,” because of his power refused to pay her the 290 pounds awarded to her and was threatening her with more trials. She asked that he be compelled to pay her within ten days.<sup>472</sup> Domina Gasdia di Alberto from the rural commune of S. Agata described herself as a pauper and related how her father-in-law refused to return her dowry to her when her husband died, and sold it to Bertoluccio Liano, also from S. Agata, who because of his power and temerity had occupied that property against her will. He also had threatened to kill her if she litigated against him. She asked that she be put in possession of the property within three days.<sup>473</sup> Domina Mina, daughter of the spice merchant Fra Giovanni, was the widow of Pietro who had served as *barisellus*, but the heirs of her husband and their powerful relatives from the Zovenzoni and Biancucci families had denied her sustenance after the death of her husband. She, an orphan and widow, described herself as “without the help and power of relatives and without the means to litigate,” and asked that her husband’s heirs be forced to give her sustenance.<sup>474</sup> Domina Jacoba, daughter of Pietro Candele, also the widow of a spice merchant, recounted how she had been forcibly removed from her home, which was hers by dowry rights, by two men. They claimed her husband had been their debtor and that the debt had been secured by an instrument of sale of that house. Jacoba sought redress by a *querela* because, as she said, she could not resist the power of her opponents because of the “frailty of her sex.”<sup>475</sup>

Only in six instances in the sample was a claim made by a *popolano* against a magnate or *contado* noble. Two of these *querele* were against the same person, Giacomo di Bonifacio Ariosti, a magnate. One was for his having sold a piece of land to the querelant, knowing that others had claims to it, and for not defending the querelant’s title to that

<sup>472</sup> ASB, Comune-Governo, Riformagioni 196, fols. 146rv, Oct. 5, 1321. The vote is not given.

<sup>473</sup> ASB, Comune-Governo, Riformagioni 197, fol. 195v, Dec. 14, 1321. The vote was 200 to 100 in her favor.

<sup>474</sup> “Sine adiutorio et potencia propinquorum, sit sine avere unde possit litigare.” ASB, Comune-Governo, Riformagioni 200, fols. 404rv, Dec. 3, 1326. The vote was 174 in favor with 142 opposing.

<sup>475</sup> ASB, Comune-Governo, Riformagioni 200, fols. 406rv, Dec. 8, 1326. The vote was 226 in favor with 115 opposing.

land.<sup>476</sup> The second *querela* against him related to the same issue, but this time was lodged by Ursolino di Niccolò *de Laneriis*, a *popolano* who had partnered Giacomo in the fraud, apparently unknowingly, and was seeking to be released from his obligation and to be permitted to make an accusation against Giacomo, a magnate, by privilege.<sup>477</sup> The third *querela* was lodged by Giovanni di Giacobino from the rural commune of Casigno *sive* Roffeno against Maghinardo, son of Count Ugolino da Panico. According to Giovanni he had sold Maghinardo a horse valued at 36 pounds, and when Maghinardo refused to pay, Giovanni told him he would institute a *querela* against him, to which Maghinardo responded with threats. A few nights later a band of *banniti*, all servants and attendants of Maghinardo and his brother, burned down two of the querelant's houses. The querelant asked that the podesta be empowered to force Maghinardo and his brother to pay for the horse and for damages to his properties.<sup>478</sup> In another *querela* Azzo Galluzzi, because of his power and arrogance, was said to have violently ejected the querelant, Guarino di Corsio of the rural commune of S. Lorenzo in Collina, from his properties and house and to have rejected his pleas for reinstatement.<sup>479</sup> In addition, two nobles (*cattanei*) from Nonantola were among the sixty-four men against whom a *querela* was made for property disturbance—for taking wheat and wine from a farm that they had rented from the commune. The querelants, four men from the rural commune of Crevalcore, had consequently not been able to make their rental payment to the commune and had been imprisoned.<sup>480</sup> Finally, Bartolomeo and Guido Pizolpassi and Pizolpasso, son of the said Bartolomeo, filed a *querela* against Torello di Gerarduccio Torelli and Enrico di Giordano Boccadiferro,

<sup>476</sup> ASB, Comune-Governo, Riformagioni 194, fol. 15v, March 21, 1321. The querelant was Giacomo di Bencevenne da Saliceto. The vote was 278 in favor and 120 opposing.

<sup>477</sup> ASB, Comune-Governo, Riformagioni 196, fol. 138v, Sept. 21, 1321. The vote was 264 in favor, with no opposing votes recorded.

<sup>478</sup> ASB, Comune-Governo, Riformagioni 194, fols. 41rv, May 4, 1321. The vote was 182 in favor with 141 opposing.

<sup>479</sup> ASB, Comune-Governo, Riformagioni 195, fols. 52v–52r, June 3, 1321. The vote, even for modified action, was negative—fifty-three in favor with 363 opposing.

<sup>480</sup> ASB, Comune-Governo, Riformagioni 196, fols. 145rv, Oct. 5, 1321. The vote was 160 in favor with 156 opposing. According to the *querele* laws, magnates could not lodge *querele*, but apparently their widows could, e.g., Domina Ghiza di Prendiparte, widow of Paraclino da Cuzzano, ASB, Comune-Governo, Riformagioni 195, fols. 82rv, July 3, 1321.

both described as nobles, *potentes* and magnates of the city and *contado*. The querelants claimed they were harassed and threatened daily by these magnates who wanted to have a sentence against them for 500 pounds cancelled.<sup>481</sup>

More often than *querele* against magnates we find men from the *contado* protesting the arrogance and power of privileged *popolani*, as did Benvenuto di Bondo from the rural commune of Susano and Domina Beatrice di Rainerio from the rural commune of Ozzano, who described themselves as “weak persons and paupers” who could not defend themselves against the power of their opponents, including two men from the Ottoboni family, whom they described as *cives* and privileged persons.<sup>482</sup> Or we find a man, Zino Maynetti from the rural commune of Qualto, who said he was over seventy years old and would never dare litigate against the person who assaulted him. He said he could not do this because he feared the culprit, who was one of the “worst” and more powerful of men in his rural commune.<sup>483</sup> Or *querele* were filed when witnesses in a trial refused to testify because of the opponents’ power.<sup>484</sup> Even a member of a powerful elite family might claim weakness as the rationale for his *querela*, as did Provenzale Foscherari who said he was too old to defend himself against his own son and grandson when they seized the harvests from his properties. He pleaded “that it was against God and all justice and reason that sons commit violence against their fathers.”<sup>485</sup> One *querela* was made because the querelants’ opponents, banned for not paying

<sup>481</sup> ASB, Comune-Governo, Riformagioni 196, fols. 105v and 106v, Aug. 14, 1321. The vote was 362 in favor with sixty-seven opposing.

<sup>482</sup> ASB, Comune-Governo, Riformagioni 200, fols. 354rv, July 4, 1326. The vote was 282 in favor with 169 opposing.

<sup>483</sup> ASB, Comune-Governo, Riformagioni 200, fols. 360v–361r, Aug. 8, 1326. The vote was 300 in favor with ninety-seven opposing.

<sup>484</sup> ASB, Comune-Governo, Riformagioni 200, fol. 412v, Dec. 22, 1326. The *querela* was lodged because the querelant, Santolino di Leonardo Fra Bonvisini, his sister and mother had been violently dispossessed of their property and home, for which reason Santolino had initiated an accusation against his opponents in the *ad maleficia* court. But at the trial, because of the power of his opponents, the people who had been present at the forcible ejection, including his own laborers, refused to testify out of fear. He asked that he be put back in possession within twenty days and that the podesta be empowered to force the laborers and the inhabitants of the rural commune who were present to tell the truth, and that Santolino not have to pay for his unproven accusation. The vote was negative, 177 opposed and 142 in favor.

<sup>485</sup> ASB, Comune-Governo, Riformagioni 192, fol. 429r, Aug. 5, 1320: “quod est contra omnem iusticiam et rationem quod filii faciant violenciam patribus.” The vote was 426 in favor with forty opposing.

a debt (*bannum pro debito*), had ignored the ban. Given their power, they continued to refuse to pay the debt, telling the querelants that no nuncio would dare come detain them. The querelants asked that their opponents be forced to pay the debt with expenses and interest, and that they be banned *pro gravi maleficio* with their properties destroyed if they refused.<sup>486</sup> Weakness might be a relative perception, however, as in the case of the querelants from the powerful Preti, Guastavillani and Beccadelli families who registered a *querela* for land dispossession in the rural commune of Galleria against the even more powerful members of the Caccianemici, Pepoli, Argelata, and Piatesi families, citing the power of their opponents as the rationale for their request (at that time the Pepoli headed the dominant faction).<sup>487</sup>

Querelants also were reacting to (and seeking to overcome) the legal immunities of their privileged opponents. For example, Domina Marina, widow of Giacobino *de Mulnariis*, made a *querela* in which she claimed that her son had made her his heir, but at his death a relative of her husband's had seized her son's properties and refused to let her gather the harvests. She had litigated, but her opponent had claimed privileged status. Although the trial lasted three years and cost her 500 pounds, she had failed to gain satisfaction.<sup>488</sup> If a member of the guilds and arms societies were assaulted by another member, the offended person could not make an accusation without permission of the *ministrales* of his guild, since both were privileged persons. Nor did the podesta have jurisdiction to initiate an *inquisitio* for such an offense against a privileged *popolano*. The offended person could, however, register a *querela*, as did Domenico, son of Giovanni di Cortese, a bootmaker, against Giovanni di Antonio Pelosi, who was also a bootmaker, for an assault that did not draw blood.<sup>489</sup> (Rarely do the *querele* specify the privileged status of the parties, but often we know the status

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<sup>486</sup> ASB, Comune-Governo, Riformagioni 197, fol. 208r, Jan. 15, 1322. The vote was 614 in favor with ten opposing.

<sup>487</sup> ASB, Comune-Governo, Riformagioni 192, fols. 428rv, Aug. 5, 1320. The querelants asked that the Capitano and *anziani* select a *sapiens* and notary to settle the dispute within one month. The podesta was then to implement the arbitration settlement. If not accomplished within that time period, another *sapiens* was to be selected. The vote was 466 in favor with no opposing votes given.

<sup>488</sup> ASB, Comune-Governo, Riformagioni 192, fols. 415v–416r, July 5, 1320.

<sup>489</sup> ASB, Comune-Governo, Riformagioni 194, fols. 46v–47r, May 8, 1321. The vote was 154 in favor with 450 opposing.



of the parties from other documents.)<sup>490</sup> The *querela* also was used to overcome the immunities of privileged *popolani* when their violence outraged *popolo* sensibilities, as when Papazono di Giacomo Papazoni disrupted a meeting of the arms society of the Minivers.<sup>491</sup> When both parties to a controversy were privileged, and therefore unable to use the courts to settle their disputes, the *querela* provided a substitute for the web of charges and countercharges that so characterized the accusation trials. For example, Giacomo di Tommaso *de Useppis* from *cappella* S. Caterina di Saragozza, who identified himself as a member of the popular societies, lodged a *querela* against Filippo di Fedantia of *cappella* S. Maria Maggiore for assault (that he struck him in the face with his hands and fist, knocked off his hat, and spoke insulting words against him). He asked that the podesta be granted authority to proceed against his attacker and that he, the querelant, be believed by his oath alone. However, his attacker also filed a *querela*, in which he claimed that Giacomo had assaulted him, seizing his hair and kicking him with his feet. He too asked that the podesta have jurisdiction to act on his behalf. The responses of the Consiglio del Popolo were favorable to both querelants. Both were permitted to litigate, despite the privileged status of the alleged offender.<sup>492</sup>

The *querela* also was used, as called for by law, for cases that would have earlier invoked the 1313 law that protected privileged *poplani* against enormous crimes, as in the case of a merchant attacked in the *contado*. Tommaso di Ugolino from the rural commune of Granarolo submitted the *querela* on behalf of the victim, his brother Giacomo di Ugolino, who was a bootmaker and member of the popular societies. Giacomo had gone to the rural commune of S. Giovanni in Persiceto on a Sunday for the purpose of selling goods in the market, when he was accosted by two men, one of whom slapped and knifed him. When Giacomo defended himself with his own knife, his assailants raised an outcry against him. He fled into the church of S. Giovanni, but a large crowd of more than 200 men chased after him, entered the church, and seized him. They carried him to the cattle market and there struck

<sup>490</sup> As in the *querela* by Lorenzo di Beletto Sori against Napoleone di Licanorio Gozzadini, for refusal to return certain properties that had been obligated. ASB, Comune-Governo, Riformagioni 192, fol. 430v, Aug. 5, 1320. The vote was 294 in favor with 174 opposing.

<sup>491</sup> ASB, Comune-Governo, Riformagioni 197, fol. 323r, Nov. 30, 1322. The vote was 414 in favor with eighty-nine opposing.

<sup>492</sup> ASB, Comune-Governo, Riformagioni 193, fols. 454v and 455v, Sept. 24, 1320.

him many times, and then dragged him to the house of the commune where the *potestas de banderia* and his officials were lodged. Those officials imprisoned certain of the attackers, but an even larger crowd forced open the prison and released them. Meanwhile Giacomo died the same day of the attack. The querelant asked that the podesta have absolute *arbitrium* over this “enormous and most disgraceful crime and homicide,” including the use of torture, conviction by full proofs, half-proofs or by *fama*, and that the podesta be required to complete the trial within ten days. The Consiglio approved the *querela* by a vote of 306 to 133, and added the provision that for the next twenty-five years one of the podestas of S. Giovanni must be an heir of the dead Giacomo.<sup>493</sup>

*Querele* also were sought to overcome technical obstacles to litigation or act against the podesta’s slowness or failure to prosecute. For example, Benvenuto di Baldo from the rural commune of Lastignano registered a *querela* against seven men also from Lastignano, charging that they had attacked his son, but that the podesta said he did not have jurisdiction in the case. He petitioned that the podesta not only be required to prosecute the crime, but that he do so the day following the *denuncia* of the crime and presentation to his officials of the Consiglio’s *riformagione*. He also asked that the podesta prosecute the crime with every *exceptio* denied.<sup>494</sup> In another *querela*, the podesta had refused to prosecute an accusation against Pietro di Conte Cavaagli of *cappella* S. Biagio for the homicide of the querelant’s son. The podesta said he had not acted because, due to the negligence of his predecessor’s notary, the case was among his trial records, but not among his decrees. The querelant asked that the present podesta act within ten days.<sup>495</sup> A querelant might also seek higher penalties for a crime than those provided by statute, as did six officials responsible for the assignment and evaluation of horses who had been attacked by Niccolò di Giacomo Bongiovanni while exercising their office. They asked that the podesta act and determine a penalty that would deter

<sup>493</sup> ASB, Comune-Governo, Riformagioni 194, fols. 33rv, April 14, 1321. The trial that ensued is discussed below.

<sup>494</sup> ASB, Comune-Governo, Riformagioni 193, fol. 462r, Oct. 17, 1320. The vote was 411 in favor with sixty-one opposing.

<sup>495</sup> ASB, Comune-Governo, Riformagioni 196, fol. 124r, Sept. 4, 1321. The vote was 418 in favor with twelve opposing.

others, and to do so within ten days.<sup>496</sup> Certain *querelle* specifically dealt with the problems that arose because the Consiglio had decreed that no crimes could be prosecuted for the period of July 17–21, during which time Romeo Pepoli and his followers had been expelled from the city. Prosecution of such crimes required approval by individual *querelle* and *reformagioni*.<sup>497</sup> Another cause for a *querela* was the desire to nullify an *exceptio* by the querelant's opponent that had successfully blocked prosecution against him or her.<sup>498</sup>

*Querelle* were also requested when the querelant knew that he or she had insufficient evidence to prove the case, and therefore wanted the Consiglio to grant special *arbitrium* to the podesta and his judges. For example, in his *querela* Martino di Giacomo from S. Giovanni in Persiceto explained that while he was on guard duty for that rural commune, a certain Bertolino from Crevalcore went to his house and tried to rape his wife. Such a crime, he noted, was very difficult to prove except by circumstantial evidence and inferences since it was at night and there were no witnesses.<sup>499</sup> Therefore he petitioned that the podesta be permitted to proceed, not by full proofs, but by *indicia* and *presumptiones*.<sup>500</sup> Similarly, Giovanni di Giacomo Benvenuti filed a *querela* in which he recounted how he, a shoemaker, noted that some shoes and materials were missing from his shop and became suspicious of Lorenzo di Aimerico from Mantua who made weapons of leather. He confronted Lorenzo (apparently privately, without witnesses) and the latter responded by attacking the querelant with

<sup>496</sup> ASB, Comune-Governo, Riformagioni 198, fol. 8r, Oct. 14, 1323. The response of the Consiglio was to set an upper limit of 200 pounds for the podesta's penalty and to require that Niccolò be confined for the remainder of the present podesta's regime to the rural commune of Pieve di Cento.

<sup>497</sup> ASB, Comune-Governo, Riformagioni 196, fols. 92rv, Aug. 7, 1321 (for an assault in the *platea comunis*), fols. 92v–93r, 117v–118r, Aug. 7 and 27, 1321 (two *querelle* are involved here, one a charge of homicide, the second a charge that the first charge was a false accusation), fol. 98r, Aug. 10, 1321 (for assault in the *platea comunis* while the querelant was performing guard duty for the city).

<sup>498</sup> ASB, Comune-Governo, Riformagioni 196, fol. 146v, Oct. 5, 1321. The *exceptio* was that the querelant did not have an *estimo*. She had been trying to litigate for failure to implement a *laudum*. Also ASB, Comune-Governo, Riformagioni 194, fol. 28r, April 10, 1321. The querelant complained of dispossession of his house and his frustration in litigating because of his opponent's excessive objections (*iniquas exceptiones*).

<sup>499</sup> “non possit talia bene probare nisi per indicia et coniecturas maxime quando fuit de nocte et quare in talibus non vocantur testes.”

<sup>500</sup> ASB, Comune-Governo, Riformagioni 200, fol. 394v, Nov. 7, 1326. The vote was 196 in favor with 132 opposing.

a knife, inflicting a wound from his left eye to his lips, leaving him disfigured. Giovanni asked that the podesta proceed against Lorenzo for the attack summarily, using full or half-proofs or *fama*.<sup>501</sup> Lambertino di Francesco, a haberdasher from *cappella* S. Niccolò of Borgo S. Felice, reported that when he was in a house that he rented in Roffeno, seven men with others, more than twenty of them, came at night and kidnapped, wounded, robbed, and tortured him. He managed to escape while his attackers were sleeping. Lambertino named the opponents who kidnapped him, and further described how they had since then returned, threatening his workers and preventing them from gathering the chestnut harvest. Since he claimed such offenses could not be proven except by *indicia*, he asked that his opponents be forced to make a *concordia* with him within eight days or be banned for these crimes.<sup>502</sup> He also filed a second *querela* in which he offered evidence that he claimed would be accepted by "any person of sound mind and good awareness as full proof"<sup>503</sup> that the crime had been ordered by two other men, Gerarduccio di Giovanni and Petruccio di Rodolfino, both from the rural commune of Montetortore. His first piece of evidence was that he believed that the place to which his kidnappers had taken him was a tower that belonged to Gerarduccio. His second piece of evidence was that after the kidnapping he was further harassed by two followers of Petruccio. When the querelant sought to have them banned, he received a letter from Petruccio, telling him not to proceed against them or he would be attacked further, and indeed he was robbed of grain and wine the next day. In this second *querela*, Lambertino again noted that "such crimes cannot be proven except by *indicia*," and therefore asked that Gerarduccio and Petruccio be forced to give him satisfaction within ten days and make an accord with him or be banned for these crimes.<sup>504</sup>

Most querelants, for various reasons, sought a trial that would be carried out summarily, within a specific limited time, and by summary justice, that is, with suspension of solemnities. But some querelants, especially in property *querele*, sought direct action by the

<sup>501</sup> ASB, Comune-Governo, Riformagioni 200, fol. 394v, Nov. 7, 1326. The vote was 342 in favor with sixteen opposing.

<sup>502</sup> Ibid., fols. 410v–411r, Dec. 19, 1326. The vote was 282 in favor, with thirty-one opposing.

<sup>503</sup> "indicia que quilibet homo sani capitis et bone conscie haberet pro plena probatione predictorum."

<sup>504</sup> Ibid., fol. 422r, Jan. 23, 1327. The vote was 225 in favor with 186 opposing.

podesta rather than litigation or a mandated arbitration process. In these instances, the querelants claimed that the injustice done to them required immediate remedy (usually within three to fifteen days), as in almost all *querele* concerning land dispossession, refusal of payment of a dowry or inheritance, or the refusal to honor a *compromissum* and *laudum*. For example, one querelant claimed he had made a loan without having a notarial instrument written for that loan, because he had regarded the debtor as a father. For five years, however, the debtor had refused to repay the loan, and had threatened him when he sought restitution. He asked the Consiglio del Popolo to empower the podesta to force repayment of the loan within eight days, plus expenses and interest (on the strength of his word alone since he had no proof), and specified that the podesta act “without any *inquisitio*.” The *querela* was approved by a vote of 550 in favor with sixty-seven opposing.<sup>505</sup> Only infrequently did the querelants in such instances request litigation or trials by summary justice.<sup>506</sup> In these many cases of direct action the Consiglio was not merely intervening in the actions of the courts, but was itself serving as a decision-making court of law. It also did this in *querele* for crimes, but less frequently. For example, Fra Bertolino di Petrizolo and his brother made a *querela* against two men from Budrio for the homicide of their brother. The killing was described as “most grievous,” particularly because it was accomplished treacherously, with the killers pretending friendship. The querelants asked that the podesta punish or ban the culprits within eight days “with no other *inquisitio* except for the present *reformagione*.”<sup>507</sup> Thus, in these and other cases, the podesta was empowered to act and punish without first conducting a trial against the imputed.

The Consiglio also acted as an appeals court, nullifying sentences and absolving persons who had been found guilty in the *ad maleficia* courts, as in the *querela* submitted by five men from the popular

<sup>505</sup> ASB, Comune-Governo, Riformagioni 195, fol. 56r, June 5, 1321: “Nullo alio iniquito nixi reformatio presens.”

<sup>506</sup> ASB, Comune-Governo, Riformagioni 194, fols. 16v–17r, March 20, 1321. The querelant complained that he and his sisters had inherited half of certain properties, but that the heirs of the other half had seized both halves. They asked that the podesta examine the rights of both parties, and if the querelant and his sisters had a greater right, that they then be put in possession, to be done within one month. The vote was 203 in favor, with 145 opposing. When direct action rather than litigation was sought, the formula frequently used was “nullo alio exquisito.”

<sup>507</sup> ASB, Comune-Governo, Riformagioni 196, fols. 91v–92r, Aug. 7, 1321: “nullo alio exquisitio nisi presentis reformationis.”

societies who described how they had sold two head of cattle to Tommaso Formaglini for which he made only partial payment, with the rest to be paid within five days. But at the end of that term he refused to pay and they went to the civil courts against him. Tommaso was contumacious, and the court confiscated the cattle. At that point Tommaso “deceitfully, maliciously, and in a bad way” charged the querelants at the *ad maleficia* court with robbery and theft of those cattle. The querelants sought to have the criminal trial against them nullified and themselves protected from any further action on this issue. They also asked to have Tommaso summarily forced to pay what he still owed them.<sup>508</sup> In another *querela*, three men asked that the trial against them for cattle theft be nullified. They did not deny having committed the robbery, but explained that their victims were from Modena, and that in July there had been a proclamation throughout the city of Bologna, declaring that all *modenesi* had to leave the city within a specified term or they could be offended in their persons or properties with impunity. The querelants asserted that they had stolen the cattle after the specified term had passed, and therefore asked that the sentence against them be lifted.<sup>509</sup> A querelant might also appeal a sentence on the basis of false accusation. Thus, five men from the rural commune of S. Giovanni in Triario complained that two men from the same rural commune had been banned for crimes they had committed against the querelants. They incited several third parties to bring false accusations for assault against the querelants individually, producing false witnesses against them. The querelants further described themselves as paupers who could not defend themselves from the power of their opponents and asked that the trials against them be nullified.<sup>510</sup> Only occasionally did these appeals comprise issues that might have been addressed at syndication (at the end-of-term review of the podesta and his judges). For example, in one *querela* the querelant wanted a sentence issued by the civil court of the *dischum Cervi* overturned because it had been issued without the required summons to court.<sup>511</sup>

<sup>508</sup> ASB, Comune-Governo, Riformagioni 200, fol. 368r, Aug. 27, 1326. The vote was 330 in favor with 102 opposing.

<sup>509</sup> Ibid., fols. 374rv, Sept. 14, 1326. The vote was 336 in favor with 203 opposing.

<sup>510</sup> Ibid., fols. 394rv, Nov. 7, 1326. The vote was not recorded.

<sup>511</sup> ASB, Comune-Governo, Riformagioni 195, fol. 83v, July 3, 1321. The vote was 435 in favor with 141 opposing.

The Consiglio's responses to the *querele* varied considerably. Although the *querele* were reviewed prior to submission to the Consiglio by the Capitano's judges (see Appendix A), by the Standard-bearer and his *sapientes*, and finally by the executive officials (the *anziani* and *consules*), they were not always approved by the Consiglio del Popolo. Ten percent of the personal *querele* were rejected outright (three in 1320–21 and five in 1326). Slightly more of the property *querele* were rejected—twelve (6.4 percent) in 1320–21 but only one in 1326–27. Many more were modified—the Consiglio decided on processes or actions other than those requested by the querelants. The most common variant in response among the personal *querele* was for the Consiglio to decide on process rather than action, that is, to approve authority to the podesta and his judges to prosecute the querelants' opponents by summary justice—within a specific time period and occasionally also by summary procedure (*sine strepitu*). Twenty-eight (15 percent) of the property *querele* from 1320–21 were treated that way, with two so treated in 1326. Of the personal *querele*, four (7 percent) were so modified in 1320–21 and six (13 percent) in 1326–27.

Another alternative for the Consiglio was to decide that the dispute should be settled by arbitration instead of direct action, summary process, or litigation *de jure*. Nine (5 percent) of the property *querele* in 1320–21 and three (12 percent) in 1326–27 went forward by arbitration instead of the action requested by the querelant. A querelant himself also might request arbitration instead of summary procedure or direct action, but this was exceptional, as for example, in a land dispossession case between elite families. In that case the querelants asked that the *anziani* choose a “good *sapiens iuris* and one notary for writing the documents” to arbitrate the issue within one month, with the podesta required to implement their decision.<sup>512</sup> The Consiglio also

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<sup>512</sup> ASB, Comune-Governo, Riformagioni 192, fols. 428r–429r. The vote was 446 in favor with no opposing vote given. It was modified by the Consiglio to provide that the opposing parties would each select a *sapiens*. If those two *sapientes* did not agree on a settlement, they were to elect a third one. The podesta was then to implement their settlement summarily (*sine strepitu et figura iudicii*), with no defense permitted and any *exceptio* rejected (*nulla defensione et esceptione reiecta*). For another example of arbitration in a *querela* case, ASB, Comune-Governo, Riformagioni 194, fols. 24rv, March 31, 1321 (a property dispute with arbitration to be implemented by the podesta). The vote was 380 in favor with ninety-eight opposing, and with the decision to use the *sapientes* who had been working on the dispute, but to compel them to complete their work within fifteen days or face a penalty. Ibid., fols. 29v–30r, April 10, 1321. The *querela* concerned a dispute between the podesta of the rural communes

responded to personal *querelle* by mandating arbitration. For example, Tommaso di Paolo and his attorney submitted a *querela* in which they described how Tommaso had been assaulted by nine men from prominent *popolano* families (the Preti and Piatresi) and one of their servants. The assault had taken place the prior day, Easter Sunday, in the church of S. Martino dell'Aposa, while the querelant was at prayer. The querelants asked for special *arbitrium* for the podesta to act summarily against their opponents, but the Consiglio decided to proceed by compelling the parties to make a peace accord. The arbitrators were to be appointed from among the highest executive officials of the commune and *popolo*—the *preconsulis* of the notaries, *barisellus*, *preministralles* of the organizations of the thirteen and seven arms societies—and *sapientes* appointed by the commune. The powers of the arbitrators included annulling all trials against the culprits held for this or any other occasion.<sup>513</sup> When Petrizolo and Giovanni, sons of Bettino Petrizoli the goldsmith, and Guido di Tommaso da Pizzano filed a *querela*, they claimed that they had been the victims of a false accusation for arson and robbery lodged by Michele di Tommaso da Dugliolo, and supplied alibis for their presence elsewhere at the time of the crimes. They asked that the podesta be required to investigate on their behalf. But the Consiglio decided instead to appoint *sapientes* to bring the parties to a peace agreement and to give the podesta full power to implement the accord.<sup>514</sup>

That the Consiglio del Popolo acted in a deliberative manner in response to the *querelle* and not as a rubber-stamp is clear. What is puzzling, however, is on what basis it made its decisions to approve, reject, or modify the *querelle*. There are no correlations between the type of *querelle* or the status of the querelant on the one hand, and the response of the Consiglio on the other hand. The only predilection to be teased out of the sample is that when the Consiglio faced a

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of Frignano and the people of those rural communes over payment of the podesta's salary. An earlier *riformagione* had authorized the querelant to seize the captains of those communes and force payment, but that solution had been unsuccessful. The Consiglio decided to bring the captains before the Capitano and *anziani* to explain how they would make a *concordia* with the querelant. The vote was 218 in favor with 105 opposing.

<sup>513</sup> ASB, Comune-Governo, Riformagioni 194, fols. 34v–35r, April 20, 1321. The vote for the modified version was 453, with 207 wanting to proceed summarily as requested in the *querela*.

<sup>514</sup> ASB, Comune-Governo, Riformagioni 196, fols. 117v–118v, Aug. 28, 1321. The vote was 349 in favor of arbitration with fourteen in favor of the *querela* as submitted.



complaint from a member of the popular societies against another member, it tended to reject or modify the *querela*, from the requested direct action or summary justice to a milder process or to arbitration. For example, when Vinciguerra di Tommaso Beccadelli was a querelant against Bitinello di Matteo Rodaldi for assault with the drawing of blood, he requested that the podesta be given *arbitrium* to proceed against his opponent and that Bitinello henceforth be treated as a magnate. The Consiglio, however, only granted the *arbitrium* for the podesta.<sup>515</sup> When Tommaso di Paolo Tencarari, member of the popular societies, submitted a *querela* against members of the Preti and Piatesi families, all powerful privileged *popolani*, as noted above, the Consiglio modified his request for summary justice power to the podesta and decided instead to have the dispute arbitrated by the executive officials.<sup>516</sup> When Giovanni and Petrizolo, sons of Bitino di Petrizolo the goldsmith, charged that five members of the Papazzoni family and Giovanni di Tommaso da Dugliolo had kidnapped and detained them in a private prison, they asked that the podesta be given *arbitrium* to investigate, by witnesses of *fama* as well as eyewitnesses, since the only witnesses in the private prison were the culprits themselves and their followers.<sup>517</sup> The Consiglio, however, decided to proceed by arbitration, and to give the podesta summary justice power to implement the accord.<sup>518</sup> When a bootmaker lodged a *querela* for assault without the drawing of blood against another bootmaker, the proposal failed, with 450 members of the Consiglio voting against it and 154 voting in favor.<sup>519</sup> At the same meeting, another member of the popular societies submitted a *querela* for an assault without the drawing of blood, but in this case his assailant was not a privileged *poplano* and the vote was favorable, 329 in favor with 235 opposing.<sup>520</sup>

In general, however, patterns in the voting records for *querele* are elusive. Adding to the opaque nature of these *querele* decisions is the

<sup>515</sup> ASB, Comune-Governo, Riformagioni 193, fol. 456v, Sept. 26, 1320. The vote was 232 in favor with 131 opposing.

<sup>516</sup> ASB, Comune-Governo, Riformagioni 194, fols. 34v–35r, April 20, 1321. The vote was 453 to 207.

<sup>517</sup> “per testes de vixu quam per testes de fama maxime cum de ipsis privato carcere et robaria non possent habere testes de vixu nisi malefactores predictos et familiares ipsorum.”

<sup>518</sup> ASB, Comune-Governo, Riformagioni 196, fols. 92v–93r, Aug. 7, 1321. The vote for the modified version was 518 in favor with twenty-seven opposing.

<sup>519</sup> ASB, Comune-Governo, Riformagioni 194, fols. 46v–47r, May 8, 1321.

<sup>520</sup> Ibid., fol. 47r, May 8, 1321.

fact that many of the Consiglio's favorable responses were given with substantial opposing minority votes. In eight of the property *querele*, moreover, the vote was very close, with passage in two cases by only one vote. Nor were these close votes of a controversial or unusual nature. One was from a querelant who claimed she was forced to renounce her dowry properties, and requested reinstatement of those properties by summary justice procedure. (She was the wife of a prominent *popolano*, Filippo di Bulgaro Gattari, a family that had been temporarily ascribed magnate status in the late thirteenth century.)<sup>521</sup> The other was also a dowry *querela*—the querelant's daughter had died but her husband's family would not return the dowry. The querelant requested that the podesta be empowered to compel restitution. A majority of one supported the *querela*, but the minority wanted the podesta to proceed *de jure* within fifteen days.<sup>522</sup> Not only was the Consiglio often divided in its responses to the *querele*, but it often also was inconsistent in its responses, with the same type of complaint provoking very different responses and votes in the same meeting. Votes could be negative or overwhelmingly in favor for the same type of request. Thus, one land dispossession *querela* of two men from the *contado* against a goldsmith from *cappella* S. Lucia was approved by a vote of 511 in favor with only twenty-six opposing,<sup>523</sup> but another land dispossession *querela*, again from a man from the *contado*, this time against a member of the Baciacomari family (which was partially magnate and partially *popolano*) was rejected by a vote of 104 in favor with 211 opposed.<sup>524</sup> Possibly some querelants provided more information or spoke more convincingly when they presented their *querela* in the Consiglio (the querelants were present at the meeting in which their *querele* were reviewed), but we have no evidence that their presentations went beyond the relatively brief written version of the *querela*. Responses by the Consiglio and the nature of votes may have depended mainly on the length of a querelant's chains of friendship.

To an extent, the *querela* was an obvious political instrument of protection for the dominant faction. For example, a *querela* in 1321 sought and gained the cancellation of a ban against Tommaso di Paolo

<sup>521</sup> Ibid., fol. 2r, March 4, 1321. The vote was 155 in favor with 154 opposing. For the magnate status of the family, see above, Chapter Four, Part II, section 7.

<sup>522</sup> Ibid., fols. 36rv, April 29, 1321. The vote was 302 in favor with 301 opposing.

<sup>523</sup> ASB, Comune-Governo, Riformagioni 192, fols. 416rv, July 5, 1320.

<sup>524</sup> ASB, Comune-Governo, Riformagioni 194, May 4, 1321, fols. 42v–43r.

Tencarari, specifically because he was not only *de populo et Geremei*, but also of the “present *regimen* of the city.” He had been banned for offenses and injuries against *Branellus* di Francesco Preti and his son Bitinello, who were described in the *querela* as “capital enemies of the *popolo* of Bologna and of the present government of the city.”<sup>525</sup> In another *querela*, the government of the present regime is again cited. In this instance Magister Pellegrino di Magister Primirano Cristiani, doctor of medicine, was killed “because of hatreds against the present ruling party,” by Giacomo di Benvenuto Ricci. The *querela* provoked not only an extremely supportive response from the Consiglio (the vote was 377 in favor with only eleven opposing), but also the offer of a reward for the capture of the culprit.<sup>526</sup>

The *querela* was also an instrument against external dangers to the regime, as in the case of a kidnapping in the *contado* by the Counts of Panico and the *Scacchesi* (the exiled Pepoli party). The incident was dangerous because of the linkage it represented between a powerful *contado* noble and the political exiles of the Pepoli party. The victims had been taken outside the Bolognese district to Frignano, and although the counts had promised the *anziani* that they would release the victims, they had not done so. The querelant wanted the Counts of Panico summoned and imprisoned until the kidnapped victims were released, and if they did not appear within five days, to have them declared traitors and rebels. The Consiglio decided, however, to have the issue remain under the deliberation of the Capitano and *anziani* and to have those officials submit provisions on how to reduce the *contado* nobles in general to a *concordia*. If that approach did not work within fifteen days, the *querela* was to be returned to the Consiglio for further action.<sup>527</sup>

The *querela* was also an instrument of revenge and of deterrence against crime, especially crimes that were perceived as dangerous to the stability of the government. In 1325, a man from Crevalcore submitted a *querela* in which he described how seven men from that rural commune, along with many others, came as assassins to the city and attacked and killed his father near the church of S. Domenico. He

<sup>525</sup> ASB, Comune-Governo, Riformagioni 197, fol. 275r, June 21, 1322. The vote was 325 in favor with 123 opposing, and with the addition that Tommaso was to pay the large sum of 100 pounds for the maintenance of the *castelli*.

<sup>526</sup> ASB, Comune-Governo, Riformagioni 197, fol. 233r, Feb. 26, 1322.

<sup>527</sup> ASB, Comune-Governo, Riformagioni 199, fols. 194rv, Jan. 4, 1325.

asked that the podesta be empowered to act directly by issuing a ban against the culprits and destroying their properties within five days without any trial (*nullo alio exquiritio*). The vote was 268 in favor with seventy-seven opposing, with the addition that the Capitano, *anziani*, *sapientes*, Standard-bearer (*gonfalonarius*), *preconsulis* of the notaries, *barisellus*, and *ministrales* of the two preeminent societies should meet in the new palace and not leave until they legislated against crime and for the “good and pacific state of the commune and *popolo*.”<sup>528</sup> This they did, returning to the Consiglio in two weeks with a fourteen-point anti-crime program, which, while it included approaches similar to those used in the past, such as appointing a deputy for the Standard-bearer and entrusting him with authority to pursue malefactors, *banniti* and rebels in the *contado*, also contained some novel provisions. It established an appeals process from the *ad maleficia* court of the podesta to the Capitano in cases where a conviction had *not* been obtained, and also provided for shortening the timetable within which the podesta had to bring a trial to completion.<sup>529</sup>

The main purpose of the *querela*, however, was to provide equity and justice when it was not available through the courts for any reason, and thereby to prevent violence or stop the spiral of violence once it had started, either by reconciliation or the deterrence of revenge. Particularly in the crisis-laden years between 1320–1327, as the commune faced overwhelming danger to its independence (and finally succumbed to it), it was a major priority of the government to prevent and resolve conflicts within the dominant faction and maintain the support of those *popolani* who did not participate actively in political life (those outside the popular societies). Thus, in 1322 the Consiglio

<sup>528</sup> ASB, Comune-Governo, Riformagioni 199, fols. 325v–326r, May 3, 1325.

<sup>529</sup> ASB, Comune-Governo, Riformagioni 199, fols. 241v–242v, May 17, and fols. 243r–244v, May 22. The other measures included the provision of two cavalymen and four infantrymen every six months by the *ministrales* of each society who were to assist the Standard-bearer in hunting down *banniti* and rebels in the *contado*, permitting the Standard-bearer to raise a contingent of men, large or small, day or night, for the same purpose (but short-term rather than long-term), destroying the properties of a person who harbored a *bannitus* or rebel, providing a special banner for the Standard-bearer, forbidding the cancellation of bans for certain major crimes, and providing that anyone advising such an action suffer the *pena talionis*, that is, the penalty of the person whose ban was to be lifted (and this was to be carried out summarily by the podesta). To protect the Standard-bearer and his new *vicarius* from intimidation, those officials and their brothers and descendants were to have the *popolano*-magnate privilege applied to those people whose homes and properties they destroyed.

legislated that four men were to be elected to work with the bishop and Standard-bearer to resolve discords among citizens within the party. In 1323, when repeating that provision, it added that if anyone refused to be reconciled, the issue was to be brought before the Consiglio. The 1322 version specified that the four good men were to investigate rancor, hatred, and disputes among anyone of the *popolo* “from which a crime might ensue unless help be given to resolve it.”<sup>530</sup>

The four good men appointed to pacify discords did in fact bring conflicts they found irreconcilable to the attention of the Consiglio, as they did in a request in 1323, in which they reported that there was a dissension and dispute between members of the *domus* of the Balduini (those members of that house who had not been banned) and Basotto di Ranfredo d’Argele. This dispute had set the two houses against each other, with “many of the greater and better men” (*ex maioribus et melioribus*) lining up in support of one side or the other. The city was thrown into turmoil “which is against the intention of the *popolo* and men of the guilds of the city, who hope and desire that the city be in a pacific state and tranquil condition so that they are able to practice their crafts and from them draw their livelihood.”<sup>531</sup> The irony of this occasion was that the cause of the discord was a *querela* that d’Argele had brought against the Balduini. The practice of the *querela*, intended to prevent or stop violence, had in this case acted as its instigation. Nor was this an isolated instance. Sometimes the *querela* not only did not stop the violence, but also precipitated another *querela*. Thus, Stefano di Francesco *de Fondi* inflicted a wound against Tommaso di Daniele Avenanti, for which attack Tommaso made a *querela* which was approved for action by the podesta against Stefano. But Tommaso also, according to the father of Stefano, hired an assassin who attacked Stefano and left him with a debilitated limb, which in turn provoked Stefano’s father to lodge a *querela* against Tommaso, asking that the

<sup>530</sup> ASB, Comune-Governo, Riformagioni 197, fols. 323rv, Nov. 30, 1322 and fols. 404v–405r, June 8, 1323.

<sup>531</sup> ASB, Comune-Governo, Riformagioni 197, fol. 411r June 28, 1323: “Quod est contra intentionem populi Bononie et hominum artium civitatis predictae, qui sperant et desiderant ipsam civitatem esse in pacifico statu et tranquilla conditione, ita quod possint artes suas exercere et ex eis trahere vitam suam.” The proposal to compel the parties to make an accord passed by a vote of 359 in favor with 134 opposing.

podesta proceed the same way against him, as he was already authorized to act against Stefano.<sup>532</sup>

Other *querelle* also refer to earlier *querelle* that had not resolved the issues or violence. For example, Pietro di Giacomo *Spinabeli* of *cappella* S. Antonio complained that the Consiglio's response to his earlier *querela* against Cosa di Pace Surici of *cappella* S. Stefano called for Cosa to give satisfaction to the querelant by a payment of 280 pounds. But when the podesta sought to implement the *reformagione*, Cosa claimed that all his properties belonged to the women in the family. The querelant now sought power for the podesta to move against the properties on his behalf despite the alleged claims of the women's ownership.<sup>533</sup> A querelant might also seek to reverse an earlier *querela*. Two brothers filed a *querela* in which they claimed that they had purchased property, but the heirs of the person from whom they had purchased the property had filed a *querela* and had received a *reformagione* that had put them in possession of that property. They asked that the property be returned to them within ten days on the authority of the *reformagione* and without a trial. In response, however, the Consiglio decided that the podesta should hold a trial summarily, within fifteen days, and award the property to either party as appropriate.<sup>534</sup> The same property dispute in one instance produced three consecutive *querelle*.<sup>535</sup> A *querela* might be made because the provisions of a *laudum* stipulated by an earlier *querela* had not been enforced.<sup>536</sup> The *querela*'s effects often were the opposite of its intentions. Instead of mitigating violence it exacerbated it. When he became lord of Bologna, Cardinal-legate del Poggetto eliminated privilege and *querelle*, but upon his deposition in 1334, the revived commune reinstated those institutions. With the promulgation of new statutes in 1335, however, the commune forbade the practice of the *querela*, with a steep penalty

<sup>532</sup> ASB, Comune-Governo, Riformagioni 197, fols. 302rv, Oct. 13, 1322. The Consiglio modified the action requested by the father of Stefano by specifying that Muzolo not be tried as an assassin but only for assault. The vote for the modified version was 172 in favor with 139 wanting the action requested in the *querela*.

<sup>533</sup> ASB, Comune-Governo, Riformagioni 196, fols. 163rv, Oct. 23, 1321. The second *querela* was approved by a vote of 305 versus 187, but with the addition that the dowry rights of the women were to be safeguarded.

<sup>534</sup> ASB, Comune-Governo, Riformagioni 194, fols. 37v–38r, April 29, 1321. The vote for the modified version was 265 to fifty-eight.

<sup>535</sup> ASB, Comune-Governo, Riformagioni 195, fols. 72v–73r, June 26, 1321.

<sup>536</sup> ASB, Comune-Governo, Riformagioni 196, fols. 103rv, Aug. 13, 1321. The vote was 298 in favor with 144 opposing.

of 500 pounds for anyone who acted against this prohibition, because the *querela* was the source of “many disputes that arise between the citizens of Bologna...and many iniquities arise from them.”<sup>537</sup> The commune sought to safeguard the *querela* from abuse by a vetting process that it used for petitions in general by the end of the thirteenth century. Before submission to the Consiglio, a *querela* had to be reviewed by the *vicarius* judge of the Capitano, who was obligated to give the party against whom the complaint was made the opportunity to respond and defend itself. In some instances, a full trial might emerge, but in the Capitano’s court, and one which only determined the *querela*’s eligibility for review by the *anziani* and *consules* and then by the Consiglio del Popolo.<sup>538</sup>

The *querela* ultimately engendered more violence than it resolved, but what were its effects upon the courts? Did the judges use or resist the powers of summary justice granted to them by the Consiglio del Popolo?

### 13. SUSPENSION OF DUE PROCESS: RESISTANCE BY THE JUDGES

Grants of summary justice *arbitrium* to the podesta and his judges in response to *querelle* usually called for those officials to have the authority to suspend normal procedures and act summarily—to proceed in trials “summarie sine strepitu et figura iudicii.” How did the judges use this authority? To what degree did they actually suspend due process? To address these questions I have compiled a sample of seventy-seven trials from the *inquisitiones* records. These trials were each authorized by a “sacred” *reformagione* which had been granted by the Consiglio del Popolo in response to a *querela*. Since none of the records from the podesta’s civil courts have survived for this period, the sample consists entirely of trials from the criminal courts and therefore from *querelle* concerning criminal offenses (*querelle personales*). The trials were

<sup>537</sup> ASB, *Statuti* of 1335, IV, 99, De querelis et pectitionibus de cetero coram domino capitaneo vel anziani non proponendis: “Considerantes quod occaxione querelarum et pecticionum seu postarum, que assidue et frequenter proponuntur et firmantur in consillio populi, multe discordie oriuntur inter cives civitatis Bononie et quoscumque inter eos qui vere sunt amatores status ad presens regentis in civitate Bononie, predicta ac eciam multe iniquitates insurgunt et secuntur ex eis....”

<sup>538</sup> The reviews of petitions and *querelle* by the *vicarius* court of the Capitano is described in Appendix A, “Jurisdictions of the Courts of the Capitano del Popolo.”

gathered from the registers of thirty-one notaries from eight semesters between 1320 and 1324. If the records were complete, one would have registers from sixty-four notaries for those semesters. The average number of *querele*-initiated trials per semester was 9.6, with, however, some registers having as few as two *querele* trials and others as many as sixteen and twenty-two.<sup>539</sup>

In nearly every *querela*-initiated trial, the judges in fact acted summarily—they proceeded to issue the summons of the imputed to court by a significantly accelerated timetable. The normal process for summoning a suspect to court and proceeding to issue a ban against that person if he or she failed to respond consisted of three *citaciones*, (usually delivered by various nuncios at three-day intervals), a *grida* from a nuncio, and another *grida* from the *bannitor comunis*, also issued several days apart. This series was followed by a summons made by the *bannitor* in the Consiglio of 800, with the setting at that point of a maximum eight-day period in which the imputed had to appear. If he or she did not appear, the ban was then issued (*bannum formatum*), followed by the transference of the ban (*bannum exemplatum*) from the *bannitor* to the notary of the *dischum Ursi*. This process usually took at least three weeks, at the end of which the person banned could be injured or killed with impunity, and if captured was considered by reason of his or her contumacy to be guilty of the charge. In *querela*-initiated trials the ban process was much more rapidly executed, in many cases within one week or even within a two-day period. In extreme instances, the calling of preliminary witnesses, usually carried out at the scene of the crime by the *miles* of the podesta prior to or during the summons process, was eliminated. Thus in 1323, Giacomo *Barghexini de Bay*, who was *de populo* and from the city, had lodged a *querela* charging that four brothers from the Pizoli family, together with two other men, all from the rural commune of Gesso, had attacked him in a field near Gesso and chased him to a nearby home, where they broke down the door of that house and would have entered except that people came running to his defense (nearly all the

<sup>539</sup> To give a context for the frequency of *querele*-initiated trials in the *inquisitiones* records, I have counted the total number of *querele* and the total number of *inquisitiones* from the extant documents for two semesters, 1321 semester I and 1322 semester II. The total number of trials for both semesters is 134, and of these eleven (8.2 percent) were of *querela*-origin. ASB, Podesta, Inquisitiones, Mazzo 106, Regs. 1 (430), 2 (437), 3 (440), 4 (442), 5 (330), 8 (336) and Mazzo 108, Regs. 1 (506, 396), 2 (528), 3–8.



men of that commune), which resulted in a tumult that lasted for two hours. The Consiglio granted the podesta and his judges authority to proceed “*summarie sine strepitu et figura iudicii*,” and ordered them to complete their work within fifteen days after the querelant made a *denuncia* in court. Giacomo made his *denuncia* in court on June 13. The first summons (*citatio*) of the imputed was given that same day, and the next day the *bannitor comunis* gave the *grida* in the Consiglio of 800, with the proviso that the imputed had to appear that day or the next, or be under ban. (In the margin the notary wrote that all the imputed were condemned.) No witnesses were questioned before the ban process was initiated or concluded.<sup>540</sup>

Similarly, five members of the wealthy *popolano* family of the Mantici (members of the popular societies who listed their *estimo* as 2,500 pounds) brought a *querela*-initiated *denuncia* against five brothers of the magnate Baciacomari family on Dec. 22, 1323. They charged that the Bacciacomari had broken a formal *pax* between the two families by assaulting and killing two men of their family in revenge for an earlier attack by Francesco di Pietro Mantici against *Chechollus* Baciacomari. The judge did not call any witnesses and with great speed executed the ban process: the day of the *denuncia*, the judge had the first and second *citationes* and the *grida* of the nuncio carried out, as well as the *grida* of the *bannitor*. The declaration of the ban in the Council of 800 called for the lighting of a candle, and required the imputed to appear in court before the candle burned out, or be placed under an immediate capital ban. Next to the names of all five men the notary marked in the margin that they were condemned to a ban of 1,000 pounds, the destruction of their properties and decapitation if ever captured.<sup>541</sup> But such extreme speed in implementing the ban process and elimination of the calling of preliminary witnesses at the scene of the crime was exceptional. Most *querela*-initiated trials did proceed at an accelerated pace, with varying degrees of rapidity. The judge was well-motivated to proceed forthwith since he faced imposition of a fine, usually a considerable one of 500 or 1,000 pounds, if he did not initiate and complete the trial within a specified, abbreviated term.

In these instances the judges were proceeding the same way as they had been for years in non-*querela* trials against magnates that were

<sup>540</sup> ASB, Podesta, Inquisitiones, Mazzo 109, Reg. 2, fols. 107r–110r.

<sup>541</sup> ASB, Podesta, Inquisitiones, Mazzo 111, Reg. 1, fols. 125r–127v.

initiated by *popolani*. In the same trial, magnate and *popolano* culprits were treated with different timetables, as in a trial in 1317. In that trial twenty-three men were charged with having acted together in an armed band (*guarimentum*) against a certain Domina Drusiana and the sons of a member of the popular societies. They broke into the victims' home in the rural commune of Galliera, robbed them, and killed Bettuccio di Mantovano, from *cappella* S. Bartolomeo del Palazzo, who was in that house. They also entered the church of that rural commune and robbed it of a silver vessel and cloths, and robbed the wife of the slain man of cows, sheep, and goats. Four of the twenty-three men were brothers and members of the magnate Caccianemici family. The ban process against them proceeded summarily. It was initiated on Feb. 18 and completed in the Council of 800 on Feb. 19, with the stipulation that they appear Feb. 20 or be placed under a capital ban. However, the other nineteen men, who were not magnates, were treated by normal process, beginning Feb. 20 and ending March 3 with a ban in the Council of 800, with a normal term given of eight more days within which they might appear.<sup>542</sup> However, in the majority of cases in which the judges invoked the ban process in *querela* trials, they adhered to the normal practice of interrogating preliminary witnesses at the scene of the crime, doing so either before beginning the ban process or simultaneously with the issuance of the *citationes* and *gride*. Nor did the judge always proceed to ban the imputed if they did not appear. As in a non-*querela*-origin trial, he might decide that there was no basis for continuing the ban process. For example, in a *querela*-initiated trial, Vittorino di Bonacursio da Fiesse from the rural commune of Castenaso, charged six members of the Prendiparte family and thirteen others with having made an armed band (*guarimentum*) and committing a homicide. The judge interrogated five witnesses from Castenaso who offered only hearsay evidence. The judge therefore did not initiate the ban process. Instead, the notary included in the register the sentence of the podesta which declared the imputed

<sup>542</sup> ASB, Podesta, Inquisitiones, Mazzo 92, Reg. 2, fols. 2r-13r, Feb. 14-March 18, 1317. In this case the Caccianemici did not appear before their deadline, but on Feb. 23, two days after the deadline, Ugolino Mussolini appeared as a relative (*tanquam coniunta persona*) of the four brothers and asked if he could post securities for them. The judge, "considering the petition to be just," set a term of Feb. 25 for that person, despite the passing of the deadline.

not guilty. He also absolved the men of Castenaso from responsibility for not having captured the culprits.<sup>543</sup>

Sometimes the imputed appeared in court, and in these cases, as Vallerani has noted for non-*querela*-initiated trials, the imputed were more likely to be acquitted than convicted. In instances in which the imputed appeared in *querela*-initiated trials, the judges did *not* suspend the formalities of procedure and the imputed were acquitted for a variety of reasons: lack of evidence, because the querelant made a disavowal of the charge (*renuncia*), or even because the judges accepted the *exceptiones* of the defense. In the latter case, the judges ignored their mandate from the Consiglio del Popolo which specified that they should proceed without hearing *exceptiones*. In some instances the Consiglio had mandated that the judge proceed summarily, by a specified deadline, but also decreed that normal procedures should be followed, as in a trial in 1322.<sup>544</sup> But even in trials where the Consiglio del Popolo had granted both suspension of solemnities and an accelerated timetable, the judges pursued due process. For example, on May 3, 1324, the judge began a trial against eight men from the *contado* of Florence who currently lived in Bologna. The trial, in its initial stage, was *ex officio* and was not of *querela* origin. The charge against one of the men, Giovanni Maini Drayini, was that he raped and critically wounded Domina Pizola when she resisted him. The attack took place in her home at night. The other seven men were charged with waiting outside the house with weapons lest he be captured. The *miles* of the podesta interrogated twelve witnesses at the scene of the crime. None of those questioned witnessed the actual attack, but most of them saw the victim bloodied after the attack, and heard her cry that the imputed had raped and wounded her with his knife. On May 25, three of the imputed, charged with giving aid to Giovanni (*consilium et favorem*), appeared in court, denied the charge and presented documentation of their status as members of the arms society of the Griffins. A fourth also appeared and denied the charge, with all three renouncing their rights to receive terms for their defense (*dilationes*), a common practice when the defendants knew, as they did in this case, that the interrogation of witnesses had yielded no evidence against them. All four

<sup>543</sup> ASB, Podesta, Inquisitiones, Mazzo 103, Reg. 8, fols. 2r–6v, Dec. 20, 1320.

