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*Poteri signorili e feudali nelle campagne dell'Italia settentrionale fra Tre e  
Quattrocento: fondamenti di legittimità e forme di esercizio*

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## The Visconti in the Fourteenth Century and the Origins of their *Plenitudo Potestatis*

by Jane Black

On 26 September 1334 Azzone Visconti, by then *signore* of Milan, Bergamo, Cremona and Vercelli, granted Milanese citizenship and exemption from taxation to Franceschino de Sancto Gallo of Bergamo: «tibi Franceschino nato quondam Fineti de Sancto Gallo de Pergamo dilecto nostro volentes de nostri plenitudine potestatis gratiam facere specialem... »<sup>1</sup>. The document is one of the first surviving references by any Visconti to their *plenitudo potestatis*<sup>2</sup>.

The phrase, *plenitudo potestatis*, from modest beginnings had come to embody the highest papal claims. It had originated as the expression defining, in ecclesiastical government, the distinction between pope and hierarchy: the pope could exercise jurisdiction over the whole church, bishops only in their own diocese<sup>3</sup>. In terms of law, fullness of power meant that the pope was both highest judge and supreme legislator in the church: just as the emperor was *lex animata* so the pope was *canon vivus* who was above the law and whose will had the force of law<sup>4</sup>. Linked to his role as legislator was the pope's authority to override existing law: thus Innocent III proclaimed early in the thirteenth century that «with the authority of our fullness of power, we can by right make dispensations above the law»<sup>5</sup>. It was Hostiensis who subsequently distinguished between everyday power (*potestas ordinaria*) and absolute power (*potestas absoluta*) that had to be invoked when the pope acted outside the law<sup>6</sup>. More extensive claims came in the late thirteenth and early fourteenth centuries with the conflicts of Boniface VIII's pontificate, when papalists began to assert that the pope had full powers not only in spiritual but in temporal affairs. It is in this period that there appeared phrases such as *plenitudo pontificalis et regie potestatis*, *regalis sive imperialis dignitatis plenitudo* and *utriusque potestatis et iurisdictionis plenitudo*<sup>7</sup>. By the fourteenth century *plenitudo potestatis* had thus acquired a truly awesome scope, and so the question arises by what authority Azzone and his descendants presumed to adopt such a prerogative for themselves.

In general terms the Visconti's plenitude of power can be seen in the context of its annexation by secular sovereigns: once the phrase had become the customary expression for the grand claims of papal sovereignty, it began to exercise an attraction for other rulers. During the reign of Frederick II it

was used by the imperial chancery<sup>8</sup> and at the beginning the next century all kinds of imperial documents issued by Henry VII referred to «plenitude of royal power»<sup>9</sup>. The phrase was used at the French court, appearing, for example, in Louis IX's 1254 reforming *ordonnance*, which gave the king the right to «proclaim, change, improve, add to or curtail» the law<sup>10</sup>. Philip IV issued his 1303 statute against private warfare «de plenitudine regiae potestatis»<sup>11</sup> and in 1315 and 1316 Louis X created peerages «de nostrae potestatis plenitudine»<sup>12</sup>. *Plenitudo potestatis* appeared too, and remarkably early, in documents associated with precariously established Italian *signori*: Azzone Visconti's references to his plenitude of power were not unique. The Bonacolsi, for example, regularly acted on the strength of their plenitude of power at the beginning of the fourteenth century. Thus a concession was granted on 17 April 1300 to Corradino Gonzaga by Guido Bonacolsi, *signore* of Mantua, «ex suo arbitrio et potestatis plenitudine, de certa scientia»<sup>13</sup>. Even so dubious a ruler as Guecellone da Camino, who in 1322 had already lost his position as *signore* in Treviso, can be seen granting a tax exemption «de sue plenitudine potestatis et meri et mixti imperii quod sui antecessores habuerunt et nunc habet ipse»<sup>14</sup>. The Scaligeri likewise issued decrees and privileges *de plenitudine potestatis*. In 1324 Cangrande della Scala in a dispute between the commune of Bassano and Niccolò di Rovero acted, «ex vigore nostri arbitrii et de nostre plenitudine potestatis ex certa scientia»<sup>15</sup>. Again in 1328 Cangrande, «by imperial authority vicar general of Verona, Padua and Vicenza», expressed his wish to grant the castle of Vighizzolo to his loyal supporter, Spinetta Malaspina, «de nostre plenitud<ine potestatis>»<sup>16</sup>; and in 1331 Alberto II and Mastino II renewed a grant of tax exemption made earlier by Cangrande to the convent of Santa Caterina «ex nostri capitaneatus officio et de nostre plenitudine potestatis ac ex certa scientia»<sup>17</sup>.

With regard to the appropriation of plenitude of power by emerging *signori*, there is one obvious explanation: they were desperate to be seen as princes. Certainly the Bonacolsi's reference to their plenitude of power at the turn of the century was in keeping with their notorious pretensions to absolute sovereignty<sup>18</sup>. Perhaps the closest analogy to the Visconti can be found in the regime of the Scaligeri, who were attempting to establish themselves and their reputation during the 1320s and 1330s. Cangrande's success in conquering Verona and Vicenza had made them the most powerful family in North Italy and himself «the grandest, the most powerful and the richest tyrant in Lombardy from Azzolino da Romano to the present day»<sup>19</sup>; «quodcunque voluit, obtinuit», it was said<sup>20</sup>. Cangrande was as skilful in creating a princely image as he was in imposing his authority by force and diplomacy. Since the end of the thirteenth century the Scaligeri had been attempting to disguise their *parvenu* origins by a series of aristocratic marriages and titles of nobility<sup>21</sup> and Cangrande fostered an image which put him on a par with the greatest princes. His spectacular entourage was unique in contemporary Italy<sup>22</sup>. The amazing displays of pageantry and hospitality which he laid on in 1327 and 1328 for the coronation of Lewis IV in Milan and the capture of

Padua outshone even the Emperor<sup>23</sup>. By the mid-1320s the Trevisans were predicting «within a year he will be king of Italy»<sup>24</sup>; and so convinced had the Scaligeri become of their own authority, that Cangrande's successor, Mastino II, ordered a jewelled crown to be made in preparation for his coronation as King of Lombardy<sup>25</sup>. The Scaligeri's assertion of the traditional papal and imperial prerogative of plenitude of power is perfectly consistent with such image-making<sup>26</sup>.

Azzone too was keen to foster an image of authority not least because his family had suffered such a reverse of fortune in the 1320s. Cities which had previously come under Visconti rule, or least protection, had withdrawn their allegiance: Piacenza, Lodi, Alessandria, Tortona, and even Milan itself for a few weeks in 1322, had rebelled. Bergamo, Novara, Cremona and Bobbio abandoned the regime in 1327 when the Emperor Lewis IV turned to the Visconti's Ghibelline enemies and Galeazzo I was ousted from Milan for the second time, ending up in prison with the rest of his family. On Galeazzo's death in 1328 Visconti fortunes were truly at their nadir. Azzone would have to pay a huge sum to Lewis<sup>27</sup> for a new imperial vicariate in Milan, but that would be just the beginning of his recovery. Nevertheless by the time he died in 1339, he had made himself master of Lombardy and *signore* of Milan, Piacenza, Cremona, Como, Vercelli, Novara, Brescia, Bergamo and Lodi. The regime he created, like those of other *signori*, was not just based on strength and diplomacy: Azzone launched a programme to transform the Visconti into monarchs. This agenda he bequeathed to his successors: from that point, despite setbacks, the Visconti never deviated from their key ambition to establish themselves as princes in Lombardy and beyond.

Azzone's activities in this context, as is well known, were varied and energetic. Like the della Scala he sponsored festivities on an extravagant scale<sup>28</sup>. He initiated a building programme to glorify Milan which included a palace for himself which left people, in the words of Fiamma, «thunderstruck in ecstatic admiration»<sup>29</sup>. Giotto decorated the new great hall with an impressive fresco in which Azzone was depicted taking his place among the leaders of the world's great nations: Hercules and Hector, Attila, Aeneas and Charlemagne<sup>30</sup>. His quest for princely status extended to his coinage: Azzone had a series of at least twenty-five coins minted in Milan of ever increasing flamboyance: he began by introducing his own initials; then he dispensed with the emperor's name, spelling out his own in full; finally he ordered the Visconti viper to be substituted for the cross of the Milanese commune<sup>31</sup>. As he acquired other cities, he continued to publicize his domination in regal style, through personalized local coinage<sup>32</sup>.

