## Indice

<table>
<thead>
<tr>
<th>Autori</th>
<th>Titolo</th>
<th>Pagina</th>
</tr>
</thead>
<tbody>
<tr>
<td>David Abulafia</td>
<td>Piombino between the great powers in the late fifteenth century</td>
<td>3</td>
</tr>
<tr>
<td>Jane Black</td>
<td>Double duchy: the Sforza dukes and the other Lombard title</td>
<td>15</td>
</tr>
<tr>
<td>Robert Black</td>
<td>Notes on the date and genesis of Machiavelli’s De principatibus</td>
<td>29</td>
</tr>
<tr>
<td>Wim Blockmans</td>
<td>Cities, networks and territories. North-central Italy and the Low Countries reconsidered</td>
<td>43</td>
</tr>
<tr>
<td>Pio Caroni</td>
<td>Ius romanum in Helvetia: a che punto siamo?</td>
<td>55</td>
</tr>
<tr>
<td>Jean-Marie Cauchies</td>
<td>Justice épiscopale, justice communale. Délits de bourgeois et censure ecclésiastiques à Valenciennes (Hainaut) en 1424-1430</td>
<td>81</td>
</tr>
<tr>
<td>William J. Connell</td>
<td>New light on Machiavelli’s letter to Vettori, 10 December 1513</td>
<td>93</td>
</tr>
<tr>
<td>Elizabeth Crouzet-Pavan</td>
<td>Le seigneur et la ville : sur quelques usages d’un dialogue (Italie, fin du Moyen Âge)</td>
<td>129</td>
</tr>
<tr>
<td>Trevor Dean</td>
<td>Knighthood in later medieval Italy</td>
<td>143</td>
</tr>
<tr>
<td>Gerhard Dilcher</td>
<td>Lega Lombarda und Rheinischer Städtebund. Ein Vergleich von Form und Funktion mittelalterlicher Städtebünde südlich und nördlich der Alpen</td>
<td>155</td>
</tr>
<tr>
<td>Arnold Esch</td>
<td>Il riflesso della grande storia nelle piccole vite: le suppliche alla Penitenzieria</td>
<td>181</td>
</tr>
</tbody>
</table>
Jean-Philippe Genet, *État, État moderne, féodalisme d’État: quelques éclaircissements* 195

James S. Grubb, *Villa and landscape in the Venetian State* 207

Julius Kirshner, *Pisa’s «long-arm» gabella dotis (1420-1525): issues, cases, legal opinions* 223

Miguel Ángel Ladero Quesada, *Recursos navales para la guerra en los reinos de España. 1252-1504* 249

John Easton Law, *Games of submission in late medieval Italy* 265

Michael Matheus, *Fonti vaticane e storia dell’università in Europa* 275

François Menant, *Des armes, des livres et de beaux habits: l’inventaire après décès d’un podestat crémonais (1307)* 295

Hélène Millet, *La fin du Grand schisme d’Occident: la résolution de la rupture en obédiences* 309

Anthony Molho, *What did Greeks see of Italy? Thoughts on Byzantine and Tuscan travel accounts* 329

Edward Muir, *Impertinent meddlers in state building: an anti-war movement in seventeenth-century Italy* 343

John M. Najemy, *The medieval Italian city and the “civilizing process”* 355

José Manuel Nieto Soria, *El juramento real de entronización en la Castilla Trastámara (1367-1474)* 371

Werner Paravicini, *Das Testament des Raimondo de Marliano* 385

Josef Riedmann, *Neue Quellen zur Geschichte der Beziehungen Kaiser Friedrichs II. zur Stadt Rom* 405

Ludwig Schmugge, *Zum römischen “Weiheitourismus” unter Papst Alexander VI. (1492-1503)* 417

Chris Wickham, *The financing of Roman city politics, 1050-1150* 437
Husbands in late medieval and early modern Tuscany were obligated to pay a contract tax (gabella dotis) on the amount of dowry they acknowledged and legally guaranteed in a standard legal instrument called confessio dotis. Questions arose when a citizen contracted marriage, concluded a confessio dotis, and paid the contract tax in a foreign city, usually where he maintained separate legal domicile, situated beyond the territorial jurisdiction of his native city. Jurisdiction (iur isdictio), a treelike construct with many branches, is used in this essay narrowly to refer to the robust political and judicial powers that towns, cities, or principalities could legitimately assert over persons and properties located within their territories. In practice, these powers

---


were asserted to compel citizens and subjects to perform acts, such as the payment of the *gabella dotis*, which they otherwise would not perform voluntarily. When citizens residing beyond the territorial jurisdiction of their native cities protested that they were not liable to pay the *gabella dotis*, claiming that the laws authorizing the *gabella* did not apply to them, the officials routinely turned to jurists for impartial expert advice and determinate solutions. This procedure was employed in multijurisdictional disputes that were not directly resolvable by administrative fiat or a preset application of local law (*ius proprium*). In constructing their arguments, jurists relied on the transterritorial norms of the *ius commune*, a gargantuan body of learned Roman civil and canon law filtered through the varied interpretations of generations of jurists, many of whom were university professors.

My essay focuses on three multijurisdictional disputes over the *gabella dotis* that occurred in the orbit of Pisa under Florentine rule and the legal opinions (*consilia*) they engendered. The *consilia* that I discuss represent merely a fraction of the published and unpublished *consilia* that deserve to be studied for the valuable perspectives they furnish on the legal conundrums of individual Pisan citizens and the governance of their city during the long first century of Florence’s domination. To avoid the facile impression that these cases and opinions marked the beginning of a natural and orderly progression toward modern institutional arrangements and concepts, I have avoided employing postmedieval terms such as «private international law», «comity», «conflict of laws», «extraterritoriality», «sovereignty», and the like. It is worth recalling that the mature «choice-of-law doctrine» – a fundamental feature of contemporary international law that gives parties the discretion to freely choose the law of a particular country to govern their contracts – was developed in the second half of the nineteenth century by the Risorgimento Italian jurist, Pasquale Stanislao Mancini. To be blunt, in premodern Italy party autonomy regard-

---


ing the payment of contract taxes, including the *gabella dotis*, was contemplated neither by the drafters of local statutory compilations nor *ius commune* jurists.

The approach I have taken meshes with Giorgio Chittolini’s antiteleological view «that terms and concepts need to be historically contextualized within a specific political, juridical and institutional language»7. That said, the payment of the contract tax in each case intersected with issues of dual citizenship, legal domicile, double taxation, and jurisdictional pluralism, raising a fundamental question of whether citizens of one locality who had domicile and executed contracts in another locality with independent jurisdiction could be compelled to pay contract taxes in their native cities. Today, disputes involving cross-border double taxation are adjudicated under the terms set forth in the European Community Treaty on direct taxation, as well as bilateral conventions for the avoidance of double taxation and fiscal evasion that Italy has concluded with other states: for instance, Australia (1977), the United States (1985), and Israel (1995)8.

1. The protagonist-husband of the first case, Agapito di Matteo di ser Cegna dell’Agnello, was a merchant and citizen of Pisa. In 1407, he and his brother Jacopo were residing in hospitable Lucca, along with other Pisans forced to leave their native city in the wake of Florence’s brutal and liberty-destroying conquest in 14069. Condemned as rebels by Pisa’s new masters, the brothers were exiled to Genoa, where they were still residing at the time of the dispute in 1423. Little is known about Agapito’s activities after 1407, but evidence from the Corte dei Mercanti of Lucca reveals that he continued to have commercial dealings in Lucca10. Around 1411, he married Tommasa, a daughter of Giovanni di Piero Maggiolini, a silk merchant; Giovanni and his nephews, as indicated by the Catasto of 1428-1429, were Pisa’s richest citizens. Their gross taxable wealth was estimated at 23,080 florins, quite impressive, as the Maggiolini were among the most heavily taxed Pisans under Florence’s dom-

---

10 Archivio di Stato di Lucca, Corte dei Mercanti 95 (Libro dei Sensali 1413), fols. 69°, 72°, 73°, 74°, 74r, 112r; Corte dei Mercanti 96 (Libro dei Sensali 1417), fol. 53r. I owe these references to the generosity of Professor Christine Meek.
The Maggiolini belonged to the anti-Florentine Raspanti faction, so it is not surprising that Giovanni spent the years immediately after Florence’s conquest of Pisa as a political exile in Lucca. In 1413, he was exonerated from charges of fomenting rebellion against Florence. A leading member of the Pisan colony in Lucca, he counted among the forty-three Pisans who acquired Lucchese citizenship in this period.

Agapito married Tommasa in Lucca, where he received and legally guaranteed Tommasa’s dowry and consummated the marriage. The confessio dotis was drawn up by a Pisan notary, ser Eustachio di ser Angelo Montefoscoli, also a newly created citizen and resident of Lucca. Ten years into the marriage Tommasa died in Genoa, where the couple was then residing. Soon after, Agapito took a second wife, Caterina, a daughter of Luca Spinola and member of one of Genoa’s topmost families. The couple married in Genoa, where a local notary executed the confessio for Caterina’s dowry. We are informed that the contract taxes on both Caterina’s and Tommasa’s dowries were paid in Genoa.

