

The Act of Mediation and the constitution of 1803

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The Canton of Ticino was created in Paris. In the winter of 1802–1803 Bonaparte, then First Consul, received the delegates of the Swiss parties in a *Consulta* and dictated to them a new federal settlement, the Act of Mediation of 19 February 1803. It replaced the unitary Helvetic Republic with a confederation of sovereign cantons that differed from the Old Confederation in one decisive respect: it had no subject lands. The thirteen old cantons recovered their statehood, and six new cantons joined them on equal terms: St. Gallen, the Grisons, Aargau, Thurgau, Vaud and Ticino.¹ The former Italian bailiwicks thus became a sovereign member state with the same rights as Uri, Schwyz and Nidwalden, the cantons that had ruled Bellinzona, the Riviera and Blenio until five years earlier. A school handout of the canton quotes the First Consul's reasoning in an Italian version: "La natura ha fatto il vostro stato federativo. Volerla vincere non può essere da uomo saggio", nature has made your state federal, and no wise man would try to overcome it.²

1 Paris, the Consulta and the birth of a canton

With few spokesmen of their own in Paris, the Ticinese depended in part on others to defend their interests. According to Guido Marazzi's study of the genesis of the cantonal constitution, Vinzenz Rüttimann of Lucerne argued for the southern territories at the Consulta on the basis of three understandings: guarantees for the Catholic religion, recognition of the Leventina as part of the new canton, and the trade treaties with the Cisalpine Republic on which the supply of grain and salt depended.³ The inclusion of the Leventina was not self-evident, since the valley had been a bailiwick of Uri alone, and Uri might have hoped to recover it. The Act of Mediation decided otherwise. It united the two Helvetic cantons of Bellinzona and Lugano, and with them all eight former bailiwicks, in the single Canton of Ticino.⁴

The new canton took its name from the river that crosses it from the Gotthard to Lake Maggiore, which spared it the choice of any of the rival towns. The Act of Mediation contained, as annexes, the constitutions of each of the nineteen cantons. The constitution of Ticino was therefore a federal act before it was a cantonal one. Its text was written in Paris and imposed on the canton together with the federal settlement. The Mediation federal order itself was modest. A Diet of nineteen delegates met annually, presided over by the *Landammann der Schweiz*. The cantons kept most of their sovereignty.

2 The constitution of 1803

The constitution gave the canton a Grand Council (*Gran Consiglio*) of 110 deputies, elected for five years or, in cases determined by its Article 15, for life. The election combined direct choice by the assemblies with selection by lot, in a three-tier procedure that the Mediation constitutions used in several cantons to temper popular choice with chance and property. The executive was a Small Council (*Piccolo Consiglio*) of nine members chosen from the Grand Council for six years and renewed by thirds. A property qualification of 9,000 francs in real estate applied to the highest offices.⁵

Political rights were limited by age, family status and property. Under Article 3 an active citizen had to be twenty years old and married or widowed, or thirty years old. He also had to own real property worth 200 Swiss francs or hold a mortgage-secured claim of 300 francs.⁶ The second alternative deserves the attention of the financial historian. It treated a secured loan as equivalent to land for the purpose of political rights, which presupposed that mortgage credit was a common and recognized form of wealth among the propertied families of the canton. The emigrant builders, merchants and notaries whose letters of exchange and loans Chapter A.III has described held much of their wealth in such claims.

The territory was divided into eight districts, which corresponded to the former bailiwicks, and thirty-eight *circoli* (circles), each of which elected deputies and had its own justice of the peace. The judiciary consisted of justices of the peace, who had to own property worth 1,000 francs, district courts of first instance and a Court of Appeal (*Tribunale d'appello*) of thirteen members appointed by the Grand Council. The constitution declared that "Bellinzona è il Capoluogo del Cantone", Bellinzona is the chief town of the canton, and that "La Religione cattolica romana è la Religione del Cantone".

Essentials. The Act of Mediation of 19 February 1803 created the Canton of Ticino from the eight former bailiwicks and the two Helvetic cantons of

Lugano and Bellinzona, as one of nineteen sovereign cantons. Its constitution, issued as an annex to the Act, provided a Grand Council of 110 members, a Small Council of nine, eight districts and thirty-eight circles, a Court of Appeal of thirteen judges, a census suffrage based on land or mortgage claims, Bellinzona as chief town and the Catholic religion as the religion of the canton. It was drafted in Paris and never submitted to the people of Ticino.

3 Notes

1. Fankhauser, "Mediazione" (above); map "Carte générale de la Suisse ... in XIX Cantons eingetheilt" (1803), Archivio di Stato del Cantone Ticino, https://m4.ti.ch/fileadmin/DECS/DCSU/Documenti/Archivio/NascitaCantone/5_1.pdf. ↩
2. Scuola media di Losone, civics handout "Napoleone e il Cantone Ticino", https://losone.sm.edu.ti.ch/wp-content/uploads/sites/35/2020/03/CIVICA_3_Napoleone_e_C.Tici_no.pdf (Italian translation; the French original was not consulted). ↩
3. Guido Marazzi, "Genesi della Costituzione del 1803", Scuola ticinese, no. 64, https://www4.ti.ch/fileadmin/DECS/DS/Rivista_scuola_ticinese/ST_n.64/ST_64_Marazzi_genesi_Costituzione_1803.pdf. ↩
4. Fankhauser, "Mediazione" (above); Businger (above). ↩
5. Marazzi, "Genesi" (above). The source does not make clear to which offices the property requirement of 9,000 francs applied. ↩
6. Ibid., quoting Art. 3 ("o d'un credito di 300 franchi ipotecato"). ↩

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