Azzone's references to his *plenitudo potestatis* might appear simply to express the desire he shared with other *signori* to parrot the language and trappings of monarchy. But closer comparison between Visconti documents and those of other regimes reveals significant differences. Whereas Azzone and his successors relied confidently on plenitude of power in itself to express their authority and give force to their edicts, the Bonacolsi, Scaligeri

and Caminesi preferred the added security of established formulae. Guido Bonacolsi, in the example cited above from 1300, authorized Corradino Gonzaga to acquire the lands of the imprisoned Bonaventurino Zanicalli «*ex suo arbitrio et potestatis plenitudine*»; and this was the form of words followed in his other concessions<sup>33</sup>. As jurisdiction handed from commune to *signore*, *arbitrium* implied wide executive and legislative powers and was the essence of the authority conceded to Guido by the general council of Mantua in 1299<sup>34</sup>. Again in 1322 Guecellone da Camino, granted tax exemption «*de sue plenitudine potestatis et meri et mixti imperii quod sui antecessores habuerunt et nunc habet ipse*»<sup>35</sup>; he had received «*merum et iustum imperium et arbitrium generale secundum eius beneplacitum*» from the general council of Treviso in 1313<sup>36</sup>. Similarly in 1324 Cangrande overruled the statutory limits for appeal, «*ex vigore nostri arbitrii et de nostre plenitudine potestatis*»<sup>37</sup>; he had been expressly given *arbitrium* by the general councils of Vicenza and Verona back in 1312<sup>38</sup>. In granting the castle of Vighizzolo to Spinetta Malaspina, the renowned and experienced notary and scholar, Benzo da Alessandria, drew up a diploma which was couched in similar terms: «*vigore arbitriorum nostrorum et de nostri plenitudine potestatis*»; the charter of Alberto and Mastino endowing the convent of Santa Caterina in 1331 too was made «*ex nostri capitaneatus officio et de nostre plenitudine potestatis*»<sup>39</sup>. On the other hand, when Azzone and his successors Luchino and Giovanni issued grants using plenitude of power, they routinely omitted to seek any additional supporting authority. Thus Azzone says in 1334 simply, «we wish to grant a special favour to Franceschino de Sancto Gallo from our plenitude of power (*volentes de nostri plenitudine potestatis gratiam facere specialem*)»<sup>40</sup>. In his 1336 confirmation of the right of Molotono de Muzzo of Bergamo to collect duties, he annulled any contrary concessions «*eciam de nostre plenitudine potestatis*»<sup>41</sup>. In 1339 Giovanni and Luchino conceded exemption from the salt tax to the village of Romano solely «*de nostra liberalitate et plenitudine potestatis*»<sup>42</sup>; and in 1343 they issued their decree on justice simply «*de nostrae plenitudine potestatis*»<sup>43</sup>. This formula was identical to that used by emperors, whose plenitude of power was deemed sufficient in itself to provide their commands with all necessary force. Thus in 1329 Lewis IV granted Azzone the vicariate «*ex certa scientia de nostre plenitudine potestatis*»<sup>44</sup>. Such usage by the early Visconti, even more audacious than that of other *signori*, could be interpreted as a statement of their unique monarchical ideology.

Assumption of *plenitudo potestatis* by parvenu dynasties such as the Visconti raised difficult questions that did not confront established sovereign powers. The way in which the emperor, the pope and the kings of France expressed their prerogative was a declaration in itself of the nature of their authority: papal plenitude was described as «*plenitudo pontificalis et regie potestatis*»<sup>45</sup>, «*plenitudo ecclesiasticae potestatis*»<sup>46</sup>, «*apostolicae plenitudo potestatis*»<sup>47</sup>; or it could be explained in a short phrase: «*plenitudo potestatis quam habet quia est vicarius Christi*»<sup>48</sup>. The emperors spoke of their «*imperatorie plenitudo potestatis*»<sup>49</sup> or, more frequently in the early

fourteenth century, of their «plenitudo potestatis *regie*»<sup>50</sup>. The French kings, too, issued laws and privileges «de plenitudine *regie* potestatis»<sup>51</sup>. But papal, apostolic, royal or imperial power were levels of authority far surpassing anything to which petty *signori* could lay claim and there was no comparable idiom with which the early Visconti could encapsulate their status. Issuing decrees or concessions simply *de plenitudine potestatis* therefore left the theoretical basis of the early Visconti's pretensions in limbo.

It has been suggested that *plenitudo potestatis* was an aspect of the imperial vicariate acquired by so many *signori* in the fourteenth century<sup>52</sup>. Such diplomas, however, did not include the concession of *plenitudo potestatis*. Azzone himself simply received «merum et mixtum imperium et omnem iurisdictionem et exercitium»<sup>53</sup>. Moreover there is the problem that between 1329 and 1355 none of the Visconti possessed an imperial title<sup>54</sup>. The diplomatic situation in which Azzone had acquired his vicariate had been uniquely complex, with the result that his title was annulled almost as soon as it had been acquired. His motives for laying out a large sum to Lewis IV for the title were diplomatic and military: in early 1329 he wanted to forestall an imperial invasion and re-enter Milan. But the anxiety which this had aroused at the papal court and the consequent renewal of the interdict and excommunication, together with the threat of a French invasion, had led Azzone to re-open negotiations with Pope John XXII and finally to submit to his authority. Thus it happened that the confirmation of the imperial diploma on 23 September 1329 took place at the very moment when the *curia* had accepted his return to obedience (15 September) and by 26 November Azzone had officially accepted an apostolic vicariate instead<sup>55</sup>. Given his rapid volte-face in favour of the papacy, it is unlikely he harboured any conscious intention to use an imperial diploma as the foundation for a claim to plenitude of power.

There is, on the other hand, the possibility that the Visconti believed plenitude of power had been granted to them by their subjects. The surviving documents of Azzone's election to the position of *dominus* in the various communes he seized do not specifically mention plenitude of power; nevertheless, they appear to encapsulate its central feature, i.e. authority above the law. In Milan the general council agreed to hand over to him all their legislative powers and the right «wholly or partially to annul, revoke, add to, curtail, change, supplement, correct, interpret and clarify the laws of Milan» as he saw fit<sup>56</sup>. Similarly in the *proemium* to the new statutes issued in Como later that year, the legislative powers of the commune were expressly handed over: namely «the unrestricted and universal power (*arbitrium*) and authority (*bailiam*) to act... over, against, beyond or outside the terms of the statutes of the city; to inflict punishment and proscription; to make laws; to disburse communal revenue and to issue statutes, provisions and privileges». To reinforce these powers, it was added that «whatever the *signore* himself orders or decrees by letter or other means is to be considered law and must be obeyed by [the people] as a permanent enactment»<sup>57</sup> in Vercelli (the only

other of Azzone's acquisitions for which there survives the complete record of his election) it was agreed too that «whatever Azzone ordains regarding the city shall be authoritative, binding and the law of Vercelli» and that he was to enjoy the same legislative powers of the commune itself, «notwithstanding any statutes, ordinances, provisions, counsel or legislation to the contrary»<sup>58</sup>. Again there is no express mention in any of these of *plenitudo potestatis*. But other sources suggest that it was a prerogative linked to popular sovereignty and transferred in accordance with the *lex regia* from people to prince. Cynus of Pistoia in his *Commentary on the Codex*, composed c. 1312-1314, concluded that the emperor enjoyed plenitude of power before his coronation by the pope: his authority came from his election by the German princes through the *lex regia* as a result of which he enjoyed the rights associated with *plenitudo potestatis*<sup>59</sup>. Writing in the 1320s, Marsilius of Padua, too, saw the source of plenitude of power in the people (the so-called «human legislator»)<sup>60</sup>. These authors were echoing an earlier tradition, articulated in the late twelfth century by the canonist, Huguccio, who wrote: «all authority to pass laws and canons was granted by the people to the emperor and by the church to the pope and from this is understood to have originated their plenitude of power»<sup>61</sup>.

Usage in other signorial regimes, too, shows that plenitude of power was thought to come from the people. Members of the general council of Mantua, ratifying Guido Bonacolsi's expenditure on buildings in 1308, declared that he was acting «from his *arbitrium* and from the plenitude of power solemnly conceded and bestowed on him by the commune of Mantua»<sup>62</sup>. Even after he had been granted a vicariate, the same assumption was made by Rinaldo Bonacolsi in 1324: as imperial vicar of Modena and Mantua, he conceded to the Gonzaga family the right to buy certain properties, «acting on the authority (*arbitrium*) and plenitude of power he exercised in those areas, [prerogatives] transferred to him by the communes, people and councils of these cities»<sup>63</sup>. There is a further example from Modena of a commune's expressly granting plenitude of power to its new *signori*. In 1336, when Obizzo and Niccolò d'Este took over the city, a statute was passed appointing them «perpetui et generales domini civitatis». Along with an extensive list of executive and legislative powers, it was decreed that «the area ruled by the commune of Modena together with full authority (*baylia*), plenitude of power and control is to be handed over to the two *signori* by the commune of Modena»<sup>64</sup>. Finally, Mastino della Scala referred in 1338 to the two prerogatives of «plenitude of power and control (*arbitrium*), both of which,» he said, «we have the honour to possess in the city, district and diocese of Verona with God's mercy and through the statutes of the commune and people of Verona»<sup>65</sup>. Whether the Visconti had any notion that their own *plenitudo potestatis* came from the people when they first began to employ the term in the 1330s and 1340s is not made clear. But, as has been seen above, circumstances then meant that the prerogative was unlikely to have been associated with the imperial vicariate. On the other hand, the idea of a link between plenitude of power and popular sovereignty certainly had contemporary currency.