At this juncture, the Florentine officials (provveditori) in Pisa in charge of managing and collecting taxes on all contracts concluded by Pisan citizens demanded that Agapito pay the contract taxes on both dowries at the rate of 2 denari per each lira. Under Pisa’s laws, citizens who concluded dowry


\[\text{\textsuperscript{12}}\text{ASF, Pareri dei Savi, 3, fols. 421r-428r. On 31 December 1412, Ridolfo Peruzzi, the Florentine capitano di custodia of Pisa, ordered Giovanni di Piero Maggiolini to appear in court to answer charges of fomenting rebellion, mainly by speaking with the condemned rebel Nofridi del Moscha, also of Pisa. Maggiolini ignored the summons, was found contumacious, and was confined to Venice, Siena, or Florence for three years. In July 1413 Maggiolini sought and received cancellation of his sentence from the camera del comune in Florence. The camera made a series of inquiries into whether the various statutes on banishment enacted in the 1370s, 1380s, and 1390s could be enforced against Maggiolini. Six jurists – Filippo Corsini, Stefano di Giovanni Bonaccorsi, Nello da San Gimignano, Torello Torelli, Alessandro Bencivenni, and Domenico Sermini – were asked to advise. They were unanimous in supporting the cancellation of the sentence on the grounds of ex carentia jurisdictionis, namely, that Florentine laws and statutes did not authorize the capitano del popolo of Florence, let alone a lesser official, the capitano di custodia of Pisa, to confine someone to a specific locality.\]

\[\text{\textsuperscript{13}}\text{Giovanni di Piero, his son Baldassarre, and five nephews were awarded Lucchese citizenship on 21 October 1424. See R. Romiti, \textit{Le concessioni del privilegio della cittadinanza a Lucca dal 1369 al 1448}, tesi di laurea, relatore prof. Michele Luzzati, a. a. 1983-1984, Facoltà di Lettere e Filosofia, Università di Pisa, pp. 182-183, n. 168. I am grateful to Professor Luzzati for permitting me to consult Romiti’s thesis. The decree granting citizenship is preserved in the Archivio di Stato of Lucca, Comune, Governo di Paolo Guinigi, Decreto 2, c. 678r.\]

\[\text{\textsuperscript{14}}\text{I have been unable to locate the confessio dotis in Lucca, Pisa, or Florence. As far as I can determine, ser Eustachio’s registers appear to be lost.}\]

\[\text{\textsuperscript{15}}\text{On the magistracies Florence established to administer Pisa, see G. Guidi, \textit{Il governo della}
contracts within fifty miles of the city proper were liable for the contract tax. Since the distance between Pisa and Lucca was less than fifty miles (today, around eleven miles, or seventeen kilometers), Pisan citizens, like Agapito, who concluded contracts in Lucca were subject to the tax. He also owed the tax on the dowry conveyed in his second marriage, the provveditori claimed, solely by virtue of his status as a Pisan citizen. This claim was alleged to be valid, notwithstanding that the marriage was performed in Genoa (today, around eighty-seven miles, or one hundred thirty-nine kilometers from Pisa) and that Agapito had already paid the contract tax in Genoa, his long-standing place of domicile. In defense, Agapito countered that he was not liable for the contract tax on either dowry, because both his marriages had been performed outside Pisa’s territorial jurisdiction, as had the contractual promises made by the brides’ families to pay the dowries and the ensuing confessiones dotium in which he had guaranteed and assumed liability for the dowries he acknowledged having received.

The source of my summary description of the dispute is a manuscript in the Archivio di Stato of Florence, largely a collection of copies of the legal opinions of the distinguished jurist Nello di Giuliano Cetti of San Gimignano (1373-1430). In early April 1423, Nello, Urbano di Domenico da Cevoli, and


17 Interestingly, unlike Giovanni Maggiolini, who, though residing in Lucca (his home away from home), remained subject to Pisa’s jurisdiction and was included in the Catasto of 1428, Agapito dell’Agnello (assuming he was still alive) was not included in the Catasto, another sign that his ties to Pisa had become at best tenuous.

18 ASF, Corporazioni Soppresse dal governo francese 98, n. 240, s.f., Consilium XII (hereafter cited as Consilium XII): «Agabitus de Agnello civis pisanus habitans ad presens Ianue et a duodecim annis citra, et tempore quo in dicta civitate habitabat duxit in uxorem dominam Tommasiam, filiam Iohannis Maggiolini civis pisani, iam sunt X anni vel circa, in civitate Lucana prope civitatem Pisarum minus quinquaginta miliaria. Diende mortua dicta domina Tommasia aliam duxit uxorem in civitate Ianue, que distat a civitate Pisarum per 150 (sic) miliaria, nomine Catherinam, filiam Luce Spinola, civis Ianue, iam sunt duo anni, et de predicta uxor habuit domet et eas [sic] habuisse confessus fuit in civitate Lucana maner Stagii de Montefoscoli, civis et notarii pisani ac etiam civis lucani tunc habitantis in civitate Lucana, et similiter de 2 uxore fuit confessus domet per cartam manu notarii Ianuensis publici. De quibus quidem dotibus solute fuerunt gabelle in civitatibus prefatis et nulla soluta gabella de dictis dotibus comuni Florentie, set fuerunt solute gabelle in locis in quibus contracta fuerunt matrimonia. Modo officiales pro comuni Florentie deputati super exactione gellarum in civitate Pisana volunt quod dictus Agabitus solvat in civitate Pisana gellassas dictarum dotium secundum formam statuti civitatis Pisane de quibus patet superius, pro eo quia dicitur quod dictus Agabitus est civis pisanus et dicta prima uxor est de civitate Pisana et contractus fuit celebratus per notarium pisanum et prope civitatem Pisarum per quinquaginta miliaria; et similiter dicendum de secunda uxor debere gellalam ratione civilitatis dicti Agabiti, non obstante quod gabelle fuerint solute in civitatibus prefatis. Dictus vero Agabitus respondet quod dicta gabella vel gabelle solvi non debent, cum nec promissio nec confessio dotis nec etiam matrimonium fuerit celebratum in loco subdito dictis statuentibus, et quia statutum simpliciter loquens intelligi debet ligare subditos in suo territorio et non extra territorium contraentis. Et <queritur> an de ambobus vel saltim altera ex dictis dotibus gabella debeatur nec ne».
a third, unidentified jurist were apparently asked by the Florentine proovveditori in Pisa to submit impartial opinions called consilia sapientis on whether the Pisan laws applied to the dowries Agapito acknowledged in his confesiones dotium. At the time Nello was serving in Florence as government lawyer (sapiens communis). After having earned his doctorate in civil law at Bologna in 1398, he spent his entire career in Florence, where he was a successful and productive practitioner. His many consilia, including a cluster dealing with Pisan legal disputes, are largely preserved in manuscripts found in Florence and await being properly described, edited, and studied. Nello taught civil law at the city’s Studio (1418-1422), held diverse administrative positions, notable among them, that of government lawyer, and served on diplomatic missions. De bannitis, which he completed in 1424 and later published in several printed editions, came to be admired as an astute treatment of political banishment. Like other Florentine jurists at the time, Nello was versed as much in the ways of wielding power as he was in the manipulation of the rules of law.

Urbano da Cevoli was a minor Pisan jurist who received his doctorate in civil law at the University of Pisa between 1406 and 1411. At the time of the dispute he was serving as Pisa’s official advocate (advocatus Pisanis communis), and he was appointed a Pisan ambassador in 1427. Few of the consilia that he undoubtedly penned in his capacity as a public and private advocate are extant.

Ordinarily, the public officials or representatives of the party requesting the opinions would have forwarded the consulting jurists a file of the acta—namely, copies of the relevant local laws, contracts of marriage, confesiones dotium, and attestation that Agapito had truly established legal domicile in Genoa. This file, which would have filled at least several folios offering precious details for clarifying significant ambiguities surrounding the dispute, was omitted from the manuscript containing copies of the three consilia. Despite a protracted search in Pisa and Florence, I have been unsuccessful in finding a copy of the «long-arm» law that made the contract tax applicable to


20 Urbano da Cevoli’s name («domini Urbani de Cevoli») appears in the margin of the manuscript alongside the second submitted consilium. For his doctorate in civil law, see J. Davies, The Studio Pisano under Florentine Domination, 1406-1472, in «History of Universities», 16 (2000), pp. 212, 221, 235, n. 108. For Urbano’s service as Pisa’s advocate, see ASPi, Comune di Pisa, div. B. n. 80, fol. 24r, (29 July 1423), and as ambassador (fol. 12r, 3 September 1427; fol. 24r 15 November 1428). For references to his private activities in Pisa: see ASPi, Gabella dei contratti, n. 4, fol. 53r (7 June 1423), fol. 126r (14 February 1426), fol. 163r (24 December 1424), fol. 262v (12 August 1426), fol. 262r (9 May 1426), fol. 270r (12 September 1426); and Casini, Il Catasto di Pisa, pp. 90-91, n. 394.
Pisa’s nonresident citizens within fifty miles of the city. Nor have I found the law that made the expansive contract tax specifically applicable to the dowries of Pisan citizens. To my knowledge, these laws have not been cited by modern scholars. Our only sources for their existence are the consilia in which they were repeatedly cited. In all likelihood, the laws were enacted under Florentine rule, figuring among a host of measures designed to extract maximum revenue from Pisa’s citizens, wherever they resided. Taxes harvested from Pisa were sent directly to Florence. Lest we think Florentine fiscal policies were exceptional, recall that Pisan authorities increased the gabella imposed on foodstuffs and wine in Lucca when Pisa ruled Lucca, from 1342-1369.