<sup>544</sup> ASB, Podesta, Inquisitiones, Mazzo 108, Reg. 6, fols. 21r–28r, Aug. 9, 1322. The charge was breaking a peace agreement (*pax*) and was against eight men. Six were banned, but the two who appeared in court were acquitted.

were then acquitted. Meanwhile, on May 21 a *denuncia* was brought to court as authorized by a *riformagione* made in response to a *querela* from the victim against the alleged rapist and three of his accomplices. The *arbitrium* granted to the podesta and judge set a five-day timetable and authorized use of half-proofs. The interrogation of witnesses (fifteen of them) was immediately resumed, this time by both the podesta and his judge. At this point a witness testified that he had heard the victim's cries for help, and running to the scene of the crime he had seen the three men charged as accomplices standing armed next to the rear door of the victim's house. He also saw Giovanni (the alleged rapist) leaving the house. He heard the accomplices ask Giovanni what he had done and heard him respond "I don't know—I believe I left her dead."<sup>545</sup> The next day a new, accelerated ban process was initiated, but on May 25 the three accomplices appeared, showed evidence of their membership in the arms society of the Griffins and were again acquitted, despite the testimony of the eyewitness and the authorization to use half-proofs.<sup>546</sup>

The judge proceeded cautiously even in a *querela*-initiated trial against Lambertazzi. For example, a *querela* was made by Domina Montanina against Ugolino di Bonaventure *de Cocha*, from *cappella* S. Gervasio, his four sons, and three others, all identified as Lambertazzi. The husband of the querelant was a member of the popular societies. The *querela* was unusual, including not only the charge that Ugolino and his sons had hired the other imputed as assassins in the killing of Domina Montanina's brother, Duccio di Donato, but also the request for restitution of money that Ugolino had owed Duccio (Domina Montanina was the latter's heir and Duccio was a business associate of Ugolino). The *querela* claimed that Duccio had so feared Ugolino that he had been afraid to litigate with him and had accepted in repayment a sum less than that which was really owed him. But when he sought the remainder, Ugolino had him assassinated in the fish market of the Trivio Ravegnana. The *riformagione* in response to the *querela* specified that the podesta and his judges could proceed in any way they saw fit, with suspension of all formalities and *exceptiones*—*summariæ sine strepitu et figura iudicii*—within a term of twenty days. It also

<sup>545</sup> "Ego nescio, ego credo eam dimisixxe mortuam."

<sup>546</sup> ASB, Podesta, Inquisitiones, Mazzo 112, Reg. 1 (612), fols. 58r–64r, May 3–June 4, fols. 67r–72v, May 21–June 4, 1324.

specified that the trial could be conducted on the basis of full proofs or *presumptiones*, which might be “strong” (*violentas*) or not, or by *fama*. The trial began March 11 with both the judge and the *miles* interrogating witnesses at the fish market of the Trivio Ravegnana. That same day, the first *citatio* was issued against the imputed, proceeding on March 14 with reading of the ban in the Council of 800 and the summons of the imputed to appear before three o’clock in the afternoon (*ante nonas*) or be placed under a capital ban. But that same day, March 14, the interrogation of thirteen witnesses continued, with nearly everyone saying it was *publica vox et fama* that Ugolino and his sons had ordered the killing. The judge continued the trial at court, questioning fifteen more witnesses (all testifying to *publica vox et fama*). He concluded the interrogations only on March 17, three days after the ban against the imputed had been “formatum,” that is, transferred from the *bannitor* to the *dischum Ursi*. The podesta and judge, given their *arbitrium*, could have proceeded to issuance of the ban without any witnesses at all, but chose to question twenty-nine witnesses. The second half of the charge—restitution of the money to Duccio’s heir—was also executed with caution, with the judge listening to reports from an accountant of the plaintiff, but also appointing three men to examine the account books of both Ugolino and Duccio. On March 23, those accountants gave their report, which is reproduced in the trial record in *volgare*. On March 24, the judge, on the basis of Domina Montanina’s evidence and the report from the independent accountants, declared that 1,284 pounds were due to Domina Montanina from the assets of Ugolino. With this sentence, the judge completed both aspects of the trial in fourteen days, well within the twenty-day period set by the Consiglio del Popolo, but only after a scrupulous adherence to due process that was not required of him.<sup>547</sup>

In other instances, when the imputed appeared in court in response to the summons, the judge, despite his *arbitrium*, accepted and heard the *exceptiones* of the defendant. Bonifacio, son of Count Ugolino Bedoledi, a *contado* noble, was charged by a *fumans* with kidnapping

<sup>547</sup> ASB, Podesta, Inquisitiones, Mazzo 109, Reg. 4, fols. 18r–44r, March 10–24, 1323. The trial was based on two *querele*. One was submitted by Domina Montanina (fol. 19v). The second (fol. 22r) was submitted by her and her husband, Francesco di Lapo, who served as her attorney. The purpose of the second *querela* was to correct a provision in the Consiglio’s *riformazione*, which had called for the trial to be held by the new, rather than the current podesta.

and assaulting him. The judge initiated the trial but issued an interlocutory sentence stopping the trial since the imputed had clerical status.<sup>548</sup> Niccolò di Alberto da Sesto, from *cappella* S. Martino dell'Aposa, lodged a *querela* against four members of the prominent *popolano* Calamoni family for assault. The ensuing *riformazione* gave sweeping *arbitrium* to the podesta to proceed with suspension of solemnities and *exceptiones* summarily, within ten days. The judge, however, followed normal procedure, initiating the trial immediately, on Jan. 6, with interrogation of eight witnesses by his *miles* at the scene of the crime. Three of the witnesses were eyewitnesses to the assault and the judge began an accelerated ban process on Jan. 18. Two of the four imputed appeared in court and the judge set the first term (*dilatio*) for their defense. The defendants' attorney then presented four *exceptiones*. These included objections to one witness as a public prostitute and to another two as foreigners. Another *exceptio* claimed that the querelant had failed to pay the 20 *solidi* required for submitting a *querela*. The judge accepted and reviewed these *exceptiones* and set a term for the defense to prove the charge that two witnesses were foreigners. After hearing the defense, the judge appointed a *sapiens*, Ugolino Gardini, to write a *consilium* advising him whether or not the trial should proceed. The *consilium* was in favor of not proceeding against two of the imputed and they were both acquitted, whereas the other two were condemned. The judge had not only followed due process and admitted the *exceptiones*, but had also contracted a *consilium sapientis* to ensure that he was following the solemnities of the law.<sup>549</sup> In another *querela*-initiated trial, Vittorio di Bonacursio from the rural commune of Fiesso charged four members of the Prendiparte family of grain theft. The judge pursued an accelerated ban process, beginning Oct. 12 and concluding Oct. 15 with the summons by the *bannitor* in the Council of 800. The attorney for the defendants appeared in court on Oct. 15 and protested that the trial should not proceed by *querela* since a *querela* could not be made in favor of anyone who had ever received a condemnation. He produced documentation that Vittorio had been condemned by the podesta in 1313 and a copy of the ordinance forbidding *querele* by such a person. The judge accepted the *exceptio* and

<sup>548</sup> ASB, Podesta, Inquisitiones, Mazzo 112, Reg. 4, fols. 74r-75r, May 18-26, 1324. Also ASB, Podesta, Inquisitiones, Mazzo 108, Reg. 2, fols. 13r-31v, Jan. 15, 1323.

<sup>549</sup> ASB, Podesta, Inquisitiones, Mazzo 108, Reg. 2 (525, 401), fols. 2r-12r, Jan. 12, 1323.

the podesta pronounced sentence on Oct. 16, invalidating the trial.<sup>550</sup> Blocked in his desire to have the podesta and his judge proceed by authority of a *querela* and *riformagione*, Vittorio proceeded to lodge an accusation against the same culprits for the same crime.<sup>551</sup>

In another example of judicial caution, a judge sought a *consilium sapientis* when a *querela* and *riformagione* directed him to suspend a trial. The trial was an assault case (by a father against his son) in which the preliminary interrogations on Dec. 31 by the *miles* at the scene of the crime had yielded three eyewitnesses. The new podesta and judge had initiated the ban process, but the son brought a *querela* against his father. The Consiglio, however, did not grant the *querela*, but instead ordered the podesta not to proceed with the trial. Receiving this order, the judge appointed a *consilium sapientis* which supported the order of the Consiglio. The judge then declared the trial nullified and acquitted the imputed.<sup>552</sup> In another instance, the notary Petrizolo, son of Bertino the goldsmith, from *cappella* S. Martino dell'Aposa, had been charged *ex officio* with fraud while serving as notary in the *officio Ursi*. He allegedly had accepted payment for a condemnation from someone caught carrying a weapon at night, but had not informed the *miles* of that office of the payment. The trial by Jan. 28 had reached the stage of the declaration of the ban in the Consiglio of 800, but Petrizolo presented a *querela* to the Consiglio del Popolo before expiration of the ban term, and received a *riformagione* that ordered the trial halted. The podesta received the documents on Jan. 31, and on Feb. 1 appointed a *sapiens* to write a *consilium*. On Feb. 3, citing the *consilium*, which was in favor of Petrizolo, the podesta and judge declared the trial suspended.<sup>553</sup>

Rather than using the *arbitrium* for summary justice granted to them, judges in general thus proceeded cautiously, on the one hand using an abbreviated ban process in order to obey the mandated timetables, but on the other hand proceeding according to due process, granting terms to defendants for making their defenses, admitting

<sup>550</sup> ASB, Podesta, Inquisitiones, Mazzo 106, Reg. 1, fols. 21v–25v, Oct. 12, 1321.

<sup>551</sup> ASB, Podesta, Inquisitiones, Mazzo 106, Reg. 7, fols. 18v–25r, Oct. 20, 1321.

<sup>552</sup> ASB, Podesta, Inquisitiones, Mazzo 108, Reg. 7, fols. 34v–37r, Dec. 31, 1322.

<sup>553</sup> ASB, Podesta, Inquisitiones, Mazzo 108, Reg. 2 (525, 401), fols. 53r–60v, Jan. 19, 1323. Petrizolo won his *riformagione* by offering to reimburse the *officio Ursi* for the missing payment and claiming that the incident was an unintended oversight on his part, which had occurred because the *miles* had been away from the office at the time of the original payment.

their *exceptiones*, and obtaining *consilia sapientis* to shore up their decisions. Moreover, *querele*-initiated trials suffered from the same problems and limitations as regular trials. False charges and witnesses comprised a serious problem for the courts in general, especially in accusation-initiated trials, but also in *querele* trials.<sup>554</sup> As noted above, the accusation registers contain trials interrupted by the *ministrales* of the two preeminent societies who were responsible for reviewing claims by imputed persons that they had been falsely accused in trials initiated by privilege. In such instances the trials were suspended while the *ministrales* gathered evidence which they presented to the podesta and his judges.<sup>555</sup> The victims of false accusations were not only subject to convictions on the basis of false testimony if they came to court, but also to the danger of being killed with impunity by their enemies if they were contumacious. For example, in 1321 Domina Misinella, daughter of *Finellus* da Vizzano was falsely accused of stealing clothes and silver belts worth 60 pounds from the house of a certain Giacomo in the rural commune of Caselle. She did not respond to the court summons and was banned, even though no witnesses, not even hearsay, were found against her, according to the records of a later trial. Later, in January 1322, Domenico *Rigi* da Paderno, from *cappella* S. Niccolò and Nanno di Berto da Vizzano, from the *contado*, were charged *ex officio* with the assault and murder of Misinella in her home in Vizzano, Domenico having carried out the attack at the behest of Nanno. According to the charge, they thought they had killed her without any danger to themselves, since they knew she was banned, but they also knew that she had been banned by a false accusation.<sup>556</sup> Shortly after they were banned, in March, the person who had made the false accusation against Misinella, now identified as Giacomo di Rocco Rocci, a notary from *cappella* S. Siro, was also brought to trial. He appeared in

<sup>554</sup> On the problem of false accusations in the 1280s, see Sara Menzinger, *Giuristi e politica nei comuni di popolo. Siena, Perugia e Bologna, tre governi a confronto* (Rome: Viella, 2006), pp. 283–284.

<sup>555</sup> For example, ASB, Podesta, Accusationes, Busta 40b, Reg. 2, fols. 57rv, Nov. 17, 1318. Bonaventura di Simino Bentivoglio from *cappella* S. Cecilia, member of the arms society and guild of the butchers, made an accusation against Bartolomeo di Pietro Scappi and Pietro (and his son Massimo) and Giacobino di Rambertino Scappi, all from *cappella* S. Pietro, and all identified as magnates “de domo de Scapis.” The charge was verbal insult (*verba iniuriosa*). As in this case, the *ministrales* were involved in instances of false accusation against magnates.

<sup>556</sup> ASB, Podesta, Inquisitiones, Mazzo 107, Reg. 6 (486, 379), fols. 15r–17r, Jan. 31, 1322.



court on March 5 and reiterated his claim that Misinella had stolen the clothes and belts from his house in Caselle. The judge himself went to Caselle to question the imputed's wife and neighbors. His wife denied she had kept clothes and belts in that house, and the neighbors said there was no *publica fama et vox* that the theft had occurred. Giacomo continued to deny the charge on March 6, but on March 7, possibly after having been tortured, he "spontaneously" (*sponte*) confessed that he had knowingly made a false accusation against Misinella, and that he did this at the instigation of Nanno di Berto da Vizzano (who had been banned for ordering the attack against Misinella) and that this was done so that she would be banned and then could be attacked with impunity.<sup>557</sup>

It presumably was more difficult to succeed in making a false *querela*, given the several stages of vetting that such a charge had to undergo, but it happened. A *denuncia* from a *querela* was made on Feb. 9, 1322 (the trial record does not give the name of the querelant) against Bonamico di Manfredino from *cappella* S. Maria Maddalena and his wife Jacoba, together with Mattiolo di Gerardo from the same *cappella*. The three were charged with assaulting Salvetto di Salvetto da Saliceto and his son Bartolomeo. All three were banned in the Council of 800 on Feb. 15, and given five days to appear before the ban went into effect.<sup>558</sup> But on that same day, Feb. 9, another *denuncia* was made by *querela*, this time by Bonamico who was the imputed in the other trial, against Salvetto, who was the victim in that other trial. In the second trial, the imputed Salvetto appeared, posted securities and was placed in prison. Six witnesses testified, but inconclusively. Four said they knew nothing, one saw Salvetto wounded and lying on the ground, and another had heard that Bonamico had been assaulted but did not know by whom.<sup>559</sup> Further to deepen the imbroglio, on Feb. 17, Mattiolo di Gerardo, one of those threatened with a ban in the first *querela* of Feb. 9, also brought a *querela*-based *denuncia* against Salvetto, his son Bartolomeo, and a certain Benvenuto for assault. But the entanglement of charges and countercharges, so typical of accu-

<sup>557</sup> ASB, Podesta, Inquisitiones, Mazzo 107, Reg. 6 (486, 379), fols. 28r-1r, March 5, 1322.

<sup>558</sup> ASB, Podesta, Inquisitiones, Mazzo 107, Reg. 6 (486, 379), fols. 18r-19r, Feb. 9, 1322.

<sup>559</sup> ASB, Podesta, Inquisitiones, Mazzo 107, Reg. 6 (486, 379), fols. 19v-20v, 46v, Feb. 9, 1322.

sation-initiated trials, was untied when the trial brought by Mattiolo abruptly became a trial *against* him as a *falsarius*, for having made a false *querela*. The trial ended with a ban against Mattiolo in the Council of 800 on March 6.<sup>560</sup>

As in accusation-origin trials, *querela*-origin trials could be initiated not so much to seek punishment of an offender or opponent as to bring pressure upon him or her to come to terms with the querelant and settle their dispute out of court. In such instances the querelant at some point in the trial would appear and “renounce” his pursuit of justice. For example, Guarino di Azzo from *cappella* S. Cecilia presented a *denuncia* from a *querela* and *riformagione* against Guglielmo and Rainaldino, sons of Lazzaro Liazzari who lived in the *contado*. They had failed to pay a debt of 54 pounds which they owed the querelant, and he had subsequently had them banned *pro debito*. But given their power, they refused to pay, saying, “We are not concerned about your ban, since you will not find any nuncio who would be willing to detain us.”<sup>561</sup> The querelant asked that they be compelled to pay him what they owed him, plus the expenses he had incurred, and that this be done within twenty days after he made the *denuncia*. The *denuncia* was made on Feb. 9, the first *citatio* on Feb. 10, and the second *citatio* on Feb. 12. On Feb. 18 the querelant appeared in court and renounced his *querela* and notification and asked that the trial be suspended because he had received full satisfaction from the imputed. The trial was then cancelled.<sup>562</sup> A *renuncia* also could take place in a trial for a major crime, as in the *querela*-initiated trial by Aldrevandino di Gentile from *cappella* S. Sigismondo against Giovanni di Filippo Sabadini from *cappella* S. Vitale (a member of one of the most prominent of *popolano* families), for the kidnapping of his sister, Domina Andrucia, daughter of Domina Catalina. The threatened ban, given in the Council of 800 on Aug. 6 was a heavy one (1,000 pounds and decapitation if ever captured), but the querelant appeared in court the next day and renounced the *querela*, thereby ending the trial and the ban process.<sup>563</sup>

<sup>560</sup> ASB, Podesta, Inquisitiones, Mazzo 107, Reg. 6 (486, 379), fols. 23v–24v, Feb. 17, 1322. The ban process against Mattiolo followed a normal timetable.

<sup>561</sup> “Nos non curamus de tuo banno quia non invennis aliquem nuncium qui velit nos detinere.”

<sup>562</sup> ASB, Podesta, Inquisitiones, Mazzo 107, Reg. 4, fols. 20r–22r, Feb. 9, 1322.

<sup>563</sup> ASB, Podesta, Inquisitiones, Mazzo 111bis (no register division), fols. 49r–52v, Aug. 4, 1323.

Given the adherence of judges to due process and the similarities in some aspects of a *querela*-initiated trial to a trial by accusation, why was the *querela* trial deemed so desirable and sought by so many petitioners? One significant advantage, as discussed above, was the rapidity of the ban process which served a dual purpose: it brought an offender or opponent quickly into a precarious status, and it could be used to leverage an out-of-court settlement. It also saved the querelant the costs of a trial initiated by accusation, without losing control of the process as might happen in a trial of *inquisitio* origin. It was valuable as an instrument for assuring that the podesta and his judges would take quick and serious action in a case that might otherwise be neglected or treated cursorily because of the power and prestige of the imputed. Above all, the *querela* was perceived and justified as providing equity, as a means of overcoming obstacles to the pursuit of justice that stemmed from the rigidity and restrictions of the law itself. For example, a person who was delinquent in payment of his or her taxes could not seek justice in the courts. Thus, Domina Margherita di Geminiano from *cappella* S. Biagio, a widow, was the victim of an attempted rape at night in her home. The culprit, Giovanni di Giacomo from *cappella* S. Maria di Castel dei Britti, broke down the door of her house, but her shouts for help brought people running to her rescue. She lodged an accusation against Giovanni, but he appeared in court and claimed successfully that she could not make an accusation against him since she was tax delinquent (*malpaga*) for a tax collected fourteen or more years earlier. She then sought a *querela* which called for the podesta and his judges to pursue her charge, despite her *malpaga* status, within five days of her *denuncia*. The judge conducted the trial with normal procedures, and Giovanni appeared in court to defend himself. Domina Margherita's attorney produced a strong case against him, including two eyewitnesses who had rushed to the scene of the attempted rape and had seen Giovanni in bed with the victim. The notary does not give us the verdict, but the point is that Domina Margherita had her day in court despite her tax delinquent status.<sup>564</sup> In another instance of a *querela* providing equity, Bernardino and Agnese, son and daughter of the deceased Bartolomeo Cospi from *cappella* S. Martino dei Pavanesi, made a *querela* against Lotto di Pino

<sup>564</sup> ASB, Podesta, Inquisitiones, Mazzo 107, Reg. 2 (479, 381), fols. 20r–23v, March 8, 1322.

Zambeccari and Petrone Sigizolli from *cappella* S. Procolo. Those two had been banned in a regular *inquisitio* under the prior podesta for the homicide of their mother and for robbing goods from her home. However, the notary writing the ban had committed fraud and had substituted false names instead of writing the names of the culprits. In their *querela* they asked that the culprits be considered legitimately banned and that the podesta have authority to capture and punish them. In this case the judge proceeded with a normal ban process but without witnesses.<sup>565</sup>

Podestas and judges used discretion in the way they decided to execute *querelle*-initiated trials. Their training and values made them adherents of due process, but they also had an incentive to proceed cautiously given their precarious position and vulnerability at their syndication reviews. On the one hand, the *querelle* and *riformagioni* often required that they proceed summarily, without admission of *exceptiones* and with suspension of solemnities, and with heavy fines, usually of 1,000 or 500 pounds at syndication if they did not meet the set deadlines or prosecute the offenders. On the other hand, they faced the possibility of claims, again with heavy fines, brought by imputed persons at the podesta and judges' syndications or immediately for violations of their rights and due process, as discussed above in section 5 on the *protestacio*. Whether from ideals or fear, or a combination of both, the podestas and judges resisted the corruption of due process represented by the *querela*.

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<sup>565</sup> ASB, Podesta, Inquisitiones, Mazzo 107, Reg. 6 (486, 379), fols. 21v–23r, Feb. 13, 1322.



## EPILOGUE

On Feb. 5 1327, the papal legate Cardinal Bertrando del Poggetto entered Bologna at the invitation of the *bolognesi*. After three days of festivals, Bologna surrendered its independence and republican institutions and proclaimed him *signore* of the city.<sup>1</sup> For most historians of Bologna, this end of the medieval commune marked the culmination of nearly fifty years of decline. For Hessel, the great *Novecento* historian of medieval Bologna, the era of the commune was over by 1280, after Bologna came under papal overlordship in 1278.<sup>2</sup> Modern historians, such as Antonio Ivan Pini and Giorgio Tamba, commonly pinpoint the stalemated war with Venice (1270–73) as the origin of Bologna's economic decline, and the expulsion of the Lambertazzi in 1279 (and the alliance of the *popolo* with the Geremei) as the origin of its political decline.<sup>3</sup> These interpretations share a common premise

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<sup>1</sup> Vito Vitale, *Il dominio della parte guelfa in Bologna (1280–1327)* (Bologna: Arnaldo Forni, 1978, reprint of 1901 edition), p. 184. Negotiations for his assumption of lordship had been initiated in December 1326. Cf. Augusto Vasina, "Dal Comune verso la Signoria (1274–1334)," in *Storia di Bologna. Bologna nel Medioevo*, ed. Ovidio Capitani (Bologna: Bononia University Press, 2007), pp. 581–651, esp. pp. 622–623, who questions whether the grant of authority to del Poggetto constitutes the establishment of the first *signoria* at Bologna.

<sup>2</sup> Alfred Hessel, *Storia della città di Bologna dal 1116 al 1280* (Bologna: Alfa, 1975 (Italian trans. by Gina Fasoli of original German published in 1910 as *Geschichte der Stadt Bologna vom 116 bis 1280*)), pp. 263–275.

<sup>3</sup> Pini sees the triumph of the *popolo*, which had allied in 1279 with the Geremei, as symbolizing the end of Bologna's golden age and the beginning of its decline. Pini, "Bologna nell'età di Re Enzo," in *Bologna, Re Enzo e il suo mito. Atti della Giornata di Studio (Bologna, 11 giugno 2000)*, ed. Antonio Ivan Pini and Anna Laura Trombetti Budriesi (Bologna: Deputazione di Storia Patria per le Province di Romagna, 2001), pp. 63–64 and his "Ravenna, Venezia e Bologna da Marcamò al Primario (1251–1271)," *Atti e memorie della Deputazione di storia patria per le province di Romagna*, new series, 43 (1992): 233–261, and his "Bologna nel suo secolo d'oro," in *Rolandino e l'ars notaria da Bologna all'Europa. Atti del convegno internazionale di studi storici sulla figura e l'opera di Rolandino*, ed. Giorgio Tamba (Milan: Giuffrè, 2002), pp. 5–20, esp. p. 17. For Pini factionalism was "the poison, the trigger for the malignancy of inevitable decline." Also his "Manovre di regime in una città-partito: il falso Teodosiano, Rolandino Passaggeri, la Società della Croce e il 'barisello' nella Bologna di fine Duecento," *Atti e memorie della Deputazione di storia patria per le province di Romagna*, new series, 49 (1988): 281–318. Giorgio Tamba, *Teoria e pratica della "commissione notarile" a Bologna nell'età comunale* (Bologna: Lo scarabeo, 1991), cites the beginning of an era of "rifiutto" with, *inter alia*, the passing of theoretical overlordship of Bologna from imperial to pontifical authority in 1278. However, even

of organic and biological inevitability.<sup>4</sup> Eclipsed in this interpretive approach, however, is the role of human actors and the balance between choice and constraint that marks change. Was the decline and defeat of the *popolo* inevitable? To what degree did the *popolo*'s policies and decisions contribute to its downfall in 1327?

The major findings of this study indicate that republicanism remained vital in Bologna even into the 1320s, but that the narrowing of oligarchical government, especially after 1306, intensified the exclusionary policies of the *popolo*, deepened factional strife, and set the stage for the adaptation of a more "protectionist" and destructive policy of political and juridical privilege and politicization of justice. That policy transformed the ranks of Bolognese society into rigid hereditary divisions, and exacerbated an environment of fear and conspiracy. These internal threats linked directly to the greatly increasing military threats from Bolognese political *banniti* and Ghibelline enemies that Guelf Bologna faced in the early fourteenth century, leading eventually and directly to the lordship of Cardinal del Poggetto. The key to understanding Bologna's submission to del Poggetto lies in the imbalance between the *popolo*'s internal and external policies and its financial resources. Underlying the *popolo*'s vulnerability and the negative effects of its choices were the constraints of its material base—an economy that could not yield the fiscal income needed to sustain *popolo* policies.

Bologna's economic and demographic growth had been precocious in the thirteenth century. At its medieval peak in 1280 it had 55/60,000 urban inhabitants, which declined to 50,000 in 1300, 45,000 in 1306, and 43,000 in 1324.<sup>5</sup> In this parameter, at least, Bologna's trajectory matches the views of traditional historiography. But this demographic decline did not stem, as often maintained, from the expulsion of Lambertazzi in 1279, nor was it as extensive as Dondarini conjectured.

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under the blows of floods and famine in the early decades of the fourteenth century, the Bolognese economy seems to have remained vibrant. Vasina, "Dal Comune verso la Signoria," pp. 614–615.

<sup>4</sup> On this approach in general, see Howard Kaminsky, "From Lateness to Waning to Crisis: The Burden of the Late Middle Ages," *Journal of Early Modern History* 4 (2000): 85–125.

<sup>5</sup> Rolando Dondarini, *Bologna medievale nella storia delle città* (Bologna: Pàtron, 2000), p. 173. In the thirteenth century, the population of the *contado* was also at approximately 50,000. By the early fourteenth century, the population in the mountains of the *contado* had declined. Arturo Palmieri, *La montagna bolognese del Medio Evo* (Bologna: Arnaldo Forni, 1929), pp. 237–240.

Medieval chroniclers and the modern research of Ancilla Montanari set the figure of Lambertazzi *banniti* at 12,000, which would have meant a loss of nearly 25 percent of the population at that time. That figure, however, has been shown by Giuliano Milani to have been greatly exaggerated and to have been closer to a loss of 4,000, a loss which was quickly recovered by a constant stream of Lambertazzi who were readmitted into the city, even before the reentries of 1292 and 1299.<sup>6</sup> Moreover, Dondarini based his population figure of 1306 on the assumption that the re-expulsion of the Lambertazzi of that year was as extensive as that of 1279.<sup>7</sup> But as Milani has shown, few were actually banned in 1306.<sup>8</sup>

Behind Bologna's demographic strength was an economy fueled by the city's geographic position, the presence of its famous *Studio*, the city's aggressive and successful policies of selective immigration, and its construction of canals.<sup>9</sup> As strong as the economy was, however, it

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<sup>6</sup> Giuliano Milani, *L'esclusione dal comune. Conflitti e bandi politici a Bologna e in altre città italiane tra XII e XIV secolo* (Rome: Viella, 2003), pp. 261–289, esp. p. 287. The last reentry of the Lambertazzi occurred in 1299, which left approximately 200 Lambertazzi under ban in 1300–1301. *Ibid.*, pp. 380–381. The 12,000 figure has a tight grip on Bolognese historians. Even in the recent overview by Vasina the 12,000 figure is cited. Vasina, “Dal Comune verso la Signoria,” p. 590.

<sup>7</sup> He postulated a fall in population of 4,500/5,000 persons after the final expulsion of the Lambertazzi in 1306. Dondarini, *Bologna medievale*, p. 168.

<sup>8</sup> Milani, *L'esclusione dal comune*, pp. 385–389. However, the Lambertazzi who had re-entered the city and sworn an oath of allegiance and therefore had been permitted to re-enter the popular societies as non-voting members, were expelled from those societies. All who had ever been declared Lambertazzi (including some of the White Guefs) were compiled into new lists, declared *interdicti*, and were forbidden political life and were subject to special taxation. *Ibid.*, pp. 378, 394.

<sup>9</sup> Bologna was situated between the Apennines and the Po and between the upper Adriatic and the upper Tyrrhenian seas, making it the crossroads for medieval (and modern) Italy. Dondarini, *Bologna medievale*, pp. 71–72, Massimo Giansante, “L'età comunale a Bologna. Strutture sociali, vita economica e temi urbanistico-demografici: orientamenti e problemi,” *Bullettino dell'Istituto storico italiano per il Medioevo e Archivio muratoriano* 92 (1985–86): 103–222, esp. p. 181. The *Studio* had approximately 2,000 students from all over Europe. Coming usually from wealthy families and with families and retainers, these students had a larger impact on the economy than their numbers imply. Douglas F. Dowd, “Power and Economic Development: The Rise and Decline of Medieval Bologna,” *Journal of European Economic History* 3 (1974): 424–452, esp. p. 429; Luigi Dal Pane, *La vita economica a Bologna nel periodo comunale* (Bologna: Istituto di Storia economica e sociale dell'Università di Bologna, 1957), pp. 103–106, and his “Lo studio e l'economia della città,” in *Studi Accursiani. Atti del Convegno internazionale di studi accursiani* (Bologna, 21–26 ottobre 1963), ed. Guido Rossi, vol. I (Milan: Giuffrè, 1958), pp. 41–53. On the university and the economy, see Antonio Ivan Pini, “La presenza dello Studio nell'economia di Bologna medievale,” in *L'università a Bologna. Personaggi, momenti e luoghi dalle origini al*



also was blocked from further growth by its strategic position and its economic dependence upon the *Studio* and transit trade. Bologna's site at the juncture between mountains and plains gave it strategic importance, but the swampy region of the plains to the northeast and the mountains to the south were also effective geographic barriers to economic development. To these structural limitations was added in the late thirteenth century the rise of a powerful *signore* (Azzo, Marquis of Este) who gained control of all three of Bologna's major neighbors in the northern plain—Ferrara, Modena and Reggio—and who then, as a thereby much enhanced rival, engaged Bologna in a major war from 1295–1299 that ended in stalemate. In addition, feudal nobles in the mountains made it extremely difficult to control that area or protect the roads to the south. In the case of the feudal nobles, Bologna faced a problem of great magnitude and a significant barrier to its growth, a much greater one than was faced, for example, by Florence.<sup>10</sup> To the southeast lay the Romagna. Although Bologna controlled Imola in the thirteenth century, its expansion in that direction was blocked by its Guelf alliances and its inability to challenge papal claims in that area, since Bologna needed papal approval for the existence of its *Studio*.<sup>11</sup> The *Studio* itself, while it was one of the major foundations of Bologna's early economic growth, also steered Bologna's merchants and bankers in the direction of serving the local university market and withdraw-

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XVI secolo, ed. Ovidio Capitani (Cinisello Balsamo: Silvana Editoriale, 1987), pp. 85–111. On the commune's immigration policies, see Maureen Fennell Mazzaoui, "The Emigration of Veronese Textile Artisans to Bologna in the Thirteenth Century," *Atti e Memorie delle Accademie di agricoltura, scienze e lettere di Verona*, series 6, 19 (1967–68): 275–322, and Antonio Ivan Pini, "Un aspetto dei rapporti tra città e territorio nel medioevo: la politica demografia 'ad elastico' di Bologna fra il XII e il XIV secolo," in *Studi in memoria di Federigo Melis*, vol. I (Naples: Giannini, 1978), pp. 365–408. On the canals and waterways, Giansante, "L'età comunale," pp. 181–182; Antonio Ivan Pini, "Porti, canali e mulini a Bologna dal X al XIII secolo," in *La pianura e le acque tra Bologna e Ferrara: un problema secolare. Atti del Convegno di Studi (Cento, 18–20 marzo 1983)* (Cento: Centro Studi Girolamo Barufaldi, 1993), pp. 269–295; Rossella Rinaldi, "La normativa bolognese del '200: tra la città e il suo contado," in *Acque di frontiera. Principi, comunità e governo del territorio nelle terre basse tra Enza e Reno (secoli XIII–XVIII)*, ed. Franco Cazzola (Bologna: Clueb, 2000), pp. 139–163.

<sup>10</sup> D. M. Bueno De Mesquita, "The Place of Despotism in Italian Politics," in *Europe in the Late Middle Ages*, ed. J.R. Hale, J.R.L. Highfield, B. Smalley (Evanston, IL: Northwestern University Press, 1965), pp. 301–331.

<sup>11</sup> Roberto Greci, "Appunti per una storia delle relazioni tra Parma e Bologna nel corso del secolo XIII," *Atti e memorie della Deputazione di storia patria per le province di Romagna*, new series, 52 (1999): 221–261, for more details on why Bologna did not expand westward.

ing from the greater risks of international commerce.<sup>12</sup> Dependence on the *Studio* in the twelfth and early thirteenth century rapidly propelled Bolognese merchants and bankers ahead economically, but it also made them vulnerable to the competition that arose in the later thirteenth century because of the rise of universities in other cities, and temporary withdrawals of the university students from Bologna, for example, the massive exodus in 1321.<sup>13</sup>

The problems of conspiracy, famine, and above all, war and fiscal insolvency were certainly not new in the early fourteenth century,<sup>14</sup> but in the late thirteenth century Bologna was able to fund its military initiatives and still maintain a major building and public works program.<sup>15</sup> Those challenges loomed larger in the early fourteenth century, but Bologna persisted in an ambitious foreign policy that its resources could not support, one that engendered strong internal resistance.<sup>16</sup> In 1322, Gozzadino Beccadelli and Alberto Conoscenti were appointed lords of the *officio maxenatarum*, the office responsible for the hiring and management of mercenaries, and the government deemed it appropriate to legislate that if they refused this appointment, they

<sup>12</sup> Antonio Ivan Pini, "L'arte del Cambio a Bologna nel XIII secolo," *L'Archiginnasio* 57 (1962): 20–81, esp. pp. 35–36 and 68–69. Even the wealthiest man in Bologna (and possibly in Italy), Romeo Pepoli, was initially active in the student market, later focusing on loans to rural communes and varied local clientele, and transforming his assets into landed properties. Massimo Giansante, *Patrimonio familiare e potere nel periodo tardo-comunale. Il progetto signorile di Romeo Pepoli banchiere bolognese 1125–c.1321* (Bologna: La fotocromo emiliana, 1991), and his "Romeo Pepoli. Patrimonio e potere a Bologna fra Comune e Signoria," *Quaderni medievali* 53 (2002): 87–112. Long-distance trade had flourished at Bologna at the end of the twelfth century, when Bolognese merchants attended the fairs of Champagne and regional fairs in central and south Italy and had a share in the collecting of papal tithes. By the late thirteenth century, however, they had greatly restricted the range of their activity, attending only the fairs of Ferrara, Mantua, Ravenna, Rimini, and (for grain) the markets of the Marches and Puglia. Giansante, "L'età comunale," p. 184, and Dal Pane, *Vita economica*, p. 118. In addition to local and transit trade, the other activity of Bolognese merchants was loans to local clientele.

<sup>13</sup> Giansante, "L'età comunale," p. 170. On transit trade, *ibid.*, p. 172. Antonio Ivan Pini, "Discere turba volens. Studenti e vita studentesca a Bologna dalle origini dello Studio alla metà del Trecento," in *Studenti e Università degli Studenti a Bologna dal XII al XIX secolo*, ed. Gian Paolo Brizzi and Antonio Ivan Pini (Bologna: Istituto per la storia dell'Università, 1988), pp. 45–136.

<sup>14</sup> Pini found evidence of economic difficulties even during the mid-thirteenth century, before the "turning point" of the 1270s. Pini, "Un aspetto dei rapporti," p. 387.

<sup>15</sup> *Atlante storico delle città italiane. Emilia Romagna*, vol. 2, *Bologna. Il Duecento*, ed. Francesca Bocchi (Bologna: Grafis, 1995).

<sup>16</sup> For Bologna's almost continuous military commitments in the second decade of the fourteenth century, see Vitale, *Il dominio della parte guelfa*, pp. 153–157.

would be subject to a fine of 1,000 pounds each, with no justice to be rendered to them in civil or criminal courts for the next five years.<sup>17</sup> The expulsion and ban of the Pepoli party in July 1321 made Bologna itself vulnerable to both internal conspiracy and military attack from political *banniti*, as, for example, when the Gozzadini plotted to open the gates of the city to the Scacchese *banniti* in January 1322, and when the Pepoli and Gozzadini and their followers assaulted the city itself in May 1322.<sup>18</sup> In November 1325 Bologna suffered a stunning defeat at Zapolino.<sup>19</sup> The commune had always struggled with the cost of garrisoning its *castelli*, but in June 1326, it decided to raze the *castello* of Caprara to its foundations since it could not find the funds to garrison it.<sup>20</sup> In July and September 1326, the commune decided to permit *fumantes* from selected rural communes to buy citizenship, to become “true and original citizens and *popolani* and to be of the *popolo* of the city”<sup>21</sup> and to have the added status of those whose ancestors had been enrolled in the *estimo* made by Pace *de Pacibus* in 1277–79. It made this extraordinary concession in order to meet expenses for a new war against Modena and Rainaldo Bonaccolsi. If a *fumans* failed to make the required payment within the first two weeks of August, he was to be automatically banned as a traitor and rebel.<sup>22</sup> In the second half of 1326, the situation deteriorated further as the need to purchase grain competed with military needs. Things reached the point where in September there was no money to pay the salary of the podesta and his staff.<sup>23</sup> In December 1326, just weeks before its submission to Cardinal del Poggetto, in an extremely rare instance of refusing aid to an ally, Bologna decided that because of its lack of money, it could not go to war against Modena as an ally of the Cardinal after all.<sup>24</sup> A few days later, the commune cancelled a mercenary contract in order to buy wheat.<sup>25</sup>

<sup>17</sup> ASB, Comune-Governo, Riformagioni 197, fol. 273v, June 21, 1322.

<sup>18</sup> Vitale, *Il dominio della parte guelfa*, pp. 174–175.

<sup>19</sup> ASB, Comune-Governo, Riformagioni 200, fols. 331rv, April 13, 1326 and fols. 333v–334r, April 25, 1326.

<sup>20</sup> ASB, Comune-Governo, Riformagioni 200, fol. 346v, June 16, 1326.

<sup>21</sup> “veri et originarii cives et populares et de populo civitatis Bononie.”

<sup>22</sup> ASB, Comune-Governo, Riformagioni 200, fols. 349v–350r, June 23, 1326 and fols. 375v–376r, Sept. 15, 1326. Also, in greater detail, in ASB, Comune-Governo, Provvisioni IV, fols. 304rv, July 31, 1326.

<sup>23</sup> ASB, Comune-Governo, Riformagioni 200, fol. 374r, Sept. 10, 1326.

<sup>24</sup> ASB, Comune-Governo, Riformagioni 200, fol. 409r, Dec. 15, 1326.

<sup>25</sup> ASB, Comune-Governo, Riformagioni 200, fol. 413r, Dec. 22, 1326.

In the early fourteenth century, the government responded to sedition, the increased demands of military alliances and military defeat itself with harshness and desperation. In the thirteenth century, the death penalty had applied to captured Lambertazzi *banniti*, but in the early fourteenth century it also applied to those who were not found at their places of confinement.<sup>26</sup> In 1282, the leader of a conspiracy, Giovanni Summa, was sent to confinement in Castelfranco and then to Modena.<sup>27</sup> In 1303, Castellano Piantavigne was executed for his leadership of a conspiracy.<sup>28</sup> Seditious speech became punishable at the discretion of the podesta.<sup>29</sup> After the expulsion of the Pepoli, the commune passed particularly harsh public security measures. No meeting of any size could be held without permission of the *anziani*, under penalty of decapitation.<sup>30</sup> Furthermore, the penalty was decapitation for anyone who said or wrote anything in opposition to the bans made against Pepoli and his followers.<sup>31</sup> A year later the discords within the Geremei party had still further increased, and a new law declared that anyone, male or female, noble or non-noble, etc., who called anyone a Lambertazzi or Ghibelline or called for death to the Lambertazzi or exaltation of the Geremei was to pay a fine pegged to his or her status,

<sup>26</sup> Milani, *L'esclusione dal comune*, p. 383, footnote 12.

<sup>27</sup> ASB, Capitano, Giudici, Reg. 22, fols. 10rv, Feb. 21–23, 1282.

<sup>28</sup> ASB, Comune-Governo, Provvigioni III, fol. 52v, March 24, 1303, for the confinement for two years of eleven other conspirators.

<sup>29</sup> ASB, Comune-Governo, Riformagioni 197, fol. 232r, Feb. 24, 1322. The podesta was granted *arbitrium* against those who had sought to capture Castel S. Pietro, those who supported Pepoli in 1321, and all who spoke against the pacific and tranquil state of the commune and *popolo*: “omnes et singulos male loquentes vel dicentes aliquid propter quod status pacificus et tranquillus comunis et populi Bononie et partis ecclesie et Jeremiensis civitatis Bononie possit turbari vel induci in dampnum vel providicum ipsius populi Bononie et partis ecclesie et Jeremiensis et libertatis dicti populi Bononie.” The *arbitrium* on speech crime was renewed regularly. ASB, Comune-Governo, Riformagioni 197, fols. 322rv, Nov. 30, 1322 and fol. 415r, July 11, 1323, at which point two men who were in custody were explicitly exempted from the penalties of amputation of a limb or decapitation. ASB, Comune-Governo, Riformagioni 198, fols. 37rv, Dec. 9, 1323. The earliest grant of *arbitrium* to the podesta for speech crime that I have found is from 1299, when the war with Este ended and many Lambertazzi were readmitted into the city. ASB, Comune-Governo, Riformagioni 150, fol. 138v, Aug. 31, 1299. In 1314, the grant against those speaking against the Geremei party gave the podesta authority to act on the word alone of the denouncer. ASB, Comune-Governo, Provvigioni IV, fols. 30v–31r, May 27 and 29, 1311.

<sup>30</sup> ASB, Comune-Governo, Provvigioni IV, fol. 141v, July 24, 1321. An earlier law had forbidden meetings in the *platea comunis* or in “any piazza (*trivio*) or place of the city,” under penalty of decapitation. ASB, Comune-Governo, Provvigioni IV, fols. 31v–32r, May 29, 1314.

<sup>31</sup> ASB, Comune-Governo, Provvigioni IV, fols. 147v–148r, July 28, 1321.

but if the person could not pay, his or her tongue was to be cut out and he or she was to be banned as a traitor and rebel. Charges for this crime could be made in secret and reviewed with all solemnities suspended.<sup>32</sup> The law of 1321 against anyone speaking or writing against the Pepoli bans was broadened to include anyone who suggested that a ban against anyone banned for uprisings since 1306 should be cancelled, with a penalty of decapitation with all properties confiscated.<sup>33</sup> Penalties for failure to fulfill military service or pay taxes were made more severe. If a captain of a fortification abandoned his post, the penalty was decapitation. If a guard did so, the penalty was amputation of his foot, with the same penalties applied to their guarantors.<sup>34</sup> Debtors of the commune who paid within a new set term of five days could be acquitted of all incurred penalties, but those who failed to pay were to be treated as traitors and rebels.<sup>35</sup> Ghibellines and their descendents were to be removed from the *militia* within eight days, or the podesta was to have the alleged Ghibelline's foot amputated. If a member of the *militia* were younger than twenty-five, or was a *fumans* or descendant of a *fumans*, or a servant or retainer (*famulus*) of anyone, he had to pay the substantial penalty of 300 pounds within eight days or be banned as a traitor and rebel.<sup>36</sup> In response to the attack by Pepoli at the city gates in 1322, the commune decreed that anyone who associated with Pepoli or his sons was to be decapitated within three days, as soon as it became clear (*liquidum*) to the podesta.<sup>37</sup> In 1325, a series of anti-crime provisions were yet again issued, which were even more stringent than usual. For certain major crimes, bans were not to be cancelled, with or without a *pax*, and anyone doing so or so advising was to suffer the same penalty as the culprit in that particular instance (*pena talionis*), a penalty that was to be applied summarily.<sup>38</sup> If a culprit in a trial conducted by the podesta and his judges were acquitted, the Capitano was empowered to retry the case and ban or condemn the imputed. Furthermore, the podesta was required to complete trials within one month instead of the usual two-month term. The requirement that charges by privilege against *fumantes* had to be approved by

<sup>32</sup> ASB, Comune-Governo, Rifformagioni 197, fols. 322rv, Nov. 30, 1322.

<sup>33</sup> Ibid. This law was to be regarded as a sacred ordinance.

<sup>34</sup> ASB, Comune-Governo, Rifformagioni 192, fol. 424v, July 18, 1320.

<sup>35</sup> ASB, Comune-Governo, Rifformagioni 197, fol. 283r, July 12, 1322.

<sup>36</sup> ASB, Comune-Governo, Rifformagioni 197, fol. 302r, Oct. 8, 1322.

<sup>37</sup> ASB, Comune-Governo, Provvigioni IV, fol. 172r, May 14, 1322.

<sup>38</sup> ASB, Comune-Governo, Rifformagioni 199, fols. 241v–242v, May 17, 1325.

a meeting of six *ministrales* of the accuser's society was cancelled, as were all arms-carrying privileges.<sup>39</sup>

As the crisis deepened, the commune turned to ever more extreme measures to raise funds for military needs and suspended legal rights that might interfere with the collection of taxes. For example, specifically because the commune was in great need of money for the fortifications (one of the key *castelli*, Castelfranco, had been occupied by the enemy), and because money had to be raised quickly, the decisions of certain special tax collectors were to be considered sacred and valid and their decisions were not to be appealed by any judge or attorney.<sup>40</sup> The tax farmers (*conductores*) and their guarantors were to be compelled by summary justice to pay the commune what they owed and were to be denied their right to make a *protestacio*.<sup>41</sup> In order to find men to garrison the fortifications, the commune acquitted sixteen men from an *inquisitio* by the podesta for robbery and housebreaking.<sup>42</sup> Because of the "enormous urgency" the commune faced in garrisoning the *castello* at Oliveto, several men from that rural commune were granted tax exemptions for the next ten years in exchange for serving as guards of the *castello* for the next five months.<sup>43</sup> External danger, rather than unifying the *popolo*, intensified rivalries and brutalized policies. In the wake of the military defeats at Zapolino and Borgo Panigale, the commune established a commission to record who had served in those military disasters against Bologna and to ascribe Lambertazzi status not only to them but also to their descendants.<sup>44</sup> Finally, the commune resorted to selling its laws. In the late thirteenth century, particular parishes (*cappelle*) had petitioned successfully to be declared zones forbidden to prostitutes. In 1326, ten parishes, in exchange for a payment of 3 pounds each, to be used for garrisoning Castelfranco, gained freedom for their parishes from prostitutes and brothels, with an extraordinarily large fine (1,000 and deprivation of office) against

<sup>39</sup> ASB, Comune-Governo, Riformagioni 199, fol. 244r, May 17, 1325.

<sup>40</sup> ASB, Comune-Governo, Provvigioni IV, fols. 201rv, July 13, 1323. The penalty for such a judge or attorney was a very heavy one of 1,000 pounds.

<sup>41</sup> ASB, Comune-Governo, Provvigioni IV, fol. 278r, Nov. 5, 1325.

<sup>42</sup> ASB, Comune-Governo, Provvigioni IV, fol. 263r, Sept. 29, 1324.

<sup>43</sup> ASB, Comune-Governo, Provvigioni IV, fols. 290v–291r, Jan. 26, 1326.

<sup>44</sup> ASB, Comune-Governo, Riformagioni 200, fols. 409v–410v, Dec. 17, 1326. The anti-Lambertazzi laws were also renewed and extended. Marriage was forbidden not only with any Lambertazzi, but with any political *bannitus* or *confinatus*, and the penalty for contracting such a tie was capital, with destruction of all properties.

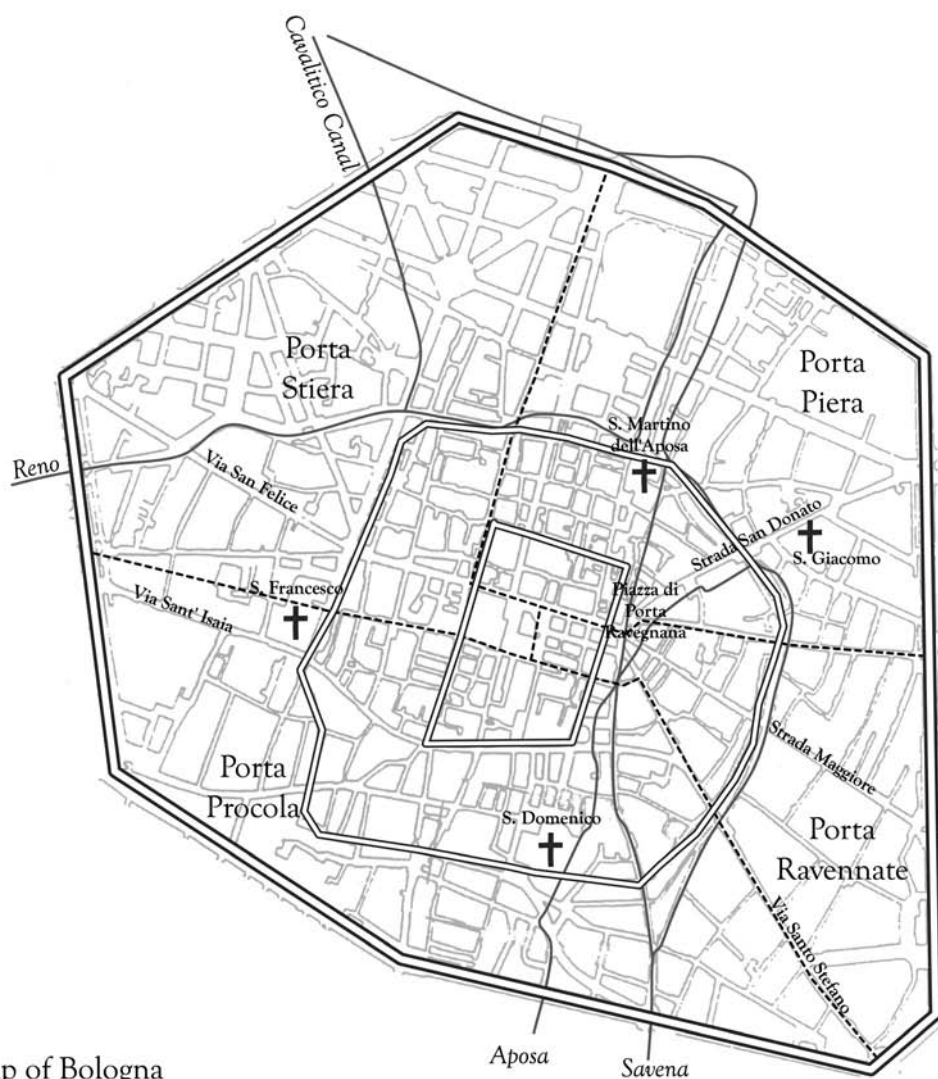
any official who did not uphold this law, which was designated furthermore as sacred and most sacred.<sup>45</sup> The *popolo* turned increasingly away from its political and juridical values, creating a climate of fear and inequity. The special judicial procedures of the *querela* and *protestacio* were developed as safeguards for a *popolo* that faced the necessity of protecting itself from the consequences of its own policies. But those judicial privileges corrupted justice and engendered more violent disputes and deeper hatreds, exacerbating the divisions within the *popolo* and further destroying its cohesion.

The commune and *popolo* of Bologna built a political and judicial system that was one of the most innovative and impressive of its age. The *popolo*, however, also constructed itself on the basis of privilege and exclusion, and thereby embodied both broad participation in government and the hereditary exclusion of thousands of citizens from political participation. In a similar paradox, its juridical practices embraced both due process and the politicization of justice. The *popolo*'s achievements in government and justice were remarkable and constituted more than the "intermezzo" label given it by some historians. But the *popolo* also contributed a legacy of political and judicial repression to the signorial regimes of its successors.

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<sup>45</sup> ASB, Comune-Governo, Provvigioni IV, fols. 292rv, Jan. 28, 1326. The law called for proving violations of the law by only two witnesses "de fama."

# MAP OF BOLOGNA



Map of Bologna

- City Walls
- Quarter Boundaries
- Streams and Canals

Source: ASB, Memoriali, vol. 228





## APPENDIX A

### JURISDICTIONS OF THE COURTS OF THE CAPITANO DEL POPOLO

Very little has been written about the jurisdiction of the Capitano del Popolo, mainly because the statutes of the *popolo* have not survived.<sup>1</sup> Hermann Kantorowicz, in his magisterial work on Alberto Gandino, included a very brief overview of the Capitano's office and courts, noting the predominantly political rather than criminal nature of his jurisdiction.<sup>2</sup> Giuliano Milani, in his recent study of the Lambertazzi, reviewed the functions of the Capitano in relationship to the expulsion of the Lambertazzi, using in particular the 1281–82 exemplar of the Capitano's oath from the *Demaniale* records. He also used the earliest registers from the *vicarius's* court of the Capitano (1275) to discuss how and why the Capitano's jurisdiction changed when he was entrusted in 1276 with responsibility for administration of banned Lambertazzi properties.<sup>3</sup> However, significantly more can be learned about the Capitano's jurisdiction and the functioning of his courts in the late *Duecento* and early decades of the *Trecento* from a review of

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<sup>1</sup> William Montorsi, "Plebiscita Bononiae. Il perduto Statutum Populi Bononie ed una raccolta di leggi sui beni dei banditi," in *Bullettino dell'Istituto storico italiano per il Medio Evo e Archivio muratoriano* 70 (1958): 181–298.

<sup>2</sup> Hermann U. Kantorowicz, *Albertus Gandinus und das Strafrecht der Scholastik*, vol. 1, *Die Praxis* (Berlin: J. Guttentag, 1907), pp. 62–63. Since he viewed the records primarily for those years in which Gandino served as a judge at Bologna, Kantorowicz missed the existence of certain courts and special judges of the Capitano, probably because records for those courts did not exist in the years he examined.

