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Privileged Risk: The Investments of Luchino Novello Visconti in the Public Debt (Monte Comune) of Florence

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From 1315 onward, the city of Florence financed extraordinary public expenses largely through interest-bearing, repayable voluntary and forced loans (*prestanze*). Interest payments (*paghe*) were originally secured on anticipated revenues from indirect taxes (*gabelle*), "but this method", as De Roover observed, "proved unsatisfactory since it resulted in impounding future income"¹. In 1342, Walter de Brienne, duke of Athens and dictator of Florence, dealt with revenue shortfalls and impending insolvency by suspending all payments of interest on *prestanze* and by attempting to reintroduce direct taxes. As a result of these and other unpopular measures de Brienne was deposed from office in the summer of 1343. Shortly afterward, the new government was forced to address the fiscal crisis resulting from a floating debt that had soared to unmanageable proportions. In December 1343 it decreed that all outstanding loan obligations be consolidated into a *Monte comune* - literally, a communal mountain of debt; or what modern historians have dubbed the city's public debt, a term never employed in the *Trecento* and *Quattrocento*. Another law enacted in October 1344 established that the credits recorded in the ledgers of the new *monte* were henceforth transferable to other Florentines, who were entitled to the same rights and privileges enjoyed by the original creditors. By law, *monte* credits could neither be held by, nor traded to, non-Florentines without express authorization from the government. It was also established that *monte* credits would be immune from confiscation by public authorities for any reason whatsoever, an especially valuable privilege for creditors living in a society where political banishment and confiscation of property were daily facts of life. Finally, in 1345, when the government acknowledged its inability to redeem its loan obligations, it promised to compensate creditors with 5 percent interest annually until the loan obligations were paid in full.

The 5 percent interest was an artificially low rate set in response to political, rather than market, pressures. Interest on government loans had previously ranged from 8 to 15 percent. Despite the low rate of interest, *paghe* soon fell into arrears (*sostenute*). The inability of the city's treasury to pay *paghe* punctually was reflected in the secondary market, in which *monte* credits were trading for 75 percent below par value, yielding an effective interest rate of 15 percent. With an effective interest rate of 15 percent and mounting military expenditures for Florence's expansion in north and central Tuscany, the government had little alternative but to authorize repayable voluntary loans paying 15 percent interest. It also resorted to other fiscal expedients, among which was the *Monte dell'uno tre*, or the Three-for-One Fund, which began operations in 1358. Here 300 florins in credits carrying 5 percent interest were offered to voluntary lenders for 100 in cash, tripling the rate of interest to 15 percent. In 1369, when the government sought funds for its campaign to

* It is a pleasure to dedicate this essay to my friend and colleague Gene Brucker on his eightieth birthday. It is also a pleasure to acknowledge the valuable and timely advice I received from Lawrin Armstrong, Roberto Barducci, Osvaldo Cavallar, and Reinhold Mueller.

¹ R. De ROOVER, *The Rise and Decline of the Medici Bank, 1397-1494*, Cambridge, Mass., 1963, p. 22. For what follows, see B. BARBADORO, *Le finanze della Repubblica fiorentina, imposta diretta e debito pubblico fino all'istituzione del Monte*, Florence, 1929, pp. 622 ff; R. BARDUCCI, *Politica e speculazione finanziaria a Firenze dopo la crisi del primo Trecento*, in *Archivio storico italiano*, 137, 1979, 177-219; idem, "Cum parva difficultate civium predictorum"...: Spunti introduttivi per un registro della legislazione finanziaria fiorentina del Trecento, in *Renaissance Studies in Honor of Craig Hugh Smyth*, edited by A. MORROGH et al., Florence, 1981, pp. 95-102; J. KIRSHNER, *Storm over the "Monte Comune": Genesis of the Moral Controversy over the Public Debt of Florence*, in *Archivum Fratrum Predicatorum*, 53, 1983, pp. 223-226; A. MOLHO, *Créanciers de Florence en 1347: Un aperçu statistique du quartier de Santo Spirito*, in *La Toscane et le Toscanes autour de la Renaissance: Cadres de vie, société, croyances: Mélanges offerts à Charles-M. de La Roncière*, edited by J.-A. CANCELLERI, Aix-en-Provence, 1999, pp. 77-93; L. ARMSTRONG, *Usury and Public Debt in Early Renaissance Florence: Lorenzo Ridolfi on the Monte Comune* (Pontifical Institute of Mediaeval Studies, Studies and Texts 144), Toronto, 2003, pp. 28-52.

annex San Miniato al Tedesco, it offered voluntary lenders 10 percent interest. In this scheme, 200 florins in credits paying 5 percent interest were given for 100 in cash, and thus began the *Monte dell'uno due*, or the Two-for-One Fund. These higher yielding credits carried identical immunities as those credits consolidated in the original fund, now designated the *Monte vecchio*, the Old Fund.

During the late 1360s and early 1370s, the government endeavored to raise funds from foreign dignitaries and lords who were allied with Florence and wished to invest in the *monte*². Since the privilege of acquiring *monte* credits was generally limited to citizens, foreign dignitaries and lords - for example, Luca Grimaldi³ and Gofredo de Marini, both of Genoa⁴, Francesco il Vecchio of Carrara, *signore* of Padova, and his consort Fina⁵, Trincia and Corrado di Ugolino Trinci of Foligno⁶, Niccola di Roberto of Nola, Roberto di Nicola of Savona⁷, and Astolfo di Neri of Trieste⁸ - were awarded the rights and privileges enjoyed by original citizens and authorized to purchase specified amounts of *monte* credits. New citizen investors received a privileged rate of interest, usually 8 percent, and received the customary immunities attached to the credits. The new citizens and their descendants, to whom the credits could be transferred *inter vivos* and transmitted by last will, were specifically prohibited from selling or transferring their credits to non-Florentines. This prohibition reflected the policies of Florence and other cities, which generally prohibited the alienation to foreigners of property subject to a city's jurisdiction. Since citizenship always entailed duties and a demonstration of civic commitment, these new citizens were obliged to pay all imposts (*gabelle* and *onera*) and to purchase a substantial amount of real estate in the city. All new citizens were prohibited from holding public office, either absolutely or for a period of twenty-five years⁹.

It is not entirely clear from the wording of the citizenship-conferring enactments whether the new citizens were authorized to purchase the credits in the secondary market, normally from brokers, or were limited to purchasing the credits at par value from the officials of the *monte*. Only after the account books and administrative records of the *monte* and related cameral records are inventoried will scholars have the opportunity to study systematically questions of so-called foreign investments in the *monte*. A measure enacted by the legislative councils in December 1371 suggests that some new citizens may in fact have purchased credits on the open market. The measure provided that after securing authorization of the officials of the *Diminuzione dei monti*¹⁰, anyone made a new citizen in the past eleven years and anyone made a new citizen in the future could purchase credits (with the exception of *Monte dell'uno tre* credits) from anyone wishing to sell them. For the privilege of purchasing the credits at steeply discounted prices, one-fourth of the scheduled interest would be retained by the treasury. The deducted interest would be used by the officials of the *Diminuzione dei monti*, who were responsible for reducing the *monte*'s indebtedness, for the redemption of outstanding credits.¹¹

² For foreign investments in Florence in the early *Quattrocento*, see J. KIRSHNER, *Papa Eugenio IV e il monte comune: Documenti su investimenti e speculazione nel debito pubblico di Firenze*, in *Archivio storico italiano*, 127, 1969, pp. 339-382; A MOLHO, *Florentine Public Finances in the Early Renaissance, 1400-1433*, Cambridge, Mass., 1971, pp. 142-150; J. Day, *I conti privati della famiglia Adorno (1401-1408)*, in *Miscellanea di storia ligure*, 1, 1958, pp. 43-120; for foreign investments in the *Monte vecchio* of Venice, see R. C. MUELLER, *The Venetian Money Market: Banks, Panics, and the Public Debt, 1200-1500*, Baltimore, pp. 544-567.

³ Archivio di Stato di Firenze (hereafter cited as ASF), Provvisioni-Registri, 56, fol. 16v (21 June 1368).

⁴ ASF, Provvisioni-Registri, 59, fols. 223v-224r (19 Feb. 1371/72).

⁵ ASF, Provvisioni-Registri, 59, fol. 34r (21 June 1371).

⁶ ASF, Provvisioni-Registri, 59, fol. 42rv (30 June 1371).

⁷ ASF, Provvisioni-Registri, 59, fol. 51rv (7 July 1371).

⁸ ASF, Provvisioni-Registri, 59, fol. 79rv (21 Aug. 1371).

⁹ On the legal capacity of new citizens to hold office in Florence, see my *Paolo di Castro on "Cives ex Privilegio": A Controversy over the Legal Qualifications for Public Office in Early Fifteenth-Century Florence*, in *Renaissance Studies in Honor of Hans Baron*, Florence, 1971, pp. 227-264.

¹⁰ On these officials, see G. GUIDI, *Il governo della città repubblica di Firenze del primo quattrocento, 2: Gli Istituti "di dentro" che componevano il governo di Firenze nel 1415*, Florence, 1981, pp. 267-268.

¹¹ ASF, Provvisioni-Registri, 59, fol. 203rv (23 Dec. 1371).

In addition to attractive rates of return, what other incentives did the new citizens have to invest in Florence's public debt? They apparently did so for the same reasons they invested in the *Monte vecchio* of Venice¹². For one thing, Florence and Venice furnished investment opportunities lacking in their own cities. And even if they did invest in government obligations of their native cities, as in the case of the Genoese, the new citizens hoped to decrease risk by diversifying their investment portfolios. The public debts of Florence and Venice provided a relatively safe haven for funds that would be required in the event of exile and confiscation of property. Mueller is surely correct to emphasize the desire of foreigners, just as of native citizens, to invest in government obligations yielding a stable stream of income for the purpose of establishing perpetual religious and charitable endowments and to fund an annual mass or office. Finally, even if the new Florentine citizens had to purchase credits at par value, the 8 percent interest promised them was still more attractive than the 3 to 4 percent they might earn from comparable Venetian investments.

This model of the new citizen investor is exemplified by Luchino Novello Visconti of Milan, who became a citizen of Venice and Florence and invested in the government obligations of both cities¹³. Born in 1346, Luchino Novello, or Luchinetto, was the legitimate son of Luchino Visconti who, with his brother Archbishop Giovanni, ruled Milan from 1339 until his death in 1349. Luchino attempted to assure that his son would succeed him as *signore* of Milan, but his plan was thwarted by family rivalries. Upon the death of his paternal uncle and protector Giovanni in 1354, Luchino Novello with his mother fled to Genoa. As a result of the unceasing rivalry with his cousins Galeazzo II and Bernabò and later, Giangaleazzo, he was denied the opportunity to return to Milan. A footloose military adventurer, he fought with Genoa and Savoy against Milan and participated in the defense of Padua against his nemesis Giangaleazzo. In Genoa he was allied with the Boccanegra clan and married a daughter (Maddalena) of Doge Simone Boccanegra. In 1362 Luchino laid claim to funds his father had deposited with the Venetian Grain Office. His claim was vigorously opposed by Giangaleazzo, who falsely alleged that Luchino Novello was born illegitimately and therefore had no lawful claim to his father's deposit. Venice eventually ruled in favor of Luchino and in 1395 also recognized him as an honorary Venetian noble citizen, a title that had been conferred in 1335 on his father. He was also permitted by Venice to buy government obligations in the secondary market, and at his death in 1400 Luchino's holdings amounted to 20.000 ducats at par value.

Without Luchino's domestic account books and private records, which appear to be no longer extant, and without easy accessibility to the records of the *monte*, what we know about Luchino's investments in the *Monte comune* is restricted to information derived from legislative privileges and a portfolio of legal documents preserved in the *Carte Stroziane* in the Archivio di Stato of Florence. The portfolio includes legislative enactments and legal opinions relating to a dispute that occurred in 1392 between Luchino and the officials of the *Diminuzione dei monti*. The most important of these documents are edited in Appendix 3, below.

Luchino and his direct male descendants were made citizens of Florence by legislative enactment on 9 April 1371 (Appendix 1)¹⁴. According to the provision he and his male heirs were to enjoy all the benefits, privileges, and immunities enjoyed by all *veri, originarii et antiqui cives Florentie*, except the right to hold office. In return for the privilege of citizenship, he was required to purchase within a year of the date of the provision either real property in the city or *contado* valued at 6.000 florins or *Monte dell'uno tre* credits with at least (*saltem*) a cash value of 20.000 florins. While he was authorized to purchase discounted credits in the market from other citizens, he was also required to pay the commune 400 florins annually, which would be treated as an

¹² MUELLER, *The Venetian Money Market*, cit., p. 545-546.