At first glance the two Pisan laws appear to constitute an astounding assertion of the city’s jurisdiction over cities such as Lucca that were completely independent of Pisa. Before Florence’s conquest in 1406, Pisan territorial jurisdiction had never extended fifty miles beyond the city proper. After the conquest, the jurisdiction that Pisa had formerly exercised over its contado (the city’s surrounding area extending seven miles outward) and other dependencies had passed to Florence. Even without knowing the full text of the laws, it is fantastical to believe that Pisan lawmakers under Florentine domination suddenly, willfully, and untenably asserted legal jurisdiction over all the communities and lands within fifty miles of their city. If that were the case, the jurists would have debated and rejected the assertion, which failed to happen.

Rather, the law asserted that any Pisan citizen who entered into contracts within fifty miles of the city would have to pay a contract tax. Even so, the question is begged: on what legal grounds did lawmakers chose the fifty-mile territorial boundary, rather than, say, a hundred or hundred and fifty miles? My hunch is that fifty-mile boundary was inspired by canon law rules concerning the calculation of legal distance (dieta legalis). In Roman and canon law, dieta legalis referred to the distance one could walk in a day, which was pegged at twenty miles (vicena milia). The relevant rule was probably pro-

---

21 Neither law is included in F. Bonaini’s Statuti inediti della città di Pisa dal XII al XIV secolo, Firenze 1854-1870; or A. Era’s Statuti pisani inediti dal XIV al XVI secolo, Sassari 1932.
22 For the rubric of the contract tax, see Accolti’s consilium at fol. 171r cited below (note 45): «nam in dictis reformationibus pisanis habetur in rubrica De instrumentis ex quibus, quod in civitate Pisana debet solvi gabella de instrumentis omnibus factis infra 50 miliaria a civitate Pisarum». The rubric of the law making the contract tax applicable to dowries is given in Consilium XII: De dotibus mulierum et quicunque uxorem cepit et eam duxerit.
24 Petralia, Fiscality, p. 77. See also ASFi, Gabella dei contratti, n. 4, fol. 1r, where it was stated that the gabella is owed to the commune of Florence.
26 D. 2. 11. 1, Vicena milia. For a penetrating analysis of this lex, see Baldus, In primam digesti veteris partem, I, Venetiae 1599, fols. 100v-100r.
vided by the canon Praesenti in Boniface VIII’s Liber sextus (VI 3. 4. 34), which established that the beneficiaries of members of the Roman curia who happened to die in neighboring places (in locis vicinis) – understood as two dietae, or forty miles, from the place where the pope and his curia were residing at the time – would revert to the papacy. If my hunch is correct, the fifty-mile boundary was intended to encompass neighboring places, including jurisdictionally independent Lucca, roughly within two days’ walking distance of Pisa. Conceivably, a territorially expansive contract tax had long been a feature of Pisan and Florentine fiscal practice, but evidence to support a prior history is lacking.

Comparatively speaking, the geographic extent of Pisa’s contract tax on dowries was actually limited. Citizen-husbands of Siena and Pistoia, at various times, were obligated to pay a contract tax on their dowries, wherever they were received, not only beyond the territorial jurisdictions of the two cities but even outside Italy! Needless to say, the idea that Pisa, Siena, or Pistoia could effectively tax dowry or other contracts executed by their citizens extra territotium was wishful thinking. As is well known, the contract tax was based on information that the notary drafting the contract was required to transmit to the officials in charge of collecting gabelle. This pro-

---

27 See also Domenico da San Gimignano’s introduction (casus) to c. Praesenti: «quod in isto casu illa loca appellamus vicina curiae Romanae, quae distat a loco ubi est Papa cum sua curia per duas dietas legales: hoc est per xx leucas, nam dieta in iure accipitur pro decem leucis, l. Vicena milia, ff. de cautionibus»; Liber sextus decretalium D. Bonifacii VIII, Lugduni 1584, col. 440. For other references to dietae duae, see also E. von Ottenthal, Regulae cancellariae apostolicae. Die päpstlichen Kanzleiregeln von Johannes XXII bis Nikolaus V, Innsbruck 1888 (reprint Aalen 1968), ad indicem; and A. Meyer, Zürich und Rom. Ordentliche Kollatur und päpstliche Provisionen am Frau- und Grossmünster 1316-1523, Rom 1986, p. 34.

28 In Florentine statutes and laws, a distance of fifty to sixty miles was sometimes used to mark the city’s nominal outer territorial boundary encompassing communities under its control or vulnerable to its power. Thus, to qualify for appointment to the office of podestà in Florence around 1400, the candidate had to come from a foreign place, meaning at least sixty miles from the city. See Guidi, Il governo della città-repubblica di Firenze, II, p. 158. Again, a monetary commission was appointed in 1371 to curb the minting of debased coinage anywhere within fifty miles of the city. See C.M. de La Roncière, Prix et salaires à Florence au XIVe siècle (1280-1380), Rome 1982, p. 498.

29 See W.M. Bowsky, The Finance of the Commune of Siena, 1287-1355, Oxford 1970, p. 153. Bowsky’s informative discussion fails to raise and address the question of the difficulties that undoubtedly confronted Sienese tax officials attempting to track and tax contracts made by «every husband of the city, contado and district of Siena», even if the marriage took place outside Sienese jurisdiction. I have not found the law enacted by Pistoia that made its gabella dotis enforceable anywhere in the world. It was, however, discussed in a consilium attributed to the Florentine jurist Agnolo Niccolini, but it is not clear whether it was Agnolo di Matteo (1473-1542) or Agnolo di Carlo (1474-1509), both jurists. The consilium is in ASF, Corporazioni Soppresso dal governo francese 98, n. 252, fol. 172v: «Preterea et tertio respondeo quod licet statutum simpliciter et indistincte disponat quod in quacunque parte mundi contractus celebratus sit, debet solvi gabella in civitate Pistorii, tamen tale statutum intelligendum est quando in ea parte mundi celebratur dictus contractus in qua nulla gabella de tali contractu solvesatur, ut in plerisque partibus mundi existit». Niccolini’s consilium, with variants, was published in Bartholomeus Socinus, Prima [-secunda] pars consiliorum Mariani et Bartholomei de Socinis senenstium, II, Lugduni 1546, fols. 167r-168r, cons. 302.

30 ASPi, Gabella dei contratti, n. 4 (1428-1427), fol. 1r: «et cedule dictorum contractuum qui ad dictam gabellam erunt transmisse tam per notarios pisanos etiam per alios quoscunque notarios». 

230
procedure worked reasonably well when a city had leverage over the notary who was subject to its jurisdiction and licensed to work there. On the other hand, the records of Pisa’s *gabelle dei contratti* that I have examined fail to confirm that the officials in Pisa regularly received information from foreign notaries or third parties on contracts concluded by Pisan citizens in independent jurisdictions. The primary effect of Pisa’s long-arm *gabella dotis* was to authorize its tax officials to collect the *gabella dotis* from citizens should they return to the city after having received a dowry within fifty miles of Pisa, even if in an independent jurisdiction.

The hypervigilant Florentine *provveditori* in charge of collecting *gabelle* were aware of the impediments in tracking dowry contracts made within Florence’s own considerable territory, to say nothing of those made outside it. They recognized that Pisan citizens like Agapito dell’Agnello, having already paid the contract tax in a foreign territorial jurisdiction, would have had zero incentive to comply with Pisan law. The lack of timely information about the dowries, plus Agapito’s understandable aversion to paying the contract tax twice, helps explain the long delay in attempting to collect the tax. My guess is that a Pisan citizen living in Genoa, with ties to the Florentine regime in Pisa, informed the authorities of Agapito’s dowries. Informants were usually rewarded with a portion of the fine imposed on the «tax evaders» whom they had denounced to the officials.

Another question that cannot be answered with certainty concerns the low-yielding, statutory tax rate on dowries. At 2 *denari* per each *lira*, the rate corresponded to 0.83%, yielding on a dowry of 1,000 florins, a paltry 8 florins, 6 *soldi*. This rate was substantially less than the going rate of 3 1/3% payable on dowries contracted in the city of Pisa, or the going rates of around 3% in Florence and 2 1/2% in Lucca. By way of illustration, in 1428, Battista di Bondo Lanfreducci, a wealthy Pisan citizen, paid a *gabella* of 15 florins, 16 *soldi*, that is, at a rate of 3 2/5%, on a dowry valued at 450 florins that he acknowledging receiving in Pisa. The standard rate paid on dowries record-

---

31 I have found only one instance of notification by a third party, in this case of a Pisan husband who received a dowry in Livorno. *Ibidem*, fol. 213r (1 October 1425): «Aghabitus Pauli civis contraxit matrimonium cum domina Antonia, filia Puccini de Luberno, et habuit in dotem dicta dominice Antonie a Jacobo dal Ponte florense centum. Michael Benenati de Sancto Geminiano notificavit Sandro de Altovitis et Nicolai Luce de Albizis provisoribus gabelle dictum contractum, die primo octobris MCCCCXXV, more Florentie». For payment of the *gabella*, *ibidem*, fol. 258r.