<sup>3</sup> Giuliano Milani, *L'esclusione dal comune. Conflitti e bandi politici a Bologna e in altre città italiane tra XII e XIV secolo* (Rome: Viella, 2003), pp. 292–93, 296–97. Milani does not discuss how the properties of *banniti* were administered prior to 1276, but that responsibility seems to have belonged to the podesta, as indicated by a sentence in the properties' court of the Capitano in 1281 that refers to an earlier sentence concerning banned properties which was made by a judge *ad bona bannitorum* of the podesta, *Dominus Rizardus de Belvedere*. He was podesta in 1270, before the first expulsion of the Lambertazzi. ASB, Capitano, Giudici, Reg. 14, fol. 11r, 1281. The only other work based on systematic use of the Capitano court records is a major quantitative study of the Bolognese judges and their *consilia sapientum* by Mathias Jehn. He did not, however, go beyond the work of Milani when discussing the activities of the courts. Mathias Jehn, "Die Versteckte Macht. Das *consilium sapientis* und der politische Einfluß der Juristen in Bologna. 1281 bis 1306," Tesi di dottorato, Scuola Superiore di Studi Storici di San Marino, 2002.

the actual corpus of over 700 extant registers from that period, collected in the series *Giudici del Capitano del Popolo*.<sup>4</sup>

In contrast to the administrative organization of courts in many other cities, such as Perugia, the Capitano and podesta in Bologna did *not* share jurisdiction in criminal matters. Although a few cases of a lesser criminal nature (carrying weapons, assaults, finding guards not at their posts at the city gates) can be found in the four registers from the Capitano's court from 1275 (prior to the reorientation of the courts noted by Milani), the podesta alone after 1276 was responsible for all criminal and civil courts. There were six courts for criminal cases under the podesta: *ad maleficia* (the main penal court), *maleficia nova* (crimes in the *contado*), *danni dati* (small claims damages and minor crimes in the *contado*), *corone et arme* (for enforcement of the sumptuary, weapons, gambling and curfew laws), the court *super stratis, sallegatis et aliis immundiciis civitatis et burgorum*, which is also referred to as the court for *aquis, stratis, pontibus, clavigis, sallegatis, fango et laboreriis civitatis* (for enforcement of the podesta's responsibilities for the cleaning and maintenance of streets, bridges, ditches, canals, and public works projects in the city), and the court for *vignis et palanchatis* (for damages to the vineyards in the city and *guardia*, the suburb just outside the city, or to the wooden palisades of the city walls).<sup>5</sup> These criminal courts were presided over by foreign judges

<sup>4</sup> ASB, Capitano del Popolo, Esecutore e Conservatore di Giustizia, Giudici del Capitano del Popolo.

<sup>5</sup> *Statuti di Bologna dell'anno 1288*, ed. Gina Fasoli and Pietro Sella (Vatican City: Biblioteca Apostolica Vaticana, 1937–39), vol. 1, Bk. I, Rubric V, “De sacramento iudicis domini potestatis,” VI, “De sacramento militum domini potestatis,” pp. 254–257, VII, “De sacramento notarii domini potestatis,” Bk. IV, Rubric CII, “De offitio saltuariorum civitatis et comitatus Bononie,” CIII, “Quomodo et qualiter debeant fieri accusationes et denuntiationes de dampnis datis,” CIIII, “Infra quantum tempus fieri debeant accusationes et denuntiationes dampnorum datorum,” CXI, “De ordinamentis vinearum guardie civitatis,” pp. 18–27, 254–257, 260–261. The judges of the *maleficia nova* court tried both major crimes and property damages in the *contado* until 1294. After that year they had jurisdiction only for property damages and responsibility for destruction of *banniti* properties. Ibid., vol. 1, Bk. I, Rubric III, “De sacramento domini potestatis,” pp. 17–18. Although that rubric speaks only to the addition of judges and notaries to the podesta's *ad maleficia* court, examination of the *inquisitiones* records of the podesta clarifies that this additional staffing signified the reassignment of duties for the *contado* directly to the judges of the *ad maleficia* court. The judges *ad maleficia* then assigned their *milites* to travel to the rural communes to take at least initial testimony from witnesses. The additional staffing mandated in 1294 brought the number of *ad maleficia* judges to two and the number of notaries (not including those *ex commissione*) to six. The number of notaries was later increased to eight.

and notaries except for the *maleficia nova* and *danni dati* courts which were presided over by Bolognese judges and notaries. The judges of the podesta also appointed local notaries *ex commissione*, especially for examining and recording the testimony of witnesses.

The records of the *ad maleficia* and *maleficia nova* courts have survived. Trials were recorded by notaries in two separate series: the *accusationes* records (for trials initiated by private accusation, that is, by the victim or his or her relatives), and the *Libri inquisitionum et testium* records (*inquisitio* trials initiated by notifications from private parties, or by *denuncie* of officials, usually the *massarius* of a rural commune, or the *ministralis* of a *cappella* or urban parish, or *ex officio* by the judge because of the notoriety of the crime or suspect). Among the *Libri inquisitionum et testium* records are also found the separate trial records from the *maleficia nova* court, written by Bolognese notaries. Foreign notaries from the podesta's entourage maintained all the other records. Each of those notaries kept one register for *accusationes* and at least one for *inquisitiones*, but recorded the testimony of witnesses from both types of trials together in a separate register called a *Liber Testium*. Sometimes the notaries wrote the verdicts into the margins of the *accusationes* and *inquisitiones* records, but the sentences themselves were kept in four separate types of registers: the *bandi* for sentences of bans, the *absolutiones* for acquittals, the *condempnationes corporales* for crimes that caused bodily injury, and the *condempnationes pecuniarie* for crimes that required fines. The latter registers of condemnations include both the podesta and the Capitano's sentences, but the Capitano kept his own registers of trials and bans.

The civil courts of the podesta consisted of the *dischum Aquile*, the major civil court where new cases, "*causas novas*," were initiated, the *dischum Cervi* for cases arising from the tax evaluators (*officio extimatorum*), the *dischi Bovis, Equi, Griphonis* and *Montonis*, an appeals court (*offitio appellationum*) for each quarter of the city, and the office with oversight for communal contracts (*offitio procuratorum comunis*). Except for the *dischum Aquile*, all these civil courts were presided over by Bolognese judges who served under the supervision of the podesta. In addition, officials from the entourage of the podesta also presided over the office for criminal and civil bans (*dischum ad bannitorium*), the office for the payment of fines and taxes and disputes arising from those payments (*dischum Ursi*), and the court of the judge (*officio sindicatus*) who was responsible for review of all accounts and actions of communal officials other than those of the entourages of the foreign

rectors, that is, he did not have review of the foreign judges and notaries of the podesta and Capitano del Popolo.<sup>6</sup>

There were exceptions, however, to the podesta's near monopoly over criminal acts. The Capitano treated criminal acts that occurred during military service, such as fights between citizen-soldiers, and shared responsibility in 1302 with the podesta for criminal acts committed near the border with Modena.<sup>7</sup> He also held authority over false accusation and false testimony cases and instances of verbal insult (*verba iniuriosa*) that took place in his own courts.<sup>8</sup> *Arbitrium* for false accusations made in his own courts was specifically given to him in November 1286.<sup>9</sup> Furthermore, he could prosecute his own officials for fraudulent or negligent behavior. The foreign rectors and their entourages were also subject to syndication by elected local officials, the *sindicatores*, at the end of their terms of office. Although the *sindicus* judge of the podesta was responsible for fraud among non-foreign communal officials from at least 1284, including those responsible for management of certain taxes (*dazi*), the Capitano was given special authority in specific instances, such as in 1304 in a fraud case concern-

<sup>6</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. II, Rubric III, "De generali electione officialium," pp. 46–47.

<sup>7</sup> For the Capitano's jurisdiction during wartime, see ASB, Capitano, Giudici, Reg. 2, fols. 1r–6v, June 1275 and, for his investigation of homicides and other injuries made by the army at Forlì in 1281, see ASB, Capitano, Giudici, Reg. 6, fols. 23r, 24r, 26r, June and July 1281, Reg. 9, fol. 34v, July 1281. See ASB, Capitano, Giudici, Reg. 235, fols. 19r–25r, for a *verba iniuriosa* case in 1325 in the fields near the rural commune of Castello Spilimberto in the *contado* of Modena, during the siege of that *castello*, and ASB, Capitano, Giudici, Reg. 734, fols. 1r–4v, July 1325, for two men banned by the Capitano for attacking officials during a military expedition against Modena in 1325. For the Capitano's jurisdiction in 1302 for crimes committed along the border with Modena, see ASB, Capitano, Giudici, Reg. 397, "Liber mallificiorum videlicet accusationum denuntiationum notificationum et inquisitionum..." The latter register belonged to the *vicarius* judge who was at this point also responsible for criminal activities in the rural communes situated on the road to Modena and Imola. Ibid., fols. 6r–7r, June 24–July 2, 1302, which explains the title of the register. The register consists, however, primarily of trials traditional to this court.

<sup>8</sup> ASB, Capitano, Giudici, Reg. 88, fols. 7r–9r, Dec. 9–11, 1286 for a false testimony trial against four men who had testified in October that they had seen a Lambertazzi *bannitus* living in the rural commune of San Giovanni in Triario. For a *verba iniuriosa* trial against the Malavoltis, see *ibid.*, fols. 55r–56r, March 30, 1286. There are also several false accusation cases in this same register.

<sup>9</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. V, Rubric CXVII, "De arbitrio concesso domino capiteo super acusacionibus, denuntiationibus et notificationibus falsis faciendis et testibus producendis in certis casibus infra positus," pp. 486–487.

ing the salt monopoly.<sup>10</sup> In 1315, the *anziani* elected two Bolognese judges to serve with a *miles* of the Capitano in an investigation of the salt office.<sup>11</sup> The Capitano also held a periodic *inquisitio generalis* over the outgoing group of *anziani*, with responsibility for prosecuting any wrongdoings charged against them.<sup>12</sup>

Another instance of overlapping jurisdictions in criminal cases occurred in the area of forgery. The podesta was responsible for falsification of any document produced in any civil or criminal trial,<sup>13</sup> but the Capitano had *arbitrium* over a particular category of falsification, that of fictitious contracts. These contracts were vehicles of extortion in the *contado*, in which a powerful person forced a weaker one to make a contract, usually for the sale of his property or for a loan, but no money was actually paid to the seller or receiver of the loan. Such acts of extortion flourished during the turmoil, especially in the *contado*, that marked the years of the first and second expulsions of the Lambertazzi in 1274 and 1279. At least initially, the Capitano's jurisdiction was limited to contracts made in the aftermath of those expulsions.<sup>14</sup> Although fictitious contract trials can be found later, for example, in 1309 concerning a loan made a few years earlier, most trials of this type are found in the 1280s.<sup>15</sup> In addition, the Capitano as well as the podesta tried charges of conspiracy. The podesta's courts tried the majority of such cases, including the 1287 conspiracy against

<sup>10</sup> For supervision of the tax farmers (*conductores*) of salt and cases of fraud among them that are adjudicated by the properties court judge, see ASB, Capitano, Giudici, Reg. 421, fols. 13v–15r, November 1303–Jan. 27, 1304, and Reg. 422, fols. 3r–5r, Jan. 7, 1304. There was some overlap between the Capitano and the *sindicus* judge of the podesta since the latter was responsible for fraud and negligent behavior of all non-foreign communal officials, but the Capitano's properties judge was responsible for the behavior of the *conductores et locatores* of Lambertazzi properties, as specified in an *inquisitio generalis* of the Capitano in 1290. ASB, Capitano, Giudici, Reg. 147, fol. 37r, and again in Reg. 421, fols. 2r–9r, Dec. 9, 1303.

<sup>11</sup> ASB, Capitano, Giudici, Reg. 600. The entire register is devoted to the investigation and includes the proclamations (*bandimenta*) issued in June on salt regulations.

<sup>12</sup> ASB, Capitano, Reg. 425, fol. 18v, October 1324, has an *inquisitio generalis* concerning the *anziani* with a report of corruption (usually there were no reports in these inquisitions).

<sup>13</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. IV, Rubric LI, "De pena falsorum testium et facientium instrumenta falsa et eo vel ea producentium," p. 213.

<sup>14</sup> See discussion in Chapter One. The fictitious or false contract law is referred to in a trial of 1282 as having been enacted in 1278. ASB, Reg. 21, fol. 1v, March 4, 1282.

<sup>15</sup> ASB, Capitano, Giudici, Reg. 505, fols. 11r–12r for the May 1309 trial. The petitioner refers to the prepotency of Paolo da Corvi, whom he describes as powerful during the dominance of the White Guelfs from 1300–1306, and as among those "who ruled the city at that time."

the Sacred and Most Sacred Ordinances, but the Capitano also tried conspiracy cases, as in 1281, 1282, 1289, 1295 and 1303.<sup>16</sup> Similarly, both the Capitano and podesta served as public security officials and acted against riots and uprisings in the city. In 1288, for example, the *vicarius* judge of the Capitano tried those accused of rioting against the officials of the podesta. The riots had taken place as the officials conducted two convicted men to the cattle market for execution of their sentences.<sup>17</sup> In 1289, the *vicarius* judges of both the Capitano and the podesta cooperated in a trial against those who had rioted against the Capitano, seeking to break down the doors of his palace.<sup>18</sup>

The above examples of the Capitano's responsibility for criminal matters, however, form exceptions to the almost exclusive focus of his courts on administrative and political measures and the charges and petitions that arose from enforcement of those measures. The *curia* of the Capitano actually consisted of four distinctive and permanent courts: those of the 1) *vicarius*, 2) Lambertazzi and rebel properties, 3) streets, roads, bridges and waterways, and 4) weights and measures. The *vicarius*, who was also the judge who served as the Capitano's deputy when, for example, the Capitano could not preside over the Consiglio del Popolo, was assisted by one notary, but at times had two notaries, as in 1299.<sup>19</sup> The properties court usually had one judge and two notaries, but in 1292–93 and 1299 this court had two judges,

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<sup>16</sup> ASB, Podesta, Inquisitiones, Mazzo 11, Reg. 4, fols. 58r–91v, 1287. For the 1281 conspiracy, ASB, Capitano, Giudici, Reg. 9, fol. 11r, March 18, 1281, for a ban against Count Rodolfo da Panico and Count Borniolo da Panico for conspiracy with Lambertazzi for the seizure of the rural commune of Pieve di Sambro. The conspiracy in 1282 involved the butchers' guild and resulted in the confinement of the *barisellus*, Giovanni Summa, to Modena. ASB, Capitano, Giudici, Reg. 22, fols. 10rv, Feb. 21–23, 1282. Reg. 260 is dedicated to the riot and conspiracy of the cordwainers' guild in 1295, much of which is published in Kantorowicz, *Albertus Gandinus*, vol. 1, pp. 264–265, 270–277. Also see ASB, Capitano, Giudici, Reg. 425, fols. 25r–27r, Dec. 6–11, 1303 for a trial and ban for treason against Mino di Matteo Bernardini who took letters entrusted to him in Cremona to the Marquis of Este in Ferrara, and Reg. 424, fols. 52r–53r, January 1304, for a trial and ban against Giovanni the *barisellus* for participating in plotting the uprising of March 1303.

<sup>17</sup> ASB, Capitano, Giudici, Reg. 115, fols. 37r–49r, July 1–9, 1288.

<sup>18</sup> ASB, Capitano, Giudici, Reg. 127, fols. 44r–80v, 125r–128v, July 27–Aug. 27, 1289. The cause of the riot was outrage that the Capitano and *anziani* had permitted the torture of a *popolano*.

<sup>19</sup> Kantorowicz, again looking only at selected years, concluded there were five notaries in the Capitano's courts, which generally holds for the late thirteenth century. By the second decade of the fourteenth century there were regularly six notaries, as in Reg. 650, fols. 2r–4r (1318), Reg. 663, fol. 3r (1319), and Reg. 714, fol. 1v (1323).

a reflection of the increased activity of that court as a result of a major readmission of Lambertazzi at those times.<sup>20</sup> The streets and roads and the weights and measures courts were each presided over by one *miles* and one notary, although in the early 1280s the presiding officials of those courts were judges. In addition, the Capitano's courts were assisted by eight nuncios and ten armed infantrymen (*berorarii*).<sup>21</sup> All these officials—judges, *milites*, notaries and *berorarii*—were part of the entourage that the Capitano brought with him from outside Bologna and its district, but the judges of the Capitano, like those of the podesta, could and did appoint Bolognese notaries who served “ex commissione” to interrogate witnesses and transcribe their testimony in particular cases.<sup>22</sup>

In addition, new juridical offices were periodically created, for example, the *officio exactoris averis*, which was established in 1302 for the purpose of recovering communal properties and collecting unpaid taxes and forced loans from the past six years. However, it should be noted that this office was performed not by a new official, but by the properties judge of the Capitano.<sup>23</sup> All who had not paid their taxes were given one month within which to do so. At the end of that term the Capitano and his properties judge were empowered to proceed against those who had failed to make payments by moving to the sale and destruction of the properties of non-payers.<sup>24</sup> Nevertheless, the majority of trials in this court consisted not of trials against those who did not pay taxes, but rather originated from petitions of persons who

<sup>20</sup> ASB, Capitano, Giudici, Regs. 191, 195 and 201 belong to *Dominus Jacobus Scarpe*, judge of the court *ad bona bannitorum lambertaciorum* and Reg. 199 belongs to the second judge of that court, *Dominus Tadius*. Both served from October 1292 through March 1293.

<sup>21</sup> ASB, Capitano, Giudici, Reg. 15, fol. 1v, Aug. 1, 1281, and Reg. 8, fol. 5r, April 18, 1281. In his study of *consilia* and *sapientes* in the Capitano's courts up to 1306, Jehn refers to the courts, on the basis of the Statutes of 1288, as having “six officials after 1256” but that figure is based on a misreading of that text. Jehn, “Die Versteckte Macht,” p. 199.

<sup>22</sup> This practice was particularly standard in the properties court. ASB, Capitano, Giudici, Reg. 14, 1281 *et passim*.

<sup>23</sup> ASB, Capitano, Giudici, Regs. 391 and 393 (1302). The judge in both registers was *Dominus Vetulus de Ferro de Parma*, “judex et assessor dicti domini capitanei ad bona bannitorum partis lambertaciorum deputatus et presidens officio dictarum exactionum.” The legislation creating this function is referred to as having been enacted in June 1302. Reg. 393, fol. 12r.

<sup>24</sup> ASB, Capitano, Giudici, Reg. 393, fol. 2r, June 24, 1302. Charges against non-payers could be made in secret or openly by anyone who wished to do so.



claimed they had been unfairly identified as foreign moneylenders (*prestatores forenses*) or as a tax delinquent person (*malpaga persona*) by other officials.<sup>25</sup>

In 1310, however, with another review again for the prior six years, a related function was performed by two judges and two notaries who served under the podesta, not the Capitano. The *arbitrium* of these officials emphasized not the payment of back taxes, but rather review for fraud in the management of communal properties and financial offices of the past six years. The extant records from this office are collected in the series *Difensori dell'avere e dei diritti di camera*, but except for the first *busta*, which includes the enabling legislation of 1310, the series consists of documents from the late fourteenth century.<sup>26</sup> However, there are also six registers from this office from 1313–1314, misleadingly archived under the Capitano del Popolo in the series *Giudice ai beni banditi e ribelli*.<sup>27</sup> The recovery of communal and *banniti* properties was a complex and multilayered administrative effort, and the *defensores* did not replace the *sindicus* judge of the podesta in this effort. By 1315 (there is a gap in the records), the *sindicus* judge of the podesta still existed but was styled as *judex ad exactationem et recuperationem averis comunis Bononie*. His role was twofold: to adjudicate charges of fraud against officials, but also to hear appeals from trials in which officials took action for the recovery of communal and *banniti* properties.<sup>28</sup>

Furthermore, although the Capitano already had jurisdiction over waterways in the *contado*, in 1312–1313, as a result of massive floods in that year and subsequent concern for the wheat harvest, the commune appointed a new temporary foreign official, the *iudex aquarum*, who functioned independently of the court of roads, bridges and

<sup>25</sup> ASB, Capitano, Giudici, Reg. 393, fol. 9r–36r and Reg. 391, fol. 4r–9r, 1302. The *vicarius* judge continued to serve as the court of appeals for those who believed they were unfairly designated as Lambertazzi and should not be subjected to the special taxes and forced loans imposed upon them as such, for example, ASB, Giudici, Reg. 594, fol. 31r, Oct. 7, 1314 *et passim*.

<sup>26</sup> ASB, Camera del Comune, Difensori dell'avere e dei diritti di camera, Busta 1, Reg. 1 has the legislation. Regs. 1b–f contain specific trials and *Libri testium* from 1310 and account records of the financial officials who were reviewed from 1304–1310.

<sup>27</sup> ASB, Capitano del Popolo, Giudice ai beni banditi e ribelli, Mazzo 17, Regs. 24, 27, 30, 31, 196, and 314.

<sup>28</sup> ASB, Podesta, Sindacato, Busta 17, Reg. 956, fol. 3r, Feb. 18, 1315.

waterways, but still under the supervision of the Capitano.<sup>29</sup> In 1298, 1303 and 1308, the commune also supplemented the work of the Lambertazzi and rebel properties court with the appointment of special commissions of laymen (non-judges), who were to find and confiscate the properties of rebels, again under the supervision of the Capitano.<sup>30</sup> In both instances, the commissions were clearly a response to the successful thwarting of conspiracies in those years and the subsequent banning of opponents and confiscation of their properties.

The courts of weights and measures and that of roads, bridges and waterways generally retained their spheres of responsibility throughout the period. In the weights and measures court, the *miles* periodically conducted an *inquisitio generalis*, seeking to uncover any discrepancies in merchant and shopkeepers' use of balances and prosecuting those he discovered. In the roads, bridges and waterways court, the *miles* supervised the work of rural communes on public works projects such as the repair or building of new roads and bridges or repairing and draining the embankments of waterways. He also adjudicated any disputes that arose between the rural communes and the managers (*superstantes*) of the projects. Communes that failed to provide the mandated service were penalized, but communes also could appeal impositions by the project managers that they deemed unjust or contrary to their privileges and those appeals were tried in the roads, bridges and waterways court.<sup>31</sup> The Capitano's sphere in this area was primarily the *contado*,

<sup>29</sup> ASB, Capitano, Giudici, Reg. 548, April 1312–March 1313. This register covered the administrative quarters of Porta S. Procolo and Porta Ravegnana. The judge was *Dominus Bartolomeus de Castro Florentie* and his notary was *Datus filius Gentilis de Castro Florentie*. Reg. 550 is also from this court and has an *exemplum* from the Consiglio del Popolo describing the structure of the court. The judge's appointment was to last one year and he was to have an associate with jurisdiction over the other two quarters. Regs. 551 and 552 also concern this court.

<sup>30</sup> ASB, Capitano, Giudici, Reg. 328, fols. 1v, 12r–13v, January and May 1298. This commission was elected by the *anziani* and consisted of two men from each quarter of the city. Their charge was to investigate the properties of banned persons and rebels of the Lambertazzi party up to the time of the present war if those persons had not sworn allegiance to Bologna. Also see Reg. 406, June 15–July 24, 1303 for a commission of four men. Reg. 500 is dedicated to the inquisitions carried out by a panel of eight *bolognesi*, including four judges, who comprised an office for examining, approving and rejecting the rights of those who were of the Geremei party to the properties of Lambertazzi banned on the occasion of the uprising of March 1308. The trials arose from petitioners with claims against the properties of the banned.

<sup>31</sup> ASB, Capitano, Giudici, Reg. 147, fol. 37r, Aug. 2, 1290, for an *inquisitio generalis* of the Capitano that specifies his responsibility over fortifications, roads, ditches, waterways and other work projects, and that the statutes and *reformagioni* are to be

whereas the podesta managed urban streets. However, the Capitano could become involved in urban projects, as he did in the mid-1280s when he had responsibility for rendering sentences on the values of houses next to the major communal piazzas (the *platea comunis* and *Trivio Ravennatis*) that were being bought by the commune, and the moving of the church of S. Maria dei Rustigani.<sup>32</sup>

The courts of the *vicarius* and Lambertazzi and rebel properties underwent some significant changes and expansions in their responsibilities over the course of the late thirteenth and early fourteenth centuries, but certain responsibilities were consistently executed by these judges. The *vicarius*'s court had the vital political function of maintaining the integrity of the guilds and arms societies and for settling disputes that arose between the societies. Individuals who were charged with being illegally enrolled in the societies (as a Lambertazzi, magnate, *fumans*, foreigner, or infamous person) were tried in the court of the *vicarius*, and if convicted were expelled from the societies and required to pay a fine.<sup>33</sup> If a guild believed that an individual who was not a member was practicing the guild's craft, it petitioned the *vicarius* to require that person to become a member. If the person charged failed to prove his defense, he was forced to enroll in that guild.<sup>34</sup> If a person was denied admission to a society, or was expelled by the society's officials, he could appeal that decision to the *vicarius*, and if the verdict was in his favor, he would be reinstated in the society.<sup>35</sup> Trials could arise from disputes within societies, as in the cases between the blacksmiths and goldsmiths and between the fishmongers of the *trivio* and the *platea*, which ultimately resulted in both cases in the separa-

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observed, and that *conductores et locatores* must fulfill their obligations and that he will punish any found guilty.

<sup>32</sup> ASB, Capitano, Giudici, Reg. 78, fols. 115r–118r, Dec. 21–25, 1285, Reg. 80, fol. 4r, Oct. 9, 1285, and Reg. 86, October 1286–March 1287.

<sup>33</sup> For purges of the membership of the societies and Consiglio del Popolo, see Chapter One.

<sup>34</sup> ASB, Capitano, Giudici, Reg. 34, fol. 5v, Oct. 19, 1282, for a petition from the *ars lane bixelle*. In this case the imputed refused to join the guild so was forbidden by the *vicarius* judge from exercising that craft under penalty of 100 *solidi*.

<sup>35</sup> ASB, Capitano, Giudici, Reg. 107, fols. 17r–19v, Dec. 9–24, 1287. In this case the *ministrals* of the arms society of the Lombards wanted to expel Gilliolo *de Oldraxiis* da Cremona from their society. He appealed, but the society challenged the Capitano's jurisdiction in such a case. A *consilium sapientis*, however, affirmed that although initial jurisdiction belonged to the society, the Capitano did have jurisdiction since the imputed had appealed the decision of the *ministrals* to the Capitano.

tion of the conflicting parties into separate guilds.<sup>36</sup> The *vicarius* also adjudicated disputes between the guilds and other corporations, as in the conflict between the coarse wool guild and the *Humiliati* fraternity of S. Cristoforo, which also produced wool cloth.<sup>37</sup>

The *vicarius* also performed the political task of prosecuting Lambertazzi *banniti* who appeared within Bologna and its district and those who gave them shelter (the podesta had jurisdiction over all other *banniti*, i.e., those banned for crimes and debts).<sup>38</sup> He also held monthly reviews of those Lambertazzi who were confined to specific places within and outside the district of Bologna and prosecuted those who were not found at their assigned places of confinement. Another political function performed by the *vicarius*'s court was monitoring the membership of the Consiglio del Popolo to ensure that Lambertazzi, magnates, *fumantes*, foreigners, and infamous persons were excluded from that council. This function was challenged successfully, at least in part, in 1292, when a *consilium sapientis* in a trial advised that the Capitano did not have jurisdiction against those charged with being illegally elected to the Consiglio del Popolo on the grounds that they did not have a tax evaluation (*estimo*). However, in later years such cases were again tried in the *vicarius*'s court.<sup>39</sup> He also had jurisdiction over the eligibility of *anziani* to hold office. In 1292, for example, Cavalino di Martino Cavali was charged in the *vicarius*'s court by the *ministrals* of the two preeminent societies with illegally holding the office of *anzianus* since he spoke a foreign language (*de lingua forense*).<sup>40</sup>

In addition, and again in the political sphere, the *vicarius* had responsibility for protecting rural communes from the prepotency of *contado* nobles and urban magnates. This responsibility was implemented, as discussed in Chapter One, by trials against those who executed fictitious contracts, and also against those who committed other acts of

<sup>36</sup> ASB, Capitano, Giudici, Reg. 82, fols. 47rv, 50v, 61r, July 13–17, 29, Aug. 19, 1286, Reg. 87, fol. 12v, Oct. 24, 1286, Reg. 118, fols. 18rv, May 18, 1288, and Reg. 218, fol. 13r, May 5, 1293, for the blacksmiths and goldsmiths, and Reg. 118, fols. 28r and 32r, June 3, 1288 for the fishmongers.

<sup>37</sup> ASB, Capitano, Giudici, Reg. 75, fols. 91v, 97r, 109r, Feb. 18, 23, and March 11, 1286, and Reg. 118, fols. 25r, 30v, 35v, 36r, May 18–June 23, 1288.

<sup>38</sup> Milani, *L'esclusione dal comune*, analyzes the incidence of such trials, showing their diminishing frequency over time.

<sup>39</sup> ASB, Capitano, Giudici, Reg. 180, fols. 3r, 26r, 28r *et passim*, April 11, May 16, 1292.

<sup>40</sup> ASB, Capitano, Giudici, Reg. 180, fol. 93v, Sept. 21, 1292.

extortion against the communes, against officials of those communes who committed fraud (usually in collusion with some powerful noble or magnate) and against magnates and nobles who illegally held office in those communes.<sup>41</sup>

The major responsibility of the judge of the properties court also resided in the political sphere. He was entrusted with management of the confiscated properties of all who were banned for political reasons, Lambertazzi of course, but also those banned in 1303 and 1308 as a result of the failed conspiracies of those years. Trials in his court revolved around issues of property ownership. Lambertazzi who swore allegiance to the Geremei party, or the heirs of banned Lambertazzi, were able to reclaim their properties through this court. A person who believed that a piece of land belonged to him and not to a banned Lambertazzi could claim that piece of land in the properties court. This judge also adjudicated charges against the *conductores* of Lambertazzi properties and those who had rented property from them.

The responsibilities of the *vicarius* and properties judges expanded at the turn of the century at the same time that the number of trials in their traditional spheres diminished. In particular, the level of activity in the properties court fell sharply after the final reentry of the Lambertazzi in 1299.<sup>42</sup> Shortly thereafter, however, that judge was given new duties. He became responsible for implementing the procla-

<sup>41</sup> ASB, Capitano, Giudici, Reg. 147, fol. 37v, May 30, 1290, for an *inquisitio generalis* of the Capitano. For examples of extortion by *contado* nobles, see ASB, Capitano, Giudici, Reg. 6, fol. 5v, March 5, 1281, fol. 9r, March 17, 1281, fol. 12r, March 15, 1281. The last charge was against Bonifacio Galluzzi, of the urban magnate family, charged here with sending his agents through the commune demanding grain and hay, a charge repeated against him in 1290, Reg. 135.

<sup>42</sup> The caseload of all the courts, especially those of the Capitano, fell sharply earlier during the war against the Marquis of Este of Ferrara. Thus, in 1296 a register from the properties court recorded only four cases between May and October of that year. ASB, Capitano, Giudici, Reg. 297. At that time the properties judge assumed new military functions, such as responsibility for reviewing those who had been sent to guard fortifications in the *contado*. ASB, Giudici, Reg. 295. ASB, Capitano, Giudici, Reg. 331 from the same year makes the wartime function of the properties judge explicit: "Inquisitiones notificationes denunciationes facte contra homines et personas civitatis et comitatus Bononie et contra omnes qui acusanter stetisse in terris inimicorum civitatis Bononie tempore...sub examinatione sapientis viri domini Johannis de Val-lalonga iudicis dicti domini capitanei ad recipiandum bona bannorum comunis pro parte lambertaciorum." The register, extending from April through July 7, has only five trials, only one of which is a properties case. Again from 1298, Reg. 327 from the properties court has twenty trials, nine of which concerned charges that the imputed had gone to live with the enemies of Bologna.

mations (*bandimenta*) regulating the illegal exporting, importing and harboring of wheat. Supervision of the wheat proclamations appears early in the records as part of the *arbitrium* of the Capitano, but the oversight of the properties judge in this area was a later development, the earliest evidence of which survives from 1303.<sup>43</sup> As noted above, this judge also assumed military functions during the war of 1296–1299 with the Marquis of Este.

During the early years of the fourteenth century, despite the diminution of his traditional workload, the *vicarius* judge of the Capitano was given a second notary, needed to assist in the significant increase in a relatively new type of trial that came to dominate the activities of his court. These trials had their origin in petitions to the Consiglio del Popolo for actions by that body that would give special powers to the podesta to act in the name of equity, usually for the restitution of properties or for the suspension of a law that was perceived as inhibiting the execution of justice in a particular instance, whether in the criminal or civil courts. Petitions to the Consiglio del Popolo did not constitute a new phenomenon early in the fourteenth century, but the scope and number of such petitions did increase dramatically, especially after 1319, with the initiation of the *querela* petition, as discussed in Chapter Five. These petitions, before being reviewed by the Capitano and *anziani* for suitability for submission to the Consiglio del Popolo and action by the podesta, were first reviewed by the *vicarius* of the Capitano. He gave the other party concerned in the matter of the petition the opportunity to come forward and oppose the petition.<sup>44</sup> When the opposing party did appear, the *vicarius* judge of the Capitano held a trial to determine the validity of the petitioner's claim

<sup>43</sup> For the early wheat *bandimenta*, see ASB, Capitano, Giudici, Reg. 30, fols. 13r–16v, Aug. 4–13, 1282, and for a trial in which the charge was hoarding wheat, Reg. 27, fols. 5r–10v, Aug. 10, 1282. For the competency of the properties judge in this area in 1303, see Regs. 413, 414, and 416. Reg. 435 has a reference to a *riformagione* on this issue made in 1304.

<sup>44</sup> ASB, Capitano, Giudici, Reg. 180, fol. 87v, Aug. 26, 1292 has one of the earliest of the petitions in the *vicarius*'s court. Bartolomeo, son of the deceased Zaccaria, was petitioning the *anziani* and Consiglio del Popolo not to have to pay 60 pounds to the monastery and convent of the sisters of S. Salvatore and the judge called the opposing party, i.e., the monastery, to come and oppose the petition if they wished to do so. The opposing party could also be a communal official, as in the case in ASB, Capitano, Giudici, Reg. 344, 1298–99, fols. 37v–41r, Dec. 6, 1298, where the petition is opposed by an official of the *officio procuratorum*. One of the earliest examples of a full trial emerging from a contested petition is in ASB, Capitano, Giudici, Reg. 362, fols. 101r–104v, Sept. 18–Oct. 15, 1300. Petitions are analyzed in Chapter Five.

and decide whether or not to recommend to the Capitano that he in turn recommend to the *anziani* that the petition be forwarded to the Consiglio del Popolo. Management of these petitions and subsequent trials on their eligibility to go forward became the predominant activity of the *vicarius*'s court in the early decades of the fourteenth century. By 1303, separate registers dedicated to this type of petition appear among the records of the *vicarius*.<sup>45</sup>

The *vicarius*'s court experienced in the second decade of the fourteenth century an increase in another type of activity based on appeals to the Capitano from defendants in the courts of the podesta against the the podesta and his judges. Although the podesta and Capitano represented two independent, parallel and coequal rectors, the highest officials of the government, the Capitano, in his role as protector of the *popolo* and Sacred and Most Sacred Ordinances, held an edge of authority over the podesta. For example, in 1293 the Capitano, on the authority of his own oath, instructed the podesta on certain of the latter's responsibilities, in particular the guarding of Lambertazzi in the communal prisons and the forbidding of Lambertazzi from carrying weapons, and reiterated strictures on the podesta's use of torture.<sup>46</sup> Central to the podesta's accountability to the Capitano was the statute of 1288 that protected members of the guilds and arms societies from torture by the podesta and his officials. If the podesta thought he had sufficient circumstantial evidence (*indicia*) to proceed to torture a member of the popular societies, he was required to seek and receive a special license from the Capitano for that purpose.<sup>47</sup> Furthermore, the Capitano, as the official charged with upholding and protecting the Sacred and Most Sacred Ordinances, was required to ensure that the podesta fulfilled the obligations placed upon him by those Ordinances. In 1296, for example, the *vicarius* judge of the Capitano declared and

<sup>45</sup> The earliest such register to survive is ASB, Capitano, Giudici, Reg. 353, Feb. 12–July, 1299. The first eight folios comprise the *inquisitio generalis*, and the petitions begin with a new *quaderno*, as *Petitionum liber*, fols. 17r–28r. Another example is Reg. 456 from 1303. Other registers of the period continue to have a mix of petitions, accusations and inquisitions, such as ASB, Capitano, Giudici, Regs. 433, 435, and 447, from 1304.

<sup>46</sup> ASB, Capitano, Giudici, Reg. 34, fol. 6v, Oct. 25, 1282. The instructions were presented in person by the Capitano to the podesta in the assembly meeting place (*super arengheria*) outside the communal palace, with more than twenty persons present.

<sup>47</sup> Fasoli-Sella, *Statuti dell'anno 1288*, vol. 1, Bk. IV, Rubric XVII, "De tondolo et tormento," pp. 184–185. See Chapter Five, section 2.

protested to the *vicarius* judge of the podesta that the latter must execute the notification received by the Capitano from a widow's attorney that she was being disturbed in the use of her lands by *contado* nobles of the da Cuzzano family.<sup>48</sup> Although there were no appeals in criminal cases, a *popolano* could appeal to the Capitano if the podesta did not respect the legal privileges members of the popular societies held, privileges which gave them immunities from prosecution for certain crimes.<sup>49</sup> From 1317, the appeals of members of the popular societies to the Capitano for action by him on their behalf against the podesta and his judges became a regular feature of the court of the Capitano's *vicarius*—the *protestacio*, as discussed in Chapter Five, section 5 and Appendix F, Table V.5.

What was the common thread that connected the array of responsibilities held by the Capitano's courts? From the examples cited above, one can see that the Capitano's *arbitrium* stemmed from his primary role as protector of the *popolo* from external and internal enemies, both for the *popolo* as a political entity and for the individuals that comprised that entity. All who were considered to be "outsiders" and thereby potential enemies of the *popolo* had to be purged from the guilds and arms societies and kept from holding *popolo* offices. The enemy of dissent and internal conflict had to be suppressed by mediation and reconciliations of disputes within and between the popular societies, and the rights of *popolani* to petition the *anziani* and Consiglio del Popolo had to be reviewed so that they did not abuse the rights of others. The *popolo* government and the Sacred and Most Sacred Ordinances had to be protected from conspiracies that arose within the *popolo* itself. The *popolo* as a whole had to be protected from fraud by its officials and the practitioners of its crafts. Control of the rural communes and fortifications, roads, waterways and borders had to be maintained against powerful individuals and external enemies and the *popolo* military organizations maintained in an appropriate state of preparedness. Finally, the *popolo*'s privileges had to be upheld against abuses of authority by the podesta and his judges. Thus, whereas the podesta in his courts acted against those who abused the laws of the commune, the Capitano particularly acted to maintain the integrity and privileges of the *popolo*.

<sup>48</sup> ASB, Capitano, Giudici, Reg. 305a, fol. 24r, April 5, 1296.

<sup>49</sup> ASB, Capitano, Giudici, Reg. 180, fols. 73rv, Aug. 13, 1292.





# APPENDIX B

## TABLE FOR CHAPTER ONE

TABLE I.1  
Guilds and Arms Societies

Societas	Guilds
Soc. Aurificum	Goldsmiths
Soc. Barberiorum	Barbers and surgeons
Soc. Bechariorum pro arte	Butchers
Soc. Bixileriorum	Sellers of coarse cloths of mixed fibers
Soc. Calegariorum	Bootmakers, tanners and shoemakers
Soc. Calzolariorum de vacha	Shoemakers (using cowhide)
Soc. Campsorum	Bankers/money-changers
Soc. Cartholariorum	Makers of parchment
Soc. Cordoaneriorum	Cordwainers—workers in goatskin leather
Soc. Curionum et Cunzatorium	Curriers—dressers of leather and tanners
Soc. Draperiorum pro arte	Dealers in cloths and dry goods (drapers)
Soc. Fabrorum	Blacksmiths
Soc. Lane Bixelle	Weavers and sellers of coarse wool cloths
Soc. Lane Gentilis	Weavers and sellers of fine wool cloths
Soc. Linarolorum	Flax dressers and sellers of linen cloths
Soc. Magistrorum lignaminis	Master carpenters and wood-workers
Soc. Merchatorium	Merchants
Soc. Merzariorum	Haberdashers
Soc. Muratorium	Masons
Soc. Notariorum	Notaries
Soc. Pellipariorum novorum	Furriers—new furs
Soc. Pellipariorum veterum	Furriers—old furs
Soc. Piscatorium	Fishmongers
Soc. Salarolorum	Salt-sellers
Soc. Sartorum	Tailors
Soc. Speziarium	Spice merchants and apothecaries

Table I.1 (*cont.*)

Societas	Arms Societies
Soc. Aquile	Eagles
Soc. Balzanorum	Horses with white markings
Soc. Bechariorum pro armis	Butchers
Soc. Brancarum (Branche de Castello)	Claws
Soc. Castellorum	Castles
Soc. Clavium	Keys
Soc. Draconum	Dragons
Soc. Draperiorum pro armis	Dealers in cloths and dry goods (drapers)
Soc. Griffonum	Griffins
Soc. Leonum	Lions
Soc. Leopardorum (Lupardorum)	Leopards
Soc. Lombardorum	Lombards
Soc. Quarteriorum	Quarters
Soc. Sbarrarum	Bars
Soc. Schisarum de Saragocia	Stripes of Saragozza
Soc. Spadarum	Swords
Soc. Stellarum	Stars
Soc. Traversarum (de) Barbarie	Crossbars
Soc. Tuschorum	Tuscans
Soc. Varorum	Speckled coats (of minivers)

# APPENDIX C

## TABLE FOR CHAPTER TWO

TABLE II.1  
Family Groups in the Communal Council of 2000–4000 in Porta Ravegnana

Year	0 relatives*	2 relatives	3 relatives	4 relatives	5 relatives	2 sets**
1290 100 groups of 5 members each	29	29	17	12	4	9
1294 100 groups of 5 members each	26	29	19	19	2	5
1300 124 groups of 5 members each	32	32	21	18	10	11
Percentage	26%	26%	17%	15%	8%	9%

\* Number of relatives in each group

\*\* Relatives found in different groups



# APPENDIX D

## TABLES FOR CHAPTER THREE

TABLE III.1  
Sets of Relatives and Terms of Office Held in Consiglio del Popolo  
Contingents, 1283–1322

Arms Societies	No. of Sets of Relatives	Total Terms of Office
1– Soc. Draconum	30	75
2– Soc. Castellorum	27	80
3– Soc. Aquile	22	61
4– Soc. Varorum	21	59
5– Soc. Leopardorum	19	50
6– Soc. Traversarum de Barbarie	17	34
7– Soc. Tuschorum	16	42
8– Soc. Sbarrarum	16	35
9– Soc. Leonum	15	38
10– Soc. Bechariorum pro armis	15	33
11– Soc. Draperiorum pro armis	12	26
12– Soc. Balzanorum	12	23
13– Soc. Schisarum de Saragocia	11	24
14– Soc. Spadarum	10	27
15– Soc. Quarteriorum	10	23
16– Soc. Lombardorum	9	24
17– Soc. Clavium	8	18
18– Soc. Griffonum	8	21
19– Soc. Brancarum	4	9
20– Soc. Stellarum	2	5

Guilds	No. of Sets of Relatives	Total Terms of Office
1– Soc. Campsorum	43	119
2– Soc. Merchatorum	21	46
3– Soc. Curionum et Cunzatorium	18	50
4– Soc. Pischatorium	14	29

Table III.1 (*cont.*)

Guilds	No. of Sets of Relatives	Total Terms of Office
5- Soc. Bechariorum pro arte	11	25
6- Soc. Bixiliorum	11	22
7- Soc. Calegariorum	11	22
8- Soc. Linarolorum	11	24
9- Soc. Fabrorum	8	16
10- Soc. Merzariorum	8	17
11- Soc. Salarolorum	7	14
12- Soc. Pellipariorum veterum	7	15
13- Soc. Cartholariorum	7	16
14- Soc. Draperiorum pro arte	7	14
15- Soc. Notariorum	6	13
16- Soc. Muratorum	6	13
17- Soc. Calzolariorum de vacha	5	12
18- Soc. Lane Bixelle	5	13
19- Soc. Cordoanteriorum	4	9
20- Soc. Pellipariorum novorum	4	8
21- Soc. Magistrorum Lignaminis	3	6
22- Soc. Sartorum	3	6
23- Soc. Aurificum	3	6
24- Soc. Barberiorum	2	4
25- Soc. Speziariorum	0	0
26- Soc. Lane Gentilis	0	0

TABLE III.2  
Years in Which More or Less Than 50 Percent of Guilds and Societies Have  
Relatives among Their Consiglio del Popolo Contingents

PART I—Guilds			
Years in which more than 50% of guilds have relatives among their Consiglio del Popolo contingents		Years with less than 50%	
1283 II	66.6%		
1284 II	71.4%		
[1292 II	61.9%, incomplete]	1286 II	33.3%
		1302 II	40.9%
		1303 I	40.9%
		1307 II	45%
1309 II	63.6%		
(Additions—68 %)			
1313 II	69.5%		
1317 II	73.9%		
		1320 II	39%
1321 II	57.6%	1322 II	48.1%
PART II—Arms Societies			
Years in which more than 50% of guilds have relatives among their Consiglio del Popolo contingents		Years with less than 50%	
		[1283 II—41%, incomplete]	
1284 II	55%		
1286 II	60%		
		[1292 II—35%, incomplete]	
1303 I	55%		
1305 I	65% (additions only)		
1306 II	50%		
1307 II	63.6%		
1309 II	70%		
1313 II	85%		
1317 II	85%		
1320 II	80%		
1321 II	85%		
1322 II	80%		

NOTE—Percentages for this table are based on data in Tables III.3 and III.4



TABLE III.3  
Sets of Relatives in the Arms Societies' Contingents to the Consiglio del Popolo

Year	Aq.	Balz.	Bran.	Bech.	Cast.	Clav.	Drac.	Drap.	Grif.	Leon.	Leop.	Lom.	Quart.	Sbar.	Schis.	Spad.	Stell.	Trav.	Tusc.	Var.
1283 II	nd	nd	0	0	nd	nd	nd	0	2	0	2	2	nd	0	nd	0	0	nd	2	2
1284 II	1 <sup>1</sup>	0	0	0	1	0	1(4) <sup>2</sup>	1	0	0	1(3)	0	0	0	1	1	0	2	2	2
1286 II	1	2	1	0	2	0	2	1	0	0	0	0	1(3)	1	1	0	0	1	2(2)	2 (3)
1292 II	2	1	0	1	2	0	2	1	0	0	2	0	1	3	0	0	1	2	1	1
1302 II	3(3) (2) (2)	0	0	0	2(3) (2)	0	3	1	0	1	0	0	1	1(3)	0	2	0	0	2	1(3)
1303 I	2	0	0	0	1	0	3(2) (4) (2)	2	1	1	1(3)	0	0	2	0	0	0	1	2	2(4) (2)
1305 I	1	0	0	1	2	1	2	1	1	0	2	0	1	1	1	0	0	0	1	2
1305 II Additions	1(3)	0	1	0	0	0	1	0	0	0	0	0	0	0	1	0	0	0	0	0
1306 II	1(3)	1	0	0	3(2) (3) (3)	0	2(2) (3)	0	0	0	1	0	1	0	0	1	0	1	1	1
1307 I	1	1	0	2	2	1	4	0	1	1	2	0	0	1	0	0	0	0	1	0
1309 II	0	2	2	1	3(2+1) (+1)	1	1(+2)	0	0	2(+2) (+1)	1(+1)	2	2	0	0	2(+1)	0	2(+1)	1	3(4+1) (2+1) (2)

Table III.3 (cont.)

Year	Aq.	Balz.	Bran.	Bech.	Cast.	Clav.	Drac.	Drap.	Grif.	Leon.	Leop.	Lom.	Quart.	Sbar.	Schis.	Spad.	Stell.	Trav.	Tusc.	Var.
1313 II	3(2) (2)	1	0	2(3) (2)	2(5) (3)	2(2) (3)	3	2	1	2	1	1	1	2	2	1	0	0	1	2
1317 I	2(2) (3)	1	0	2	2(5) (2)	1(3) (2)	2	1	1	0	2(4) (2)	1	1	2	1	2(2) (3)	0	3	1	2(2) (3)
1320 II	3(4) (5) (2)	0	0	2(3) (2)	2(5) (2)	1	3	1	1	3(2) (3) (2)	3	0	0	1(5)	1(4)	1(3)	1(3)	4	1	1(4)
1321 II	1(3)	1	0	3	2(4) (2)	0	2	1	1(3)	3(2) (2) (3)	1(4) (2) (3)	3(2) (2) (3)	1	1	2	1	0	1(3)	1(3)	3(3) (2) (2)
1322 II	3(3) (2) (2)	1	0	1	3(4) (2) 2	1 (2) 2)	3(2) (2) 2)	1 (2) 2)	1	3(3) (2) (2)	2(3) (2) (2)	2(3) (2) (2)	1	2	1	1	0	0	1	0
No. of 0 sets	1	5	13	7	1	8	0	5	7	8	3	10	5	5	6	7	14	6	1	3

Key  
<sup>1</sup> Each set represents two persons who are related.  
<sup>2</sup> Numbers in parentheses represent the number of members in each set when there are more than two persons.  
nd = no data  
Numbers preceded by a + represent the number of additionally selected members for the given year.  
Roman numerals I and II refer to the first or second semester of the given year.