¹³ For what follows, see F COGNASSO, *L'unificazione della Lombardia sotto Milano*, in *Storia di Milano*, vol. V, Milan, 1953-1966, pp. 315, 326-328, 416, 427, 552, 556; M. FOSSATI and A. CERESATTO, *L'Età della signoria e del principato*, in *La Lombardia: Comuni e signorie nell'Italia settentrionale*, edited by R. BORDONE, in *Storia d'Italia*, edited by G. GALASSO, vol. VI, Turin, 1998, pp. 532, 546; MUELLER, *The Venetian Money Market*, cit., pp. 385-386; 552, 559, 631; R. C. MUELLER, *Espressioni di "status" sociale a Venezia dopo la "serrata" del Maggior Consiglio*, in *Studi veneti offerti a Gaetano Cozzi*, Venice, 1992, pp. 60-61; G. PETTI BALBI, *Simon Boccanegra e la Genova del '300*, Genoa, 1991, pp. 55, 285, 337-343.

¹⁴ ASF, *Provvisoni-Registri*, 59, fols. 6r-7r.

irrevocable *donatio inter vivos*. In other words, the commune was charging a tax or premium, presumably in view of the high profit Luchino would earn from his investment. To avoid confusion, it should be remembered that the nominal yield on *Monte dell'uno tre* credits was not 15 but 5 percent. Since the market value of *Monte dell'uno tre* credits at this time stood at around 30 percent of par value¹⁵, Luchino expected to earn roughly 3.000 florins per annum, which equals a rate of interest of 15 percent. When we deduct the premium of 400 florins and the transaction costs, his yield falls to a still respectable 2.600 florins or 13 percent. The yield was actually greater, since in return for paying the 400-florin premium, he was excused from the obligation of paying all imposts (*remissa eis [Luchino and his descendants] et cuilibet ipsorum necessitate satisdandi et seu promictendi de muneribus seu oneribus communis Florentie subeundis*).

This enactment conferring citizenship on Luchino and his descendants also contained several restrictions. If Luchino did not purchase the credits within a year, he would be deprived of his Florentine citizenship. This was a standard stipulation, since his citizenship was contractual (*civilitas contracta*) and valid only insofar as the parties fulfilled the terms of the civic contract into which they mutually and voluntarily entered. As in the case of other new citizens, he and his descendants were prohibited from selling or otherwise transferring his credits to non-Florentines and prohibited from holding public office. Like all citizens, natives and the newly created, they were subject to previously enacted laws that authorized the office of the *Diminuzione dei monti* to force creditors to sell their credits to the commune. The repurchase price would be the same for all credits, whether held by natives or new citizens. As we shall see below, this proviso became crucial in a dispute arising in 1392 between Luchino and the *monte* regarding the question of whether he was required to sell his credits to the officials.

Soon after becoming a citizen, Luchino invested 20.000 florins in *Monte dell'uno tre*, and he was eager to invest even more funds in the *monte*. He conferred with the officials of the *Diminuzione dei monti* about his desire to transfer to Florence approximately 10.000 florins from Venice with the intention of purchasing *Monte dell'uno due* credits. These were large investments, which can be gauged by comparing them to the *monte* holdings in 1369-1370 of the Bardi, a wealthy merchant *casa*. The par value of the holdings of all creditors with the surname Bardi in the quarter of Santo Spirito for that year amounted to 11.310 florins: 2.397 in the *Monte vecchio*, 4.244 in the *Monte dell'uno tre*, 3.188 in the *Monte dell'uno due*, and 1.481 in the *Monte libero dell'uno due*¹⁶.

Recall that because of the provision of December 1371 mentioned above, Luchino and other new citizens were no longer able to purchase *Monte dell'uno tre credits*. Now, whether the proviso in the December provision mandating the retention of one-fourth of the interest paid to new citizen creditors applied to Luchino and his descendants became an important question? Did the new proviso nullify and replace the requirement that Luchino pay the commune 400 florins every year for the benefit of investing in the *monte*? The question was resolved in an enactment of 14 April 1372, which heaped praise on Luchino for his exemplary civic conduct and allegiance to Florence (Appendix 2)¹⁷. The enactment announced that, unlike other new citizens, Luchino and his family were presently living in Florence and that he intended to live and die in Florence. In fact, Luchino was now married to Maddalena Strozzi, whose father, Carlo, was a rich Florentine merchant and active political figure¹⁸. Luchino's residence in Florence is corroborated by another source relating his participation in a joust in Piazza Santa Croce, February 1372¹⁹.

¹⁵ Calculated on the basis of the price paid for *Monte dell'uno tre* credits by Iacopo Del Bene. See Appendix IV, *Speculazioni sui titoli del debito pubblico dal 1361 al 1371*, in A. SAPORI, *Case e botteghe a Firenze nel Trecento*, in *Studi di storia economica*, vol. II, Florence, 1955, p. 351. Characteristically, the purchase price of credits depended not only on market prices but also on whether the full purchase price was to be paid immediately or in installments and on the expectations of the purchaser regarding future interest payments.

¹⁶ These totals are based on my analysis of ASF, Monte Comune o delle Graticole, no. 101 (Quartiere di Santo Spirito, 1369-1370).

¹⁷ ASF, Provvizioni-Registri, 60, fol. 61rv.

¹⁸ G. A. BRUCKER, *Florentine Politics and Society, 1343-1378*, Princeton, 1962, s.v. Strozzi, Carlo; M. SPALLANZANI, *Una grande azienda fiorentina del Trecento: Carlo Strozzi e compagni*, in *Ricerche storiche*, 7, 1978, pp. 417-436.

¹⁹ "Nonostante le ghuerre e tribolazione avute la città di Firenze, e al presente in pace, per operazione della giovanglia di Firenze, mossi da uno messer Luchino de' Visconti di Milano che dimorava in Firenze e avea preso per dona la bella Madalena degli Strozzi e ordinarono fare e feciono uno torniamento..., e fu di febraio in sulla piazza di Santa Crocie".

The communal fathers were pleased that Luchino was not sending his *monte* profits elsewhere, but was spending significant sums in the city and shouldering *gabelle* and communal imposts just like other reliable citizens. For these reasons, the government granted Luchino the privilege of purchasing an unlimited amount of *Monte dell'uno due* credits in the market, with the reservation that it would retain one fourth of the interest on all the credits he now held and would acquire in the future. In the same breath, it freed Luchino from the obligation to pay the 400 florins annually. As before, he was prohibited from transferring and selling credits to foreigners. In the early 1370s, *dell'uno due* credits were selling for about 33 percent of par value²⁰. After the deduction of one-fourth of the interest and the transaction expenses, Luchino would realize about an 11 percent return from his investment in the *Monte dell'uno due*. Luchino's investments conform to a larger pattern of speculation and trading in *monte* credits, particularly in *Monte dell'uno due* credits, in the early 1370s²¹.

From the documents relating to the later legal dispute (Appendix 3, no. 5), we learn that in 1377-1378 Luchino purchased credits in the *Monte nuovo*, which had been established in 1373 and which paid a nominal interest of 5 percent annually²². Fortunately for Luchino, he was shielded by his privileged status from the effects of the restructuring of the *monte* occasioned by the insurrection in 1378 of the *Ciampi* - the workers of the woolen industry. Among the *Ciampi*'s demands was the termination of interest on outstanding *monte* credits, a prohibition on future forced loans, the elimination of the public debt by 1390, and the reestablishment of a direct tax on wealth²³. These demands, which would have undermined the benefits the *classe dirigente* reaped from a system of public finances predicated on interest-bearing loans, proved too radical to be enacted. In response to the *Ciampi*'s demands a compromise was eventually forged. In December 1380, the government, focused on reducing the public debt, decreed the abolition of both the *Monte dell'uno tre* and *Monte dell'uno due* and consolidated all the *monti* into one fund paying a uniform rate of 5 percent interest annually²⁴. Nevertheless, the *monte* holdings of Luchino and several other prominent foreigners who had become new citizens were explicitly exempted from the new disposition. They would continue to receive interest under the privileged terms they had originally contracted with the commune²⁵. The confirmation of Luchino's privilege is all the more remarkable during a period of political turmoil in which the *Ciampi* regime had declared his father-in-law an enemy and sent Strozzi into exile²⁶.

From the mid 1380s on, Florence raised enormous sums through *prestanze* to pay mercenary armies hired to defend the commune against Milanese aggression. For the years 1390-1392 alone, expenses for mercenaries amounted to 2.158.000²⁷. In order to raise new funds, the commune was compelled to offer yields from 8 to 10 percent. Luchino took advantage of this situation by

Cited by G. CIAPPELLI, *Carnevale e Quaresima: Comportamenti sociali e cultura a Firenze nel Rinascimento*, Rome 1997, p. 141. G. A. BRUCKER was the first scholar to call attention to this document, and I want to thank him for sending me his transcription. BRUCKER, *Renaissance Florence*, New York, 1969, p. 123.

²⁰ Saporì, *Case e botteghe a Firenze nel Trecento*, cit., p. 352.

²¹ Marchione di Coppo Stefani, *Cronica fiorentina*, edited by N. RODOLICO, in *Rerum italicarum scriptores*, vol. XXX, part 1, Città di Castello, 1903-1913, rubr. 737, p. 278; G. BRUCKER, *Un documento fiorentino sulla guerra sulla finanza e sull'amministrazione pubblica*, in *Archivio storico italiano*, 115, 1957, pp. 165-176; J. KIRSHNER, *Reading Bernardino's Sermon on the Public Debt*, in *Atti del simposio-internazionale cateriniano-bernardiniano (Siena, 17-20 Aprile 1980)*, edited by D. MAFFEI and P. NARDI, Siena, 1982, Appendix 5, pp. 619-621.

²² See Appendix 3, no. 5 below.

²³ See N. RODOLICO, *La democrazia fiorentina nel suo tramonto (1378-1382)*. Bologna, 1905, pp. 255ff; G. A. BRUCKER, *The Ciampi Revolution*, in *Florentine Studies: Politics and Society in Renaissance Florence*, edited by N. RUBINSTEIN, London, 1968, pp. 341-344; R. BARDUCCI, *Le riforme finanziarie nel tumulto dei Ciampi*, in *Il Tumulto dei Ciampi. Un Momento di storia fiorentina ed europea*, Florence, 1981, pp. 95-102.

²⁴ RODOLICO, *La democrazia fiorentina*, cit., Appendix 6, pp. 458-475.

²⁵ RODOLICO, *La democrazia fiorentina*, cit., Appendix 6, p. 468.

²⁶ BRUCKER, *Florentine Politics and Society*, cit., p. 383, n. 139.

²⁷ Molho, *Public Finances*, p. 10 (Table 1). On the internal political divisions surrounding Florence's fiscal crisis, see G. A. BRUCKER, *The Civic World of Early Renaissance Florence*, Princeton, 1977, pp. 147ff; R. NINCI, *La politica finanziaria della Repubblica fiorentina dopo il Tumulto dei Ciampi (1380-1425): Un tentativo di 'Programmazione'?*, in *La società fiorentina nel Basso Medioevo: Per Elio Conti*, edited by R. NINCI (Istituto storico italiano per il Medio Evo, Nuovi studi storici, no. 29), Rome, 1995, pp. 151-67.

investing in one of the new funds, the *Monte de' prestanzoni*, instituted in 1390, which yielded 8 percent²⁸. Concomitantly, the commune was employing an array of measures to reduce its astronomical public debt, among which was to force creditors to sell their credits to the commune and to retain part of the interest promised to creditors. Luchino was again exempted from these measures, as the commune continued to observe his status as a privileged creditor. Then, in 1392, officials of the *Diminuzione dei monti* decided to forcibly redeem Luchino's credits. They were acting under a provision of 24 July of that year that authorized forced redemptions. There is no evidence that the *monte* officials had singled out Luchino's credits for the forced redemption. If there were singular reasons that prompted the decision to redeem Luchino's credits, beyond the general call for the reduction of the public debt, they remain a mystery.

