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Authority and the Law in Renaissance Venice

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XI

GAETANO COZZI

Authority and the Law in Renaissance Venice

> For if the government in Cosimo's time had all the weaknesses alleged above, a similar government today would see them redoubled, for the times have changed from what they were, and so have the city and its inhabitants.
>
> MACHIAVELLI: *Discursus florentinarum rerum post mortem iunioris Laurentii Medices*

On 4th April, 1456, the *Quarantia criminal* – a constitutional body with chiefly judicial functions but which also had standing and competence of a political nature, including the power to initiate legislation – proposed a new statute to the Great Council. It was observed in the preamble that many men who had been exiled from Venice after being convicted of crimes were risking a return to the city and were committing new and worse villainies there. The guardians of order – 'offitiales' and 'custodes' – were reluctant to pursue them, at least with the necessary vigour, fearing that should they kill them they could themselves be charged with homicide. The statute therefore established that if anyone, either outlawed already or to be outlawed in future for crimes which carried a penalty of death, loss of limb or life imprisonment, tried to resist arrest with weapons, the 'custodes' could assail him 'per omnem modum'; and it was added for the sake of full clarity that if it should happen that the outlaw were killed, 'non incurrant propterea custodes in aliquam poenam, sed licite et impune bannitos praedictos se cum armis defendentes offendere et occidere possint'. The statute was approved by the Great Council, but against considerable opposition: 645 votes in favour, 105 against, 73 *non sinceri* (or disposed to modify the law).[1]

Another statute which the *Quarantia criminal* brought before the Great Council on the same day had more success. It, too, was concerned with the disturbing problem of the spread of crime. In the past, it was said, the laws awarded a cash bounty to anyone who captured a murderer or a sodomite condemned 'ad supplitium mortis' of 100 lire *di piccoli* the first time and much more, 500 lire *di piccoli*, the second time; nothing, however, if it was a matter of theft. This, the preamble maintained, was unjust both because men who had committed murder

on an angry impulse were treated with far greater severity than those who stole with 'malice aforethought', and because nowadays 'many thefts and numberless larcenies' were perpetrated nightly. To remedy this state of affairs the statute established that whoever – 'offitiales' or 'custodes' or others – arrested a thief would receive a cash reward on a scale running from 200 to 400 lire *di piccoli* – according to whether the culprit was sentenced to death or the loss of two limbs or of one. It was passed almost unanimously: 533 votes in favour, 9 against, 23 *non sinceri*.[2]

On 16th September, 1468, the Council of Ten, the severest and most feared of Venetian constitutional bodies, returned to the question of the arrogant and rebellious behaviour of the 'malefactores et exules' who roamed Venice, impatient of every authority, indifferent to every law. Once, the verbal order of a representative of the government was enough because people hastened to obey: today, they revolted against the guardians of order to the point of snatching those arrested from their very hands. Proposing a remedy, the council ruled that the 'officiales' could kill those who drew weapons against them without risk of penal consequences.[3]

Outlaws were those who, having been summoned by a judge to answer to a crime charged to them, escaped justice by fleeing. Doubly guilty, then: both of the crime for which it was hoped to take proceedings against them and of that of high treason, the refusal to submit to supreme authority; the Barbarian Code, considering their actions to have put them beyond the law and outside its protection, held that they could be killed with impunity.[4] Traces of this conception permeated the statutes of a good many Italian cities, including Venice, which had reached the point of granting the *cinque savi alla pace* a privilege according to which the fine to be paid by anyone who killed a person outlawed by this magistracy was limited to five *soldi di piccoli*, with no further penalty.[5] This was an exceptional case, however; and in 1318 the privilege had been much reduced inasmuch as it had been decreed that if the victim had been guilty of a crime liable to a pecuniary penalty of less than 100 lire *di piccoli*, the murderer would be prosecuted for homicide 'ac si interfectus . . . non fuerit bannitus'.[6] Apart from this case, the Venetian penal code at that time refrained from authorizing or openly favouring the assassination of miscreants and outlaws: the three laws cited above prove this. The Venetians attempted also to limit it in the *dominio* with a law of 1489 which, however, they were compelled to revoke in 1490 because of the reaction of the Vicentini.

Looking at the penal legislation of the third decade of the following century, one becomes aware that in the interval the situation has changed radically. Authorization to assassinate outlaws is normal in Venice and the *dominio*, and whoever does so, apart from receiving a bounty, frequently succeeds in being freed himself from exile caused by some crime of his own. A law of the Council of Ten, of 30th August, 1531, is indicative of this new orientation in the criminal law. After having said that outlaws were able to continue breaking the law because of those who were feeding them and offering them refuge, the law draws

rigid consequences: 'let it be decreed', it resolves, 'that whosoever *de caetero* accepts any outlaw into his town house or country house or elsewhere, or, having already accepted him, does not send him away instantly, but keeps company with, follows or accompanies him by day or night, armed or unarmed in places forbidden him by his sentence, even if he be connected to him by the closest ties of blood', that is, father, son or brother, 'immediately incurs, and is understood to have incurred, the same penalty of being outlawed as the real transgressor . . . and, as an outlaw, can be attacked or brought to death with impunity, and for the same reward as that placed on the outlaw's head'. The results were not long in showing themselves. From every side, the Council of Ten was warned that many were taking advantage of the law 'some to obtain rewards and absolution from exile, others to take revenge on their enemies'; any evidence was enough, however vague or uncritically accepted, to allow them to kill and, moreover, to make a profit from it. The same council resolved, on 26th September, 1532, to correct the law: whoever sheltered an outlaw for more than a day would be banished for five years from the territory in which he was living and would have to pay a cash fine. It was an ephemeral remedy, however: the spiral of violence unloosed in these years would not be checked until late in the eighteenth century.[7]

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The period when the laws we have mentioned were adopted in Venice, represented an epoch of profound upheaval for Europe. National states approached maturity, acquiring the constitutional forms which represented the modern state in embryo. Long and hugely expensive wars were fought, which had their epicentre in Italy but which affected the political and economic life of the entire continent; the religious crisis which had been brewing for some time broke out in a drama which involved the collapse of Christian unity; new lands were discovered across the seas; a new culture was introduced. The world was changing and even penal institutions were affected by structural transformations and by a changing sensibility: witness the bull of Charles V, of 1532, which reformed the penal code of the Empire; the statutes of Henry VIII of 1531, 1533, 1537 and that of Edward VI of 1547; and the 'Ordonnance sur le fait de la Justice', promulgated by Francis I in 1539 at Villers-Cotterets.[8]

The Venetian Republic was to feel the repercussions of these events very powerfully, especially those of a political and economic nature: it emerged, in the fourth decade of the *cinquecento*, deeply scarred, not only, or not so much, in its prestige and wealth (many splendid days were yet to come, as Fernand Braudel says, in the rest of that century and in the following one)[9] but in its spirit and its institutions – and more deeply that it dared allow to be seen.

At the beginning of the second half of the *quattrocento*, it seemed that a long period of peace was about to open. In 1454 Venice concluded, with the Peace of Lodi, the war against the duke of Milan; in the same year Mahomet II, the recent

conqueror of Constantinople, confirmed with the Republic the peace drafted in 1452. Instead, it was to be a period of continuous wars. Wars in Italy, with the duke of Ferrara, with Sigismund of Austria. Between 1496 and 1499 Venice supported the Pisans in their struggle against Florence. It remained a spectator in the face of Charles VIII's descent into Italy in 1494, except for making itself the headquarters in 1495 of an anti-French league contracted with the pope, the emperor, the king of Spain, and the duke of Milan. Then it became an ally of Louis XII of France when he launched his attack on the duke of Milan in 1499. And apart from these there were wars with the Turk: one, lasting a good sixteen years, from 1463 to 1479, was fought from Negroponte in the Morea to Albania; another, begun in 1499 and ended in 1502, was darkened by the two serious naval defeats at Zonchio; and this is not to mention the incursions which by the end of the *quattrocento* the Turks were making across the Venetian *terraferma* to the very shores of the lagoon. At the very beginning of the sixteenth century the policy of the last fifty years could seem, from a territorial point of view, not lacking, on balance, in positive elements. In the east, if first Negroponte, then Scutari and then Modone and Corone had been lost, there had been a major acquisition, the island of Cyprus. In Italy the outcome was firmly encouraging. Towards Milan the Venetians possessed Cremona and the Ghiaradadda, towards the Po, Rovigo with the Polesine, and south of the Po, Rimini, Cervia and Ravenna, fertile lands from which a new supply of grain was expected to alleviate, if not actually avert, the danger of recurrent bad harvests; they had even obtained a few ports on the coast of Apulia.