32 On such logistical impediments, see A. Molho, *Marriage Alliance in late Medieval Florence*, Cambridge (Mass.) 1994, p. 56; and Kirshner, *The Morning After*, p. 51. Another difficulty was giving nonresidents adequate notice of the order issued by the officials requiring them to pay the *gabella*.


34 P. Pecchiai, *Il libro di ricordi d’un gentiluomo pisano del secolo XV*, in «Studi storici diretti da A. Crivellucci», 14 (1905), p. 331. In the Capitoli of 1509 establishing the terms of Pisa’s re-incorporation into Florence’s dominion, the *gabella dei contratti* payable by inhabitants of the *contado* was limited to 8 *denari* per *lira*, or 3 1/3%. G. Benvenuti, *Storia dell’assedio di Pisa (1494-1509)*, Pisa 1969, p. 143, n. 40.
ed in the registers of the *gabelle dei contratti* was 3 1/3%\(^{35}\). One is left to speculate on the reasons for the apparent gap between the statutory and going rates. Arguably, the statutory rate may have been introduced as a supplementary tax on top of the *gabella* husbands would have paid in the localities where they had contracted marriage and acknowledged receipt of the dowry. Yet future research on Pisa’s contract tax in the fifteenth century may show that the reported gap is a mirage and that in fact there was minimal difference between the rates.

2. The first opinion, composed by an unidentified jurist, opened with a flat denial that Agapito’s dowries were subject to the contract tax. The fundamental laws *Ut animarum* in the *Liber sextus* (VI 1. 2. 2) and *Cunctos populos* in Justinian’s *Codex* (C. 1. 1. 1) were cited for the bright-line rule that a city’s laws were binding on the acts performed by its subjects where it had jurisdiction, but not on acts they performed outside its territory (*extra territorium*)\(^{36}\). Correspondingly, the Pisan laws were classified as offensive (*odiosum*) for contradicting *ius commune* rules and illegitimately imposing what amounted to a new tax, therefore making it unenforceable in a foreign jurisdiction. Implicit here was another rule: advantageous laws (awarding exemptions and privileges) might apply to citizens residing beyond the city’s jurisdiction, while offensive laws (imposing taxes and burdens) were not applicable (*quod odiosa sunt restringenda, favores ampliandi*)\(^{37}\). Forgoing more arguments that would only have belabored the obvious, the jurist succinctly resolved that Pisa’s contract tax could not be imposed, first, because the promises, payments, and *confessiones* for the two dowries were made outside Pisan territory, and second, because Agapito lived with each wife in Genoa, where he had already paid the tax on their dowries\(^{38}\). He could also have pointed out that Agapito’s actions were no different from those of the many foreign husbands residing («ad presens habitans», «commorans»), marry-

---

35 The calculation of *gabelle* was based on the valuation of the florin at 4 lire. Some examples, all from ASPi, *Gabella dei contratti*, n. 4: Antonio di Baccione paid a *gabella* of 30 lire for a dowry valued 225 florins, a rate of 3 1/3% (fol. 5r, 30 June 1423); Pardo di Andrea paid a *gabella* of 6 lire, 13 soldi, 4 denari for a dowry 30 florins, a rate of 3 1/3% (fol. 20r, 31 July 1423); Angelo di Piero, a German residing in Pisa, paid a *gabella* of 8 lire for a dowry, conveyed to him by Corradino di Cambio of Florence, valued at 60 florins, a rate of 3 1/3% (fol. 87r, 30 October 1426).


38 *Consilium* XII: «Et quia res est clara, ulterius me non extendo, concluendus dictum Agabitum ad solutionem dictarum gabelarum nullatenus teneri, attento quod promissiones dotium, solutiones et confessiones ipsarum dotium fuerint factae extra territorium pisamum et attento quod dicte uxores fuerunt ducte ad civitatem Ianue et ibi fuerunt solute gabelle istarum dotium». 

232
ing, and receiving dowries in Pisa, who routinely paid Pisa’s *gabella dotis* in compliance with the city’s laws\(^39\).

The second opinion, composed by Urbano da Cevoli, also held that the Pisan law was unenforceable «in a foreign territory» («in alieno territorio»). He argued that the very wording of the law militated against its application to Agapito’s case. The law stated that whoever had taken a wife and led her into his household («uxorem ceperit et eam duxerit») was required to pay the commune of Pisa a tax of 2 *denari* for each *lira* of the wife’s dowry and trousseau (*corredo*)\(^40\). The wording was construed to mean, first, that the *gabella dotis* was triggered by the consummation of the marriage – that is, by «taking» and «leading» the wife, not by the promise of the dowry and the husband’s assumption of liability («promissio dotis et confessio»); and, second, that the «taking» and «leading» had to be performed in Pisan territory\(^41\).

The interpretation was clever but seemingly arbitrary. No authority, reason, or indicia of legislative purpose were offered to support the interpretation that *gabella* was due only if the marriage was consummated in Pisan territory. At any rate, the upshot was that insofar as the «taking» and «leading» were performed outside Pisan territorial jurisdiction, Agapito was freed from payment of the *gabella*.

In the third and final opinion, Nello da San Gimignano, disagreeing with his colleagues, defended the enforceability of Pisa’s laws. Agapito, he insisted, was at least liable for the *gabella* on Tommasa’s dowry received and acknowledged in Lucca, for both acts occurred within fifty miles of Pisa. In support, he referred to instances in Justinian’s *Corpus iuris* where citizens residing or traveling beyond the jurisdiction of their native cities were nevertheless bound by their laws\(^42\). In theory, the alignment between Pisan law and

---

\(^39\) The foreigners who resided, married, received their dowries, and paid the *gabella dotis* in Pisa hailed from north and central Italy (Genoa, Siena, Florence, San Miniato al Tedesco, Perugia, Todi, Bologna, Piemonte, Cremona, Verona, Venice) and from Germany and Constantinople. See ASPI, Gabella dei contratti, n. 4, fols. 32r, 36r, 42v, 50v, 53v, 87r, 107r, 109v, 120v, 126r, 182r, 192r, 201r, 240r, 245r-v.

\(^40\) *Consilium* XII: «Et quicunque uxorem ceperit et eam duxerit, tenet aut et debet solvere communi Pisarum pro gabella denariorum duorum pro libra pro dote, donamentorum et corredo-rum et valentis possessionum». The tax rate, 2 *denari* per *lira*, was substantially lower than the mid-*Trecento* rate of 8 *denari* per *lira* cited by R. Castiglione, *Gabelle e diritti comunali nel Trecento a Pisa*, in «Bollettino storico pisano», 71 (2002), p. 65.

\(^41\) *Consilium* XII: «Sola ergo promissio dotis et confessio non faciunt debere gabelam communis Pisarum, set captio et ducitio, et iste actus captionis et ductionis debet expleri in territorio statuenterius».

the *ius commune* applied equally to the second marriage. Nello relented, however, conceding that only the *gabella* on the first dowry received in Lucca should be paid. While the second dowry, received in Genoa, was not subject to the contract tax, Nello held that by virtue of his Pisan citizenship Agapito continued to be bound by Pisa’s laws and jurisdiction wherever he chose to live, no matter how distant from his native city⁴³. Nello’s emphasis on the perduring character of original citizenship was unobjectionable. After all, Agapito’s decision to contest the matter with the tax officials affirmed his recognition of Pisa’s original jurisdiction. Still, Nello’s opinion, in my view, was ill founded. The forensic maneuver of silently passing over of the *ius commune* rule that the laws of the locality in which a contract is concluded (*lex loci contractus*) have priority was tantamount to an admission of the porous legal grounds on which the Florentine *provveditori’s* claim was staked.

3. The enforceability of Pisa’s contract tax on the dowries of Pisan citizens residing in Genoa was also addressed by the Florentine jurist and humanist Benedetto Accolti of Arezzo (1415-1464). After receiving his degree in civil law from the University of Bologna at the age of seventeen, Accolti taught at the University of Florence, and after matriculating in the city’s Guild of Lawyers and Notaries in 1440, he enjoyed a thriving practice. He was elected first chancellor of the republic in 1458, a dignity he held until his death⁴⁴. A manuscript copy of his *consilium* on the Pisan contract tax, written sometime after 1440, is also found in the Archivio di Stato of Florence⁴⁵. A marginal notation announced the *consilium*’s theme: «Whether the tax on dowries should be paid in the place where the contract is executed or in the husband’s place of origin» («An gabella dotis solvatur in loco contractus celebratur vel in loco originis»). Perhaps for political reasons, the jurist employed the pseudonym Sempronius to disguise the husband’s real name⁴⁶. Once more, we have to make do with a condensed summary of the case, because the file containing the relevant *acta* that undoubtedly rested on the jurist’s desk when he

⁴³ *Consilium* XII: «Et sic concluso quod de prima dote debetur gabella, quia recepta intra quinquaginta miliaria per subditum statuto. De secunda non, quia recepta extra quinquaginta miliaria, ficit sit subditus statuto. Laus Deo. Ego Nellus etc. Florentie die 16 aprilis 1423».