The preamble to the provision of 1392 underscored the necessity of repairing the fiscal damages brought about by war²⁹. It was therefore established that for three years, beginning the following September, the commune would withhold one third of the annual interest payable to *monte* creditors. This measure applied to native citizens only. Non-native citizens, like Luchino, faced a reduction one-fourth of the interest due them, just as before. Similarly, the 8 percent interest paid on *prestanzone* credits would be reduced to 5 percent. The officials of the *Diminuzione dei monti* were authorized to acquire credits through compulsory redemptions at a price which they would determine at their discretion. Typically, the *monte* officials had disregarded the purchase price of the credits, redeeming shares at current market prices, a tactic that seems to have remained the practice³⁰. In addition, the officials were authorized to pay sellers a bonus of 2 florins for every 100 hundred florins of credits purchased. The bonus was given in compensation for the forced redemption, a sweetener intended to encourage compliance with the terms of the provision. Finally, after three years, the officials of the *Diminuzione dei monti* were required to restore to the creditors the interest that had been withheld, except the amounts that had been applied to the repurchase of credits.

Luchino resisted the forced redemption. Around July 1493, Angelo degli Ubaldi da Perugia (d. 1400), Francesco Ramponi (d. 1401) and Gaspare Calderini (d. 1399), then teaching at the University of Bologna, and Bartolomeo da Saliceto (d. 1412), who was teaching at the University of Ferrara, were commissioned to write opinions, or *consilia*, to resolve the dispute³¹. Who

²⁸ See Appendix 3, no. 5, below.

²⁹ ASF, Provvisioni-Registri, 81, fol. 151r. At the same time, the commune continued to encourage foreign investments in the *monte*: see ASF, Provvisioni-Registri, 81, fols. 174r-175r, 260r-263v.

³⁰ This was a prudent strategy since the officials would redeem credits when prices were low. See the letter of 1375 of Gherardino di Niccolò Gerardini Giani, an official dealing with fiscal matters, on trading in *Monte dell'uno tre credits* in the context of the *monte* officials' policy of redemption. See BRUCKER, *Un documento fiorentino*, cit., p. 174.

³¹ Bio-bibliographical information on these jurists is uneven. Angelo's career in Florence demands a comprehensive study. For now, see O. CAVALLAR and J. KIRSHNER, *Making and Breaking Betrothal Contracts (Sponsalia) in Late Trecento Florence*, in *Studi in onore di Manlio Bellomo*, edited by K. PENNINGTON, E. MONTANOS FERRIN, and O. CONDORELLI, Rome, 2004, in press. On Bartolomeo da Saliceto, see the bio-bibliographical profile by G. ORLANDELLI, in *Dizionario biografico degli Italiani*, vol. 6, Rome, 1964; F. LIOTTA, *Notizie su Iacopo Baldovini e Bartolomeo da Saliceto*, in *Studi senesi*, 76, 1964, pp. 511-517; M. BELLOMO, *Una famiglia di giuristi: I Saliceto di Bologna*, in *Studi Senesi*, 81, 1969, 387-417; A. BELLONI, *Professori giuristi a Padova nel secolo XV. Profili bio-bibliografici*, Frankfurt am Main, 1986, pp. 161-167; A. TANZINI, *Notizie du due mancate commissioni statutarie a Firenze alla fine del '300*, in *Archivio storico italiano*, 161, 2003, 323-331. On Gaspare Calderini da Bologna, see the bio-bibliographical profile by H. BECKER, in *Dizionario biografico degli Italiani*, vol. 16, Rome, 1973, pp. 605-606; G. NICOLOSI GRASSI, *Analisi di manoscritti vaticani per uno studio dei consilia di Giovanni e Gaspare Calderini*, in *Rivista di storia del diritto italiano*, 50, 1977, 127-212. On Francesco Ramponi da Bologna, see the profile in *Thomae Diplovatati Liber de claris iuris consultis*, edited by F. SCHULZ, H. KANTOROWICZ, and G. RABOTTI, in *Studia gratiana*, 10, 1968, pp. 318-319; and J. F. von SCHULTE, *Die Geschichte der Quellen und Literatur des canonischen Rechts*, vol. II, Graz, 1875, pp. 251, 264, 266. For another *consilium* on which Francesco Ramponi, Gaspare Calderini, and Angelo degli Ubaldi collaborated, together with Lorenzo del Pinu da Bologna (d. 1397) and Giovanni Ludovico Lambertazzi da Bologna, see Biblioteca Vaticana Apostolica (hereafter cited as BAV), Vat. lat. 2540, fols. 215v-219r. For additional manuscripts of Ramponi's *consilia*, see Vat. lat. 2660, fols. 29v-31v; Vat. lat. 10962, fol. 83rv; Barb. lat. 1396, fols. 10v-11v, 26r-26v, 263v-264r (with Bartolomeo Saliceto); Barb. lat. 1403, fols. 19r-22v; Barb. lat. 1410, fols. 51r-55r; A. CAMPITELLI and FILLIPO LIOTTA, *Notizia del Ms. Vat. Lat. 8069*, in *Annali di storia del diritto*, 5-6, 1961-62, p. 397; and A. CAMPITELLI, *Il codice Vaticano latino 8068*, in *Annali di storia del diritto*, 14-17, 1970-73, p. 251.

commissioned the opinions from these leading jurists? It is unlikely, though always possible, that the *monte* officials commissioned the *consilia*. In accordance with contemporary practice the city's administrative officials would have likely commissioned local jurists matriculated in the city's *Arte dei Giudici e Notai*³². Had the *monte* officials commissioned the *consilia*, it is also likely that there would have been a reference to the commission in the extant documents relating to the case. That the opinions were written at Luchino's request and in his favor is indicated by the heading, "*Consilia pro domino Luchino*"³³, which serves to identify the documents and the *consilia*. The tenor of the opinions themselves, which roundly defend Luchino's privileges, also point to Luchino, or more likely his procurator, as the commissioning party.

There is another question: assuming Luchino or his procurator commissioned the opinions, why was the dispute submitted to foreign rather than Florentine jurists? While it is true that the great majority of requests for *consilia* by public officials as well as individuals and corporate entities in Florence were submitted to jurists matriculated in the *Arte dei Giudici e Notai*, it was not unusual for cases to be submitted to jurists at the University of Bologna. Anyway, the appellation "foreign jurist" is somewhat misleading. Angelo degli Ubaldi was familiar with the city's fiscal institutions and operations, as he had taught and practiced law in Florence from 1387/88 until the beginning of October 1391. Calderini, Bartolomeo da Saliceto, and Ramponi also collaborated with Florentine jurists in myriad cases.

The legal issues the jurists addressed were fairly straightforward (Appendix 3, no. 5). The commune's position was that fiscal necessity caused by continual wars justified the forced sale, and, in reality, the confiscation of Luchino's property. Further, Luchino should be treated no differently from his fellow citizens, who also were subject to supervening fiscal pressures resulting in the severe measures authorized in 1392. As a matter of strict law, however, was Luchino legally subject to the provision authorizing the forced redemption, specifically in view of the terms of his grant of citizenship? Two arguments were advanced on Luchino's behalf. First, he had fully satisfied the conditions of his citizenship grant, thereby transforming the grant into an enforceable contractual obligation (*Nam dicta prima provisio disponens de civilitate sua sapit contractus et ex ea est sibi ius quesitum*). His compliance meant that Luchino's rights could not be unilaterally abrogated *ex post facto* by the commune. Second, the application of the policy of forced redemptions to native citizens is generally undesirable and unlawful (*contra ius*), and was undertaken without cause (*sine causa*). In effect, the commune was violating its promise not to confiscate *monte* credits lawfully acquired by its citizens. As far as the policy of forced redemption was applied to *cives ex pacto*, there was no question that the policy constituted a violation of the obligations arising from the *pactum*, or special agreement, made between the commune and Luchino. The reasoning was that the commune's obligation toward *cives ex pacto* must be more stringently observed than even those toward *cives originarii*.

Angelo degli Ubaldi wrote the lead opinion structured on the classic tripartite form of argumentation (Appendix 3, no. 6, for what follows). First, the arguments in support of the commune's position; second, the arguments in favor of Luchino's; third, a series of "notwithstanding arguments" that concede the premises of the arguments made in favor of the commune, but then deny that the premises apply to Luchino in the first place. True to form, each individual argument is sustained by commanding juristic clichés and references to the Digest and Codex, the *Glossa ordinaria*, and to the commentaries of the authoritative jurists, Pope Innocent IV (d. 1254), Cino da Pistoia (d. 1336), and Bartolus da Sassoferrato (d. 1357).

1. When the welfare of a community is imperiled, the rulers and government, in the name of the collective public good and public utility, may pursue actions that would otherwise be unlawful. Impelled by urgent necessity, a republic is entirely justified in compelling its subjects to sell their goods, even for less than their current value. This is what happened in 1392, when urgent necessity caused the officials of the *Dimunizione dei monti* to force Luchino to sell his credits. The republic

³² J. KIRSHNER, *Consilia as Authority: The Case of Florence*, in *Legal Consulting in the Civil Law Tradition* (Studies in Comparative Legal History, Publication of the Robbins Collection in Religious and Civil Law, University of California, Berkeley), Berkeley, 1999, pp. 107-142.

³³ ASF, Carte Stroziane, ser. III, no. 106, fol. 31r.

of Florence at the time was overwhelmed by the obligations attending the large mass of outstanding *monte* credits, and immediate relief was necessary. Under these circumstances, as Innocent IV advised, a statute that abolishes the rights of individual persons is valid, so long as it directed toward maintaining the peace and tranquility of the community. Last but not least, Luchino owes a debt of gratitude (*ad antidora obligatus*) for being awarded Florentine citizenship - what anthropologists call specific and complementary reciprocity, which serves to cement relations between husbands and wives, parents and children³⁴. The theory behind Angelo's point is that Florentine citizenship was given as a gift, and it was only natural that Luchino should willingly requite the donor. Luchino is also likened to a ward and adopted son, who is morally and legally obligated to support (*alere*) his adoptive *patria* in a time of dire necessity, and is therefore liable to the demands of the officials of the *Dimunizione dei monti*.

2. In defense of Luchino, Angelo focuses on the wording of the provision of April 1371 awarding him and descendants citizenship. It is evident from the wording itself that only those statutes and provisions enacted before he acquired citizenship (*ordinamenta dicti communis hactenus edita*) apply to Luchino. The application of the law of 1392 to Luchino's credits is invalid, as it manifestly violates the terms of the contract by which he became a citizen.

3. Thus far the arguments presented by Angelo were the standard ones employed in disputes between communities and its members over the validity of fiscal privileges and exemptions. It was an article of law that when persons agreed to become new citizens of a city, they also voluntarily agreed to submit to the city's jurisdiction. Now, the key question of whether Luchino is subject to the jurisdiction of Florence is raised. If Luchino is not subject, he may not be compelled to comply with the law of 1392. Angelo contends that based on his place of origin (*origo*), which is derived from his father and grandfather, Luchino is an original citizen and subject of Milan, which exempts him from Florentine jurisdiction. By definition, membership in the Visconti *casa* is equivalent to being from Milan. In Angelo's words, "Luchino is a member of the Visconti of Milan, whose territory is well know to be separate from the territory of Florence".

If one supposes that Angelo's opinion was written in Luchino's defense, it is plausible to treat the argument that Luchino was only a nominal Florentine citizen as self-serving obfuscation. Two later documents, however, suggest that Luchino's Florentine citizenship was in fact treated as nominal and honorary. In his last will, redacted in Venice in July 1399, Luchino mentions that he is a *civis Venetiarum et Mediolani*, but omits reference to his Florentine citizenship. His self-identification as a Milanese is unambiguous: "*Ego Luchinus Vicecomes Mediolani*". We should not infer from the absence of a reference to Florentine citizenship that Luchino's relationship with Florence had soured. In fact, he declared that he wanted to be buried in Milan, but if that proved impossible, as he anticipated it would, then he wished to be buried in a Franciscan church in Florence³⁵. It does not seem that this wish was carried out upon Luchino's death in August or September 1400.