But the price had been very high. 'Now I do not wish to refrain from writing that I have heard', noted Marino Sanuto in his *Diarii* in the February of 1499, 'that Venetian money has vanished especially through the demands necessitated by four wars'.[10] 'The treasuries and the purses of private citizens' are exhausted, confirmed another diarist, Piero Dolfin, in March, 1500.[11] Fernand Braudel and Gino Luzzatto have remarked on the strangeness of the Venetian economic situation at the end of the fifteenth century, when, side by side with clear signs of the recession lamented by contemporaries – especially the successive bankruptcies which occurred between 1495 and 1499 – there was evidence of great wealth:[12] in the city, the construction of splendid palaces, public and private, of churches and monasteries and the pursuit of luxuries ('to build houses and dress sumptuously', said Sanuto), in the *terraferma* purchases of land even in the Romagnol territories which had only just been acquired (Girolamo Priuli, a fierce adversary of the expansionist policy in Italy, suggested that the Venetian government had been driven to it by a 'greedy desire to expand the empire for their own benefit').[13] The richest patrician families, able somehow to take advantage of the times – and of others, too weak to counter them – grew richer. It was symptomatic that in the furore of polemics and resentment, one of the accusations levelled against Antonio Grimani – the immensely wealthy merchant who, having been appointed captain general of the sea, was charged with the responsibility for the serious defeat suffered by the Venetian fleet in the first battle

of Zonchio – should have been that he had taken advantage of the war with the Turk, because during the period of slack business he had been able to sell the spices piled up in his warehouses at whatever figure he chose to set on them. On the other hand, the trade recession had taken from the nobles of modest fortune their principal source of income, the posts reserved for them in the 'galie di viazi' which afforded the possibility of carrying a certain amount of goods without paying duty on them. 'Many poor gentlemen . . . it used to be their bread and butter', observed Dolfin in December, 1500, deploring the prevailing tendency to concede these posts more as a favour than through the usual electoral route.[14] A nobleman of the Contarini, without public employment for sixteen years, incapable, as he complained, of 'earning a living by any trade' and forced to support a large family on a paltry income, turned to the doge in order to protest against the office charged with the exaction of taxes which, considering him in arrears with his contribution, had sold his house. He received satisfaction: the sale was revoked and the agency was told to make the rich pay and to proceed 'understandingly with the poor who have nothing on which to live'.[15] A patrician who had headed the office, however, discovered to his cost that this was not such a simple task: some of the rich and politically powerful nobles whom he had forced to pay had then taken their revenge. The doge replied to his protests with words of comfort: 'have patience and God will see you compensated'.[16] At the end of 1501, at the height of this crisis, the news reached Venice that the Portuguese caravels, having circumnavigated Africa, had arrived at Lisbon from India; from Levantine emporia like Alexandria came letters saying that spices were nowhere to be found 'owing to the competition of these *signori*, who are the complete ruin of the country'. Similar news would be repeated in the following years, more and more frequent, more and more disturbing. To merchants like Girolamo Priuli, it seemed that this might be the end of the Venetian spice trade, 'the life blood', as he put it, of the Republic's economy.[17]

The crisis which was thwarting one part of the nobility could not but have serious political repercussions on the patriciate as a whole: a unitary body which, through the complex machinery of councils, offices and magistracies, sustained the burden of administration and the government of the state. At the base of this structure was the Great Council: taking part in it by right were all Venetian nobles who were proved to be the legitimate sons of noble Venetians and of mothers of suitable social status and who had reached the age prescribed by law, normally twenty-five years. From the beginning of the century the qualifications for membership of the Venetian aristocracy and, therefore, for admission to the Great Council, were subject to increasingly rigid rules and controls.[18] The Republic exercised its sovereignty over a part of the Po valley which was immensely rich in civic and feudal tradition, inhabited by an ancient nobility which, reluctant from the beginning to accept their new rulers, would have harboured feelings of scorn and antagonism towards an aristocratic body which was not concerned for its own exclusiveness and the purity of its blood. Among the functions of the Great Council apart from voting on laws and granting

favours which had been proposed by the relevant constitutional body, there was a distributive one: to elect nobles to the various offices of the Republic. This was particularly delicate in the case of the Senate, the more restricted council which, as Sanuto said, really managed the government of the state. The vast majority of all elections took place in the Great Council and thus the entire body of the nobility had a hand in them. There were marked differences between the various offices. Many, and obviously the most important, were located in Venice; the others, to which government of the empire, by land and sea, was entrusted, were scattered among its cities, towns, and fortresses. There were other differences which arose from the nature and importance of the duties to be performed, from the lustre which they required and gave, from the experience and preparation they presupposed, from the burden they imposed and the profit which could be derived from them. There were offices which were almost exclusively the preserve of the leading noble families; of men who possessed adequate learning and were, moreover, in a position to leave merely economic consideration on one side while they concentrated on going through the *cursus honorum* of appointments in the required order, until they eventually became part of the elite which, in practice, held the reins of government in its hands; and there were offices which attracted only the poorest of nobles, for whom the fundamental problem was simply one of eking out a living, a problem which had become harsher once exclusive notions of the conduct properly becoming a noble forbade recourse to means of making a living which remained open to other men. But for all the disparity among offices and among nobles, there was only one electorate and the rich helped elect the poor, and the poor aided the success of the rich. It was an inevitable result of this that if one group of men was disposed to commit fraud, say to make certain candidates win and to exclude others, everyone suffered the consequences, politically and morally; and so it was if some were disposed to sell their own votes, or if others organized vast networks of common interests. In the Republic, which had never had any illusions about human nature, the electoral system was set up in a way that would offer the greatest possible protection; all the same, anyone who was inclined to cheat could find a way to do so.

Things went well when the numerical ratio between offices and candidates was reasonable. In the fifteenth century it changed; although the number of offices grew it fell out of step with the increased number of candidates. Running through the records of the Great Council one is struck by the difference between the votes with which laws are passed or rejected at the beginning of the century and those that obtained at the end. In the first decades of the century it is difficult to find a piece of legislation voted on by more than 400. By the middle of the century the increase is already considerable; by the end there can easily be 800 votes.[19] In his *Cronachetta* Marino Sanuto wrote of about 1,400 or 1,500 nobles being in the council chamber in 1493 and at times – for instance when prestigious appointments like the procuratorships of St. Mark were being made – 1,800. In 1509, when Antonio Grimani's exoneration from the penalty inflicted on him

in 1500 because of the defeat of Zonchio was to be voted on, his sons and grandsons exerted themselves to their utmost to plead his cause and 1,465 patricians came out in his favour.[20] In 1513, for the decision on a law regarding a magistracy, the *signori di notte al criminal*, to which nobles of low fortune could aspire – an increase in salaries was also under consideration – there were 1,300 voters.[21] Underlying this numerical change there was undoubtedly a demographic increase in the patrician class. Another, though much less important factor arose from the favour extended to young men, who, from 1441 to 1497, after a drawing of lots which selected thirty of them each year, could enter the Great Council at the age of eighteen rather than at twenty as had previously been the rule, and as it would be again.[22] But this throng of patricians in the hall of the Great Council was due to yet another cause: maritime and mercantile sources of income having diminished, and the prospect of taking to the seas having become less enticing owing to the ever greater risks to be encountered there, the poor or moderately-off nobleman had nothing left but to look to the government of the Republic for a livelihood. The pursuit of office was to be the most logical means of resolving the problem: a pursuit by men hungry for the very humblest offices which led to an enhanced demand for the remaining, more important ones. According to certain contemporaries, the frequency of cases of embezzlement in the Venetian administration in this period was due to the fact that many jobs were filled by men forced by their wretchedness to extort profit greater than that offered by the normal salaries.[23] This may have been so, but if this were the only reason, the numerous cases of embezzlement attributed to patricians with substantial fortunes would remain unexplained. What is certain is that towards the end of the fifteenth century the phenomenon of 'broglio' took on disturbing proportions, in other words pre-electoral machinations, bribes, canvassing and attempts to solicit sympathy and favour and requests for votes coupled with the pledge to render a comparable service as opportunity served.[24] This is, of course, an inevitable phenomenon wherever elections exist. The seriousness of the situation here occurred when it was carried to such excess as to lead to the creation of veritable clans, paralyzing the will of the voters, making them forget for considerations of family or group loyalty that the point of the elections was to entrust offices to the most suitable and deserving. It was worse when impoverished nobles, in extreme need and at the limits of their self-respect – those nobles who, in reference to the mercenaries who figured so largely on the European political scene, came to be called 'Switzers' – actually sold their votes. There will be more to say on this, however, with regard to the years to come rather than to the period I am discussing now. The records of the Great Council abound in regulations which attempted to eliminate these vices in the electoral system. First of all there were rules which imposed rigid conformity within the assembly. Then there were rules aimed at repressing the 'broglio'. Finally the attempt was made to reform the electoral system by imposing a more careful winnowing out of candidates; it was laid down in this period that almost all appointments had to be made from among four candidates rather than two, as in the past.[25] Among

the first was one passed in March, 1478, by the Council of Ten according to which the doge and other magistrates (the six ducal councillors, the three *avogadori di comun*, the three *capi* of the Council of Ten) were to be considered 'creti', that is, were to be believed 'on their simple word' should they claim to have seen nobles in the Great Council chamber offending against the law.[26] But the hope expressed by Domenico Morosini, one of the most influential of Venetian noblemen between the end of the *quattrocento* and the beginning of the *cinquecento*, and a man imbued with classical nostalgia like so many of his class, that a special magistracy of 'censors' would be created with a specific assignment to control the 'broglio' and see to discipline within the assembly, was not realized, at least not then.[27]