⁴⁵ ASF, Corporazioni Soppresso dal governo francese, 98, n. 252, fols. 170r-172r (hereafter cited as Accolti).

⁴⁶ Other standard pseudonyms were Titius, Petrus, and Martinus, as in a case involving four Pisan citizens exiled to Genoa: «Questio super qua consilium petitur, ponitur esse talis: Quattuor homines, videntelict Petrus, Martinus, Titius et Sempronius origine Pisani». This is the beginning of the *punctus* preceding a *consilium* written by the jurist «Petrus domini Albisi de Pisis legum doctor». A copy of the *consilium* is preserved in Biblioteca Apostolica Vaticana, Barb. lat. 1399, fol. 123r-v.
composed his opinion was omitted from the manuscript in which the copy of the *consilium* has been preserved. Accolti offers no hint of who commissioned his *consilium*.

By origin Sempronius was considered a Pisan citizen, by residence and domicile a citizen of Genoa. Although there is no indication that Sempronius was a *civis ex privilegio* or *ex conventione*, that is, granted the privilege of Genoese citizenship by legislative enactment, Accolti reiterated that under the *ius commune* he was a citizen of Genoa on the basis of his residence and payment of taxes there. While residing in Genoa Sempronius married a Genoese woman from whom he received a dowry. The question put to Accolti was whether Sempronius could be compelled to pay the dowry contract tax in Pisa. At first blush, it seemed that the tax was enforceable, since a city’s laws bound its citizens even when they resided beyond its territorial jurisdiction. And following Roman law norms, buttressed by the *glossa ordinaria* and the commentaries of the celebrated jurists Bartolus of Sassoferrato (1313/14-1357) and Baldus de Ubaldis (1327-1400) of Perugia, Accolti maintained that the laws of Pisa had priority over those of Genoa, because one’s place of origin (*locus originis*) was nobler than one’s domicile.

Invoking Bartolus’s multifaceted authority once again, but performing a U-turn, Accolti denied that the Pisan law applied to the dowry received by Sempronius or that it was enforceable beyond Pisa’s territorial borders. It was an entrenched rule of the *ius commune* that the contracts were subject to

---

47 In 1426 the duties of the *provveditori* passed to the Florentine *Consoli del Mare*. From the 1440s onwards, the duties of the *Consoli del Mare* passed to other magistracies, the *Cinque Governatori e Conservatori della Città di Pisa* and Florence’s *Capitani della Parte Guelfa*, any one of which could have commissioned Accolti’s *consilium*.


49 Accolti, fol. 170r: «Dubitatur an dictus Sempronius, qui origine est pisanos et habitacione et domicilio civis Ianuensis, possit cogi ad solvendam gabbellam in civitate Pisarum dotis sibi solute respectu matrimonii iniiti in dicta civitate Ianuensis cum puella Ianuensis, attenta forma statuti civitatis Pisarum per quod in effectu disponitur quod si quis contraexerit matrimonium debit solvere tantum pro dote loco gabelle, et quod per instrumentum alicuius contractus iniiti infra 50 miliaria debit solvi gabbellam».

the laws of the locality in which they were concluded\textsuperscript{51}. Similarly, with regard to the contracts of dowry and marriage, one looked to the law of the place in which the husband «led» his wife, established domicile, and was paid the dowry. Assuming that the marriage occurred in Genoa, where Sempronius resided and duly paid taxes on his contractual transactions and residence, it followed that his marriage was governed by Genoese laws and customs\textsuperscript{52}. Indeed, Accolti correctly avowed, «it is customary in all the parts of Italy that \textit{gabelle} are paid even by foreigners for contracts and things brought to the city where they are found» \textsuperscript{53}.

It was also a rule that the imposition of \textit{gabelle} was a matter of strict law (\textit{stricti iuris}). Technically, this meant that because the Pisan officials’ ability to impose \textit{gabelle} derived from an authority inferior to the emperor’s, the contract tax could not be imposed beyond the city’s territorial jurisdiction. For being at odds with the \textit{ius commune}, the Pisan statute was again classified as offensive (\textit{odiosum}), making it unenforceable\textsuperscript{54}. Simply put, Pisa’s authority to impose \textit{gabelle} was strictly limited to its own territory. Accolti then cited Baldus for the argument that a newly enacted law (\textit{ius}) may not apply beyond the lawmaker’s jurisdiction\textsuperscript{55}. The Pisan law was also unenforceable for failing to state expressly and positively that the contract tax should be binding on subjects found outside Pisa’s territory\textsuperscript{56}. Finally, if it were true that Sempronius could be required to pay the \textit{gabella} in Pisa, the result would be doubly offensive in that he would be paying a \textit{gabella} in Genoa and Pisa for the very same thing. Such an illogical outcome, Accolti

\textsuperscript{51} Accolti, fol. 170r: «Set prefatis non obstantibus, contrarium reputo verius de iure. Et circa hoc primo adverto quod regulariter locus ibi fit contractus attendi debet quantum ad ea que debent servari in dicto contractu vel pro eo, ut in l. Si fundus, ff. de evic. (D. 21. 2. 6), et l. Omnen, ff. de solut. (?), et not. per Bartolum in d. l. 1, de sum. Trinta».


\textsuperscript{53} Accolti, fol. 170v: «Insuper consuetudo est in omnibus partibus Italiae quod gabelle solvantur etiam a forensibus pro contractibus vel rebus asportatis in civitate in qua reiperiurunt».

\textsuperscript{54} Accolti, fol. 170v: «Pretera onus gabelle est stricti iuris et odiosum precipue quando impomnuntur ab inferiore a principi, per ea que not. per Bar. in l. Locatio (MS: Licitati), §. fin. (D. 39. 4. 9. 8), et l. Vectigalia, de public. (D. 39. 4. 10) [...] Et ideo inposito sit stricti iuris, non debet comprehendere solutionem gabelle super existentibus in alieno territorio». See also Bartolus to C. 1. 1. 1, \textit{Cunctos populos, Commentaria}, Venetiae 1529, VII, fol. 6r, n. 35: «nam actus quod etiam spectat ad iurisdictionem voluntariam, quandocunque conceduntur ab alio inferiore a principo, non possunt exerceri extra territorium».

\textsuperscript{55} Accolti, fol. 170v. See Baldus to C. 1.1.1, \textit{Cunctos populos, Commentaria}, Venetiae 1599, IX, fol. 8r, n. 76: «quia ubi agitur de iure noviter inducendo per statutum, statutentes nihil possunt ultra limites quibus iurisdictioni realiter limitatur, id est, ultra territorium, ut infra, de decurionibus, leg. Duumvirum impune, libro 10 (C. 10. 32 [31]. 53)».

\textsuperscript{56} Accolti, fol. 170v.
admonished, should be prevented because of the resulting harm to Sempronius.\footnote{Accolti, fol. 170v: "Set si esset verum quod dictus Sempronius possee cogi ad solvendum in dicta civitate Pisarum, resultaret magna absurditas quod ipse solveret Ianuae et Pisis gabellam pro eadem re [...] Et ideo ut talis absurditas evitetur, reformationes pisanae simpliciter loquentes debent restringi"}.

Accolti now addressed the tax obligations of individuals possessing dual citizenship. His authority was Bartolus and the *Glossa ordinaria*, the starting points for the examination of the problems arising from dual citizenship. Bartolus held that if anyone was a citizen of two cities and had property in both, then each city was restricted to imposing taxes on the portion of his property located within its own jurisdiction.\footnote{Accolti, fol. 170v-171r: "Insuper, ut supra dictum est, gabella solvitur pro rebus a persona, et idcirco ex quo dictus Sempronius est civis ianuensis et ibi habitat et ibi accipit uxorem et ibi accipit dotem de bonis ibi existentibus, sequitur manifesta conclusio quod onus gabelle quod solvitur per dotem est solvendum Ianuae et non Pisis, quantum etiam sit pisanus civis, ut determinat expresse Bartolus in simili casu post glossam in l. 1, de mulieribus (C. 10. 64 [62]. 1), in versiculo "Quero aliquis est civis et alibi", ubi concludit quod si quis est civis in utrabo civitatis et in utraque habet bona, collectam que imponitur personis pro bonis debet solvere separatim secundum bona sita in diversis locis, et in uno quoque loco pro portione solvenda est. Igitur cum dictus Sempronius sit civis pisanus et ianuensis et receperit dotem de bonis existentibus Ianuae; ibi debet solvere gabellam pro illis, non in civitate Pisarum." See Bartolus to C. 10. 64 [62]. 1, *Eam que aliunde, Commentaria*, IX, fol. 23r (*additio*).} Bartolus’s doctrine enabled Accolti to argue that because Sempronius was a citizen of both Pisa and Genoa but had received a dowry consisting of property located in Genoa, he was obligated to pay the contract tax in Genoa rather than Pisa. Accolti conceded that all things being equal, that is, if one was called to pay taxes in one’s *origo* and place of domicile simultaneously, the *ius commune* dictated that one’s *origo* indubitably took priority. This normative model was irrelevant here, for the reason that Sempronius had already paid the contract tax in Genoa, defeating Pisa’s claim to priority as *civitas originis*.\footnote{Accolti, fol. 171r: "Preterea presuponitur mihi in facto quod pro dicta dote fuit soluta gabella Ianuae, quo casu stat regula quod licet in casu pari quando quis vocatur ad onera in civitate originis et in loco domicilii, preferatur civitas originis, et prius loco dictum est; tamen si iam una civitas preoccupavit, quia in illa solutum est, non potest quis cogi ad solvendum in civitate originis: et ita determinat glossa in dicta l. Cives, expresse, circa medium, C. de incolis, libro X (C. 10. 40 [39]. 7). Ergo sequitur ex predictis, ex eo <quod> semel Ianuae gabella soluta est pro dicto contractu dotis et matrimonii, non potest amplius cogi prefatus Sempronius ad solutionem Pisis."} Last and obvious was Genoa’s great distance from Pisa, more than fifty miles, placing Sempronius’s dowry far beyond the reach of Pisa’s contract tax.\footnote{Accolti, fol. 171r: "Unde cum statutum permittat gabelle actionem usque ad 50 milliaria, ultrae ea videtur prohiberi."}