The second document is a memo prepared by, or at the instance of, the *monte* officials of Florence, sometime after Luchino's death (Appendix 3, no. 2). At the time of his death Luchino had at least 20.000 florins in *Monte dell'uno tre* credits that were subsequently sold by his executors and additional credits that had not yet been liquidated. The questions the officials sought to resolve were the following. Could the *monte* officials, in accordance with the December 1371 enactment regulating foreign investments in the *monte*, elect to withhold one-fourth (*il quarto*) of the interest paid on Luchino's credits, instead of collecting the premium of 400 florins? Could the officials withhold the one-fourth in one year, yet require the premium in another year? Could the one-fourth be applied to credits beyond the original 20.000 florin investment remaining in Luchino's *monte* account? In the event the credits were sold to a native Florentine citizen (*cittadino*

³⁴ On *antidora*, see BARTOLOMÉ CLAVERO's perceptive study, *Antidora: Antropologia catolica de la economia moderna*, Milan, 1990. For the anthropological theory, see HANS VAN WEES, *The Law of Gratitude: Reciprocity in Anthropological Theory*, in *Reciprocity in Ancient Greece*, Cambridge, 1998, pp. 14-47. For the obligation to give eleemosynary gifts in late medieval theology, see G. TODESCHINI, *I mercanti e il tempo. La società cristiana e il circolo virtuoso della ricchezza fra medioevo ed Età Moderna*, Bologna, 2002, pp. 187ff.

³⁵ L. OSIO, *Documenti diplomatici tratti dagli archivi milanesi*, vol. I, Milan, 1864, doc. CCXXXII (7 July 1399), pp. 348-356, quotes on p. 348. At the time of his death, Luchino also possessed a *palazzo* in Piazza dei Priori in Florence and a farm in the *contado*.

d'origine), was the purchaser subject to the one-fourth deduction? The memo states that the officials may withhold the one-fourth and that they may do this in one year, and require the 400 florins in another, though, it added, this was not authorized by the December enactment. Regarding the transference of the one-fourth deduction of interest from seller to buyer, the deduction was meant to apply to foreigners (*forestieri*) only; a native citizen who purchases Luchino's credits was not subject to the deduction. This last distinction indicates that the foreign lords and dignitaries who were made citizens for the purpose of investing in the *monte* were considered by Florentine officials foreigners who had acquired merely honorary or nominal citizenship.

Even so, it was also an article of law that one could possess dual citizenship, original or native citizenship in one place, acquired citizenship elsewhere, and be subject to the jurisdictions of both places simultaneously³⁶. This was especially the case when the new citizen had established domicile in his adoptive city, as Luchino had, after having resided there for at least ten years. Angelo concedes that new citizens may be compelled, as "other citizen-subjects" (*alii cives subditi*) to support municipal burdens and imposts³⁷. But this fundamental rule is irrelevant to the character of Luchino's Florentine citizenship. Luchino did not assume Florentine citizenship unconditionally, making him automatically subject to the city's jurisdiction. Rather, he was awarded the right to enjoy all the privileges, advantages, and honors enjoyed by all original citizens of Florence, with the exception of holding public office, while he was expressly exempted from shouldering the ordinary and extraordinary tax burdens imposed on other citizens.

In a nutshell, Angelo was arguing that Luchino's Florentine citizenship was devoid of the substance of true citizenship and must therefore be construed as a convenient fiction that provided material benefits to both Luchino and the commune. The exemptions showered on Luchino reveal that the commune had not intended to treat him as an ordinary citizen subject to the city's jurisdiction. In actuality, the relationship between Luchino and Florence was closer to a long-term commercial agreement. Angelo sidestepped the issue of Luchino's domicile in Florence, for under the law an inhabitant (*incola*) who establishes domicile in a municipality is subject to imposts in his locality. Nor did he refer to the April 1372 provision allowing Luchino to purchase *Monte dell'uno due* credits, in which Luchino is reported to have expressed a desire to live and die in Florence. For Angelo, these particulars were immaterial to the validity of Luchino's privileged legal status.

Finally, the assertion that Luchino was acting with ingratitude because he refused to sell his *monte* credits to the comune was, as Angelo argued, based on a false presumption: that the gift of citizenship emanated from the generosity of the donor and did not entail compulsion and consideration. A gift based solely on the generosity of the donor would normally engender a reciprocal debt of gratitude. Contrarily, a gift made for reasons of self-interest (*donatio ob causa*) did not engender a reciprocal debt of gratitude. According to Angelo, the gift of Florentine citizenship must be construed as a *donatio ob causa* from which both the commune and Luchino benefited. The conditions that Luchino was required to fulfill before acquiring Florentine citizenship, as well as the benefits derived by the commune from Luchino's investments, demonstrated that the gift of citizenship did not rest on the commune's generosity.

³⁶ J. KIRSHNER, *Between Nature and Culture: An Opinion of Baldus of Perugia on Venetian Citizenship as Second Nature*, in *The Journal of Medieval and Renaissance Studies*, 9, 1979, pp. 179-208. See also BALDUS DE UBALDIS, *Tractatus duo de vi et potestate statutorum*, edited by E. M. MEIJERS, Harlem, 1939, p. 5-6, no. 11; and ANGELUS DE UBALDIS ad l. *Non tibi* (C. 10. 40 (39). 1), in *Super tribus libris Codicis*, Venice, 1497, s.f.

³⁷ In another *consilium*, Angelo defended the prima facie prerogatives of the commune to force citizen-subjects to make loans and to sell their property for less than current values: "ob necessitatem eandem compelli possunt subditi ad res eorum vendendas pretio viliori... Possunt etiam ad eandem causam urgeri ad deputandum eorum nemora aut molendina, seu alia usui publico recepta, competenti mercede... possunt etiam compelli ad solvendam collectas et alia onera, tam realia quam personalia... quia ergo istae prestantiae ab invitis extorquentur propter necessitates publicas, loco aeris alieni habentur. Ex hoc insurgit quod cum civitas Florentiae autoritate Caesarea omnia habeat regalia et omnia iura fiscalia, ut mihi assertum est, quod pro praedictis praestantiis extorquendis bona illorum, quibus imponuntur, sunt tacite hypothecata, sicut pro aere alieno fiscali". See ANGELUS DE UBALDIS, *Consilia*, Lyon, 1561, cons. 206, fol. 107r.

These arguments led Angelo to the predictable conclusion that Luchino and his descendants were perpetually exempt from forced redemptions authorized by Florentine laws enacted after the 1371 grant of citizenship. The opinion was duly endorsed by Ramponi and Calderini, who affixed their signatures and seals. In his own opinion, Bartolomeo da Saliceto argued that Luchino's exemption extended beyond *Monte dell'uno tre* credits to his holdings in the *Monte dei prestanzoni*. In consequence, the officials of the *Dimunizione dei monti* could neither force Luchino to sell his *prestanzoni* credits nor reduce the 8 percent interest he was entitled to receive.

Since *consilia* were not strictly binding on public officials, more often than not the actual outcome of such cases remains unknown, unless supplementary evidence is found. When Giovanni Ciappelli of the University of Trento completes his *repertorium* of these *filze*, numbering in the thousands, it should be easier to recreate Luchino's portfolio of government obligations and their disposition. As we saw above, it is certain that at the time of his death Luchino's *monte* account included the original 20,000 florins in *Monte dell'uno tre* credits that were subsequently liquidated. Under the terms of his last will, *monte* interest was earmarked for sundry pious bequests in Florence, 90 florins of which were to be distributed to eighteen poor girls for their dowries. By contrast, 300 florins of *monte* interest were to be used to support his unmarried daughters, Caterina and Maddalena. These monies would be managed by their mother, Maddalena Strozzi, whom Luchino named as the girls' guardian and who lived until 1430. If and when the daughters married, they were each to receive 4,000 ducats from Luchino's investments in Venetian government obligations. In the event that amount was insufficient to conclude honorable marriages, the dowries could be supplemented by funds from Luchino's investments in government obligations in Bologna and Florence³⁸. In 1405, when the daughters laid claim to the *monte* credits remaining Luchino's account, jurists were called in to determine whether the dotal supplements were warranted. At this juncture, we learn that 2,000 florins in *Monte nuovo* credits remained in Luchino's account³⁹.

It is worth noting the absence in Luchino's testament of any moral qualms about his investments. While there was broad agreement among theologians and jurists that interest on forced loans was licit, there was ferocious disagreement about the morality of voluntary purchases of credits, either directly from the officials of the public debt or in the secondary market, and about the interest paid on the credits⁴⁰. Worse in the eyes of the moralists were investments in the high-yielding funds, *Monte dell'uno tre* and *dell'uno due*, which were patently usurious. Studies of the controversy in *Trecento* Florence and of Florentine last wills show beyond a shadow of doubt that the controversy did afflict the consciences of individual investors⁴¹. We may infer from Luchino's consistent pattern of investments in government obligations in Florence, Venice, Genoa, and Bologna that he was among those investors who were not seriously troubled by charges that they had committed the sin of usury.

Understandably, Angelo did not raise the issue of the morality of *monte* investments, since the issue was unrelated to the instant case. Nonetheless, Angelo and Bartolomeo da Saliceto, along

³⁸ OSIO, *Documenti diplomatici*, cit., pp. 351-353. On the disposition of Luchino's Venetian investments, see MUELLER, *The Venetian Money Market*, cit., p. 552, and his *Espressioni di "status" sociale a Venezia*, cit., pp. 60-61; For the codicil to the testament of 7 July 1399, see M. BRUNETTI, *Nuovi documenti viscontei tratti dall'Archivio di Stato di Venezia: Figli e nipoti di Bernabò Visconti*, in *Archivio storico lombardo*, ser. 4, 12, 1909, pp. 77-78.

³⁹ For the case and the original, sealed *consilia* of Torello di Niccolò Torelli da Prato, Antonio di Giovanni da Romena, Giovanni Benedetti da Visso and Bartolomeo di Tommaso Popoleschi da Firenze, see ASF, *Carte Strozzi*, ser. III, no. 106, fols. 52r-59r, and 52v for the reference to *Monte nuovo* credits. Preceding Popoleschi's *consilium*, we read (fol. 58r): "In facto queritur, an eius filie, scilicet Caterina et Magdalena, petere possint supplementum earum dotium super pecunia montis communis Florentie descripta ad ius et nomen dicti domini Luchini...". On the daughters' dowries, see also Brunetti, *Nuovi documenti*, cit., p. 89.

⁴⁰ J. KIRSHNER, *Storm over the "Monte Comune"*, cit; L. ARMSTRONG, *The Politics of Usury in Trecento Florence: The Questio de monte of Francesco da Empoli*, in *Mediaeval Studies*, 61, 1999, pp. 1-44; and his *Usury and Public Debt in Early Renaissance Florence*, cit.

⁴¹ J. KIRSHNER, "Ubi est ille"? *Franco Sacchetti in the Monte Comune of Florence*, in *Speculum*, 59, 1984, pp. 556-584; L. ARMSTRONG, *Usury, Conscience and Public Debt: Angelo Corbinelli's Testament of 1419*, in *A Renaissance of Conflicts: Visions and Revisions of Law and Society in Italy and Spain*, edited by T. KUEHN and J. MARINO, Toronto, 2004, forthcoming.

with many other contemporary jurists and theologians, had expressed their doubts about the morality of *monte* investments. Angelo held that it was licit for merchants in Venice, Florence, and Pisa to accept a certain return (*certam provisionem*) on loans which a superior authority forced them to make. His approval extended to voluntary loans and secondary-market purchasers. His holding was valid insofar as the commune was not compelled to give a return and insofar as the return the commune freely gave did not exceed the customary rate of return (*communem quesitum*) on loans of this type. Angelo's views were consonant with those of the theologians who had debated the issue and with "consilia" that he said he saw in Florence. He advised that for those afflicted by scruples of conscience, it was safer to abstain from investing in the government loans. In the final analysis, however, the decision to invest might be left to the conscience of the individual investor⁴².

Baldo degli Ubaldi (d. 1400), Angelo's brother, took a harsher view of *monte* investors like Luchino. A common rate of *interesse*, it was generally agreed, was permitted to citizens forced to lend to the commune. By contrast, in Baldo's summary judgment, those who lent voluntarily to the commune, including secondary-market purchasers, acted with usurious intent and could not receive indemnification licitly. Baldo strongly doubted that investors made voluntary loans to the commune without desiring and expecting a gift as compensation. The investor's conscience is not protected from guilt because the statutes authorizing compensation to lenders employed words like *donum* to indicate that compensation was freely given by a grateful commune. "Names do not assuage one's conscience" (*quia vocabula non salvant conscientiam*), he scolded. Many of the creditors of the *Monte comune*, in the final analysis, must be considered usurers⁴³. Bartolomeo da Saliceto, who also worked to lance the boils of usury caused by the market in government obligations, shared Baldo's misgivings. Writing in 1392, he castigated individuals who voluntarily purchased government obligations and doubted that the activities of such investors would receive approval in the *forum conscientie*⁴⁴.