New possibilities arose when in 1355 Emperor Charles IV granted a vicariate to Matteo, Bernabò and Galeazzo, who had assumed joint rule of the Visconti dominions the previous year. The diploma still did not specifically include plenitude of power but was much fuller than earlier vicariates, granting «plenam, meram, et liberam ac omnimodam liberalem et gladii potestatem et iurisdictionem nec non merum, absolutum et mixtum imperium vice et auctoritate nostris et sacri imperii». They were given control over the punishment of criminals, imposition of fines, hearing of civil cases and of appeals which normally went to the emperor, the power to raise taxes and punish rebels against the empire; in short, they were to possess «all the superiority and jurisdiction» which the emperor himself enjoyed<sup>66</sup>. Despite the seeming prestige their new status, the brothers at first continued to use the title of *dominus generalis* granted by their subject communes<sup>67</sup>, and only gradually began to refer to their new vicarial position in official documents<sup>68</sup>; from 1360 both Bernabò and Galeazzo regularly called themselves only vicars general in their acts and correspondence<sup>69</sup>. These years saw increasingly frequent references to plenitude of power from the Visconti, but because of the dual nature of their authority, both popular and imperial, the source of their *plenitudo* remained ambiguous. Evidence suggests that their own conception of its derivation mirrored their initial hesitation and subsequent growing reliance on their new title. In 1357, writing under their traditional title «generales domini», Bernabò and Galeazzo annulled a grant of land made by Matteo I and gave it to one of their followers, Giordano Clerico de Clericis «ex nostre plenitudine potestatis tanquam domini Mediolani»<sup>70</sup>, indicating that plenitude of power was perceived as coming from the commune. In a second example from 1366, Bernabò, writing as «imperialis vicarius generalis», decreed that his wife, Regina della Scala, should be granted assorted lands «de nostra et imperialis potestatis plenitudine»<sup>71</sup>, so suggesting that he had acquired plenitude of power both from the commune and from the emperor as an aspect of the vicariate<sup>72</sup>. The two documents imply that by the 1350s and 1360s the Visconti had become aware that the origins of their plenitude of power was a problem which had to be addressed. Uncertainty continued, however: indeed the vicariate proved a precarious source of authority. It had been granted for life to the brothers and their heirs, «but only so long as they maintained their loyalty and obedience to the empire»<sup>73</sup>, and when the new emperor, Wenceslas, fell out with them in 1372, he withdrew the privilege. This did not stop Bernabò, Galeazzo or his son, Giangaleazzo, who succeeded in 1378, from continuing to use the title, nor from asserting plenitude of power. But Giangaleazzo, if not Bernabò, was sufficiently disturbed by his anomalous status to procure a renewal of the vicariate in 1380<sup>74</sup>. The importance Giangaleazzo attached to this office can be measured by the fact that Wenceslas was able to use the conditional nature of the title to extract multiple payments for its continuance<sup>75</sup>. But again, there was never an express grant of plenitude of power.

The omission was finally remedied after 1395 once Giangaleazzo had been made duke of Milan. The solemnity of the coronation and splendour of the



celebrations were designed to emphasise the momentous significance of the dynasty's elevation to permanent sovereignty<sup>76</sup>. But apart from the right to create fiefs, the 1395 diploma itself did not clearly spell out what powers were conferred: Giangaleazzo and his heirs were simply to enjoy the rights and status of imperial dukes and princes<sup>77</sup>. The diploma did not satisfy Giangaleazzo, who insisted on further titles over the next two years. The most significant was the diploma granted on 13 October 1396<sup>78</sup>, whose purpose was threefold: to extend the ducal title beyond the confines of Milan, to make detailed arrangements for the succession and to create the new title of Count of Pavia. But in addition to these practical arrangements, the new diploma explicitly granted Giangaleazzo *plenitudo potestatis*: thenceforth it was to be understood that the duke was entitled «to manage, discharge and administer (*gerere, facere et expedire*) in the duchy... that which we and [other] kings of the Romans and emperors have the power to manage, discharge and administer *even from plenitude of power*»<sup>79</sup>. There is no doubt that the diplomas were in practice drawn up by Giangaleazzo and his chancery, reflecting his own ambitions. It was joked at the time that Wenceslas had provided him with a blank parchment, complete with imperial seal, for him to fill in as he pleased<sup>80</sup>. The desire for an express grant of plenitude of power emphasized the misgivings surrounding Visconti pretensions hitherto, doubts of which Giangaleazzo must have been conscious. Thus he was quick to broadcast the authorization he now had for employing plenitude of power: in the charter issued to the university of Piacenza on 1 January 1399 he wrote, «since naturally we wish to enrich our ducal monarchy with learning and virtue», he was minded to have the university set up «from our plenitude of power, as conceded to us and our heirs by the imperial office (*a Caesarea dignitate*)»<sup>81</sup>.

\* \* \*

When Azzone Visconti first began to assume plenitude of power, it was not that he was taking advantage of the latest legal opinion: contemporary jurists still worked on the understanding that such a prerogative was associated with the unchallenged sovereignty of popes, emperors and kings. It was the *signori* who took the initiative, leaving lawyers the task of incorporating their claims into a new legal framework. But it was a gradual process.

Albericus de Rosate, the most eminent jurist in Azzone's circle<sup>82</sup>, was one of the few Italian lawyers to examine the meaning of plenitude of power in a secular context. *Plenitudo potestatis* allowed the emperor the luxury of acting with legality yet outside the law. In his analysis he listed the various means by which the emperor could confiscate property: he could do so by passing a general law which might lead to the loss of property (for example, through taxation); or through a court judgement (*sententia*) or a contract; or by exercising his judicial authority and issuing a fine or a court order. None of these acts required the ruler to circumvent the law. Finally he could do so in a rescript; but rescripts were not valid if they were *contra ius*, *ius* meaning not

merely law in general but individual rights<sup>83</sup>. The emperor could not dispose of his subjects' property by this kind of executive order «unless he were willing to use *plenitudo potestatis*»<sup>84</sup>. Albericus conceded that «a rescript which completely ignores or gravely prejudices the rights of another should not be granted»<sup>85</sup>, but allowed that, with *plenitudo potestatis*, the emperor could act at will. Albericus thus clarified the theory of plenitude of power from the point of view of secular authority and was responsible, together with Cynus de Pistoia, for bringing into Italy a concept of monarchy which had been suggested by French lawyers such as Petrus Bellaperticus and Jacobus de Ravannis<sup>86</sup>. Albericus composed his commentaries on the *Digest* and *Codex* before 1345 and by that time the Visconti and other *signori* had long been using *plenitudo* in their official acts. And yet his discussions focus wholly on emperor and pope: nowhere does he suggest that the Visconti were endowed with *plenitudo*. On the other hand his confirmation that *plenitudo potestatis* was a tool for allowing secular rulers to get round established laws and rights had immense potential.

The Milanese jurist, Signorolus de Homodeis (d. 1371), was just as much involved in local affairs as his contemporary Albericus during the years after 1330 when the Visconti were establishing their regime. From 1330 to 1362 he was a member of the Milanese *Collegium Iurisconsultorum*; in 1351 he was appointed by Giovanni Visconti to help revise the statutes of Milan and he was invited by Galeazzo II to a chair at the University of Pavia when it was first re-established in 1361<sup>87</sup>. Whereas Albericus was unwilling to break the mould and remained diffident about the monarchical pretensions of the Visconti, Signorolus appears to have enthusiastically embraced the new world of the *signori*. Signorolus, indeed, appears to have been the first of the Milanese lawyers to take the decisive step and give the Visconti the full role of prince in their own dominions. In one instance he was asked to give an opinion in a dispute between Parma and Cremona over customs duties<sup>88</sup>. A particular aspect of the case was to be judged by their joint Visconti ruler; Signorolus concluded that, when it comes to carrying out the will of the *signore*, «what pleases the prince has the force of law, as it says in the *Institutes*»<sup>89</sup>. In 1343, fearful lest rebels should find refuge within his own lands, Luchino Visconti issued the order which appears as the first law in the *Antiqua ducum Mediolani decreta*. It takes the form of a letter to the «potestati, sapientibus et communi» of Piacenza, stating that any criminal or person proscribed in a Milanese court should be considered such in Piacenza too. Appended to the decree is a list of the other communes who received the same letter, a cumbersome procedure which reflected the fact that each city had made its own pact with the Visconti and was treated as a separate entity, their interrelationship being left undefined<sup>90</sup>. Thus Luchino was not, in this instance, attempting to legislate for all his territories as a unit but was showing his respect for the traditional independence of the communes. Signorolus, on the other hand, was more sympathetic to the Visconti's overall aspirations of to be considered territorial princes. In a *consilium* composed some time after Luchino's death,

he debated the status of this injunction. «The letter» he insisted, «should be seen as a general law» and not merely as a communal statute. «The late revered Luchino determined that lands subject to his rule, which in other ways enjoyed separate jurisdiction, should join together in respect of proscription and have the benefit of unity with each other»<sup>91</sup>.

It is in the context of conceding a quasi-royal position to the Visconti that Signorolus's acceptance of their claim to *plenitudo potestatis* can be seen. When Giovanni Visconti approved the sale of a tax farm «ex plenitudine potestatis sue» Signorolus was happy to support Giovanni's prerogative in the course of the resulting dispute<sup>92</sup>. A tax issued on such a basis overrode, in his opinion, the right to exemption of a particular religious house. First of all he demonstrated the existence of a just cause, the accepted precondition whenever individual rights were to be undermined by plenitude of power. In this instance peace and security had to be protected in unhappy times by mercenary troops, who needed to be paid; it was only fair that, as prime beneficiaries of defence expenditure, religious houses should contribute<sup>93</sup>. Giovanni's concession of a tax farm, being based on plenitude of power used with just cause, had the effect of annulling the well founded privileges of the convent. In such ways the Visconti claim to *plenitudo potestatis* first began to be acknowledged in the legal profession, a recognition which for Signorolus went hand-in-hand with the notion that the Visconti were endowed with imperial privileges. For him that idea was unconnected to Charles IV's vicariate, which was not granted until after the deaths of Luchino and Giovanni. His thought appears rather to have paralleled that of his contemporary Bartolus whose concept of *civitas sibi princeps* owed its existence, similarly, not to formal diplomas but to the practical necessities of governing independent city-states<sup>94</sup>.