Accolti’s consilium was endorsed (*subscripturum*) by three other Florentine practioners, Sallustio Buonguglielmi of Perugia (1373-1461), Giovanni Buongirolami of Gubbio (1381-1454), and Benedetto Barzi of Perugia (1379-ca. 1459), who taught civil law at the University of Florence between 1335 and 1442.\footnote{On Buonguglielmi, see J. Kirshner, *Bartolo of Sassoferrato’s “De tyranno” and Sallustio Buonguglielmi’s consilium on Niccolò Fortebracci’s Tyranny in Città di Castello*, in «Mediaeval}
tion that where a statute required payment of a contract tax, the statute did not apply to a contract made by a subject outside the legislator’s territory, «because statutes of this kind authorizing gabelle are against the ius commune».62.

4. The primary source for our third case is a consilium of the Milanese jurist Filippo Decio (1454-1536/1537). Numbered 457 in the printed editions of Decio’s consilia, his consilium became a «leading opinion» and was cited in manuals for legal practitioners.63 At issue was the contract tax regarding the dowry that «dominus Vitalis hebraeus et civis pisanus» had received in Venice, where he had also contracted and consummated his marriage. The case was adjudicated before the Sea Consuls of Florence (Consoli del Mare) stationed in Pisa. Although their jurisdictional authority over commercial and fiscal matters had shriveled over the course of the fifteenth century, the Sea Consuls continued to be responsible for the administration of individual Pisan gabelle.64 Decio was asked to resolve a two-pronged question regarding Vitale’s status as a citizen of both Pisa and Florence. First, was Vitale, by virtue of his status as a civis pisanus, required under ius commune rules or Pisan laws to pay the contract tax in his native city? Second, if he was not required to pay the Pisan contract tax, was he then required to pay the contract tax as a reputed civis florentinus in accordance with certain Capitoli or negotiated conventions, often renewable, establishing the terms by which Jewish bankers were granted an exclusive license to lend money at interest for a limited number of years in the city, contado, and distretto of Florence?65

62 Accolti, fol. 171r: «Et inducit Baldus punctualiter ad decisionem thematis nostri, dicens quod si statutum cavetur quod de contractu debet solvi gabbellam, tale statutum non venidicat sibi locum in contracto facto per subditum extra territorium statuentis, cum huissimodi statuta gabellarum sint contra ius commune».

63 Phillipus Decius, Consiliorum sive Responsorum tomus primus-secundus, Venetiae 1580-1581, II, cons. 457, fols. 117v-118r (hereafter cited as Decius). The consilium was cited by Domenico Toschi, Practicarum conclusionum iuris in omni foro frequenterium..., Lugduni 1634-1670, IV, p. 72, concl. 4 (Gabella de quibus contractibus solutur multis locis et de quibus non); VI, p. 142, concl. 356 (Pisarum civitas, statuta, consuetudines et privilegia).


65 Decius, fol. 117v: «In causa gabellae, quae tractatur coram Magnificis Consulibus Maris, quaeritur an dominus Vitalis hebraeus et civis pisanus teneatur solvere gabellam dotis pro matrimo-
An outstanding jurist and «brilliant personality with great appeal», who, in addition to his consilia, produced commentaries on the Corpus iuris and the Liber extra of Pope Gregory IX, Decio was still teaching at the Studio in Pisa in 1525 when he penned what would become «consilium 457»66. Who asked Decio to submit his consilium remains a mystery. It is entirely conceivable that the Florentine tax officials in Pisa, tasked with the enforcement of Florence’s fiscal policies, demanded that Vitale pay the contract tax on the dowry. Vitale, after obtaining legal advice, would have responded through his procurators that he was not obligated to pay the tax. Presumably, because of the doubts raised by Vitale’s counterclaim and his prominence and connections, the matter eventually landed before the Sea Consuls who decided civil law cases on the basis of Pisan law and the ius commune. Next, the office of Sea Consuls would have asked Decio to submit a consilium sapientis for a definitive and immediate resolution of the matter67. Alternatively, it is equally conceivable that Vitale commissioned Decio to submit a consilium pro parte68, so that his wholehearted defense of Vitale’s counterclaim would have been undertaken for an eminent and wealthy client. This scenario is highly plausible in light of the da Pisa’s history of requesting jurists, including Bartolomeo Sozzini (1436-1506) of the University of Pisa, Giovanni Crotto (d. 1516) of the University of Bologna, and Francesco Guicciardini in Florence,

69 nio contracto et consumato in civitate Venetiarum. Et pro vera resolutione videndum est de duobus. Primo, an tanquam civis pisanus attento iure communi et statuto pisano hic Pisis teneatur gabellam solvere. Secundo, dato quod non debeat solvere, an per capita quae habent hebraeai cum excellenti republica Florentinorum adstringatur ad solutionem dictae gabellae».


67 The reliance on consilia in cases involving Pisan citizens adjudicated before the Sea Consuls represented a long-standing practice dating from the fifteenth century. See the reference to one such case (apud Consules Maris) regarding Pisans residing in Florence in Tommaso Salvetti’s commentary on the second book of the Statutorum Florentinorum of 1415: Biblioteca Nazionale Centrale di Firenze, MS II. IV. 434, fol. 13r. Pisan citizens routinely requested consilia as part of their pleadings before Florentine magistrates. For example, in 1439, the patrician Battista di Bondo Lanfreducci of Pisa paid the Florentine Guglielmo Tanagli for a consilium that the jurist had written on his behalf with regard to a debt he was trying to collect from the estate of Nicholoai Zoppo. The estate had come under the control of the Florentine Ufficiali di Torre, who were authorized to adjudicate claims against the goods and properties confiscated by the government from rebels and citizens condemned to banishment. See Pecchiai, Il libro di ricordi d’un gentiluomo pisano del secolo XV, p. 310.

68 On the differences between consilia sapientis and pro parte, see M. Ascheri, Le fonti e la flessibilità del diritto comune: il paradosso del consilium sapientis, and J. Kirshner, Consilia as Authority in Late Medieval Italy: The Case of Florence, in Legal Consulting in the Civil Law Tradition, ed. M. Ascheri, I. Baumgärtner, J. Kirshner, Berkeley 1999 (Studies in Comparative Legal History, The Robbins Collection), pp. 11-54 and 107-142, respectively.
for *consilia pro parte* in disputes between the family and government officials in Lucca, Pisa, and Florence\(^69\).

Decio offered no further clues about the identity of «Vitalis» beyond the six-word reference in the opening of his *consilium*. To my knowledge, there is only one candidate who matches the identification of «lord Vitalis, Jew and Pisan citizen». It is almost certain that the reference was to Vitale (Yehiel Nissim) di Simone da Pisa, a prominent banker, scholar, and philanthropist\(^70\). He was born into Pisa’s legendary Jewish banking family\(^71\), with its headquarters in Florence and financial dealings in Lucca, Siena, Arezzo, Bologna, Ferrara, Verona, Padua, and Venice. Vitale’s grandfather, Vitale di Isacco, was on close terms with Lorenzo de’ Medici, to whom he lent money, and from the late fifteenth century onward the family’s ties to Florence were exceptionally strong\(^72\). Resting on their religious and cultural patronage as well as their financial and commercial activities, «the fame of the da Pisa», Luzzati observes, «went beyond the Italian borders and reached southern France and the Iberian Peninsula»\(^73\).

\(^69\) Luzzati remarks that the da Pisa family «had close connections with university teachers, such as the lawyer Bartolomeo Sozzini»: M. Luzzati, *Ebrei ed ebraismo a Pisa. Un millennio di interrotta presenza. Jews and Judaism in Pisa: A Millennium of Uninterrupted Presence*, Pisa 2005, p. 23. In 1493, Sozzini was commissioned by Isacco and Simone for a *consilium* in their dispute with the treasury officials of Lucca. See P.M. Lonardo, *Gli ebrei a Pisa alla fine del secolo XV*, Bologna 1982 (rist. anast.), pp. 76-79. In 1509, Isacco commissioned the Florentine jurist Antonio di Vanni Strozzi (1455-1523) and Giovanni Crotto, among others, to submit *consilia* in support of his claim to the properties that had been confiscated in 1494 by the Pisan government; for which, see note 98 below. Later, in 1515, Isacco’s sons engaged Francesco Guicciardini to be their «advocato» in a dispute before the *Ottò di Guardia* in 1515. See O. Cavallar, *Francesco Guicciardini giurista. I ricordi degli onorari*, Milano 1991, pp. 84, 350, n. 557.