Conclusion

Luchino Novello Visconti's investments in the *Monte comune* of Florence represent a chapter in a larger story of Florence's policy, beginning in the early the early 1370s and lasting until the middle of the fifteenth century, of attracting foreign investors to subsidize its military ventures. Foreign investors, comprising dignitaries from north and central Italy, were awarded Florentine citizenship for the specific purpose of investing in the *monte*. At the same time, the mistrust of potential lenders in the commune's creditworthiness forced the government to offer higher rates of interest to foreign investors, as well as grant special privileges to protect them from subsequent expedient measures that might diminish the value of their investments. Luchino's case reveals that fiscal privileges and immunities constituted valuable legal currency that served to lessen the risks borne by holders of government obligations. This was all the more true, because once a statutory

⁴² ANGELUS DE UBALDIS, ad l. *Si tibi decem* (D. 2, 14, 17, *In I. atque II. Digesti Veteris partem commentaria*, Venice 1580, fol. 62rv: "Et est notandum pro mercatoribus habentibus pecuniam in communi Venetiarum, Florentiae et Pisanarum, qui omni mense pro illis pecuniis a communi recipiunt certam provisionem, ut licite eam recipiant. Et hoc intelligo verum, si pecunias mutaverint communi necessitate cogente, ut quia auctoritate superiorum compulsi fuerunt ad mutuandum, vel etiam mutuaverunt sponte communi non petente. Quicquid enim tunc datur per commune, remunerationis gratia tunc datur, dummodo datum non excedat communem questum, qui ex pecunia fieri solet. Et ita determinatum fuit Perusii per conscientiam, alias per consilia plurimorum magistrorum sacrae paginae, quam conscientiam alias que consilia vidi in Florentia. Tutius tamen credo quod sit abstinere; tamen credo quod finaliter totum hoc stet in conscientia mutantis, quo animo mutet, unde eius conscientiam scrutatur solus Deus. Sequitur in gl. ibi, l. Rogasti § Si tibi (D. 12. 1. 11. 1). Glossa decidit et bene, quod pactum non tenet, quia praesumitur appositum in fraudem usurarum, et vide quod no. Dy. in c. peccatum, de reg. iu., lib. VI (V 5. 13. 4)". This advice - that it is safer to refrain from investing in the *Monte* - was adopted by the Florentine lay canonist and statesman, Lorenzo Ridolfi, who mounted an influential defense of the *Monte* and its secondary market in his *Tractatus de usuris* completed in 1404. See ARMSTRONG, *Usury and Public Debt in Early Renaissance Florence*, cit. p. 249.

⁴³ For Baldo's views, see J. KIRSHNER, *From Usury to Public Finance: The Ecclesiastical Controversy over the Public Debts of Florence, Genoa and Venice (1300-1500)* (Ph.D. diss., Columbia University, 1970), pp. 123-124, 162-163. For an insightful discussion of the conflict between positive law and conscience, see P. PRODI, *Una storia della giustizia. Dal pluralismo dei fori al moderno dualismo tra coscienza e diritto*, Bologna, 2000, pp. 155-217.

⁴⁴ KIRSHNER, cit., *From Usury to Public Finance*, pp. 190-191, 224.

privilege was elevated to the status of an enforceable contract, it could not be abrogated unilaterally by a city-state, a prince, king,⁴⁵ or even an emperor.

It is fashionable these days for scholars to speak of the Florentine state and sovereignty and the supervening fiscal imperatives driving Florence's political economy. Relatedly, it is taken for granted that jurists operating in the Italian city-states employed an arsenal of post hoc rationalizations and their professional authority to enforce political hegemony. It is certainly true that the jurists defended coercive fiscal policies of the city-states when they deemed them lawful. Far from being shills for such policies, however, preeminent jurists like Baldo degli Ubaldi and Bartolomeo da Saliceto assailed the secondary markets in government obligations for violating the ecclesiastical prohibition against usury. Undeniably, the jurists engaged in Luchino's case and hundreds of other cases, in which the validity of fiscal privileges and the enforcement of statutes were contested, assumed that Florence and its officials were answerable to the *ius commune*, that is, the bundle of prevailing norms, rules, and doctrines developed around Roman and canon law. It is probable that the Florentine officials ratified the opinions of the Bolognese jurists, allowing Luchino to keep or dispose of his credits as he wished, thus affirming once again the accountability of the Florentine officials to higher norms⁴⁶.

Appendix 1

I: Florentine original citizenship with the privilege of investing in the Monte dell'uno tre, awarded to Luchino Novello Visconti and his male descendants. Source: ASF, Provvisioni-Registri, 59, 9 April 1371, fols. 6r-7r. NB: Partial transcription.

Quod ipse dominus Lucchinus et eius filii et descendentes per lineam masculinam, non obstantibus quibuscumque ordinamentis dicti communis editis vel edendis, et quilibet ipsorum potiantur et gaudeant et potiri et gaudere possint et debeant in omnibus et per omnia et quo ad omnia perpetuo in futurum omnibus et singulis beneficiis, privilegiis, habilitatibus, comoditatibus et favoribus quantumcumque in genere vel specie prohibitis, quibus et prout et quemadmodum potiri vel gaudere possunt vel poterunt quicumque veri, originarii et antiqui cives Florentie; et quod quo ad omnia et singula commoda, honores, habilitates, privilegia, beneficia, et favores et alia supradicta et in omnibus et per omnia et quo ad omnia, etiam in specie prohibitis, habeantur, tractentur, censeantur et reputentur et haberi, censer, tractari et reputari possint et debeant pro veris et originariis civibus et tanquam veri, originarii et antiqui cives civitatis predictae, et tanquam veri, originarii et antiqui cives civitatis Florentie habeantur et sint, ita quod quicquid possunt cives dicte civitatis et originarii possint supradicti et quilibet eorum etiam in specie prohibitis, eo dumtaxat excepto et reservato, quod nequeant ipsi vel ipsorum aliquis vigore presentis provisionis vel contentorum in ea extrahi, eligi vel assummi ad aliquod officium populi seu communis Florentie; et quod ipse dominus Lucchinus vel aliquis ipsorum teneatur et debeat infra unum annum proxime secuturum a die quo presens provisio approbata fuerit in consilio domini potestatis et communis Florentie numerandum emere predia seu possessiones existentes in civitate vel comitatu Florentie pretio seu valoris saltem - VI^m florenorum auri vel infra ipsum eundem terminum emere vel alio iusto titulo acquirere de nominibus, creditis sive de denariis ad que seu quos commune Florentie tenetur suis creditoribus, qui vulgariter appellantur creditores montis dell'uno tre, saltem - XX^m florenorum auri, et in quantum contingat ipsos vel ipsorum aliquem sic emere seu acquirere denarios supradictos sive ipsa credita. Quod ipse et ipsi qui sic

⁴⁵ In this regard, note the privilege awarded in 1426 to Jean Belleville, counselor to the French king, Charles VII. Jean was allowed to invest up to 20,000 florins in the *monte comune* under certain conditions. He had to maintain his investment for at least four years. If he lived outside Florence, he would receive 5 percent interest; if he lived in Florence, he would receive 6 percent. He could not transfer or sell the credits, but his wife Johanetta could collect the interest. Jean's holdings in the *monte* were fully secured. They were immune from seizure by anyone in Florence or in the kingdom of France. Not even the king of France could seize them (*seu etiam per ipsum dominum regem*). For the privilege, see ASF, Provvisioni-Registri, 116 (14 Dec. 1426, fols. 198v-201v).

⁴⁶ J. KIRSHNER, *Baldo degli Ubaldi's Contribution to the Rule of Law in Florence*, in *VI Centenario della morte di Baldo degli Ubaldi (1400-2000)*, (Atti di Convegno Perugia, 13-16, Settembre 2000), edited by C. FROVA and M. G. NICO OTTAVIANI, forthcoming 2004.

ement et eorum heredes teneantur et debeant ex causa donationis irrevocabilis et inter vivos dare singulis annis temporis secuturi incipiendi a die seu diebus quibus sic emerint, et duraturi quousque ipsos denarios alteri non revendiderint, alienaverint seu in aliquo in alium transtulerint seu cesserint, dumtamen revendere nequeant nisi vero et originario civi Florentino, florenos auri quadringentos vel de quantitate quadringentorum florenorum auri que sibi deberetur per commune predictum pro dono, dampnis, provisione seu interesse ipsorum denariorum sic emptorum ipsum commune Florentie seu camerarios camere dicti communis pro ipso communi recipientes liberare et absoluere gratis et efficaciter singulis annis dicti temporis secuturi. Quam dationem et donationem seu liberationem et absolutionem facere teneantur et debeant singulis annis, illis temporibus et terminis quibus et quando ipsas provisiones, dona, dampna seu interesse, recipient a communi predicto seu ab officialibus dicti communis faciendo semper tempore quo sic recipient dictum donum, dampna, seu interesse et quod facere sufficiat dictam liberationem seu donationem de tanta quantitate pecunie quanta ascenderet pro rata eius quod tunc recipiet seu recipisse confitebitur a communi predicto, vel alio dante pro dicto communi per respectum ad aliam quantitatem quam pro ipso eodem anno recipere deberet pro dono, dampnis seu interesse predictis a dicto communi et quod sufficiat dictam liberationem seu donationem facere hoc modo, videlicet: quod supradicti vel aliquis eorum, qui recipient dictum donum, dampnum seu interesse liberent gratis commune Florentie secundum ratam tunc tangentem dictos quadringentos florenos auri ad rationem cuiuslibet anni et pro anno quolibet, remissa eis et cuilibet ipsorum necessitate satisfaciendi et seu promittendi de muneribus seu oneribus communis Florentie subeundis et alia quecumque faciendi pro dicto beneficio assequendo vel etiam conservando, etiam acto et proviso quod nisi ipsi vel ipsorum aliquis infra dictum tempus unius anni emerent vel acquirerent, ut est dictum, intelligantur esse et sint ipsi omnes decurso dicto tempore ex toto privati beneficio supradicto. Et quod ipse et ipsi, qui de dictis nominibus, creditis seu denariis emerint seu acquisiverint, ut est dictum, et eorum et cuiusque ipsorum heredes teneantur et debeant ipsa nomina, iura, credita et denarios sic emptos seu acquisitos seu empta vel acquisita vendere et reddere dicto communi pro eo pretio et pecunie quantitate et prout et quemadmodum tenerentur quicumque alii cives Florentie secundum quecumque ordinamenta dicti communis hactenus edita disponentia de predictis, non obstantibus in predictis vel aliquo predictorum aliquibus legibus, statutis, ordinamentis, provisionibus aut reformationibus consiliorum populi et communis Florentie, obstaculis seu repugnantibus quibuscumque etiam quantumcumque derogatoriis⁴⁷ penalibus vel precis, vel etiam si de eis vel ipsorum aliquo debuisset vel deberet fieri specialis mentio et expressa, quibus omnibus intelligatur esse et sit nominatim expresse, specialiter ac generaliter derogatum. Et quod pro predictis supra in hac presenti provisione contentis et cetera, ut supra in prima provisione huius consilii continetur usque ad finem provisionis eiusdem...

Appendix 2

Authorization granted to Luchino Novello Visconti and his male descendants to purchase credits in the Monte dell'uno due. Source: ASF, Provisioni-Registri, 60, 14 April 1372, fols. 61r-61v. NB: Partial Transcription.

