

Why the bailiwicks had no Monte

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The Italian bailiwicks of the Confederation did not, as far as the literature examined for this chapter shows, establish Monti di Pietà under the old regime. The article on pawnshops in the *Historical Dictionary of Switzerland* traces the history of public pawn lending in Switzerland from the medieval Jewish lenders and the exchange offices of the cities to the public pawn institutions of the nineteenth century. It records the foundation of public pawn funds in Geneva and Zurich in 1872, in Basel and St. Gallen in 1874 and in Lucerne in 1915, and cantonal legislation on pawnbroking in nine cantons in the late 1870s and 1880s. It mentions no institution in Ticino.¹ The reasons for this absence can be inferred from the structure of the territory, although they are not documented directly.

The first reason is size and urban structure. The Monte was a city institution. It needed a population of urban poor with movable property to pledge, a commune that could provide capital and officials and a market for the auction of unredeemed pledges. Lugano, Locarno, Bellinzona and Mendrisio were market towns of a few thousand inhabitants, whose rural surroundings had little movable property of value. The second reason is political. A Monte required a founding act by a public authority. In the bailiwicks that authority lay with the twelve ruling cantons, including Reformed cantons that had no interest in a Franciscan charitable institution and Catholic cantons that drew revenue from the bailiwicks and were reluctant to allocate it to local purposes. The local communities had limited autonomy over their finances. The third reason is proximity. Since the Monti of Como and Milan lay within a day's journey of the Sottoceneri, the population of the bailiwicks could use the Lombard markets for many services that their own towns did not offer.²

The most important reason, however, is that the bailiwicks had other institutions that performed the functions of a Monte. Rural credit in the valleys was supplied by the *censo* and the notarial acknowledgment of debt,

by confraternities and parish funds that lent their capital to members, by the emigrants who sent money home and by local merchants who sold on credit. Consumption loans against pledges were made privately, between neighbours, relatives and shopkeepers, and were recorded, if at all, in notarial deeds or in the account books of the lenders. The Monte di Pietà answered a problem of urban poverty that the Ticinese valleys knew only in milder form, because the surplus population emigrated.

1 The modern law of pawnbroking

The Swiss Civil Code regulates pawnbroking (*prestito a pegno*, *Versatzpfand*) as a special form of the pledge of movables. A pawnbroker needs an authorization from the canton (Art. 907 CC). Licences are granted to private pawnbrokers for a limited period, may be renewed and may be revoked at any time if the pawnbroker fails to comply with the rules governing the business (Art. 908 CC).³ The Canton of Ticino implemented these provisions in its *Regolamento sul prestito a pegno* of 30 June 1994. Under it, a pawnbroking business needs the authorization of the Council of State, must prove its financial integrity, hold capital of at least CHF 1 million or an equivalent guarantee and insure the pledges in its custody. The contract must be in writing and state the amount lent, the interest, the fees, the maturity and an exact description of the pledge. Interest is capped at 12 % a year (1 % a month), administrative fees at 2 % and storage fees at 2.5 % a year, and any clause providing for further remuneration is void. The borrower may redeem the pledge at any time by paying the capital with the interest and fees accrued to the current month. The Department of Justice supervises the businesses and may impose fines of up to CHF 10,000 or revoke the authorization.⁴ The structure of these rules is recognizably that of the old Monte: a licensed lender, a pledge held under public rules, charges limited by public authority and a right of redemption for the borrower. The fee caps of the Ticinese regulation express in modern form the principle that the Fifth Lateran Council applied in 1515, namely that the charges of a pawn lender must be fixed and limited.

In the modern Lugano financial centre, pawn lending plays a marginal role. The more important descendant is the Lombard loan (*credito lombard*, *Lombardkredit*), whose name recalls the medieval practice of lending against pledges in Lombardy, which Lombard lenders carried north of the Alps, where France knew the pawn house as *maison de lombard*.⁵ Granted by private banks against a pledged portfolio of securities, with a loan-to-value ratio set by the bank's risk policy, it is the main form of secured credit in the private banking business of Lugano and Geneva and uses the same legal

technique as the Monte: the possessory pledge of movables with a right of realization on default.

Common misconception. It is sometimes said that the Catholic Church prohibited all lending at interest until the nineteenth century and that Catholic regions were therefore unable to develop credit institutions. The sixteenth-century Church approved the Monti di Pietà (1515), regulated the annuity contract (1569) and the exchange contract (1571) and allowed compensation for loss, forgone profit and risk. What canon law prohibited was gain from the loan as such, without work, expense or risk. Credit in Catholic Italy flowed through permitted contractual forms. The first public banks of Italy, among them several Monti, were Catholic foundations.

2 Notes

1. Martin Körner, "Banco dei pegni", transl. Davide Dosi, in DSS, version of 20 November 2008, <https://hls-dhs-dss.ch/it/articles/014059/>. ↩
2. The author's inference from the structure of the bailiwicks (Chapter A.II). ↩
3. Swiss Civil Code of 10 December 1907, SR 210, Arts. 907 (licensing) and 908 (duration and revocation of the licence), English and Italian text as reproduced by droit-bilingue.ch, <https://www.droit-bilingue.ch/en-it/2/21/210-908-1018.html>. ↩
4. Canton of Ticino, Regolamento sul prestito a pegno of 30 June 1994, Arts. 2–3, 5, 8, 10 and 13–15, <https://m3.ti.ch/CAN/RLeggi/public/index.php/raccolta-leggi/pdfatto/atto/173>. ↩
5. Wikipedia (consulted as a last resort), "Lombardkredit", <https://de.wikipedia.org/wiki/Lombardkredit> ("Der Begriff Lombardkredit leitet sich aus der oberitalienischen Region Lombardei ab, in der bereits im Mittelalter Geld gegen Überlassung von Pfändern verliehen wurde"; definition as short- to medium-term credit against the pledge of securities, bank balances or movables). See Chapter G.I. ↩

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