\(^71\) The exact date of Vitale di Simone’s birth is unknown. Luzzati, *I legami*, p. 250 states that Vitale was probably born around 1507 (a date that on further reflection, he relates in a private communication, now appears to be improbable), while Guetta, *Religious Life and Jewish Erudition in Pisa*, p. 86 conjectures that Vitale was born «1493?», but offers neither documentary evidence nor an argument in support of his conjecture.


\(^73\) Luzzati, *Ebrei ed ebraismo*, p. 23.
With the death of Vitale di Isacco in 1490, Isacco and Simone, his two sons, assumed leadership of the family bank and commercial interests. Loyal adherents of Florence, the brothers were expelled from Pisa and had their urban and rural properties confiscated when Pisa regained its independence in 1494 with the encouragement and protection of the French King Charles VIII of France, who had invaded Italy and routed the Florentines. After the restoration of Florentine rule in Pisa in June 1509, Isacco and Simone were able to regain the majority of their properties, including the building in the heart of the city that housed the da Pisa bank and a synagogue, called la casa dell’ebreo. Simone died in 1510, Isacco a few years after. In 1516 the da Pisa family was authorized to reopen and operate their bank in Pisa for ten years.

In 1525 Vitale di Simone married Diamante, the daughter of Anselmo dal Banco (alias Asher Meschullam), a German-Jewish banker with lending operations in Padua and Venice. Details on the amount of Diamante’s dowry are lacking, but, judging from the dowries received by Vitale’s relatives, the amount would have been substantial and commensurate with his elevated social and economic status. After contracting and consummating his marriage in Venice, Vitale returned with his bride and dowry to the family’s home in Pisa, where he attracted the attention of the Florentine tax officials intent on collecting the contract tax for his dowry. Vitale’s return to Pisa is attested by the adventurer and pseudo-Messiah David Reubeni, who vividly recounted his visit in 1525 to Vitale’s home, commending his host’s learning, gracious hospitality, and aid to less fortunate coreligionists.

Vitale’s civic status as a civis pisanus derived from his family’s long-established domicile in the city dating back to the early Quattrocento. Ius commune jurists construed individual surnames like «da Pisa» and «de Pisis» to signify one’s place of origin (origo), where one was an original citizen (civis originarius), rather than the place where one had established permanent legal abode (domicilium). When a person was designated by the

---


appellative «pisanus», as was Vitale, it denoted that he was an original citizen of Pisa entitled to the core legal rights and protections enjoyed by all original Pisanc citizens. The reason that these designations applied to Vitale lay in the venerable and operative rule that Jews were bound by the *ius commune* – more specifically, by the *lex Iudaei* (C. 1. 9. 8) which decreed that regarding venue, laws, and rights in civil litigation, Jews were subject to the common law of Rome. Commenting on the *lex Iudaei*, Bartolus affirmed that outside matters of their own religious practices and faith, «the Jews enjoy those things that pertain to Roman citizens».

Meanwhile, Vitale was prohibited by another *ius commune* rule from public dignities, honors, and offices, which would have placed him in authority over Christians, violating an ancient taboo. Yet the prohibition against Jews holding public offices reserved to Christians in no way attenuated the authenticity of Vitale’s original citizenship, just as the restriction of holding public office to a subset of adult men and a host of other civic disabilities did not attenuate the core legal rights and protections to which original female citizens were entitled in accordance with the norms of the *ius commune* and dispositions of Pisa’s statutes. It cannot be stressed enough that in this period neither the *ius commune* nor town statutes in central and northern Italy made citizenship contingent on baptism into the Christian faith. Vitale’s religion and status as a Jew, which were never at issue in this dispute, were treated by legal authorities as distinct from his status as a Pisan citizen. This consequential distinction is captured in Decio’s words for designating Vitale’s

---

civic identity. Vitale was designated a «hebraeus et civis pisanus», not a composite «civis hebraeus pisanus» 83.

Enlisting the fifteenth-century authorities in company with Bartolus and Baldus, Decio argued that under *ius commune* rules Vitale was not required to pay the Pisan contract tax. «With regard to the first question, concerning the *ius commune* – he began –, it would seem clear-cut that [Vitale] is not obligated, because the *gabella* is a burden that results from the contract and it follows that the *gabella* should be paid where the contract is concluded» 84. He cited the opinion of Alessandro Tartagni (1424-1477) that if the *gabella* was paid where the contract was made, it did not have to be paid in another locality, because one should not be compelled to pay the *gabella* twice for the same thing 85. Could the husband be compelled to pay, if, after having contracted and consummated his marriage and paid the *gabella* in a place located outside the territory of the taxing authority, he returned with his wife to live together in his place of domicile? On the authority of *consilia* by Pier Filippo della Corgna (1420-1492) and Bartolomeo Sozzini in analogous cases, he was not compelled 86. Similarly, Vitale could not be compelled under Pisa’s laws to pay its...
contract tax, as the laws did not apply to husbands who contracted and consummated their marriages outside Pisan territory— a *ius commune* rule that we already encountered in the opinions discussed above.

The claim that the *Capitoli* made Vitale liable for the Florentine contract tax presented a thornier challenge. Arguing *pro et contra*, Decio first defended the government’s claim before demolishing it. The *Capitoli* were probably those issued in 1514 and extended for another five years in 1524 by the officials of Florence’s public debt (*Monte Comune*), who authorized the banking operations of several Jewish families. Among them were the «heirs of Simone di Vitale da Pisa», that is, his only son, Vitale. In these and earlier *Capitoli* issued in the fifteenth century, Jewish lenders and their associates were required to pay a hefty annual tax (*taxa pro fenerando*) for the monopoly of operating in the city, *contado*, and *distretto* of Florence. Otherwise, they were exempt from all ordinary and extraordinary taxes, with the exception of *gabelle*, which they were required to pay just as other Florentine citizens (*prout tenentur cives florentini*). Thus, for example, the Jewish lenders were required to pay the *gabella contractus* on the acquisition and purchase of real estate not to exceed a certain value, and on all other goods, save the account books, items, and gold transported between the city and *contado*, which were connected with their lending activities.

Another standard provision of the *Capitoli* was the privilege that for the duration of their license the «Jews [bankers, family members, employees, and associates] in respect to their rights and in civil and criminal causes and suits should be regarded and treated to the same extent as true citizens of Florence» («hebrei in eorum iuribus et in causis seu casibus in civilibus et criminalibus debeant reputari et tractari tamquam veri cives civitatis Florentie»). The juridico-technical meaning and ramifications of this and similar privileges in the *Capitoli* of towns and cities of central and northern Italy, which conferred temporary citizenship on Jewish bankers and their entourages, have been debated by modern scholars, as they had been previously by jurists in the late *Trecento* and *Quattrocento*. I am persuaded by

---

87 Decio, fol. 117v, nn. 7 and 8.
90 S. Simonsohn, *La condizione giuridica degli ebrei nell’Italia centrale e settentrionale* (secoli
Toaff’s argument, supported by ample evidence, that the terms of citizenship set forth in the Capitoli generally provided a temporally limited yet valuable and legally enforceable set of substantive immunities, privileges, and institutional protections which enabled Jewish bankers like Vitale da Pisa to conduct their lending and commercial operations in relative security. In short, for the duration of the Capitoli, Vitale da Pisa would be – and was – treated in legal matters as a bona fide citizen of Florence, a status that carried potentially unwanted burdens as well coveted benefits. In fact, according to the tax officials, it was Vitale’s very status as a citizen of Florence that made him liable for the gabella dotis, just as all Florentine citizens who married elsewhere and later return home were obligated. As Decio explained, «citizens of Florence who contract and consummate their marriages and receive a dowry outside Florence’s territory, should they return afterwards with their wives to Florence, are compelled to pay the gabella there in accordance with custom or statute». Civic equality meant that tax burdens had to be shared in equal measure by all citizens, with no exceptions. In support of this principle, Decio cited Baldus that if someone was granted the privileges and benefits (favores) of citizenship, he had to share the burdens (tolls and other personal and property imposts) as well as the benefits of citizenship equally with all other citizens, because civic burdens were necessarily intrinsic to citizenship itself. For this stipulative reason, deference should be paid to Florentine custom and statutes.


91 For similar positive assessments regarding the citizenship status of Jews in fourteenth-century Worms and Cologne, see G. Kisch, Die Rechtsstellung der Wormser Juden im Mittelalter, in «Zeitschrift für die Geschichte der Juden in Deutschland», 5 (1934), pp. 126-131; Schmandt, Judei, pp. 64ff. The enforceability of these privileges and the actual security experienced by the Jews were in fact variable and dependent on local political and religious circumstances. As is well known, the privileged status and citizenship of the Jews in north and central Italy were battered by the feral denunciations and crude libels of Franciscan Observants preachers, especially San Bernardino da Siena (d. 1444), San Giovanni da Capestrano, (d. 1456) and Blessed Bernardino da Feltre (d. 1494).

