

## Liberi e Svizzeri: From the Helvetic Republic to the Canton of 1803 — overview and summary

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In the early hours of 15 February 1798 a band of armed men landed at the mouth of the Cassarate, entered Lugano by the gate of San Rocco and tried to seize the town for the Cisalpine Republic, the French client state that Bonaparte had created in Milan eight months earlier. Within about an hour the volunteer corps of the town and a crowd of townspeople had driven them out. In the evening the same crowd gathered on the main square and demanded what the Swiss envoy present in Lugano described as their Swiss freedom, the right to govern themselves.<sup>1</sup> A liberty tree was raised and crowned with the hat of William Tell. With it came the words that the Ticinese have repeated ever since: *Liberi e Svizzeri*, free and Swiss. Five years later, on 19 February 1803, the Act of Mediation joined the eight former bailiwicks south of the Gotthard into a single member state of the Confederation, the Canton of Ticino.<sup>2</sup>

This chapter asks how a territory that had been governed for three centuries as a set of subject lands, without a government, a treasury, a court of its own or a capital, became a functioning canton, and what institutions it had to build before it could later host banks, trust companies and a financial centre. Chapter A.II has described the bailiwicks up to 1798 and their abrupt end. This chapter starts with the events of February to April 1798 in Lugano, follows the two short-lived cantons of Lugano and Bellinzona through the Helvetic Republic and the war of 1799, and then examines the constitution of 1803, the restoration constitution of 1814 and the reform of 1830, which made Ticino one of the first cantons of the liberal Regeneration. It then turns to the rotating capital, Stefano Franscini, the rivalry of liberals and conservatives to 1890, the cantonal finances after 1848 and the codification of private law from 1837 to 1912. The Italian exiles of the Risorgimento are the subject of Chapter C.II, the Gotthard railway of Chapter C.III and the first Ticinese banks of Chapter C.IV.

The argument of the chapter is that the century between 1798 and 1892 was, for Ticino, a long and contested exercise in state-building, and that its results are the legal infrastructure on which the financial centre described in Parts D to I still rests. The new canton had to invent a public administration, a system of taxation, a hierarchy of courts, a law of property and obligations, a land registry and a political culture that could settle conflicts by votes. It did so under severe constraints: a poor and mountainous territory, dependence on Lombardy for grain and salt, an elite divided by ideology and locality, and a federal framework that changed three times in fifty years. The violence of its politics, which brought five federal interventions in the second half of the nineteenth century, ended with the introduction of proportional representation in 1891 and 1892. The canton that emerged from that settlement offered the predictability that capital requires. The final section of the chapter draws the line from these institutions to the questions that lawyers, banks and fiduciaries in Lugano still ask about land, contracts, courts and the stability of the legal order.

## 1 Conclusion

The Canton of Ticino was born from a refusal and a gift. The refusal came on 15 February 1798, when the volunteers and townspeople of Lugano drove out the Cisalpine partisans and declared themselves *Liberi e Svizzeri*. The gift came from Paris in 1803, when the Act of Mediation joined the eight former bailiwicks and the two Helvetic cantons of Lugano and Bellinzona into one sovereign canton with a constitution written for it by others. Between these two dates lay five years of a unitary republic that most Ticinese disliked, a war in which French, Austrian and Russian armies crossed the territory and lived off it, and a civil conflict that cost lives in Lugano in April 1799. The canton that emerged had political rights on paper, a tiny administration, no direct taxes, a heavy dependence on Lombard grain and salt, and three towns that each claimed to be its capital.

The following ninety years turned that canton into a functioning state. The imposed constitution of 1814 gave way to the reform of 4 July 1830, which put Ticino at the head of the liberal Regeneration in Switzerland. Stefano Franscini built a school system, described his country in statistics and carried the experience of the canton into the first Federal Council. The rotation of the capital ended by popular vote in 1878. The violent rivalry of liberals and conservatives, which produced the revolution of 1839, the counter-revolution of 1841, the *pronunciamento* of 1855, the coup of 1890 and five federal interventions, was finally contained by proportional representation in 1891 and 1892. The Federal Constitution of 1848 took away the canton's customs, tolls and posts and forced it to introduce a direct

tax on income and wealth in 1855. In private law the cantonal codes of 1816, 1821 and 1837 prepared the ground for the federal Code of Obligations of 1881 and the Civil Code of 1912, while the land registry, the notarial system and the cantonal law of neighbours remained cantonal tasks that the canton is still completing.

These institutions are the foundation of the financial centre that the following Parts of this book describe. Banks lend against land that is registered under the law of 1912 and the cantonal act of 1998. Fiduciaries and lawyers work within federal codes written in three equally authentic languages, one of them Italian. Clients rely on courts that the canton built in 1803 and freed from partisan control in the course of the nineteenth century, and on a political order whose stability since the 1890s contrasts sharply with the turbulence of the preceding decades. Chapter C.II turns to the Italian exiles who found refuge in this young canton, and Chapters C.III and C.IV to the railway and the banks that transformed its economy.

## 2 In five sentences

On 15 February 1798 the volunteers and citizens of Lugano repelled a Cisalpine attempt to seize the town and chose to remain Swiss under the motto *Liberi e Svizzeri*, after which the former bailiwicks became the cantons of Lugano and Bellinzona in the Helvetic Republic and suffered occupation, requisitions and civil strife during the war of 1799. The Act of Mediation of 19 February 1803 united all eight former bailiwicks in the sovereign Canton of Ticino, whose first constitution provided a Grand Council of 110 members, a Small Council of nine, thirty-eight circles and a Court of Appeal, while the constitution imposed in 1814 introduced a six-yearly rotation of the capital among Bellinzona, Locarno and Lugano that lasted until the popular vote of 1878. The reform of 4 July 1830 made Ticino the first canton of the liberal Regeneration, Stefano Franscini built its schools and its statistics before becoming a member of the first Federal Council in 1848, and the conflicts of radicals and conservatives from 1839 to the coup of 11 September 1890 ended only with proportional representation in 1891 and 1892. The Federal Constitution of 1848 transferred customs, tolls and the post to the Confederation and forced the indebted canton to introduce a direct tax on income and wealth in 1855, which remains the basis of its fiscal sovereignty today. The cantonal civil code of 1837, the federal Code of Obligations of 1881, the Civil Code of 1912, the cantonal land registry and an independent judiciary gave Ticino the legal infrastructure of contracts, property and courts on which its financial centre was later built.

### 3 Notes

1. "I moti di Lugano del 1798 e del 1799", Scuola ticinese, no. 65, plate 7, [https://www4.ti.ch/fileadmin/DECS/DS/Rivista\\_scuola\\_ticinese/ST\\_n.65/ST\\_65\\_tavola\\_7\\_moti\\_di\\_Lugano\\_1798\\_e\\_1799.pdf](https://www4.ti.ch/fileadmin/DECS/DS/Rivista_scuola_ticinese/ST_n.65/ST_65_tavola_7_moti_di_Lugano_1798_e_1799.pdf); Marco Dubini, "Cisalpine, République", in Dictionnaire historique de la Suisse (DHS), version of 12 December 2019, <https://hls-dhs-dss.ch/fr/articles/006621/>. ↩
2. City of Lugano, "Corpo Volontari Luganesi", <https://www.lugano.ch/en/la-mia-citta/identita-e-storia/corpo-volontari/>; Noah Businger, "Why is Ticino part of Switzerland?", Swiss National Museum blog, February 2024, <https://blog.nationalmuseum.ch/en/2024/02/why-is-ticino-part-of-switzerland/>. ↩

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