By the time Baldus accepted an invitation from Giangaleazzo Visconti to lecture at Pavia in 1390, he was Italy's most renowned jurist and his presence there until his death in 1400 brought prestige to the new university and to the regime. His eminence gave him a redoubtable independence and, though willing to support Giangaleazzo where possible, his reputation was such that he did not feel obliged to temper his opinions. In his writings the essential paradox at the heart of *plenitudo potestatis* emerged. Plenitude of power had always had two sides: it symbolized, on the one hand, unique supremacy and was employed in this sense by the emperor and other heads of state. But at the same time plenitude of power was the means by which a ruler could override existing laws and rights. It was both a badge of sovereignty and an instrument of injustice. The inherent contradictions are reflected in Baldus's ambivalent attitude to plenitude of power: he recognized that it was an impressive attribute of monarchy but distrusted its role in government. Given his punctiliousness, it is perhaps not surprising that he was suspicious of a prerogative which could be used as a means of by-passing established law. He contrasted behaving with propriety with acting from plenitude of power: «those things are presumed to be done properly (*decenter*) and not from plenitude of power»<sup>95</sup>. One of his emphatic and much quoted definitions

of *plenitudo* reads: «plenitude of power is plenitude of authority (*arbitrium*), subject to no compulsion and limited by none of the rules of public law». This lack of restraint had alarming consequences: «The prince is able to favour the less fair over the fairer and the worse over the better; since he is not bound by anything, he can please himself»<sup>96</sup>. Much had changed in the decades since Albericus assumed that plenitude of power belonged solely to established sovereigns. According to Baldus it made little difference whether *plenitudo* was claimed *de iure* or *de facto*<sup>97</sup>: «since plenitude of power beyond normal territorial jurisdiction is based on entitlement,» he said, «it must have some sort of privilege to stand on, but that could be either an imperial grant or a long standing custom»<sup>98</sup>. Plenitude of power was a phrase which was thrown about by all and sundry: «All the Lombard *signori*», he wrote, «routinely use the phrase “de plenitudine potestatis” relying on some kind of theory and established practice and acting as if they had a right to the expression and its reality; and, [saying so] without prejudice to the law, I do consider that their words should be trusted. After all it is hardly likely that they would use an expression with no foundation»<sup>99</sup>. For his own part, he wrote, «I have always accepted plenitude of power and regarded the assertions of all those *signori* as legitimate»<sup>100</sup>. Baldus’s hostility to the way in which plenitude of power was being abused was nowhere more starkly revealed than in his opinion of the grant of two *castra* made by Emperor Charles IV to the Malaspina family, later confirmed by Wenceslas. These lands were not, according to evidence submitted by the original owner, the emperor’s to give and, as Baldus pointed out, «if one noble seizes the holding of another on imperial authority, [the law says] he has to return it together with any revenues which have accrued»<sup>101</sup>. The Malaspina concession was therefore invalid: «for the emperor may not, simply on his own authority, give permission for someone to expel a just and lawful owner»<sup>102</sup>. The difficulty was that the grant had been made *ex plenitudine potestatis*. But Baldus was adamant: «it makes no difference that the words “de plenitudine potestatis” were used; for plenitude of power means plenitude of good and laudable power, not that which is disgraceful and tyrannical... This thoughtless and abusive device, which princes utilize these days in their rescripts, should be totally eradicated from royal courts»<sup>103</sup>. The *consilium* encapsulated Baldus’s attitude to plenitude of power: in practice it was being used for just those «disgraceful and tyrannical» purposes that he had denounced.

With regard to the Visconti, too, Baldus found it difficult to conceal his contempt for the triumph of plenitude of power over law and justice. The treasury had confiscated a house as payment for a debt owed by a certain Thomas, and Giangaleazzo had given the property «ex certa scientia et de plenitudine potestatis» to Benentono, a rich property owner from Piedmont. Subsequently a third person claimed that the house had been pledged to him as security for money owed and that he had effectively been robbed by the treasury. Baldus was confident that this claim was the stronger in law: «Benentono ought to return the house, [which Giangaleazzo gave him]

because it is universally acknowledged that “first in time is stronger in law”»<sup>104</sup>. On Benentono’s side all that could be said was that «he possessed the house in good faith and with a decree from the prince; or indeed, it should rather be said that where a decree is involved there is no need for good faith... For the prince can, with cause, take someone’s property... Moreover the donation included the words “ex certa scientia et de plenitudine potestatis” and where these words are incorporated, it would be like sacrilege to disobey (always assuming the donor has such power)»<sup>105</sup>. Again there was right in law and there was plenitude of power. Baldus himself put it frankly at the end of the *consilium*: «this is a problematic case because on the one side you have fairness and on the other you have supreme power... I would not counsel in any other way because the case touches the interests of our magnificent *signore* and the decision rests with the Council of Justice, not with me»<sup>106</sup>. Baldus had stressed in his lectures that *plenitudo potestatis* was meant to be used sparingly<sup>107</sup>; but in practice it had become commonplace. The implications were negative: he contrasted *plenitudo potestatis* with *plenitudo honestatis*<sup>108</sup>. He saw the Visconti getting round established laws and rights by liberal use of their claim to plenitude of power, but there was no going back: «if anyone were to call into question the powers of the *signori*,» he wrote, «he would destroy the effectiveness [of their rule] and I would not put forward any such opinion because I would not want to turn the world upside-down»<sup>109</sup>. Whatever reservations he had about the Visconti and *plenitudo*, their system of grants, privileges and decrees now depended on its use. Baldus had to work within a system of government where, as he put it, «the prince, motivated by any objective, however trivial, can do whatever he wants from plenitude of power»<sup>110</sup>.

The hundred years since the early Bonacolsi’s references to their plenitude of power had seen the consolidation of signorial regimes in terms of legitimacy and bureaucratic organization. During that time *plenitudo potestatis* was employed increasingly as one of the means by which the Visconti could impose their will on an existing network of rights; in the fifteenth century plenitude of power would continue to flourish as a fundamental component of the government of Milan. The final concession of the prerogative by Wenceslas to Giangaleazzo marked a key stage in the formal legitimization of Visconti rule but, as Baldus’s works forewarned, later lawyers would be adept at finding ways round the indiscriminate use of a tool which threatened established privileges and the laws of property.

## Note

<sup>1</sup> C. Santoro, *La politica finanziaria dei Visconti. Documenti*, vol. I, Milan 1976, p. 7.

<sup>2</sup> Examples of Azzone's use of plenitudo are rare, in part because of the paucity of documents surviving from his rule; but the 1353 statutes of Bergamo provide another example in the confirmation of the right of Molotono de Muzzo of Bergamo to collect duties on wood carried on sections of the Serio and Brembo rivers which Azzone had given on 15 November 1336 «auctoritate nostra et comunis nostri Pergami et de nostre plenitudine potestatis»; at the end of the statute he annulled contrary laws «eciam de nostre plenitudine potestatis» (*Lo Statuto di Bergamo del 1353*, ed. G. Forgiarini, Spoleto, 1996, pp. 355-357).

<sup>3</sup> «... in partem sollicitudinis non in plenitudinem potestatis». See R. L. Benson, «*Plenitudo potestatis*»: evolution of a formula from Gregory IV to Gratian, in *Collectanea Stephan Kuttner, Studia Gratiana*, vol. XIV, Bologna 1967, vol. IV, p. 198; J. A. Watt, *The use of the term «plenitudo potestatis» by Hostiensis*, in *Proceedings of the Second International Congress of Medieval Canon Law*, eds. S. Kuttner and J. J. Ryan, Vatican City 1965, p. 161. Benson («*Plenitudo potestatis*» cit.) cites some of the literature on the history of the term. More bibliography may be found in K. Pennington, *Pope and Bishops: the Papal Monarchy in the Twelfth and Thirteenth Centuries*, Philadelphia 1984.

<sup>4</sup> Watt, *The Use of the term* cit., pp. 164-165.

<sup>5</sup> «... secundum plenitudinem potestatis de iure possumus supra ius dispensare» (Benson, «*Plenitudo potestatis*» cit., p. 197, n. 7).

<sup>6</sup> Watt, *The Use of the term* cit., pp. 166-168.

<sup>7</sup> W. McCready, *Papal «plenitudo potestatis» and the source of temporal authority in late medieval papal hierocratic theory*, in "Speculum", vol. XLVIII, 1973, p. 655.

<sup>8</sup> For a discussion of the early use of «plenitudo potestatis» at the imperial court see E. Schubert, *König und Reich: Studien zur spätmittelalterlichen deutschen Verfassungsgeschichte*, Göttingen 1979, pp. 128-139.

<sup>9</sup> A privilege was issued in 1310 to the count of Guelderland «de plenitudine potestatis regie» to collect tolls, (*M[onumenta] G[ermaniae] H[istorica]*, *Legum sectio IV, Constitutiones IV* pt. 1, nr. 429, p. 373); in the same year Henry VII appointed his son John, king of Bohemia, to the position of imperial regent «de regie plenitudine potestatis», (*ibidem*, nr. 444, p. 389); in 1311, he announced laws quashing the reprisals and banishments which had been passed against his enemies in Lombardy and Tuscany «ex nostre plenitudine potestatis», (*ibidem*, nr. 563, p. 523); in 1311 the archbishop of Mainz was restored to certain rights near Dietfort «de plenitudine regie potestatis», (*ibidem*, nr. 678, p. 648.). The bishop of Eichstätt was absolved of charges of usury in 1311 «de plenitudine regie potestatis» (*ibidem*, nr. 680, p. 649).

<sup>10</sup> «Omnia ergo singula supradicta, que pro subditorum quiete duximus ordinanda, retenta nobis plenitudine regie potestatis declarandi, mutandi, vel etiam corrigendi, addendi vel minuendi... volumus observari». *Ordonnance pour la réformation des mœurs dans Languedoc et Languedoil*, published in J. Isambert, *Recueil Général des Anciennes Lois Françaises*, Paris 1822-33, vol. I, p. 274. See also A. Gouron, *Royal 'ordonnances' in medieval France*, in *Legislation and Justice*, ed. A. Padoa Schioppa, Oxford 1997, p. 62.