92 Decio, fol. 170v, n. 8: «quod Florentiae obvatur quod cives Florentini qui extra territorium contrahunt matrimonium et consumant matrimonium et recepta dote extra territorium, si cum uxore postea revertiantur Florentiam, ibi etiam coguntur gabellam solvere, sive hoc fit de consuetudine sive ex forma statuti».

93 Decio, fol. 117v, n. 10: «quod si concessum sit alicui privilegium civilitatis in suum favorem, certe iste tenetur ad datia seu collectas tanquam civis, quia hoc est onus civilitatis existentia rei». See Baldus, to D. 27. 1. 44, Cum ex oratione, In primam et secundam infortiati partem
Pivoting to Vitale’s defense, Decio held that not all citizens were equally equal, a prime example of which was the status of foreign university professors and students during their academic tenures and period of studies. To attract foreign scholars to their studia, city governments established that professors and students would be treated as citizens in omnibus, a vague legal construct that inadvertently made them vulnerable to civic burdens, jeopardizing the privileges and immunities they had traditionally enjoyed under the ius commune since the twelfth century. Following Bartolus’s lead, his successors concurred that the purpose of this policy was to expressly favor scholars by enabling them to receive the benefits of citizenship while avoiding the legal disadvantages and obstacles faced by foreigners. Construing «in omnibus» to mean that scholars were liable for civic burdens was contrary to both the ius commune and benevolent governmental policies aimed at promoting scholarship and learning.

Decio applied the same interpretive logic to the Capitoli. Jewish bankers, just as university scholars, were said to enjoy the benefits of citizenship, while they were purposely released from its burdens. He thus denied the allegation based on a narrowly literalistic interpretation of the Capitoli that the privileges and immunities conferred on the Jewish bankers made them coequal Florentine citizens. In no way were the privileges and immunities granted to the Jewish bankers identical and exclusively limited to those enjoyed by ordinary Florentine citizens. This narrow understanding of the Capitoli was considered offensive and «against the explicit intention of the parties» («contra manifestam intentionem partium»). The intention of both parties, the Jewish bankers and the commune of Florence, was that the Jews would enjoy the immunities and benefits attached to Florentine citizenship but be exempt from things offensive and repugnant (odia), a category that included the gabella dotis. There is an implicit irony to Decio’s rejection of literalism, for it was the Jews who were repeatedly called to task by theologians and jurists for their allegedly stubborn adherence to literal interpretation.

94 Decio, fols. 117v-118r, nn. 11-12. On the doctrinal points discussed in this paragraph, see J. Kirshner, “Made Exiles for the Love of Knowledge”, pp. 184-186. Female citizens who married elsewhere and became citizens in their husband’s towns were similarly said to enjoy the benefits of original citizenship while being released from its burdens. See J. Kirshner, Mulier Alibi Nupta, in Consilia im späten Mittelalter. Zum historischen Aussagewert einer Quellengattung, ed. I. Baumgartner, Sigmaringen 1995, pp. 147-175.

95 Decio, fol. 118r, n. 13: «Non obstante allegatione supra in contrarium, et primo dum dicitur quod hebrei debent tractari in gabellis ut cives Florentini, quia hoc est verum respectu immunitatis in ipsorum favorem, secus est in eorum odium».

96 W. Engelmann, Die Wiedergeburt der Rechtskultur in Italien durch die wissenschaftliche Lehre. Eine Darlegung der Entfaltung des gemeinen italienischen Rechts und seiner Justizkultur im Mittelalter unter dem Einfluss der herrschenden Lehre der Gutachtenpraxis
Baldus’s essentialist reasoning, Decio continued, was irrelevant, because it was keyed to someone who was truly made a civis ex privilegio and inducted into the citizenry, which compelled him to participate equally with other true citizens in the burdens of citizenship. Such compulsion was missing in the case of those whose citizenship was contingent on the meaning of the imperative expression, «they ought to be treated as citizens». Its operative meaning refers to the benefits of citizenship only, as in the example of scholars, which, Decio insisted, was exactly how the language of the Florentine Capitoli should be construed. Echoing Bartolus, he closed the consilium with the pithy declaration that «one can be made a citizen without civic burdens». All of this demonstrated to Decio’s professional satisfaction why Vitale da Pisa was justly exempt from payment of the Florentine gabella dotis.

5. I am disappointed to have been unable to discover the final disposition in each of the three cases. Even though they were not procedurally required to accept a consilium sapientis as constituting the final judgment in the case, the presiding officials in garden-variety tax disputes usually accepted a consilium sapientis as binding, even more so when the consultor was of the stature of Filippo Decio, Italy’s premier jurist. This approach would have been followed in cases like ours, in which the jurists were nearly unanimous in affirming ius commune rules against the extraterritorial reach of Pisa’s laws and Florence’s tax-demanding officials. Admittedly, the protagonist-husbands in two of the cases were hardly ordinary and unsurprisingly


Decio, fol. 118r, n. 13: «Non obstat quod onus gabelle veniat in consequentiam civilissim secundum Baldum in locis in contrarium supra allegatis, quia loquitur Baldum in eo, qui effectur civis ex privilego, [in] dicta l. Quod favore (C. 1. 14. 6), et pariter in dicta l. Oratone (ED: Cum ratione) loquitor de receptis ad civilitatem. Nam tali casu cum sit civis absolute, tenetur subire onera civium; secus est, quando quis non effectur civis, sed debet ut civis tractari, prout in casu isto dicitur, quia tunc talis praerogativa concessa in favorem non debet in odium resurrat». Decio’s distinctions were conventional; they are found in earlier discussions of the tax obligations of those «qui habeantur pro civibus»: see, for example, Iohannes Bertachinus (d. 1506), De gabelis, tributis, & vectigalibus, in Tractatus universi iuris, XII, fol. 65r, nn. 40-41. See also Iulius Ferrettus (d. 1547), De gabelis, publicanis, munerebus et oneribus, in Tractatus universi iuris, XII, fol. 84v, n. 208.

Decio, fol. 188r, n. 15: «quia potest quis creari civis absque onore, ut notat Bartolus in l. 1. ad Munic.». Bartolus, to D. 50. 1. 1, Municipem, Commentaria, VI, fol. 149r, n. 17: «Quero utrum statuta que loquuntur de civibus locum habeant in illis civibus qui munera non subeunt». Bartolus’s dictum, as Decio was assuredly aware, had been employed in a consilium of 1509 by the Florentine jurist Antonio Strozzi, his former student and then colleague at the Pisan Studio, in defending the status of Vitale’s uncle, Isacco, as an original citizen of Pisa: ASF, Carte Strozzi, 3° ser. 41/14, fols. 253v-255r, 253v: «In primis, Isac potest dici civis pisanus origine propria, quia in dicta civitate natur est, in qua pater eius constituerat domicilium, ut habetur in l. 1, et l Assumptio, in principio, ff. ad municipalem (D. 50. 1. 1. et 6), et habetur per Bar. in d. l. 1, ubi etiam in fine dicit quod, dato quod non subeat munera, tamen dicitur esse civis, licet forte non deberet vocari tunc municipes illius loci, quin munera et honera participans». Osvaldo Cavallar and I plan to publish a study of Strozzi’s consilium and a consilium by Giovanni Crotto relating to this case.
began inviting targets of the Florentine tax officials in Pisa. Agapito dell’Agnello was a high-profile Pisan exile who commanded large dowries. Vitale da Pisa’s return to Pisa with his bride was a notable social event, while his lavish lifestyle visibly accentuated his megawealth. Yet, unless the officials had commissioned and received supplementary consilia supporting their original decision to impose the contract tax (and we have no indication that they did), it is hard to fathom the grounds on which the officials would have refused to accept the jurists’ determinations.

Whatever the final disposition of our three cases, the consilia I have examined show, first of all, that the Florentine officials who administered Pisa sought to adhere to the rule of law, by relying on the expertise of jurists working in Florence and Pisa, rather than on mandating preferred outcomes, to resolve disputes posing a challenge to Florentine fiscal policies and entailing a potential loss of revenue. The concept of citizenship in late medieval and Renaissance Italy, the consilia reveal, was malleable and contestable. The substantive and operative meanings legislators, public officials, and jurists attributed to the designation civis were context-dependent and often contradictory, as strikingly revealed in Vitale da Pisa’s case. A sine qua non for negotiating these cross-cutting meanings is a firm grasp of ius commune interpretive methods and doctrines as well as the intricacies of local political and institutional contexts.

Finally, the consilia offer instructive insights into the multijurisdictional puzzles that resulted in the fifteenth and early sixteenth centuries when native citizens established legal domicile and acquired citizenship in foreign jurisdictions. Matters became further tangled, as in the case of Vitale da Pisa, who acquired citizenship in Florence which had superior jurisdiction over his native city. Wherever they traveled, citizens remained in principle subject to the jurisdiction of their hometowns, but not with respect to the gabella dei contratti, which in compliance with ius commune doctrines and rules was payable in the place where the contract was formalized and performed. That explains why the jurists were almost unanimously and straightforwardly opposed to «long-arm» laws imposing taxes on contracts executed by citizens in foreign jurisdictions.