TABLE III.4  
Sets of Relatives in the Guilds' Contingents to the Consiglio del Popolo

Yr.	Bech	Bixil	Caleg	Calzovach	Camp	Carth	Cordo	Cunz	Drap	Fab	Linar	Merz
1284 II	1(3)	1	1	1(3)	6 (6,4,4, 2,2,2)	2 (3) (2)	1	1	0	1	1	1
1286 II	1(3)	0	0	0	3 (9,2,3)	1(3)	1	1(7)	0	0	0	2 (3,2)
1292 II	0	0	1	0	3 (4,2,2)	0	1(3)	2 (2,7)	1	1	1	1
1302 I	1	0	0	0	7 (4,2 2,2,2, 2,2)	0	0	0	1(3)	0	1	1
1302 II	1	1	0	0	7 (2,5, 3,2,2, 2,2,)	1	0	0	0	0	2	0
1303 I	0	1	1	0	5 (3,3, 2,3,3)	0	0	2	0	0	1(3)	0
1305 II adds only	0	1	0	0	6 (2,2,2, 2,2,2)	1	0	0	0	0	0	0
1307 II	0	1	2	1	3 (2,2,2)	0	0	1(3)	0	0	0	1
1309 II	1 (+ 1 add)	2	1	1(+1 add)	2 (2+ 1add) (3)	1	0	1	1(+ 1 add)	1	1	1
1313 II	1	2	1	1	1(3)	1	0	1	0	1	1(3)	0
1317 II	2	2	2	1	1(4)	0	0	3 (3,2,2)	1	2	1	0
1320 II	2	0	1	0	3 (2,3,2)	0	0	1(3)	1	0	1	0
1321 II	1	0	0	0	1	0	0	3 (2,2,2)	2	1	1	1
1322 II	1	0	1	0	2(3,2)	0	1	2(2,3)	1	1	1	1
Total Sets	0=4 1=8 2=2	0=6 1=5 2=3	0=5 7=1 2=2	0=9 1=5	1=3 2=2 3=4 5=1 6=2 7=2	0=8 1=5 2=1	0=10 1=4	0=3 1=6 2=3 3=2	0=7 1=6 2=1	0=7 1=6 2=1	0=3 1=10 2=1	0=6 1=7 2=1
Total relatives	26	22	22	12	135	16	9	50	17	16	26	19

Key: Each set = 2 relatives. Numbers in parentheses represent the number of relatives if a single set comprises more than 2 relatives.  
0 signifies there were no sets of relatives in that guild in the indicated semester

Table III.4 (*cont.*)

MagLig	Merch	Mura	Not	Pelnov	Pelvet	Pisc	Sal	Sart	Aurif	LanBix	Spez	LanGen	Barb
0	3 (2,3,3)	1	0	0	1	0	1	0					
0	1(3)	0	0	0	0	0	0	0					
1	2	0	0	0	2	2	1	0					
0	2 (3,2)	0	0	0	1(3)	0	0	0	0				
0	2	0	1	1	0	0	1	0	0				
0	4	0	1	0	0	1	0	0	0				
0	3 (2,2,2)	0	0	1	0	0	1	0	1				
1	1(3)	0	1(3)	0	0	0	0	0	0	0			
1	0	1(3)	0	0	0	2(+ 1 add)	0	0	0	0			
0	1	2	1	0	0	2	1	0	1	1(3)			
1	0	1	1	0	1	3(2, 2,2)	1	1	1	1			
0	1	0	0	0	0	1	0	0	0	2(4,2)	0	0	0
0	1	1	1	0	2 (3,2)	2	0	1	0	1	0	0	1
0	2	0	0	2	1	1	1	1	0	0	0	0	1
0=10 1=4	0=2 1=5 2=4 3=2 4=1	0=9 1=4 2=1	0=8 1=6	0=11 1=2 2=1	0=8 1=4 2=2	0=6 1=3 2=4 3=1	0=7 1=7	0=11 1=3	0=8 1=3	0=3 1=3 2=1	0=3	0=3	0=1 1=2
8	51	13	13	8	18	29	14	6	6	12	0	0	4

TABLE III.5  
Proportional Distribution of Sets of Relatives in the Arms Societies' Contingents  
to the Consiglio del Popolo: 1284–1307 and 1307–1322

Arms Society	1284–1307	1309–1322	Total No. of Sets of Relatives	% of Total 1284–1307	% of Total 1309–1322
Aquile*	12	22	36	33	61.1
Balzanorum	7	12	19	36.8	63.1
Brancarum*	2	4	6	33.3	66.6
Bechariorum*	11	15	26	42.3	57.6
Castellorum	14	27	41	34.1	65.8
Clavium	6	8	14	42.8	57.1
Draconum	14	30	44	3.8	68.1
Draperiorum	6	12	18	33.3	66.6
Griffonum*	5	8	13	38.4	61.6
Leonum*	13	15	28	46.4	53.5
Leopardorum	10	19	29	34.4	65.5
Lombardorum	2	9	11	18	81
Quarteriorum	6	10	16	37.5	62.5
Sbarrarum	8	16	34	23.5	47
Schisarum de Saragocia	7	11	18	38.8	61.1
Spadarum*	8	10	18	44.4	55.5
Stellarum*	1	1	2	50	50
Traversarum	10	17	27	37	62.9
Tuschorum	6	16	22	27.2	72.7
Varorum	11	21	32	34.3	65.6

\* Members of the Federation of Seven Arms Societies

Table III.6  
Proportional Distribution of Sets of Relatives in the Guilds' Contingents to the Consiglio del Popolo 1284–1305 and 1307–1322

Guilds	Total Sets				% of Total				Total Relatives				% of Total			
	1284–1305	1307–1322	1284–1305	1307–1322	1284–1305	1307–1322	1284–1305	1307–1322	1284–1305	1307–1322	1284–1305	1307–1322	1284–1305	1307–1322	1284–1305	1307–1322
Bechariorum	12	4	8	8	33.3%	66.7%	26	16	10	16	38.5%	61.5%	38.5%	61.5%	38.5%	61.5%
Bixileriorum	11	4	7	7	36.4%	63.6%	22	14	8	14	36.4%	63.6%	36.4%	63.6%	36.4%	63.6%
Calegariorum	11	3	8	8	27.2%	72.7%	22	16	6	16	27.2%	72.8%	27.2%	72.8%	27.2%	72.8%
Calzolariorum de vacha	5	1	4	4	20.0%	80.0%	12	9	3	9	25.0%	75.0%	25.0%	75.0%	25.0%	75.0%
Campsorum	50	37	13	13	74.0%	26.0%	135	33	102	33	75.6%	24.4%	75.6%	24.4%	75.6%	24.4%
Cartholiariorum	7	5	2	2	71.4%	28.6%	16	4	12	4	75.0%	25.0%	75.0%	25.0%	75.0%	25.0%
Cordoaneriorum	4	3	1	1	75.0%	25.0%	9	2	7	2	77.8%	22.2%	77.8%	22.2%	77.8%	22.2%
Cunzatorum	18	6	12	12	33.3%	66.7%	50	28	22	28	44.0%	56.0%	44.0%	56.0%	44.0%	56.0%
Draperiorum	8	2	6	6	25.0%	75.0%	17	13	4	13	23.5%	76.5%	23.5%	76.5%	23.5%	76.5%
Fabrorum	8	2	6	6	25.0%	75.0%	16	12	4	12	25.0%	75.0%	25.0%	75.0%	25.0%	75.0%
Linarolorum	12	6	6	6	50.0%	50.0%	26	13	13	13	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%
Merzariorum	9	5	4	4	55.6%	44.4%	19	8	11	8	57.9%	42.1%	57.9%	42.1%	57.9%	42.1%
Magistroorum	4	1	3	3	25.0%	75.0%	8	6	2	6	25.0%	75.0%	25.0%	75.0%	25.0%	75.0%
Lignaminis																
Merchatorum	23	17	6	6	73.9%	26.1%	51	13	38	13	74.5%	25.5%	74.5%	25.5%	74.5%	25.5%
Muratorum	6	1	5	5	16.7%	83.3%	13	11	2	11	15.4%	84.6%	15.4%	84.6%	15.4%	84.6%
Notariorum	6	2	4	4	33.3%	66.7%	13	9	4	9	30.8%	69.2%	30.8%	69.2%	30.8%	69.2%
Pelipariorum	4	2	2	2	50.0%	50.0%	8	4	4	4	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%
novorum																
Pelipariorum	8	4	4	4	50.0%	50.0%	18	9	9	9	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%
veterum																
Pischatorum	14	3	11	11	21.4%	78.6%	29	23	6	23	20.7%	79.3%	20.7%	79.3%	20.7%	79.3%
Salarolorum	7	4	3	3	57.1%	42.9%	14	6	8	6	57.1%	42.9%	57.1%	42.9%	57.1%	42.9%
Sartorum	3	0	3	3	0%	100%	6	6	0	6	0%	100%	0%	100%	0%	100%
Aurificum	3	1	2	2	33.3%	66.7%	6	4	2	4	33.3%	66.7%	33.3%	66.7%	33.3%	66.7%
Lane Bixelle	4	0	4	4	0%	100%	12	12	0	12	0%	100%	0%	100%	0%	100%
Speziariorum	0	0	0	0	n/a	n/a	0	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a
Lane Gentilis	0	0	0	0	n/a	n/a	0	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a
Barberiorum	2	0	2	2	0%	100%	4	4	0	4	0%	100%	0%	100%	0%	100%

TABLE III.7

Families in Selected Guilds and Arms Societies with Greatest Number of Terms of Office Held and Percentage of Individuals Outside Families Holding Multiple Terms of Office in Contingents to the Consiglio del Popolo: 1282–1322

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Societas Merchatorum:

44 families holding 220 out of 325 terms of office-----67.6%

18 individuals\* holding 74 terms----- 22.7%

Five top families:

Pavanensibus	(16, or 4.9% of 325 terms)	1283–1313
Bonvixini	(16, or 4.9%)	1286–1307
Roncore	(12, or 3.6%)	1303–1322
Sancto Georgio	(12, or 3.6%)	1284–1322
Sabadinis	(11, or 3.3%)	1283–1322

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Soc. Campsorum:

41 families holding 267 out of 314 terms -----85%

4 individuals holding 12 terms-----3.8%

Five top families:

Zovenzonibus	(33, or 10.5% of total terms)	1283–1322
Gozzadinis	(29, or 9.2%)	1283–1320
Artenixiis	(21, or 6.6%)	1283–1322
Clarissimis	(16, or 5.0%)	1286–1313
Bechadellis	(15, or 4.7%)	1283–1322

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Soc. Notariorum:

21 families holding 56 out of 220 terms-----25.4%

10 individuals holding 23 terms-----10.4%

Five top families:

Gozzadinis	(5, or 2.2% of total terms)	1307–1320
Rovisi	(4, or 1.8%)	1283–1292
Boateriis	(4, or 1.8%)	1309–1321
Castro Britonum	(4, or 1.8%)	1302–1321
Baxacomatribus	(3, or 1.36%)	1303–1305
Bentivoglis	(3, or 1.36%)	1313–1317
Bixano	(3)	1317–1320
Saliceto	(3)	1303–1322
Tederisiis	(3)	1305–1322

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Table III.7 (*cont.*)

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Soc. Lombardorum:

16 families holding 216 out of 150 terms-----69.4%

13 individuals holding 40 terms-----18.5%

## Five top families:

Amonici	(19, or 12.6% of total terms)	1283–1322
Bagno	(14, or 9.3%)	1286–1322
Casola	(13, or 8.6%)	1284–1321
Rodaldis	(12, or 8%)	1283–1321
Laude	(6, or 4%)	1283–1307
Manticis	(6)	1306–1322
Montebellio	(6)	1309–1321
Taraffi	(6)	1292–1313

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## Soc. Draconum

15 families holding 136 out of 197 terms-----69%

7 individuals holding 15 terms -----7.6%

## Five top families:

Baxacomatribus	(25, or 12.6% of total terms)	1292–1322
Rasuriis	(23, or 11.6%)	1284–1321
Guercino	(19, or 9.6%)	1284–1320
Lana	(12, or 6%)	1305–1321
Gozzadinis	(11, 5.5%)	1284–1320

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## Soc. Tuschorum

18 families holding 123 out of 219 terms-----56.1%

12 individuals holding 27 terms -----12.3%

## Five top families:

Rodaldis	(22, or 10% of total terms)	1283–1321
Cose	(16, or 7.3%)	1284–1321
Curionibus	(16)	1283–1320
Blanchi	(11, or 5%)	1303–1322
Aldrovandini	(10, or 4.5%)	1305–1317

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## Soc. Bechariorum

18 families holding 98 out of 189 terms-----51.8%

11 individuals holding 23 terms -----12.1%

## Top five families:

Manzolino	(16, or 8.4% of total terms)	1284–1321
Bentevoglis	(13, or 6.8%)	1283–1321
Magnanis	(13)	1283–1317
Ramenghis	(9, or 4.7%)	1284–1317
Tetacapra	(9)	1283–1322

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Table III.7 (*cont.*)

## Soc. Stellarum

13 families holding 66 or 67 out of 223 terms-----29.5% or 30%

36 individuals holding 86 terms-----38.5%

## Top five families:

Ubalдини	(10, or 4.4%)	1303–1320
Horandi	(8, or 3.5%)	1286–1303
Roycis	(7, or 3.1%)	1292–1317
Avenacii	(6, or 2.6%)	1305–1317
Bonmiglioris	(6)	1303–1313

## Soc. Cordoanteriorum

8 families holding 33 out of 190 terms-----17.3%

12 individuals holding 28 terms-----14.7%

## Top five families:

Planellis	(8, or 4.2% of total terms)	1283–1321
Cambi	(6, or 3.1%)	1283–1321
Flordebelli	(6)	1284–1303
Nicolay	(3, or 1.5%)	1303–1322
Sancto Johanne	(3)	1286–1305
Vixine	(3)	1286–1320

\* Individuals = Those holding terms of office in different years in the contingents who do not have relatives among the other members of the society's contingents

TABLE III.8

Families Holding Twenty or More Terms of Office in the Consiglio del Popolo Sample

Rank	Family	No. of Terms	Terms held by Society	1st year	Last year
1	Zovenzonibus	91	Soc. Campsorum	37	1283 II
			Castellorum	24	1284 II
			Notariorum	1	1302 I
			Additions	29	1309 II
2	Gozzadinis	89	Campsorum	31	1283 II
			Draconum	12	1284 II
			Clavium	10	1306 II
			Notariorum	5	1307 II
			Lombardorum	3	1307 I
			Merchatorum	2	1309 II
			Balzanorum	2	1306 I
			Barberiorum	1	1320 II
			Additions	23	1307 I

Table III.8 (*cont.*)

Rank	Family	No. of Terms	Terms held by Society	1st year	Last year
3	Manzolino	81	Bechariorum pro arte	15 1284 II	1321 II
			Aquile	14 1286 I	1322 II
			Calegariorum	8 1284 II	1321 II
			Quarteriorum	7 1302 II	1322 II
			Bechariorum pro armis	7 1283 II	1321 II
			Merchatorium	6 1284 II	1305 II
			Lane Gentilis	2 1321 II	1322 II
			Notariorum	1 1303 I	1303 I
			Aurificum	1 1322 II	1322 II
			Barberiorum	1 1321 II	1321 II
			Additions	19 1307 I	1322 II
4	Sabadinis	76	Leopardorum	29 1283 II	1322 II
			Merchatorium	12 1284 II	1322 II
			Campsorum	8 1292 II	1320 II
			Calegariorum	3 1302 II	1321 II
			Not.anzianorum	1 1305 II	1305 II
			Notariorum	1 1321 II	1321 II
			Additions	22 1313 II	1322 II
5	Beccadellis	74	Campsorum	15 1283 II	1321 II
			Castellorum	13 1292 II	1321 II
			Clavium	9 1313 II	1322 II
			Lane Gentilis	2 1321 II	1322 II
			Balzanorum	2 1309 I	1320 II
			Bixileriorum	2 1320 II	1321 II
			Quarteriorum	2 1313 II	1320 II
			Notariorum	1 1317 I	1317 I
			Speziariorum	1 1321 II	1321 II
			Additions	27 1307 I	1322 I
6	Rodaldis	71	Tuschorum	22 1283 II	1322 II
			Lombardorum	12 1283 II	1321 II
			Campsorum	7 1284 II	1322 II
			Merchatorium	6 1302 I	1322 II
			Lane Bixelle	1 1320 II	1320 II
			Lane Gentilis	1 1322 II	1322 II
			Additions	22 1305 II	1322 II

Table III.8 (*cont.*)

Rank	Family	No. of Terms	Terms held by Society	1st year	Last year	
7	Curionibus	61	Curionum	32	1283 II	1322 II
			Tuschorum	15	1283 II	1320 II
			Merzariorum	5	1283 II	1302 II
			Merchatorum	2	1286 I	1307 II
			Additions	7	1320 II	1322 II
8	Bambaiolis	57	Leonum	6	1309 II	1322 II
			Traversarum	6	1302 II	1322 II
			Calzolariorum	6	1292 II	1320 II
			Merzariorum	6	1309 II	1322 II
			Calegariorum	5	1283 II	1309 II
			Notariorum	3	1286 I	1321 II
			Merchatorum	2	1305 II	1309 II
			Cordoaneriorum	1	1320 II	1320 II
			Lane Gentilis	1	1322 II	1322 II
			Sartorum	1	1321 II	1321 II
			Lombardorum	1	1309 II	1309 II
			Additions	19	1307 I	1322 II
9	Bonacaptis	55	Spadarum	18	1283 II	1320 II
			Traversarum	14	1292 II	1321 II
			Notariorum	4	1284 II	1321 II
			Varorum	3	1306 II	1317 I
			Cordoaneriorum	2	1309 II	1309 II
			Salarolorum	1	1286 I	1286 I
			Additions	13	1313 II	1322 II
10	Bentevoglis	53	Bechariorum pro armis	15	1283 II	1321 II
			Bechariorum pro arte	13	1283 II	1321 II
			Notariorum	3	1313 II	1317 I
			Sartorum	3	1283 II	1317 I
			Draperiorum pro Armis	2	1320 II	1321 II
			Griffonum	2	1320 II	1322 I
			Branche	1	1303 I	1303 I
			Calegariorum	1	1321 II	1321 II
			Sbararrum	1	1317 I	1317 I
			Additions	12	1309 II	1321 II

Table III.8 (*cont.*)

Rank	Family	No. of Terms	Terms held by Society	1st year	Last year	
11	Boateriis	52	Leonum	23	1286 II	1322 II
			Notariorum	4	1309 II	1321 II
			Stellarum	2	1317 I	1321 II
			Salarolorum	1	1317 I	1317 I
			Speziariorum	1	1321 II	1321 II
			Defensor averis	1	1305 II	1305 II
			Lane Gentilis	1	1320 II	1320 II
			Additions	19	1309 II	1322 II
12	Albirolis	51	Lane Bixelle	12	1307 II	1320 II
			Spadarum	9	1292 II	1321 II
			Griffonum	7	1283 II	1307 I
			Stellarum	6	1306 II	1320 II
			Leonum	5	1283 II	1313 II
			Aurificum	2	1317 I	1317 II
			Notariorum	2	1313 II	1317 I
			Additions	8	1309 II	1320 II
13	Saliceto	47	Varorum	26	1283 II	1321 II
			Draperiorum pro arte	4	1302 I	1320 II
			Notariorum	3	1303 I	1322 II
			Salarolorum	2	1307 II	1309 II
			Leopardorum	1	1286 II	1286 II
			Lane Gentilis	1	1321 II	1321 II
			Additions	10	1309 II	1322 II
14	Mezovillanis	46	Balzanorum	13	1302 II	1322 II
			Merchatorum	12	1283 II	1322 II
			Campsorum	3	1309 II	1321 II
			Notariorum	2	1321 II	1322 II
			Bechariorum pro Armis	1	1309 II	1309 II
			Additions	15	1307 I	1322 II
15	Plastellis	45	Griffonum	14	1302 II	1321 II
			Brancarum	10	1284 II	1321 II
			Fabrorum	5	1302 I	1320 II
			Aurificum	2	1317 I	1320 II
			Notariorum	2	1302 II	1313 II
			Additions	12	1313 II	1322 II

Table III.8 (*cont.*)

Rank	Family	No. of Terms	Terms held by Society	1st year	Last year	
16	Artenexiis	44	Campsorum	23	1283 II	1322 II
			Castellorum	10	1284 II	1322 II
			Notariorum	2	1307 II	1309 II
			Balzanorum	2	1305 I	1321 II
			Draconum	1	1321 II	1321 II
			Aquile	1	1305 I	1305 I
			Additons	5	1309 II	1321 II
17	Magnanis	44	Bechariorum pro armis	14	1292 II	1320 II
			Bechariorum pro arte	14	1283 II	1320 II
			Magistrorum Lignam.	2	1317 I	1322 II
			Notariorum	2	1283 II	1320 II
			Pischatorum	2	1313 II	1317 I
			Clavium	1	1320 II	1320 II
			Draconum	1	1320 II	1320 II
			Leonum	1	1307 I	1307 I
Additions	7	1309 II	1320 II			
18	Pepolis	43	Castellorum	23	1284 II	1320 II
			Campsorum	11	1302 I	1320 II
			Notariorum	1	1320 II	1320 II
			Barberiorum	1	1320 II	1320 II
			Additions	7	1309 II	1320 II
19	Preitis	42	Spadarum	23	1283 II	1321 II
			Calzolariorum	3	1283 II	1286 I
			Merchatorum	2	1307 II	1309 II
			Defensor averis	1	1305 II	1305 II
			Cordoaneriorum	1	1303 I	1303 I
			Draperiorum pro arte	1	1303 II	1303 II
			Notariorum	1	1320 II	1320 II
Additions	10	1313 II	1322 II			
20	Rociptis (Rocitis, Ruciptis, Ruzziti, Roziptis, Rozeptis, Ruziptis)	41	Draperiorum pro arte	16	1283 II	1322 II
			Balzanorum	4	1306 II	1322 II
			Calegariorum	2	1320 II	1322 II
			Additions	19	1309 II	1322 II

Table III.8 (*cont.*)

Rank	Family	No. of Terms	Terms held by Society	1st year	Last year
21	Tolomeis	40	Traversarum	9 1292 II	1321 II
			Bixileriorum	4 1309 II	1322 II
			Griffonum	4 1284 II	1317 I
			Calegariorum	3 1309 I	1320 II
			Castellorum	2 1322 II	1322 II
			Balzanorum	2 1303 I	1307 I
			Notariorum	2 1303 I	1320 II
			Aurificum	1 1303 I	1303 I
			Speziariorum	1 1320 II	1320 II
			Additions	12 1309 II	1322 II
22	Basacomatribus	38	Draconum	26 1292 II	1321 II
			Campsorum	3 1302 II	1305 II
			Merchatorum	2 1302 II	1309 II
			Not. anzianorum	2 1305 II	1305 II
			Notariorum	1 1303 I	1303 I
			Additions	4 1309 II	1322 II
23	Tencharariis	38	Linarolorum	12 1309 II	1322 II
			Spadarum	11 1302 II	1322 II
			Quateriorum	3 1317 I	1320 II
			Varorum	1 1307 I	1307 I
			Notariorum	1 1309 II	1309 II
			Defensor averis	1 1305 II	1305 II
			Additions	9 1309 II	1322 II
24	Clarissimis	38	Castellorum	14 1286 II	1321 II
			Campsorum	6 1286 II	1313 II
			Fabrorum	2 1307 II	1309 II
			Additions	16 1309 II	1322 II
25	Papazonibus	37	Varorum	20 1302 II	1322 II
			Pelipariorum veterum	4 1283 II	1292 II
			Bixileriorum	3 1302 I	1309 II
			Campsorum	2 1305 II	1321 II
			Leopardorum	1 1286 I	1286 I
			Additions	7 1313 II	1321 II

Table III.8 (*cont.*)

Rank	Family	No. of Terms	Terms held by Society		1st year	Last year
26	Sardellis	37	Balzanorum	11	1302 II	1322 II
			Campsorum	9	1292 II	1322 II
			Merchatorum	2	1309 II	1317 I
			Brancarum	1	1305 I	1305 I
			Notariorum	1	1283 II	1283 II
			Bechariorum pro arte	1	1307 II	1307 II
			Merzariorum	1	1309 II	1309 II
			Additions	11	1309 I	1322 II
27	Prevedellis	36	Calegariorum	13	1283 II	1322 II
			Leopardorum	10	1284 II	1320 II
			Calzolariorum	5	1309 II	1317 II
			Notariorum	1	1302 I	1302 I
			Additions	7	1307 I	1322 II
28	Tetacapra	36	Bechariorum pro armis	11	1286 II	1321 II
			Bechariorum pro arte	9	1283 II	1322 II
			Draconum	2	1309 II	1320 II
			Barberiorum	2	1321 II	1321 II
			Additions	12	1309 II	1322 II
29	Rasuriis	34	Draconum	25	1284 II	1321 II
			Leonum	4	1283 II	1320 II
			Draperiorum pro arte	1	1284 II	1284 II
			Additions	4	1309 II	1322 II
30	Sancto Giorgio	34	Merchatorum	12	1284 II	1322 II
			Sbarrarum	6	1292 II	1322 II
			Bixileriorum	3	1320 II	1322 II
			Sartorum	2	1303 I	1307 II
			Brancarum	2	1283 II	1305 I
			Draperiorum pro armis	2	1309 II	1322 II
			Additions	7	1313 II	1322 II
31	Sala	34	Leonum	9	1284 II	1322 II
			Muratorum	3	1313 II	1320 II
			Branche	1	1307 I	1307 I
			Draperiorum pro armis	1	1307 I	1307 I
			Merchatorum	1	1307 II	1307 II
			Notariorum	1	1303 I	1303 I
			Additions	18	1307 I	1322 II

Table III.8 (*cont.*)

Rank	Family	No. of Terms	Terms held by Society	1st year	Last year
32	Ricciis	33	Leonum	9 1286 II	1317 I
			Lombardorum	4 1283 II	1307 I
			Notariorum	4 1292 II	1309 II
			Cordoanteriorum	1 1302 II	1302 II
			Draperiorum pro armis	1 1317 I	1317 I
			Lane Bixelle	1 1320 II	1320 II
			Bechariorum pro armis	1 1292 II	1292 II
			Speziariorum	1 1320 II	1320 II
			Salarolorum	1 1320 II	1320 II
			Aquile	1 1309 II	1309 II
			Calegariorum	1 1303 I	1303 I
			Additions	8 1307 I	1321 II
33	Lana	33	Draconum	12 1305 I	1322 II
			Lane Bixelle	5 1309 II	1320 II
			Tuschorum	2 1320 II	1322 II
			Sbarrarum	2 1320 II	1322 II
			Bixileriorum	1 1317 I	1321 I
			Stellarum	1 1321 I	1321 I
			Leonum	1 1292 II	1292 II
			Lane Gentilis	1 1322 II	1322 II
34	Floranis	31	Aquile	25 1286 II	1320 II
			Additions	6 1307 I	1309 II
35	Ursiis	31	Draperiorum pro armis	13 1286 I	1320 II
			Cartholariorum	4 1286 I	1317 I
			Campsorum	2 1302 I	1305 I
			Lombardorum	1 1303 I	1303 I
			Castellorum	1 1303 I	1303 I
			Barberiorum	1 1320 II	1320 II
			Bixileriorum	1 1302 II	1302 II
			Additions	8 1309 II	1322 II
36	Rovisiis	30	Aquile	16 1286 I	1322 II
			Salarolorum	8 1302 II	1322 II
			Notariorum	3 1283 II	1292 II
			Not. anzianorum	1 1305 II	1305 II
			Additions	2 1313 II	1322 II



Table III.8 (*cont.*)

Rank	Family	No. of Terms	Terms held by Society	1st year	Last year
37	Blanchi Cose	30	Tuschorum	16 1284 II	1321 II
			Calegariorum	2 1302 I	1303 II
			Campsorum	2 1302 II	1303 I
			Brancarum	1 1306 II	1306 II
			Additions	9 1309 II	1321 II
38	Bonzagnis	30	Bixileriorum	12 1284 II	1322 II
			Balzanorum	4 1284 II	1317 I
			Griffonum	4 1292 II	1322 II
			Bechariorum pro armis	2 1283 II	1284 I
			Lane Gentilis	2 1321 II	1322 II
			Pelipariorum veterum	1 1307 II	1307 II
			Additions	5 1309 II	1322 II
39	Buvalellis	30	Balzanorum	11 1302 II	1320 II
			Draperiorum pro arte	3 1306 II	1322 II
			Bechariorum pro armis	2 1283 II	1309 II
			Brancarum	2 1283 II	1286 I
			Cordoaneriorum	2 1292 II	1321 II
			Notariorum	1 1286 I	1292 II
			Merchatorum	1 1286 II	1286 I
			Leopardorum	1 1309 II	1286 II
			Additions	7	1322 II
40	Unzola	30	Aquile	12 1286 I	1317 I
			Leonum	8 1303 I	1322 II
			Schisarum	1 1284 I	1284 I
			Sartorum	1 1284 II	1284 II
			Brancarum	1 1286 II	1286 II
			Magistrorum Lignam.	1 1286 I	1286 I
			Additions	6 1307 I	1320 II
41	Foscarariis	29	Quarteriorum	13 1284 II	1321 II
			Campsorum	7 1283 II	1305 II
			Not. anzianorum	1 1305 II	1305 II
			Additions	8 1321 II	1322 II
42	Paxitiis	29	Sbararrum	14 1284 II	1322 II
			Draperiorum pro arte	11 1302 I	1322 II
			Notariorum	1 1286 I	1286 I
			Bechariorum pro armis	1 1286 I	1286 I
			Additions	2 1309 II	1322 II

Table III.8 (*cont.*)

Rank	Family	No. of Terms	Terms held by Society	1st year	Last year
43	Alerariis	29	Leonum	13 1303 I	1322 II
			Calzolariorum	3 1303 I	1320 II
			Stellarum	2 1320 II	1321 II
			Merchatorum	2 1317 I	1320 II
			Additions	9 1307 I	1322 II
44	Tederisiis	28	Linarolorum	12 1284 II	1320 II
			Brancarum	5 1284 II	1322 II
			Notariorum	2 1309 II	1322 II
			Not. anzianorum	1 1305 II	1305 II
			Additions	8 1321 II	1322 II
45	Montanariis	28	Pelipariorum veterum	14 1302 I	1322 II
			Merchatorum	3 1284 II	1303 I
			Balzanorum	2 1305 I	1322 II
			Leopardum	2 1306 II	1317 II
			Notariorum	2 1292 II	1309 II
			Clavium	1 1292 II	1292 II
			Spadarum	1 1302 II	1302 II
			Additions	3 1309 II	1321 II
46	Quercis	28	Quateriorum	16 1284 II	1321 II
			Merchatorum	2 1292 II	1302 II
			Notariorum	1 1313 II	1313 II
			Additions	9 1307 I	1322 II
47	Spersonaldis	28	Campsorum	12 1283 II	1317 I
			Balzanorum	8 1306 II	1322 II
			Notariorum	2 1317 I	1320 II
			Additions	6 1320 II	1321 II
48	Cavagli	27	Pischatorum	13 1286 II	1322 II
			Bixileriorum	6 1309 II	1320 II
			Clavium	3 1306 II	1307 I
			Lane Gentilis	1 1320 II	1320 II
			Additions	4 1309 II	1322 II
49	Carbonis	27	Linarolorum	12 1284 II	1321 II
			Spadarum	6 1303 I	1322 II
			Notariorum	1 1320 II	1320 II
			Lane Gentilis	1 1321 II	1321 II
			Additions	7 1307 I	1320 II

Table III.8 (*cont.*)

Rank	Family	No. of Terms	Terms held by Society	1st year	Last year	
50	Castagnolo	26	Sbarrarum	16	1292 II	1320 II
			Linarolorum	2	1305 II	1321 II
			Merchatorum	2	1286 I	1317 I
			Merzariorum	1	1317 I	1317 I
			Griffonum	1	1322 II	1322 II
			Spadarum	1	1302 II	1302 II
			Additions	3	1313 II	1320 II
51	Bixano	26	Clavium	10	1286 II	1322 II
			Notariorum	3	1317 I	1321 II
			Leopardorum	1	1283 II	1283 II
			Bixileriorum	1	1321 II	1321 II
			Additions	11	1313 II	1322 II
52	Panzonibus	26	Brancarum	6	1302 II	1321 II
			Aquile	5	1292 II	1309 II
			Merchatorum	2	1303 I	1309 II
			Draperiorum pro armis	1	1292 II	1292 II
			Lane Gentilis	1	1321 II	1321 II
			Additions	11	1313 II	1322 II
53	Placitis	25	Leopardorum	24	1283 II	1321 II
			Calegariorum	1	1320 II	1320 II
			Additions	0		
54	Canitulo	25	Leonum	5	1313 II	1322 II
			Spadarum	4	1284 II	1305 I
			Merchatorum	3	1302 II	1307 II
			Aurificum	2	1302 II	1317 I
			Fabrorum	1	1284 II	1284 II
			Magistrorum Lignam.	1	1283 II	1283 II
			Additions	9	1307 I	1322 II
55	Alberghis	25	Bechariorum pro armis	8	1283 II	1320 II
			Traversarum	5	1303 I	1320 II
			Bechariorum pro arte	4	1303 I	1313 II
			Additions	8	1305 I	1320 II
56	Bonincontri	25	Quarteriorum	11	1292 II	1322 II
			Muratorum	6	1283 I	1322 II
			Spadarum	2	1303 I	1305 I
			Traversarum	1	1306 II	1306 II
			Notariorum	1	1313 II	1313 II
			Additions	4	1320 II	1322 II

Table III.8 (*cont.*)

Rank	Family	No. of Terms	Terms held by Society	1st year	Last year
57	Bonvisini (Leonardi fratris only)	25	Merchatorum	7 1286 I	1307 II
			Castellorum	4 1307 I	1320 II
			Tuschorum	2 1309 II	1322 II
			Speziariorum	2 1320 II	1320 II
			Notariorum	1 1309 II	1309 II
			Campsorum	1 1321 II	1321 II
			Additions	8 1309 I	1322 II
58	Roncore	24	Merchatorum	12 1303 I	1322 II
			Linarolorum	3 1302 II	1321 II
			Bechariorum pro armis	2 1313 II	1321 II
			Bechariorum pro arte	1 1317 I	1317 I
			Notariorum	1 1292 II	1292 II
			Brancarum	1 1286 II	1286 II
			Calzolariorum	1 1302 I	1302 I
59	Duglolo	24	Additions	3 1320 II	1321 II
			Varorum	13 1283 II	1322 II
			Campsorum	4 1302 I	1322 II
			Merchatorum	2 1317 I	1321 II
			Leopardorum	1 1286 II	1286 II
60	Guercino	23	Additions	4 1309 II	1320 II
			Draconum	3 1309 II	1313 II
61	Pegoloctis	23	Campsorum	20 1284 II	1320 II
			Merzariorum	3 1309 II	1322 II
			Lombardorum	3 1303 I	1306 II
			Muratorum	2 1283 II	1302 II
			Merchatorum	1 1302 II	1302 II
			Calzolariorum	1 1292 II	1292 II
			Griffonum	1 1283 II	1283 II
			Draperiorum pro armis	1 1284 II	1284 II
			Additions	2 1321 II	1322 II
62	Rotis	23	Magistrorum Lignam.	11 1292 II	1320 II
			Muratorum	4 1307 II	1313 II
			Schisarum	3 1309 II	1317 I
			Sbarrarum	2 1306 II	1307 I
			Additions	3 1313 II	1322 II

Table III.8 (*cont.*)

Rank	Family	No. of Terms	Terms held by Society	1st year	Last year
63	Bonromeis	23	Leopardorum	7 1305 II	1321 II
			Campsorum	7 1284 II	1321 II
			Notariorum	1 1309 II	1309 II
			Barberiorum	1 1320 II	1320 II
			Additions	7 1313 II	1322 II
64	Manticis	22	Lombardorum	6 1302 II	1322 II
			Campsorum	3 1283 II	1322 II
			Clavium	2 1302 II	1303 I
			Draconum	2 1322 II	1322 II
			Additions	9 1320 II	1322 II
65	Planellis	22	Cordoaneriorum	8 1283 II	1321 II
			Draconum	3 1313 II	1322 II
			Tuschorum	2 1303 I	1305 I
			Balzanorum	1 1307 I	1307 I
			Leopardorum	1 1306 II	1306 II
			Calegariorum	1 1305 II	1305 II
			Quarteriorum	1 1309 II	1309 II
			Additions	5 1309 II	1322 II
66	Ghisalabellis	22	Salarolorum	9 1302 II	1322 II
			Traversarum	8 1286 I	1322 II
			Notariorum	1 1322 II	1322 II
			Lane Gentilis	1 1321 II	1321 II
			Additions	3 1320 II	1322 II
67	Octobonis (Otobonis)	22	Spadarum	6 1286 I	1321 II
			Bechariorum pro arte	3 1307 II	1320 II
			Draperiorum pro arte	2 1284 II	1303 I
			Draperiorum pro armis	1 1307 I	1307 I
			Calegariorum	1 1322 II	1322 II
			Bechariorum pro armis	1 1321 II	1321 II
			Barberiorum	1 1320 II	1320 II
			Additions	7 1307 I	1322 II
68	Sancto Alberto	22	Varorum	12 1292 II	1321 II
			Calzolariorum	3 1303 I	1307 II
			Calegariorum	2 1309 II	1320 II
			Additions	5 1313 II	1321 II

Table III.8 (*cont.*)

Rank	Family	No. of Terms	Terms held by Society	1st year	Last year
69	Pavanensibus	21	Merchatorum Aquila Additions	16 1 4	1283 II 1321 II 1320 II
70	Lamandinis	21	Merchatorum Leopardorum Leonum Merzariorum Muratorum Additions	12 2 1 1 1 4	1283 II 1307 I 1286 II 1313 II 1286 I 1307 I
71	Ignano (Ygnano)	21	Campsorum Balzanorum Spadarum Lane Bixelle Linarolorum Merchatorum Notariorum Bechariorum pro armis Additions	8 4 2 1 1 1 1 1 2	1283 II 1284 II 1303 I 1313 II 1317 II 1302 II 1320 II 1305 I 1309 II
72	Berecte (Berete, Bereta)	21	Pischatorum Merzariorum Barberiorum Draconum Additions	16 2 1 1 1	1284 II 1307 II 1321 II 1321 II 1321 II
73	Napariis	20	Merzariorum Balzanorum Sartorum Magistrorum Lign. Speziarorum Additions	9 5 3 2 1 0	1283 II 1286 I 1303 I 1321 II 1322 II 1322 II
74	Falecaze	20	Balzanorum Sartorum Campsorum Merchatorum Additions	9 7 3 1 0	1302 II 1302 I 1283 II 1284 II 1284 II

Table III.8 (*cont.*)

Rank	Family	No. of Terms	Terms held by Society		1st year	Last year
75	Lastignano	20	Linarolorum	5	1302 I	1309 II
			Bechariorum pro armis	3	1284 II	1322 II
			Bechariorum pro arte	3	1292 II	1317 I
			Merchatorum	2	1303 I	1313 II
			Not. anzianorum	1	1305 II	1305 II
			Notariorum	1	1292 II	1292 II
			Balzanorum	1	1320 II	1320 II
			Clavium	1	1317 I	1317 I
			Speziariorum	1	1320 II	1320 II
			Additions	2	1313 II	1321 II
76	Maranensibus	20	Varorum	14	1284 II	1313 II
			Calegariorum	1	1309 II	1309 II
			Linarolorum	1	1320 II	1320 II
			Merchatorum	1	1284 II	1284 II
			Notariorum	1	1320 I	1320 I
			Additions	2	1309 II	1320 II

TABLE III.9  
One-Time Only Appearances of *Anziani* With and Without Relatives:  
1281–1326

Period	Sample%	No. of Terms	With relatives	Without relatives	Total One-Time Only
1281–1290	56.6% <sup>1</sup>	1,566	149 (9.51%)	164 (10.47%)	313 (19.98%)
1291–1300	37.5% <sup>2</sup>	1,263	129 (10.21%)	113 (8.94%)	242 (19.16%)
1301–1310	52.5% <sup>3</sup>	1,594	202 (12.67%)	165 (10.35%)	367 (23.02%)
1311–1320	70% <sup>4</sup>	1,796	302 (16.8%)	156 (8.68%)	458 (25.5%)
1321–1326	68% <sup>5</sup>	1,057	295 (27.9%)	163 (15.42%)	458 (43.3%)
Totals	56%	7,276	1,077 (14.8%)	761 (10.46%)	1,838 (25.26%)

Number of months in which names of *anziani* were found

<sup>1</sup> 68 months out of 120  
<sup>2</sup> 45 months out of 120  
<sup>3</sup> 63 months out of 120  
<sup>4</sup> 84 months out of 120  
<sup>5</sup> 49 months out of 72

TABLE III.10  
Families Appearing Nine or More Times in the Anzianate

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84	Sabadini
73	Gozzadini
68	Zovenzoni
64	Beccadelli
48	Manzolino
41	Albiroli
40	Pepoli
39	Bambaglioli
39	Rodaldi
36	Clarissimi
36	S. Giorgio
35	Boatteri
35	Curioni
34	Argelatta
34	Lamandini
33	Medicina
32	Plastelli
32	Saliceto
31	Mezzovillani
30	Foscherari
29	Fagnano (Fagnani, Flagnano)
28	Magnani
28	Pegolotti
26	Artenesi
26	Bentivoglio
25	Baciacomari
25	Cambio
25	Cristiani (Christiani)
25	Preti
25	Ricci
24	Aimerico (Aimerio, Americo, Amerighi, Amerigo)
24	Bonacatti
24	Sala
24	Spersonaldi
23	Bonromei (Borromei)
23	Borghesino (Borghesano)
23	Canetolo
23	Passipoveri
23	Prevedelli
22	Avesa
22	Pianelle (Planelli)
22	Rote (Roti, Rotte, Ruote)
22	Soldadieri
21	Boiti



Table III.10 (*cont.*)

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21	Tederisi (Tederici)
20	Algardi
20	Cavagli (Cavalli)
20	Ghisalabella (Ghisalabelli)
19	Bianchetti (Bianchetto)
19	Bonaventura
19	Budrio
19	Montanari (Montanaro)
19	Orsi
19	Papazzoni (Papazzone)
19	Tencarari
18	Bertalia
18	Corvi
18	Dugliolo (Duglioli)
18	Olle (Olli)
18	Tolomeo
17	Dongelli (Donzelli)
17	S. Alberto
16	Bianco
16	Castagnolo (Castagnuolo)
16	Cosa
16	Maranesi
16	Rasuri
16	Rocetti (Rociti)
16	Sardelle (Sardelli)
16	Vataliani (Vattagliani)
15	Alberghi
15	Bagno
15	Buvalello (Buvalelli)
15	Ottobuono
15	Piantavigne
15	Stiliatico (Stiatico)
14	Ferranti
14	Pasetti (Pasetto)
14	Ventura
13	Alerari (degli)
13	Calamatoni (Calamoni)
13	Chiari
13	Coloreto
13	Grasso
13	Guastavillani
13	Malvezzi
13	Marsigli (Marsili)
13	Ramenghi (Ramengo)
13	Roncore
13	Umeldola (Olmedola)

Table III.10 (*cont.*)

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12	Beccari
12	Coltelli
12	Ignano
12	Matafelloni (Matafellonibus)
12	Placiti (Placito)
12	Quercie (Querci)
12	Ricevuti (Ricevuto)
12	Tavolle
11	Alessio
11	Barbieri (Barberio)
11	Bisano
11	Bolognetto
11	Conforti
11	Ettolo (Ettoli)
11	Fiesso
11	Garfagnini (Garfagnino)
11	Grinzi
11	Grugno (Grogni)
11	Gualenghi
11	Guidone
11	Lobia
11	Marzone (Marzoni)
11	Massimilli
11	Sassolini
10	Biagio
10	Bonvisino
10	Brunetto
10	Cento (da)
10	Codagnelli (Codagnello)
10	Cospi
10	Fiorani
10	Francuccio (Francucci)
10	Galissano
10	Marescalco
10	Parigi (Parisi, Parisio)
10	Pratesi (Pratesio)
10	Ranzaldino
10	Ricolfi
10	Rustici (Rustico)
10	Stifonti
10	Surici
10	Tanti
10	Usberti
10	Visconti
9	Beretta
9	Cantone (dal)

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TABLE III.11  
Number and Names of *Anziani* Who Held Office Three or More Times  
1281–1326

Number of Times Held Office	Number of <i>Anziani</i>
17	1
12	2
11	1
10	6
9	9
8	17
7	30
6	54
5	86
4	161
3	276
Total	643

Names of *Anziani* Who Held Office Six or More Times

Name of <i>Anzianus</i>	No. Times Office Held	Span of Years	Pre-1281 Years Office Held
Spersonaldi, Guglielmo	17	1283–1317	1278
Sabadini, Monso	12	1287–1310	
Tolomeo, Domenico	12	1289–1316	
Pepoli, Romeo	11	1281–1320	
Bellondini, Paolo	10	1301–1319	
Codagnelli, Giovanni	10	1284–1300	1278
Ghisalabella, Uguccio di Rodolfo	10	1298–1319	
Lamandini, Guidotto	10	1288–1304	1272
Ricevuti, Guido	10	1302–1319	
Trintinelli, Paolo	10	1282–1306	
Avesa (Apposa), Enrighetto	9	1283–1294	1257
Boatteri, Graziolo	9	1283–1303	
Boiti, Arardo	9	1284–1318	1278
Clarissimi, Guglielmo	9	1290–1321	
Gozzadini, Benno di Castellano	9	1299–1318	
Mezzovillani, Giovanni	9	1291–1317	
Ottobuono, Ugolino	9	1301–1325	

Table III.11 (*cont.*)

Name of <i>Anzianus</i>	No. Times Office Held	Span of Years	Pre-1281 Years Office Held
Ricolfi, Giovanni	9	1289–1304	
Sinibaldi, Pietro di Giacopo	9	1289–1304	
Bonacatti, Mattiolo	8	1296–1324	
Calamatoni, Gabriele	8	1297–1317	
Corvi, Gerardo	8	1281–1291	1258, 1260, 1271
Dongelli, Monso	8	1283–1310	
Foscherari, Provenzale	8	1281–1307	
Gerardini, Giacomo	8	1306–1313	
Manelli, Zambonino	8	1281–1295	
Passipoveri, Tortuccio	8	1290–1303	
Pianelli, Domenico di Ventura	8	1305–1318	
Ricci, Tommaso	8	1287–1309	1278
S. Giorgio, Primirano di Vittorio	8	1298–1324	
Salvone, Dino	8	1296–1325	
Tederisi, Omobono	8	1281–1324	
Usberto, Ugolini	8	1288–1317	
Vannuci, Giacomo	8	1302–1319	
Vataliani, Bartolomeo di Guezzo	8	1289–1303	
Ventura, Bartolomeo	8	1289–1304	
Aimerico, Nicola	7	1284–1306	
Alessio, Martino	7	1289–1300	1278
Argellatta, Giovanni di Pietro	7	1305–1326	
Bencevenne, Giovanni	7	1298–1306	
Berardi, Giacomo	7	1293–1303	
Bernardini, Bartolomeo	7	1299–1318	
Bianco, Andrea	7	1310–1320	
Bonromei, Nicolò	7	1300–1319	
Canonici, Mino	7	1307–1321	
Dentami, Martino di Gerardo	7	1300–1315	
Flagnano, Benamanno	7	1285–1299	1278
Giovanni, Matteo	7	1309–1325	
Gozzadini, Galvano	7	1281–1299	
Manzolino, Mercadante	7	1289–1299	1278
Matafelloni, Simone di Zaccaria	7	1289–1303	1278
Melica (Melega), Giacomo di Zenzore	7	1288–1321	

Table III.11 (*cont.*)

Name of <i>Anzianus</i>	No. Times Office Held	Span of Years	Pre-1281 Years Office Held
Mezzovillani, Enrico	7	1283–1313	
Musoni, Arardo	7	1285–1300	
Pasquale, Guido di Guglielmo	7	1291–1303	
Passipoveri, Ubaldino di Vianesio	7	1300–1326	
Plastelli, Bonagrazia	7	1298–1325	
Plastelli, Rodolfo di Riccobono	7	1301–1325	
Ranzaldini, Giacomo	7	1291–1322	
S. Giorgio, Pace di Bernardino	7	1284–1303	
Sabadini, Trachedino	7	1306–1321	
Sacaccio, Zunta di Pietro	7	1300–1319	
Saliceto, Pace di Giovanni	7	1282–1301	
Sovrano, Dainese	7	1281–1301	
Tederesi, Giovanni	7	1290–1307	
Zeno, Bongiovanni	7	1291–1325	
Alberti, Fantino	6	1288–1303	
Albiroli, Giuliano di Albirolo	6	1314–1320	
Amato, Pietro	6	1305–1320	
Ardiccione, Giovanni	6	1281–1316	
Arlottino, Artinisio	6	1311–1326	
Bambaglioli, Amico	6	1281–1312	
Bambaglioli, Uguccio di Amico	6	1312–1326	
Barbarossa, Palmirolo	6	1284–1297	1278
Bentivoglio, Ivano	6	1295–1311	
Benvestiti, Pietro di Guido	6	1304–1326	
Berardi, Giacomo	6	1293–1303	
Bertalia, Nicolò di Rainiero	6	1281–1289	
Bianchetti, Pietro	6	1284–1319	
Boatteri, Giacomo	6	1297–1320	
Bolognetto, Gratiolo	6	1308–1320	
Bolognino, Francesco	6	1306–1326	
Brunetto, Zambone	6	1284–1304	
Cambio, Giovanni	6	1284–1317	
Casola, Pietro	6	1301–1326	
Castagnolo, Angelbono	6	1305–1317	
Ceste, Negro di Bartolomeo	6	1300–1321	
Clarissimi, Bettino	6	1308–1321	
Clasara, Domenico	6	1281–1300	
Corforati, Michelino	6	1288–1302	

Table III.11 (*cont.*)

Name of <i>Anzianus</i>	No. Times Office Held	Span of Years	Pre-1281 Years Office Held
Feliciani, Enrighetto	6	1283–1316	
Filandana, Guglielmo	6	1288–1299	
Fiorani, Tommaso	6	1300–1318	
Francuccio, Giovanni di Bonvicino	6	1299–1318	
Gozzadini, Bernabò	6	1289–1319	
Graziadeo, Martino	6	1281–1299	
Lamandini, Obicino	6	1281–1291	
Lobia, Candaleone	6	1287–1300	
Marescalchi, Guarino di Azzone	6	1300–1312	
Massimilli, Dondideo	6	1287–1303	
Montanari, Montanaro di Fra Pietro	6	1299–1324	
Pasetti, Ardiciono di Marco	6	1309–1317	
Pegolotti, Bombologno	6	1290–1307	
Petricciulo, Riccardino	6	1295–1304	
Piantavigne, Giuliano	6	1304–1311	
Prevedelli, Guido	6	1282–1295	
Quercie, Negro	6	1289–1326	
Riniero, Giovanni	6	1305–1326	
Roncore, Mattiolo	6	1288–1297	
Rote, Pietro di Ugolino	6	1306–1314	
Sala, Giovanni di Fra Deolai	6	1302–1321	
San Roffillo, Giovanni di Pietro	6	1291–1304	
Sant'Alberto, Andrea	6	1285–1296	
Sardelle, Bennino	6	1288–1302	
Soldadieri, Rolandino	6	1288–1303	
Stifonti, Lambertino	6	1288–1303	
Vinciguerra, Michele	6	1289–1305	
Viviani, Alberto	6	1288–1305	
Zovenzoni, Bongiovanni	6	1281–1296	
Zovenzoni, Zunta	6	1287–1291	1260, 1271



## APPENDIX E

## TABLES FOR CHAPTER FOUR

TABLE IV.1  
Magnate Identity Trials

Entry	Individual(s)	Year	Charge*	Source	Verdict
PERIODS 1 & 2					
1	D. Oxelitus domini Gualcheris AND Jacobus suus filius... de parole et parentele dominorum de Riosti	July 1284	Not given	Reg. 59 fols. 42r–43v, 71r–75r	Not given (included in 1285 purge)
		CAPSA			
2	Nicholaus domini Nicholay Parixii	Aug. 19, 1284	Societas Clavium	Reg. 59 fols. 55r–56v. Reg. 63 fols. 55r–56v, 59v	Not given
3	Partigone filius domini Mathei de Roziis	Feb. 12, 1285	Aquile	Reg. 66 fols. 126r–127r	Not given
4	Ugolinus condam Azzolini de capelle S. Marie de Barrancelle filii condam domini Bernardini domine Adalzie de S. Johanne in Persiceto	Feb. 16, 1285	Lombardorum	Reg. 66 fols. 126–127r	<i>Pendet</i> (suspended)
5	Raynerius domini Jacobini <i>catanei</i>	March 6, 1285 CAPSA **	Brancarum	Reg. 66 fols. 58r, 60v	Aquittal
6	D. Liazarus domini Arpinelli	Nov. 1285	Aquile	Reg. 82 fols. 11v–17v	Not given
7	Mannareta filius Lanfranchi de Casi	Dec. 29, 1286–Feb. 14, 1287	Entering palace of the Capitano	Reg. 88 fols. 40r–41r	Not given



Table IV.1 (*cont.*)

Entry	Individual(s)	Year	Charge*	Source	Verdict
PERIOD 3					
8	D. Ysnardus ( <i>notarius</i> ) condam domini Johannis de Argele capelle Sanctorum Petri et Marzelini	Oct. 17, 1287–Jan. 26, 1288	Traversarum de Barbarie	Reg. 104 fols. 8r, 26r, Reg. 106 fol. 26r	Aquittal by <i>consilium</i>
9	D. Petropinus de Castello filius condam domini Alberti de Parma (D. Albertus de Alberis)	Nov. 4, 1287– Feb. 6, 1288 and Dec. 16, 1287 for <i>consilium</i>	Brancarum	Reg. 104 fols. 15r– 16v, Reg. 109 fol. 12r, Reg. 110 fols. 11v–13v, Reg. 107 fol. 20r (for <i>consilium</i> )	Aquittal
10	Zacharias Teste de Gisleriis capelle S. Columbani	Nov. 1287	Brancarum	Reg. 107 fols. 47r–51v	No verdict
11	Bartolomeus AND Petrus de Saviolis	Dec. 19, 1287–Feb. 3, 1288	CAPSA Brancarum	Reg. 104 fol. 26v, Reg. 110 fols. 16v–30r	Aquittal
12	D. Nicholaus Facani de Blatixiis	Jan. 2, 10–Feb. 4, 1288	Merchatorum	Reg. 110 fol. 20r, Reg. 109 fol. 11v	Aquittal
13	Simon Bonacursi de Portenariis	Jan. 26, Feb. 6, 1288	Entering palace of the Capitano	Reg. 107 fol. 14v, Reg. 110 fols. 31v– 33r, Reg. 109 fol. 14v	Aquittal
14	D. Franciscus AND Bitinus fratres et filii condam domini Pauli Cazipte	Feb. 27, March 9, 1288	Brancarum CAPSA	Reg. 104 fol. 39r, Reg. 110 fol. 37v	Aquittal
15	Dinus filius condam Nicholay de Tebaldis AND Jacobinus filius condam domini Tomaxini de Tebaldis	Feb. 27, March 23, 1288	Brancarum  CAPSA	Reg. 104 fol. 39v, Reg. 110 fols. 34v–35r	Aquittal

Table IV.1 (*cont.*)

Entry	Individual(s)	Year	Charge*	Source	Verdict
16	D. Nicholaus condam domini Petri de Musolinis	Feb. 27, March 1–18, 1288 Aug. 1288 for <i>consilium</i>	Campsorum Clavium  CAPSA	Reg. 104 fols. 40r, 44r, Reg. 110 fols. 34r–38v, Reg. 118 fol. 51r for <i>consilium</i>	<i>Pendet</i> , then acquittal by <i>consilium</i> in August
17	D. Bitinus domini Ramberti de Blatixiis (Biatixiis)	Feb. 27–28, 1288	Stellarum Notariorum Calzolariorum CAPSA	Reg. 104 fol. 40v, Reg. 110 fol. 41v	Acquittal
18	Eight men di Gisleriis: Zacharias Teste de Gisleriis de capelle S. Columboni, AND his three sons, Gerardus Testa, Baldoinus AND Hoselectus. Egidius domini Guidochini di Gisleriis AND his brothers Raynerius AND Jaconutius AND Gerardus filius Albertini de Alberinatiis qui dicitur de Gisleriis	March 5–13, 20, 1288	Brancarum Aquile Notariorum  CAPSA	Reg. 104 fols. 43rv, 44r, Reg. 110 fols. 39r–40v, Reg. 107 fols. 49r– 51r	<i>Pendet</i>
19	Becharius AND Thoresanus fratres et filii condam domini Landolfi condam domini Petri Martini becarii de capelle S. Thomaxii de Mercato (de Beccariis)	March 5, 1288	Merchatorum	Reg. 104 fol. 44v	Acquittal
20	Dinus AND Bertolacius (or Bazallus) fratres et filii domini Scanabici de Romancis	March 5–8, 1288, Feb. 5, 1289	Notariorum	Reg. 104 fol. 45r, Reg. 120 fol. 30r (for <i>consilium</i> of Feb. 1289) NOTE: proofs in <i>consilium</i>	<i>Pendet</i> , then acquittal by <i>consilium</i>

Table IV.1 (*cont.*)

Entry	Individual(s)	Year	Charge*	Source	Verdict
21	Jacobinus filius condam domini Sanarisii de Gatariis capelle S. Fabriani Porte Steri	March 5–17, 1288	Notariorum	Reg. 194 fol. 45v	<i>Pendet</i>
22	Marchus filius naturalis domini Dondeschi de Garisendis	March 5–8, 1288	Bixileriorum Draperiorum pro armis  CAPSA	Reg. 104 fol. 46r, Reg. 110 fol. 42r	<i>Pendet</i>
23	Albergitus filius condam domini Tomaxini de Zerzanis capelle S. Petri	March 21, 1288	Entering palace of the Capitano	Reg. 104 fol. 50v	<i>Pendet</i>
24	Guidocherius AND Mathiolus fratres et filii condam domini Philippi de Baldoinis	Nov. 13, 1288, Dec. 18–28 for witnesses and Jan. 29, 1289 for the <i>consilium</i>	Traversarum de Barbarie	Reg. 120 fols. 14v, 30v–31r, Reg. 126, loose folios paginated as 27r–32r but at end of register (for witnesses)	Petition granted by <i>consilium</i>
25	Petrus domini Petri de Bechariis	Feb. 4, 1289	Merchatorum	Reg. 120 fol. 30v	Not given
26	Bonacursius domini Arimondi de capelle S. Cervaxii (de Romanciis)	Jan. 23, 1290	Cordoanerio- rum	Reg. 135 fol. 32r	Acquittal by <i>consilium</i>
27	Raynerius Donati de Campezo frater condam Ugolintii de Campezo (de Varenane)	Feb. 15– March 13, 1290	Notariorum	Reg. 135 fols. 39v, Reg. 136, fols. 49r–53r	Acquittal by <i>consilium</i>
28	Panzarella Albergature de Roncastaldo	March 3 & 5, April 26, May 1290	Notariorum	Reg. 135 fol. 45v, Reg. 151 fols. 18r, 29r	<i>Pendet</i> (for both <i>denuncie</i> )

Table IV.1 (*cont.*)

Entry	Individual(s)	Year	Charge*	Source	Verdict
29	Henrigheptus AND Ghinacius, brothers and sons of Ubertinus condam domini Henrigheti Diamantis	March 3–19, 1290 for Reg. 135 & 137, April 7–May 27 for Reg. 151	Griffonum  CAPSA	Reg. 135 fols. 46rv, Reg. 137 fols. 76v–79r, 82v–83r Reg. 139 fols. 44r–48v, Reg. 146 fol. 6v for the <i>consilium</i> & sentence of April 27, 1290, Reg. 151 fols. 3rv, 14r, 19v, 20v, 22r–25v, 27r–28r, 33r, 38v–40r, 53v	Pendet in Reg. 137 Acquittal according to <i>consilium</i> of April 27. Second <i>consilium</i> of May in Reg. 151. Ends with call to imputed before his removal from the societas Griffonum in accordance with the second <i>consilium</i>
30	Petrus filius domini Raynerii de Alidoxiis	Oct. 20, 1290	Griffonum	Reg. 135 fol. 7v, Reg. 136 fols. 69r–74r	Acquittal
31	Partucius filius domini Savatisii de Vizano plebanus plebis Caxii	May 4, 1290	Schisarum de Saragocia	Reg. 146 fols. 9v–10v	Acquittal by <i>consilium</i>
32	D. Ysnardus condam domini Johannis de Argele capelle Sanctorum Petri et Marceline	Nov. 1290	Traversarum de Barbarie	Reg. 137 fols. 24rv	Acquittal—has only <i>consilium</i> & sentence

Table IV.1 (*cont.*)

Entry	Individual(s)	Year	Charge*	Source	Verdict
33	Zenzanome cui dicitur Zenza filius domini Rolandini Pippini AND Philiputius filius domini Alberti Pippini	June 16, 1292	Notariorum and Quarteriorum for Zenza, and Quarteriorum for Philiputius	Reg. 180 fols. 43r–45r for <i>consilium</i> and sentence of judge of Aug. 19, fol. 77r for sentence of <i>vicarius</i> of Aug. 20	Both acquitted by <i>consilium</i> that says they should be acquitted <i>non obstante</i> what was in the notification and trial since they seem to be <i>de populo et aliis rationibus</i> .
34	D. Girarducius filius condam domini Albiroli de Alberis de Castello	July 18–Aug. 28, 1292	Spadarum  CAPSA	Reg. 180 fols. 62r–63r	Acquitted by <i>consilium</i>
PERIOD 4					
35	D. Ugolinus de Musolinis	Aug. & Sept. 22, Oct. 19–29, Nov. 3–6, 1293. Oct. 15–Nov. 3 for Reg. 227	Bechariorum pro arte Clavium  CAPSA	Reg. 223 fols. 28v–29v, 30v, Reg. 226 fols. 17v–19v, 28v–29v	Not given
36	Johannes domini Aldobrandi (or Johannes domini Ildefini de Simopizzolis) Rg. 226 says Albertus, Zovenzus AND Johannes domini Aldebrandi de Simipozolis)	Aug. & Sept., Oct. 24, 1293	Draconum  CAPSA	Reg. 223, fols. 29rv, Reg. 226 fols. 17v–19v	Not given
37	Alexander domini Ugolini Zonzani (or Alexander domini Jacopini)	Aug. & Sept. 26, 1293	Stellarum Cordoaneriorum	Reg. 223 fols. 29rv, Reg. 226 fols. 17v–19v	Not given

Table IV.1 (*cont.*)