Pro parte domini Luchini, filii condam alterius domini Luchini de Vicecomitibus de Mediolano, reverenter exponitur vobis dominis prioribus arctium et vexilifero iustitie populi et communis Florentie, quod quamquam de mense aprilis anno Domini MIII^c LXXI ipse dominus Luchinus consequutus fuit beneficium cittadinantie Florentie, et secundum formam provisionis circa id edite per opportuna consilia populi et communis Florentie emerit de denariis seu creditis montium communis predicti cum onere dandi annis singulis dicto communi quadringentos florenos auri secundam formam provisionis predicte, sicque observaverit et observare diligenter intendat, nichilominus quia postea fuit facta quedam provisio per dicta consilia disponens inter cetera quod illi, qui a certo tempore citra consequuti fuererit beneficium cittadinantie civitatis Florentie, possent, tamen de consensu et voluntate quatuor officialium deputatorum seu deputandorum ad

⁴⁷ derogatoriis ex derogatoribus corr. **Cod.**

officium diminutionis debitorum⁴⁸ montium communis predicti vel trium ex eis et non aliter, emere vel alio modo in terminos acquirere de iuribus creditorum montium predictorum, et quod ipsi ementes deberent promictere de eo quod recipient a communi predicto pro dono, dampnis et interesse dare camerariis camere dicti communis pro ipso communi recipientibus tantum quantum deliberabitur per dictos quatuor officiales vel tres ex eis, dumtamen non minus quam sit quarta pars eius quod sic recipient et prout plenius et latius patet in libris reformatorem communis predicti, propter quod ipse dominus Luchinus, contra beneficium seu concessionem in emendo de dictis denariis impeditur et extenuatum est sibi beneficium antedictum. Dicit insuper quod antequam dicta ultima provisio facta fuisset ipse contulerat cum officialibus diminutionis montium communis predicti de volendo elevare de Venetiis usque in decem milia florenos auri pro emendo de denariis montis del'uno due, et quod ipsis officialibus annuentibus et dicentibus se esse contentos misit Venetias pro dicta pecunia et eam habuit et habet pro convertendo in emptionem predictam, quod obstante dicta ultima provisione facere non potest, nisi facta promissio de qua supra fit mentio. Quare consideratis predictis et quod ipse dominus Luchinus soluit annuatim dictos quadringentos florenos, quodque ipse dominus Luchinus habitavit et habitat et expendit non modicum in ipsa civitate Florentie nec lucrum suum ad alias partes mictit, et quod dicta ultima provisio maxime facta fuit propter cives noviter factos alibi habitantes et pecunias exportantes et gabellas et onera communis Florentie nullo modo subeuntes, quod in ipso non contingit, et maxime cum ipse cum tota sua familia vivat et moretur in civitate Florentie et vivere et morari intendat et onera omnia supportare, ut alii cives civitatis Florentie et sic hucusque supportavit, placeat dominationi vestre opportune providere et facere solempniter reformari quod ipse dominus Luchinus possit sibi que liceat quodcumque et quotienscumque et a quocumque et quibuscumque sponte vendere, cedere vel dare seu transferre volentibus emere et quocumque titulo recipere et acquirere infra terminos de quibuscumque creditis seu iuribus creditorum dicti communis Florentie del'uno due libere et prout posset quilibet verus, originarius et antiquus civis Florentie sua⁴⁹ et suorum predecessorum origine - vel saltem de omni et pro omni⁵⁰ et tota quantitate pecunie quam dictus dominus Luchinus in futurum acquireret infra terminos de dictis denariis seu debitis dicti montis del'uno due. Ipse dominus Luchinus habere possit et debeat pro provisione, dono, dampnis seu interesse recipiendis a communi predicto secundum formam ordinamentorum hactenus editorum solummodo et dumtaxat tres quartas partes totius eius quod pro ipsis dono, dampnis, provisione seu interesse habere deberet seu petere posset quicumque verus et vere originarius et antiquus civis Florentie sua et suorum predecessorum origine creditorum dicti communis in dicto monte dell'uno due in eadem seu simili quantitate pecunie, computatis in dicta quarta parte que remanere debet communi Florentie omni eo quod acquisierit seu acquireret in montibus predictis del'uno due o del'uno tre dictis quadringentis florenis, de quibus supra fit mentio. Et quod in ipso casu ad eandem dumtaxat rationem debeat habere pro pecunia et quantitate pecunie quam ad presens habet in dicto monte del'uno due et etiam del'uno tre, etiam absque eo quod aliquid dicta occasione et seu occasionibus vel altera earum dimittere seu dare teneatur dicto communi, non obstante provisione iam edita disponenti de quadringentis florenis auri per ipsum dominum Luchinum dandis singulis annis seu dimictendis communi predicto de provisione sibi debita vel debenda de pecunia quam habebat seu haberet in monte predicto a quorum quadringentorum florenorum prestatione, datione et dimissione, intelligatur esse et sit ipse dominus Luchinus et sui heredes et etiam iurium successores totaliter liberatos et absolutos - eo quoque additio et proviso quod nequeat ipse Luchinus vel sui heredes dictam pecuniam seu dictum ius crediti, quod sic emeret vel acquireret, revendere, dare, cedere vel concedere vel transferre quoquo modo infra terminos nisi vero et vere originario civi Florentino, et si secus fieret sit ipso iure nullum...

⁴⁸ debitorum *supscr.* **Cod.**

⁴⁹ sui **Cod.**

⁵⁰ omnia **Cod.**

Appendix 3

Copies of the documents and consilia employed by Luchino's legal representatives in defense of his privileges and rights against the forced sale of his monte credits. Source: ASF, Carte Stroziane, III ser., n. 106, fols. 32r-50r, hereafter cited as F. The documents include:

(1) *the provvisione of 9 April 1371, the original of which is partially transcribed above, granting Luchino Novello Florentine citizenship (fols. 32r-34v; 36r).*

(2) *a memo prepared by, or at the instance of, the monte officials regarding the post mortem disposition of his monte credits (35r):*

“Vogliamo sapere:

se sta negl'uficiali del monte pigliare el quarto e fiorini CCCC, poiché a venduti e fiorini XX^m che in principio compero, e se possono pigliare el partito una volta e più?

E se non si trovasse deliberazione di quel presono o del quarto, o fiorini CCCC e trovandosi che abbiano pressi e fiorini CCCC se ssi intende avere eletto quello, che poi avessero preso el quarto un'altra volta durante el tempo de fiorini XX^m senza altra deliberazione se l'anno potuto fare.

E se gl'altri denari di messer Luchino che à comprati in sul monte oltre a fiorini XX^m, se quando gli à rivenduti, o rivendesse passano con quello incharicho, passano collo incarico del quarto, e se poiché messer Luchino morì sarebe a lasciare el quarto.

Alla prima parte rispondo che il comune puo variare, sichè posto che una volta avessero electo i CCCC, laltro anno possono elegere il quarto e questo e di ragione, ma per la riformazione non possono variare.

Alla seconda parte si risponde che il pigliare e CCCC o il quarto e deliberazione se questo seppono gl'uficiali se non lo seppono anchora per quel tempo possono eleggere posto che sia passato, però che'il factore non puo preiudicare in questo.

Alla terza parte rispondo che se gli vende a cittadino d'origine ch'ella ditractione non a luogo però che non dura più la cagione pella quale si togleva il quarto, cioè l'essere forestieri e così ma ricorda fu consigliato, e questo medesimo la seconda riformazione dice assai chiaro voglendo che potrà e così vendere”.

(3) *Two provvisoni (2 December 1377; 8 June 1378) regarding the imposition of prestanze (fols. 36v-40v).*

(4) *A provvisione of 7 May 1390 establishing the Monte de' prestanzoni (fols. 41r-46r).*

(5) *A narrative summary of the acts resulting in the forced sale (fols. 46r-46v), a brief declaring the forced sale unlawful (fols. 46v-47r), both of which I believe were prepared by Luchino's procurator. Both documents are transcribed below.*

Diende dominus Luchinus predictus emit et acquisivit sub diversis temporibus plures, varias et diversas quantitates pecuniarum et florenos auri et creditorum de et super montibus predictis, videlicet monte dictarum prestantiarum, appellato el monte nuovo, et alio monte appellato monte prestantionum, ut supra dicitur.

Postea autem in anno domini ab incarnatione MCCCLXXXII, indictione XV^a, die XXIII^o Julii, per commune Florentie et consilia opportuna dicti communis, factis primo preparatoriis legibus, quod infrascripta possent proponi, et de eis loqui, facta fuerunt in effectu quedam ordinamenta inter alia in effectu disponentia ac continentia: Quod officiales diminutionis montium communis Florentie possint cogere ac compellere omnes et singulas personas, que emissent hactenus et seu emerint in futurum aut per viam permutationis quomodolibet acquisiverint de creditis dictorum montium dicti communis et cuiuscunque vel aliquorum seu alicuius ex eis ad vendendum eorum credita dicto communi, vel alii pro ipso communi recipienti, et seu inde finem faciendum dicto communi, in totum et seu in partem, et prout et sicut per offitium dictorum offitialium vel ex parte dicti offitialis requisiti fuerint, et seu per dictum offitium declaratum et ordinamentum fuerit semel et pluries et quotienscunque pro pretio quo ipsi creditores emerint et seu acquisiverint et ultra, usque duos florenos auri pro quolibet centenario, prout ipsis offitialibus videretur, prout predicta reformatio ac leges ad hec preparatorie ut latius patet in duobus quaternis, quos mictimus, cum presenti puncto ligatos.

Modo queritur, presupposito quod dictus dominus Luchinus confirmaverit ea ad que tenebatur secundum formam dicte provisionis sue civilitatis, et posito pro constanti quod tanquam subditus dicte civitatis Florentie nunquam fuerit oppressus oneribus dicte civitatis quidem, quibus oppressi fuerunt alii cives civitatis⁵¹, an dictum ordinamentum ultimo factum super limitatione solutionis interesse dicte pecunie montis et super revenditione dicte pecunie communi Florentie fienda et seu liberatione communis Florentie, pro quantitibus et modo et forma in dicto ordinamento descriptis, liget dictum dominum Luchinum ut ad observationem ipsius ordinamenti et contentorum in eo ipse teneatur et cogi possit necne.

Et dicitur pro parte dicti domini Luchini quod dictum ultimum ordinamentum ipsum non ligat nec sibi preiudicat. Nam dicta prima provisio disponens de civilitate sua sapit naturam contractus et ex ea est sibi ius quesitum. Cui per novam legem non potuit derogari absque suo consensu, per quam provisionem concessum fuit dicto domino Luchino emere de pecunia montis communis Florentie. Cum pacto quod ipse et sui heredes ipsa⁵² iura et credita et nomina per eum emenda, tenerentur revendere et reddere communi Florentie prout tenebantur alii cives secundum ordinamenta hactenus edita, prout in ipsa provisione expressum est. Igitur ad talem revenditionem artari non potest secundum ordinamenta edita postea, sed quo ad eum servanda sunt ordinamenta que ante vigeant.

Preterea, cum ex pacto tractari debeat ut alii originarii cives, maxime quo ad commoda et favores, ut ex dicta prima provisione comprehenditur, si sibi fieret illud quod originariis civibus de iure fieri non debet, non est dubium quod fieret contra pactum, etiam si illud idem fieret omnibus aliis civibus originariis. Nam verba dicte sue provisionis continentia quod tractari debeat ut originarius civis debent referri ad ea que civibus fieri debent et possunt de iure et non contra ius. Si igitur sibi ius suum auferatur de facto et sine causa fit contra pactum, licet aliis civibus similiter aufereretur quibus ex pacto, nil est promissimum. Et hec de iure clara et verissima sunt. Ex quibus inferri videtur dictum dominum Luchinum ad observationem dicti ultimi ordinamenti de iure compelli non posse.

Queritur quid iuris

(6) *An edition of the consilium submitted by Angelo degli Ubaldi (fols. 47v-49v), with subscriptions by Francesco Ramponi (fol. 49v) and Gaspare Calderini (fol. 49v), and the consilium of Bartolomeo Saliceto (fol. 50r).*

Consilia⁵³

In Dei nomine et sue matris virginis gloriose, amen⁵⁴. Pro parte affirmativa, scilicet⁵⁵ quod dictus generosus miles dominus Luchinus possit cogi et compelli per officiales diminutionis montis ad revendendum communi Florentie et⁵⁶ seu alteri pro ipso communi recipienti omnes⁵⁷ quantitates pecuniarum quas retro quocunque titulo acquisivisset⁵⁸ de creditis dictorum montium dicti communis, vel alterius eorum, prout in ipso ordinamento continetur. Ac etiam teneatur ad observantiam ipsius ordinamenti et omnium et singulorum contentorum in eo, probatur primo ex generalitate⁵⁹ municipalis censure disponentis, quod dicti officiales possint, teneantur, et debeant <compellere> omnes et singulas personas, que emissent hactenus⁶⁰ per viam permutationis

⁵¹ et posito - civitatis *add. marg.* **F**

⁵² ipsam seu **F**

⁵³ For my my edition of Angelo's *consilium*, I have used the manuscript in the *Carte Stroziane* as my base text (hereafter cited as **F**), which is superior to the printed edition found in ANGELUS De UBALDIS, Lyon, 1551, fols. 251r-252r (hereafter cited as **ED**). For the purpose of indicating the differences between **F** and **ED**, I have placed all variants in the notes. So far I have been unsuccessful in locating other manuscript copies of Angelo's *consilium*, nor have I been able to locate additional manuscript copies of Bartolomeo da Saliceto's *consilium*.