The situation of the patrician class was pregnant with dangers which were not limited to the battle to secure office for oneself or to foster, through mutual agreements, their acquisition by others. Certain movements of opinion were also much to be feared, certain proposals whose mouthpieces were patricians of the highest rank but of demagogic temperament. In 1492 Gabriele Bon and Francesco Falier, *capi* of the *Quarantia criminal*, let it be known that they had found the way 'to provide poor gentlemen who have no office with 70,000 ducats a year: that is, 100 ducats a year per head to those who are past sixty, and fifty to those who are between twenty-five and sixty, on condition that they pay the *decime*': and they proposed to raise the money from offices, suggesting that those whose term of office was for two years should serve eight months, and whose offices lasted one year, four months "da bando", that is, without payment. This notion was expressed in a measure put before the Great Council, but the nobles who held office in the *terraferma* or who hoped to (as *rettori* of the subject cities) were certainly not attracted by the prospect. The members of the *Collegio* (an even more restricted council of the Senate which was pretty well the leading policy-making body in Venice) and of the Council of Ten declared themselves scornful; they even indulged in classical reminiscences, conjuring up 'the example of the agrarian laws in Rome'; 'it cannot be allowed', they maintained, 'that anyone should try to make himself mighty by handing out public money' and 'that by this means the land be ridden with factions'. It was feared, moreover, that the beneficiaries of the new law would be united in large groups in the Great Council on the day of the election. The *Collegio* therefore asked the doge to summon the law's promoters and urge them to withdraw it 'on pain of the disgrace of the Council of Ten'. This disgrace did in fact fall promptly on the two men, who, after having said they would comply with the doge's request, still appeared determined to present the law. The *Collegio* and the Council of Ten met again: 'without any reservation, nor considering any other matter, to provide that neither these nor others should promote such a thing in the future, and that Falier and Bon should be confined for life at Nicosia, on pain of death'.[28] Ten years later, a similar disgrace fell to the lot of another noble, Zuan Antonio Minio. In the preoccupation with finding money which was tormenting the Republic it was decided to impose a measure,

already presented in the Senate and awaiting the sanction of the Great Council, that would halve the stipends of public officials. The demand was still for a 'servir da bando', but not in order to give what was saved to the poor nobles; instead, it was to deprive them of money to the same extent as the rich ones. In the Great Council Minio fervently pleaded the poor nobles' cause, insisting on the injustice of the law and expressing the conviction that the lack of charity of which this was a proof was one of the reasons why God was raining such massive disasters upon the Venetian Republic. This time even Sanuto, who was usually sympathetic – probably because of a certain social affinity with the poor nobles – became indignant; Minio, he noted in his *Diarii*, thought 'to gain great credit in this way by seeking the plaudits of those poor men who lived by their offices'. As for the Council of Ten, it took steps to condemn Minio immediately to perpetual confinement on the island of Arbe.[29] What was taking shape, then, was a movement on the part of the 'grandi' to hold that plethoric and unpredictable organism which the Great Council had become in due subjection. For its own part, or at least on that of those of its members who were most concerned with this issue, there were two possible means of retaliation: to try and get the rules which hampered them revoked, and to frustrate elections to the offices where the 'grandi' had most weight. The latter remedy was to score a success in 1503; for some time it was not possible to elect the Council of Ten because the necessary margin of votes could not be obtained.[30]

Describing the form of government of the Republic in the middle of the *quattrocento*, the nobleman Paolo Morosini put the doge and the Great Council almost on the same level and well above all other councils and magistracies.[31] In 1463 the doge, Cristoforo Moro, asked the Great Council if war should be made on the Turks as the pope was requesting: 'we depend on the goodwill of *la signoria vostra*', he told the assembly.[32] But in the period bridging the *quattrocento* and *cinquecento*, Domenico Morosini (the nobleman mentioned earlier), who was a member of the group of key dignitaries and probably representative of the views of many of them, subjected both the Great Council and the institution of the dogeship to criticism in his *De bene instituita republica*.' It is particularly interesting that his work was not a celebration of the Republic as were those of Paolo Morosini (very restrained), Marino Sanuto and Marc' Antonio Sabellico or as Gasparo Contarini's was to be, but adopted a quite different tone. Domenico Morosini discussed amendments to the Venetian constitution as it stood, it being practically impossible to create a new one – a clear sympton, this, of the dramatic moment in which the Republic was trapped and the crisis which gripped its men and its institutions. The fault of the Venetian nobility, he said, is that it is too numerous: though it managed to set itself apart from the mass of the people it was not exempt from the vices to which every kind of multitude is subject. Taking the state of things as they were, the way to find a remedy would be to distinguish offices suitable for young men from those suited to the old. If today one were suddenly to deprive the young men of the possibility of belonging to any office, they would

start a riot. But if one were obliged to create the republic anew – and to 'turn it upside-down', Morosini observes (and one does not know if he is thinking of something actually realizable) would be a formidably difficult undertaking – the magistracies should be entrusted to the older men; this would dissuade youth from ambition, displacing it in the direction of crafts, trade and the liberal professions. If this attack on the swollen body of the nobility expresses the unease that was felt about the Great Council, what Morosini wrote about the institution of the dogeship is in line with the disquiet and hostility it had aroused for some time.[33] In the fourteenth century a doge, Marin Faliero, suspected of conspiring against the state, was sent to his death; in the middle of the fifteenth century another doge was deposed, Sanuto wrote, 'for being incapable of functioning as doge'. Yet again, in the second half of the *quattrocento* there were two cases of doges who had caused public opinion to explode: that of Cristoforo Moro, doge from 1462 to 1471, and of Agostino Barbarigo, who held the office from 1486 to 1501. An assembly as crowded and as pervaded with malcontents and grievances as was the Great Council at the end of the century could be a highly dangerous temptation for ill-intentioned doges to use as an instrument. Especially for a man like Barbarigo. The mere fact that he had managed to succeed his brother Marco as doge, a case unique in Venetian history, reveals both an utterly determined will to have his way against those who saw the risks of a succession within the same family, and the strength of his supporters. He had encouraged men to genuflect before him as a matter of course, newly-married couples to come to touch his hand on the day of their weddings, patricians to come to him in order to pay their respects on the day on which they quitted or were elected to any office or post. As though this were not enough he was also accused of having committed, with the agreement of his intimates and servants, 'horrible, abominable and dreadful peculations and extorsions, and sold justice... without any shame, *tanquam dominus et tyrannus: sic volo, sic jubeo*'.[34]

The 'correzioni alla promissione ducale', or revisions effected immediately after the death of a doge in the complex of rules (the 'promissio') regulating the authority of his office which every doge on election had to swear to respect, reveal in this period the constant care taken to define the constitutional position of the doge within very precise and restricted limits; he was enjoined to represent his role with splendour of exterior demeanour, certainly, but he was also prevented from taking any individual initiative whatsoever, and many were the precautions taken to avoid abuses on the part of his intimates.[35] Domenico Morosini held that even this was not enough. The doge, he wrote, as the guardian of the law and of justice, and as holder of the supreme magistracy, should intervene in decisions in order to safeguard the public interest and prevent private causes from imperilling those of the state. But he himself should be placed under the law as administered by the appropriate magistracies. According to Morosini, then, it was necessary that a review of the doge's behaviour should take place not only *post mortem* but every five years during his life; and whenever he was shown to be incapable or unworthy of filling his office he should be deposed.[36]

These are opinions which might seem to suggest our looking at Venetian policy, especially with regard to its fundamental aspects such as the value of tradition and the relationship between authority and equality of status, from a changed point of view.

'Est preterea supremum et auctoritate perspicuum trium advocatorum tribunal quo nil civitate sanctius, cum communes oppressorum omnium advocati dicuntur; nil scelestis legumque transgressoribus magis formidabile previdentur', Paolo Morosini had written of the *avogadori di comun*; 'est praeterea decemvirorum consilium, in quo princeps sexque consultores assistunt, et si quem in principe, principatumque deliquisse constiterit, indelebili de poena mulctatur. Maxime itaque terrore omnibus extat consilii huius tremenda sententia . . .', he was to say, a little further on, of the Council of Ten.[37] Marino Sanuto is more detailed. As for the *avogadori di comun*, he emphasizes that they must be present at every council on pain of the invalidation of the meeting; that any one of them may 'intrometter quello li par', that is, may suspend all deliberations the legality of which is in question; that they may 'menar' or summon to justice those whom they regard as guilty of a crime 'before what council they choose, either the Great Council, the Senate or the *Quarantia criminal* . . . and within these councils', Sanuto continues, 'they argue as advocates for the commune, whence comes their title "avogadori", and they argue there in support of their suspensions . . . and act as guardians of the law'. He does not omit to mention thereafter, and twice, that the *avogadori* have precedence over the *capi* of the Council of Ten.[38] But it is evident that even in the brief space of time – approximately thirty years – which separates the writings of Morosini and Sanuto the situation had changed. Sanuto, immensely fervid admirer of the *Avogaria* though he is, cannot put it before the Council of Ten itself as his predecessor had done; and he recognizes that – in spite of the longer tradition of the former, in spite of the formal prerogatives which still gave it such an honourable status – the power and repute of the Council of Ten are a good deal greater. Strictly interpreted, its competence was restricted, it was a judicial body and it was responsible for protecting the security of the state. Yet the most dramatic events of the last two centuries were associated with its name: the execution of Doge Marin Faliero and of Count Carmagnola, chief of the Venetian army, the deposition of Doge Francesco Foscari. He emphasized that 'it also determines other matters of great importance', and he concludes by saying that it is an 'extremely awesome magistracy' and a 'highly secret' one.[39]