Entry	Individual(s)	Year	Charge*	Source	Verdict
38	D. Zoanes Guerzii de Garisendis (or Johannes)	Aug. & Oct. 6, 1293 for Reg. 223 & Oct. 1293 for Reg. 226	Campsorum Draperiorum pro armis	Reg. 223 fols. 28v–29v, Reg. 226 fols. 17v–19v	Acquittal according to <i>consilium</i>
39	D. Bitinus domini Ramberti de Platixiis	Aug. & Oct. 6, 1293 & Oct.–Nov. 3, 1293	Stellarum Notariorum Calzolariorum CAPSA	Reg. 223 fols. 28v–29v, Reg. 226 fols. 17v–19v	See entry 12
40	D. Albertus Zonzani (Albergetus condam domini Thomasii de Zenzonis), also as D. Albergetus condam domini Thomasii de Zenzonis capelle S. Petri	Aug. 1293 and Oct. 20, 1293	October charge is from officials of the Varorum	Reg. 223 fols. 29rv, Reg. 226 fols. 17v–19v, 20r–26v, Reg. 227 fols. 5r–7r	Acquittal
41	Niccholaus filius Guidonis de Castello AND Johannes filius Guidonis de Castello (de Alberis)	Aug. & Nov. 1293	Merchatorum CAPSA	Reg. 223 fols. 16r–17r	Not given
42	Betaxius AND Bulgarus fratres et filii condam domini Aldrovandini de Gattariis	Aug. 18–Sept. 22, 1293 for Reg. 223 Sept. 29, 1293 for Reg. 206	Calzolariorum Aquile	Reg. 206 fol. 36r, Reg. 226 fols. 3r–6v (see entry 47), Reg. 223 fols. 21r–25r, 38v (registering of loose folio between fols. 5v–6v), 40v	Probably condemned, given evidence & their not wanting a <i>consilium</i> at the end. Also next trial against <i>ministrales callegariorum</i> for admitting them

Table IV.1 (*cont.*)

Entry	Individual(s)	Year	Charge*	Source	Verdict
43	Jacopinus filius condam domini Bertholomei de Guidozagnis	Aug. 18–Oct. 22, 1293 and Nov. 23, 1293	Draconum        CAPSA	Reg. 223 fols. 19v–20v for charge, Reg. 206 fols. 23r–24r for witnesses against him, fols. 71r–78r for <i>intencio</i> and witnesses for defense, Reg. 227 fol. 23r	Condemned <i>Consilium</i> appointed
44	D. Scappa cui dicitur Coppiooctius AND D. Bartholemeus fratres et filii condam domini Petri Scappe de Scappis	Aug. 21 & Nov., 1293	Name of society left blank   CAPSA	Reg. 223 fols. 16r– 17r	Not given
45	Petrus filius olim Furlani capelle S. Bertholi in Palazzo	Aug. 26, 1293	Cordoanerio- rum  CAPSA	Reg. 223 fols. 16r– 17r	Not given
46	Albrighus de S. Petro	Sept. 1293 for Reg. 206, Sept. 28 & 30 for Reg. 223	Notariorum Varorum	Reg. 206 fols. 34r, fols. 58r– 60v for <i>intencio</i> of defense witnesses, Reg. 223 for <i>inquisitio</i> with six others	Not given
47	Bulgarus AND Bectaxius fratres et filii olim Aldobrandini de Gattaris	Sept. 9, 1293 & Oct. 20– Nov. 2, 1293 for Reg. 223 & Oct. 1293 for Reg. 226	Calegariorum	Reg. 223 fols. 38v, 40v, Reg. 226 fols. 3r–6v, 20r–26v	Not given

Table IV.1 (*cont.*)

Entry	Individual(s)	Year	Charge*	Source	Verdict
48	Bulgarus condam domini Aldebrandini de Gatariis capelle S. Martini de Aposa AND Filiphus filius dicti Bulgarii	Oct. 1293	Varorum	Reg. 226 (see entry 47), Reg. 227 fols. 5r-7r	condemned
49	Bertholinus filius condam Furlani de Salla	Oct. 16 & 21, 1293	Castellorum	Reg. 226 fols. 27rv, Reg. 227 fol. 3r	Acquittal
50	Bectus filius domini Vignerii (or Ugnerii) capelle S. Petri (Bectus filius Ugnerii (or Ognerii) de Perticonibus	Oct. 16 & Nov. 7-Dec. 18, 1293	Varorum	Reg. 226 fols. 20r-26v, 33v-34r, Reg. 227 fols. 5r-7r	Not given
51	Bertholomeus domini Guidonis Tagliamenti de Platixiis capelle S. Jacobi de Platixiis	Oct. 24-27, 1293 for Reg. 223, and Oct. 10 for Reg. 226	Stellarum	Reg. 223 Loose folio between fols. 5v-6r, fols. 33rv, Reg. 226 fols. 3r-6v, 15v-16v	Not given
52	D. Zangrellus AND Guinibaldus fratres et filii condam domini Benvengnay de Burgo Panichalis	Nov. 25-Dec. 23, 1293 for Reg. 225, Nov. 11-Dec. 23 for Reg. 226, Nov. 7-Dec. 3, 1293 for Reg. 227	CAPSA Leopardorum	Reg. 225 fols. 61r-68r, Reg. 226 fols. 35r-38v, Reg. 227 fols. 18rv	Acquittal
53	Guidoctinus de Gisileriiis	Reg. 239 April 7-May 6, 1294. Inside back cover—May 7  Reg. 240 May 1-5  Reg. 242 May 7	Aquile Campsorum   CAPSA	Reg. 239 (inside front and back covers), fols. 2r-3v, Reg. 242 fol. 1r, Reg. 240 fols. 5rv	Condemned Notification to notary of societas campsorum and two others to remove him from the campsorum & Aquile. His payment of condemnation at <i>dischum Ursi</i> on May 7



Table IV.1 (*cont.*)

Entry	Individual(s)	Year	Charge*	Source	Verdict
54	Dominicus condam Tencii, Andreas Alberti Tenci, Dondedeus fabricus filius Alberti Tenci, all from capelle S. Christofori de Saragocia	April 12–June 7, 1295	Fabrorum Schisarum	Reg. 279 fols. 7r–8r	Aquittal because accuser does not prosecute.
55	Galvanus filius fratris Gerardi condam domini Scoti	April 19–May 9, 1295	Merchatorum CAPSA	Reg. 276 fols. 2rv	Not given
56	D. Rodulfus domini Tranchedini de Sabbadinis AND his brothers Mussus, Gerardus et Petrus, AND their sons, Phylippus cui dicitur Lippus filius condam dicti domini Rodulfi, Tranchedinus, Nicholaus cui dicitur Collo fratres et filii dicti Mussi, Nicholaus cui dicitur Collo filius dicti Gerardi	Jan. 21–April 29, 1296	Rodulfus from the Leopardorum & calegario-rum, Phylippus from the Leopardorum, & Gerardus from the campsorum, merchatorum & Leopardorum, Petrus left blank	Reg. 288 fols. 12r–17v	Ends with a peace contract
57	D. Muxinus Mazacagenis	May 23–June 16, 1296	Varorum	Reg. 301 fols. 1rv	Not given
58	Jacobus <i>sindicus vel viscarii</i> capelle S. Nicholay burgi S. Felicis	Nov. 8–29, 1296	Leonum	Reg. 288 fols. 1r–2r	Aquittal
59	D. Bonagratia condam domini Armanni <i>judex</i> capelle S. Antholini	Jan. 7–Feb. 19, 1297	Bechariorum pro armis	Reg. 312 fols. 2v–8v, Reg. 305 fol. 17v for the condemnation	Condemned Feb. 21, precept to the notary <i>ad acta camere comunis et populi Bononie</i> to remove him from the <i>matricula</i> of the bechariorum

Table IV.1 (*cont.*)

Entry	Individual(s)	Year	Charge*	Source	Verdict
PERIOD 5					
60	Johannes condam domini Jacobi de Baldoynis capelle S. Barbariani	die ultimo februarii-Mar. 4, 1298	Traversarum de Barbarie	Reg. 332 fols. 12r-13v, 15rv	<i>Matricula</i> presented by <i>ministrales</i> of society and examined by judge & his name not found
			CAPSA		
61	Symonitus qui dicitur Inglinus AND Thomaxinus qui dicitur Mixinus fratres et filii condam Johannis domini Tomaxini de Cazaminicis Pizolis	May 16, 1298	Aquile	Reg. 332 fol. 20r	Not to proceed because judge & <i>ministrales</i> have examined the <i>matricula</i> & his name not found therein
			CAPSA		
62	D. Ugholinus Muxolini	Dec. 8-11, 1298	Bechariorum Clavium	Reg. 344 fol. 21r	Acquittal by <i>consilium</i> (not given)
63	Dominicus AND Thomasinus fratres et filii condam Johannis domini Thomasini de Cazanemicis Pizolis	Jan. 21-Feb. 20, 1299	Aquile	Reg. 262 fols. 106r-107v	Acquittal
			CAPSA (but becomes an accusation case)		
64	Bartholomeus domini Johannis de Argelle	July 23-Aug. 7, 1299	Traversarum de Barbarie	Reg. 355 fols. 39r-40v	Condemned. Judge orders <i>ministrales</i> to remove him from their <i>matricula</i> since he has admitted he is nephew of a <i>miles</i>
65	D. Ysnardus condam domini Johannis de Argelle	Aug. 11-Sept. 3, 1299	Traversarum de Barbarie	Reg. 355 fols. 48rv, Rg. 356, fols. 50v-52r	Not given, but see entry 64.

Table IV.1 (*cont.*)

Entry	Individual(s)	Year	Charge*	Source	Verdict
66	Nicholaus, Franceschus, Rolandus, Philipus AND Gallotus fratres et filii condam domini Buvalelli condam domini Artenesii Codemazo de capelle S. Tecle AND Ricardus condam domini Guascheti condam domini Artenesii Codemazo de capelle S. Stefani (de Artenixiis)	Oct.–Dec. 11, 1299	Balzanorum Notariorum (for all of them)	Reg. 362 fols. 30r–48v, 55r–71r	Acquittal
67	Jacobus AND Francescus fratres et filii condam domini Mathioli filii condam domini Henregipti Batelle de Artensiis	Oct. 29–Nov. 25, 1299	Notariorum Castellorum	Reg. 362 fols. 73r– 74v	Acquittal by <i>renuncia</i> of the accuser
68	D. Nicholaus AND Ugolinus de Muxolinis fratres et filii condam domini Petri de Muxolinis	Nov. 10, 1300–Jan. 2, 1301	Clavium Bechariorum Campsorum	Reg. 375 fols. 28r–31v, 77r–82v, 83v–87v	Acquittal
69	Jacobus filius condam domini Nicholay filius condam domini Bonagratie Armanni	Nov. 14, 1300–Feb. 28, 1301	Spadarum Bechariorum	Reg. 375 fols. 34v, 37v, 77r, 82v, 83v, 87v	Convicted
70	D. Vandinus condam Ribaldi de Zeula	Feb. 17– Mar. 3, 1301	Brancarum	Reg. 375 fols. 88v– 89r	Acquittal because accuser renounces accusation and pays fine of 20 <i>solidi</i> .
71	Munsus filius condam domini Tranchedini de Sabadinis AND frater condam domini Alberti filii condam dicti domini Tranchedini de Sabatinis	May, 1301	destroyed  (notary per <i>anziani</i> list) See entry 72	Reg. 380 fols. 8r–10v	Not given

Table IV.1 (*cont.*)

Entry	Individual(s)	Year	Charge*	Source	Verdict
72	Same as in entry 71 but a third son, Papellus, is included	June–Aug., 1301	Munsus is in societates Leopardorum, Campsorum & Merchatorum, as are his sons	Reg. 380 fols. 23r–29v	Acquittal by sentence of the judge as legitimately in those societies according to the legislation of 1294
73	D. Henricus condam domini Rabaldi de Foscardis AND D. Franciscus eius filius (who used to live in Burgo Peradelli in capelle S. Christine and now lives in terra Ceole comitatus Bononie)	Dec. 9, 1303–Jan. 27, 1304 for Reg. 425, Jan 9, 1304 for Reg. 429	Draperiorum pro armis	Reg. 425 fols. 29v–33v, Reg. 429 fols. 2v–3v	Not given
74	D. Franciscus filius Caccianimici condam domini Gandulfi de Gisso	Aug. 19–Oct. 31, 1304 for Reg. 433, May 9–June 8, 1304, April 15–23 for Reg. 438	Aquile Notariorum	Reg. 433 fols. 32r–44r and inside back cover, Reg. 437 fols. 1r–8r, Reg. 438 fols. 15r, 16r	First trial voided. Verdict for second trial not given.
PERIOD 6					
75	Bitinus Uguicionis domini Zangarini domini Grimaldi de Lamola (capelle S. Thome)	May 16–July 12, 1313	Clavium	Reg. 561 fols. 48r–52r, Reg. 560 fols. 2r–3v	Acquittal
76	Paganus cui dicitur Pagantius filius condam Lambertini sive Rambertini domini Benni de Varignano qui habitat in dicta terra Varignane AND Beninus cui dicitur Benutio filius condam Lambertini sive Rambertini domini Benini de Varignana	Mar. 17, 1315	Castellorum	Reg. 594 fols. 99r, 105r	Not given

Table IV.1 (*cont.*)

Entry	Individual(s)	Year	Charge*	Source	Verdict
77	Guidocherius, Bindus AND Mathiolus (or Ravignanus), sons of Phylipus condam domini Johannis de Balduinis capelle S. Barbaciani AND the descendants of Jacobus (brother of Phylipus), who are frater Guanominte, Johannes AND Franciscus AND their descendants	April 25, 1316–April 26, 1317 (sic-trial lasts a full year)	Not given	Reg. 619 fols. 5v–31r, Reg. 630 fols. 37r–38v (for sentence)	<i>Renucia</i> by denouncer.
78	Bartholomeus cui dicitur Bertucius condam Bonrecupri Adantis (Adamis) <i>notarius</i> de Badallo	Mar. 9–26, April 15–May 4, 1317	Griffonum	Reg. 621 fols. 64r–66v, 67r–68v	Apparently not prosecuted.
PERIOD 7					
79	Bonaparte qui dicitur Putius filius condam domini Lambertini de Ghisilerii capelle S. Fabiani. Says he is not filius domini Lambertini de Ghislerii set est filius et fuit Benvenmini capelle S. Fabiani (and son of Domina Ansixsia filia condam domini Petricioli)	Mar. 24–May 30, 1318	Balzanorum	Reg. 639, fols. 97r–104r	<i>Renucia</i> by accuser, but trial continues. <i>Consilium</i> for acquittal since charge not proven.
80	D. Franciscus AND Ugolinus sive Ghinucius fratres et filii domini Benini de Varenana	May 12–June 8, 1319 June 5–July 21, 1319	Quarteriorum	Reg. 658 fols. 3r–4r, fols. 27r–34r	<i>Consilium</i> of July 21 & sentence of July 27 that judge should not proceed against Franceschius but can proceed against Ghinucis.

Table IV.1 (*cont.*)

Entry	Individual(s)	Year	Charge*	Source	Verdict
					Separate <i>consilium</i> & sentence of acquittal for Ghinucius after his trial, given Aug. 30, 1319.
81	Ricardus qui dicitur Zardolus sive Zarlus olim domini Fialti condam domini Uguicionis de Platisiis capelle S. Jacobi de Platisiis	June 9–Aug. 11, Oct. 1, 1320. Oct. 30, 1320 for acquittal in Reg. 682 according to <i>consilium</i> by Fulchus de Pacibus	Spadarum (in the new <i>matricula</i> as Ricardi foli domini Uguicionis capelle sancti Jacobi de Platisiis, not saying that he is <i>de domo Platisiis</i> )	Reg. 675 fols. 11r–24v, 70rv, Reg. 682 fols. 26r–27r, for sentence of acquittal	Reg. 675 “absolutio” in margin, but ends with appointing of D. Fulchus de Pacibus as <i>sapiens</i> on Aug. 18 and summoning of parties on Oct. 1. Reg. 682 Acquittal with <i>consilium</i> because case was not completed within two months.
82	Guiduccius condam domini Gigli de Gissleriis capelle S. Fabbiani. Gives his name as Guido vocatus Guiduccius condam domini Gigli condam domini Guiducci de Laurentiis capelle S. Fabiani	Nov. 22–Dec. 8, 1320, Jan. 21, 1321 for the sentence	Aquile	Reg. 680 fols. 49r–55r, Reg. 682, fol. 60r for the sentence	Acquittal because accuser did not prosecute the case. Accused gives exceptions to which accuser responds that he cannot do so since he is <i>malpaghus</i>
83	Opizus cui dicitur Piczinus filius condam domini Gilii de Ghissaleriis capelle S. Fabiani	Dec. 20, 1320–Jan. 10, 1321 & Feb. 20, 1321 for the sentence	Aquile	Reg. 680 fols. 67r–68r, Reg. 682 fols. 65rv for the sentence	Acquittal because accuser did not prosecute

\* The charge is either illegal membership in the indicated society or entering the palace of the Capitano

\*\* “Capsa” signifies an anonymous charge left in the specially-designated box (“capsa”)

TABLE IV. 2  
Families and Individuals with Multiple Trials

Family	Entry	Individuals	Year
Argelle	8	D. Ysnardus (notarius) condam domini Johannis de Argele capelle Sanctorum Petri et Marzelini	Oct. 17, 1287–Jan. 26, 1288
	32	D. Ysnardus condam domini Johannis de Argele capelle Sanctorum Petri et Marceline	Nov. 1290
	64	Bartholomeus domini Johannis de Argelle	July 23–Aug. 7, 1299
	65	D. Ysnardus condam domini Johannis de Argelle	Aug. 11–Sept. 3, 1299
Alberis (Castello)	9	D. Petropinus de Castello filius condam domini Alberti de Parma (D. Albertus de Alberis)	Nov. 4, 1287–Feb. 6, 1288
	34	D. Girarducius filius condam domini Albiroli de Alberis de Castello	July 18–Aug. 28, 1292
	41	Niccholaus filius Guidonis de Castello AND Johannes filius Guidonis de Castello (de Alberis)	Aug.–Nov. 1293
Armanni	59	D. Bonagratia condam domini Armanni judex capelle S. Antholini	Jan. 7–Feb. 19, 1297
	69	Jacobus filius condam domini Nicholay filius condam domini Bonagratie Armanni	Nov. 14, 1300–Feb. 28, 1301
Artenixiis	66	Nicholaus, Franceschus, Rolandus, Philipus AND Gallotus fratres et filii condam domini Buvalelli condam domini Artenesii Codemazo de capelle S. Tecele AND Ricardus condam domini Guaschetti condam domini Artenesii Codemazo de capelle S. Stefani (de Artenixiis)	Oct.–Dec. 11, 1299
	67	Jacobus AND Francescus fratres et filii condam domini Mathioli filii condam domini Henregipti Batellle de Artensiis	Oct. 29–Nov. 12, 1299

Table IV. 2 (*cont.*)

Family	Entry	Individuals	Year
Balduinis	24	Guidocherius AND Mathiolus fratres et filii condam domini Philippi de Baldoinis	Nov. 13, 188–Jan. 29, 1289
	60	Johannes condam domini Jacobi de Baldoynis capelle S. Barbariani	die ultimo februarii–March 4, 1298
	77	Guidocherius, Bindus AND Mathiolus (or Ravignanus), sons of Phylipus condam domini Johannis de Balduinis capelle Sancti Barbaciani AND the descendants of Jacobus (brother of Phylipus), who are frater Guanominte, Johannes AND Franciscus AND their descendants	April 25, 1316–April 26, 1317
Bechariis	19	Becharius AND Thoresanus fratres et filii condam domini Landolfi condam domini Petri Martini becarii de capelle S. Thomaxii de Mercato (de Beccariis)	March 5, 1288 Feb. 4, 1289
	25	Petrus domini Petri de Bechariis	
Blatixiis/ Platixiis	12	D. Nicholaus Facani de Blatixiis	Jan. 2, 10–Feb. 4, 1288
	17	D. Bitinus domini Ramberti de Blatixiis (Biatixiis)	Feb. 27–28, 1288
	39	D. Bitinus domini Ramberti de Platixiis	Aug.–Oct. 1293
	51	Bertholomeus domini Guidonis Tagliamenti de Platixiis capelle S. Jacobi de Platixiis	Oct. 10–27, 1293
	81	Rizardum qui dicitur Zardolus sive Zarlus olim domini Fialti condam domini Uguicionis de Platisiis capelle S. Jacobi de Platisiis	June 9–Oct 31, 1320
Cazzenimicis Pizzolis	61	Symonitus qui dicitur Inglinus AND Thomaxinus qui dicitur Mixinus fratres et filii condam Johannis domini Tomaxini de Cazanimicis Pizolis	May 16, 1298
	63	Dominicus AND Thomaxinus fratres et filii condam Johannis domini Thomasini de Cazanemicis Pizolis	Jan. 21–Feb. 20, 1299
Garisendis	22	Marchus filius naturalis domini Dondeschi de Garisendis	March 5–8, 1288
	38	D. Zoanes Guerzii de Garisendis (or Johannes)	Aug.–Oct., 1293



Table IV. 2 (*cont.*)

Family	Entry	Individuals	Year
Gatariis	21	Jacobinus filius condam domini Sanarisii de Gatariis capelle S. Fabriani Porte Steri	March 5–8, 1288
	42	Betaxius AND Bulgarus fratres et filii condam domini Aldrovandini de Gattariis	Aug. 18–Sept. 29, 1293
	42	Bulgarus AND Bectaxius fratres et filii olim Aldobrandini de Gattaris	Sept. 9–Nov. 2, 1293
	48	Bulgarus condam domini Aldebrandini de Gatariis c.s. Martini de Aposa AND Filiphus filius dicti Bulgarii	Oct. 1293
Ghisleriis	10	Zacharias Teste de Gisleriis	Nov. 1287
	18	Eight men de Gisleriis: Zacharias Teste de Gisleriis de capelle S. Columboni, AND his three sons, Gerardus Testa, Baldoinus AND Hoselectus. Egidius domini Guidochini di Gisleriis AND his brothers Raynerius AND Jaconutius AND Gerardus filius Albertini de Alberinatiis qui dicitur de Gisleriis	March 5–20, 1288
	53	Guidoctinus de Gisileriis	April 7–May 7, 1294
	79	Bonaparte qui dicitur Putius filus condam domini Lambertini de Ghisleriis c.s. Fabiani. Says he is not filius domini Lambertini de ghisleriis set est filius et fuit Benvenmini c.s. Fabiani (and son of Domina Ansixsia filia condam domini Petricioli)	March 24–May 30, 1318
	82	Guiduccius condam domini Gigli de Gissleriis c.s. Fabiani. Gives his name as Guido vocatus Guiduccius condam domini Gigli condam domini Guiducci de Laurentiis c.s. Fabiani	Nov. 22, 1320–June 21, 1321
	83	Opizus cui dicitur Piczinus filius condam domini Gilii de Ghissaleriis c.s. Fabiani	Dec. 20, 1320–Feb. 20, 1321
Mussolinis	16	D. Nicholaus condam domini Petri de Musolinis	Feb. 27–Aug. 1288
	35	D. Ugolinus de Musolinis	Aug.–Nov. 1293
	62	D. Ugholinus Muxolini	Dec. 8–11, 1298
	68	D. Nicholaus AND Ugolinus de Muxolinis fratres et filii condam domini Petri de Muxolinis	Nov. 10, 1300–Jan. 2, 1301

Table IV. 2 (*cont.*)

Family	Entry	Individuals	Year
Sabbatinis	56	D. Rodulfus domini Trachedini de Sabbadinis AND his brothers Mussus, Gerardus et Petrus, AND their sons, Phylippus cui dicitur Lippus filius condam dicti domini Rodulfi, Trachedinus, Nicholaus cui dicitur Collo fratres et filii dicti Mussi, Nicholaus cui dicitur Collo filius dicti Gerardi	Jan. 21–April 29, 1296
	71	Munsus filius condam Trachedini de Sabadinis AND frater condam domini Alberti filii condam dicti domini Trachedini de Sabatinis	May, 1301
	72	Same as in entry 71, but also including Papellus de Sabatinis	
Varegnane	27	Raynerius Donati de Campezo frater condam Ugolintui de Campezo (de Varegnane)	Feb. 15–March 13, 1290
	76	Paganus cui dicitur Pagantius filius condam Lambertini sive Rambertini domini Benni de Varignano qui habitat in dicta terra Varignane AND Beninus cui dicitur Benutio filius condam Lambertini sive Rambertini domini Benini de Varignana	March 17, 1315
	80	D. Franciscus AND Ugolinus sive Ghinucius fratres et filii domini Benini de Varegnana	May 12–July 21, 1319
Zenzanis	23	Albergitus filius condam domini Tomasini de Zerzanis capelle S. Petri	March 21, 1288
	40	D. Albertus Zonzani (Albergetus condam domini Thomasii de Zenzonis), also as D. Albergetus condam domini Thomasii de Zenzonis capelle S. Petri	Aug.–Oct. 20, 1293

NOTE—except for the Argelle, Armanni, Mussolinis and Sabbatinis, all also appear in 1294 list. See Table IV.3.

TABLE IV. 3  
Magnate List of 1294

Entry	Individual (s)	Society	Reason for Cancellation
1	D. Henrigiptus condam domini Symonis de Riosto	Castellorum	Qui credit se nobilem
2	Philipus filius domini Bulgarii de Gatariis	Caligarorum Varorum	Ne incidat in aliqua pena
3	D. Bulgarus de Gatariis	Caligariorum	Ut non incidat in aliquam penam
4	Aldrovandinus filius domini Benni de Varenana clericus... plebis S. Marie Montis	Quarteriorum	Se volle canzellari de societate Quarteriorum... et volle guardare privilligio clericali
5	Vivianus filius condam domini Sclacte de Usepis	Quarteriorum	Credit quod avus eius fuerit milex
6	Petrus d. Bartolomei Petri	Merchatorum	Est de domibus nominatis que debent canzellari de societatibus secundum formam reformationis silicet de domo de Scapis
7	Grimaldinus sive Ugolinus qui vocatur Ghinus filius d. Benni de Varenana	Quarteriorum Notariorum	Cum ipse scit descendens cuiusdam qui conscriptus est in libro nobilium veterum, silicet d. Orlandi Pagani qui fuit pater dicti d. Benni et cum ipse sit clericus et persona ecclesiastica et vult gaudere privilligio clericatus
8	Franciscus condam domini Oldevrandini domini Egidii de capelle S. Christofori de Jeremiensis	Draconum	Quod sit de domibus et cassalibus nominantis noviter in provisionibus factis de mense februaris presenti silicet de domo de Priconibus
9	Azus domini Buvalini Azonis Agnexie	Quarteriorum	Cum hoc scit descendens de nominantis... et fuit filius d. Buvalii Azonis Agnexie qui fuit de Muniatis (or Moniatis)
10	Nicolaus quondam Bonapartis de Alberiis capelle S. Marie de Castello	Draconum	Quod est de domibus nominantis silicet de Alberis
11	Nicolaus Guidonis de Chastello capelle S. Marie de Chastello	Merchatorum	Quod est de domibus nominantis silicet de Alberis
12	D. Jacobus condam domini Guidonis Petrizolli filius et descendens condam dicti domini Guidonis	Leonum Merchatorum	Cum dictus dominus Guido scit de nominantis

Table IV. 3 (*cont.*)

Entry	Individual (s)	Society	Reason for Cancellation
13	Hencius condam domini Silvestri de Tuschis sive de Useppis	Quarteriorum	Quia credit se esse de descendentibus militum silicet de domino Josepo de Tuschis et domino Thomaxino de Tuschis
14	D. Hencis domini Ugolini Benacii for Zenzaminus c. Zenzanis	Varorum de contrata burgi S. Petri et de capelle S. Marie Mascarelle	Cum dictus Zanzaninus reperiatur conscriptus in libro nobilium comitatus Bononie
15	Martinus c.d. Rodolfini de Thebaldis	Aquile Bixileriorum	Ne incidat in aliquam penam
16	D. Benedictus domini Alberti domini Odofredi	Quarteriorum Notariorum	Quia est de nominantis
17	Jacobus condam domini Lancii de Ceroplano capelle S. Thome strate maioris	Notariorum	Quod ipse per herorem conscriptus fuit et est in duobus latis in matriculla societatis notariorum ... quare petit se de uno ex dictis locis cancelari
18	Johanes condam domini. Dondegghi de Garixendis capelle S. Marchi	Campsorum & Draperiorum pro armis	Est de nominantis in ordinamentis noviter factis... de potentibus civitatis Bononie et ideo ne incidat aliquam penam... salvo omni suo jure cum scit de populo Bononie et fuerit hinc retro et intendat et vollet esse et propterea non intendit renunciari alicui suo jure propter dictam canzellationem
19	Jacobinus condam Nascimbenis Petri Mori (or Meri) de Masenatico	Brancarum Notariorum	Quod ipse stit descendens cuiusdam quod conscriptus est in libro nobilium veterum silicet domini Nascimbenis Petri Mori qui fuit pater dicti Jacobini
20	Golattus filius domini Guillielmi de capelle S. Marie Maioris	Merchatorum	Cum dictus D. Guillielmus eius pater extimatus sit tanquam nobilis in terra Lamolle in libro nobilium
21	Gerardus condam Jacobini procurator on behalf of Gerarducius condam domini Albiroli	Spadarum	Quod Gerarducius est de casa libus nominantis, silicet de Alberis de Castello
22	Guillielmus Juliani capelle S. Antolini	Draconum	Quod est de domo de Vofereriis sive de Bocadecane et quod dicta domus est de aliis que scripture sunt in reformatione nuper facta...

Table IV. 3 (*cont.*)

Entry	Individual (s)	Society	Reason for Cancellation
23	Lambertinus condam domini Petri de Chaciminicis Pizollis	Leonum	Inscribed as D. Lanbertinus c.d. Petri. Quia est de domo Cazanemicorum que prohibita est esse de societatibus populi
24	Dinumghinus condam Gilioli	Draconum	Se esse de domo Pretonaris
25	Guido filius Zacharie de Boateriis	Leonum Merchatorum	Quod ipse Zacharias eius pater est filius fratris d. Cervi de Boateriis quod D. Cervius est milex et sic ipse Guido [should be cancelled] tanquam descendens ex filio fratris dicti d. Cervi de Boateriis qui est milex. [listed in the matricula as Guido Zacharie]
26	Lanzalottus condam domini Zacharie notarius	Notariorum Balzanorum	Cum scit de domo de Hoxelitis de quarterio Porte Ravennatis capelle S. Bertholomei
27	Hencius de Tuschis congiunta persona D. Thomaxini condam domini Viviani de Tuschis [appears for his relative D. Thomaxinus]	Quarteriorum	Quod credit predictum D. Thomaxinum esse de descendantibus per D. Usepum suum avum qui fuit milex
28	Dinus filius condam domini Nicholay de Tebaldis	Aquile	Quia est de domo Tebaldorum que est de domibus exceptis
29	Petrus condam Zaninis	Aquile	Ideo quare filius nobilis
30	Ranerius Leonardi procurator D. Bertholamei domini Guidocti capelle S. Cervasii et Galvani filii dicti D. Berthomei	Merchatorum	Cum predicti sunt de domibus exceptatis videlicet de domo de Romanciis
31	Jacobus domini Bertholomey de Perticonibus	Merchatorum	Eo quare est de domibus nominatis silicet de domo de Perticonibus
32	Ugnerius de Perticonibus	Merchatorum	Eo quare est de domibus nominantis silicet de domo de Pertichonibus
33	Johannes condam Aldovrandini Guidonis	Draconum	Eo quia est de nominantis
34	Jacobinus domini Bochadini de Artenixiis	Campsorum	Cum dicitur D. Boachinus scit milex
35	Becheus filius domini Rugnerii	Varorum	Quia est de domibus nominantis silicet de domo de Perticonibus

Table IV. 3 (*cont.*)

Entry	Individual (s)	Society	Reason for Cancellation
36	Polonius condam domini Petri de Unzolla, patruus et congiunta persona Alberti condam Petrizzoli de Unzolla capella S. Marini	Caligariorum	Cum dictus Albertus eius nepos scit de personis et hominibus qui esse non posunt de dictis societatibus
37	Jacobinus domini Balvixii	Draconum	Quare credit esse de domibus nominantis silicet de domo de Guidoagnis
38	Zangarollus et Ghinibaldus fratres filii condam domini Benvignay de burgo	Leopardorum	Nomen cuius domini Benvignay eorum patris scriptum est in quodam libro antiquo nobilium comitatus Bononie
39	D. Berthololameus condam domini Guidonis Taliavenci capelle S. Jacobi de Platixiis	Stellarum	Quia est de domibus nominantis quibus vetitum est esse de societatibus populi
40	Bonacursius condam Petri capelle S. Marie	Notariorum	Eo quia est de dominibus nominantis silicet de domo de Manfredis
41	Jacobus filius condam domini Rogerii de Pertichonibus de capelle S. Andree de Platixiis de quarterio Porte S. Petri	Notariorum	Eo quia est de dominibus nominantis silicet de domo de Perticonibus.
42	Pertichonus domini Ugolini de Perticonibus de capelle S. Andree de quarterio Porte S. Petri	Notariorum	Eo quia est de domibus nominantis silicet de Pertichonibus
43	Petrus d. Rodolfi de Casalico ultra Ydicem notarius	Notariorum	Eo quia est in libro nobilium comitatus Bononie per D. Rodulfum eius patrem de dicta terra Casalechli qui D. Rodulfus est scriptus in dicto libro nobilium
44	Bonacossa c.d. Thomaxii de Thebaldis suo proprio nomine et et vite D. Jacobini condam domini Thomaxini de Thebaldis sui fratris et Thomaxini condam domini Nicolay de Tebaldis sui nepotis et congiunta persona predictorum	Aquile	Eo quia sunt de domo Thebaldorum specificatorum in ordinamente
45	Girardus de Roccha tanquam congiunta persona D. Petri condam domini Lanbertini de Albertimaziis	Merchatorum	Dixit dictum dominum Petrum esse de domo et parentella de Gisleriis et Albertinaciis qui sunt de domibus exceptis
46	Girardus de Roccha [for] D. Rodulfus condam Albertini Armannini	Merchatorum	Dixit... esse de domo et parentolla de Gisleriis et Albertinaciis qui sunt de domibus excitatis
47	Petrus filius fratris Rayneriis de Gisleriis	Merchatorum	Quia est de dicta domo nominata silicet de Gisleriis

Table IV. 3 (*cont.*)

Entry	Individual (s)	Society	Reason for Cancellation
48	Petrus condam domini Nicholay Faxani de Platixiis	Merchatorum	Quia est de domibus nominantis in provixionis nuper factis de domo de Platixiis
49	Nicolaus Nicolai de Blatixiis	Merchatorum	Cum hoc predictus Nicolaus scit de cassali de Blatixiis et dictum cassale scit de cassalibus nominantis per sapientes qui fuerunt electi ad nobilles et potentes extrahendum de societatibus arcium et armorum populi civitatis Bononie secundum reformationis consilii populi
50	D. Rolandinus et Ancholinus et Thomaxinus eius filius	Sartorum & Aquile for Rolandinus, Notariorum & Aquile for his sons	Qui sunt de domo Thebaldorum
51	D. Bologninus filius condam domini Albertucii de Baxacomatribus	Campsorum	Volens evitare penam L librarum... quia D. Bologninus est de descendentibus qui conscripti sunt in libro nobilium et magnatum silicet filius D. Albertucii de Baxacomaribus... non intendat incurere dictam penam nec aliquam aliam inpositam dicta occasione per comune et populum Bononie
52	Bartolus et Petrus fratres et filii domini Furlani de Salla	Castellorum	Eo quia sunt de personis seu domibus nominantis in dictis provisionibus silicet de domo illorum de Salla
53	D. Bencevenis et Ugolinus fratres filii domini Ubertini de Ghiseleriis	Brancarum	Eo quia sunt de domo de Gliseleriis
54	Giglus de Giseleriis tanquam congiunta persona Gerardi condam Albertini de capelle S. Cervaxii	Notariorum	Esse de domo et parentelle de Ghiseleriis et Albertinaciis que sunt de domibus extractis... de dictis domibus de Giseleriis et illorum de Albertinaciis
55	Voxosus de Savignano notarius filius condam domini Guidonis suo nomine et vice et nomine Guillielmi et Guidonis filiorum suorum	Schisarum de Saragocia	Nolens incurere penam... de nobilibus comitatus et districtus Bononie eo quia dictus D. Guido suus pater reperitur conscriptus in libro antiquo nobilium comitatus et districtus Bononie scilicet in terra Savignani

Table IV. 3 (*cont.*)

Entry	Individual (s)	Society	Reason for Cancellation
56	Jacobinus condam domini Sanarixii de Gattaris	Notariorum	Quia esse non potest ex forma ordinamentorum noviter facta eo quia est de Cassale Gatariorum et est de capelle S. Fabiani
57	Gandolfus condam domini Mathei	Calzalariorum	Cum dictus D. Matheus eius pater reperiatur conscriptus in libro nobilium comitatus Bononie de terra Casalechi ultra Ydicem et hoc cum dictus Gandulfus non incidari ad penam aliquam
58	Ubertinus cui dicitur Bittinus filius fratris Raynerii de Giseleriiis	Notariorum Leonum	Eo quia est de domo nominanta de Giseleriiis
59	D. Fredericus & D. Julianus fratres et filii domini Henregipti de Thebaldis de capelle S. Antolini	Traversarum de Barbarie	Cum sint de domibus nominantis in ordinamento novo (...) super cancellacione nobilium et potentium silicet de domo Thebaldorum... ut non incurant aliquam penam... quam incurere de jure non credunt cum sint et semper fuerunt de populo Bononie et privilegiati ex persona D. Thebaldicii fratris domini Henregipti patris eorum
60	Leo Palmerii notarius	Notariorum Traversarum de Barbarie	Timens ut aliquid prejudicum posset sibi (blank) occasione ordinamentorum et provisionum super facto nobilium quia dictus Palmerius est nomen conscriptus in libro nobilium comitatus Bononie
61	Albergiptus domini Thomaxini de Genzanis	Varorum	Non tanquam nobillis vel de nobili progenie natus set timens non incidat in penam qui sicut de domibus nominantis in provisionibus
62	Branchinus condam Henrigipti de capelle S. Andree de Platixiis	Notariorum	Eo quia alias fuit canzelatus de domibus matricullis societatum in quibus esset conscriptus
63	Gabriocius Henregipti	Notariorum	Eo quia alios sunt cancellati et de omnibus matriculis in quibus esset conscriptus
64	Albertucius clericus ecclesie S. Micaelis de S. Maria in donis	Notariorum	Eo quod clericus est et est de domibus nominantis silicet de domo de Manfredis



Table IV. 3 (*cont.*)

Entry	Individual (s)	Society	Reason for Cancellation
65	Petrus condam Bonacursii congiunta persona Gilli Raynerii sive Nerii, Jacobuci fratrum et filiorum domini Guidotti de Giseleriiis	Aquile for all three and Campsorum for Gillus & Raynerius	Quia sunt de domo Gisileriorum
66	D. Gerardinus condam Naxinbenis de terra Demalfolis	Fabrorum	Eo quia conscriptus est in libro nobilium in terre Domafolis districtus Bononie
67	[D. Gerardinus of entry 66 also petitions for ] Ugolinus sive Ugolinellus eius filius	Fabrorum	Cum dictus eius pater conscriptus sit in libro nobilium comitatus Bononie
68	Petrus Johannis domini Pelegrini Petri Mora	Notariorum	Eo quia est in libro nobilium comitatus Bononie
69	Vandus condam Raynucii nepos domini Abatis de terra Casalichi ultra Ydicem	Clavium Cartholariorum	Cum dictus dominus Abas eius avus reperietur conscriptus in libro nobilium comitatus Bononie et hoc cum ipse Vandus non incidat ad penam
70	Bictinus domini Ranberti de Blaxiis suo proprio nomine et nomine et vice filiorum suorum, videlicet Uguicionis, Jacobi, et Philipi	Bictinus from the Stellarum & from the Notariorum as Albertinus Ranberti Rodulfi & from Cordoaveriorum et Merchatorum as Bictinus domini Ramberti. Uguicionus, from the Notariorum as Uguicio Albertini cui dicitur Bittinus. Also from Cordoaveriorum, Stellarum & Merchatorum as Uguicio Bicctini. The other two from the Merchatorum as Jacobus et Philipus filii Bitinid. Ranberti	Not given, but from the domus de Blaxiis

Table IV. 3 (*cont.*)

Entry	Individual (s)	Society	Reason for Cancellation
71	Bictinus condam domini Gerardi Uguicionis Albrici suo nomine et nomine et vite Johannis sui fratris et filii dicti condam domini Gerardi et Uguicionis Albrici	Draconum	Cum sunt clerici et ecclesiastice persone et quia credunt esse de domibus nominantis silicet de domo illorum Ugonis Albrici
72	Jacobinus Mathei de capelle S. Luche	Notariorum	Eo quia est de domibus nominantis silicet de domo domini Alberti de Castello
73	Bennus quondam Rolandi Pagani de Varenana	Quarteriorum	Volens evitare penam quinquaginta librarum secundum formam ordinamentorum sive provissio num nuper factarum contra nobiles comitatus Bononie eo quod descendens est ex domino Rolando Pagano suo patre qui conscriptus fuit in libro veteri nobilium comitatus Bononie et predicta dicit salvo omni suo jure eo quia popularis est et semper fuit de populo Bononie
74	Bonacursius condam domini Arimondi capelle S. Cervaxii	Cordoaveriorum	Eo quia dicit esse de domibus nominantis excitatis silicet de domo illorum de Romanciis
75	Bennus de Varenana (see entry 73) tanquam congiunta persona Ranerii condam Donati	Notariorum	Quia est de nobilibus comitatus Bononie et conscriptus in libro nobilium
76	Lanbertus filius condam Beldredrei qui fuit de Castro Episcopi	Fabrorum Balzanorum	Cum... dicti Beldredrei olim sui patris reperitur conscriptus in libro nobilium comitatus Bononie de terre Castri Episcopi
77	Gerardus filius condam domini Jacobini Mercandantis procurator Pelegrini filii naturalis condam domini comitis Maginardi de Panico	Bechariorum Balzanorum (under name of Pelegrinus Stephani)	Cum constat ipsum esse descendens et de nobili progenie fore natum ut hoc constat in libro nobilium comitatus Bononie nomen dicti comitis Raynerii
78	Jacobus condam Morici de Galleria	Brancarum (with his father)	Cum nomen dicti Moritti sui patris sit conscriptum in libro nobilium comitatus Bononie pro quarterio Porte S. Proculi in terre Galleria.
79	Johannes filius domini Jacobi condam domini Raynerii de Castro Episcopi de capelle S. Christofori de Seragocia	Notariorum (with father who was also in the Bechariorum)	Quia D. Ranerius Pretis olim pater dicti d. Jacobi reperitur conscriptus in libris antiquis nobilium comitatus et districtus Bononie silicet in terre Castri Episcopi

Table IV. 3 (*cont.*)

Entry	Individual (s)	Society	Reason for Cancellation
80	Alidoxius Zannis	Aquile	Quia dicitur quod D. Zanes de Bonizis est in libro veteri nobilium comitatus Bononie
81	D. Gardinus de Pegolactis coniuncta persona Guidonis domini Uguicionis de Casliclo nomine et vice ipsius Guidonis	Campsorum	Cum dictus Guido dicatur esse nobilium et conscriptus in libro nobillium districtus Bononie
82	Alexander sive Sander condam domini Ugolini Zamboni	Cordoaneriorum Stellarum	Semper fuit ipse et sui maiores de populo civitatis Bononie et de societatibus... et privilegiata persona, pro se et patre suo... negans se esse militem vel filium militis vel descendentes ex militis vel fratrum militis vel filium fratris militis vel nobilis vel de nobili progenie natum vel magnatem vel potentem vel in casu aliquo ex quo posset vel deberet cancellari de societatibus (but asks to be cancelled in order to avoid the fine and reserves all his rights & privileges as a popularis)
83	Bennus quondam Giberti Bazalerii (de Varenana)	Stellarum	Volens evitare pena... contra nobiles comitatus Bononie. Credit se esse de nobilibus civitatis Bononie, silicet filius dicti Giberti qui est conscriptus in libro nobilium veterum civitatis Bononie in terre Varenane. Et predictam facit salvo omni suo jure. Et quod popularis est et semper fuit de populo Bononie quam protestationem dictus iudex non admisit nisi in quantum de jure debebat nec eam recipiebat.
84	Franceschinus domini Benini de Varenane capelle S. Ambrosii	Quarteriorum	Volens evitare penam... contra nobiles comitatus Bononie eo quod descendens est ex domino Rolando Pagano conscripto in libro veteri nobilium comitatus Bononie. Et predicta facit salvo omni jure suo eo quod popularis est et semper fuit de populo Bononie.

Table IV. 3 (*cont.*)

Entry	Individual (s)	Society	Reason for Cancellation
85	Guidocherius, Matheus et Baldoyrus fratres et filii condam fratris Filippi de Balduinis	Traversarum de Barbarie	Timentes ne ordinamenta de presente mense facta eis tangent eo quia dictus eorum pater fuit miles ordinis beate Marie Virginis
86	Paganucius condam Rambertini de Vargane capelle S. Ambrosii	Quarteriorum Notariorum	Volens evitare penam . . contra nobiles comitatus Bononie. Eo quod descendens est ex domino Rolando Pagano conscriptus in libro veteri nobilium comitatus Bononie. Et predictam facit salvo omni jure suo eo quod popularis est et semper fuit de populo Bononie
87	Bitinus c.d. Ranberti de Platisiis pro se et Uguiccione et Phylippi, Jacobo suis filiis	Stellarum	Semper fuit ipse et sui maiores de populo civitatis Bononie et de societatibus . . . et privilegiata persona pro se et patre suo quod semper essent et intelligerentur esse de societatibus . . . Negans se esse militem vel filium militis (but asks that he & his sons be cancelled in order to avoid the fine). Judge does not admit the protestacio.

Total number of entries—87

Total number of individuals—111 (a reference to “fili” is counted as two individuals)

Families with multiple entries here in Table IV.3 who are not in Table IV.1 are the Usepis (Tuschis), entries 5, 13, 27, and the Petri Mori, entries 19 and 68.

TABLE IV. 4  
Families That Appear in 1294 List and in Capitano Trials

Entry	Family	1294 List Table IV.3	Trials Table IV.1	Trial Years	Verdicts
1	Gatariis	2, 3, 56	21, 42, 47, 48	March 1288, Aug.–Nov., 1293	Con* in 1288 & 1293
2	Tebaldis	15, 28, 44, 50, 59	15	Feb.–March 1288	Ab**
3	Blatixiis & Platixiis	39, 48, 49, 70 87	12, 17, 39, 51, 81	Jan.–March 1288, Aug.–Nov., 1293	Ab in 1288, not known in 1293
4	Gisleriis & Albertinaciis	10, 45, 47, 53, 54, 58, 65	18, 53, 79, 82, 83	March 1288 April–May, 1294 March–May 1318 (mistaken identity) Nov.–Dec. 1320 Jan.–Feb. 1321 (accuser did not prosecute)	P*** in 1288, con in 1294 Ab in 1318 & 1320 & 1321
5	Garisendis	18	22, 37	March 1288 Aug. & Oct. 1293	P in 1288 Unknown in 1293
6	Balduinis	85	24, 60, 77	Nov. 1288–Jan. 1289 Feb.–March 1298 April 1316–April 1317	Permitted to enter society in 1288–1289. Not found in matricula in 1298. Ab in 1316–17
7	Alberis (de Castello)	11, 12, 21, 72	9, 34, 41	Nov. 1287–Feb. 1288, July–Aug. 1292 (mistaken identity). Aug. & Nov. 1293	Ab in 1287–1288 & 1292, unknown in 1293
8	Varegnane	4, 7, 73, 75, 83, 84, 86	27, 76, 80	Feb.–March 1290 March 1315 May–July 1319	Ab in 1290. Unknown in 1315. Ab in 1319
9	Chazanimicis Pizzolis	23	61, 63	May, 1298 Jan.–Feb. 1299	Not found in matricula in 1298. Ab in 1299

Table IV. 4 (*cont.*)

Entry	Family	1294 List Table IV.3	Trials Table IV.1	Trial Years	Verdicts
10	Perticonibus	8, 31, 32, 41, 42	50	Oct.–Dec. 1293	Unknown
11	Burgo Panichalis	38	52	Nov.–Dec. 1293	Ab
12	Sala	52	49	Oct. 1293	Ab
13	Zenzanis	14, 61	23, 40	March 1288 Aug.–Oct. 1293	P for 1288. Ab for 1293 trial
14	Romanciis	30, 74	20	March 1288	Ab
15	Portonariis	24	13	Jan.–Feb. 1288	Ab
16	Scapis	6	44	Aug.–Nov. 1293	Not Given
17	Artenisiis	34	65, 67	Aug.–Sept. 1299 Oct.–Nov. 1299	Ab in Both
18	Guidozagnis	37	43	Aug.–Nov. 1293	ConVicted
19	Lamola	20	75	May–July 1313	Ab

\* Con=condemned

\*\* Ab=absolved

\*\*\* P=pendet (suspended)

TABLE IV. 5  
Magnate Identity Trials by Year

Period I, II, III (1284–1292)								
Year	1284	1285	1287	1288	1289	1290	1291	1292
No. of trials	2	4	0	18	1	6	0	1
Period IV (1293–1297)								
Year	1293	1294	1295	1296	1297			
No. of trials	19	1	2	2	1			
Period V (1298–1304)								
Year	1298	1299	1301	1302	1303	1304		
No. of trials	3	4	5	0	0	2		
Period VI (1313–1321)								
Year	1313	1315	1316	1317	1318	1319	1320	1321
No. of trials	1	1	1	1	1	1	2	1



APPENDIX F

TABLES FOR CHAPTER FIVE

TABLE V.1  
Verdicts, 1285–1296

Year & Semester	1285 II ad mal.	1285 II mal. nov.	1287 I ad mal.	1287 I mal. nov.	1288 I ad mal.	1288 I mal. nov.	1289 I mal. nov.	1296 II ad mal.	Totals
No. of Verdicts	200	99	6	33	68	28	16	97	547
Absolutions	70 (35%)	9 (9%)	3 (50%)	4 (12.1%)	14 (20.5%)	0	0	28 (28.8%)	128 (23.4%)
Suspensions	20 (10%)	13 (13.1%)	0	1 (3%)	14 (20.5%)	9 (32.1%)	0	8 (8.2%)	65 (11.9%)
Absolutions & Suspensions	90 (45%)	22 (22.2%)	3 (50%)	5 (15.1%)	28 (41.1%)	9 (32.1%)	0	36 (37.1%)	193 (35.2%)
Condemnations	29 (14.5%)	0	1 (16.7%)	7 (21.2%)	8 (11.8%)	0	0	28 (28.8%)	89 (16.2%)
Bans	40 (20%)	65 (65.6%)	0	20 (60.6%)	27 (39.7%)	9 (32.1%)	13 (81.2%)	25 (25.7%)	199 (36.4%)
Condemnations & Bans	69 (34.5%)	65 (65.6%)	1 (16.7%)	27 (81.8%)	35 (51.4%)	9 (32.1%)	13 (81.2%)	53 (54.6%)	272 (49.7%)
Without verdicts	41 (20.5%)	12 (12.1%)	2 (33.3%)	1 (3.0%)	8 (11.8%)	10 (35.7%)	3 (18.7%)	8 (8.2%)	85 (15.5%)
Tortured	18 (9%)	n/a	1 (16.7%)	n/a	4 (5.9%)	n/a	n/a	7 (7.2%)	30 (5.5%)
Elite	26 (13%)	3 (3%)	0	2 (6%)	8 (11.8%)	8 (28.5%)	0	11 (11.3%)	58 (10.6%)

Total ad maleficia = 371

Total maleficia nova = 176

Tortured as % of ad maleficia condemnations = 8.1%



TABLE V.2  
Verdicts, 1304–1326

Year & Semester	1304 II	1306 II	1317 II	1320 II	1321 II	1322 II	1323 I	1324 I	1326 I	Totals
No. of verdicts	19	39	54	80	63	36	34	21	137	483
Absolutions	2 (10.5%)	0	16 (29.6%)	12 (15%)	10 (15.9%)	15 (41.7%)	8 (23.5%)	9 (42.9%)	67 (48.9%)	139 (28.8%)
Suspensions	7 (36.8%)	4 (10.26%)	5 (9.3%)	14 (17.5%)	8 (12.7%)	4 (11.1%)	11 (32.4%)	6 (28.6%)	27 (19.7%)	86 (17.8%)
Absolutions & Suspensions	9 (47.4%)	4 (10.26%)	21 (38.9%)	26 (32.5%)	18 (28.6%)	19 (52.8%)	19 (55.9%)	15 (71.4%)	94 (68.6%)	225 (46.6%)
Condemnations	5 (26.3%)	12 (30.8%)	7 (12.9%)	17 (21.3%)	19 (30.2%)	5 (13.9%)	3 (8.8%)	3 (14.3%)	10 (7.3%)	81 (16.8%)
Bans	3 (15.8%)	9 (23%)	25 (46.3%)	24 (30%)	24 (38%)	11 (30.5%)	11 (32.3%)	3 (14.3%)	28 (20.4%)	138 (28.6%)
Condemnations & Bans	8 (42.1%)	21 (53.8%)	32 (59.2%)	41 (51.2%)	43 (68.2%)	16 (44.4%)	14 (41.1%)	6 (28.6%)	38 (27.7%)	219 (45.3%)
Without verdicts	2 (10.5%)	14 (35.9%)	1 (1.9%)	13 (16.3%)	2 (3.2%)	1 (2.8%)	1 (2.9%)	0	13 (9.5%)	47 (9.7%)
Tortured	4 (21.1%)	0	3 (5.5%)	9 (11.2%)	10 (15.8%)	3 (8.3%)	0	0	8 (5.8%)	37 (7.7%)
Elite	5 (26.3%)	10 (25.6%)	6 (11.1%)	15 (18.7%)	11 (17.4%)	6 (16.6%)	8 (23.5%)	1 (4.7%)	13 (9.4%)	75 (15.5%)
Torturable Charges	1323 I 13 (38.2%)	1324 I 4 (19%)	1326 I 38 (35.1%)	Non-Torturable Charges		1323 I 21 (61.8%)	1324 I 17 (80.9%)	1326 I 70 (64.8%)		

TABLE V.3  
Torture by Crime  
(From *Inquisitiones* 1285–1326)

Type of Crime	Number of Crimes	Percentage of Total
Multiple Crimes (famous thieves)	33	47.8
Thefts and Burglaries	11	15.9
Cattle and Horse Theft	4	5.8
Homicide	4	5.8
Falsification	4	5.8
Treason	3	4.3
False Testimony	2	2.9
Sexual Abuse of Children	2	2.9
Counterfeiting	2	2.9
Kidnapping	1	1.4
Arson	1	1.4
Bigamy	1	1.4
Captured <i>bannitus</i>	1	1.4
Total number of crimes	69	



TABLE V. 5  
*Protestacio* by Frequency and Type

STAGE ONE 1282–1317 Predecessors to the <i>Protestacio</i>
<p>ASB, Capitano, Giudici, Reg. 34, fol. 6v, Oct. 1282  The Capitano tells the podesta what he must do regarding Lambertazzi in prison, that he must not permit Lambertazzi to carry offensive or defensive weapons, and that he must not torture <i>popolani</i> without permission of the Capitano.</p>
<p>Reg. 128, fols. 43v–44r, Aug. 8, 1289  Capitano tells officials that he does not think the judge of the podesta tortured a <i>popolano</i> as claimed, but that if he did torture him, then he did so without the wish or consent of the Capitano.</p>
<p>Reg. 180, fol. 83r, Aug. 14, 1292  Appeal of a sentence issued by the podesta that violates the petitioner's privileged status. He claims precedent from another <i>consilium</i> in a privilege case.</p>
<p>Reg. 180, fol. 87v, Aug. 26, 1292  Petition to <i>anziani</i> and Consiglio del Popolo by Bartolomeus condam Zacharie not to pay 60 pounds to the monastery and convent and sisters of S. Salvator. This is the call to the monastery to come and oppose that petition if they wish.</p>
<p>Reg. 305a, fol. 24r, April 5, 1296  <i>Vicarius</i> of the Capitano issues an order to the podesta to implement a notification received by the Capitano from a widow's attorney (<i>procurator</i>) that she is being disturbed in use of her land by the de Cuzano nobles. In the communal palace of the podesta, the <i>vicarius</i> of the Capitano comes and protests to the <i>vicarius</i> of the podesta that he must execute the notification, invoking the Sacred and Most Sacred Ordinances.</p>
<p>Reg. 294, fol. 3r, April 13, 1296 (has marginal note—"Protestacio")  The <i>vicarius</i> of the Capitano protests that the judge <i>ad maleficia</i> of the podesta must, according to the Sacred and Most Sacred Ordinances, implement an anonymous charge (<i>cedula</i>) found in the communal box (<i>cassa</i>) that day.</p>
<p>Reg. 419, fol. 18v, Sept. 25, 1303  Thebaldus de Marchexiis petitions on behalf of Marchexinus condam Petri de Marchexiis of the arms society of the Lions to protect him from torture by the podesta. Precept sent to the podesta.</p>
<p>Reg. 424, fols. 19v–20r, Oct. 14, 1303  A petition opposing another petition to the Capitano that sought to have a ban by the podesta cancelled.</p>
<p>Reg. 589, fols. 5r–7r, June 11, 1314  Appeal of a sentence from the podesta's court concerning a dowry.</p>

Table V. 5 (*cont.*)

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Reg. 620, fols. 14r–16v, Nov. 8, 1316–Feb. 1317

Cancellation of a podesta's sentence against eleven rural communes in the waterways and bridges court.

