

Statutes, privileges and communal self-government

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The reverse side of distant and venal lordship was a high degree of local autonomy. The ruling cantons governed the bailiwicks with a handful of officials and had neither the means nor the intention to administer the villages, the commons, the roads, the churches or the local taxes. These tasks remained with the communities that had managed them under the Visconti and Sforza and in many cases long before. The legal basis of this autonomy lay in the statutes of the towns and valleys, which the Confederates confirmed at the moment of conquest, and in the privileges that communities obtained, renewed and defended against every new governor.¹

1 The statutes of the towns and valleys

Most communities of the region had written statutes by the fifteenth century. The statutes of the lake communities of Lugano go back to the thirteenth and fourteenth centuries and were edited in the twentieth century together with those of the Como lake region.² The statutes of Lugano, of the *pieve* of Locarno and Ascona, of the Leventina, Blenio, the Riviera, the Vallemaggia and Mendrisio regulated the organization of the communes, the election of officials, civil law (property, succession, dowries, guardianship, contracts), procedure, criminal offences and penalties, the use of common land, the protection of fields and forests, weights and measures and market rules.³ They were revised and printed at various times under Confederate rule, often at the request of the communities and with the approval of the *sindacato*, which examined the texts and confirmed them in the name of the sovereigns.

The confirmation of statutes was a political act with legal consequences. By confirming a statute, the ruling cantons recognized the existing law as binding on themselves and their governors. Communities used the statutes as a shield against arbitrary government: a *landfogto* who imposed a penalty

not provided by the statute or who ignored a procedural rule could be challenged before the *sindacato*. That legal culture of written privileges, carefully preserved in communal archives and invoked against the authorities, is one of the most durable legacies of the bailiwick period. Research on the statutes of Italian Switzerland is continuing. The bibliography published by the De Statutis Society gives an overview of recent work.⁴

2 Vicinanze, communes and the management of the commons

The basic unit of local government was the *vicinanza* (also *vicinia* or *comune*), the association of the heads of household entitled to use the common land of a village or group of villages. The *vicinanza* met in assembly, elected its consuls and other officers, adopted regulations on the use of pastures, forests and water, distributed the burdens of road maintenance and church building and apportioned the taxes owed to the bailiwick or to the valley community.⁵ Membership was restricted and passed by succession or marriage. Newcomers could acquire rights only by purchase or on the invitation of the assembly, and families that had lived in a village for generations without being admitted remained excluded from its commons.

The *vicinanze* were grouped into larger bodies: the valley communities (*comunità di valle*) in the Leventina, Blenio and the Vallemaggia, the *pievi* around Lugano and in the Mendrisiotto, and the town communities of Lugano, Locarno, Bellinzona and Mendrisio. The Leventina was divided into *vicinanze* and further into *degagne* and was governed by a valley council and valley assembly under the supervision of the *landfogto* of Uri.⁶ In Locarno the inhabitants of the town belonged, according to their legal and social status, to the corporation of the nobles or to that of the burghers, and in the sixteenth century families settled in the town formed a third corporation, the *Terrieri*. The nobles and the corporations dominated the community's council, the *Magnifico Consiglio*, in which the rural communes held eight of twenty-one seats: a complex constitution that reflected the old privileges of the noble families (the *capitanei*) of the town.⁷

3 Notes

1. Fransioli and Locarnini, "Leventina" (above), according to which the peace of 1480 "confermò gli statuti e le istituzioni locali"; Negro, "Lugano (pieve, baliaggio, distretto)" (above), on the annual assemblies

- of the community of Lugano, which dealt with "finanze, le imposte, le opere pubbliche, l'approvvigionamento del sale". See also Ceschi (ed.), *Storia della Svizzera italiana dal Cinquecento al Settecento* (above). ↩
2. Statuti dei laghi di Como e di Lugano dei secoli XIII e XIV (library catalogue records: University of California, Berkeley, Law Library, record 376182; WorldCat OCLC 902771838). ↩
 3. Pauli Falconi, "Vallemaggia" (above), on the independent jurisdiction centred on Cevio, with a general council of 42 members and its own statutes, created in 1403, and the separate jurisdiction of the Val Lavizzara from about 1430; Chiesi, "Riviera" (above) ("Les statuts du bailliage datent de 1632"); Fransioli and Locarnini, "Leventina" (above), on the statutes of the valley and of its vicinanze. ↩
 4. De Statutis Society, "Bibliografia statutaria della Svizzera italiana (2006–2015)", <https://site.unibo.it/destatutis/it/volume-iii-2006-2015/bibliografia-statutaria-della-svizzera-italiana-2006-2015>; Sammlung Schweizerischer Rechtsquellen (SSRQ), <https://editio.ssrq-online.ch/>. ↩
 5. Karl Heinz Burmeister, "Vicinanza", in DSS, version of 19 June 2015, <https://hls-dhs-dss.ch/it/articles/016403/2015-06-19/> (the vicinanza "gestiva i beni comuni, favoriva l'aiuto reciproco e assicurava alcune funzioni pubbliche di base"; its assembly regulated "la gestione dei beni e degli affari com., gli aiuti d'urgenza [...] la manutenzione di strade e ponti, la designazione delle diverse cariche"; "L'ammissione nella vicinanza avveniva per successione, matrimonio, acquisto o su invito"); Stefan Altorfer, "Imposte", in DSS, version of 24 January 2013, <https://hls-dhs-dss.ch/it/articles/013763/2013-01-24/> ("Anche nei territori soggetti i comuni avevano il diritto di prelevare delle imposte per assolvere i compiti pubblici"). See also Ceschi, *Nel labirinto delle valli* (above). ↩
 6. Fransioli and Locarnini, "Leventina" (above), which describes eight vicinanze subdivided into about thirty degagne and some seventy village communities. ↩

7. Rodolfo Huber, "Locarno (pieve, baliaggio, distretto)", in DSS, version of 18 November 2014, <https://hls-dhs-dss.ch/it/articles/008544/> (the corporations of the Nobili, Borghesi and Terrieri; the council of 27 members in 1365, reduced to 21 in the fifteenth century, with seats reserved for the burghers, the nobles, the Terrieri and eight for the rural communes; the autonomy of the community with its Capitanei about 1318). See also Karl Meyer, *Die Capitanei von Locarno im Mittelalter* (Zürich 1916).
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