The two magistracies, despite their different historical and political origins, had duties which were or could become over-lapping and they tended, therefore, to compete with one another. This is confirmed beyond all doubt by the fact that in the space of ten days, from the 18th to the 29th of September, 1468, attempts were made to define the areas of competence of each of them. First it was the turn of the Council of Ten. The proposed statute, after having recorded that the fathers of the Republic had taken care to hold 'in culmine consilium nostrum Decem', be it because of its authority and dignity or the importance

of the matters concerning the state entrusted to it, it was deplorable that for some time its members 'excreverunt in tantum occupationes et negotia ipsius Consilii praesertim multiplicibus et diversis rebus impertinentibus indignisque tanti magistratus'. In future, it would be required to concern itself with these matters only: treason, conspiracies and anything else associated with disturbance of the peace of the state, treaties, and 'terrarum et locorum ac aliarum rerum huiusmodi', for which high secrecy was necessary, cases of sodomy, questions relating to the *Scuole grandi* and to the chancery. Its authority to punish the *rettori* and other 'offitiales' of the Republic who refused to obey 'mandatis nostri Dominii' was confirmed, while the *capi* of the Council lost their control over the maintenance of the privileges of subject cities and territories, this trust being given to the *avogadori di comun*. On passing the measure into law the doge's councillors were directed to enforce immediately a penalty of 1,000 ducats for *capi* of the Council who did not comply with its provisions. The preamble to the measure affecting the *Avogaria* was much harsher. It was recalled that it was a good rule that the various magistrates should not arrogate greater authority than that deputed them by law or capitulary passed in the Great Council; in spite of this, the *avogadori* have removed to their own higher court 'omnes casus tam civiles, quam criminales', and even criminal cases which are inappropriate to their office and which belong to others of lesser importance. The *avogadori* were then enjoined to limit themselves to the handling of only those criminal matters which had been allotted them by the Great Council in 1352 and those which might be entrusted to them from time to time by the *Signoria* ('per nostrum Dominum'). The most remarkable section, re-echoing old complaints about the conduct of the *avogadori*, was the final one: 'Item, non possint a se ipsis sine consiliis terrae ordinare, nec jubere Rectoribus de Extra, nec impedire judices vel offitiales de intus super rebus et causis civilibus vel criminalibus per illos Rectores, judices vel offitiales judicandis vel expediendis, salvo quam in executione rerum et causarum ipsis advocatoribus ut supra specialiter commissarum; sed cum consiliis terrae possint et ante et post ordinare et jubere rectoribus, judicibus et offitialibus praedictis sicut sibi iustum videbitur.' And the *avogadori*, too, were threatened with a 1,000 ducat fine in case of any breach of these regulations.[40]

It was the *Avogaria di Comun* which came out worst from these revisions, and not entirely because they reduced the scope of its activity while accentuating the autonomy and importance of another magistracy, the *Auditori Novi*, which was to receive and judge the sentences of the *rettori* 'both of land and sea'.[41] This was inevitable, given that its sphere of jurisdiction was the entire *dominio* and that civil cases superabounded because litigation had been increased by the wars, by changes of sovereignty and by the consequent uncertainty about what law was really relevant (*jus commune* on the *terraferma*, *jus proprium* in the ruling city). It was essential that the Republic guarantee its new subjects a fair, rapid and inexpensive justice. The greatest offence to the *Avogaria* was having been deprived of any possibility of autonomous initiative with regard to the *rettori* of

the *terraferma* and the other 'judices vel offitiales' and having its actions made subject to the approval of one of the councils (such as the Senate, the Great Council, or the Council of Ten itself). The *Avogaria* continued to be weakened in subsequent years. A law of 1471, replacing another of 1468, authorized the *capi* of the *Quarantia criminal* to take the initiative in bringing forward any 'intromissioni' which the *avogadori*, for one reason or another, might have omitted or deferred, so as to make sure that all criminal proceedings reached completion.[42] Three years later the *avogadori* were once again under attack. 'A very bad practice has been introduced in this city of ours', said a statute approved by the Great Council on 14th August, 1474, 'that the *avogadori di comun, auctoritate propria sine consiliis*, have begun to nullify certain *intromissioni* of the *auditori novi* or *syndici*, and to have them erased from their books, passing sentence on them themselves . . . making inappellable judgements beyond their constitutional rights and, furthermore, the practice of this city of ours'. However, 'for the honour of the *Signoria*, and also that many of our subjects should not suffer and that errors of this sort shall no longer recur', the *avogadori* were forbidden to quash any 'intromissione' from the *auditori* or the *sindaci*.[43] These were serious charges of arbitrary action, of indifference towards subjects' rights; all the more serious since they were levelled against magistrates whose institutional duty it was to guarantee observance of the law. The *avogadori*, however, were by no means prepared to accept these erosions of their power. In 1505 they brought to Venice under arrest a *provveditore* of the Riviera of Salò who had not complied with their order to suspend the execution of a death sentence he had pronounced. His case was referred to the decision of the Senate; they found the *avogadori's* claims unfounded and the *provveditore* was freed.[44]

The Council of Ten, on the other hand, continued its ascent. On 15th May, 1486, a new statute of the Great Council restored its control over the observance of all the privileges conceded to cities and other components of the empire; only a few years before, as we have seen, this had been assigned to the *avogadori*. The political and military events of the last decade of the century and of the beginning of the following one, the deterioration in the circumstances of many elements within the patriciate, the aggravation of the problem of public order in Venice and its empire all worked to accentuate its power and to enlarge its jurisdiction.[45] Many were alarmed by this. Among them was the chronicler, Domenico Malipiero, who showed irritation in 1497 that the Council was betraying no signs of staying within the limits fixed for it by the law of 1468: 'under cover of doing the most secret things', he wrote, 'it meddles with many matters which are none of its business.'[46] But these protestations died as soon as they were uttered; for the majority the new order of things was inevitable. Even Sanuto, whose attitude was to stiffen when it became clear that the Council of Ten was undermining the power of the Senate, did not raise objections then. On the contrary, when in December, 1501, an inquisitor into the conduct of Doge Agostino Barbarigo pronounced in the Great Council a vehement indictment he noted in his *Diarii*: 'I would not be silent about what most people

thought, and in particular . . . that for the honour of the state it would be better to deal with such matters in the Council of Ten and not *coram omnibus*.'[47] A comment worthy of a Domenico Morosini, who was in fact to declare himself an enthusiastic admirer of the Council: 'A quo consilio', he wrote, 'tot et tanta bona profecta sunt ut tranquillitas perpetua nostrae civitatis et diuturnae nostrae libertatis ex magna parte huic consilio possit ascribi.'[48]

When confronting the *avogadori di comun*, Domenico Morosini seems to indicate, in a rather intricate passage of his work, that he is in some perplexity. They are the defenders of the law. It seems to be his view that they are, however, insufficiently strong and autonomous, being too bound to the doge, who is himself traditionally considered an *avogadore*, 'magnus et perpetuus advocator'; he usually lends them his support but by virtue of this succeeds in controlling them and can block them whenever it is a case of their taking effective action on occasions when he disagrees with them. The effectiveness of their action, their ability actually to protect and preserve 'boni mores' and prevent 'mali mores' from establishing themselves depended on the character, good or bad, of the doge. For the *avogadori* to fulfil their function they needed not only the doge's support but power to protect themselves in case he wished to exert pressure on them. For Morosini, as is well known, this would be ensured if the conduct of the doge were made responsible not only to the law but to the close scrutiny of the relevant magistracies.[49] The Council of Ten, on the contrary, was potentially in a position to change the situation, to eliminate the 'mali mores', to impose the good. 'It seems to me very like the dictatorship which the Romans set up at moments of great danger', Trifone Gabriello is made to say in Giannotti's book, adding that 'what they created in dangerous times can also be found in our own Republic.' 'Hic magistratus tenet locum principis tiranni, si non ex toto ex maxima parte', wrote Domenico Morosini in outright terms, praising the services they rendered from a different standpoint and with a different emphasis.[50] To describe the antithesis between the *Avogaria* and the Council of Ten in what can be no more than a tentative formula, one could say that whereas the *avogadori* represented the law as a function of equality the Council of Ten represented it as a function of authority. For the Venetian aristocracy law was not something extrinsic or imposed: it was the expression of themselves, of their own will and nature, the highest and most representative form of self-expression, the most ingrained in their own political and civil experience, the most indispensable for their own existence; it was the fruit of the collective will, accepted and used by all as something peculiarly their own; they subjected themselves to it because they were aware that this was the only guarantee of equality between individuals and liberty within the Republic. The body of the aristocracy was made up of men who were at once sovereigns and subjects, judges and judged. A member of the *Quarantia* or of the Council of Ten could be the judge of a man who, a little while earlier, had judged him or his sons or others of his family; a tax-payer in arrears could share in the promulgation of laws which threatened the most severe penalties for those who, like him, were