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STAGE TWO July 1317–March 1320

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Reg. 630 “Liber sive quaternus inquisitionum denunciationum notificationum protestacionum commissionum citationum relacionum preceptorum banitorum pronunciationum sentenciarum et testium receptorum et aliarum diversarum scripturarum.”

Total number of trials is ten, plus seven *protestaciones* (but three of the *protestaciones* concern the same person and issue), so seven of seventeen trials are *protestaciones*.

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*Protestacio* 1 fols. 55v–60v, July 4–12, 1317

Petition or *protestacio* by Johannes Ubertini Palmerii on behalf of his brother, Bartholomeus Ubertini Palmerii, against the outgoing podesta, Nicholaus Bandini de Bandinis of Siena, who had levied a fine of 50 pounds against Bartholomeus, seeking restitution of the fine within three days. That the podesta had not admitted into the trial against Bartholomeus the objections or *exceptiones* of Bartholomeus's attorney nor recognized Bartholomeus's status as a privileged person.

Response of the podesta: Attorney for the former podesta gives his *exceptiones* on why the *protestacio* should not be heard in the court of the Capitano: 1) because the judge of the Capitano did not have competency in the matter; 2) a petition was pending before the syndication panel for this podesta; 3) Bartholomeus and Ubertinus his father were not privileged persons; 4) and even if they were privileged, which is denied, privilege could not be invoked against the commune of Bologna; 5) Bartholomeus had been banned for homicide and therefore his petition could not be admitted into court.

The petitioner contests the *exceptiones* of the podesta, claiming that 1) the judge of the Capitano does have competency in this case; 2) denies that a complaint has been lodged to the syndication panel; 3) asserts that he, Johannes, Bartholomeus and their father Ubertinus are in fact privileged; and 4) that the ban for homicide against Bartholomeus had been issued after the former podesta, Nicholaus Bandini de Bandinis, had left office. He does not address the issue of the efficacy of privilege against the commune.

The judge of the Capitano asserts his competency in the case by ordering that 50 pounds be withheld from the podesta's salary until this trial is resolved. Sentence of the Capitano's judge is in favor of the podesta, i.e., that the 50 pounds should *not* be extracted from the podesta's salary and paid in restitution to the petitioner.

Summary—outgoing podesta did not recognize imputed's privileged status and did not admit his *exceptiones* in a trial that ended in a fine of 50 pounds.

Table V. 5 (*cont.*)

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Family Members in Political Life:

Ubertinus Palmerii, Consiglio del Popolo (henceforth CP) *ministralis* of the arms society of the Bars 1288, 1306 II, 1321 II, CP *consiliarius* for the Bars 1303 I, *anzianus* Dec. 1306, June 1313, Oct. 1316, Oct. 1318, June 1319;

Bitinus Ubertini Palmerii, *anzianus* June 1319;

Johannes Palmerii, *anzianus* March 1315;

Johannes Ubertini Palmerii, CP *sapiens* for the Bars 1317 I.

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*Protestacio* 2 fols. 61r–62v, 67r–68v, July 12–15, 1317

Petition by Rambolinus *condam domini* Gerardi de Rombolinis on behalf of Ugolinus son of Bonacursius de Rombolinis, whose godfather he is, against the outgoing podesta, Nicholaus *condam domini* Bandini. In a trial in May against Ugolinus for the murder of Dominicus son of Ghisilardius called Marchexe from the rural commune of Vetrana, the judge did not recognize the *exceptio* claiming clerical status of Ugolinus even though he had produced several notarial documents or *instrumenta* proving his clerical status. Moreover, he claims that Ugolinus was privileged because of the privileged status of his father and brother and that the judge also rejected that *exceptio*. He seeks to have the podesta penalized 500 pounds within three days.

Response of the podesta: Attorney for the podesta says this *protestacio* should not be heard because there had been a case on this before the syndication panel. Response of the protester to that response by the attorney of the podesta is that the case before the syndication panel referred to a different complaint.

The Capitano judge in this case (and for *Protestacio* 3) then appoints a *consilium sapientum* by three jurists (see *Protestacio* 3) who call for the podesta's acquittal in this instance.

Summary—*exceptiones* of a privileged person not recognized by the outgoing podesta.

## Family Members in Political Life:

Matheus domini Gerardi de Rombolinis, *anzianus* Nov. 1300;

Matheus de Rombolinis, *anzianus* Feb. 1290, CP *consiliarius* for the bankers 1286 I;

Bernardus de Rombolinis, Council of 800 1292, CP *sapiens* for the Leopards 1320 II;

Gerardus de Rombolinis, *anzianus* May 1281;

Bonacursius de Rombolinis, *anzianus* May 1319, CP *sapiens* for the Leopards 1309 II, CP *ministralis* of the bankers 1313 II;

Rombolinus de Rombolinis, *sapiens* for the Leopards Oct. 1295, *anzianus* Sept. 1311, Oct. 1311, Nov. 1312, July 1316, CP *addicio* for the Leopards 1309 II, CP *sapiens* for the Leopards 1303 I, 1306 II, CP *consiliarius* for the Leopards 1320 II.

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Table V. 5 (*cont.*)

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*Protestacio* 3 fols. 63rv, 68rv, July 12–15, 1317

Petition by Bonacosa *condam domini Galvani de Gozzadinis* as *defensor* of Jacobinus called Minus son of the deceased Dominus Pixanus de Sachetis who was banned by the podesta, against the former podesta Nicholaus domini Bandini of Siena for not recognizing that Minus was of clerical status and that he was a privileged person by “new privilege” and his father also was privileged. He had presented *instrumenta* for these privileges but the podesta had rejected the *exceptiones*. Podesta should be fined 500 pounds within three days (because the charge is made by a privileged person). The podesta did not accept these *exceptiones* in the murder of Angelinus called Gucius from the district of Camerino.

Family Members in Political Life:

Pixanus de Sachetis *anzianus* June 1283 for the Dragons;

Jacobinus de Sachetis *anzianus* March 1259.

Also members in the Consiglio del Popolo.

Response of the podesta: Attorney for the podesta says that the *protestacio* should not be heard because 1) there is a complaint on this before the syndication panel and the complainant should not be permitted to make another petition before the Capitano’s judge; 2) no complaint against the former podesta should be made except to a syndication panel; 3) Jacobinus is banned and therefore no complaint by him should be heard.

Response from the petitioner is that the case before the syndication panel was different from that presently before the Capitano’s judge.

A *consilium sapientum* is appointed, same one as that given in *Protestacio* 2, but in this part of the *consilium* the podesta is condemned to a fine of 500 pounds. The appointment of *sapientes* is made by the Capitano himself, not his judge. The *sapientes* were Dominus Guido de Guinzis, archdeacon of Bologna and *doctor decretorum*, Dominus Osbertus of Cremona, *legum doctor*, and Dominus Petrus de Cervettis, *legum doctor*, who consult with Dominus Johannes Andree, *decretorum doctor*, and Dominus Egidius de Foscharariis, *doctor legum*.

Summary—*exceptiones* of a privileged person ignored by the outgoing podesta and the podesta is fined.

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*Protestacio* 4 fols. 64r–65r, July 14, 1317

Petition by Bonifacius *condam Jacobi de Gandonibus* that he had earlier protested to the outgoing podesta and his judge not to give any hearing to Dominus Calorius de Gozzadinis, attorney for Johannes de Soldaderiis, Petrus Johannis, and Sasus *condam domini Jacobini de Sasolis*, who were protesting to the podesta against the sentence of the Capitano, Dominus Guido Savina de Foliano and his judge Bonacursius at the *officio bonorum bannitorum*, that the podesta should not hear any appeal concerning those properties The present protester (de Gandonibus) now holds the rights to those properties of Jacobinus sive Minus domini Pasarini de Sachettis and claims that the podesta ignored his

Table V. 5 (*cont.*)

privileges and rights (that is, those of de Gandonibus the present protester) when he agreed to permit an appeal to be heard on the basis of the protest of de Gozzadinis for de Soldaderis and associates in the civil court of the podesta under the judge Petrus de Argelata. That Jacobinus and de Gandonibus were privileged; that the podesta rejected his *exceptiones* and therefore should be fined 500 pounds within three days.

Family Members in Political Life:

Bennus Jacobi de Gandonibus, *notarius anzianorum* March 1306;  
 Dinus Gerardini Gandolfi *sapiens* Sept. 1324;  
 Gandulfinus Gandolfi *anzianus* April 1281, Sept. 1291;  
 Bonvilannus Gandulfini *anzianus* June 1301;  
 Jacobus Gandolfini *anzianus* Oct. 1324;  
 Petrus Gandolfini *anzianus* March 1290, March 1304;  
 Spinellus Gandulfi *anzianus* Jan. 1305;  
 Bennus de Gandonibus *anzianus* July 1319;  
 Albertus Gandonis *anzianus* Sept. 1310;  
 Gandonus Gandonis *anzianus* Jan. 1320, Council of 800 1292, *gonfalonarius* Oct. 1326;  
 Johannes Gandonis *anzianus* Oct. 1300;  
 Francischus Gandonis *anzianus* Nov. 1291, June 1295, June 1298 for the bankers, May 1302;  
 Gandonus Francischi Gandonis *anzianus* Dec. 1324;  
 Matheus Gandonis *sapiens* Aug. 1316, ambassador to Florence Dec. 1313.

Bitinus de Soldaderis, *anzianus* May 1289 for the merchants, Oct. 1296, April 1299, Nov. 1303;  
 Rolandinus de Soldaderis, *anzianus* Nov. 1288, June 1291, Aug. 1291, *sapiens* for commision of banned persons and rebels Sept. 1287 for the bankers, *sapiens* 1298;  
 Jacobus de Soldaderis, *anzianus* April 1291, March 1304;  
 Jacobinus de Soldaderis, *anzianus* Sept. 1289; Jacobinus Jacobini de Soldaderis, *anzianus* Jan. 1290;  
 Guigliemus de Soldaderis, *anzianus* Jan. 1304;  
 Nicholaus de Soldaderis, *sapiens* on war Jan. 1290 (judge), ambassador to Forli 1288;  
 Uguicio de Soldaderis, *anzianus* March 1301, April 1302, April 1303;  
 Johannes domini Jacobi de Soldaderis, *anzianus* Sept. 1304;  
 Recevutus de Soldaderis, *anzianus* June 1301;  
 Rolandinus domini Zovenzonis de Soldaderis, *anzianus* May 1302;  
 Soldaderius domini Jacobi de Soldaderis, *anzianus* Oct. 1302.

Bertolucius de Sassolinis, *anzianus* March 1302, July 1302, March 1303;  
 Jacobinus de Sassolinis *sapiens* for the bankers on making large and small coins 1290, *anzianus* on fortress reconstruction, Feb. 21, 1298, *anzianus* Oct. 1290, April 1295, Dec. 1300, Oct. 1303, July 1303; Jacobus de Sassolinis, *anzianus* Feb. 1298, Feb. 1299, May 1302.

Members also in the Consiglio del Popolo.



Table V. 5 (*cont.*)

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No action on part of the Capitano, who apparently did not admit this *protestacio*. The *protestacio* was renewed under the new Capitano (Reg. 639, fols. 22rv, Oct. 14, 1317) before the judge in the *officio bannitorum*, where he claimed that he and Dinadanus condam domini Gozzadini de Gozzadinis had rights (*jura*) yielded by Jacobinus called Minus condam Dominus Pixani de Sachectis, and appealed the sentence given by the preceding Capitano and his properties court judge. But no follow-up survives to that appeal. Thus, the original case or sentence was in the Capitano's properties court, then the petitioner tried to have it treated in the civil court of the podesta, then lodged a *protestacio* against the podesta for refusing that petition, then appealed to the properties court of the new Capitano.

Summary—a *protestacio* against the outgoing podesta for not honoring the petitioner's opposition to a request for an appeal in the podesta's civil court concerning properties of a banned person on the grounds that the protester was privileged.

[All four of the above *protestaciones* were against the outgoing podesta, Nicholaus de Bandinis of Siena, but *Protestaciones* 5, 5a and 5b, all concerning the same person and issue in this register and in Reg. 639 are against the current podesta, Malocellus de Malocellis of Genoa.]

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*Protestacio* 5 fol. 86r, Sept. 9, 1317

By the judge of the Capitano, with reference to a *protestacio* by Raynerius de Lasavenella capelle S. Marie Porte Ravennatis, privileged by his own person with new privilege and father of Guido who is being detained by the podesta. Guido is a member of the popular societies (the bankers and the Castles) and is privileged by reason of his father's privileged status. Petitions that Guido his son not be submitted to torture, producing *instrumenta* showing his (the father and petitioner) privileged status and his son's membership in the societies.

Family Members in Political Life:

Raynerius domini Jacobelli Savinolla Council of 800 1292; also in Consiglio del Popolo.

Statement made by the *vicarius* of the Capitano to the podesta that he is *not* permitted to torture Guido or threaten him with torture, with accompanying *instrumenta* proving his membership in the societies and his status as a privileged person because of the father's privileged status. The *vicarius* reports he made the statement to the podesta at the portico of the podesta's palace, where he found the podesta gambling with one of his associates, and had the documents of proof in his hands at that time.

Summary—privileged person detained and threatened with torture (see *Protestaciones* 5a and 5b, for same person).

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Table V. 5 (*cont.*)

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*Protestacio* 5a fols. 86r–87r, Sept. 10, 1317

By the *vicarius* of the Capitano, with reference to the *querela* presented to the Capitano and *anziani* by Matheus Scornetta, *preministralis* of the thirteen arms societies and by Dominus Raynerius de la Savinella and many others of those societies, who protested that Guido, son of Raynerius (see *Protestacio* 5) had been tortured by the podesta in contradiction to the statute “de tondolo et tormento” since Guido was a member of the societies and a privileged person. [This was done despite the mandate not to do so, according to the statement above in *Protestacio* 5.] The judge, on the order of the Capitano and *anziani*, went again to the podesta’s palace and again found the podesta gambling with his associate, and, as he reports, with great respect, asked to see Guido in order to ascertain whether or not he had been tortured. The podesta responded that he would not permit anyone to see Guido. The *vicarius* of the Capitano told him it was not for him to deny him access to Guido and that the podesta would incur penalties if he proceeded against Guido. The process accelerates further when the Capitano himself steps in: on Sept. 12 the Capitano himself announces in the presence of the podesta that he, the Capitano, has reviewed the *protestacio* made by Raynerius and the *preministralis* of the thirteen arms societies and has determined that Guido must be released from prison or the podesta will be punished and condemned.

Summary—privileged person tortured (same person as *Protestaciones* 5 and 5b).

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*Protestacio* 5b fol. 87r, Sept. 15, 1317

Another *protestacio* by Raynerius de Savanella that his son has now been imprisoned by the podesta for nine days, that he has protested earlier and produced documentation of his son’s membership and privileged status, but that Guido has been tortured many times. He provides a guarantor and his tax evaluation (*estimo*) of 200 pounds. Same day the judge of the podesta sets term for the podesta of that day or the next to respond.

Response of the podesta: On Sept. 16 the attorney for the podesta denies the jurisdiction of the Capitano, to which Raynerius responds he *does* have jurisdiction.

Same day—the Capitano sets term for podesta to appear on that day and the next, but on Sept. 17 that term is postponed by the *vicarius* because the executive officials (the *anziani*, *preconsulis*, *barixellus*, *preministralis* of the thirteen arms societies, and the *ministrales* of the two preeminent societies) are examining the trial and witnesses of Guido in the podesta’s court.

On Oct. 8 the case is resumed under a new Capitano, Johannes de Saxofferato (Reg. 639, fols. 8r–9r, Oct. 8, 1317) who states that he has reviewed the *protestacio* that the podesta tortured Guido without permission and without the presence of any representative of the Capitano and is prepared to act. Raynerius de Lasavenella renews his *protestacio*. On Oct. 11 the Capitano himself goes to the rooms of the podesta and there executes the *protestatio*, stating that the podesta must not submit Guido to torture.

Table V. 5 (*cont.*)

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Summary—privileged person detained and tortured (same person as *Protestaciones* 5 and 5a).

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Reg. 639

One *protestacio* from this register has been included above with those of Reg. 630 (part of *Protestacio* 5b). There are eleven *protestaciones* (three of which concern the same person and incident) out of a total of fifteen trials in this register (register is entitled “Liber sive quaternus inquisitionum, denunciacionum, notificationum protestationum, etc., etc.” as in Reg. 630).

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*Protestacio* 6 fols. 5r–7r, Oct. 7, 1317

By Dominus Gregorius Jacobi Ferri capelle S. Senisii (who is the protester of *Protestacio* 8), attorney for Bartholomeus Martini capelle S. Proculi, who has been detained by the podesta, and who is a member of the arms society of the Castles and is a privileged person, has been tortured many times by the podesta without permission of the Capitano or presence of his associates, and asks that he be released from prison and that the podesta be condemned. The Capitano sends his judge to the prison of the podesta to examine Bartholomeus, which the podesta refuses to allow. Judge warns him he will punish him if he further acts against Bartholomeus.

Summary—privileged person detained and tortured.

Family Members in Political Life:

Bartholomeus Martini *anzianus* May 1311.

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*Protestacio* 7 fols. 33r–35r, Jan. 4, 1318

By Fantinus de Fabianis capelle S. Bartoli Porte Ravennatis, member of the popular societies and a privileged person. When he appeared before the judge of the outgoing podesta, Malocellus, to present letters verifying the clerical status of Fabianus his brother, “against God and justice and without any reason” the *vicarius* of the podesta had him seized and detained in prison, ignoring his privileged status (granted to him in 1315). This happened in Aug. 1317. Therefore within three days the Capitano should penalize the podesta and his judge. The judge of the Capitano sends a nuncio to summon the judge of the podesta to appear the following day before the judge of the Capitano and does so again the next day, although the nuncio reports he did not find him. On Jan. 9 Fantinus appears and renounces his petition, saying he no longer wishes the Capitano and his court to pursue it.

Summary—privileged person detained in prison.

Family Members in Political Life:

Bitinus Jacobi de Fabianis *anzianus* April 1326;

Fabianus Mercadantis de Fabianis *anzianus* March 1321;

Henrigiptus de Fabianis *anzianus* Oct. 1294.

Members also in the Consiglio del Popolo.

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Table V. 5 (*cont.*)

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*Protestacio* 8 fols. 36r–40v, Jan. 4, 1318

By Gregorius Jacobi Ferri (who was the attorney in *Protestacio* 6), privileged person, that he was seized by the guards of the podesta on the pretext of an *inquisitio* against him, and that the podesta ignored and rejected his privilege and *protestaciones* that he had been detained “unfairly and unjustly” and that he should be released. The podesta persisted in ignoring his privilege and refused to release him. Therefore he seeks a penalty of 500 pounds against the podesta. Does not say when he was detained, only that it was during the term of the outgoing podesta.

Response of the podesta: The attorney for the podesta says that the Capitano does not have competency since the protester Gregorius has this complaint in syndication. Nevertheless Gregorius is permitted to bring forward his witnesses. The attorney for the podesta then requests a *consilium sapientis*. The judge of the Capitano appoints Dominus Macchagnus de Aczoguidis, *legum doctor*, and Dominus Johannes Andree, *decretorum doctor*, and their *consilium* on Jan. 7 is that the Capitano is competent but should not proceed since in fact Gregorius has this case in syndication and his complaint to the syndics preceded his *protestacio* to the Capitano by two days.

Gregorius Jacobi Ferri is not satisfied with the *consilium*. He notes on Jan. 14 that the *consilium* admitted the Capitano’s competency and argues that although he submitted a complaint before the syndics, he did not pursue or prosecute that complaint and the period of fifteen days for syndication has past. He wants the podesta penalized and the penalty taken from his guarantors.

Summary—privileged person detained by podesta’s officials.

Family Members in Political Life:

Jacobus Ferri *anzianus* Oct. 1307;

Gregorius Jacobi Ferri *anzianus* Feb. 1310, April 1316, Dec. 1316.

Members also in the Consiglio del Popolo.

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*Protestacio* 9 fols. 43r–47r, Jan. 4, 1318

By Dominus Bernardinus condam domini Uguicionis de Bambaiolis (his brother is protester in *Protestacio* 13), privileged person, against Dominus Malocellus de Malocellis of Genoa, former podesta of Bologna and Dominus Bartolomeus de Trentis of Modena, his judge *ad maleficia*, that at the time of a trial concerning a riot in burgo S. Isaie in June 1317, between the party of the de Rizzis (de Recchis) on one side and the party of the de Albergis or de Malacannelis on the other, Bernardinus was called to court. Although Bernardinus declared his privileged status, the podesta and his judge, spurning his declaration, detained him in prison, which should have meant their removal from office and a fine of 500 pounds. Moreover, “against God and justice” and without reviewing evidence (*indicia*) or hearing his defense, they tortured him, for which they should have been immediately deprived of office and fined 500 pounds. This happened in July 1317.

Table V. 5 (*cont.*)

Therefore protester seeks that they now be penalized within three days. Same day the judge of the Capitano orders the nuncio to have the outgoing podesta and his judge appear before the *vicarius* of the Capitano.

Response of the podesta: Jan. 5 the attorney for the podesta (his judge) appears before the *vicarius* of the Capitano and denies the jurisdiction of the Capitano because Bernardinus previously had submitted a petition before the syndication panel. Bernardinus objects and the attorney for the podesta objects in turn and asks for a *consilium sapientis*. Judge of the Capitano proceeds, without a *consilium*, to call witnesses of Bernardinus and the posting of guarantors by him. Witnesses appear but testimony not given.

Summary—privileged person detained and tortured.

Family Members in Political Life:

Bertolomeus de Bambaiolis *anzianus* June 1322, Nov. 1322;

Bertolomeus domini Bernardini de Bambaiolis CP *sapiens* for the arms society of the Crossbars 1317 I, 1322 II, *addicio* 1322 II, *anzianus* Dec. 1326, *sapiens* July-Aug. 1321;

Bambaiolus domini Amichi de Bambaiolis CP *ministralis* of the Lions 1309 II, CP *sapiens* for the bootmakers 1307 II, CP *sapiens* for the fine wool guild 1322 II, CP *consiliarius* for the bootmakers 1302 II, CP *sapiens* for the Lions 1321 II, *sapiens* on a peace commission Oct. 1321, *anzianus* Sept. 1301, March 1307, April 1312, Nov. 1317, Aug. 1321, March 1322, CP *addicio* 1307 I, CP *addicio* for the bootmakers 1309 II, *sapiens* July 1321;

Bambaiolus domini Amichi Zuminiani de Bambaiolis CP *consiliarius* for the shoemakers 1307 I;

Albertus Amichi de Bambaiolis *sapiens* for the haberdashers 1321 II, *anzianus* June 1319, May 1326, CP *addicio* 1322 II, CP *consiliarius* for the haberdashers 1309 II;

Bambaiolus de Bambaiolis *sapiens* on street construction Feb.-March 1322, *anzianus* Oct. 1314;

Albertus de Bambaiolis CP *ministralis* of the Lions 1320 II;

Amichus de Bambaiolis *anzianus* Oct. 1307, *sapiens* on rebels June 1311, CP notary for the cordwainers 1287, CP *addicio* 1309 II for the shoemakers, CP *addicio* 1313 II, *anzianus* Dec. 1281, May 1283, April 1297, April 1303, August 11; Bernardinus de Bambaiolis CP *consiliarius* for the Crossbars 1305 I, CP *addicio* 1313 II, CP *consiliarius* for the notaries 1286 I, CP *addicio* for the merchants 1305 II, *anzianus* Sept. 1291, Sept. 1301, July 1321, CP *addicio* for the merchants 1309 II, CP *addicio* for the Crossbars 1305 II, *sapiens* on question from *Forlinesi* June 1304; Bernardinus Uguitionis de Bambaiolis CP *consiliarius* for the shoemakers 1299 II, Council of 800 1292, *anzianus* Dec. 1302, Feb. 1317, CP *ministralis* of the Crossbars 1317 I;

Bittinus domini Amichi de Bambaiolis CP *addicio* for the Lombards 1309 II;

Table V. 5 (*cont.*)

Uguicio Amichi de Bambaiolis *anzianus* April 1319, Oct. 1319, Nov. 1322, Oct. 1325, CP *consiliarius* for the bootmakers 1283 II, CP *sapiens* for the bootmakers 1303 I, CP for the shoemakers 1292 II, *anzianus* July 1312, April 1324, Jan. 1326, CP *ministralis* of the haberdashers 1313 II, 1320 II, 1322 II, *gonfalonarius* Nov. 1322;  
 Graziolus de Bambaiolis CP *ministralis* of the cordwainers 1320 II;  
 Petrus Luche de Bambaiolis *anzianus* June 1325;  
 Suzus domini Amichi de Bambaiolis CP *ministralis* of the Lions 1317 I, 1321 II, 1322 II, *anzianus* Jan. 1313, CP *consiliarius* for the shoemakers 1320 II, CP *addicio* 1309 II;  
 Lucianus de Bambaiolis Council of 800 1292;  
 Petrus de Bambaiolis Council of 800 1292;  
 Bonagratia Bambaioli de Bambaiolis *anzianus* June 1324, Oct. 1325, CP *addicio* 1321 II;  
 Francischus domini Bambaioli de Bambaiolis CP *addicio* 1321 II, 1322 II;  
 Francischus Luce de Bambaiolis *anzianus* Nov. 1323;  
 Francischus de Bambaiolis *anzianus* Dec. 1291;  
 Geminianus condam Jacobi de Bambaiolis CP *ministralis* of the tailors 1322 II;  
 Geminianus Amichi de Bambaiolis CP *consiliarius* for the notaries 1321 II;  
 Henricus de Bambaiolis *anzianus* April 1302;  
 Marchus Mathei de Bambaiolis CP *addicio* 1321 II;  
 Petrus de Bambaiolis *anzianus* April 1325; Petrus Luce de Bambaiolis *anzianus* May 1322, CP *addicio* 1321 II, 1322 II;  
 Uguicio domini Luce de Bambaiolis CP *addicio* 1321 II, 1322 II;  
 Uguicio de Bambaiolis *sapiens* for the notaries Oct. 1295, *anzianus* Jan. 1283;  
 Amichus Geminiani de Bambaiolis *anzianus* Dec. 1288.

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*Protestacio* 10    fols. 50r–52r, Jan. 5–26, 1318

By Francischus (...) Dominici *spadarii* as *defensor* for Bertolucius magistri Francischi *spadarii*, that the outgoing podesta and his judge did not accept his *exceptiones* that Bertolucius was a privileged person and banned him. Attorney for the podesta says Capitano does not have jurisdiction since the petitioner has a complaint before the syndication panel. But Francischus objects and says the syndics had given him a term (*dilatio*) for making a *denuncia* before them. The Capitano judge admits the response of Francischus and sets term for him to prove his case. Francischus produces an *instrumentum*.

Summary—*exceptiones* of a privileged person not accepted by the podesta.

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*Protestacio* 11    fols. 55r–57v, Jan. 4, 1318

By Guinizellus condam domini Quiriaci de Alleverariis with the consent of Petrus Jacobini capelle S. Marie Maioris who is a member of the Griffins' arms society and the fishmongers' guild and a privileged person, that "against God and justice and for no reason" the podesta had Petrus captured and imprisoned, ignoring his declarations of privileged status, and detained him for many hours, and this was in December.

Table V. 5 (*cont.*)

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Response of the podesta: Attorney for the podesta objects because there is a petition before the syndication panel, but *vicarius* of the Capitano proceeds and sets term for Guinizellus to prove his case. He produces witnesses and guarantors, and witnesses take oath.

(One of the guarantors is Dominus Gregorius Jacobi Ferri who is the protester and attorney for a protester in *Protestaciones* 6 and 8. Attorney is also the attorney in *Protestacio* 16).

Summary—privileged person detained.

Family Members in Political Life:

Cene de Alerariis CP *consiliarius* for the merchants 1320 II;

Armannus domini Quiriachi de Alerariis CP *sapiens* for the Lions 1305 II, CP *sapiens* for the Lions 1307 I;

Bencevenne Zacharie de Alerariis CP *addicio* 1322 II;

Gabriel domini Quiriachi de Alerariis CP for the Lions 1292 II;

Gariet de Alerariis CP *addicio* for the shoemakers 1309 II; Gariet domini Quiriachi de Alerariis *anzianus* June 1313, CP *sapiens* for the shoemakers 1303 I, CP *addicio* 1313 II, CP *ministralis* of the Lions 1306 II;

Jacobus de Alerariis CP *addicio* 1313 II, CP *ministralis* of the Lions 1320 II, Jacobus Quiriachi de Alerariis *anzianus* Nov. 1324, Dec. 1326, CP *ministralis* of the Lions 1313 II, 1321 II, 1322 II;

Guinicellus Quiriachi de Alerariis *anzianus* July 1319, CP *sapiens* for the Stars 1321 II, CP *consiliarius* for the Stars 1320 II;

Maxe domini Zacharie de Alerariis CP *addicio* 1322 II;

Petrus domini Quiriachi de Alerariis *anzianus* June 1305, June 1314, CP *addicio* 1307 I, 1309 II;

Guirachus de Alerariis CP *ministralis* of the Lions 1303 I;

Thomasius domini Graci de Alerariis CP *consiliarius* 1320 II, also as Tomax CP *addicio* 1321 II;

Thomax Zacharie de Alerariis CP *consiliarius* for the merchants 1317 I, CP *addicio* 1321 II;

Zacharias de Alerariis *anzianus* Oct. 1316, Feb. 1320, CP *ministralis* of the Lions 1320 II, *sapiens* July-Aug. 1321, *sapiens* on street construction Feb. 1322;

Zacharias Quiroci de Alerariis *anzianus* June 1317, CP *ministralis* of the Lions 1321 II, 1322 II, *anzianus* Oct. 1326, CP *preministralis* of the Lions 1317 I, *sapiens* July 1321;

Petrus Quiriaci de Alerariis *anzianus* June 1305, June 1314;

Quiriaco Allerariis *sapiens* July 1288, CP *ministralis* of the Lions 1284 II;

Petrus de Alerariis *sapiens* for the arms society of the drapers Oct. 1295.

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Table V. 5 (*cont.*)

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*Protestacio* 12 fols. 62r–63r, Jan. 5, 1318

By Michael domini Petri de Argellata with the consent of Bonaventura condam Bondominici capelle S. Josepi burgi Galerie, the latter being a privileged person by reason of his brother Bonfante, that in the podesta's *officio stratarum* the notary of that court ignored the privileged status of Bonaventura and had him captured and detained in prison in August 1317. The next steps are the same as in preceding *protestaciones*, with witnesses called and guarantors given and appearing on Jan. 6.

Among the protester's guarantors are Guinizellus de Alerariis (protester in *Protestacio* 6 and attorney in *Protestacio* 16), Gregorius Jacobi Ferri (protester in *Protestacio* 8 and attorney for a protester in *Protestacio* 6), Bernardinus de Bambaiolis (protester in *Protestacio* 4) and Paulus Johannis de Albergis (protester in *Protestacio* 8).

Summary—privileged person detained.

Family Members in Political Life:

Bonaventura condam Bondominici *anzianus* June 1319, CP *ministralis* of the fishmongers 1313 II, 1320 II.

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*Protestacio* 13 fols. 73r–74r, Jan. 5, 1318

By Dominus Paulus condam domini Johannis de Albergis who is privileged because of the privileged status of his brothers Franciscus and Dominicus, that at the time of a riot in June 1317 in burgo S. Christine between the de Rechis on one side and the de Albergis or Malacommellis on the other, the podesta and his judge summoned the protester to appear at the trial and ignored his declaration of privileged status. They had him seized and detained in the lower prison. Also, “against God and justice and without evidence and without his defense being heard or admitted” they had him tortured. This was in July 1317. Guarantor for Paulus is Bernardinus de Bambaiolis (see *Protestacio* 9), who is approved by Bonagratia de Bambaiolis. On Jan. 7 Paulus appears and renounces his petition, saying that he does not want the Capitano and his court to proceed against the podesta.

Summary—privileged person detained and tortured.

Family Members in Political Life:

Albertinellus condam domini Zanini de Albergis CP *ministralis* of the Crossbars 1317 I;

Paulus condam domini Johanis de Albergis CP *ministralis* of the Crossbars 1317 I, *anzianus* July 1317;

Bartolomeus Albertinelli de Alberghis *anzianus* Dec. 1319;

Dentame de Alberghis *anzianus* July 1307, April 1311; April 1320;

Domenichus de Alberghis *anzianus* March 1281, Dec. 1316;

Johannes de Alberghis *anzianus* March 1284;

Thomas de Alberghis *anzianus* March 1304;

Thomas Alberghi de Alberghis *anzianus* Oct. 1318, 1321;



Table V. 5 (*cont.*)

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Albertinellus de Alberghis *anzianus* Dec. 1301, Oct. 1315, April 1318;  
 Dominichus Johannis de Alberghis *anzianus* July 1316, Feb. 1320;  
 Paulus Johannis de Alberghis *anzianus* Oct. 1319

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*Protestacio* 14 fols. 75rv, Jan. 5, 1318

By Nicolaus Bonaventure, privileged person, against the outgoing podesta who “injuriously and unfairly and against the form of the statutes” had the protester captured and detained, and although the protester declared his membership in the arms society of the Minivers, had him tortured in Nov. 1317, violating the statute “de tondolo et tormento” for which he should have been deprived of office. Protester seeks that he be condemned to penalty of 1,000 pounds. On Jan. 7, 1318 the protester, as did the protester in *Protestacio* 8, appears and renounces his petition, saying he does not want the *vicarius* of the Capitano to proceed against the podesta.

Summary—privileged person detained and tortured.

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*Protestacio* 15 fols. 76r–77v, Jan. 16, 1318

By Amichus condam domini Geminiani de Bambaiolis against the outgoing podesta and his judge, that on the occasion of the riot in burgo S. Isaie in June 1317 between the de Recchis on one side and the de Alberghis or de Malaconnelis on the other, the protester was summoned and although he claimed his privileged status and membership in the popular societies and offered to post surety, the podesta and his judge had him seized and detained in the upper prison in July 1317. Same day the judge orders the nuncio to summon the podesta and his judge. Jan. 28 the protester produces three witnesses and guarantors.

Summary—privileged person detained and imprisoned by the outgoing podesta in July 1317

Family Members in Political Life: See *Protestacio* 4.

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*Protestacio* 16 fols. 79r–80r, Jan. 15, 1318

By Guinizellus condam domini Queriacci de Alleraris with the consent of Melchior condam domini Battaglucii de Battagluciis who is a member of the societies and privileged person, against the outgoing podesta and his judge, who had him seized and detained and tortured in Dec. 1317. Same day the judge orders the nuncio to summon the judge of the podesta.

(Attorney is also attorney in *Protestacio* 11.)

Summary—privileged person seized, detained and tortured in Dec. 1317.

Family Members in Political Life:

Bonrecuprus Petroboni de Battagluciis *anzianus* March 1318;

Francischus de Battagluciis *anzianus* July 1316;

Francischus Bonromei de Battagluciis *anzianus* Nov. 1318;

Petrobonus de Battagluciis Council of 800 1292;

Bernardinus de Battagluciis *sapiens* July 1311;

Table V. 5 (*cont.*)

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Melchior condam domini Battaglucii de Batagluciis CP *ministralis* of the Claws, 1309.

Also other members in Consiglio del Popolo.

Response of the outgoing podesta to *Protestaciones* 13–16, fols. 83r–84r, Jan. 16, 1318:

For himself (Dominus Malosellus de Malosellis of Genoa), for his judge (Bartolomeus de Trentis of Modena) and his notary (Andreas Jacobi) at the *officio stratarum seu fanghi* in all the above trials (*omnibus processibus*), according to the Sacred Ordinance that established the privileges of 1310, promises to pay any penalties incurred in those trials. He gives his guarantors who include Dominus Johannes domini Petri de Argellata (brother of protester in *Protestacio* 9).

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Reg. 645 (1318 II) has no *protestaciones*, although the word is included in the header to the register.

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Reg. 650 (1318 II) has two *protestaciones* out of ten trials (the ten trials are distributed over three registers by the same notary—Regs. 645, 649 and 650).

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*Protestacio* 17 fols. 63r–65v, Sept. 6–12, 1318

By Ugolinus condam domini Deodati for his son Johannes called Nanne. Ugolinus is in the Lions. His son is privileged by the privilege of his godfather Niccolay domini Deodatii Johannis and is also in the Lions. The *protestacio* is against the current podesta and his *familia* that they must serve his privilege and that he not be tortured or threatened with torture. Sept. 7 the *vicarius* of the Capitano goes to the podesta and repeats the *protestacio* and warns the podesta he must observe the statutes and ordinances and privileges of Johannes and must not submit him to torture or threat of torture. Sept. 12 the judge of the podesta responds that he is conducting a trial against Johannes for certain thefts and other things and that he has received witnesses' testimony and on the basis of that legitimate evidence (*legiptima indicia*) wants to proceed to torture him and asks the Capitano for express license to do so.

Summary—seeking to prevent torture of a privileged person.

Family Members in Political Life:

Ugolinus Deodati *anzianus* Sept. 1301;

Niccholaus Deodati CP *addicio* 1309 II, 1313 II, 1321 II.

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*Protestacio* 18 fols. 76r–95v, Sept. 16–26, 1318

By Francischus condam domini Juliani *spadarius* capelle S. Marie Maioris, father of Bertholucius, claims that his son has been tortured even though he, Bertholucius, is in the societies of the Claws and shoemakers and the statute “de tondolo et tormento” has not been observed which is “against God and justice.”

Table V. 5 (*cont.*)

The podesta did not have a license from the Capitano and the torture took place in the absence of the *anziani* and without first establishing legitimate proofs and evidence (*probationibus legitimis et indicis*.) He seeks a fine of 1,000 pounds against the podesta and release of his son from the podesta or a similar penalty will be levied against the Capitano. He produces *instrumenta* from the notary of the communal archives (*camera actorum*) to show his son's status as a privileged person in 1310, his registration in the *estimo* for Porta Stiera for 25 pounds and his membership in the societies and the father's privileged status from 1310. The *vicarius* of the Capitano tells the podesta to produce Bertholucius so that four of the *anziani* might see if he had been tortured and receive his oath that he had not been tortured, and if they determined that he had been tortured, to remove him from custody of the podesta. The podesta is not to further submit him to torture unless according to the process designated by statute.

Response of the podesta: *Vicarius* of the podesta on Sept. 17 comes before the Capitano and his *vicarius* and says that the *protestacio* was a frivolous one and offers to show the trial record of witnesses' testimony and his confession, that he was charged with certain robberies and other crimes and that the Capitano ought not to defend him as a privileged person since his crimes have deprived him of his privileged status.

But response of the Capitano that same day is that the response of the podesta is not sufficient and cites the statute "de tondolo et tormento." He also says that Bertholucius is in fact in the societies of the Claws and shoemakers and is privileged by the privilege of 1310, and therefore demands that the podesta yield custody of Bertholucius.

Same day the judge of the podesta again appears and says that Bertholucius should not be rendered justice or defended by the Capitano because he is a "ruffian and man of bad conversation and life and that he is not able to enjoy the benefit of privilege" (*rufianus et homo male conversationis et vite et quod gaudere non potest beneficio privilegii*) and again offers the depositions of witnesses and confession of Bertholucius. He also claims that according to the new statutes [of 1318] "privilege is removed from delinquents" (*sublatum esse privilegium delinquentibus*).

*Vicarius* of the Capitano responds and again reiterates that Bertholuccius is privileged and must come into the custody of the Capitano because he is a member of the societies, even if he is a ruffian which is denied. It is claimed the witnesses were "capital enemies" of Bertholucius and that his confession was made in fear of being tortured. Even though he is not privileged he is a member of the societies and therefore the statute "de tondolo" applies to him. [The *vicarius* does not address the claim of the podesta that the 1318 statutes deny privilege to delinquents.] He also says that Bertholucius indeed has an *estimo* and that it does not matter that he is a bastard since municipal law cannot be interpreted, and because in the trial the podesta recognized him as the son of Franciscus the protester.

Table V. 5 (*cont.*)

Third response of the podesta to the second response of the Capitano: On Sept. 17 the *vicarius* of the podesta again rejects the argument of the Capitano but agrees to permit him and his *vicarius* to see Bertholucius. Same day the Capitano summons the *ministrals* of the two preeminent societies (the Lombards and the furriers) to come with 100 armed men to take Bertholucius from the custody of the podesta. Still the same day, the podesta in the presence of the Capitano and his *viciarius* and several of the *anziani*, presents Bertholucius whom the Capitano and *anziani* observe walking and standing and who determine that he has not been tortured.

Two days later the father of Bertholucius again claims that his son has been tortured, this time on the prior Saturday, and asks for a *consilium sapientis*. The *vicarius* of the Capitano sends a nuncio to inform the judge of the podesta of this. Next day, Sept. 21, the *vicarius* of the podesta appears again and contends that the claim of the protester should not be admitted and agrees to a *consilium sapientis*. On Sept. 21 *sapientes* are appointed as to whether or not the claim of the father should be admitted. On Sept. 25 the *consilium* is declared open and is in favor of the podesta. The *consilium* is accepted by the *vicarius* of the Capitano, but the same day, Sept. 25, the father of Bertholucius again accuses the podesta of having tortured his son without license of the Capitano. He refuses to post securities and the *vicarius* of the Capitano refuses to continue without his doing so. Dominus Franciscus, father of Bertholucius, finally says he does not want to post securities to prove his accusation and the judge declares that the case will not proceed.

Family Members in Political Life:

Franciscus Juliani *spadarii anzianus* April 1312, CP 1292 II for the Minivers, CP *ministrals* of the shoemakers 1309 II, CP *ministrals* of the shoemakers 1303 I, 1320 II, CP *sapiens* for the Claws 1307 I, CP *consiliarius* for the barbers 1322II, CP *ministrals* of the Claws 1305 I.

Reg. 653 (1318–1319) has two *protestaciones* out of seven cases.

*Protestacio* 19 fols. 37rv, Dec. 19, 1318

By Jacobus condam Liagarii that the podesta (Albertinus de Canossa) and his judge should proceed to investigate the denunciation made of an assault and robbery by an armed band in the *contado* in December by Niccolaus son of the deceased Dominus Ugolinus de Monte Calvo and others.

Response of the podesta: Podesta's judge that day says he is prepared to proceed if Jacobus will follow the statutes and take his oath.

*Protestacio* 20 fols. 73r–74v, March 11–12, 1319

By Braccinus Raynerii as attorney for Bartholomeus condam Cessabo that Bartholomeus who is privileged and a member of the popular societies (Claws) has been imprisoned by the podesta without cause. He seeks his release, and if the podesta does not release him, that he be penalized.

Table V. 5 (*cont.*)

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Response of the podesta: March 12 the *vicarius* of the podesta, Guido de Camilla, says that he has not detained Bartholomeus and that the attorney Braccinus is not a legitimate attorney. That Bartholomeus is not privileged since for the past year he has been “a public and famous ruffian, assassin, thief, counterfeiter, robber, murderer, kidnapper, vagabond without domicile and is a man of bad comportment and reputation” (*publicus et famosus rufianus leno assasinus fur latro falsator monete derobator homicida et raptor vagabundus et non habens domicilium et homo male conditionis et fame*).

Braccinus appears on March 13 and says he is godfather of Bartholomeus and his attorney and denies the veracity of the podesta’s response.

[The Capitano according to the header of this register is Testa de Tornaquincis (who was Capitano from Oct. 1318 to March 1319), and in this *protestacio* the podesta is referred to as Guido de Camilla. (The podesta in December was Albertinus de Canossa). The podesta from Jan-April 1319 was Guido de Camilla. Guido de Camilla also was Capitano according to Reg. 658, in April 1319. Guelfus de Pulliensibus was podesta April-May 1319, and also Capitano May, June, July-Sept. 1319. Gerardus de Tripoli de Robertis was podesta June-Dec. 1319. Thus, the Capitano and podesta were the same person in April and May. See *Protestacio* 22 in Reg. 658 for another case concerning the same Bartholomeus. This case took place in March and the second one six months later in September, after Guelfus de Pulliensibus, who had been Capitano and podesta in April and May and was replaced as podesta in June by Gerardus de Tripoli, finished his term as Capitano, in September.]

Family Members in Political Life:

See *Protestacio* 22a for his son as *anzianus* in Jan. 1319.

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Reg. 658 (1319 II) by same notary as Reg. 663.

Of eleven cases, there are three *protestaciones*, but two cases are the same person and issue and two of the *protestaciones* are the same person and issue. So there are actually two *protestaciones* out of ten cases.

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*Protestacio* 21 fol. 2r, April 6, 1319

By Petrus condam Johannis de Manticis capelle S. Thome de Brayna and Albricus, Fatius, Lapus and Petrus, brothers and sons of the deceased Dominus Gerardus de Manticis capelle S. Michaelis de Leproseto, who are privileged. That the precept made by the *vicarius* of the Capitano (the podesta, Guido de Camilla is also the Capitano in April and May), ordering them to confinement three *miliaria* beyond the street of S. Donato is “against the form of the law” (*contra formam iuris*).

Table V. 5 (*cont.*)

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Family Members in Political Life:

Angellus Johannis de Manticis *anzianus* March 1326;

Angellelus de Manticis *anzianus* July 1284, CP *consilarius* for the bankers May 1283;

Bartolomeus de Manticis *anzianus* Nov. 1321;

Bonifatius Gerardi de Manticis *anzianus* May 1319;

Gerardus de Manticis Council of 800 1292;

Johannes de Manticis *anzianus* June 1303;

Monte de Manticis *sapiens* on the iniquities of exiles in the *contado*, Oct. 1323;

Petrus Gerardi de Manticis *anzianus* March 1322;

Petrus Johannis de Manticis *anzianus* Dec. 1303.

Also members in the Consiglio del Popolo.

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*Protestacio* 22 fols. 78r–81r, Sept. 20–21 1319

(Same person in *Protestacio* 20 from March 11–12, 1319.)

By Johannes de Casola as attorney and administrator for Bartholomeus domini Cessabo, who is in the societies (Claws) and has new and old privilege, against the current podesta, Gerardinus de Trippolis de Regio. That Bartholomeus is in custody of the podesta, who had him tortured Saturday Sept. 8 in the evening or night and on Sunday. In doing so he did not follow the statutes nor recognize his privileged status which required permission of the Capitano and the presence of *anziani*. That the podesta intends to torture him again and the Capitano should remove him from the custody of the podesta and the podesta should be penalized 1,000 pounds according to the new statutes [1318]. Because Bartholomeus is privileged the podesta should be removed from office and penalized 500 pounds. Attorneys of Bartholomeus (there are two of them) produce documentation of his privileged status and his membership in the arms society.

Response of the podesta: Attorney of the podesta says that Bartholomeus cannot invoke his privileged status because he is a ruffian and a gambler.

Same day the Capitano orders the podesta to hand over Bartholomeus. On Sept. 21, the Capitano, in the presence of the *anziani* in the palace of the *popolo*, again orders the podesta to hand over Bartholomeus, and then, the *vicarius* of the Capitano having examined him, decides that he has *not* been tortured. The Capitano also insists that Bartholomeus be handed over, the podesta refuses again, and the Capitano orders the *ministrales* of the two preeminent societies (Claws and the goldsmiths and leather curriers and dressers) to immediately remove Bartholomeus from custody of the podesta and to turn him over to the Capitano, as called for by the statute “de tondolo et tormento.”

## Family Members in Political Life:

See *Protestacio* 22a for his son as *anzianus* in Jan. 1319.

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Table V. 5 (*cont.*)

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*Protestacio* 22a fols. 84r–85r, Sept. 25–29, 1319

By Blaxius condam Bartoli Cessabo that Johannes de Casola, administrator and attorney for Bartholomeus de Cessabo had protested to the Capitano, Guelfus de Pulliensis of Prato, that the former podesta, Dominus Gerardus de Tripoli de Robertis, had said he wanted to torture Bartholomeus without adhering to the statute on torture and that the Capitano should require that Bartholomeus be handed over to the Capitano and that the podesta be fined 1,000 pounds, within five days.

(*Protestaciones* 22 and 22a cover the same event, by different protesters, the first while Gerardus was still podesta, the second immediately after the end of his term.)

Family Members in Political Life:

Blaxius Bertolomei Cessabonis *anzianus* Jan. 1319 and CP *addicio* 1309 II.

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Reg. 663 by same notary as Reg. 658 (April–Sept. 1319), has no *protestaciones* and is not a *protestacio* type register.

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Reg. 669 (Oct. 1319–March 26 1320). A *protestacio* type register.

There are no *protestaciones*, but Reg. 669 specifies assignment of one of the notaries of the Capitano to receiving *protestaciones* made against the current podesta and his court.

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### STAGE THREE (New Type *Protestacio*) Oct. 1320–1326

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In this stage the *protestacio* is used mainly to contest the actions of the podesta who had acted on the basis of special authorizations made by *reformagioni* (acts of the Consiglio del Popolo), or in response to *querelle* (petitions to the Consiglio del Popolo), as in *Protestacio* 33, to contest the validity of a *querela* and subsequent *reformagione*, or to have the Capitano force the podesta to implement a *querela*.

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Reg. 680 (Oct. 9, 1320–March 17, 1321) has no *protestaciones* and is not a *protestacio* type register.

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Reg. 682 (Oct. 1320–March 1321). By the same notary and judge as Reg. 680. Has *protestaciones* in the header and has new type of *protestaciones* made with reference to *reformagioni*, *cedule*, and *querelle* in addition to *protestaciones* against the podesta.

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*Protestaciones* 23, 24, 24a, 24b fols. 7r–17r, Oct. 13–15, 1320

By same person, Dominus Jacobus domini Ugolini Pacis, against a *querela* by Finus condam domini Racchoboni de Plastellis.

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Table V. 5 (*cont.*)

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*Protestacio* 25 fols. 18r–19r, Oct. 1320

By Jacobus *condam domini Ugolini* (see *Protestaciones* 23, 24, 24a, 24b) that he was detained by guards and infantrymen of the podesta and by certain nuncios of the commune and that he was to be detained until he made an *instrumentum* concerning his house. He was detained publicly, in view of bystanders as if he were a thief or criminal, even though he is a privileged person, an injury he values at 100 pounds.

Response of the podesta: *Vicarius* of the podesta says that what he did was according to a *reformagione* made in the *consilio querelarum* (special meeting of the Consiglio del Popolo dedicated to *querelle*).

Summary—illegal detention.

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*Protestaciones* 26 and 27 fols. 28rv, Oct. 20, and fols. 29r–30v, Oct. 19, 1320

By Dominus Nicola *condam Frederici Ribaldi capelle S. Lucie* and Bonacaptus *domini Jacobi*, that the podesta did not respect their privileged status (not prosecuting a case in one and prosecuting for carrying weapons in the other). In the latter instance he fined him 200 pounds even though he threatened to make a complaint at syndication.

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*Protestaciones* 28, 28, 28b, 28c fols. 31r–36v, 39r–41v, Nov. 5, 6, 10, 1320

Albertus *condam Fabbiani Caxalis* attorney for Jacobus *condam Antonii, Johannes Dominici, Cambius Ugolini, Jacobus Bonzii, Ugolinus Bendi*, and Dominus Zachareus from the rural commune of Lastignano. The issue is whether or not the podesta must proceed to implement a *reformagione* and proceed against those who attacked Gerardus Benvenuti from Lastignano. The podesta had initiated a trial based on a *denuncia* made by Napoleone *condam domini Salvucii de Bechadellis sive Artinixiis*, then suspended that trial in order to proceed according to a *reformagione* made subsequent to a *querela*. In the *querela* process the podesta would not hear the defense and the first *protestacio* is calling for the podesta to be required to hear their defense.

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*Protestaciones* 29 and 29b fols. 37r–38v, 42rv, Nov. 10 and 13, 1320

Petrus Carbonis attorney for Domina Anzolina Primerari de Marensibus seeks that the podesta proceed in the accusation against Zardinus Brunini Bianchi Cose and fine him 500 pounds, according to a *reformagione* made in July in favor of Domina Anzolina, even though Zardinus opposes the *reformagione* and says the accusation against him is false.

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Response of the podesta: That the attorney for Domina Anzolina did not proceed according to the statutes and another of her attorneys said she was already in possession of her lands. The attorney in this *protestacio* says the podesta must proceed by the *reformagione* and not by the statutes and that the other attorney should not be heard.



Table V. 5 (*cont.*)

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*Protestacio* 30 fols. 43rv, Dec. 19–23, 1320

For Domina Gisia *condam domini Prindepartis* who had sought from the podesta implementation of a *riformagione* which called for the podesta to ban Chiocius and Muzarellus brothers and sons of the deceased Gualterius de Cuzano (*de nobilibus et potentibus civitatis Bononie*) for robbery and rebellion if they did not within ten days restore to her 300 pounds for her dowry and 60 pounds “for clothing and other things.”

Response of podesta: Same day the podesta says he is prepared to implement the *riformagione* (made in response to a *querela*) but the *riformagione* has been opposed by the other party or their attorney, on the grounds that Domina Gissa (Gixia) is *de nobilibus et de nobile progenie*, specifically from the de Prendepartibus family and therefore cannot make a *querela* in the Consiglio del Popolo. If the *querela* is valid he is prepared to execute it immediately. If the Capitano thinks he should do so, then the podesta wants a *consilium sapientis* on the issue.

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*Protestacio* 31 fols. 52r–53r, Dec. 24, 1320

By Nicholaus Laurentii Spavaldi that Veneticus Rubaldini Petriczoli de Vacha should be punished by the podesta as called for by a *querela* in the Consiglio del Popolo with a penalty of 1,000 pounds.

Response of podesta: That he has condemned Veneticus according to the authority granted him by the *riformagione*, having found him guilty by the testimony of witnesses and by his confession and that Veneticus has already paid the penalty to the treasurer of the commune. (Petitioner wanted a higher penalty, but the podesta says he had authority to set the penalty and if the petitioner wants a *consilium sapientis* at the petitioner’s expense, he would concur with that.)

