

Property: sale, administration and claims

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The Locarnese were allowed to sell their immovable property. The speed with which leading families re-established themselves in Zurich shows that they took substantial capital with them. Martino Muralto invested part of his considerable fortune, together with other Locarnese, in the velvet weaving and silk dyeing enterprise of Pariso Appiani in Zurich.¹ Aloisio Orelli, who had owned a pharmacy in Locarno, owned a shop in Zurich by 1557 and extended his trade in textiles in 1558.² The leading exiles were propertied families who had converted land, houses and claims into money or credit and who could deploy that capital in a new market within two or three years.

A forced sale nevertheless has a price. Property that must be sold before a fixed date, by owners whom the buyers know to be leaving, fetches less than its value. Debts owed to the emigrants by Locarnese debtors had to be collected from a distance, and claims against the emigrants could be enforced against whatever they left behind. The historical dictionary records that Martino Muralto, until his death in 1566, represented the refugee community before the Diet at Baden and administered its common goods (*beni comuni*).³ The phrase indicates that the community retained assets and claims after its departure that had to be administered and defended collectively, probably including property in Locarno that had not yet been sold, debts owed by those who stayed and compensation for property that had been seized. The legal aftermath of the exile thus continued in the federal institutions for more than a decade.

1 Taxes on departure

Early modern law knew a family of levies on emigration and on the export of property: the *Abzug* or *Nachsteuer* in the German lands, the *ius detractus*, *gabella emigrationis* or *census emigrationis* in the Latin of the lawyers and the *droit de détraction* in French. They were charged on property leaving a

jurisdiction, whether by emigration, inheritance or sale to a foreigner, typically as a percentage of the value.⁴ The Augsburg formula of a "reasonable sum" for freedom from servile obligations and for taxes in arrears belongs to this tradition. Whether and at what rate such a levy was charged on the property of the Locarnese has not been established for this chapter. The ruling cantons had an interest in collecting dues on property leaving the bailiwick, while Zurich had an interest in limiting them, so that the outcome is likely to have been negotiated case by case.

Such levies survived in Europe until the nineteenth century, when states abolished them by treaty on a reciprocal basis. A treaty between the Kingdom of the Netherlands and the Principality of Liechtenstein of 30 July 1835 is a typical example: it provided that the *ius detractus* (*Abzugsrecht*), the *gabella hereditaria* and the *census emigrationis* "sollen nicht mehr verlangt und erhoben werden" (shall no longer be demanded and collected) in either direction. Article 2 extended the abolition to levies of provinces, corporations and communes.⁵ Swiss cantons and later the Confederation concluded similar treaties on the free movement of property with neighbouring states in the same period.⁶ The modern exit taxes discussed in the final section of this chapter are the successors of these levies, although they rest on a different justification.

2 Notes

1. Pauli Falconi, "Muralto, Martino" (above) ("investì parte del suo cospicuo patrimonio nell'impresa di tessitura dei velluti e tintura della seta di Pariso Appiani"). The silk enterprise is treated in Chapter B.II. ↩
2. Illi, "Orelli, Aloisio" (above) (owner of a shop by 1557 and trading in silks and velvet "già dal 1558"). ↩
3. Pauli Falconi, "Muralto, Martino" (above) ("Fino alla morte fu uno dei membri di spicco della comunità di rifugiati, che rappresentò dinanzi alla Dieta di Baden e di cui amministrò i beni comuni"). ↩
4. Deutsches Rechtswörterbuch, vol. I, col. 353, s.v. "Abzug" II 2 ("Nachsteuer" on emigrants and on property leaving the jurisdiction), online at <https://drw-www.adw.uni-heidelberg.de/drw-cgi/zeige?index=lemmata&term=Abzug>. The examples given there show rates of five per cent (1584) and ten per cent (1702), so that rates varied by territory and period. ↩
5. Treaty between the Kingdom of the Netherlands and the Principality of Liechtenstein on the free movement of property of 30 July 1835 (ratified 30 November 1836), Art. 1 and 2, Liechtensteinisches

Landesarchiv, e-archiv.li,
https://e-archiv.li/files/1835_07_30_vermoegensfreizuegigkeit_mit_n
iederlanden.docx.pdf. ↩

6. Source as cited in the printed edition. ↩

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