in debt to the state. It was no easy matter for individuals to distinguish their duty from their interests, to demand from others what, personally, they could not or did not wish to do, to suggest and then later accept the most severe penalties involving sacrifices and heart-searchings which they could entail, for the security of the law was achieved at the cost of these sacrifices and these heart-searchings. This was the price, and it was a high one, of republican government. There was no lack of failings: surrenders to the pressure of friends, to considerations of family solidarity, to the ties of common political or economic interests. 'The wolf does not eat the meat of a wolf', said the Venetians, noble or less than noble, when some collusion of this kind and, as a consequence, the faulty working of justice, was suspected. The patricians, however, were the first to be aware of the existence of these defects and, above all, of the consequences they could have in undermining respect for the law, the cement which guaranteed their own unity and kept the state strong. There was no shortage of suggested remedies. A decree of January, 1471, after having recalled how much had been done in the past to restrain the unlawful pressures which interested parties brought to bear on 'consegli e collegii', decided on measures which were both energetic and, perhaps, a bit ingenuous, to see to it that 'our whole realm is satisfied and that there will be reason for justice to be rendered indifferently to all'. Once a trial was concluded judges were to 'swear solemnly on *Evangelia Sacra Dei*' that they had entertained neither petitions nor other attempts to influence them and that they had not disclosed the nature of their proceedings; otherwise, the sentence issued must be regarded as null and void.[51] Other expedients were adopted in order to ensure that sentences were actually carried out; the most common, and effective, was to lay down rigorous conditions (the so-called 'strettezze') whereby the condemned man might obtain pardon. But the surest protection came from the patrician's own persistent awareness of the necessity to place himself beneath the law; an awareness affirmed by those decisions of scrupulous fairness and impartiality which made him feel the value of the collective obligation which preserved the life of the Republic, and with which he sought to renew a faith which often, and inevitably, tended to falter. Nor was it an easy matter for the offices and the councils to stay within the limits of jurisdiction fixed by the law or to avoid meddling with one another's areas of competence. For all the consideration which the Venetian constitutional system gave to individuals, it depended on a conscientious balancing act between the various office holders and councillors, linking the former group to the latter, more powerful one, by virtue of the presence of members common to either group, and offering each a way of imposing a respect for the law on the others. 'The affairs of Venice are governed with laws', was the proud statement of the Republic, which thus distinguished itself from other forms of government.[52] But the body that represented – in institutional terms – the civic conscience of the governing aristocracy, whose business it was to protect the notion of equality on which everything, in principle, was based, which warned that in all circumstances the law must always be obeyed was the *Avogaria di Comun*.[53]

The increasingly important role played by the Council of Ten in Venetian policy represents a crisis in the conception of equality – that linchpin of the republican regime – which was brought to a head by the political and social factors I have been discussing up to this point. The Council had been set up according to the usual canons of the Venetian constitution; care was taken to avoid its isolation from the other constitutional organs which might have become bases for oligarchical bids for absolute power. Protection against this was supposed to be secured by the presence, apart from the ten members of the Council itself, of six ducal councillors and, although they had no voting rights, of three *avogadori di comun*; 'their office', Rinaldo Fulin noted, referring to the councillors and the *avogadori*, 'had another origin and another purpose than those of the Council of Ten into which they were introduced; the first were to represent, together with the doge himself, the rights of the princely element in the constitution, the others to protect the cause of equality . . .'[54] In reality, the sectors entrusted to the Council of Ten, such as the negotiation of matters requiring maximum secrecy and the safeguarding of the peace and security of the state, were difficult to define precisely and in the difficult times the Republic was going through they necessarily tended to spread. This, added to the fact that in the course of its judiciary activity it could make use of a special procedure – the so-called 'rito' – characterized by its rapidity and secrecy, could not but mean that the Council had a political potential, the possibility of acting in a purely political capacity comparable to the functions of certain other councils and some of the officers of state. More, it was this secrecy which shrouded the activity of the Council, and which depended on the small number of its members and on the absence of the sort of control which could be exercised on the Senate and the *Quarantia*, that separated it most clearly from other elements within the constitution; this is what gave it the upper hand, this was the basis of its authority. And what ensured the effective substance and continuity of the Council's 'authority' was the fact that it was the ambition of the most prominent men in the Republic to become its members. These were the men who were admitted to the *Collegio* and the *Minor Consiglio* and who aspired to be procurators of St. Mark, men who understood how to make use of the means the Council offered of controlling the policy of the Republic and watching over the moods of subjects and patriciate alike. It was, on the other hand, inevitable that those who had assumed or were assuming the responsibilities and powers of the Council should come to over-value their 'authority' and to gain from it to their personal advantage a special and privileged status in comparison with the rest of the patrician class. Thus, for example, in May 1505 a member of the Council, Niccolò Priuli, against whom criminal proceedings had been initiated, tried to evade arrest by claiming that this would damage the Council's prestige; 'We should not act precipitately', he said, 'and disgrace one of the seventeen pillars of this state.'[55] He was not heeded; he was imprisoned and then condemned, to the great relief of one who, like Marino Sanuto, persisted in believing firmly in the equality of republican justice.

The institutional difference between the *Avogaria* and the Council of Ten appears very clearly in the field of criminal law. The *avogadori* could properly initiate proceedings given that it had come to their attention that one of the crimes within their sphere of competence had been committed, or they could take up an objection to or an appeal against the sentence of a subordinate court which had been presented to them; they could also act on the orders of the *Signoria*. In order to arrest criminals – except in urgent cases – they had to have the authorization of the *Quarantia criminale*. The interrogations of the defendants were then conducted by an *avogadore* in the presence of a committee composed of five other persons. The interrogations were minuted. If the defendant were found guilty, he was then remanded for trial. This took place publicly, with a verbal debate between the *avogadore di comun* and the defendant's lawyer, who had meanwhile received the text of the minutes of the earlier phase. It was, then, a mixed proceeding in which there were elements of the old accusatorial process and of the inquisitorial process of medieval origin: a procedure which a Venetian writer at the end of the *seicento* was to say, with evident pride, 'retains some aspects of the ancient Roman decorum'.[56] Indeed, the procedure was admired by foreigners, too, for the liveliness of the debates it produced, and especially for the protection it offered the defendant. As for the Council of Ten, which had been created precisely in the period when the inquisitorial rite was introduced in the early *trecento*, its procedure was quite simply this: secrecy in every phase of the proceedings; rapid settlement inasmuch as the accused was not defended by a lawyer but, apart from what he could do for himself, could hope only for the support which might come from one of the judges. His one protection was, in fact, that in the restricted college composed of four members which conducted these cases, one *avogadore* also took part. But what struck people most – and what constituted the psychological element on which the intimidating power of the Council was founded – was the atmosphere of secrecy, of being alone in the power of the judges. 'And he who falls into the hands of the Council of Ten', wrote Sanuto, 'cannot defend himself with counsel; when they examine him the palace is barred.'[57] It is a procedure which was to be emphasized more and more as time went on, whether in order to enlarge the Council's sphere of influence or to encourage the creation of what can be defined as its satellite magistracies, or by extending to other magistracies, such as the *rettori* of the *terraferma*, the authority to use its procedures for resolving especially serious situations. The collective sensibility, attuned to the realities of social and political change, was to accept this as inevitable.

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'Who is there who is ignorant', wrote Claude de Seyssel in 1510 in a pamphlet exalting the resounding victory of Louis XII of France over the Republic, 'of how the *Seigneurie* and the very name of the Venetians, through great and continual acquisitions over a period of some eleven hundred years, have arrived

at the repute they now enjoy, and how they are feared not only by all Italy, but by Germany, Hungary, Dalmatia, by all Greece and as far as Asia, for all have lost some of their possessions to her? And in time, given the opportunity, they would through fraud and subterfuge have managed to subdue all the rest of Italy and then render others their tributaries just as the Romans did in the past.'[58] Virtually everyone was discussing this theme. Machiavelli and Guicciardini are among the historians who bore witness to it. A good many Venetians, like Girolamo Priuli, talked of it as well, with an anxiousness that grew as the reaction of the pope and of the major European states – France and the Empire were the first – took shape, became confirmed in 1504 by the Treaty of Blois and was then expressed in a more vigorous and polemical way in the League of Cambrai of December 1508. They deplored the unbridled ambition of the leading Venetian policy makers; they feared its consequences, foreseeing a punishment of God which would sweep away, in a single upheaval, the splendour and wealth together with the pride, the ambition and the other innumerable vices of the Venetians. The defeat sustained by the Republic's army at Agnadello on 14th May, 1509, the successive invasions of the entire state of the *terraferma* by bodies of French, Spanish and Imperial troops which immediately followed it; the enemy's thrusts to the very borders of the lagoon: all these events stirred up dark waves of religious perturbation and of intense moral distress among wide sections of the population. Europe had long been oppressed by an atmosphere of foreboding and suspense, infused with the presence of a God meting out punishment for the sins of the world. Venice was to feel it intensely, as something palpable and inexorable, both in these days and over the years to come, as the city groped towards the recovery of its lost ascendancy.