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*Protestacio* 32 fols. 54r–55v, Dec. 25–30, 1321 (*sic*, but actually 1320, since the Bolognese new year began Dec. 25)

On the occasion of an accusation against Franciscus Ugolini de Grassis by Guillielmus *condam Ranfredi de Argelle*, when his attorney (the protester) wanted to present guarantors and *exceptiones* on behalf of Franciscus so that the criminal court judge would not proceed to ban of Franciscus, the judge refused to admit them.

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*Protestacio* 33 fols. 67–69v, March 1321

Petition against a *querela* passed in the Consiglio del Popolo, that the *querela* and subsequent *riformagione* were against the Sacred Ordinances since the querelant was not of the *popolo* nor of the *parte ecclesie* and that the *riformagione* should therefore be declared false and void.

Table V. 5 (*cont.*)

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The protesters are Petrus condam Carbonis and his sons Gerardus, Johannes and Bonacursius (Petrus serves as attorney for Domina Anzolina Primerari de Marensibus in *Protestaciones* 29 and 29a) against the *querela* made in favor of Bonacursius called Corsolinus son of the deceased Ugolinus, Gerardinus Petrizoli, Bertolacius or Bertolive, from Casola, *fumans* of that rural commune, under the name of Corsolinus son of the deceased Dominus Pasqualinus. The latter deny the veracity of the petition. In turn the protester asks for a *consilium sapientis*. The *sapientes* are appointed but their *consilium* and verdict are not given.

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Reg. 688 (June-July 1321) has no *protestaciones* and is not a *protestacio* type register.

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Reg. 692 (Aug. 1321–March 30 1322) has no *protestaciones* and is not a *protestacio* type register.

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Reg. 694 (Oct. 8, 1321–March 30, 1322) has no *protestaciones* and is not a *protestacio* type register.

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Reg. 703 (April-Aug. 1322) is a *protestacio* type register and has four cases and three *protestaciones*.

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*Protestacio* 34 fols. 15r–17r, April 2–3, 1322

By the attorney for Phylippus and Mininus sons of the deceased Dominus Tuzimanus de Chatelanis who made a *protestacio* at the *dischum Ursi* to the podesta, that there should not be a trial against them for their attack on Ubaldinus condam domini Tanni de Prindipartibus since Ubaldinus was banned as a magnate, even though it was said that Ubaldinus should not have been banned because he was a cleric at the time of the ban, since it was not known at the time of the ban that he was a cleric.

Response of the podesta: That it was notorious and manifest that Ubaldinus, whom he refers to as archipresbiter Ubaldinus, was a cleric.

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*Protestacio* 35 fols. 58rv, Aug. 21, 1322

That Bonrecuptus condam domini Petroboni de Batagluciis is in the custody of the podesta who has had him tortured without preceding legitimate proofs. Seeks to have the podesta yield custody and in the presence of four or more *anziani*, at the wish of the Capitano, make him observe the statute “de tondolo et tormento” since Bonrecuptus is a member of the popular societies.

(Relative of protester in *Protestacio* 16)

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Table V. 5 (*cont.*)

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*Protestacio* 36 fols. 65rv, Aug. 1322

That Petrus quondam Jacobi from the rural commune of Fiesso has been detained in prison by the podesta because he was accused by Melchior son of the deceased Dominus Tadeus Guasperini for an attack against Bonifacius or Facius domini Thomacis from Fiesso. That he should not have been detained since Facius had been removed from the protection of the commune of Bologna as evidenced in the books of the banned. This had happened as a result of a *riformagione* from a *querela*. That he should be released and the accuser forced to pay expenses and damages.

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Reg. 706 (Oct. 1322–March 1323) has eleven *protestaciones* and no other cases.

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*Protestacio* 37 fols. 8rv, Oct. 25, 1322

Palamadexius condam domini Virgilii de Personaldis protests that the podesta made an *inquisitio* against him on a charge protected by privilege.

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*Protestacio* 38 fols. 12rv, Nov. 5, 1322

Dominus Mezovillanus condam domini Rolandini de Mezovillanis protests that Donatus Dominici has been banned for an uprising and conspiracy made with many other armed men and since that ban is perpetual, he should not be cancelled from that ban (see next *protestacio*).

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*Protestacio* 39 fols. 15r–17r, Nov. 11, 1322

Magister Dominicus condam Johanini protests that his son, Donatus Dominici (see preceding *protestacio*), should have his ban cancelled.

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*Protestaciones* 40, 40a, 40b fols. 19r–20r, 21r–22r, 23r–34r, Nov. 12, 13, 15, 1322

That the podesta should not have proceeded against Lamertinus condam domini Capnucii de Scappis since the *querela* lacked the words *salvo iure comunis Bononie*. The third *protestacio* on the same issue is concerned with not permitting the podesta to move to destruction of properties.

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*Protestaciones* 41 and 41a fols. 23r–24r, 27r–28r, Dec. 5 and 10, 1322

That the podesta should not proceed to promulgate a ban against several brothers and sons of the deceased Dominus Prindiparte de Prindipartibus since in his *querela* Victorius Bonacursii did not observe the solemnities required for a *querela* and Victorius is not a person who can lodge a *querela*. Attorney for the protesters asks for a *consilium sapientis* and says he will proceed against the podesta at the time of syndication. The second *protestacio* is five days later and calls for implementation of the *consilium sapientis* that was made.

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*Protestacio* 42 fols. 29r–30r, Dec. 15–17, 1322

Seeking implementation of a *querela* made by Vannus condam Angelerii de Cutellis capelle S. Marie de Clavigia against Bacijs condam Grandi capelle S. Marie de Clavigia, from Lucca. The subsequent *riformagione* was made in November.

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Table V. 5 (*cont.*)

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*Protestacio* 43 fols. 41r–32v, Jan. 16, 1323

By a tax farmer that the podesta should have implemented certain condemnations without any appeal or *consilium sapientis*, but a certain person from that commune contested the condemnations before the podesta at the *dischum Ursi*, which is against the municipal statutes and against the oath of the judge at the *dischum Ursi*.

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*Protestacio* 44 fols. 34r–37r, Feb. 1, 1323

That the protester had a *querela* and *riformagione* that the podesta should have within five days implemented, which called for cancellation of a fine paid by the protester in the earlier term of office of the podesta (first of February and new term of podesta).

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*Protestacio* 45 (repeated three times) fols. 38r–41v, Feb. 6, 1323

Seeking implementation of a *querela* and *riformagione* that ordered the podesta to act against those who had ordered the homicide of her brother by half-proofs and presumptions and if they did not appear in court, to ban them and to require payment to the widow. The podesta was given authority to act within twenty days. The protester is Domina Montarma daughter of the deceased Dominus Donatus, sister and heir of Ducius son of the deceased Dominus Donatus, and wife of Franciscus domini Lapi.

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*Protestacio* 46 fols. 44r–45r, March 14, 1323

Against implementation of *Protestacio* 45, arguing that for the podesta to proceed against the imputed would be against common law and municipal law. The protester of *Protestacio* 45 argues that the authority given to the podesta by the *consilio querelarum* overrides any argument from common or municipal law. The imputed are Dominus Ugolinus condam domini Bonaventure de Cocha, Petrus, Tomacius, Salvatinus and Villanus his sons, from capella S. Senaxius, for the homicide of Ducius condam domini Donati. Gives detailed reasons by both parties for and against the validity of the *querela* and *riformagione*, including the argument that the trial by *querela* cannot go forward because there is a new judge of the podesta, because the *querela* was presented by a woman (by means of an attorney) which they cannot do in criminal *querele* (*personales*) and can do in property *querele* (*reales*), but also that the distinction between such cases for women cannot be made.

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*Protestacio* 47 fol. 51v, Dec. 30 1323

Whether or not a *querela* should go forward to the *anziani* and Consiglio del Popolo. Preliminary hearing on the merits of the *querela* which concerns property. *Consilium sapientis* that the *querela* should go forward despite the *exceptiones* of the party opposing the *querela*.

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Reg. 709 (1323) Book of Witnesses (in opposition to a *querela*).

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Reg. 714 (May-Aug. 28, 1323) is a *protestacio* type register and has ten *protestaciones*.

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Table V. 5 (*cont.*)

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*Protestacio* 48 fols. 5v–6r, May 19, 1323

Protest by persons from the *contado* against certain *querele* in which the podesta was given authority (*arbitrium*). Protesters want him to have *arbitrium* over both parties.

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*Protestacio* 49 fols. 6r, 8v, May 19, 1323

The *vicarius* of the Capitano with four of the *anziani* goes to the palace of the podesta at the request of Lunctarellus Gerardi and seeks to see Cimorellus and Salvator Girardi who were in the podesta's custody, because it was said that they had been tortured in contradiction to the statute "de tondolo et tormento," since they were *de populo* and members of the arms society of the Stripes.

Again on May 22, the *vicarius* and the *anziani* demand immediate interview of Cimorellus and Salvator. They are interrogated and say they have not been tortured. The *vicarius* demands their release.

May 4 the *vicarius* decides, after having reviewed the records of the podesta, that a license to torture will not be granted.

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*Protestacio* 50 fol. 6v, May 24, 1323

Dominus Mezovilanus *condam domini* Rolandini de Meczovilanis says he has "new and newest privilege" and has been detained unjustly by the podesta.

Response of the podesta: That he is permitted to detain Mezovilanus since the latter was elected ambassador by the Capitano and *anziani* to the legate in Piacenza. According to a *rifermagione* made this month the podesta had the authority to compel Mezovilanus to accept the ambassadorship, nor does his privileged status apply to protect him.

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*Protestacio* 51 fols. 7v–8r, June 2, 1323

Benvenutus *condam* Spiliati capelle S. Marie de Oxelectis protests that the podesta's judge at the *officio Aquile*, in a case between Nicolaus *condam domini* Jacobi Magagni attorney of the protester on the one side and Zarloctus Guadonis Bonapartis attorney for Bartolinus Thomaxinus and Uguicio *condam* Renamati capelle S. Damiani and Petrus Guidutii capelle S. Bartoli in Palazzo on the other side, wrongly and unjustly (*tortum et iniustitiam*) had a *consilium* made by a foreign judge, which is against the statutes of Bologna.

Response of the judge of the podesta: That he appointed a judge, Dominus Johannes *domini* Landi, from the Bolognese College of Judges and denies committing any injustice.

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*Protestacio* 52 fol. 9, June 5, 1323

Seeking implementation of a *querela* made May 20 against several men, including Cimorellus and Salamon (see *Protestacio* 49). But on June 8 the attorney of the protesters appears and renounces the *protestacio*.

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Table V. 5 (*cont.*)

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*Protestacio 53* fols. 10rv, July 23, 1323

By Johanellus *condam* Gerardi from the rural commune of Rodiano, a *fumans* who is a privileged person, against a magnate, Andreas de Galuciis, against whom he had made an accusation. The protester wants him condemned and restitution made to the protester of 100 florins.

Response of the podesta: That Andreas is a canon and ecclesiastical person as evidenced by his habit and letters from the *vicarius* of the bishop.

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*Protestacio 54* fols. 11rv, July 23, 1323

Protest by eight men from the *contado* of Imola that the podesta moved unjustly against them since their accuser did not present a legitimate *estimo*, was not in the military unit of the Twenty-five that was sent to Imola and was *malpaghus*. Podesta did not accept these *exceptiones* and they ask for a *consilium sapientis*.

Response of the podesta: That he, the podesta, did not admit the *exceptiones* of the attorney for the defense because the charge against them was false testimony, and in such cases the accused must appear in person, not just their attorney, and in such cases the podesta has full authority (*arbitrium*). Therefore podesta does not have to delay issuing a ban against them.

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*Protestacio 55* fol. 12v, Aug. 13, 1323

Dominus Riccobonus *condam* Gerardi de Plastellis protests that the period of time set by the Consiglio for the appearance of Petrus *condam* domini Bartholomei de Cappis and two brothers de Graydanis on the occasion of an accusation by privilege made by the protester has elapsed and they should be placed in ban.

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*Protestacio 56* fol. 13v–14r, Aug. 20, 1323

Dominus Johannes *condam* domini Antonii Peluxii, a privileged person, had accused a magnate, Dominus Johannes *condam* domini Coradi de Buschiis, of verbal assault. That the latter has not appeared, his term has elapsed, and he should be banned.

Response of the podesta: That the ban was not published because the accused was a cleric.

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*Protestacio 57* fols. 15r–16v, Aug. 24, 1323

Protest by Johannes Naxinbenis *fornarius* in his name and as attorney for fifty-seven other bakers who have been fined 10 pounds by the outgoing podesta for not paying 25 pounds each to the depository of wheat of the commune in April; that the solemnities of the statutes were not observed in making that condemnation. That the fines ought to be cancelled according to a provision made by the *gonfalonarius* in July, who had been given *arbitrium* on this. That they should be restituted their money and they are afraid the podesta will imprison them.

Table V. 5 (*cont.*)

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Response of the podesta: That he and not the *gonfalonarius* has *arbitrium*.

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*Protestacio* 58 fols. 17v–18r, Aug. 26, 1323

That in Nov. 1322, according to a *querela* requested by these protesters (Ugolinus Bartolacii called Ceccus Marchi condam Vallexani and Jacobinus Bartulucii Andriolii de Valexanis from the rural commune of Crespellano), Cursius condam domini Andree from Crespellano was required to post a security of 12,000 pounds to be approved by the *approbatores comunis* that he would remain in Bologna and not leave without express license from the Consiglio del Popolo, which license had to be made by public instrument and was to last no more than two days. If it happened that Cursius left the city without license he would be penalized 1,000 pounds, half of which would go to the commune and half to these protesters. And if he refused he would be banned summarily, and if the podesta did not do so he would be penalized at syndication. And then in July Cursius left Bologna and went to the rural commune of Crespellano and stayed there in the *platea* next to the church. So now the protesters want Cursius penalized and banned and half the penalty to go to the commune and half to them.

Response of the podesta: That he should not fine and ban Cursius, first because the attorney for the protesters (who registered the *protestacio*) is not a legitimate attorney and is under a capital ban. Secondly, Cursius was granted a license from the Capitano, *anziani*, and other officials to go to Crespellano. Thirdly, according to the *querela* the attorney is not competent to act in court.

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Reg. 718 (1323) Book of Witnesses. Not a *protestacio* type register.

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Reg. 721 (April–July, 1324). Not a *protestacio* type register.

Has cases and nine petitions of those who wish to oppose and present *querele* and appeals of cancellations of members from the Consiglio del Popolo. (But *querele* themselves not given).

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Reg. 723 (April–June, 1324). Inquisitions and *protestacio* type register. Also has cases of those contesting *querele*.

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*Protestacio* 59 fols. 10rv, April 5, 1324

Protester had made a *querela* on Jan. 28, 1323 and in response a *riformagione* was made that he and his heirs not be disturbed for restitution of the dowry of Zesia, daughter of the deceased Dominus Manuellus de Bocadeferris (or Bocadefratis) of Plumaccio, since Zesia had committed adultery with Torellus condam Gerarducci de Torellis. But now Zesia is petitioning the podesta at the *dischum Leonis* for 200 pounds [presumably income from her dowry], for restitution of the dowry itself and sustenance (*alimenta*) for the month of March. She has violated the *riformagione* and therefore should be penalized 500 pounds within eight days of the *protestacio* here being made.

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Table V. 5 (*cont.*)

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Reg. 725 (April–Sept. 15, 1324). A *protestacio* type register and has twenty *protestaciones* (one set of two for same case).

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*Protestacio* 60 fols. 27r–29r, April 7–9, 1324

By Joachinus Hondedei capelle S. Castaldi, privileged person who had accused certain Lambertazzi of seizing him in the streets outside his house with offensive and defensive weapons, and they would have killed him except that people intervened. This was in March. Therefore he made an accusation by privilege. But podesta did not accept his accusation.

Response of the podesta: The notary of the podesta appears and says the accusation was not accepted because the protester failed to pay certain taxes and fees (*datio* and *gabella*) and for other deficiencies. The notary also says that he had agreed to review the accusation to see if it could be received and the protester had agreed to this, but then the judge determined that the accusation could not be received and told the protester that he was prepared to receive the accusation if the deficiencies were corrected. The judge of the podesta had an instrument of protest made of his intentions and at this point offers to present a copy to the judge of the Capitano. The protester is summoned by the judge of the Capitano.

(Also see *Protestaciones* 78 and 79.)

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*Protestacio* 61 fols. 30r–34r, April 18–20, 1324

An attorney of Philippus *condam domini* Gerardi de Manticis files a *protestacio* before the Capitano that another attorney, on behalf of de Manticis during an *inquisitio* conducted by the criminal court judge of the podesta against Philippus, wanted to lodge an accusation of false testimony before that judge which was not accepted. This attorney wants the podesta to accept the accusation and desist from issuing a ban against Philippus. The witnesses had testified that he had attacked and killed a certain Mengholinus in an armed band with many others in which Philippus had claimed he was the *barixellus*, an official of the commune responsible for searching for and capturing banned Lambertazzi. They also testified that Philippus had robbed Mengholinus of his cattle.

Response of podesta: That he will accept the accusation if all the solemnities required are performed.

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*Protestacio* 62 fols. 36r–37v, May 27–29, 1324

Ciminianus *condam* Fanzoli of the rural commune of Bergadello seeks to have the podesta execute the *reformagione* made from his *querela* in the criminal court against Count Bonifaccius son of the deceased Count Ugholinus de Panico.

Response of the notary of the podesta: That the podesta cannot proceed because three times, by means of three different letters, the bishop has threatened him with excommunication if he executes the *querela*.



Table V. 5 (*cont.*)

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The response of the protester to the response of the podesta is that the podesta must obey the municipal law and cannot subject a sacred *riformagione* to any interpretation or *exceptio*.

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*Protestacio* 63 fols. 43r–44v, May 29–30, 1324

By the attorney of Domina Deana, daughter of Dominus Testa de Rodaldis, that she owns a house as part of her dowry and therefore nothing should be done against her because of a condemnation made against her husband Guinicellus *condam domini Quaraci de Allareriis*. Also that all the household goods she holds are from another person. (Guinicellus de Allareriis is the protester in *Protestacio* 11.)

Response of the judge of the podesta: That he is prepared to proceed “by legitimate *denuncia* or legitimate proofs.”

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*Protestaciones* 64 and 65 fols. 44v–45r, May 30–June 10, 1324, and fols. 45v–47v, June 5–10, 1324

Attorney wants his petition admitted at the *dischum Leonis* against a petition made by the *sindicus comunis* and men of the rural commune of Monte Pastore against his client, Johannes Alberti at the *dischum Ursi*, concerning his non-payment of taxes. If there is any doubt, he requests a *consilium sapientis*.

Response of the notary of the podesta: That the client was a *fumans*, that he must pay his taxes and that the original petition was sought by the treasurer of his rural commune and made by *consilium sapientis*.

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*Protestacio* 66 fols. 48rv, June 9, 1324

Seeking implementation of a *riformagione* from a *querela* made by Dominus Antonius *condam domini Marchi de Albergatis* by which the podesta was given *purum et generale arbitrium* against Johannes Merlini domini Bornii de Samaritanis and others for the homicide of Jacobus quondam Manfredini from the rural commune of *Ugini*.

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*Protestacio* 67 fols. 49r–50v, June 10–11, 1324

That against his oath and the statutes the podesta is permitting prostitutes or infamous persons or ruffians to live in capella S. Tecla de Lambertaciis and in capella S. Michael de Lambertaccis in specified houses.

But then the protester, Johannes *condam Bertolucii capelle S. Christofani de Jereminis* renounces his *protestacio*. The notary gives both the *protestacio* and the *renuncia* to the podesta and his *vicarius*.

Response of the podesta: That he has never permitted such persons in those houses and that the podesta and his judge have already condemned the imputed person to fines of 50 pounds each for two of them and the third is in prison. And prostitutes were removed from the house of Domina Magadalucia *condam Otonelli*. That the protester is acting maliciously to speak against the truth.

Summary—dereliction of duty by the podesta.

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Table V. 5 (*cont.*)

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*Protestacio* 68 fols. 74r–76r, June 12–15, 1324

By Bonaparte condam Johannis de Ulmitula, a privileged person, against the podesta's acceptance of a petition from Balduynus de Balduinis to annul the ban for homicide against his brother Ravignanus condam domini Phylippi de Balduinis and that podesta should be penalized 1,000 pounds.

Response of the podesta: That no such petition has been lodged with him by said Balduynus for his brother or for anyone else.

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*Protestacio* 69 fols. 76v–77r, June 12–17, 1324

By same person, same issue as in *Protestacio* 68, but this time against the judge of the podesta.

Judge of the podesta responds: That he has never received any such petition, offers to appoint a *consilium sapientis*. That the protester is acting "against the truth and justice and against my honor and to my great injury."

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*Protestacio* 70 (see preceding two *protestaciones*) fols. 78r–79v, June 9–17, 1324 (June 9 but *protestacio* itself is dated June 13)

By Balduynus condam domini Philippi de Balduynis that he had submitted a petition to the *vicarius* and judge of the podesta on March 24 at the *banchum Leonis* for the annulment of the ban against his brother Ravignanus and that petition had been opposed by Vinciguerra son of the said Bonaparte and brother of the said Jacobus called Muzolus. Both sides had produced provisions and *reformagioni* to evidence their claims, but Balduynus' petition was subsequently delayed to his brother's great danger. Wants to proceed with this petition and have his rights served and the ban annulled. Both parties seek a *consilium sapientis*.

Response of the podesta and his *vicarius*: That they have not acted unjustly against the protester.

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*Protestacio* 71 fols. 80r–81r, June 28–29, 1324

Attorney for Antonius Bonaventure de Argellata that in a certain case which Antonius has with Ursius condam Johannis Ferarii from the rural commune of Crevalcore on the basis of an accusation made by Antonius, the case cannot have a *consilium sapientis* according to an ordinance made Oct. 7, 1294, under penalty of 300 pounds to the judge of the podesta and 500 pounds to the podesta.

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*Protestacio* 72 fols. 81v–82v, 84rv, July 14–17, 1324

Attorney for Magister Pellegrinus condam Coxii, who is a privileged person, that all his rights and *exceptiones* and *defensiones* must be admitted in an accusation case against him.

Response of the judge of the podesta: That he does not know if Magister Pellegrinus is a privileged person and that he is prepared to make his accuser Ugolinus respond to the arguments (*positiones*) of Magister Pellegrinus if he produces those *positiones*.

Table V. 5 (*cont.*)

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Response of the protester: That the judge cannot claim ignorance of his privileged status since he had presented a public document on that status to him. Ends in a *renuncia* by the protester.

(See the same protester in *Protestacio* 74)

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*Protestacio* 73 fols. 82v–84r, July 15–16, 1324

Dominus Phylippus condem domini Nicholay de Lameriis *tutor* for Nicolaus, heir of Finus de Lameriis who had instituted an accusation against Zordanus Bonaventure before the criminal court judge of the former podesta, Zancius de Salimbenis. That he brought forward many witnesses, but the judge did not examine all of them. He wants the rest of his witnesses examined.

Response of the judge of the podesta: That he was always ready to examine his witnesses.

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*Protestacio* 74 fols. 84v–86r, July 19–20, 1324

By Jacobus condem domini Dominici de Lana, brother of Gerardus, that Gerardus had been banned for a crime against Dominicus condem Pacis de Frenis sive Frenarii by a *querela* and *reformagione* by Dominicus. That another ban, from the current podesta's predecessor, should not be executed since the imputed had already been banned for that crime.

Response of the judge of the podesta: That the earlier ban was for a different wound, that is, the wound in the victim's arm, and that this ban is for the wound to his hand and therefore the two trials were not for the same crime.

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*Protestacio* 75 fols. 86v–87r, July 26, 1324

Attorney for Magister Pellegrinus (different attorney but same protester as in *Protestacio* 72), again wants the judge of the podesta to make Pellegrinus' accuser respond to his *positiones*.

Response of the judge of the podesta: That he has done everything and that he does not know if Magister Pellegrinus is privileged since no privilege was ever produced before him.

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*Protestacio* 76 fols. 87v–88v–89v, Aug. 10–18, 1324

Bencevene condem Boninsegne that the podesta should ban Dalfinus condem Johannis condem Belli de Aubertis as a result of a trial conducted by his judge against Dalfinus "as against a thief," notwithstanding letters from the bishop saying that he cannot proceed because Dalfinus has benefit of clergy (and that Dalfinus did not appear personally as required by the statutes).

Response of the judge of the podesta: That he cannot proceed, not because of the letters from the bishop, but because of what was in the notification before him, or rather because the notification was not complete and was never declared to be in the jurisdiction of the podesta.

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Table V. 5 (*cont.*)

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*Protestacio* 77 fols. 88v–89r, Aug. 12–18, 1324

By attorney of Domina Sourana condam Petrizoli Johanini Gucii who wants implementation of a *riformagione* made for his *querela*. (*Querela* not given) (See *Protestacio* 78)

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*Protestacio* 78 fols. 89r–90r, Sept. 1324

Attorney for Domina Sourana condam Petrizoli Johanini Gucii who was from capella S. Christoforus de Saragocia and now lives in the rural commune of Monte Torrone. She had a *querela* and *riformagione* against three men and one woman from the rural commune of Luminasio. (Does not give the *querela* contents.) He wants implementation of the *riformagione*.

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*Protestacio* 79 fols. 90rv, Sept. 25, 1324

Same charge by same person as in *Protestacio* 60.

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*Protestacio* 80 fols. 90v–91r, Sept. 25, 1324

(See preceding *protestacio* and *Protestacio* 60.)

By Francischus and Lambertus, brothers and sons of Dominus Richardinus Lamberti *piscatoris*, against whom *Protestacio* 79 was made, and who say they are privileged and *de populo Bononie* and of the societies. That they are not Lambertazzi or in the books of Lambertazzi. They appear in response to *Protestacio* 79 and the accusation therein of Jachinus domini Hondedey de Caminacis that the podesta had not acted against them. They say that in fact the trial against them should proceed according to the said accusation, denying that they or their ancestors were persons against whom one could proceed by any privilege.

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Reg. 733 (April–Sept. 1325). Inquisitions and *protestacio* type register and has eighteen *protestaciones*.

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*Protestacio* 81 fols. 50r–51v, April 29, 1325

By Dominicus condam Ambroxii, father of Guillielmus who on April 29 was found by the *familia* of the podesta with a small bread knife, and the *vicarius* of the podesta refused to admit his *intentio* and witnesses. Protester wants the Capitano to make the podesta admit his defense.

Response by notary of the podesta: That the *protestacio* by Dominicus is not legitimate, especially since the form of the statutes required in making and proposing *protestationes* has not been followed, and even if it were, it should not be admitted but rejected because this Guillielmus was found April 25 in the evening by the *familia* of the podesta to have in hand an unsheathed knife and Guillielmus confessed. Moreover, the *vicarius* of the podesta never denied or refused to admit the defense, but in fact he never presented his *intentio* or witnesses. And given the evidence from the *familia* and Guillielmus's confession, he should be convicted notwithstanding the *protestacio*.

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Table V. 5 (*cont.*)

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*Protestacio* 82 fols. 52r–53v, May 7, 1325

By Ginus condam Perini capelle S. Marie de Marechellis that he had made a *denuncia* to the podesta and his *vicarius* to proceed against Salvator of Florence, a moneylender (*publicus prestator*), because he had made a loan contrary to the statutes (because he used weapons as surety), and that Salvator should be condemned with half the penalty (50 pounds) to the commune and half to the protester.

Response of the podesta: That the *vicarius* was not able to proceed against Salvator because jurisdiction belongs to the special judge assigned to receiving accusations and *denuncie* concerning this issue.

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*Protestacio* 83 fols. 54r–55r, May 14, 1325

Attorney for Jacobus Albertini Beningary from the rural commune of Sassuno protests that there was a trial at the *dischum Aquile* in a case concerning Magister Dinus Gualducii from the rural commune of Moscaccia and possession of certain properties. He had requested of the judge of the podesta that the case not go forward and if there were any doubt that there be a *consilium sapientis*, but the judge of the podesta rejected his request for a *consilium*.

Response of the judge of the podesta: That the *protestacio* is not legitimate because the protester did not register his *protestacio* within the time limit allowed and the judge would have been fined 50 pounds for not adhering to the time limit, and there had already been a *consilium sapientis* in that trial, and the judge was not bound to appoint a *consilium sapientis* unless there was doubt, and concerning that trial he had no doubt.

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*Protestacio* 84 fols. 55rv, May 16, 1325

By Dominus Jacobus condam domini Bolinixini capelle S. Caterine de Saragoza, who according to an approved *querela*, was supposed to receive 52 pounds for Domina Agnexia from the banker Petrus domini Boniohannis de Neris. But Petrus refused payment. Wants the *querela* implemented.

Response of the podesta: That the *vicarius* is prepared to implement the *querela* and therefore the *protestacio* is not valid. Podesta has refused to give the money to Jacobus because Jacobus has not fulfilled the conditions he was supposed to fulfill according to the *querela* (which are not specified here).

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*Protestacio* 85 fols. 56r–57v, 58v–59r, May 24, 1325

By Dominus Zagnibonus condam domini Bonjohannis de Zovenzonibus because of a *querela* made against him by Azolinus condam Bonvixini. That the *querela* should be rejected and not sent to the Consiglio del Popolo because Azolinus is imprisoned. If the Capitano does not accept his *protestacio*, he threatens to denounce him at syndication and to demand 3,000 pounds at that time.

Table V. 5 (*cont.*)

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Response of the notary of the *vicarius* of the podesta: That the statute *de querelis* does not prohibit one who is imprisoned after the *querela* is made from making a *querela*. Since it is not specified in the *querela* legislation that an incarcerated person could not lodge a *querela*, it would require a *cedula* approved by the popular societies to change this.

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*Protestacio* 86 fols. 57v–58r, May 25, 1325

Attorney for Johannes called Johanellus condem Rodulfi from the rural commune of Rasiglio and Dominicus called Minghus condem Saglini from the rural commune of Barbarolo, that the podesta without legitimate proofs and without hearing their defense and without examination by the Capitano and others, as required by the statutes, had them tortured. That the podesta not be permitted to torture them or keep them in custody.

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*Protestacio* 87 fols. 58rv, 59v, May 25–26, 1325

Attorney for Zannis called Rubeus Petri de Zamelinis, Petrus Zanellini, Jacobus called Lapus condem Zanellini and Guadinus and Tumulus sons of the said Jacobus called Lappus capelle S. Nicholay burgi S. Felicis, and Nellus and Resche brothers and sons of Dominus Benvenutus de Uxirolis, who are of the Lions society. That they were charged with not carrying a light at night and non-mortal wounding and offered to post securities, but were not permitted to do so by the judge of the podesta. And they fear that they will be submitted to torture contrary to the form of the statutes. Ask to be taken from the podesta and put into custody of the Capitano.

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Response of the podesta: That he has not detained them illegally and is ready to comply, but asks that the Capitano be required to hold an *inquisitio ad hoc*.

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*Protestacio* 88 fols. 60r–61r, May 31, 1325

By Jacobus Johannis capelle S. Johannis in Monte or S. Lucie, brother of Parixius Johannis de Planellis who was in the criminal court because of a *denuncia* by the *ministerialis* capelle S. Isaie on the occasion of an assault (striking and wounding), made against Lionellus condem domini Marchixini de Marchixiis capelle S. Lucie or S. Laurentii burgi S. Felicis, with a knife and drawing of much blood. He had protested to the judge of the podesta that at the time of the attack there was another *denuncia* or notification or trial against Parixius and for that reason the judge ought not to proceed against Parixius.

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Response of the judge of the podesta: That he should proceed against Parixius since the penalty in this trial would be greater, for debilitation of the hand rather than for a simple wound. He is prepared to have a *consilium sapientis* to determine under which charge Parixius should be tried, debilitation of hand or simple assault.

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Table V. 5 (*cont.*)

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*Protestacio* 89 fols. 61r–62v, June 7 1325

By Jacobus called Muzolus *condam domini Antholini de Cabullis*, collector of taxes (*conductor*) on the road that goes from Bologna to Florence, that he had asked the judge of the *podesta* to implement the conditions of his agreement as a tax collector against the treasurers of certain rural communes and if he does not do so he threatens to proceed against the judge since he will lose 100 pounds.

Response of the judge of the *podesta*: That he is ready to proceed against those rural communes and to punish and condemn them at the petition of the protester according to the agreement the *conductor* has.

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*Protestacio* 90 fols. 62v–63r, June 15, 1325

By Zanctus *condam Dominici* called Rizollus capelle S. Marie de Tempo and Spinellus *condam Jacobi Johannins* capelle S. Christofori de Saragozia against the notary of the *podesta*, Ser Baldus de Sancto Geminiano, who had condemned them each to 25 pounds, which is an unjust penalty since according to the civil or municipal law he was not able to make the condemnation against “such persons” and that the condemnations should therefore be erased.

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*Protestacio* 91 fols. 64v–67v, June 20, 1325

By attorney for Philippus *condam domini Henrigipti Feliciani* that the *podesta* and his *vicarius* should not proceed to the destruction of a certain house, and that the trial against Philippus should be revoked because said house belongs to Philippus “*pleno jure*” and he is a privileged person.

Response of the *vicarius* of the *podesta*: That he intends to do justice to Philippus “*per privilegium*,” but that he will proceed to the destruction of the house since it has been proven that Ghynacius de Torellis owned that house at the time he committed a certain crime and he has been condemned and banned, notwithstanding the instrument of sale.

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*Protestacio* 92 fols. 66v–67v, June 27, 1325

By attorney of Deotese *condam Benvenuti Deotacore* from the rural commune of Borgo Panigale, that the *podesta* ought not to proceed to appoint any *sapiens* concerning the condemnation and expenses to be made in a certain *querela*. The issue is whether the accuser in a *querela* case, which became an *inquisitio*, has to pay expenses and whether or not the judge of the *podesta* should have a *consilium sapientis* made to determine this issue.

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*Protestacio* 93 fols. 68r–70v, July 13, 1325

By Jacobinus *condam Julioli Manelli*, son of Domina Johanna *condam Jacobini*, wife of the deceased Giliolus Manelli, that the *vicarius* of the *podesta* should proceed against Johannes called Naninus, son of Martinus de Callamonibus, in an *inquisitio* for the wounds he has inflicted on Domina Johanna with promulgation of the ban against him, and without interrogating him. The question is whether or not the *podesta* can issue a license for someone who is already banned to appear to defend himself against another charge.

Table V. 5 (*cont.*)

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Response of the judge of the podesta: That not to interrogate him at this point would be against the statutes.

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*Protestacio* 94 fols. 71rv, Aug. 7, 1325

By attorney for Johannes de Saviolis that the podesta intends to proceed to a bodily mutilation of Johannes since the judge of the podesta does not want to hear his defense that he is not under ban for any crime. He asks the Capitano to make the podesta hear his defense.

Response of the podesta: That the *protestacio* is a false one. Johannes was submitted to the purview (*ad oscullum*) of witnesses who said he was a Lambertazzi and that he was in ban. Also that the imputed received a copy of the testimony and had the opportunity to oppose it and did not do so.

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*Protestacio* 95 fol. 73r, Aug. 22, 1325

By attorney for Branze and Polonius, brothers and sons of the deceased Count Ugolinus de Panico, and the sons of Branze and Polonius, protesting that the Capitano should not submit a petition approved by the *anziani* to the Consiglio del Popolo.

Response of the Capitano: That there is no sacred or non-sacred statute that impedes the Capitano or his *vicarius* from proposing to the Consiglio del Popolo petitions approved by the *anziani*.

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*Protestaciones* 96 and 96a (the second is addressed to the judge) fols. 73v–75r, 76r–77r, Aug. 23 and 25, 1325

By attorney for Gerardus condam domini Lanranchi de Ranghonibus of Modena that the judge of the podesta at the *dischum Ursi* should confiscate certain horses, weapons, and other goods which were in the possession of Marvellus condam domini Lanfranchi de Rangonibus (apparently his brother), who had been banned for the murder of Nicolaus Martini capelle S. Barbaciani, which he committed in Nonantola.

Response of the podesta: That Marvellus was not the debtor of Gerardus but was debtor of the commune and his goods must be confiscated. And that both of them are from Modena and not Bologna and therefore Gerardus cannot sue for possession of the goods.

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*Protestacio* 97 fols. 75r, 77rv, Aug. 25, 1325

By Anthonius condam Bonagracie capelle S. Leonardi, Mathiolus condam Lambertini capelle S. Marie de Turlionibus, Dominus Julianus condam Bonventure Barazini capelle S. Martini de Apoxa, Zacharottus condam Corodini de Creveleriis capelle S. Yoliti, Petrus condam Guidonis *feratoris* capelle S. Marie Maioris, that they had been denied when they sought a second term (*dilatio*) from the judge *ad maleficia* in their defense in an *inquisitio* against them.

Response of the podesta: That they did not appear within term and therefore were legitimately declared contumacious. He offers to have a *consilium sapientis*.

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Table V. 5 (*cont.*)

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*Protestacio* 98 fols. 85rv, Sept. 5, 1325

By Vilanus condam Petri Damiani Vilani for his brother Petrus, son of the deceased Petrus Damiani, that the judge of the podesta has Petrus in custody and has held him hidden (*ocultum et clausum*) for ten days and more in prison, so that no one, neither his relatives nor his advocate, are able to see or talk to him. That he, the protester, be permitted to see and defend his brother and have terms (*dilationes*) set for introducing his proofs.

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Reg. 739 (July–Sept. 1326) Inquisitions and a *protestacio* type register. Has six *protestaciones*.

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*Protestacio* 99 fols. 40r–41v, July 16, 1326

By Johannes Bartolomei Zangli, father of Bartolomeus (and administrator of his properties), concerning a trial against Bartolomeus for running over Johannes called Nanes with his horse—that the trial should not proceed because the judge of the podesta did not have jurisdiction and for many other reasons, e.g., the testimony of the witnesses was not properly notarized.

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*Protestacio* 100 fols. 42rv, July, 22, 1326

Attorney for Albertinellus de Alberghis wants the judge *ad maleficia* of the podesta to observe his privilege and conduct the trial accordingly in his accusation against Dominus Raynerius called Nuzolus and Maghinardus, sons of the deceased Count Ugolinus, and others.

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Response of the podesta: That the judge of the podesta was and is prepared to do everything in favor of the protester before rendering sentence.

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*Protestaciones* 101, 101a and 101b fols. 43r–44r, July 26, 28, 31, 1326

By Pax condam domini Johannis de Zovenzonibus capelle S. Marie Porte Ravennatis that he on the occasion of an *inquisitio* was not able to post securities and guarantors (the judge did not accept his guarantors even though they were approved by the *approbator*), but since he did present himself to the judge and was ready to be imprisoned, the ban against him should not be implemented. The trial concerned the wounding of Zohenes domini Philippi de Foschariis. He claims damages of 1,000 pounds.

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*Protestacio* 102 fols. 45v–46r, July 31, 1326 (relates to *Protestaciones* 101–101b)

By Philippus Provincialis de Foschararis (father of the victim in the trial involved in *Protestacio* 101), and also on behalf of his son Zohenes, the victim, in support of the protester in *Protestacio* 101, protesting the judge's refusal to accept the guarantors of Pax since they say the victim Zohenes was *not* in danger of death and the doctors of medicine sent to examine him, at the expense of the imputed, reported that Zohenes was not in danger of death.

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Response of the podesta: That their notification concerning the wounding of Zohenes had nothing to do with the refusal to recognize Pax's guarantors.

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Table V. 5 (*cont.*)

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*Protestacio* 103    fols. 46v–47r, July 31, 1326

By attorney of Bertonus condam Dondindei who is of the popular societies. He has been detained in prison unjustly on the occasion of a condemnation made against him by the podesta in 1325 because of his wounding of Johaninus quondam Lambertis. He was banned unjustly with a sentence of amputation of his foot, which was carried out and therefore he should be released from prison.

Response of podesta and his judge: That the judge of the podesta is prepared to set a term and listen to him and release Bertinus if he can do so by law. He sets a term of that day for the hearing.

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*Protestacio* 104    fol. 47v (crossed out and no response)

By attorney of Zanola, daughter of Aringhus capelle S. Felicis, that the judge *ad maleficia* must condemn the person who committed a crime against her because that fact has been well proven, with a penalty of 100 pounds.

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Reg. 740 (1326) is by the same notary and judge as Reg. 739 but has general and special inquisitions, not *protestaciones*, and has only seven trials.

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## INDEX

*Note:* This index does not include names in the Appendices.

- Accarisi, Domina *Bontadina* di  
Guidofredo, 421
- Accarisi, Guglielmo di Adelardo, 367
- Accursio (d'), Francesco, 299
- Accursio (d'), Gerardo di Adelardo,  
141n11
- Accurssis (de)*, Accursio, 368, 395n258
- accusatio*. *See* trials: initiated by  
*accusatio*
- Adriani family, 253
- Albari, Alberto di Bonaparte, 391n253
- Albergati, Francesco di Ugolino, 449
- Alberghi family, 125n14, 374
- Alberghi, Paolo di Giovanni, 373–374,  
433–434
- Albertinazzi *sive* Ghisilieri, Bitinello di  
Gerardo, 431
- Albertinazzi *sive* Ghisilieri family, 261.  
*See also* Ghisilieri family
- Albertinazzi *sive* Ghisilieri, Gerardo,  
141n11, 261, 431–432
- Albiroli family, 40, 41, 119, 126, 128,  
451
- Alegretti, Antonio di Bittino, 317n14
- Alegretti, Bittino, 317n14
- Alegretti, Giovanni di Pietro, 336
- Alegretti, Pietro di Bittino, 317n14
- Alerari family, 128
- Alerari, Giacomo di Quiriaco, 346
- Alerari, Guicciardino di Zaccaria di  
Quiriaco, 404n294
- Alerari, Guinzello di Quiriaco, 346
- Algardi, Guido, 38n116
- Algardi, Zolo, 461
- Alidosi, Pietro di Rainerio, 217
- Angellini family, 101
- Angiellatis (de)*, Pietro di Uguccio,  
141n11
- anonymous accusation, 215, 272,  
273–274, 350
- Ansaldini, Ansaldino di Alberto, 158
- anti-crime provisions, 426, 429,  
434–436, 439, 450–451, 481, 505–507
- Antonelli, Armando, 180–181, 277n302,  
308
- Antonoli, Guido, 160n79, 455n439
- anzianate  
documentation for, 90, 128  
establishment of, 85  
nobles and knights excluded from, 26  
office-holding patterns in, 128–130  
predominant families in, 129  
structure of, 91–93, 95  
tax-assessment required for, 81
- anziani*, 76–77, 78, 81–82, 86, 321, 382,  
383, 476, 481
- Anzovillani family, 242
- Aposa (d'), Egidia di Giacomo, 433
- Aposa (d'), Filippa di Giacomo, 433
- Aposa (d'), Francesco di Giacomo di  
Domenico, 432–433
- Aposa (d'), Giacomo di Domenico,  
432–433
- Aposa (d'), Giovanni, 433
- appeals, 481. *See also* *protestacio*
- Arezzo (d'), Guittone, 297, 305
- Argelata (da) family, 181n154, 469
- Argelata (da), Pietro, 236
- Argele (d'), Bartolomeo di Giovanni,  
214–215, 237–238, 270
- Argele (d'), Basotto di Ranfredo, 482
- Argele (d'), Bonfredo di Gandolfo, 236
- Argele (d'), Coradino, 237–238
- Argele (d'), Giovanni di Uguccione, 237,  
270n277
- Argele (d'), Isnardo di Giovanni,  
214–215, 237–238, 270, 400n274
- Argele (d'), Pietro di Mussolino, 329n56
- Arienti, *Alliotus*, 242
- Arienti, Bonrecupero, 242
- Arienti family, 294
- Ariosti, Bonifacio, 255, 256
- Ariosti (da Riosto) family, 101, 159,  
255–256, 262, 360, 436
- Ariosti, Filippo, 141n11
- Ariosti, Giacomo di Bonifacio, 466
- Ariosti, Giacomo di Oselitto di  
Gualtiero, 255
- Ariosti, Oselitto di Gualtiero, 255
- Ariosti, Paolo di Bonifacio, 330,  
368n186
- Ariosti, Parte di Bonifacio, 319n21

- Ariosti, Tommasino, 139n10  
 Ariosti, Tommaso, 255, 256  
 Armani, Bonagratia, 141n13, 214n89, 215, 270  
 Armani, Giacomo di Niccolò di Bonagratia, 214n89, 270–271  
 arms societies  
   admission policies of, 18–19, 22, 25–26, 28–29  
   cross-matriculation of families in, 35–41  
   elimination of four, 29  
   hierarchical structure within, 77  
   immigrants in, 34–35  
   number of members in, 80  
   political recognition of, 15–17  
 Artenisi, Artenisio *Codemazo*, 239–240, 243–244  
 Artenisi, Beccadino, 139n10  
 Artenisi, Beccadino di Fra Niccolò, 107  
 Artenisi, Bolognetto di Giovanni, 107  
 Artenisi, Bonifacio di Prencivale, 434  
 Artenisi, Enrighetto di Artenisio, 38, 242  
 Artenisi family, 38, 39, 99, 105, 106, 123n9, 126, 239, 260, 264, 273, 306, 456  
 Artenisi, Francesco, 139n10, 194n35  
 Artenisi, Francesco di Buvalello, 244  
 Artenisi, Francesco di Mattiolo di Enrighetto Buvalello, 244–245  
 Artenisi, Giacomo di Domenico, 434  
 Artenisi, Giacomo di Mattiolo di Enrighetto Buvalello, 244–245  
 Artenisi, Giovanni, 308  
 Artenisi, Mino, 267n266  
 Artenisi, Mino di Beccadino, 107  
 Artenisi, Niccolò di Buvalello, 244  
 Artenisi, Rizzardo, 242  
 Artenisi *sive* Beccadelli family, 260, 330.  
   *See also* Beccadelli *vel* Artenisi family  
 Ascheri, Mario, 8, 298n435  
 Asinelli, Alberto, 137n8, 138n10, 141n13, 277, 309n462  
 Asinelli family, 99, 264, 456–457  
*assignatio equorum*, 30, 183n1  
 Avenanti, Tommaso di Daniele, 482–483  
 Azzo, Marquis of Este, 502  
 Azzoguidi, Bibliobarigi, 174n128  
 Azzoguidi family, 181n154  
 Azzoguidi, Gregorio, 140n11  
 Azzoguidi, Maccagnano, 174n128  
 Azzolini, Domina Gerardina di Pietro, 421n357  
 Baciacomari, Baciacomare, 104  
 Baciacomari, Bolognino, 141n11  
 Baciacomari, Bolognino di Albertuccio, 283–284  
 Baciacomari, Bonacosa, 139n10  
 Baciacomari, *Chechollus*, 486  
 Baciacomari, Conte di Pietro Guercio, 284  
 Baciacomari family, 36, 104, 105, 119, 122, 123n9, 126, 128, 159, 260, 283–284, 456, 479, 486  
 Baciacomari, Giovanni, 139n10  
 Baciacomari, Matafellone di Pietro, 284  
 Baciacomari, Niccolò, 141n11, 158  
 Baciacomari, Pietro, 284  
 Baciacomari, Pietro Zaccaria, 267n266  
 Baciacomari, Simon, 128  
 Baciacomari, Zaccaria di Pietro Guercio, 284  
 Baccilieri, Bacciliero, 137n8, 139n10, 236  
 Baccilieri, Bacciliero di Niccolò, 169n106  
 Baccilieri family, 58, 99, 137n7, 169n106, 219, 236n144, 265  
 Baccilieri, Giacobino di Ramberto, 308  
 Baccilieri, Rambertino di Niccolò, 384  
 Baccilieri, Ramberto, 169n106, 236, 384  
 Bacilieri, Sidonio, 37–38  
 Baldovini, Jacopo, 245  
 Balduini, Balduccio di Balduino, 278n315  
 Balduini, Balduino, 245–246, 278  
 Balduini, Balduino di Filippo, 246, 278n315  
 Balduini, Bindo di Filippo, 248  
 Balduini family, 101, 130, 132, 174n128, 179n149, 245–250, 265, 268, 278, 310, 482  
 Balduini, Filippo di Giovanni, 248–249  
 Balduini, Filippo di Ravignano, 278n315  
 Balduini, Fra Gruamonte, 248  
 Balduini, Francesco, 248  
 Balduini, Francesco di Fra Guaramonte, 278n315  
 Balduini, Giacomo, 215, 246  
 Balduini, Giacomo di Guidocherio, 278n315  
 Balduini, Giovanni, 247, 248  
 Balduini, Giovanni di Giacomo, 215, 247–248  
 Balduini, Guidocherio, 174n128, 246–247  
 Balduini, Guidocherio di Balduino, 278n315

- Balduini, Guidocherio di Filippo, 247, 248, 278n315
- Balduini, Guidolotto, 267n266
- Balduini, Mattiolo (Ravegnano) di Filippo, 247, 248, 278n315
- Balduini, Monte di Giacomo, 248
- Balduini, Paolo di Ravignano, 278n315
- Balduini, *Torerias*, 278
- Balduino, Filippo, 245
- Bambaglioli, Amico di Geminiano, 374n207
- Bambaglioli, Bambaiolo (Bambagliolo), 451n430
- Bambaglioli, Bernardino, 216, 276, 451n430
- Bambaglioli, Bernardino di Uguccone, 374n207
- Bambaglioli family, 37, 39, 40, 101, 122, 124, 126, 127, 138n10, 193, 253, 374
- Bambaglioli, Francesco di Uguccone, 158
- Bambaglioli, Uguccio, 253
- banniti*, 366–369, 402, 439, 459, 511n3
- ban process, 485–488
- barisellus*, 60, 93, 94n88, 119, 189, 192, 200, 321n25, 368, 387, 389, 415–416, 425, 429n385, 432, 433, 437, 450n425, 451, 477, 481, 516. *See also* Summa, Giovanni
- Battagliucci family, 330, 396n261
- Battagliucci, Pietrobono, 396n261
- Beccadelli, Beccadino, 138n10, 141n11
- Beccadelli, Benino, 241, 242
- Beccadelli, Colaccio di Zonoco, 463
- Beccadelli family, 40, 123n9, 124, 126, 127, 128, 130, 181n154, 286, 330, 469
- Beccadelli, Filippo di Zannoco, 368
- Beccadelli, Francesco, 360
- Beccadelli, Gozzadino, 174n128, 503
- Beccadelli, Mino di Beccadino, 179n149
- Beccadelli *vel* Artenisi family, 179n149.
- See also* Artenisi *sive* Beccadelli family
- Beccadelli, Vinciguerra di Tommaso, 478
- Beccadelli, Zanochio, 158
- Beccari, Beccaro di Landolfo di Pietro Martino, 268
- Beccari, Toresano di Landolfo di Pietro Martino, 268
- Becker, Marvin B., 2n5, 74, 309n462, 394n237
- Bedoledi, Bonifacio di Conte Ugolino, 490–491
- Bellitti, Petrone di Pietro, 302n442
- Benadusi, Giovanna, 96n94
- Benis (de)*, Lambertino, 385n323
- Bentivoglio, Bertolo, 400–401
- Bentivoglio, Bonaventura di Simino, 493n555
- Bentivoglio family, 124, 181n154, 342
- Benvenuti, Giovanni di Giacomo, 472–473
- Beretta family, 130
- Bernardini, Mino di Matteo, 516n16
- Bertelli, Sergio, 70n6, 72
- Biagio, Baldo di Guido, 422
- Bianchetti, Domina Madalla di Giovanni, 465
- Bianchetti, Folco, 364
- Bianchetti, Matteo, 364
- Bianchetti, Tommaso, 364
- Bianchi di Cosa family, 39, 181n154, 191, 286, 330, 451, 458, 460
- Biancucci family, 466
- Bisano (da), Bencevenne, 366
- Bisano (da), Bernardo di Giovanni, 366
- Bisano (da) family, 39, 126
- Bisano (da), Giovanni, 182, 366
- Bisano (da), Paolo di Bencevenne, 366
- Blickle, Peter, 418n344
- Boatteri, Alberto di Zerra, 285
- Boatteri, Bonincontro di Cambio, 285
- Boatteri, Cervio, 137n8, 139n10, 173, 174n128, 285, 309n462
- Boatteri, Cervio di Cambio, 285
- Boatteri family, 40, 41, 57, 125, 128, 179n149, 285, 306
- Boatteri, Giacomo, 285
- Boatteri, Gratiolo, 139n10, 242, 285
- Boatteri, Guido di Benvenuto, 267n266
- Boatteri, Guido di Zaccaria, 242n163, 285–286
- Boatteri, Ubaldo di Cervio, 139n10
- Boccadiferno, Enrico di Giordano, 467–468
- Bocchi, Francesca, 154n59, 155, 167, 168n101, 202, 203n58, 204n62, 207n70, 503n15
- Bologna
- decline of, 499–500
- economic and demographic growth of, 500–503
- fiscal crises of, 504, 507–508
- impact of the *Studio* on economy of, 501–502
- bolonization. *See* arms societies:
- immigrants in
- Bonacatti, Alberto, 132

- Bonacatti, Giacomo di Lorenzo, 350n112  
 Bonacatti, Don Bonacatto di Lorenzo, 434n394  
 Bonacatti family, 124, 126  
 Bonacatti, Paolo, 434n394  
 Bonafideo family, 104–105  
 Bongiovanni, Niccolò di Giacomo, 471–472  
 Bonromei family, 39, 123n9, 128  
 Bonvisini family, 123n9, 126  
 Bonvisini, *Richelda* di Alberto, 465  
 Borgo Panigale (da) family, 262, 268, 277  
 Borgo Panigale (da), *Guinibaldus*, 226–228, 251, 253, 277–278  
 Borgo Panigale (da), *Zangarellus*, 226–228, 251, 253, 277–278. See also *Burgo (de)*, *Zangarellus*  
 Borsa, Paolo, 298n435  
 Boschetti, Catalano di Orso, 423  
 Boschetti, Edoardo di Pietro, 423  
 Boschetti, Domina Francesca di *Branca*, 423–424  
 Bourdieu, Pierre, 213–214  
 Brackett, John, 409n307  
 Braidì, Valeria, 385n234, 417n344  
 Brucker, Gene, 7–8, 74  
 Budrio (da), Albertuccio di Ubertino, 178  
 Budrio (da), Albrico, 158  
*Burgo (de)*, *Zangarellus*, 101  
 Buvaletti, Buvaletto, 139n10, 366  
 Buvaletti family, 37, 106–107, 128, 451  
 Buvaletti, Francesco, 330, 366  
 Buvaletti, Massimo di Guaschetto, 366  
 Buvaletti, Niccolò, 366, 446  
 Buvaletti, Tobia, 141n11  
 Buvaletto, Francesco di, 399  
 Buvaletto, Lando di, 107  
  
