

Purchasing the office

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In the Landsgemeinde cantons, election to a bailiwick was frequently bought. In the seventeenth century the rural cantons (*Länderorte*) turned the purchase into an institution, the so-called *Ämterkauf*, which obliged a newly elected governor to pay substantial sums into the public treasury and to the members of the assembly. The rural cantons hoped in this way to contain the variety of electoral practices, but the payments also made it plain that the bailiwicks were reserved for members of wealthy families: a governor whom Glarus sent to Werdenberg, for example, had to recover an investment of 3,500 to 6,000 gulden within his three years in office.¹ Several cantons attempted reforms. In the seventeenth and eighteenth centuries a number of them introduced the drawing of lots among candidates as a measure against the buying of votes.²

The economic logic was straightforward. A candidate who had paid for his election, and who had borne the cost of the journey across the Gotthard and of maintaining a household in the south for two years, expected to recover these costs from the income of the office. The office itself carried a fixed allowance in money and in kind. The rest of the income came from a share of the fines, often a tenth and sometimes more, from dues and fees for judicial and administrative acts and from the use of the estate attached to the governor's seat, so that the yield of an office varied considerably with the size and productivity of the bailiwick. Critics within the Confederation singled out the conduct of certain governors from the rural cantons, who used their term to recover from the revenue of the bailiwick the capital they had spent on obtaining it.³

1 Income from justice

The judicial function was the heart of the *landfogto*'s income. As chief judge he received fees from the parties in civil cases, and in criminal cases he received a share of the fines he imposed. Offences that could be punished

either corporally or by payment were often settled by *composizione*, a negotiated money payment by the offender, which spared the offender the penalty and provided the *landfogto* with income.⁴ The system created an evident incentive to prosecute offences that could be converted into money and to set fines at the upper end of what the offender could pay. It also gave the *landfogto* an incentive to settle serious cases privately, since a sentence of death or of the galleys produced no revenue.

The sources are full of complaints. Communities accused governors of inventing offences, of fining trivial breaches of ordinances, of accepting payments from both parties and of selling pardons. The eighteenth-century critics, from the Zurich pastor Hans Rudolf Schinz to the Bernese patrician Karl Viktor von Bonstetten, who served as a delegate of Bern at the *sindacato* in the 1790s, drew a picture of arbitrary and venal justice that became the standard image of Confederate rule.⁵ Modern research has qualified that picture. It has shown that many *landfogti* governed conscientiously within the limits of the system, that local elites used the courts for their own purposes and that the subjects were skilled at playing the ruling cantons against one another.⁶ The structural problem remained. A judge who depended on the fines he imposed could not be impartial in the modern sense, however honest he was personally.

In figures. Eight bailiwicks; twelve ruling cantons for the four bailiwicks of the lakes, three for Bellinzona, the Riviera and Blenio, and one for the Leventina; a term of office of two years (three, and from 1660 four, in the Leventina); a full rotation of twenty-four years among the twelve cantons; and a period of Confederate rule of 286 years in the four lake bailiwicks (1512–1798) and of 318 years in the Leventina counted from the peace of 1480, or 395 years counted from the first occupation of 1403.⁷

2 The *landfogto* as a political figure

The *landfogto* was also the visible symbol of the ruling cantons. He arrived with a retinue, often accompanied by his family, and was received by the communities with ceremonies, speeches and gifts. He resided in former ducal buildings or in houses provided by the communities, in Locarno for example in the central palace of the castle, the only part left intact when the Swiss destroyed it in 1531, and in the Leventina at Faido, the main village of the valley.⁸ His personal conduct mattered a great deal, because there was little else that connected the subjects with their sovereigns. A just and approachable governor could reconcile a community to Confederate rule, whereas a greedy or violent one could provoke petitions, appeals to the ruling cantons and occasional unrest.

The *landfogto* was not a colonial administrator in the nineteenth-century sense. He had no programme of economic development, no educational or religious mission and no ministry to report to. His legal authority was that of a medieval territorial lord, exercised by a temporary deputy. That combination of great formal powers, a short term and a personal financial interest defines the governance problem of the Italian bailiwicks. It also defines the institutional lesson that the modern canton drew from them: public offices, and above all the office of judge, have to be separated from the revenue they generate.

3 Notes

1. André Holenstein, "Vogteien", in HLS, version of 4 November 2014, <https://hls-dhs-dss.ch/de/articles/026415/> ("Mit der Einführung des sogenannten Ämterkaufs, der die neu gewählten Vögte verpflichtete, ihr Amt durch grössere Zahlungen an den Staatssäckel und die Landleute zu kaufen, wollten die Länderorte im 17. Jahrhundert die Vielfalt der Wahlpraktiken eindämmen, machten damit aber auch klar, dass die Vogteien Angehörigen kapitalkräftiger Familien vorbehalten waren: Immerhin galt es etwa für den Glarner Landvogt in Werdenberg, in drei Jahren eine Investition von 3500-6000 Gulden zu amortisieren"); Holenstein, "Gemeine Herrschaften" (above), on the capital that governors from the rural cantons had invested in the purchase of their office. ↩
2. Holenstein, "Vogteien" (above): "Im 17. und 18. Jahrhundert wurde als Massnahme gegen den Stimmenkauf in mehreren Orten das Losverfahren eingeführt." See also Peyer, Verfassungsgeschichte (above). ↩
3. Holenstein, "Vogteien" (above), according to which the income of a governor consisted of "einem Fixum in Geld und Naturalien, einem Anteil an den Bussen (häufig 10%, zum Teil auch mehr), Abgaben und Taxen sowie aus der Nutzung des Schlossguts" and varied with the size and productivity of the bailiwick; Holenstein, "Baliaggi comuni" (above), on the negative judgement of the conduct of "alcuni balivi dei cant. rurali". For a contemporary description of the Italian bailiwicks see Hans Rudolf Schinz, *Beyträge zur nähern Kenntniß des Schweizerlandes*, 5 issues (Zürich 1783–1787). ↩
4. Ceschi (ed.), *Storia della Svizzera italiana dal Cinquecento al Settecento* (above). *Composizione* was a common institution of early modern Italian criminal practice and was not an invention of the Confederates. ↩

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5. Schinz, *Beyträge* (above); Karl Viktor von Bonstetten, *Briefe über die italienischen Ämter Lugano, Mendrisio, Locarno, Valmaggia*, 3 vols (c. 1800); a modern edition of Bonstetten's writings has appeared in the series *Bonstettiana* (Göttingen: Wallstein). The HLS article on Bonstetten (<https://hls-dhs-dss.ch/de/articles/011586/>) records his office as Landvogt of Nyon (1787–1793). ↩
6. Ceschi, *Nel labirinto delle valli* (above); Schnyder, *Famiglie e potere* (above). ↩
7. Arithmetic based on the dates given in the table above. For the period 1512–1798 see Hubler, *"Ennetbirgische Vogteien"* (above), for the terms of office Hohenstein, *"Gemeine Herrschaften"* (above), and Fransioli and Locarnini, *"Leventina"* (above). ↩
8. Fransioli and Locarnini, *"Leventina"* (above) ("un balivo (urano), che risiedeva a Faido"); Rodolfo Huber, *"Locarno (comune)"*, in DSS, version of 20 December 2022, <https://hls-dhs-dss.ch/it/articles/002108/> ("Il castello venne distrutto dagli Svizzeri nel 1531; rimase integro unicamente il nucleo centrale, il palazzo sede del balivo (commissario)"). ↩

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