The Republic was to succeed in regaining the *terraferma* – except for the territories it had won most recently – by the beginning of 1517. These were gruelling years. There had been no more pitched battles like Agnadello. But it had been a wearing war; skirmishes, many futile troop movements, crops devastated, villages burned, populations massacred, as in Friuli. Nor was the enemy the only thing to be feared. Just as dangerous were those who fought in the service of the Republic: 'All the soldiers', wrote Sanuto, 'act in their habitual way, dressing up in cloth of gold, and *licet* they are not paid in time by the government, they do so much harm among the villages that they come out very well from it and rejoice, wanting the war to drag on as it does.'[59] Soldiers, commented Girolamo Priuli in his turn, are predators through habit: the real trouble comes when you are dealing with a people like the Venetians, 'poorly trained and inexperienced as soldiers, . . . for in all truth they knew neither how to wage war nor govern troops, they could not make good use of it [the money they raised] but threw it away'. The result was, in fact, that their troops continued to insist on having money, but 'did not use it for any military action, but stood about scratching their bellies'.[60] In certain moments, when other calamities were added to the military reverses, there was a conviction in Venice that the end had come: between 1513 and 1514, after the failure of the attempt to re-conquer

Vicenza, plague broke out and fire destroyed the Rialto, in the very heart of the city. The city, meanwhile, became more crowded than ever. Nobles and *popolari* had taken refuge there from cities occupied by the enemy and found much in its favour; little by little refugee peasants from the devastated countryside sought asylum there, confident that in Venice, the place of fabled wealth and abundance, a roof and subsistence would not be wanting. Even the Jews had preferred to leave Mestre, where they lived near their banks, and to try to settle as best they could in the city; and their co-religionists had followed them from other centres of the *terraferma*.[61] There were too many people amid too much uneasiness and confusion. The religious, and laymen who like Priuli were prompted by a concern for tradition, lamented the pleasure-seeking atmosphere of certain quarters of the city, the modish disregard for civil and religious duties, the adoption of French fashions by men and women, and the spread of blasphemy, of cases of sodomy, of scandal in the monasteries, of gaming and luxury. There was an increase in thefts and homicides and much casual violence. Some measures had been taken to coper with this delinquency; more severe laws against the various crimes; laws against the carrying of arms, which had ended up in the hands of too many people and of which constant use was made. In December of 1514 Sanuto singled out, as something uncommon and worthy of note, that there had been an attempt to commit murder with a gun.[62]

'In this country', the same diarist wrote at the war's end in the October of 1517, 'there is much homicide and petty theft and many scoundrels, and this is because there is no living to be gained, and so the people turn to crime and are not punished.'[63] One could not really count on the action of the 'birri', or 'zaffi': 'poltroons', Priuli called them scornfully, 'who cannot even crush a flea', and he emphasized that through cowardice or corruption they were incapable of pitting themselves against the criminal or the powerful.[64] Things certainly went no better on the *terraferma*. Apart from the damage wreaked by troops in their lodgings or on the march was that done by deserters or by men who, unexpectedly dismissed by their captains, did not hesitate to devote themselves to marauding about the countryside. There was no protection from them and many years went by before it became possible to enforce justice there.[65]

Sanuto and Priuli often had moments of failing confidence in the Venetian ruling class. At such times they would burst into expressions of indignation, accusing all those most responsible for Venetian policy, including the doge, of incapacity, inertia, egoism. The 'grandi' were certainly good at inciting others to action; but then they would do nothing themselves. Even in the most serious circumstances, when it seemed that the situation was crashing about their ears, very few volunteered to serve in the army in the besieged cities of Padua or Treviso; and the few who did were predominantly poor nobles who had been enticed to serve by the prospect that on their return they would gain entrance to the *Quarantia*. The matter of payment of debts to the state was typical. In November of 1512, when, after a vain attempt at collection, it was decided to proclaim the debtors publicly, it was the names of men who through political

office and family wealth carried the highest prestige, which came out, such as the four procurators of St. Mark, Luca Zen, Antonio Grimani, Giorgio Corner and Tommaso Mocenigo.[66] In justification, the 'grandi' could adduce the slackness of business due to Portuguese competition in the spice trade, the decline of revenues from estates in the *terraferma*, and so on.[67] But to that it could have been replied that if they did not pay their taxes they nevertheless spent lavishly on luxuries. This was certainly one way of staying cheerful and of not allowing oneself to be depressed in the midst of so much that could lead to anguish; at a time when a monetary crisis was brewing it was probably also a device for investing money in commodities such as gold, silver, jewels, precious stones and dress, which had an intrinsically lasting value and were, in addition, non-taxable. It was no fortuitous coincidence that in August 1512, two months before publication of the names of taxpayers in arrears, an ordinance of the Senate should have complained that the sumptuary laws were being brazenly violated; in charge of executing the new law's provisions was a special magistracy, the *provveditori alle pompe*, which had been set up in the previous April.[68] The 'grandi' made an equally deplorable showing when they refused the responsibility of difficult or burdensome offices, as, for instance, in the January of 1514 and of 1515, when it seemed that no one was disposed to accept the post of *provveditore generale* in the field or to accept an embassy. Not that the minor nobility was blameless. It too was deserting posts which were generally reserved for it, like the *Zudegà di petizion*, a court where law-suits concerning 50 ducats or less were judged, though the justification was more plausible for people of limited resources, the fact being that they could no longer earn enough there. All the same, at Treviso and Padua the poor nobles had not behaved well, and the soldiers, Girolamo Priuli recounts, were 'misled' by them, 'because', he continued, 'there were many poor nobles who did disgraceful things and led shameful lives . . . yet it was necessary to employ them because the rich nobles were not prepared to inconvenience themselves by undertaking works of that kind'.[69] The lesser nobility, already worn down by the events of the preceding period, was really exhausted, and they were now at grips with ever more serious economic difficulties due to the persistence of the trade crisis overseas. In May 1511, on the eve of the departure of a merchant convoy, when the Senate decided to elect two hundred 'nobili da pope' who could sail on it (and the number they fixed on was nearly double the usual one in order to give the opportunity to the greatest number of people), a good four hundred applications were presented.[70] But with the indigence of poor nobles and the ambition of the 'grandi', electoral corruption increased all too easily. We have already referred to the so-called 'svizzeri' in this connection. In May 1515 Sanuto referred to a certain group of poor nobles who, when a gentleman was elected to an office, would call at his house for money in recompense for the advantage their votes had brought him. And he added that they were numerous and well organized, with councillors, a captain and a chancellor and even a vocabulary of secret signs: they would remove their hats if they wanted a candidate elected and touch their beards if

they wanted him rejected.[71] Many were urging the Council of Ten to repress this kind of electoral 'mafia', to put it in modern terms. Sanuto, for his part, was sceptical about the actual efficiency of their organization. They were but poor men, he said, going on to play down their significance. Things used to be far simpler. When one of these patricians had been in a position to nominate someone for election to an office he invited contributions from the interested parties without making any bones about it. Nowadays, he lamented, anybody at all who wanted to be proposed as a candidate could get their way through bribery. But whether because it was difficult to single out those really responsible or because it was a question which involved too many people, the Council of Ten decided to do nothing about it.

Sanuto's bitterly conclusive comment referred to the system which the Republic had shortly before decided to adopt in order to deal with the disastrous financial situation and with the continuous, nagging need for money which resulted from it. The war was costly: the army – soldiers and captains and weapons – had to be paid for, so did provisions and lodgings, so did allies wanting to be compensated for services rendered, so did enemies wanting to be abundantly remunerated when they agreed to adhere to a pact, whether secret or official.[72] The normal fiscal sources, direct or indirect taxes, were either exhausted or dormant. Recourse to the public debt was fruitless because of the lack of faith in it that had spread throughout the population. It was absolutely necessary to find other ways of diverting the wealth which still existed – the immense wealth of the richer nobility, the more modest but no less solid wealth of the middle nobility and of some *popolari* – towards the coffers of the state, ways which might well be unjust or downright dishonest: but, said Girolamo Priuli, in such a contingency, when the life or death of the Republic was at stake, one must not have scruples, always providing that one fairly undertook to put things back on their original footing as soon as peace returned.[73]