 Caccianemici, Alberto, 235  
 Caccianemici, Alberto Novello, 423n362  
 Caccianemici, Bartolomeo di Giacomo, 350  
 Caccianemici family, 137n7, 169n106, 260, 469, 487  
 Caccianemici, Giacomo, 261, 295  
 Caccianemici, Giacomo di Orello, 399  
 Caccianemici, Monte, 139n10  
 Caccianemici, Venetico, 139n10  
 Caccianemici Pizoli family, 306  
 Calamatoni, Albergetto di Simone, 368  
 Calamatoni family, 39, 330  
 Calamatoni, Gerardo di Gabriele, 364  
 Calamoni family, 491  
 Caldari family, 39–40  
 Cambio (di), Berto di Appolonio, 319n21  
 Cambio (di), Giuliano, 137n7, 457  
 Cammarosano, Paolo, 2n5, 309–310, 311  
 Campeggio (da), Rainerio di Donato, 217. See also da Varignana family  
 Campiano (da), Tommasino di Gerardo, 400–401  
*Canbiis (de)*, Pietro, 435, 436  
 Candele, Domina Jacoba di Pietro, 466  
 Candele, Pace di Pietro, 360  
 Cantone (da) family, 37  
 Capitani, Ovidio, 393n257  
 Capitano delle Montagne, 356n144, 436, 461n457  
*capsa* of six keys, 450–451  
 Capitano del Popolo  
   as arbitrator, 456–457  
   courts of. See also petitions;  
     *protestacio*  
     extortion in the *contado* in, 53–54, 56–59  
     fictitious contracts in, 52–56, 515  
     jurisdictions of, 44, 51n31, 52, 369, 511–512, 514–525  
     notaries in, 516–517  
 captains of the *castelli*, 140n11  
 Carbone, Bonagratia, 403n287  
 Carbone family, 125  
 Carbone, Niccolò, 403n287  
 Carbonesi, Arpinello, 97  
 Carbonesi, Bartolomeo, 395n259  
 Carbonesi family, 465  
 Carniello, Brian Robert, 37, 96n94, 127n16, 306, 311  
 Carraway, Joanna Jill, 355n136  
 Casini, Luigi, 410  
 Casio (da), *Cursolus* di Enrighetto Lanfranchi, 168  
 Casio (da), *Manareta* di Lanfranco, 168  
 Casola family, 105  
 Castagnoli, Bonmartino di Antonio, 368  
 Castel S. Pietro (da), Facciolo di Fra Albrico, 169  
 Castello (da) family, 260, 269  
 Castello (da), Francesco *Camanni*, 391n253  
 Castello (da), Girarduccio di Albirolo, 261  
 Castello (da), *Guidolongus*, 141n11  
 Castello (da), Niccolò di Bonaparte, 139n10

- Castello (da), Paolo di Giacomo, 358n148
- Cavagli, Giovanni di Mattiolo, 404n294
- Cavagli, Nanino, 448
- Cavagli, Pietro di Conte, 471
- Cavagli, Tommaso di Matteo, 448
- Cavalca, Desiderio, 163n87
- Cavali, Cavalino di Martino, 521
- Cazzetti, Caccianemico, 241
- Cazzetti family, 157, 273
- cedula*, 78–79, 160n79, 405, 427n377, 429, 443, 448, 450, 458
- Cenzolini, Cambio, 443–444
- Cerruti, Simonetta, 410n312
- Chojnacki, Stanley, 70n6, 305
- citizenship requirements, 21–23
- cives malenutriti*, 25n47, 154, 207n68
- Clarissimi family, 123n9
- closure theory, 10–11
- coadiunctor*, 189, 220, 223–225, 345–347
- compromissum*. *See* peace accord
- Conchola, crime at, 436, 439, 449n424
- confraternities, 18
- Conoscenti, Alberto, 503
- consilium sapientis*, 66, 186n10, 190, 194, 199, 205, 206, 215–216, 216n96, 220–225, 253–254, 261, 269, 270n277, 298–305, 350, 351, 352, 353n127, 370n195, 372, 377, 396, 400, 447, 491–492, 520n35, 521
- contado* nobles. *See also* Councils of the Commune: *contado* nobles in  
 decline in numbers of, 155–156  
 disorder in the *contado* and, 424–425, 437–438  
 extortion by, 521–522  
 feuds of, 342n90  
 lists of, 154  
 relationship with *milites*, 153–154
- Corvi (da) family, 37, 39
- Corvi (da), Paolo, 515n15
- Council of the Guelf Party, 88
- Councils of the Commune  
 artisans in, 97–98, 105–106  
 components and development of, 83–85  
*contado* nobles in, 97, 99–100  
 documentation for, 90  
 families in, 96–105  
*popolano* family and professional networks in, 107–110  
 requirements for members of, 81
- Councils of the *Popolo*  
 appointment of members by *anziani*, 81–82  
 development of, 85–89  
 documentation for, 90–91, 113–114  
 families in, 115–130  
 requirements for members of, 81
- Counts of Cervaria, 464
- Counts of Panico, 156, 173, 262n341, 264, 329n54, 367, 396, 410, 438, 457, 460, 464–465, 480
- Cracco, Giorgio, 4
- Cristiani family, 39–40
- Cristiani, Magister Pellegrino di  
 Magister Primirano, 480
- Culforati family, 39
- Curioni family, 125, 193
- Cuzzano (da), Chiozzo, 439
- Cuzzano (da), *Dexolus* di Guido, 437
- Cuzzano (da) family, 342n90, 364–365, 401–402, 434–437, 460, 461, 525
- Cuzzano (da), Gualterio, 437, 438n405
- Cuzzano (da), Muzzarello, 439
- Cuzzano (da), Paraclino, 411, 435, 437, 438, 449n424
- Dameron, George, 72, 163n87
- Dante, 165, 296–298
- Dati family, 41
- Davis, Charles, 5
- Dean, Trevor, 314n2, 338
- decena*, 152
- defensor* of the twenty guilds, 66n79, 82n44, 93–94, 160n79, 424–426
- De Sismondi, J.C.L. Simonde, 1
- De Stefano, Antonio, 232–233
- Diamante, Enrighetto di Ubertino di  
 Enrighetto, 218–226
- Diamante, Ghinazzo di Ubertino di  
 Enrighetto, 218–226
- Diamante, Ubertino di Enrighetto,  
 218–226
- Dondarini, Rolando, 438n403, 500, 501
- Domine Clare*, Bartolomeo, 139n10
- domini bladi*, 379, 380
- Donati, Claudio, 298n435, 305
- Dongelli, Azzo, 242
- Dosi family, 36
- Dotti, Giacobino, 139n10
- Dotti, Guidotto, 141n11
- dowries, 418–419, 421, 446, 462, 464–466, 479
- due process  
 adhered to, 361–363  
 and acquittals, 354–359

- in Lambertazzi trials, 193–198
  - in medieval jurists, 316–317
  - suspension of, 380, 507. *See also* summary justice: resistance of the judges to grants of
- Dugliolo (da), Brandelisio, 319n21
- Dugliolo (da), Cambiolus Guiduccio, 319n21
- Dugliolo family, 123n9
- Dugliolo (da), Michele di Tommaso, 477
- DuRand, Clifford, 69–70
- Elias, Norbert, 5, 73
- English, Edward D., 96n94
- equality in justice, 318–320
- exceptio*. *See* trials: *exceptiones* in; *querela*: and *exceptiones*
- Fabiani family, 39
- Faffis (de)* family, 37, 39
- false accusation, 62–63, 187–188, 304, 332, 358, 385n234, 391, 403n287, 412–413, 444, 451, 472n497, 475, 477, 493–495, 514
- fama*, 19–20, 184–185, 212–213, 272, 317, 355–356, 358–359, 412–414, 490, 508n45
- families. *See also* Council of the Commune: families in; Council of the *Popolo*: families in; anzianate: prominent families in marriage ties between magnate and *popolano*, 264 political divisions in, 180–181 vulnerability to status change, 286–287, 296
- Fasoli, Gina, 53n33, 61n63, 118, 127n16, 146, 166n95, 167, 262, 263, 310, 378n216, 380, 392–394, 399
- federation of seven arms societies, 117–118
- Feliciani, Enrighetto, 101, 426
- feuds, 342n90, 364–365
- Fiorani family, 40, 122n8, 126
- Fiorelli, Piero, 321
- Fondi (de)*, Stefano di Francesco, 482–483
- Formaglini, Tommaso, 475
- Foscardi, Enrico di Ribaldo, 271
- Foscardi family, 273
- Foscardi, Francesco di Enrico di Ribaldo, 271
- Foscardi, Ribaldo, 271
- Foscherari family, 123n9, 159, 265
- Foscherari, Foscheraro, 423
- Foscherari, Gualtirone di Egidio, 158
- Foscherari, Provenziale, 423, 468
- Foscherari, Rolando Guglielmo, 38
- Foscherari, Zoene di Filippo, 366
- Foschi, Paola, 140n11, 155–156
- Fraher, Richard M., 355n136
- Fra Lamberto, Francesco di, 141n11
- Frulani*, Pietro, 139n10
- Frulani*, Rainerio, 139n10
- fumantes*, 24–25, 173, 180, 202–208, 217, 424
- frati gaudenti*, 149, 249–250, 294, 297, 309, 379, 380, 382. *See also miles (milites)*
- Galisano (da) family, 36
- Galluzzi, Aimerico, 361
- Galluzzi, Albertino, 365n170
- Galluzzi, Alberto Azzo, 410–411
- Galluzzi, Albizzo di Fra Bonifacio, 138n10
- Galluzzi, Antoniolo, 139n10
- Galluzzi, Azzo, 460, 467
- Galluzzi, Bianco, 141n11, 158, 169n106
- Galluzzi, Bitino di Comacio, 139n10
- Galluzzi, Bonifacio, 57, 522n41
- Galluzzi, Comacio, 138n10, 157, 158, 237, 320n56
- Galluzzi family, 97, 100, 102, 137n7, 138n10, 142, 156n63, 159, 169n106, 264, 265, 286
- Galluzzi, Gerardo, 361
- Galluzzi, Gerardo di Rolandino, 138n10
- Galluzzi, Gerarduccio di Comacio, 178
- Galluzzi, Guglielmo di Catalano, 141n11
- Galluzzi, Guglielmo di Guidocherio, 168, 308
- Galluzzi, Guidocherio, 138n10, 141n13
- Galluzzi, Lambertino di Comacio, 141n11
- Galluzzi, Mattiolo, 141n11
- Galluzzi, Pellegrino di Guidocherio, 168
- Gandino, Alberto, 184, 298, 322–323, 511
- Gandoni family, 451
- Garafini, Giovanni di Gerardino, 376–377
- Gardini, Gardino, 132
- Gardini, Pietro, 139n10, 141n11
- Gardini, Ugolino, 491
- Garisendi, Artenisio, 267n266
- Garisendi, Brandelisio, 139n10, 267n266
- Garisendi, Brandelisio Pietro, 267n266

- Garisendi, Domina *Belda*, 340  
 Garisendi family, 38, 39, 101, 139n10,  
 180–181, 265, 268, 306, 398  
 Garisendi, Giovanni di Guercio, 215  
 Garisendi, Michele di Gerardo, 38  
 Garisendi, Mino, 267n266  
 Garisendi, Ugolino, 139n10, 423n362  
 Garisendi, Zoene di Guerzio, 260  
 Garzoni, Niccolò di Pietrobono,  
 220–221  
 Gattari, Betasio, 214n89, 257, 258–259,  
 279, 395n258  
 Gattari, Bulgaro di Aldrevandino,  
 214n89, 257, 258–259, 395n258  
 Gattari family, 40, 130, 179n149,  
 210n77, 248, 256–259, 262, 265, 268,  
 278–279  
 Gattari, Filippo di Bulgaro, 257, 479  
 Gattari, Galeazzo, 261  
 Gattari, Giacobino, 257  
 Gattari, Giacobino *Sanarisii*, 258  
 Gatti, Francesco, 132, 137n7  
 Gaulin, Jean-Louis, 263–264, 311  
 Gesso (da), Alberto di Laigono, 385, 401  
 Gesso (da) (Aigoni) family, 228–230, 262  
 Gesso (da), Francesco di Caccianemico  
 Gandolfo, 228  
 Gesso (da), Laigono, 229, 424  
 Gesso (da), Petruccio di Aspetato di  
 Laigone, 369  
*Ghidulfis (de)*, Gerardino, 434, 436–437,  
 439–440, 444  
 Ghirardacci, Cherubino, 90  
 Ghisilieri, Comacio, 179n149  
 Ghisilieri family, 40, 99, 130, 139n10,  
 159, 169n106, 260, 262, 268, 269,  
 272–273, 278, 306  
 Ghisilieri, Francesco, 229  
 Ghisilieri, Gerardo, 179n149  
 Ghisilieri, Gerardo Testa, 139n10  
 Ghisilieri, Giglio di Amadigio, 139n10  
 Ghisilieri, Gilio Guidotto, 267n266  
 Ghisilieri, Guidottino, 215, 235, 269,  
 272, 304  
 Ghisilieri, Spagnolo, 235  
 Ghisilieri, Tommaso, 141n11, 169  
 Ghisilieri, Tommaso di Lambertino, 139  
 Ghisilieri, Zaccaria, 272  
 Ghisilieri, Zaccaria di Testa, 235  
 Giambone, Alessandro di Ugolino,  
 141n11  
 Giansante, Massimo, 9n33, 21n28,  
 127n16, 157, 241n164, 295–296, 307,  
 311, 393n257, 398, 265  
*Ginibaldus domini Benvignay*, 101  
 Giordano, Bartolo di Giovannino, 107  
 Giordano, Bartolomeo di Giovannino,  
 107, 108  
 Giordano, Giovanni di Giovannino, 107,  
 109  
 Giordano, Guglielmo di Giovanni, 109  
 Giordano, Niccolò di Bartolomeo, 107  
 Giordano, Petrone di Bartolomeo, 107  
 Giordano, Vinciguerra di Bartolomeo,  
 107  
 Giovannino, Marco di Giovanni, 109  
*Godini*, Giacomo, 139n10  
*Godrii*, Guido di Petrizolo, 399  
 Gorreta, Alma, 138n9  
 Gozzadini, Amadore di Bonifacio,  
 293n417  
 Gozzadini, Benino di Galvano, 345  
 Gozzadini, Benno di Castellano, 39n118  
 Gozzadini, Benno di Gozzadino, 38n118,  
 293n417  
 Gozzadini, Bernabo, 158, 329n56  
 Gozzadini, Bonacosa di Galvano, 377  
 Gozzadini, Bonifacio di Bonifacio,  
 39n118, 294n417  
 Gozzadini, Brandelisio, 170, 195  
 Gozzadini, Brunorio di Gozzadino,  
 293n417  
 Gozzadini, *Bucinus*, 182  
 Gozzadini family, 36, 38, 39, 99, 104,  
 105, 119, 121, 123–124, 126, 128, 130,  
 171, 179n149, 181n154, 182, 264, 265,  
 293–296, 310, 330, 332, 403n288, 451,  
 504  
 Gozzadini, Galvano, 52  
 Gozzadini, Giovanni, 262  
 Gozzadini, Gozzadino di Castellano,  
 39n118, 294n417  
 Gozzadini, Lanzalotto, 52, 158, 320n56  
 Gozzadini, Licanorio di Napoleone,  
 407n304  
 Gozzadini, Matteo di Giacobino  
*Minagli*, 293n417  
 Gozzadini, Mezzovillano, 242  
 Gozzadini, Napoleone, 293n417  
 Gozzadini, Napoleone di Licanorio,  
 470n490  
 Gozzadini, Pietro, 140n11  
 Gozzadini, *Poluncinus*, 182  
 Gozzadini, Tommasino, 38  
 Gozzadini, Tommaso di Giacomo  
*Minagii*, 39n118  
 Gozzadini, Tuzimano di Tommasino,  
 38, 293n417



- Gozzadini, Vinciguerra di Gozzadino  
 Gozzadini, 293n417  
 Grappi, Pietro di Domenico, 108  
 Grasso (di), Pietro, 104  
 Graziadio family, 36  
 Greci, Roberto, 25, 34, 152n53, 502n11  
 Grimaldi family, 39  
 Grundman, John P., 3, 370n195  
 guilds  
   admission policies of, 18–19, 22,  
     25–26, 28–29  
   cross-matriculation of families in,  
     35–41  
   hierarchical structure within, 77  
   immigrants in, 32–33  
   involution of, 31–32  
   number of members in, 80  
   political recognition of, 15–17  
 Guarini family, 39  
 Guarini, Niccolò di Allemano, 288  
 Guarini, Pietro di Allemano, 288  
 Guasconi, Tommaso, 458  
 Guastavillani family, 130, 159, 265, 469  
 Guercino (da) family, 36  
 Guidozagni family, 264n255, 268, 286  
 Guidozagni, Giacobino di Bartolomeo,  
   139n10, 214n89, 264n255  
 Guidozagni, Guglielmo, 423n362  
 Guidozagni, Guglielmo di Bartolomeo,  
   158  
 Guidozagni, Niccolò di Guglielmo, 368  
 Guinizzelli family, 265  
 Guinizzelli, Guido, 165, 297–298, 305  
  
*habitus*, 213–214, 250–251, 259–260,  
   306  
 Herlihy, David, 2n5, 74, 129, 309n464  
 Hessel, Alfred, 84n51, 306  
 honor, 20–21, 305–306, 381n226, 397,  
   431, 449  
 Hook, Judith, 318n17  
 human or natural rights, 315–316  
 Hunt, Lynn, 316  
  
 Ignano (da), Bolognetto, 241  
 Ignano (da) family, 123n9  
 Ignano (da), Giacobino, 158  
 Ignano (da), Giacomo, 137n7  
 Ignano (da), Giovanni, 242  
*inquisitio*. See trials: initiated by  
*inquisitio*  
*interdicti*, 188, 388  
 involution. See guilds: involution of  
  
 Jehn, Mathias, 64, 95n91, 132, 141n11,  
   194n34, 299–301, 304, 511n3, 517n21  
 Jones, Philip, 3, 72  
 judges  
   number of, 512n5  
   policing functions of, 339–341  
   prosecutorial functions of, 341–343  
   role in government, 131–132  
   *sindicus*, 514, 518  
   status of, 176  
   use and non-use of summary justice  
     by, 485–492  
  
 Kaminsky, Howard, 500n4  
 Kantorowicz, Hermann, 511, 516n19  
 Kirshner, Julius, 299n436  
 knights. See *miles* (*milites*)  
 Koenig, John, 3, 48n22, 51n31, 72,  
   127n16, 184n4, 232, 306, 380,  
   394n257  
 Kuehn, Thomas, 314n1  
 Kumhera, Glenn, 314n3, 338  
 Kuttner, Stephan, 409n308  
  
 Labia (da), Giacobino, 158  
 Lamandini family, 123n9, 170  
 Lamandini, Guidotto, 170  
 Lamandini, Ronaldo, 300n438  
 Lambertazzi  
   anomalies in status of, 135–136  
   as second-class citizens, 183, 188  
   changed definition of, 180, 188–189  
   expulsion of, 29–30  
   in the Consiglio del Popolo, 192–193  
   lists to identify, 183–186  
   perceptions of, 192  
   sub-categories of, 142–143  
 Lambertazzi, Alberto, 59  
 Lambertazzi, Brancaleo, 97  
 Lambertazzi family, 99, 169  
 Lamberti, Pietro, 97  
 Lambertini, Calorio, 139n10  
 Lambertini, Egano, 265n258  
 Lambertini family, 104, 169n106, 265  
 Lambertini, Filippo, 423n362  
 Lambertini, Lambertino, 265n258  
 Lambertini, Lanzalotto, 141n11  
 Lambertini, Paolo, 141n11  
 Lambertini, Paolo di Mondolino,  
   140n11  
 Lambertini, Pietro di Mondolino,  
   139n10  
 Lambertini, Simone, 138n10  
 Lambertini da Stifunti family, 105

- Lambertino da Stifunti, Guido, 287–288  
 Lamola (da), Bettino *Zangnarini* Grimaldi, 275–276  
 Lana (da), Enrighetto di Guido, 464  
 Lana (da) family, 36, 119, 128  
 Lane, Frederick, 1–2  
*Laneriis (de)*, Ursolino di Niccolò, 467  
 Lansing, Carol, 72, 153n54, 163n87, 211–212, 238, 263, 297n431, 310n467, 393n257  
 Larner, John, 3n9  
 Lastignano (da), Giacomo, 139n10  
 Latini, Brunetto, 297  
*laudum*. See peace accord  
 Lazzari, Tiziana, 161  
 Lazzarini, Ugolino di Lazzarino, 138n10  
*Ledoyiis (de)* family, 102  
 Liazzari family, 101, 142, 159  
 Liazzari, Guglielmo di Lazarro, 495  
 Liazzari, Lazzarro, 137n7, 139n10, 158, 302n441, 329n56  
 Liazzari, Palmirolo, 138n10  
 Liazzari, Rainaldino di Lazarro, 495  
 lifestyle. See *habitus*; proofs of status: lifestyle as  
 Lobia (da), Accarisio di Giacomo, 38  
 Lobia (da) family, 37, 38, 98, 101n105, 102  
 Loiano (da), Deotecherio, 299  
 Loiano (da), Ubaldino, 299  
 Lundesgaarde, Henry, 318  
*lupi rapaces*, 137, 141, 158, 164, 167–168, 171, 437–438, 460  
  
*Machadini*, Giacomo di Bonagratia Alberti, 329n56  
 Maffei, Elena, 314n1  
 Magerni family, 37  
 Magnani family, 105, 126, 180–181  
 Magnani, Guinizzello, 297  
 magnates. See also *lupi rapaces*; *miles (milites)*; magnate identity trials; trials: against magnates  
   as captains of *castelli*, 140–141  
   change in status of, 210n77, 267, 287–288  
   excluded from popular societies, 143–144, 162–163  
   excluded from *popolo* office, 137, 143  
   exemptions for, 162–165, 179  
   families acquitted in trials but magnates in 1294, 268  
   feudal nobles as ancestors of urban, 161  
   legal definitions of, 143–151, 287  
   lists of, 166–170, 208–210  
   participation in communal office by, 137–139, 141–142  
   principle of hereditary status applied to, 267–268, 270–271  
 magnate identity trials  
   acquittal by privilege, 269–270  
   as a tool of conflict, 235, 271–274  
   chronological frequency of, 266–267  
   conviction rates in, 214–215  
   descendants of *contado* nobles in, 218–230  
   frequency of certain families in, 306  
   political nature of, 256, 266–271, 274–277  
 Maimellini family, 41  
 Maire Vigueur, Jean-Claude, 2n5, 153n54, 176–177n136, 238  
*Malaconellis (de)* family, 374n206  
 Malavolta, Alberto, 236  
 Malavolta, Bonavolta, 138n10, 236, 308  
 Malavolta, Castellano, 139n10  
 Malavolta, Castellano di Uberto, 395n258  
 Malavolta, *Charelanus*, 139n10  
 Malavolta, Egidio di Guglielmo, 391n253, 422  
 Malavolta family, 159, 236n144, 265n258, 514n8  
 Malavolta, Galeotto di Napoleone, 395n258  
 Malavolta, Giliolo di Guglielmo, 395n258  
 Malavolta, Guiduccio di Guglielmo, 422  
 Malavolta, Tucimano, 158  
 Malavolta, Ubaldino, 137n7, 139n10, 194n35, 236, 329n56, 426  
 Malavolta, Ubaldino di Guglielmo, 257–258, 395n258  
 Malorecchi family, 451  
*malpagha (malpaghus)*, 352, 354, 422–423, 454, 459, 496, 518  
 Maltraversa faction, 451  
 Malvezzi, Giuliano, 461  
 Mangone (da), Count Alberto di Alessandro, 172, 460  
 Mangone (da), Count Alessandro, 350  
 Mantici family, 105, 182, 332, 486  
 Mantici, Francesco di Pietro, 486  
 Mantici, Lazzaro, 261  
*Mantighellis (de)*, Giacomo, 395n258  
 Manzolino (da), Antolino, 139n10

- Manzolino (da) family, 40, 122–123, 125n14
- Manzolino (da), Guglielmo, 225
- Maranesi, Brandelasio, 140n11
- Maranesi, Brandelasio di Calorio, 319n21, 433
- Maranesi, Calorio, 400n275
- Maranesi, *Cosola* di Michele, 319n21
- Maranesi family, 451
- Maranesi, Micheluccio, 38
- Maranesi, Marchisino di Micheluccio, 38
- Maranesi, *Thorilinus* di Marchisino, 38
- Maranesi, Tommaso, 433
- Maranesi, Tommaso di Cambio, 432–433
- Marano (da), Ugolino 241
- Martines, Lauro, 3
- Massa (da), Alidosio, 426
- Massa (da), *Littus*, 426
- Mazzaoui, Maureen Fennell, 311, 502n9
- Medicina (da), Giacobino, 308
- Melloni, Bencevenne di Bonaventura, 302
- Menzinger, Sara, 95, 132, 137n7
- Merlini, Domenico di Pietro, 107, 108
- Merlini (*de Merlinis*) family, 107–108
- Merlini, Francesco di Pietro, 107
- Merlini, Giovanni di Pietro, 107
- Merlini, Niccolò di Pietro, 107
- Merlini, Rainaldo di Pietro, 107
- Merlini, Romeo di Pietro, 108
- Merlinis (de)*, Giovanni di Giovannino, 109
- Merlino, Pietro, 106–110, 244, 308–309
- Mezzovillani, Alegratutti, 194n35
- Mezzovillani, Arrigo, 242
- Mezzovillani, Bosio di Enrico, 358, 365
- Mezzovillani family, 39, 123n9, 125n10, 126, 120n149, 265
- Mezzovillani, Francesco di Enrico, 365
- Mezzovillani, Giovanni, 242, 243
- Michels, Robert, 69–71, 311
- Milani, Giuliano, 2n5, 29, 50, 51n31, 59n59, 142–143, 153n54, 161–162, 176n134, 180, 183–186, 188, 211n78, 212, 237n146, 266, 299, 301–302, 310, 311, 378n216, 387n241, 501, 511, 512, 521n38
- miles (milites)*. *See also* magnates  
as belted knights, 159–160  
as *frati gaudenti*, 231–233  
as military category, 152–154, 156–159
- diffusion of investiture ceremony for, 238
- equipment of, 238–239
- lifestyle of, 231
- popolani* who lived lifestyle of, 241–243
- Templars, 234
- Molho, Anthony, 318n17
- Molinari, Pancrazio, 90
- Montanari, Ancilla, 501
- Montanari, Domina Francesca di Giovanni, 465–466
- Montanari family, 126
- Montecuccoli (da) family, 460
- Montecuccoli (da), Guidinello, 437, 445
- Monte Severo family, 460
- Monte Severo (da), Rodolfo, 173
- Montevoglio family, 342n90
- Montevoglio, Giacomo di Guido, 361
- Montevoglio, Guido Pietro, 400
- Monzuno (da), Albizzo di Alberto, 138n10
- Monzuno (da), Artusio di Niccolò, 53
- Monzuno (da), Guiduccio, 461
- Monzuno (da), *Sarmenus* di Alberto, 138n10
- Mugello (da), Dino, 298
- Muir, Edward, 7
- Mundy, John, 1
- Musoni family, 37
- Mussolini, Bombologno, 290
- Mussolini, Bonbolognino, 265n258
- Mussolini family, 265, 290
- Mussolini, Mussolino di Aimerico, 290
- Mussolini, Niccolò, 253–254, 290
- Mussolini, Niccolò di Pietro, 231–232, 268
- Mussolini, Ugolino, 231, 232, 261, 290, 487n542
- Najemy, John M., 4–5, 71, 73–74, 96n94
- Nappari, Bartolo di Rizzardo, 107, 108
- Nappari (*de Nappariis*) family, 107–108
- Nappari, Giovanni di Giovannino Giordano, 108
- Nappari, Marco di Giacomo, 107
- Nappari, Pietro di Giacomo, 107
- Nappariis (de)*, Bartolo, 108
- Nappariis (de)*, Lazarino di Rizzardo, 108
- Nappariis (de)*, Matteo di Giovanni, 109
- nobility  
concept of in *consilia*, 305

- definition by Bartolus de Saxoferrato, 298  
poetic debates on, 165, 296–297  
notaries  
in the Book of Nobles, 308  
leadership role of, 306–309  
*notorium*, 317n14  
Nugareto (da), Antonio, 309n462  
Nugareto (da) family, 365n170
- Occelliti family, 169n106  
Ocelleti, Zaccaria, 138n10  
Odofredo, 97, 245  
Odofredo (di), Alberto, 102, 137n8, 302n441, 322  
oligarchy. *See also* Councils of the Commune and *Popolo*: families in and privilege, 387  
diverse elites and, 311–312  
families and, 95–96, 115, 121, 130–133  
formation of new guilds and, 127–128  
historiography of, 69–76  
Ordinances of the Forty, 150–151, 167, 380, 382  
Orbicciati, Bonaguinta, 297  
*ordo iudiciarius*, 313, 315, 316, 320  
Orsi family, 37  
Oselitti family, 262, 284–285  
Oselitti, Lanzalotto di Zaccaria, 284–285  
Oselitti, Oselitto, 285  
Ottoboni family, 468  
Ottokar, Nicola, 1, 2n5, 70n6, 72, 74, 211
- Pacibus (de)*, Bevillano, 139n10, 177  
*Pacibus (de)*, Carlino, 178n145  
*Pacibus (de)* family, 98, 139n10, 176–178  
*Pacibus (de)*, Folco, 178n145  
*Pacibus (de)*, Giacomo, 178n145  
*Pacibus (de)*, Pace, 23–24, 48, 137n7, 159, 177–178, 194n35, 299, 300, 309n462, 457  
*Pacibus (de)*, Rodolfo di Belvillano, 139n10, 141n11, 178  
pacification of discords, 481–482  
*Pacis*, Bitino di Rodolfo, 177–178  
Pacone family, 39  
Paconi, Giacobino di Gabriele, 428  
Paconi (Panzoni), Robaconte, 194n35, 220–221  
Pagano, Orlando, 275  
Pagano, Rolandino, 101  
Panico (da), Baldino, 410  
Panico (da), Bonifacio di Conte Ugolino, 396  
Panico (da), Borniolo, 57, 178, 516n16  
Panico (da), Count Ugolino, 173n123, 460n457  
Panico (da) family. *See* Counts of Panico  
Panico (da), Federico di Conte Ugolino, 173n123  
Panico (da), Maghinardo, 410  
Panico (da), Maghinardo di Conte Ugolino, 461, 467  
Panico (da), Mostarda di Conte Maghinardo, 342n90  
Panico (da), Rodolfo, 57, 516n16  
Panzoni family, 128  
Papazzoni family, 478  
Papazzoni, Papazono di Giacomo, 470  
Parente, Alberto di, 440–441  
Parente, Pasquale di, 440–441  
Parigi family, 130  
participation in political life, 80–82, 89  
Pasquali Alidosi, Giovanni Nicolò, 232–233  
Passaggeri, Rolandino, 29, 193, 216, 295, 306–307  
Pavanensi family, 40  
Pavanesi family, 123n9  
peace accord (*pax, compromissum, laudum*), 54–55, 62n64, 274, 299, 314, 331, 337, 338, 351, 357n147, 364, 365n170, 366–367n176, 382, 385n234, 397, 422–423, 430–431, 453, 459–460, 466, 472n498, 473, 483, 486, 488n544.  
*See also* summary justice: peace agreements and  
*pedes (pedites)*, 157  
Pegolotti family, 104, 123n9, 170, 181  
Pegolotti, Rolandino, 241  
Pelosi, Giovanni di Antonio, 469  
Pennington, Kenneth, 313n1, 315, 316–318, 320, 327  
Pepoli, Alberghetto, 294  
Pepoli, Balduino di Filippo, 38n118, 294n417  
Pepoli, Balduino di *Philutius*, 294n417  
Pepoli family, 38, 39, 100, 101, 123n9, 125n10, 157, 265, 293–296, 310, 403n288, 469  
Pepoli, Filippo di Zoene, 181  
Pepoli, Giacobino, 175n129, 294  
Pepoli, Giovanni di Filippo di Zoene, 359n155  
Pepoli, Guido, 193n32  
Pepoli, Pepolo, 294

- Pepoli, Romeo, 38n118, 47n15, 87, 89, 94, 117–118, 127, 129, 132, 157, 173n126, 193, 216, 243, 264, 294, 295, 373, 390, 398, 405, 411, 425, 427–428, 503n12
- Pepoli, Taddeo, 133, 190, 447
- Pepoli, Ugolino, 294
- Pepoli, Zingolo, 158
- Pepoli, Zingolo di Ugolino, 427–428
- Pepoli, Zoene, 294, 307–308
- persecutor bannitorum*, 415
- Personalaldi, Sandro, 419–420. *See also* Spersonaldi family
- Pessis (*de*), Bondo di Simone, 446
- Peters, Edward, 324n37
- Perticoni family, 262
- Pertile, Antonio, 409
- petitions. *See also protestacio*
- appeal against the podesta, 376–377
  - appeal of a sentence, 370, 396–397
  - as predecessors to *querele*, 417–428
  - enforcement of 1313 law on, 430–434
  - legislation of 1313 and, 428–430
  - to the Consiglio del Popolo, 400
  - to the *defensor* of the twenty guilds, 424–426
  - trials initiated by, 64–67, 198–202
- Petrizoli, Giovanni di Bettino, 477
- Petrizoli, Petrizolo di Bettino, 477
- Petronibus (de)*, Petrone, 141n11
- Piantavigne, Castellano, 330, 505
- Piantavigne family, 159
- Piasesi, Bartolomeo di Guido
- Tagliamenti*, 282
- Piasesi, Bettino, 308
- Piasesi, Bettino di Lambertino, 141n11
- Piasesi, Bettino di Ramberto, 267n266, 282
- Piasesi family, 119, 179n149, 256, 260, 262, 278, 282–283, 469, 477
- Piasesi, Filippo di Giacomo di Bettino, 283
- Piasesi, Giacomo di Bettino, 283
- Piasesi, Niccolò *Faxani*, 282
- Piasesi, Pellegrino, 283
- Piasesi, Pietro *Malvuxii*, 141n11
- Piasesi, Zoene *sive* Uguccone di Bettino, 283
- Pietro *Mori* family, 306
- Pini, Antonio Ivan, 21n28, 33, 48n22, 80, 127n16, 152n53, 174n126, 203, 307, 311, 380, 382n228, 393n257, 499, 503n14
- Pini, Raffaella, 32
- Pippini, Barufaldo di Rolandino, 234, 288
- Pippini family, 130, 262
- Pippini, *Philiputius* di Alberto, 233–234
- Pippini, Rolandino, 288
- Pippini, Senzanome di Rolandino, 233–234, 288
- Pisani, Domenico di Giuliano, 431
- Pistoia (da), Cino, 298
- Pizoli family, 36, 169n106, 485
- Pizolpassi, Bartolomeo, 467–468
- Pizolpassi, Guido, 467–468
- Pizolpassi, Pizolpasso di Bartolomeo, 467–468
- Pizzano (da), Guido di Tommaso, 477
- Placiti, Albello, 253
- Placiti family, 122n8
- Planelli family, 120
- podesta
- accountability to Capitano, 524–525
  - arbitrium* of, 375, 411–413, 435–436, 440–441, 442, 444, 447–449, 451, 472–474, 489, 505n29
  - as arbitrator, 457
  - civil courts of, 513
  - discretion of, 218, 348
  - jurisdiction of, 349–350, 369, 512–514
  - resistance of to authority of the Capitano, 372–373
- Poeti, Poeta, 241
- Poggetto (del), Cardinal, 351n118, 420, 455, 483, 499, 500
- police, 339
- popolano*, definition of, 151–152
- popolo*
- and violence, 398–399
  - exclusionary policies of, 15–31, 43, 403. *See also* purges of popular societies
  - historiography of, 2–5
  - ideology and rhetoric of, 306–307, 312, 390, 398n265
  - increasing harshness of policies of, 505–507
- Portinari family, 268
- Portinari, Simone di Bonacursio, 217
- potentes*, 287, 293, 445, 446–447
- Pratesi family, 130
- preconsulis* of the notaries' guild, 93, 119, 160n79, 321n25, 387, 389, 429n385, 430, 432, 436–437, 450n425, 451, 477, 481
- preministralis* of the seven arms societies, 94, 321n25, 387, 389, 429n385, 430, 431, 436–437, 451, 477

- preministralis* of the thirteen arms societies, 436–437, 451, 477
- Prendiparte, Bettuccio di Pietro, 365–366
- Prendiparte, Conte di Giacobino, 141n11
- Prendiparte (di), Domina *Ghiza*, 467n480
- Prendiparte family, 142, 159, 169n106, 219, 404n294, 436, 456–457, 487, 491
- Prendiparte, Niccolò di Giovanni, 365–366
- Prendiparte, Parisio di Guidonino, 219
- Prendiparte, Pietro, 139n10
- Prendiparte, Pietro di Giacobino Piccioli, 140n11
- Prendiparte, *Prendinus*, 139n10
- Prendiparte, *Prendinus* di Giacomo, 139n10
- Prendiparte, Prendiparte, 141n11
- Preti, Bitinello, 480
- Preti, *Branellus* di Francesco, 480
- Preti family, 125n10, 181n154, 451, 469, 477
- Preti, Filippo, 132
- Prichonibus (de)*, *Prichone*, 138n10
- Primadictiis (de)*, Guido, 141n11
- Principi family, 219
- prior anzianorum*, 450n425, 451n430
- Priore, Delfino di Michele, 139n10
- Priore, Giacomo di Delfino, 141n11
- privilege
- against *fumantes*, 407
  - enforcement of against magnates, 392–396, 398
  - grants of, 379–387
  - pattern of prosecution in court by, 402–403
  - pressures that favored, 405–407
  - reaction against, 390–392, 403–404
  - types of, 378
- processual interpretation of criminal justice, 337–338
- proof of status
- ancestors as serf-owners as, 262
  - ancestry and parentage as, 197, 201, 202, 203–206, 218–230
  - documentation as, 220
  - investiture ceremony of a belted knight as, 234–238
  - lifestyle as, 206, 217–230, 239–245, 252–255, 292–293
  - knighthood as, 231–239, 266
  - lists as, 185–186, 201, 216–217
  - ownership of towers as, 262–263
  - patronage of parish churches as, 262
  - publica fama* as, 184–185, 212–213, 259, 287
  - reputation for violence as, 260–262
  - service as a foreign rector as, 263–264
- protestacio*
- by the Capitano, 223
  - frequency of, 370–372
  - political in origin, 373–374
  - trials initiated by, 67–68
  - use of term, 209–210, 370n197
- purges of popular societies and jurisdiction of Capitano del Popolo, 43–44
- groups specified for, 47–51
  - patterns of, 51–52, 63–68, 208–210
  - process of, 43–47
- Putnam, Robert D., 6–7
- Quercino (de)* family, 119, 122
- Quercis (de)* family, 99, 126
- querela*. See also petitions: as
- predecessor to *querele*
  - and Consiglio del Popolo as appeals court, 474–475
  - and *exceptiones*, 445, 472, 488
  - as political instrument, 479–481
  - definition of, 408
  - direct action by podesta requested in, 473–474
  - effect of defeat at Zapolino on, 464
  - legislation of 1313 and, 430, 441–443, 455
  - modifications to 1320 legislation for, 449–450, 452–455
  - origins of, 441–445
  - preliminary court review of, 67–68, 476, 484, 523–524
  - reasons for requesting, 465–473, 495
  - responses of the Consiglio del Popolo to, 476–479
  - special meetings of Consiglio del Popolo for, 444
  - types and frequency of, 445–446, 462–465
  - use of word, 441n412
- Racine, Pierre, 73
- Raccorgitti, Giacobino, 242
- Ramasini family, 41, 169
- Rameniis (de)* family, 97
- Ramponi, Conte di Lambertino, 139n10
- Ramponi family, 142, 159, 436
- Ramponi, Guiduccio di Filippo, 319n21

- Ramponi, Lambertino, 137n8, 138n10, 141n13, 194n35  
 Ramponi, Lamberto, 141n13  
 Ramponi, Rolandino, 423n362  
 Ramponi, Scannabeco, 141n11  
 Rasuri (Rasori) family, 36, 102, 119, 122n8  
*Recchis (de)* family, 374  
 Reggio (da), Bartolomeo di Pietro, 440  
 Reggio (da), Domenico di Gabriele di Pietro, 440  
 Reggio (da), Gabriele di Pietro, 440  
 Reggio (da), Mino di Pietro, 440  
 reputation. See *fama*  
 Restani, Giacobino di Nascimbene, 368  
 Ricci, Giacomo di Benvenuto, 480  
 Ricolfi family, 41  
 Ricoli, Antonio, 220–221, 243, 270n277  
 Riesenbergs, Peter, 317–318, 320  
 Rigby, Stephen Henry, 10–11  
 Rinaldi, Rossella, 502n9  
 Riosti, Alberto di *Odaldus*, 174n128  
 Robondini family, 101  
 Rocca dei Ridolfi (da), Ubertino, 53  
 Rocci, Giacomo di Rocco, 493–494  
 Rodaldi, Bitinello di Matteo, 478  
 Rodaldi family, 39, 41, 99, 102, 104, 120, 122, 123n9, 127, 159, 191, 265, 458  
 Rodaldi, Matteo, 158  
 Rodaldi, Matteo di Niccolò, 41  
 Rodaldi, Niccolò, 300n438  
 Rodaldi, Pietro, 40–41  
 Rodaldi, Testa, 242  
 Rodaldi, Zanino di Niccolò, 140n11  
 Roffeno (da) family, 460  
 Roizi family, 41, 119  
 Romano, Dennis, 418n344  
 Romanzi, Bartolo (Bartoluccio) di Scannabeco, 170n149, 280–281  
 Romanzi, Bartolomeo di Guidotto, 281  
 Romanzi, Bartolomeo di Scannabeco, 254  
 Romanzi, Bonacursio, 140n11, 179n149, 236  
 Romanzi, Bonacursio di Arimondo, 281, 282  
 Romanzi, Conte di Bartolotto, 280  
 Romanzi, *Centarinus* di Bartolotto, 280  
 Romanzi, Dino di Scannabeco, 254, 280  
 Romanzi family, 40, 57, 130, 262, 268, 269, 278, 280–282  
 Romanzi, Galvano di Bartolotto, 280  
 Romanzi, Guidesto di Rolandino, 139n10, 158, 280, 281, 361  
 Romanzi, Rolando, 280  
 Romanzi, Romanzo di Bartolomeo, 281–282  
 Romanzi, Scannabeco, 281  
 Rombolini family, 181n154  
 Rombolini, Gilino di Bonacursio, 449  
 Rombolini, Rolandino di Gerardo, 377  
 Rombodivini, Guglielmo, 225, 270n277, 309n462  
 Ronbodivini family, 101, 102  
 Roncore (da) family, 123n9, 126  
 Roncore (da), Mattiolo, 308  
 Rosate (de), Albericus, 305  
 Rosser, Gervase, 19–20  
 Rossi, Bongiovannino, 242  
 Rossi family, 465  
 Rossi, Rosso di Corado, 158  
 Rote (dalle) family, 39  
 Rote (dalle), Francesco, 47n15  
 Rovisi family, 37, 40, 120, 125n13, 126, 397  
 Ruggiero, Guido, 70n6  
 Sabadini, Alberto di Ugucione, 292  
 Sabadini, Barba, 461  
 Sabadini, Domina Andrucia, 495  
 Sabadini, Domina Catalina, 495  
 Sabadini family, 37, 39, 102, 123n9, 130, 159, 174n128, 179n149, 290, 291–292, 310, 451  
 Sabadini, Giovanni di Filippo, 495  
 Sabadini, *Jacomucius* di Piero di Ugolino, 400  
 Sabadini, Munso, 129, 361–362  
 Sabadini, Munso di Trancedino, 38n116  
 Sabadini, *Muxolus*, 174n128  
 Sabadini, Niccolò di Albertuccio, 38, 291  
 Sabadini, Rodolfo, 194n35  
 Sabadini, Rolando di Guido, 291  
 Sabadini, Tancredino, 329n56  
 Sabadini, Uguccio di Albertuccio, 38, 291  
 Sachetti, Giacobino, 441  
 Sacred and Most Sacred Ordinances of 1282 and 1284, 59–60, 380, 381, 386, 443  
*Saepe contingit*, 409  
 Sala (da), Albertuccio *Frullani*, 397  
 Sala (da), Bartololino *Frullani*, 397  
 Sala (da), Buvalino di Alberto, 141n11  
 Sala (da) family, 142, 181, 262, 268, 273, 397  
 Sala (da), *Filamanise* di Alberto, 141n11  
 Sala (da), *Filammixius* di Alberto, 140n11

- Sala (da), Simone di Albertino, 267n266  
 Saliceto (da), Bartolomeo, 494  
 Saliceto (da) family, 125n10, 126  
 Saliceto (da), Salvetto di Salvetto, 494  
 Salvemini, Gaetano, 1, 72, 211  
 Salvioli, Giovanni di Giacomo, 369  
 Samaritani, Bonifacio, 138n10, 158, 169n106  
 Samaritani, Bornio, 179n149  
 Samaritani family, 138n10, 158, 169n106  
 Samaritani, *Franchinus*, 139n10  
 S. Giorgio (da) family, 123n9  
 S. Giorgio (da), Pace di Fra *Tanielli*, 434  
 S. Pietro (da), Sandro, 179n149  
 S. Ruffillo (da), Giovanni di Pietro, 426  
 sanctioning theory, 318  
 Sardelli, Bonino di Maglolino, 107  
 Sardelli, Brandelasio, 107  
 Sardelli family, 102, 106–107, 123n9, 126  
 Sardelli, Filippo, 106  
 Sardelli, Galeatto, 107  
 Sardelli, Giacomo, 106–107  
 Savignano (da), Bonaventura, 139n10  
 Savinella (da), Giacomo di Rainerio, 376n213  
 Savinella (da), Guido di Rainerio, 375  
 Savinella (da), Rainerio, 375–376  
 Savioli, Alberto di Rainaldino, 272  
 Savioli, Bartolomeo, 234, 272  
 Savioli, Berto, 272  
 Savioli family, 260  
 Savioli, Folchino di Rainaldino, 272  
 Savioli, Giacobino, 234–235, 272  
 Savioli, Pietro, 234, 272  
 Savioli, Rainaldino, 272  
 Saxoferrato (de), Bartolus, 298, 305  
 Sbriccoli, Mario, 313n1, 324n38  
 Scacchese faction, 451, 480  
 Scannabecchi, Gerardo di Giordano, 173  
 Scannabecchi, Giovanni di Alberto, 302n442  
 Scappi, Bartolomeo di Pietro, 493n555  
 Scappi family, 260  
 Scappi, Giacobino di Rambertino, 493n555  
 Scappi, Massimo di Pietro, 493n555  
 Scappi, Pietro, 493n555  
 Scappi, Ubaldino di Rambertino, 391n253  
 Schiera, Pierangelo, 6  
*scolares*, 378, 381, 400  
 Scopeto (da), Bonacursio, 299  
 Scopeto (da) family, 342n90, 364–365  
 Scopeto (da), Minello di Rustigano, 365n171  
 Scopeto (da), Rustigano, 53, 97  
 Scorneta, Matteo, 101  
 sedition and speech crime, 505–506  
 Senzanome, Senzanome di, 139n10  
 Senzanomi family, 101n105  
 Sestan, Ernesto, 3  
 Sesto (da), Niccolò di Alberto, 491  
 Settefonti (da), Guido, 441–442  
 Simonpiccioli, Castellano, 141n11  
 Simonpiccioli, Castellano di Pellegrino, 138n10  
 Simonpiccioli, Dinadano, 141n11  
 Simonpiccioli, Dinadano di Albrico, 139n10  
 Simonpiccioli family, 100, 138n10, 142, 295  
 Simonpiccioli, Giovanni, 139n10, 423n362  
 Simonpiccioli, Pellegrino, 138n10  
 Simonpiccioli, Pellegrino di Albrico, 138n10, 158  
 Skinner, Quentin, 5  
 Smurra, Rosa, 24n44  
 social mobility, 2n5, 31, 161–162.  
   *See also* guilds: involution of  
 Soldaderi family, 102  
 Soldaderi, Niccolò, 194n35  
 Soldaderi *sive* Zovenzoni, Niccolò, 225  
 Soldaderi, Soldaderio di Giacobino, 140n11  
 Sori, Lorenzo di Beletto, 470n490  
 Spedale (dello), Bonincontro, 132, 137nn7–8, 411n315  
 Spersonaldi (Personaldi) family, 126, 458, 460  
 Spersonaldi (Personaldi), Guglielmo, 129  
*Spinabeli*, Pietro di Giacomo, 483  
 Spiolara (da), Bartolomeo di Bonaventura, 109  
 Spiolara (da), Biagio di Alberto, 109  
 Spiolara (da) family, 105, 123n9  
 Spiolara, Giacomo, 109  
 Standard-bearer of the Guilds and Justice, 94, 357n147, 414, 425, 452, 453, 454–455, 459, 476, 481  
 status. *See also* proof of status;  
   magnates: principle of hereditary status applied to  
   change of as punishment or reward, 171–173, 261–262, 353n124, 354, 431, 451, 507  
   class conflict and, 306



- of families, 208–210
  - penalties and, 318
  - privileged *popolo*, 182
  - purchase of, 173–174
  - political shifts and, 174, 210, 266–267, 287, 293
- Stern, Laura Ikins, 317n14, 409n307
- Storlitti, Bonifacio di Castellano, 235
- Storti Storchi, Claudia, 319–320, 321, 377
- Sulimani, Martino, 419
- Summa, Giovanni, 158, 505, 516n16.
- See also *barisellus*
- summary justice
  - and execution of political enemies, 410
  - by rural officials, 410
  - expansion of, 320, 455–456
  - general authorizations of, 412–416
  - granted in response to *querele*, 442, 476
  - in canon law, 409
  - in property and commercial law, 409–410
  - peace agreements and, 456–459
  - petitions and, 408, 426–427
  - resistance of the judges to grants of, 484–493
- supplications, 417, 420
- Surici, *Comissa* di Pace, 190, 286
- Surici, Cosa di Pace, 483
- Surici, Deotesalvo, 191, 286
- Surici, Enrighetto di Pace, 190, 286
- Surici family, 190, 286–287
- Surici, Gerardo, 191
- Surici, Pace di Guido, 242
- Surici, Salvuccio di Gerardo, 189–192
- syndication, 323, 372–373, 442, 475, 497, 514–515
- syndics of the guilds, 430, 431, 433
- Tabacco, Giovanni, 153
- Tamba, Giorgio, 21n31, 31–33, 37, 76, 77n25, 84, 86, 89, 103, 111, 441n412, 499
- Tarassi, Lanzalotto di Guido, 140n11
- Tavole (dalle) family, 105
- Tebaldi, Bonacosa, 279
- Tebaldi, Dino Niccolò, 279, 280
- Tebaldi family, 39, 262, 268, 273, 278, 279–280, 306
- Tebaldi, Federico, 141n11
- Tebaldi, Giacobino Tommasino, 279
- Tebaldi, Giacomo, 279
- Tebaldi, Massimo di Rolandino, 179n149
- Tebaldi, Misino di Niccolò, 241–242
- Tebaldi, Niccolò, 279, 400
- Tebaldi, Priore, 140n11
- Tederesi family, 125
- Tencarari family, 125, 128, 306
- Tencarari, Giacomo, 194n35
- Tencarari, Lambertino di Gerardello, 242
- Tencarari, Rolandino, 137n7
- Tencarari, Tommaso di Paolo, 478, 479–480
- Tettalasini, Azzolina, 295
- Tettalasini, Bongiovanni di Odorico, 193, 216
- Tettalasini family, 37, 136, 157, 193–194, 265, 294, 302
- Tettalasini, Giovanni, 193n32
- Tettalasini, Tettalasino di Uguccione, 193, 216
- Teuci, Dondideo di Alberto, 206n65
- Tierney, Brian, 315–316, 317, 320
- Tignano (da), Comacio, 365
- Tignano (da) family, 364–365
- Tignano (da), Ugolina, 297
- Tignano (da), Ugolino di Bonifacio, 401, 424
- Tolomei family, 39
- Torelli, Torello, 139n10
- Torelli, Torello di Gerarduccio, 467–468
- torture
  - and *protestaciones*, 373
  - and the growth of *inquisitio*, 315
  - in condemnations records, 335–337
  - in trials by *accusatio*, 333n69
  - of captured *banniti*, 326, 332
  - permission to use, 323, 362–363, 389
  - practice of, 327–333, 362–363
  - protection from, 321–322
  - purpose of, 325
  - statutory uses of, 320–322
- Toschi, Bonafede, 289, 290
- Toschi family, 272, 288–290
- Toschi, Francesco di Gerardo, 289
- Toschi, Guidotto, 289
- Toschi, Giuseppe, 175, 289
- Toschi, Tommaso, 289
- Toschi, Viviano di Giuseppe, 289
- Toschi *sive de Useppis*, Enzo di Silvestro, 289
- Toschi *sive de Useppis*, Viviano di Sclate, 289

- trials. *See also* magnate identity trials;  
     due process  
     against magnates, 361–362  
     as tool of conflict, 364  
     *cum promovente*, 343–344  
     decline in number of, 390  
     elite families in, 364–366  
     *exceptiones* in, 351–354, 377, 404n293,  
         491–492  
     expenses incurred in, 346n97, 347  
     for captured *banniti*, 356–357  
     high level of acquittals in, 339–349,  
         348–349  
     interference by Consiglio del Popolo  
         in, 351  
     motives investigated in, 359–360  
     procedures for initiation of, 314–315  
     proofs used in, 355  
     triadic nature of, 343  
 Trintinelli, Paolo, 158  
 Tuccimani, Tuccimano di Guido,  
     141n11  
 two preeminent societies, 94, 372,  
     401n282, 429n385, 430–431, 433,  
     450n424, 457, 481
- Ubaladini, Tommaso di Guido, 457  
*Useppis (de)* family. *See* Toschi  
*Useppis (de)*, Giacomo di Tommaso, 470
- Vallerani, Massimo, 72–77, 81, 82n46,  
     83n48, 110–111, 299, 304n445, 315,  
     327, 330n59, 333–335, 343–344,  
     348n103, 351n118, 352n122, 378n216,  
     387n241, 390n248, 391n250, 404n293,  
     410, 417n344, 488  
 Vado (da), Simone d'Alberto, 299  
 Vado (da), Trebaldo, 299  
 Varignana (da), *Agnulfus*, 170  
 Varignana (da), Balducino di Benino,  
     280n329  
 Varignana (da), Benino, 275, 280  
 Varignana (da) family, 268, 274–275,  
     278, 280  
 Varignana (da), Francesco, 275  
 Varignana (da), *Maxolus*, 170  
 Varignana (da), Niccolò Paganucio,  
     280n329  
 Varignana (da), Paganucio di  
     Rambertino, 209  
 Varignana (da), Rainerio, 170  
 Vasina, Augusto, 499n1, 501n6  
 Vatagliano family, 36, 105  
 Vedrana (da), family, 401  
*verba iniuriosa*, 261n241, 361, 362n161,  
     381, 391n253, 396, 397–398, 400, 514  
 Vetri, Cambio di Riccardo, 396–397  
 Vezzali, Federica, 295  
*vigintiquinqua*, 152. *See also pedes*  
     (*pedites*)  
*vita honorabilis*. *See* proof of status:  
     lifestyle as  
 Vitale, Vito, 330n59, 378n216, 393n257,  
     405n294, 406n299, 441n412, 451  
 Vizzano (da), Aspetato, 396  
 Vizzano (da) family, 397, 457, 461  
 Vizzano (da), Muzzolo, 396  
 Vizzano (da), *Plevanus* di Guidotto,  
     170  
 Vizzano (da), Ramberto, 170  
 Volpe, Gioacchino, 2n5, 72, 211
- Weber, Max, 10  
 White party, 117–118, 130, 137, 399,  
     425, 463  
 Wray, Shona Kelly, 314n3
- Zambeccari, Lotto di Pino, 496–497  
 Zapolino, battle of, 464, 504  
*Zensanis* family, 268  
*Zenzanis*, *Zenzaminus*, 228  
*Zenzonis (de)*, Albergetto di Tommaso,  
     227–228  
 Zorzi, Andrea, 9, 260n236, 393n257,  
     399n268  
 Zovenzoni, Bartolomeo di Civenino, 38  
 Zovenzoni, Cevernino, 242  
 Zovenzoni family, 99, 101, 102, 104, 105,  
     123, 130, 157, 241n161, 466  
 Zovenzoni, Lambertino, 241, 242  
 Zovenzoni, Niccolò, 300n438  
 Zovenzoni, Pace di Giovanni, 366  
 Zovenzoni, Zovenzone, 241