⁵⁴ In - amen *om.* **ED**

⁵⁵ scilicet *om.* **ED**

⁵⁶ et *om.* **ED**

⁵⁷ omnes *supscr.* **F**

⁵⁸ acquisivit **ED**

⁵⁹ generalitatem **ED**

⁶⁰ hactenus autem **ED**

quomodolibet acquisivissent⁶¹, de creditis dictorum montium ad vendendum eorum credita dicto communi vel alii pro dicto communi recipienti, et seu inde finem faciendum dicto communi⁶², dicto communi in totum et seu in partem, prout et sicut per officium dictorum officialium vel ex parte dicti officii requisiti fuerint⁶³. Cum igitur ipse⁶⁴ dominus Luchinus sit de numero illorum qui multas, varias et diversas quantitates pecuniarum de dictis creditis acquisivit, ergo continetur sub ipsa legis municipalis censura, et per consequens adstringitur ipsa lege de rebus dubiis, l. Si is qui ducenta⁶⁵ § Utrum (D. 34. 5. 13. 3), de testa. mili., l. In fraudem, § fin. (D. 29. 1. 15. 6), de acquirendo rerum domi., l. III^a in principio (D. 41. 1. 3 pr), de regulis iuris, l. Omnes actiones⁶⁶ (D. 50. 17. 139), l. Omnia fere (D. 50. 17. 193) et l. Omnia quecumque (D. 50. 17. 71), et l. Nemo (D. 50. 17. 145), et l. Nullus (D. 50. 17. 55), et de regulis iuris., c. Nullus pluribus⁶⁷ (VI 5. 13. 20), cum aliis similibus infinitis.

Secundo, quia propter necessitates urgentes res publica compellere potest suos subiectos⁶⁸ ad vendendum res suas, et etiam pretio viliori. Primum, quod subiecti⁶⁹ possint ad vendendum compelli, probatur, ff. Si servitus vendicetur⁷⁰ (D. 21. 2. 21), l. Venditor, § Si constat (D. 8. 4. 13. 1). Secundum, quod pretio viliori, probatur in l. Si pendentes, § Si quid cloacarii⁷¹, ff. de usufructu (D. 7. 1. 27. 3), facit C. de sacrosan. eccl., l. Iubemus nullam⁷² (C. 1. 2. 14), et l. Neminem (C. 1. 2. 11). Unde dixit Innocentius, quod⁷³ suadente causa boni publici statutum tollere potest ius singularium personarum, et maxime ubi versatur pax et quies populi, de iniuriis et dampno dato, c. In nostra (X 5. 36. 8)⁷⁴, et est testus notabilis ff. de captivis, l. Si quid bello (D. 49. 15. 28). Que quidem utilitas rei publice Florentie oppresse⁷⁵ tanta creditorum mole, non est dubium quod versatur. Hinc⁷⁶ causata fuit auctoritate Cesarea propter cladem guerrarum et creditorum molem confischatio pro non scriptorum caducorum et quasi caducorum, vt C. de caducis tollen., l. prima (C. 6. 51. 1).

Tertio probatur, quia, ut patet ex themate,⁷⁷ magnificentum et excelsum commune Florentie de dono et gratia singulari assumpsit dictum dominum Luchinum et eius filios et descendentes⁷⁸ per lineam masculinam in perpetuum ad omnia beneficia civilitatis⁷⁹ sue. Et hoc modo cum quodammodo sibi alumpnum constituit atque filium, propter quod sine dubio idem dominus Luchinus est dicto communi ad antidora obligatus, de condi. indebiti, l. Si non sortem, § Libertus (D. 12. 6. 26. 12), de petitione hereditatis, l. Sed si lege, § Consuluit (D. 5. 3. 25. 11). Quin ymo et in tanta debitorum pressura⁸⁰ subvenire debere videtur, cum absque relevatione a tantis honoribus creditorum non possit dicta res publica Florentina commode se tueri, et secundum quosdam donatarius in repudium donationis⁸¹ sue egestatis tempore compellitur alere donatorem⁸², C. de revocandis donationibus, l. fy. (C. 8. 55 [56]. 10), in glo. verbo "voluerit"⁸³. Probant tenentes

⁶¹ acquisivisset **ED**

⁶² recipienti - communi: vel alii pro **ED**

⁶³ fuerunt **ED**

⁶⁴ igitur ipse **ED**

⁶⁵ Is, qui cc. **ED**

⁶⁶ et post actiones add. **ED**

⁶⁷ iuribus **ED**

⁶⁸ subditos **ED**

⁶⁹ subditi **ED**

⁷⁰ venditus **ED**

⁷¹ coaclari **F**

⁷² nulli **ED**

⁷³ qui **ED**

⁷⁴ INNOCENTIUS IV ad c. In nostra (X 5. 36. 8), Frankfurt, 1570, fol. 541r.

⁷⁵ oppressa **ED**

⁷⁶ hic id quod **ED**

⁷⁷ temate ex tenore corr. **F**

⁷⁸ descendentem **ED**

⁷⁹ bona civitatis **ED**

⁸⁰ prestura **ED**

⁸¹ etiam quosdam donatarios in recompensam donationis **ED**

⁸² donator alere **ED**

⁸³ Gl. ord. ad l. Generaliter (C. 8. 55 [56]. 10), Venice, 1591, v. *voluerit*, p. 1385.

opinionem predictam per l. Alimenta, de liberis agnoscendis (D. 25. 3. 6) et Cy.⁸⁴ dictam opinionem coadiuvans probat eam, quia donator equiperatur⁸⁵ patri, ff. de confirmando. tu., l. Si patronus (D. 26. 3. 4), quod dicit⁸⁶ esse satis rationabile.

In contrarium, quod non possit urgeri ad observantiam contentorum in dicto ordinamento, probatur ex generali regula negativa, quia cautum est neminem compelli ad vendendum vel emendum,⁸⁷ C. de iure delib., l. Nec emere (C. 6. 30. 16), C. de contrahenda emptione, l. Invitum (C. 4. 38. 11), de regu. iuris, Invitus⁸⁸ (D. 50. 17. 156), et de dona., l. Hoc iure, § Non potest (D. 39. 5. 19. 2). A principio enim⁸⁹ contrahere voluntarium est, licet ex post facto ei⁹⁰ stare sit⁹¹ necessarium, C. de act. et oblig., l. Sicut⁹² (C. 4. 10. 5), et C. locati,⁹³ l. Invitos (C. 4. 65. 11), ff. de pigno. actio., l. Quamvis (D. 13. 7. 6), de Iudeis, l. Nemo exterus⁹⁴ (C. 1. 9. 9), C. de contrahen. emptione, <l.> Dudum (C. 4. 38. 14). Et licet dicta regula fallat in aliquibus casibus, qui notantur in dicta l. Invitum per Glo. et Cy.,⁹⁵ tamen inter casus exceptuatos, vel eorum rationem non comprehenditur nostrum thema. Et ista est veritas, scilicet⁹⁶ quod dictus dominus Luchinus non compellitur ad vendendum, nec etiam compellitur ad observantiam contentorum in dicta municipali censura. Et quantum actinet ad quantitates, quas dominus Luchinus acquisivit immediate post benefitium civilitatis adheptum, pro observantia contentorum in provisione sibi benefitium civilitatis concedente, nullum habet dubium neque scrupulum, quoniam⁹⁷ in dicta provisione continetur expresse, quod idem dominus Luchinus et sui heredes teneantur ipsa nomina iura et credita reddere dicto communi⁹⁸ pro eo pretio et pecunie quantitate⁹⁹, et prout et quemadmodum tenentur, quicumque alii cives Florentie secundum quecunque ordinamenta dicti communis hactenus edita disponentia de predictis. Unde solum secundum illa ordinamenta, antea facta, que tempore dicte civilitatis¹⁰⁰ adhepte vigeant, potuisset et posset compelli ad vendendum. Non autem secundum ea que noviter edita sunt, quoniam a lege contractus non fuit nec est licitum resilire, C. de pactis conventis,¹⁰¹ l. Legem (C. 5. 14. 1), C. de pactis conventis, l. Legem, ff. depositi. l. I, § Si conveniat,¹⁰² ff. de publicanis, l. Cesar (D. 39. 4. 15). Unde dixit Bar., sequendo¹⁰³ antiquos maiores, in l. Omnes populi (D. 1. 1. 9), quod assumpti ad civilitatem cum pactis non possunt post observantiam pactorum civilitate privari, aut pacta inita quomodolibet alterari ratione predicta, quia lex transivit in contractum.¹⁰⁴ Idem dico et de omnibus quantitibus pecuniarum, quas non virtute dicte civilitatis adhepte, sed motu proprio ipse dominus Luchinus acquisivit, et hoc per dictam regulam negativam, quia rem suam distrahere non compellitur.

Nunc respondeo ad obiecta in contrarium. Et primo ad id, quod dicitur de generalitate, quia illa verba, “quantumcumque generalia”, restringuntur ad subditos et subiectos¹⁰⁵ iurisdictioni communis Florentie, qui possunt compelli per ipsum commune ad vendendum. Non autem fit relatio ad exemptos, in quos nulla est attributa potestas neque communi Florentie aut suis

⁸⁴ CYNUS ad l. *Generaliter* Frankfurt, 1578), fol. 528v.

⁸⁵ aequiparatur **ED**

⁸⁶ dic **ED**

⁸⁷ vel emendum *om.* **ED**

⁸⁸ Invito **ED**

⁸⁹ cum **ED**

⁹⁰ ei *om.* **ED**

⁹¹ sic **ED**

⁹² Si sicut **ED**

⁹³ locati **F**

⁹⁴ deinde l. Nemo exterius **ED**

⁹⁵ Glo. ord. ad l. *Invitum* (C. 4. 38. 11), p. 590, vv. *Non continet; C;* CYNUS ad l. *Sicut* (C. 4. 10. 5), fol. 202v, n.1.

⁹⁶ scilicet *om.* **ED**

⁹⁷ quoniam *corr. ex quando* **F**

⁹⁸ communi predicto **ED**

⁹⁹ pretio eo et quantitate pecunie **ED**

¹⁰⁰ civitatis **ED**

¹⁰¹ conventis *om.* **ED**

¹⁰² convenitur **F** conveniri **Ed**

¹⁰³ sequendo *post maiores tr.* **ED**

¹⁰⁴ BARTOLUS ad l. *Omnes populi* (D. 1. 1. 9), Venice, 1526; republished Rome, 1996, vol. 2, fol. 11, n. 30.