First, on 10th March, 1510, the Great Council had deliberated selling to those who already possessed them all the 'scrivanie, nodarie, cogitarie, massarie . . . and every other kind of office' (that is, those offices open to citizens, not those reserved for nobles), with the exception of those of the ducal chancery and several others, either for life or for a certain term, allowing the former, if they paid a certain percentage of the proceeds from the office, to leave it after their death to their sons or grandsons, who would hold them in turn for the whole of their lives, or to their brothers, who would, however, be required to pay a percentage of the proceeds.[74] In the same year it was decided to admit to the Senate, but without the right to vote, nobles who lent the Republic a given sum of money.[75] In August of 1511 those responsible for Venetian policy tried to take the big step: to establish that anyone who hoped to be elected to an 'office or magistracy' must lend the Republic a sum of money varying in accordance with the importance of the appointment and the interest that competing nobles showed in it. Despite the seriousness of the moment, the opposition of the majority of the patriciate was very strong, to the point of advising against even

putting the text of the proposal to the vote; and it was an opposition made in the name of that equality which should always be the basis of the Venetian aristocratic system. 'In a well-ordered Republic', it was said on behalf of the opposition, 'equality should always be maintained so that all can share in the benefits and advantages it brings; only in this way will nobles who are rich and powerful on account of their money be honoured and appreciated for it, and the poor but clever and prudent who are without wealth be able nonetheless to acquire some honour and standing in the Republic.' To these considerations of principle were added others of a practical nature which arose from the habitual disenchanted realism of Venetian nobles; in the opposition's view those who obtained an appointment by virtue of a loan to the Republic, especially those who had themselves to borrow the money at interest for this purpose, would not want to run the risk of losing money or of allowing the capital paid to the state not to make a profit; and they would therefore be inclined to exploit the offices and magistracies as much as possible for their own gain.[76]

This remedy having failed, others were studied which might not clash with the rights and susceptibilities of the less wealthy members of the patriciate. On 18th September, 1514, the Senate granted that nobles who had not yet reached the age usually required could be elected *savi agli ordini* (a body which was part of the *Collegio*) on making a payment of 200 ducats. At the same time the Great Council opened its doors, as it had done in the second half of the preceding century, to young men of eighteen years who loaned a set sum of money (on the same day, 18th September, Marino Sanuto noted that some sixty-two youths under twenty-five had entered the Council).[77] The Council of Ten made a special concession, authorizing entry to the Great Council to two seventeen-year-olds whose fathers were offering to lend 100 ducats; with another resolution the same Council sold the chancery which handled the affairs of those who had been banished for life for 500 ducats; with yet another, it allowed that a noble, even without having reached the prescribed age, might enter the *Quarantia* by lending 100 ducats.[78] 'And so', Sanuto said bitterly, 'everything is up for sale.'

This was on 2nd August, 1515. In the following days the project which had failed exactly four years before was taken up once again with immense caution and an attempt to give it the most anodyne tone. On 3rd August the Council of Ten with the *Zonta* and the Senate approved laws which guaranteed, with revenue from the *dazi*, the restitution of their money to those who might make loans to the state. On 4th and 5th August the doge and his advisers, together with the entire *Collegio*, proposed first to the Senate, then to the Great Council, where, as we know, the greater part of elections took place, a law which established that the names should be published in the Great Concil of those 'who have made loans, and how much, and also the names of those who wished to meet the amount offered, and in the same way the names of those who have not made loans, so that', it was explained as a clear warning, 'it can be seen where everyone stands'. The doge had driven home the significance and the aims of the law in one of his speeches. Once the law was approved, and the names of lenders

published, the elections to vacant appointments were held. The result was as expected. Those patricians who, although rich, had not made loans, were eliminated (although the case would arise, albeit rarely, of men being defeated in spite of having made loans and of others who were successful although they had not done so).[79] This reform was rounded out by the adoption of one particular device, the application of the electoral method known as 'per scrutinio e quattro man di elezioni' to a wide number of appointments. The 'quattro man di elezioni' referred to the way in which the Great Council selected four candidates to run for an appointment: to these was added one other candidate, chosen instead by the Senate according to a procedure called 'scrutinio'.[80] The Senate candidate went forward under favourable conditions: either because he had behind him the endorsement of men of note, experts in the problems of government who were aware of the Republic's requirements, or because during the voting which was held in the Great Council he could count on a block of votes, those of the senators who had proposed him. It was, then, a way of avoiding the risks of candidatures supported by loans, which provided an opening for demagogues capable of making an impression on the emotionalism of a large assembly but otherwise poorly qualified; or, on the contrary, of supporting men who had lent a great deal but who were unpopular. Furthermore, it allowed the 'grandi' to exercise a direct control over access to offices, in other words, to assert their authority. This was the device which most offended the lesser nobility and gave them the feeling that their rights were being prejudiced. But once it had been put into effect and it was seen that the desired advantages were actually obtaining, it was not possible to stop, at least not while the current political and economic difficulties persisted. In the middle of October, 1516, and again on 14th December, it was decided to have a new block of appointments elected 'per scrutinio e quattro man di elezioni'. Among the latter, along with appointments in small centres of the *terraferma*, there were three *avogadori di comun* 'straordinari' who were to enter the ordinary magistracy when those who presently filled it had finished their time in office. 'It was a bad decision', commented Marino Sanuto in this connection, 'to open the field to young men wanting to become *avogadori*', a decision which certainly did not bring prestige to the *Avogaria*, whose reputation, like that of every other magistracy, was based on the quality of the individuals who became its members. Sanuto mentioned another disturbing symptom. In the Great Council many of the benches were empty, the number of those attending having been reduced to 800; this meant that a great many patricians felt themselves excluded and were losing interest.[81] However, with the passing of time, even those in opposition like Sanuto who, man of small fortune that he was, had been barred by these innovations from elections to offices he coveted, were eventually convinced that the remedies adopted had been fruitful: between the beginning of August, 1515 and 15th January, 1517, the day on which the system of electoral loans was repealed, as much as 474,870 ducats found their way into the coffers of the state. And when in the autumn of 1517 the same Sanuto found himself dealing with nobles who were disdainful

of those who had succeeded in the elections by means of loans, he commented irritably that 'by this means the state was maintained and Verona recovered, so that without it, *actum erat*'.[82]

This was a valid historical judgement, no longer clouded by the emotionalism and the resentments which naturally took precedence when the crisis was at its height and when deprivation, danger and concern for the future took on an exaggerated intensity. And on re-reading the pages of Sanuto's *Diarii*, and those of the *Diarii* of Girolamo Priuli, one has glimpses through the pervading gloom they record which enable one to understand better the reasons behind the resistance the Republic offered in the face of the tightening circle with which its enemies proposed to throttle its energies. Above all, an examination of the collective consciousness of the time reveals a spirit which not only affected religion, with the result of making Venice one of the cities most responsive to the need for reform, but civic life as well.[82a] The problem of justice – the justice which should have been imposed and had not been and the grievances subjects had endured because of this – took on the dimensions of a moral problem.[83] Thus in 1513, when the position of the right of appeal was faced, the rules governing recourse to it were defined in accordance with the constant aim of legislation in that period: to prevent delays connected with trials. Shortly afterwards, a statute regulated important matters of criminal procedure, such as the number of votes necessary for sentences of not guilty or of condemnation and the rules affecting judicial interrogations.[84] Other penal laws (one, for example, on the problem of preventive imprisonment, another on procedure in cases of contempt) had been approved between 1515 and 1516; at the same time the civil trial was taken into consideration, the preoccupation here too being with making its course more rapid.[85] 'The *Signoria* had held justice closer to its heart than anything else in the world', read a draft statute on 26th January, 1516, which aimed to improve the working of the civil courts 'by bending every care and study towards finding a method and form of bringing litigation to an end and of obviating all impediments and reasons which might hold up their conclusion for long periods.'[86] Not that the trial procedure, civil or criminal, could have been reformed at that time. What is interesting here is the lucid political vision of the Republic, whose members had understood that the war was involving a civilian effort as well as a military one, and that it was necessary to try to adapt its judicial arrangements to the economic and human realities which were being forged in those years.

They were doing the same thing in the more purely administrative field. In 1516 they imposed on the office of the *camerlenghi di comun*, the real treasurers of the Rialto's public offices, precise and detailed instructions concerning the criteria they must apply while keeping their records; in the same year a new office was created, that of the *scansadori alle spese superflue*, in answer to the need which had emerged for a vigilant auditor; two months later another measure regulated the notaries' office.[87] One eye was always kept on commerce, the thorn in the side of the Republic. On 19th February, 1515, a new office came into existence,

called the *Cinque Savi alla Mercanzia*, intended to devise measures to remedy the loss of such trade as had adopted other routes.[88] An indubitable sign of political vigour was the resoluteness with which, despite the urgent need in those dangerous times to refrain from a definite breach with the Holy See, the integrity of secular jurisdiction was defended against interference by the patriarch.[89] Another sign of vitality was the attempt of a group of young men, promoted by two *capi* of the *Quarantia criminal*, to secure a provision whereby the Republic saw to it that young Venetian gentlemen were given military instruction in order to avoid in future the calamitous venality which has been responsible, in their view, for the disasters suffered in the war and for the protracted way it had been dragged out. 'It is not possible for any ruler or any republic to defend, let alone extend its rule if it does not possess a strong force infused with military *virtù*,' their proposed statute began, with Machiavellian overtones. They had no luck: not even when, on proposing the law once again, they no longer emphasized the ideal of *virtù* but rather the lustre which would accrue to the aristocracy and the Venetian state from this gesture on the part of its members.[90]

If one takes stock of this period with regard to the two principles, 'authority' and 'equality', which I have mentioned as the linchpins of Venetian policy, we can say that it is unquestionably the first which had the upper hand. It could hardly have been otherwise: the enormous difficulties which had had to be overcome, at home and abroad, had called for government action which was resolute, efficient, and unencumbered by formalistic obstacles or constitutional scruples. A typical example of this had been the electoral legislation of August, 1515, which, introducing a preferential element like the payment of money, had not only damaged equality of opportunity among the patriciate, but had allowed one part of it to acquire an extraordinary weight in relation to the other.