<sup>11</sup> Isambert, *Recueil* cit., vol. II, p. 808; J. Krynen discusses the use of the phrases «certa scientia», «auctoritas regia» and «plenitudo potestatis» in French royal ordinances in the fourteenth century in «*De nostre certaine science... » Remarques sur l'absolutisme législatif de la monarchie médiévale Française*, in *Renaissance du Pouvoir Législatif et Genèse de l'Etat*, eds. A. Goron and A. Rigaudière, Montpellier 1988, pp. 57-69.

<sup>12</sup> Isambert, *Receuil* cit., vol. III, pp. 119 and 151.

<sup>13</sup> Quoted in P. Torelli, *Capitanato del popolo e vicariato imperiale come elementi costitutivi della signoria bonacolsiana*, in "Atti e Memorie della R. Accademia Virgiliana di Mantova", n. s., vols. 14-16 (1923), p. 114. The author cites further examples from 1304 and 1305 (p. 115); 1308 (pp. 116, 118) and 1324 (p. 147).

<sup>14</sup> G. B. Verci, *Storia della Marca Trivigiana e Veronese*, Venice, 1786-91, vol. IX, Doc. 950, p. 23.

<sup>15</sup> Verci, *Storia* cit., vol. IX, Doc. 973, p. 55.

<sup>16</sup> 16 September 1328; the document is published by G. Biadego, *Tre documenti Scaligeri riguardanti Spinetta Malaspina*, in *Miscellanea di Studi Storici in onore di Giovanni Sforza*, Turin 1923, pp. 195f. It is described and reproduced by A. Bartoli Langelì, *Diplomi scaligeri*, in *Gli Scaligeri. 1277-1387. Saggi e schede pubblicati in occasione della mostra storico-*

documentaria allestita dal Museo de Castelvecchio di Verona, ed. G. M. Varanini, Verona 1988, pp. 77 and 195.

<sup>17</sup> 10 July 1331; Bartoli Langeli, *Diplomi*, cit., p. 77, reproduced p. 78.

<sup>18</sup> Torelli, *Capitanato* cit., pp. 117ff.

<sup>19</sup> «... il maggiore tiranno e l più possente e ricco che fosse in Lombardia da Azzolino di Romano infino allora, e chi dice di più» (G. Villani quoted by G. P. Marchi, «*Valore e cortesia*»: *l'immagine di Verona e della corte scaligera nella letteratura e nella memoria storica*, in *Gli Scaligeri* cit., p. 485.)

<sup>20</sup> Quoted by G. M. Varanini, *Cangrande Della Scala*, DBI, vol. XXXVII, p. 402.

<sup>21</sup> G. M. Varanini, *Propaganda dei regimi signorili: le esperienze venete del Trecento*, in *La forma della propaganda politica nel Due e nel Trecento. Relazioni tenute al Convegno internazionale organizzato dal Comitato di studi storici di Trieste dall'Ecole française di Roma*, Rome 1994, pp. 314-316.

<sup>22</sup> This was vividly described in the poem *Bisbidis* by Immanuel Romano (Marchi, «*Valore e cortesia*» cit., p. 486; the text is published in the Appendix, pp. 494-495). The dating of the description to the 1320s is convincingly argued by G. M. Varanini, *Propaganda* cit., pp. 322ff.

<sup>23</sup> «Nec imperatoriam, regiamve curiam in Longobardiae provincia a referendae memoriae tempore ullam auditam, visamve, constabat huic potuisse conferri», cited by P. Rigoli, *L'esibizione del potere. «Curie» e feste scaligere nelle fonti cronistiche*, in *Gli Scaligeri* cit., p. 150. Rigoli emphasizes that «una curia ben riuscita dava celebrità al principe quasi quanto una vittoria» (*ibidem*, p. 151); see also Marchi, «*Valore e cortesia*» cit., p. 487.

<sup>24</sup> «El sarà re d'Italia, enançi un anno», cited by A. di Salvo, «*Celebrazioni politiche d'occasione*»: *il caso dei primi Scaligeri*, in *La forma della propaganda politica* cit., p. 297.

<sup>25</sup> This was said by the anonymous Roman in his *Cronica* (Di Salvo, «*Celebrazioni politiche d'occasione*» cit., p. 297); the account of the crown appears in other chronicles and it is said that Azzone was dismayed by his rival's presumption (F. Cognasso *L'unificazione della Lombardia sotto Milano in Storia di Milano*, vol. V, Milan 1955, p. 275).

<sup>26</sup> Studies on the della Scala chancery show that their staff were consciously attempting to reflect the lofty status of their masters (Bartoli Langeli, *Diplomi* cit., p. 82). Bartoli Langeli stresses in this context the significance of the reference to the Scaligeri's *plenitudo potestatis*.

<sup>27</sup> C. Santoro, *La politica finanziaria* cit., p.1. He had to hand over 12,000 gold florins per month in addition to paying the salaries of the 200 members of the emperor's entourage in Italy.

<sup>28</sup> On the occasion of the Corpus Christi celebrations in 1335, for example, there was, according to the chronicler Galvano Fiamma, an outburst of splendour, including a procession of 100,000 people and a sumptuous banquet (*Opusculum de rebus gestis ab Azzone, Luchino et Johanne Vicecomitibus ab anno MCCCXXVIII usque ad annum MCCCXLII*, ed. C. Castiglioni, Bologna 1938, RIS, vol. XII, parte 4, p. 19).

<sup>29</sup> Fiamma, *Opusculum* cit., p. 16.

<sup>30</sup> Fiamma, *Opusculum* cit., p. 17. G. Creighton convincingly demonstrated that the fresco described by Fiamma was the work of Giotto (*The fresco by Giotto in Milan*, in "Arte Lombarda", 1977, pp. 47-48). The significance of Azzone's artistic patronage in terms of «evoking the quality of princely greatness» is shown by L. Green in *Galvano Fiamma, Azzone Visconti and the revival of the classical theory of magnificence*, in "Journal of the Warburg and Courtauld Institutes", vol. LIII (1990), pp. 98-113.

<sup>31</sup> B. Biondelli, *La zecca e le monete di Milano*, Milan, 1869, p. 111; P. Verri, *Storia di Milano*, Milan 1834-1850, vol. I, p. 390: «Azzone fu il primo che veramente fosse sovrano; e laddove nessuno dei Torriani, nè Ottone Visconti, nè Matteo, nè Galeazzo I ardirono mai di porre il loro nome nella moneta, la quale anzi sempre fu coniata o col nome solo di Milano e di Sant'Ambrogio, ovvero coll'aggiunta del nome del Re dei Romani o dell'imperatore... ».

<sup>32</sup> In 1335, for example, when Como was handed to Azzone by Franchino Rusca, the commune issued coins which for the first time boasted the name of their signore. There were to be thirteen such in the four years before Azzone's death (*Corpus nummorum Italicorum*, vol. IV, Rome 1913, pp. 183-185).

<sup>33</sup> Quoted by Torelli, *Capitanato* cit., pp. 114ff.

<sup>34</sup> He was given «merum et purum imperium et jurisdictionem, dominium, potestatem, signoraticum et liberum arbitrium» (the document is published in E. Salzer, *Ueber die Anfänge der Signorie in Oberitalien*, Berlin 1900, pp. 302-303). On this aspect of *arbitrium*, see, for

example, G. Sandri, *Il vicariato imperiale e gli inizi della signoria scaligera in Vicenza*, in "Archivio Veneto", a. IX (1932), p. 77; G. De Vergottini, *Signorie e principati*, in *Scritti di storia del diritto italiano*, ed. G. Rossi, vol. II, Milan 1977, pp. 654ff; F. Ercole, *Comuni e signori nel Veneto (Scaligeri, Caminesi e Carraresi)*, in *Dal comune al principato. Saggi sulla storia del diritto pubblico del rinascimento italiano*, Florence 1929, p. 106; C. Storti Storchi, *Aspetti generali della legislazione statutaria Lombardia in età viscontea*, in *Legislazione e società nell'Italia medievale per il VII centenario degli statuti di Albenga*, Atti del Convegno, Bordighera 1990, pp. 78-79; M. Meccarelli, «Arbitrium». *Un aspetto sistematico degli ordinamenti giuridici in età di diritto comune*, Milan 1998, pp. 186ff.

<sup>35</sup> Verci, *Storia cit.*, vol. IX, Doc. 950, p. 23.

<sup>36</sup> G. B. Picotti, *I Caminesi e la loro signoria in Treviso dal 1283 al 1312*, Livorno 1905, p. 229 and Doc. 53, p. 301.

<sup>37</sup> Verci, *Storia cit.*, vol. IX, Doc. 973, p. 55.

<sup>38</sup> G. Sandri, *Il vicariato cit.*, p. 101; for the provision of the general council of Vicenza, 27 February 1312, see pp. 113-114.

<sup>39</sup> Bartoli Langeli, *Diplomi cit.*, p. 78.

<sup>40</sup> 26 September 1334, (Santoro, *La politica finanziaria cit.*, p. 7).

<sup>41</sup> *Lo Statuto di Bergamo del 1353 cit.*, p. 357.

<sup>42</sup> Santoro, *La politica finanziaria cit.*, pp. 18-19. In 1341 Giovanni and Luchino granted a tax rebate to the city of Piacenza «de nostre plenitudine potestatis et omni nostra auctoritate» (Santoro, *La politica finanziaria cit.*, p. 24).

<sup>43</sup> «Quod reddatur ius subditis dominorum non obstante quod non subeant onera» (23 May 1343), *Antiqua ducum Mediolanum decreta*, Milan 1654, p. 1.

<sup>44</sup> Santoro, *La politica finanziaria cit.*, p. 2.