¹⁰⁵ subiectos et subditos **ED**

ministris, ut l. Omnes populi et l. Cunctos populos (C. 1. 1. 1). Probatum clare et aperte in l. Omnes, C. sine censu vel reliquis (C. 4. 47. 3), coniuncta Glo. sua et ibi per Cy.¹⁰⁶

Constat autem dictum dominum Luchinum, origine propria aut paterna aut avita, communi Florentie non esse subiectum, cum sit de Vicecomitibus de Mediolano, cuius territorium notorie est distinctum a territorio Florentie, C. de prescriptione longi temporis, l. fy. (C. 7. 33. 12), coniuncta Glo. sua.¹⁰⁷

Non obstat quod idem dominus Luchinus factus est civis, quam civilitatem etiam ipse ex gratia impetravit, ut patet ex verbis civilitatis. Ergo tanquam civis factus compelli potest, ut alii cives subditi, ut l. Cives¹⁰⁸, C. de incolis (C. 10. 40 (39). 7). Quia si bene considerentur verba civilitatis predictae, ipse non fuit assumptus in civem simpliciter et absolute, ut sic se fecerit subiectum communi¹⁰⁹ Florentie, sed fuit¹¹⁰ assumptus in civem solum¹¹¹ quo ad commodum suum¹¹² et quo ad potentiam¹¹³ potiendi singulis beneficiis, privilegiis, habilitatibus, commoditatibus et favoribus, quantumcunque in genere vel in specie prohibitis, quibus¹¹⁴, et prout, et quemadmodum potiri et gaudere possunt vel potuerunt quicumque originarii et antiqui cives Florentini¹¹⁵, et quod quo ad omnia et singula commoda, et honores, habilitates, privilegia¹¹⁶, beneficia et favores in omnibus, et per omnia, et quo ad omnia etiam in specie prohibitis, habeatur, tractetur et reputetur pro vero et originario cive, et tanquam verus et originarius civis habeatur, et sit, ita quod quicquid possunt cives dicte civitatis, possit idem dominus Luchinus. Unde directe patet ex verbis, quod commune Florentie participavit et communicavit eidem domino Luchino solum honores et commoda civilitatis¹¹⁷, quibus potiuntur alii cives, non autem subiugavit eum iurisdictioni sue. Et hoc patet ex verbis predictis, et exceptuacione, et conservacione, que confirmat regulam. Exceptavit enim a dictis beneficiis officia¹¹⁸ populi et communis Florentie. Et quod hec fuit intentio dicti communis, solum communicare¹¹⁹ dicte¹²⁰ civilitatis beneficia, non autem eum adstringere iurisdictioni sue, apparet ex themate, in quo presupponitur quod dictus dominus Luchinus post civilitatem predictam nunquam fuit oppressus aliquibus¹²¹ honoribus civitatis predictae, quibus fuerunt oppressi alii cives originarii, ff. de probationibus, l. Procula (D. 22. 3. 26), ubi est quasi casus. Cum igitur assumptio ad civilitatem predictam facta fuerit in augmentum gratie et honoris et commodi dicti domini Luchini ad hoc, ut ipse fruatur beneficiis civium Florentinorum¹²², quibus primitus frui¹²³ non poterat, non est per talem assumptionem detractum gratiis, et beneficiis, aut etiam iuri communi, quibus dictus dominus Luchinus poterat ante frui, C. de testamento. mil., l. Si Ruffinus (C. 6. 21. 4), ubi videtur casus, et ff. de here. inst., l. Talem, § primo (D. 28. 52 (51)). Nec mirum, quia honor auctus non generat detrimenta, de condi. et demo. l. Falsa, § primo (D. 35. 1. 33. 1). Ordinata enim ad augmentum non solent diminutionem operari. Nec etiam econverso, quia licet dispositio aliquando¹²⁴ operetur preter propositum disponentis, ut l. Si is qui, § Si libero, ff. commodati (D. 13. 6. 13. 2), .et ff. si cer. pe., l. Non omnis (D. 12. 1. 19), tamen nunquam operatur

¹⁰⁶ Glo. ord. ad l. Omnes, p. 606, v. Omnes; CYNUS (vide supra, n. 00)

¹⁰⁷ Glo. ord. ad l. Cum in longi, p. 1125, vv. Inter absentes.

¹⁰⁸ Cives qui **ED**

¹⁰⁹ communis **ED**

¹¹⁰ assumptus in civem - sed fuit *om.* **F**

¹¹¹ solum *supscr.* **F** *om.* **ED**

¹¹² suum *ex sui corr.* **F**

¹¹³ potestatem **ED**

¹¹⁴ et quibus **ED**

¹¹⁵ Florentiae **ED**

¹¹⁶ et privilegia **ED**

¹¹⁷ dicte civilitatis **ED**

¹¹⁸ officiales **ED**

¹¹⁹ ei comminicare **ED**

¹²⁰ dicte *om.* **F**

¹²¹ aliquibus *om.* **ED**

¹²² Florentiae **ED**

¹²³ frui *ex fungi corr.* **F**

¹²⁴ aliquando **om.** **ED**

contra propositum, ut ff. de le. p., l. Legata inutiliter et de adimen. le. (D. 3. 1. 19), de here. insti., l. Ex facto¹²⁵ (D. 28. 5. 35).

Non obstat quod res publica compellere potest subiectos ad vendendum res proprias, etiam pretio viliori, propter eiusdem reipublice necessitates. Quia concedo istud¹²⁶ de plano, sed secundum ea que proponuntur, dominus Luchinus propter civilitatem predictam non est subiectus dicto Comuni, cum non fuerit assumptus nisi solum ad beneficia, ut superius dictum est.

Non obstat tertia obiectio, scilicet quod <dictus> dominus Luchinus per dictam gratiam civilitatis impartitam, in necessitatibus dicti communis participare debere videtur ad ipsam rem publicam sustentandam, quia, quicquid sit¹²⁷ de retributione in necessitatibus fienda donatori per donarium, illud vendicat sibi locum in donatione pura et simplici, non ad causam. Nam per simplicem donationem quis ad antidora obligatur, et illa per¹²⁸ ingratitude revocabilis, non autem donatio ob causam facta, sicut fuit in casu proposito. Quia donatum fuit domino Luchino civilitatis beneficium sub certis pactis et modis, per eum plenarie observandis, concernentibus directe utilitatem dicti Communis, ut directe patet ex eis, ff. de don., l. prima (D. 39. 5. 1), coniuncta l. Aquilius¹²⁹ Regulus iuvenis ad Nicostratum, eodem. ti. (D. 39. 5. 27).

Concludo igitur ex premissis, dictum dominum Luchinum aut eius descendentes per linem masculinam in perpetuum non fore suppositos neque subiectos,¹³⁰ virtute dicte civilitatis assumpte, duntaxat iurisdictioni communis Florentie, sed solum ipsius civilitatis vigore posse uti et frui omnibus et singulis beneficiis civium, etiam antiquorum. Et per consequens, ordinamenta¹³¹ nova facta contra illos, qui emissent, aut alio titulo acquisivissent de creditis montium communis Florentie, in eo vendicare¹³² non posse, neque debere, neque¹³³ ad ipsum trahi vel porrigi.

Et ita, ut superius scriptum est, consulo ego Angelus de Ubaldis de Perusio, legum doctor. Et ad fidem predictorum me subscripsi et solito sigillo mei nominis sigillavi. MCCCLXXXIII Bononie, mensis Julii¹³⁴.

Domini nostri Yeshu Christi et eius matris nominibus invocatis. Ego Francischus de Ramponibus de Bon<on>ia, legum doctor, visis et diligenter ponderatis provisione, de qua supra, primo loco facta favorem dicti domini Luchini et etiam pro utilitate communis Flortentie, ut in ea continentur, ac provisione ultimo loco facta, de qua supra, que videtur intitulari quaterni nove legis edite de mense Julii MCCCLXX<X>XII, et aliis provisionibus, impositionibus et aliis, de quibus supra, et consideratis mature puncto et quesitis ac supportantis, que in puncto supponuntur, puto satis de iure esse quod dictus dominus Luchinus vigore prime provisionis, de qua supra, non possit cogi cum suo dampno ad observationem dicte provisionis ultimo loco facte et de qua supra ordinamentorum et contentorum in eis. Et in hoc adhereo et consentio conclusioni premissae et consulte supra. Et sic propria manu scripsi, subscripsi et sigillari mandavi.

Ego Guaspar de Calderinis, decretorum doctor et milex, idem dico iuris esse, ut supra, per egregium legum doctorem dominum Angelum¹³⁵ de Perusio consultum est. Et in questione quam disputavit Albertus Odofredi hanc partem tenuit, et incipit questio: "Titius erat origine Mutine"¹³⁶, et allegatur pro solutione: C. de hiis qui sponte munera subsc., l. I, lib. 10 (C. 10. 44. (43). 1), et ff. de iure immuni., l. II (D. 50. 6. 2). Predictis me subscribens propria manu meumque iussi apponi sigillum.

¹²⁵ el pizolo *post* Ex facto *add.* **ED**; eius piccolo *post* Ex facto *add.* **F**

¹²⁶ illud **ED**

¹²⁷ fit **ED**

¹²⁸ propter **ED**

¹²⁹ Aliquis **F**

¹³⁰ subiectos neque suppositos **ED**

¹³¹ etiam *praem.* ordinamenta *add.* **ED**

¹³² praeiudicare **ED**

¹³³ neque *om.* **ED**

¹³⁴ Et ita - Julii: Et ita dico et consulo ego Angelus, etc. **ED**

¹³⁵ Angelum *ex Ag corr.* **F**

¹³⁶ BAV, Chigi E. VIII. 245, fol. 47rb-va. The *questio* is also attributed to Pace di Rodolfo Pace. See M. BELLOMO, *I fatti e il diritto. Tra le certezze e I dubbi dei giuristi medievali (secoli XIII-XIV)*, Rome, 2000, p. 93.

In nomine salvatoris domini nostri Yesu Christi de cuius ore omnem rectum prodit iudicium ac matris eius virginis gloriose totiusque celestis curie, amen. Licet plenarie videatur allegatum supra pro parte domini Luchini et in eius favorem, tamen quod Luchinus non debeat de iure astringi ad vedendum communi pro eo pretio quo emit certas quantitates florenorum in prestantionibus, probo pluribus rationibus.

Prima, quia in privilegio sue cidadinantie, cum eo est conventum ut debeat emere vel iusto titulo de nominibus sive de denariis ad que seu quos commune Florentie tenetur suis creditoribus, qui vulgariter appellantur creditores montis, saltim XX^m florenos auri. Ubi pondero, illud verbum "saltim" quod necessitat usque ad illam quantitatem, sed non excludere quominus ultra illam quantitatem possit. Etsi ultra dictam quantitatem emat, ipse dominus Luchinus sit privilegiatus in eo quod in suo privilegio cidadinantie continetur, nec ad faciendum seu vendendum aliter pro minori pretio quam de hiis XX^m continetur, quia si de XX^m, fortius si emisset pro XXX^m, quia eadem ratio et dispositio intelligitur in maiori quantitate quam in minori. Cum quanto maiorem quantitatem emit magis satisfacit voluntati et conventioni communis Florentie ipsum necessitantis, ut ad minus seu saltim emat pro XX^m.

Et secundo, quia si hoc ei concessum in monte dell'un tre, ubi maius emolumentum percipitur, ut de illo monte empta vel acquisita teneatur vendere communi Florentie solum secundum ordinamenta hactenus edita de hoc disponentia, ergo et eodem modo debet intelligi de istis postea per eum emptis ex quibus minus emolumentum percipit.

Tertio, suadet ratio, quia idem intelligitur dispositum in augmento, quod est in eo quod augetur seu cui fit augmentum. Et eadem privilegia ei intelliguntur concessa, ut ff. de le. primo, l. Quod in rerum, § Si quis (D. 30. I. 24. 2), et C. de donationibus ante nuptias, l. Si constante, post principium (C. 5. 3. 19).

Quarto, quia privilegium civilitatis concessum domino Luchino intelligitur concessum quoad honores et commoda preterquam ad specialiter exceptata. Et sic ad detrimentum et incommoda non debet interpretari, ar. l. Quod favore, C. de¹³⁷ leg. (C. 1. 14. 6), cum symilibus. Nec inducta ad unum effectum debet operari contrarium, ut l. II, ad finem (C. 2. 58. 5), C. de iura. calump., et l. Cum talem, § falsam, ff. de condi. et demo. (D. 35. 1. 72. 33). Hec Bar. in scholari qui vigore statuti habetur ut civis originarius civitatis illius: intelligitur enim quoad commoda, non ut ei tollantur privilegia et iura communia ante statutum sibi competentia, ut per eum notatur ff. de contra tabulas, l. III, § Si emancipatus (D. 37. 4. 3. 6)¹³⁸.

Ultimo, quod conventiones facte cum huiusmodi personis debeant servari et non possit per communitatem contraveniri, probatur ff. de iure immu., l. II (D. 50. 6. 2), et C. de hiis qui spon. mu. subeunt l. I (C. 10. 44. (43). 1), et l. fi. in prin., lib. X (C. 10. 44 [43]. 4. pr.). Et ita ex predictis, alio non apparente, concludendum est pro predicto strenuo milite domino Luchino ut ad vendendum predicta non possit compelli, nec aliquis interesse ei possit tolli vel minui, nisi secundum ordinamenta hactenus visitata ante civilitatem sibi concessam, ut in eius conventionem continetur.

Laus Christo salvatori nostro, amen.

Ego Bartolomeus de Saliceto legum doctor de Bononia predicta consilavi et scripsi et me subscripsi et sigillari mandavi.

¹³⁷ legibus post de del. F

¹³⁸ BARTOLUS ad l. Non tantum, § Si emancipatus (D. 37. 4. 3. 6), vol. 4, fol. 188v, n. 4.