<sup>45</sup> E.g. James of Viterbo, *De regimine Christiano* (ed. H.-X. Arquillière, *Le plus ancien traité de l'Eglise, Jacques de Viterbe, «De regimine Christiano» [1301-1302]*, Paris 1926), p. 268.

<sup>46</sup> Watt, *The Use of the term cit.*, p. 176; Benson, *Plenitudo potestatis cit.*, pp. 197 n. 3 and 210.

<sup>47</sup> Krynen, «*De nostre certaine science*» cit., p. 137 n. 25.

<sup>48</sup> G. B. Ladner, *The concepts of «ecclesia» and «Christianitas» and their relation to the idea of papal «plenitudo potestatis» from Gregory VII to Boniface VIII*, in *Images and Ideas in the Middle Ages: Selected Studies in History and Art*, vol. II, Rome 1983 (originally published in *Sacerdozio e Regno da Gregorio VII a Bonifacio VIII (Miscellanea Historiae Pontificiae 18, Rome 1954)*, p. 511.

<sup>49</sup> E.g. *Sententia diffinitiva contra Regem Robertum Siciliae per Henricum Imperatorem lata*, 26 April 1313, in G. Doenniges, *Acta Henrici VII*, pars I, Berlin 1839, p. 200.

<sup>50</sup> E.g. *Scriptum de privilegiis concedendis*, 9 September 1310 (MGH, *Legum Sectio IV, Constitutiones IV*, part i, p. 373); *Encyclica italicis missa*, 13 September 1310 (*ibidem*, p. 389); *Cassatio repressaliarum*, 12 September 1311 (*ibidem*, p. 648).

<sup>51</sup> Louis IX's *Ordonnance pour la réformation des moeurs dans le Languedoc et la Languedoil*, December 1254 (Isambert, *Receuil cit.*, vol. I, p. 274); Philip IV's *Etablissement portant défense des guerres privées*, 9 January 1303 (Isambert, *Receuil cit.*, vol. II, p. 808).

<sup>52</sup> E. Besta maintained «Attraverso il vicariato il signore acquistò la facoltà di esercitare la *plenitudo potestatis*» (*Il diritto pubblico italiano dagli inizi del secolo decimoprimo alla seconda metà del secolo decimoquinto*, Padua 1929, p. 299).

<sup>53</sup> Santoro, *La politica finanziaria cit.*, p. 1. The 1311 diploma to Cangrande appears to come closest to a grant of plenitude of power: the document itself does not survive, but in the statutes issued under his name in Verona in 1328, Cangrande is described as having obtained from Henry VII «merum et mixtum imperium ac plenissimam potestatem et iurisdictionem» (F. Ercole, *Impero e Papato nel diritto pubblico italiano del Rinascimento (secc. XIV-XV)* in *Dal comune cit.*, p. 287, n. 2). But *plenissima potestas* did not have the same connotations as *plenitudo potestatis*.

<sup>54</sup> There was only the title briefly held from John of Bohemia in 1331 (G. Biscaro, *Le relazioni dei Visconti di Milano con la Chiesa. Giovanni XXII ed Azzone*, in "Archivio Storico Lombardo", ser. V, a. XLVI [1919], p. 208 n. 1).

<sup>55</sup> Biscaro, *Le relazioni cit.*, p. 145; Cognasso, *L'unificazione cit.*, p. 217.

<sup>56</sup> «... ea in toto vel in parte cassandi, irritandi et eis addendi, minuendi, mutandi, supplendi, corrigendi, interpretandi et declarandi secundum quod ei videbitur expedire». The account is



published by F. Cognasso, *Note e documenti sulla formazione dello stato visconteo*, in "Bollettino della società pavese di storia patria", a. XXIII, 1923, Doc. 3, pp. 123-128.

<sup>57</sup> «Insuper liberum et generale arbitrium et bailiam faciendi per se vel alios, ut predicatur, ultra, contra, citra, vel preter formam statutuorum dicte civitatis, imponendi penas et banna, leges condendi, pecunias dicti comunis expendendi, statuta. reformationes et privilegia faciendi... quicquid ipse dominus per litteras, vel alio modo, iuxerit vel statuerit sit et intelligatur esse lex et pro lege perpetuo ab eis debeat observari» (*Statuti di Como del 1335. Volumen magnum*, vol. I, ed. G. Manganeli, Como 1936, p. 17)

<sup>58</sup> «Quicquid decreverit idem dominus Azo de civitate et districtu Vercellarum... sit validum et firmum et lex communis Vercellarum. Et pro statutis et decretis communis Vercellarum habeantur et teneantur ac si tunc foret ordinatum per commune Vercellarum.... et quod habeat et habere debeat plenam et liberam potestatem et bayliam ordinandi statuendi legem et leges condendi et statuta faciendi secundum et eo modo ut habet et habuit et habere potest commune Vercellarum... non obstantibus aliquibus statutis, ordinamentibus, provisionibus, consiliis et legibus in contrarium facientibus», 26 September 1335 (*Statuta Communis Vercellarum ab anno mccccli*, in *Monumenta Historiae Patriae XVI, Leges Municipales*, vol. II part 2, Turin 1876, *Appendix sexta et postrema*, coll. 1503-4).

<sup>59</sup> The discussion opens with the question whether the emperor has the right to legitimize fatherless children (spurius) «quia ex plenitudine potestatis dispensatio procedit». He concludes: «sed electo a populo per legem regiam, omne ius utriusque potestas competit merito, et electo a principibus competit... Et sic cum eadem iurisdictione fungatur quia Iustinianus lege non tenetur, ut lex "digna vox". Et sic patet quod iurisdictionem habet legitimandi et privilegium concedendi cum iurisdictionem et potestatem imperialem obtineat... » (C. 7, 37, 3 *De quadrennii praescriptione*, l. *Bene a Zenone*, nr. 4).

<sup>60</sup> *Defensor Pacis*, Bk 3, ii, 13: «No ruler, and still less any partial group or individual person of whatever status, has plenitude of control or power over the individual or civil acts of other persons without the determination of the mortal legislator» (trans. A. Gewirth, *Marsilius of Padua: the Defender of Peace*, New York 1951-6, vol. II, p. 427 in the Medieval Academy of America reprint). Gewirth explains that according to Marsilius, «the legislator possesses, and hence can grant, such plenitude; so that Marsilius' republicanism as to the source of power is coupled with an absolutism as to the extent of power» (vol. I, pp. 257-258). L. Mayali suggests that the same idea was current in France (*Lex animata. Rationalisation du pouvoir politique et science juridique [XIIème-XIVème siècles]*, in *Renaissance du Pouvoir* cit., p. 162 and n. 50).

<sup>61</sup> «Omne enim ius condendi leges vel canones populus contulit in imperatorem et ecclesia in apostolicum unde intelligitur uterque plenitudinem potestatis quo ad hoc... » (*Summa ad dist. 4 c.3*, quoted by B. Tierney, *Foundations of the Conciliar Theory. The Contribution of the Medieval Canonists from Gratian to the Great Schism*, Cambridge 1955, p. 145 n. 2).

<sup>62</sup> «... ex arbitrio suo et plenitudine potestatis eidem solemniter concessis et attributis per comune Mantue»' (quoted by Torelli, *Capitanato* cit., p. 118). Similarly in the following year Rinaldo Bonacolsi authorized a procurator to act for him in negotiations with Verona and other cities «ex arbitrio et plenitudine potestatis sibi per Comune et Universitatem Mantue sollempniter attributis» (19 march 1309). The document is published by C. Cipolla, *Documenti per la storia delle relazioni diplomatiche fra Verona e Mantua nel secolo XIV*, in *Miscellanea di Storia Veneta*, ser. II, vol. XII, parte 1, Venice 1907, Doc. 78, pp. 204-205.

<sup>63</sup> «... ex arbitrio suo et plenitudine potestatis quibus fungitur in partibus supradictis, eidem collatis per communia, homines et consilia civitatum predictarum» (cited by Torelli, *Capitanato* cit., p. 147).

<sup>64</sup> L. A. Muratori, *Delle antichità estensi ed italiane*, Modena 1718-40, vol. II, p. 97: «et sit statutum precixum comunis Mutine cum omni baylia et plenitudine potestatis et arbitrii in ipsos Dominos Marchiones collecta per comune Mutine».

<sup>65</sup> This appeared in the document confirming the privileges given by Bartolomeo, bishop of Verona, to the monastery of S. Cassiano, «de nostre plenitudine potestatis et arbitrii quod et quam in civitate et diocesi ac districtu Verone, divina disponente clementia et per statuta Communis et Populi Verone dignoscimur obtinere» (Bartoli Langeli, *Diplomi* cit., pp. 78 and 82).

<sup>66</sup> Santoro, *La politica finanziaria* cit., pp. 99-100.

<sup>67</sup> Examples from the years 1355-1360 can be found in Santoro, *La politica finanziaria* cit., pp. 103, 106, 108, 109, 110, 116.

<sup>68</sup> There was a grant of 29 December 1357 from «nos Bernabos et Galeaz fratres Vicecomites

civitatum Mediolani etcetera, sacri Romani imperii vicarii generales» (Santoro, *La politica finanziaria* cit., p. 113); on 22 February 1359 Galeazzo wrote to the podestà of Bobbio as «Nos Galeaz Vicecomes Mediolani etc. imperialis vicarius generalis» (Santoro, *La politica finanziaria* cit., p. 115).

<sup>69</sup> That is except where the proper name of the sender was not used, as in *dominus Mediolani etc. Imperialis Vicarius generalis*. Occasionally the two styles appear together, as in the 1369 statute facilitating the sale of property which referred to «domini Bernabos et Galeaz, fratres Vicecomites Mediolani etc. imperiales vicarii et Domini generales» (*Antiqua ducum* cit., p. 34).

<sup>70</sup> Santoro, *La politica finanziaria* cit., p. 109.

<sup>71</sup> 12 February 1366 (Santoro, *La politica finanziaria* cit., p. 160).

<sup>72</sup> The double reference reflected the nature of Bernabò's diploma: it concerned lands over which he wished to make his wife outright ruler but where he exercised a confusing variety of titles (G. Bonelli, *A proposito dei beni di Beatrice della Scala nella Calciana*, in "Archivio Storico Lombardo", ser. III, vol. XIX, a. XXX, [1903], p. 132 and Doc. 5, p. 140; F.E. Comani, *Sui domini di Regina della Scala e dei suoi figli*, in "Archivio Storico Lombardo", ser. III, vol. XVII, a. XXIX [1902], pp. 232ff). Bernabò listed his claims to authority over the lands: «... damus, concedimus et traddimus quicquid ad nos sive tamquam nostrum alodium sive iure dominationis, dignitatis vel vicariatus pertinet, sive etiam ad aliquas civitates et terras vel loca nostro dominio subiecta vel ad imperialem celsitudinem, cuius vices gerimus in partibus istis» (Santoro, *La politica finanziaria* cit., p. 160).

<sup>73</sup> «... dumtamen in nostra et sacri imperii fide et obedientia persistatis» (Santoro, *La politica finanziaria* cit., p. 98).

<sup>74</sup> D. M. Bueno de Mesquita, *Giangualeazzo Visconti, Duke of Milan (1351-1402). A study in the political career of an Italian despot*, Cambridge 1941, p. 26. The diploma is reproduced in J. Dumont, *Corps Universel Diplomatique du Droit des Gens*, Amsterdam 1726, vol. II, part 1, pp. 145-147.

<sup>75</sup> A. De Circourt, *Le Duc Louis d'Orléans, frère de Charles VI, ses entreprises en Italie (1392-1396)*, in "Revue des Questions Historiques" (1 January, 1889), p. 81.

<sup>76</sup> Bueno de Mesquita, *Giangualeazzo* cit., p. 174; C. Cantù, *Gian Galeazzo Visconti*, in "Archivio Storico Lombardo", ser. II, vol. IV, a. XIV (1887), pp. 465-467.

<sup>77</sup> Dumont cit., p. 237: «Decernentes et hoc Romano Regio statuentes edicto quod tu, heredes et successores tui perpetuo Duces et principes civitatis et diocesis Mediolanensis nominari et appellari debeatis et tanquam caeteri imperii duces et principes teneri et honorari et utique ab omnibus reputari, omnique tunc privilegio, honore, gratia, dignitate et immunitate absque impedimento perfrui quibus alii Sacro-Sancti Imperii duces et principes in dandis sive recipiendis iuribus, in conferendis seu suscipiendis feudis et omnibus aliis illustrem statum et conditionem ducum sive principum concernentibus frui sunt hactenus... ».

<sup>78</sup> Published in J. C Luenig, *Codex Italiae diplomaticus*, Frankfurt and Leipzig 1725-35, vol. I, cols 425-432.

<sup>79</sup> Luenig cit., vol. I, col. 429: «... et alia gerere, facere et expedire in ducatus Mediolani etc praedictis, quod nos et Romani Reges et Imperatores gerere, facere et expedire possemus, etiam de plenitudine potestatis... ».

<sup>80</sup> G. Dati, *Cronaca*: «... egli ebbe dall'imperatore una carta bianca di pergameno col suggello pendente dello imperio da potervi fare poi scrivere quello che avesse voluto... » (Cited in G. Romano, *Gian Galeazzo Visconti e gli eredi di Bernabò*, in "Archivio Storico Lombardo", ser. II, vol. VIII, a. XVIII [1891], p. 303, n. 2).

<sup>81</sup> M. Campi, *Dell'istoria ecclesiastica di Piacenza*, Piacenza 1666-7, vol. III, p. 307: «Nos qui ducalem sane nostram monarchiam desideramus scientiis ac virtutibus facundare et huiusmodi veris ornamentis fulcire, non immerito, motu proprio, de nostrae plenitudine potestatis a Caesarea dignitate nobis, et nostris successoribus attributa, Deo auctore, et de certa scientia, et omnimodo quo melius possumus, duximus in civitate nostra Placentiae generale studium instaurandum». The same phrase appears a few weeks later in a decree against corrupt officials which Giangualeazzo issued «motu proprio, ex certa scientia, et de nostra plenitudine potestatis nutu divino a Caesare dignitatis nobis concessae» (*Antiqua ducum* cit., p. 225).

<sup>82</sup> He had spent most of the 1330s working for Azzone Visconti, helping to reestablish his position and to reorganize the Visconti dominions, as well as undertaking missions on his behalf to the papal court (L. Prosdocimi, *Alberico da Rosate*, DBI, vol. I, pp. 656f).

<sup>83</sup> Albericus de Rosate, *In primam Digesti Veteris partem commentaria*, Venice 1585, reprinted

Bologna 1979, *ad Const. Omnem*, nr. 13 (omitting his citations): «Aliquando imperator exercet iurisdictionem imperialem legem condendo, et tunc transfert dominium; quodcumque ex lege immediate et ubicunque lex inducit confiscationem bonorum; quandoque mediante sententia vel contractu et tunc idem; quandoque imperialem iurisdictionem iudicialiter exercendo, et tunc idem ut transferat dominium de uno in alium, nam hoc etiam facit quilibet iudex ex faciendo decretum et dividendo, et hoc verum si res sit illius contra quem exercet iurisdictionem, alias secus; aut rescriptum concedendo, et non potest, propter legem derogatoriam, C. De precibus imperatori offerendis l. Quoties et l. Rescripta [C. 1, 19, 2 and 7]».

<sup>84</sup> Albericus, *ad Const. Omnem*, nr. 13: «Et hoc nisi in rescripto vellet uti plenitudine potestatis, dicendo non obstante tali lege vel aliqua lege, ut nota dicta l. Quoties».

<sup>85</sup> Albericus, *ad C.1, 19, 2 (De precibus imperatori offerendis l. Quoties)*, nr. 1: «Rescriptum quod ex toto tollit ius alterius vel quod nimium laedit, non est concedendum».

<sup>86</sup> See K. Pennington, *The Prince and the Law 1200-1600. Sovereignty and Rights in the Western Legal Tradition*, Berkeley 1993, pp. 113ff; 130ff; E. Cortese, *Il problema della sovranità nel pensiero giuridico medioevale*, Rome 1966, pp 142ff; U. Nicolini, *La proprietà, il principe e l'espropriazione per pubblica utilità. Studi sulla dottrina giuridica intermedia*, Milan 1952, pp. 132ff.

<sup>87</sup> A. Lattes, *Due giureconsulti milanesi, Signorolo e Signorino degli Omodei*, in "Rendiconti dell'Istituto Lombardo di Scienze e Lettere", ser. II, vol. XXXII (1899), pp. 1017-1021.

<sup>88</sup> Signorolus de Homodeis, *Consilia*, Milan 1521, 70 (*In quaestione vertente*). The details of the dispute are explained by G. Dolezalek, *I commentari di Odofredo e Baldo alla Pace di Costanza*, in *La pace di Costanza, 1183: un difficile equilibrio di poteri fra società italiana ed impero*, Bologna 1984, p. 63, nr. 14. The Visconti took over Parma only in 1346 but, since the date of the case is unclear, it is not known which of the Visconti was involved.

<sup>89</sup> Signorolus, *Consilia* cit., 70 (*In quaestione vertente*), nr. 22: «Sed his non obstantibus, dicendum est contrarium primo quod ex tenore commissionis facte per prefatum dominum cuius forma fuit secuta comparitio predicti sindici et dictam comparitionem fecit, et ad executionem sue commissionis seu voluntatem predicti domini que inter suos subditos est servanda ut Institutiones, De iure naturali et gentium et civili, l. sed quod principi [Inst. 1, 2, 6]».

<sup>90</sup> On the circumscribed nature of Visconti legislative powers in this period see C. Storti Storchi, *Aspetti della condizione giuridica dello straniero negli statuti lombardi dei secoli XIV-XV*, in "Archivio Storico Lombardo", ser. XI, vol. II, a. CXI (1985), pp. 62ff and Ead., *Aspetti generali* cit., pp. 93ff.

<sup>91</sup> Signorolus, *Consilia* cit., 89 (*Presupponitur infrascriptum statutum*), nn. 8-9: «Nec fiat ratio de istis litteris ad similitudinem iuris municipalis, cum reputari debeant tanquam lex generalis; primo propter auctoritatem condentis ut lex iii § divus, Dig. De sepulchro violato [D. 47, 12, 3]; secundo propter eius formam et hoc dupliciter, primo quia nomen edicti est insertum, secundo quia per cunctos subditos fuerunt promulgate ut l. ii C. De legibus et constitutionibus principum [C 1, 14, 2]... Appareat bone memorie dominum Luchinum voluisse terras dominio suo subditas, et alias separatam iurisdictionem habentes, in hoc venire, et ut adinvicem unitatem habeant videlicet respectu banni... Non erit novum si in his habentibus unitatem et connexitatem ad invicem sub dominio prefati domini respectu banni, extensi fiat de uno loco ad alium... ».

<sup>92</sup> Signorolus, *Consilia* cit., 82 (*In questionibus vertentibus*), nr. 12: «Mandavit enim dominus Mediolani MCCCCL, die xii Augusti ex certa scientia et ex plenitudine potestatis sue qualiter approbat venditionem seu locationem factam de datio vini imbotati... ».

<sup>93</sup> Signorolus, *Consilia* cit., 82 (*In questionibus vertentibus*), nr. 6: «Cum ergo sit verum et notorium in quacunque parte Lombardie quod [ed.: cives] pacificus status cuiuscunque civitatis conservatur armorum podio et intuitu ministrorum ipsorum armorum qui sunt stipendiarii necessario concluditur huiusmodi onera in civitatibus vigentia et que tendunt ad solutionem talium ministrorum imminere ob necessitatem utilitatis publice et pro tanto ab ipsis iuxta occurrentia temporibus nostris religiosas domos non esse immunes maxime quia propter talium ministrorum sollicitudines status religiosarum domorum in civitatibus conservatur. Equitas ergo dictat ab ipsis in ipsorum stipendiis debere conferri... ».

<sup>94</sup> This is not to say that Signorolus was deliberately following Bartolus's lead: he rarely referred to Bartolus's work and was not much impressed by it (A. Lattes, *Due giureconsulti* cit., p. 1041).

<sup>95</sup> Baldus de Ubaldis, *In usus feudorum commentaria*, Lyon 1552, *Proœmium*, § *Aliqua, Sed pauca de principe dicamus*, nr. 34: «Ea tamen quae facit praesumiter facere decenter et non ex plenitudine potestatis». The distinction between morality and *plenitudo potestatis* is discussed

by U. Nicolini, *La proprietà cit.*, pp. 137-138, 140, 143 and by N. Cortese, *La norma giuridica. Spunti teorici nel diritto comune classico*, Milan 1962-4, vol. II, pp. 277-278.

<sup>96</sup> Baldus de Ubaldis, *In primum, secundum et tertium Codicis libros commentarii*, Venice 1577, ad C. 3, 34, 2 (*De servitutibus et de aqua, l. Si aqua*), nr. 45: «Est autem plenitudo potestatis arbitrii plenitudo nulli necessitati subiecta nullisque iuris publici regulis limitata... In principi sedes libertatis est, et potest praefere magis aequo minus aequum et magis bono minus bonum, nam cum non sit obligatus ad aliquid, potest eligere sicut placet».

<sup>97</sup> J. Canning, *The Political Thought of Baldus de Ubaldis*, Cambridge 1987, pp. 223-225; Id., *Permanence and change in Baldus' political thought*, in "Ius Commune. Zeitschrift für Europäische Rechtsgeschichte, Veröffentlichungen des Max-Planck-Instituts für Europäische Rechtsgeschichte, Frankfurt am Main", vol. XXVII, VI. *Centenario della morte di Baldo degli Ubaldi*, Frankfurt 2000, pp. 292-293.

<sup>98</sup> Baldus de Ubaldis, *Consiliorum sive responsorum volumen primum... quintum*, Venice 1575 (reprinted Turin 1970), vol. I, 267 (*Ad evidentiam praemitto*), nr. 9: «Secundo praemitto ad evidentiam habere plenitudinem potestatis in temporalibus competit soli imperatori vel libero regi in regno suo ut ff. De captivis, l. hostes [D. 49, 15, 24]. Inferioribus autem non competit iure ordinariae potestatis, sed bene possunt habere ex speciali privilegio, puta si vicariatus est eis collatus cum plenitudine potestatis. Nam quod princeps potest per se potest per alium sicut quotidie videmus in comitibus... Quia igitur plenitudo potestatis extra omnem iurisdictionem territorii consistit in privilegio, oportet de tali privilegio constare per privilegium principis vel inveteratam consuetudinem... ».

<sup>99</sup> Baldus, *Consiliorum cit.*, vol. I, 267 (*Ad evidentiam praemitto*), nr. 9: «Sed tamen quia omnes domini Lombardiae de consuetudine usuali et quasi de quadam theorica et practica ponunt hic verba "de plenitudine potestatis" et sunt in quasi possessione verbi et facti, puto, salva substantia veritatis, credendum eorum sermoni; quia non est verisimile quod falsa voce uterentur... ».

<sup>100</sup> Baldus, *Consiliorum cit.*, vol. I, 267 (*Ad evidentiam praemitto*), nr. 9: «Alioquin multis praeteritis possent lites excitari, et quaecunque et quantumcunque bona sopita resolvi, quod est iniquum ut C. De summa trinitate, l. 3 [C. 1,1, 3]. Et illusoria fierent decreta tantorum dominorum ut ff. De iudiciis, l. si praetor, in principio [D. 5, 1, 75]... Semper enim praesupposui plenitudinem potestatis, putans sermones tanti domini esse iuridicos [«veridicos» in other editions]». See Canning, *The Political Thought cit.*, p. 224.

<sup>101</sup> Baldus, *Consiliorum cit.*, vol. I, 345 (*Ad evidentiam*), nr. 2: «... si auctoritate rescripti unus Baro occuparet rem alterius, tenetur ei restituere cum fructibus... ».

<sup>102</sup> Baldus, *Consiliorum cit.*, vol. I, 345 (*Ad evidentiam*), nr. 1: «Sed non posset imperator dare licentiam quod quis posset propria auctoritate expellere iustum et legitimum possessorem, quia talis licentia contineret flagitium et delictum».

<sup>103</sup> Baldus, *Consiliorum cit.*, vol. I, 345 (*Ad evidentiam*), nr. 1: «Nec obstat clausula "de plenitudine potestatis" quia illa clausula intelligitur de plenitudine potestatis bonae et laudabilis, non vituperabilis vel tyrannicae. Nam non dicitur imperator posse nisi quod de iure potest. Item nihil operantur illa verba "ex certa scientia" quia immo magis sunt apta ad expressionem maioris delicti. Et ideo ista temeraria et abusive cautela, qua hodie principes utuntur in suis rescriptis, deberent in totum radicari ab aula nec ita in usu frequentari». Regarding my translation of «ista cautela», it must refer to both phrases, and not just to «ex certa scientia» since these expressions were used together in this as in so many instances and it was the expedient as a whole that Baldus dislikes. In the sixteenth century Aymo Cravetta read the passage as if Baldus meant that it was particularly the phrase plenitudo potestatis which should be banned: «Allego Baldus in Consilio 345, "Ad evidentiam praemittendum est, quod imperator," col. 2, libr. 1 ubi quod clausula de plenitudine potestatis intelligitur de potestate bona et laudabili non vituperabili vel tyrannica; nam non dicitur imperator posse nisi quod de iure potest et quod ista temeraria et abusive cautela, qua hodie principes utuntur in suis rescriptis, deberet in totum radicari ab aula nec ita in usu frequentari secundum eum» (*Consiliorum Aymonis Cravettae*, Venice 1566, 241, nr. 20).

<sup>104</sup> Baldus, *Consiliorum cit.*, vol. I, 253 (*Illustris dominus noster*), nr. 1: «Et sic Benentonus tenetur ad restitutionem dictae domus... cum creditor agens sit prior tempore, constat, quod potior in iure, ut in regula "quod prior" [C. 8, 17, 3]».

<sup>105</sup> Baldus, *Consiliorum cit.*, vol. I, 253 (*Illustris dominus noster*), nn. 3-4: «Sed ipse Benentonus possedit bona fide et cum decreto principis, immo plus videtur dicendum, quod ubi intervenit decretum non requiratur bona fides... Sed princeps ex causa potest tollere dominium, ergo fortius hypothecam ut ff. De legatis 2, l. peto, § praedium [D. 31, 69]. Praeterea in donatione sunt haec

verba “ex certa scientia et de plenitudine potestatis” et quando apponuntur ista verba, instar sacrilegii est infringere, supposita potestate concedentis».

<sup>106</sup> Baldus, *Consiliorum* cit., vol. I, 253 (*Illustris dominus noster*), § 4: «Quaestio ista dubitabilis est, pro prima parte facit aequitas; pro secunda suprema potestas... Ego aliter in ista causa non consulo quia tangit interesse magnifici domini nostri et eius determinatio pertinet ad consilium iustitiae non ad me».

<sup>107</sup> Baldus, *In primum* cit., Ad C 4, 52, 2 (*De communium rerum alienatione, l. Multum*): «Nota tamen quod licet princeps habeat plenitudinem potestatis, raro debet ea uti magis cavere se debet princeps quam alius... ».

<sup>108</sup> Baldus, *Consiliorum* cit., vol. I, 333 (*Ad intelligentiam sequendorum*), nr. 1, referring to the emperor: «tanta est in eo plenitudo potestatis quod legibus solutus est... licet de plenitudine honestatis teneatur habere firmas concessionem suas»; see Cortese, *La norma* cit., vol. I, p. 161. It was an axiom that «he who has supreme power should act on the highest principles (*honestas*) and with the greatest fairness» (Baldus, *Consiliorum* cit., vol. IV, 19 [*Factum sic proponuntur*], nr. 3: «... qui enim tenet supremam potestatem debet observare summam honestatem et summam aequitatem... »). It was Cynus who had emphasized in his comment on the l. *Digna vox* that «morality binds even the prince»; and Baldus transcribed Cynus's «precious lecture» word-for-word in Baldus, *Consiliorum* cit., vol. III, 371 (*Verba Cyni*).

<sup>109</sup> Baldus, *Consiliorum* cit., vol. I, 262 (*Recolo me consuluisse*), nr. 2: «Item si quis vellet revocare in dubium potestatem dominorum, evacuet omnem virtutem eorum et ego non essem istius consilii qui vellem evagare mundum».

<sup>110</sup> Baldus, *Consiliorum* cit., vol. I, 333 (*Ad intelligentiam*), nr. 1: «Tamen si aliquod motivum, etiam leve, movet principem de plenitudine potestatis facere potest quod ei libet».