The ascendancy of 'authority' was, as has been said, symbolized by the growth in power of its foremost representative, the Council of Ten. In 1515, while revising his separate little work, the description of the Venetian magistracies which he had placed as an appendix to his *Cronachetta*, Marino Sanuto made additions dealing with the changes which each of them had undergone in the past twenty-two years. In general they were the briefest of notes which were concerned with the differences which had arisen in electoral rules. There are several notes on the Council of Ten, one of them extremely full and eloquent. Its members, he writes, 'nowadays govern the state, for all state affairs are dealt with in this council'. After having said that the Council, composed of seventeen persons – the so-called simple Council – is frequently supplemented by an additional council called the *Zonta*, composed of fifteen persons chosen from the nobles with the greatest prestige, Sanuto observes: 'and these govern nearly everything; they do as they please and have the greatest authority. They used to divide business among various *Zonte*, that is for money, for Cyprus, for rebels, for the state, etc.; now they form one only which attends to everything.'[91] The Council of Ten was not suffered gladly; scorching accusations, obviously

exaggerated by the passion which inspired them, were hurled at it unhesitatingly. In March, 1511, following an exchange of prisoners arranged by the Council and judged by public opinion to be iniquitous and harmful to the interests of the Republic (two Venetian nobles who were pledging to lend the state 1,500 ducats each on the security of a captain of the French army), it was said, according to the account of Girolamo Priuli, 'this Council is the ruin of the Venetian Republic. Having so few members it can easily be persuaded and won over, and every bad decision and every bad example follows from that.'[92]

Meanwhile the limits of the council's competence in penal affairs had also been extended. In 1513 it had assumed cases of sacrilege committed in monasteries.[92a] In April 1514 it had taken upon itself the task of prosecuting blasphemers, who, numerous and arrogant as they seemed to have become, were considered, together with sodomites, to be among those most responsible for the unleashing of divine anger against Venice. It should have been the duty of the *avogadori* to bring them to order. They had not succeeded, it was said, probably because of the complexity and the slowness of their procedure. There was no doubt that the Council of Ten would have had more success.[93] Its procedure was more flexible, more capable of being adapted to circumstances, of freeing itself from the constraint of certain formal scruples. The proof of this was an episode which took place in the autumn of 1514. On 15th November, a Paduan rebel, Nicolò Sanguinetto, was brought from Verona to Venice. He was not given a trial, the council having decided to have him strangled without delay in the silence of his cell. 'It is remarkable', commented Sanuto, 'that he was sentenced to death by spoken decision only, without any other form of balloting, a thing that had never happened in the Council of Ten before; still, as a rebel he deserved it.'[94] It is interesting to note this reaction, astonished but at the same time approving, to such a summary proceeding.

The clearest impression of the change which took place in this period, both in the judicial system and in the collective sensibility, in the face of the problems raised by the flood of criminality is furnished by a law against outlaws approved by the Great Council on 28th January, 1515. The hint was given by that very ancient law, or custom, still in force in the office of the *Cinque Savi alla Pace*, which I mentioned at the beginning of this essay; as far as this magistracy was concerned outlaws could be killed with impunity or through a purgation of purely symbolic value, a small sum of money. Recently, this prerogative had been used, and abused. Girolamo Priuli refers in this connection to three somewhat disturbing cases which had had nobles as protagonists. In the first case, which took place in May, 1511, a noble, condemned to death for the murder of a Trevisan horse-dealer, tried to escape the penalty by maintaining that his victim had once been condemned by the *Cinque alla Pace* and could therefore be killed with impunity. To the objection that the name of the dead man did not figure among the records of that tribunal, he answered that the horse-dealer had managed to have his sentence cancelled with the support of one of the tribunal's members (something, Priuli notes, which happened 'almost every day'). The

relatives of the murderer, facing the intransigence of the Council of Ten, had requested the *avogadori* and the *Quarantia criminal* to annul the supposed cancellation of the name of the horse-dealer from the records of the *Cinque*. The Council, however, made its authority felt: the noble murderer was beheaded.[95] It went better for two other nobles likewise accused of having murdered *popolari* in the spring of 1512, who did succeed in demonstrating that their victims had been outlawed by the *Cinque alla Pace*. The nobles concerned were extremely rich and it was said around Venice that they had kept the whole thing quiet with their money: 'these people', Priuli relates, 'complain that you cannot get justice against nobles in the city because nobles can do much on account of their money and their relatives, and that justice turns a blind eye to *cittadini* and *popolari*'.[96] In spite of the atmosphere of scandal surrounding the *Cinque alla Pace* and their proceedings, the law of 28th January, 1515, saw fit to maintain that very prerogative. A unique prerogative, it was said. In the past the phenomenon of outlawry had not really been a serious concern, 'assuming and knowing for certain that in those happy times no one could be found, or was found so defiant as to presume to break the terms of his banishment and his obedience to the state'. Now, the situation has become intolerable. Those who are banished from Venice because of the serious crimes they have committed there, dare to remain in the city, indifferent to the sentence which has been passed on them and provoking general scandal, 'with little honour to our state'. Then came the first provision: all outlaws who do not leave Venice within eight days, 'may be attacked without penalty even if they are killed'. Up to this point the law limited itself to extending to all the prerogative which was formerly exclusive to the *Cinque alla Pace*. The true innovation came later: 'and so that this so necessary measure shall produce the desired effect with the most suitable remedy and a severity suited to the offenders', the law continued, 'in imitation of the dictum "vincam inimicos meos de inimicis meis" be it therefore now determined and resolved' that a man outlawed from Venice, who had killed, at Venice, another man also outlawed from the same city, would not have to answer to the crime for which he has been condemned to banishment except in accordance with the extent to which it was graver than the crime committed by the murdered man. Or, in other words: if such a man, outlawed for premeditated homicide, had killed a man also outlawed for premeditated homicide, he would have been acquitted of any charge, having paid off his own crime with the murder of his homologue; whereas if he had murdered a man outlawed for simple homicide, his own crime and punishment would have been mitigated only partially, the other's having been far less grave than his own. The vote was practically unanimous: 1,616 votes in favour, and only 67 against and 1 abstaining. Even Sanuto found the law perfectly satisfactory: 'It is an excellent law', he commented, 'because many outlaws here have no fear of the law, and the *officiali* and *capitani* say nothing to them: now they will go away, fearing lest they be betrayed by another outlaw.'[97]

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As soon as Verona was recovered the Senate repealed the legislation on electoral loans of the beginning of August, 1515. What deserves special mention is the firmness with which the change of situation was announced: 'Verona being recovered by divine favour, and the fortunes of our state being in the condition well known to this council', the new decree, which bears the date 16th January, 1517, began by saying, 'it is proper to give notice to all, that if certain offerings of money in the form of gifts or loans have been accepted for offices and posts, it was done out of necessity and contrary to our ancient customs and out of the most ardent desire for the restoration of our state'.[98] From now on, the law concluded, no more gifts of money would be accepted for electoral purposes. Just one year later, on 29th January, 1518, a decree of the Great Council completed the work by abolishing the last of the innovations introduced into the electoral systems during the war period – the addition of a candidate chosen by 'scrutinio' in the Senate to the four put up from the Great Council in its elections – and thus restored the full distributive power of the chief assembly.[99]

It was the opening of a season of peace. It was necessary to renew in spirit as well as in the letter the old traditions, overhauling organisms worn out during the past disorders and rediscovering, with the initiative of new days, the pride of belonging to a city which still had an important role to play, with the wisdom of its institutions, the power of an economy which was again thriving and the splendour of its monuments and of its culture. Particular thought had been given to the defence of the *terraferma* against new risks; the advice of Andrea Gritti, the great architect of the reconquest, was welcomed. Gritti had had words for this of a realism which expressed in its very crudity the lucid and vigorous vision of a great political class; he maintained that it was necessary to fortify the cities and to dismiss any illusion about relying on fortunes of the battlefield, because then, if confronted again by the French, nothing could be done. 'Once the French were in the field we would be slaves', he warned; nor was he too perturbed at this thought because, he said, 'it is far better *de coetero* to fight with sword in sheath and with prestige than not to fight at all.'[100] Nor were men prepared to be deaf to the lessons to be learned from people like the Turks; they longed to see the Venetians animated by a more combative spirit, and it was in consequence decided by the Council of Ten and its *Zonta* to have weekly drills, in some remote part of the city, in order to train men to shoot with handgun and arquebus. But the sea had always been closest to the hearts of the Venetians. In June, 1517, they had already spoken of sending galley convoys to Flanders and Syria. Someone who believed particularly in trade with the Levant had thought of opening in the *Merceria* a school where reading and writing in Arabic ('moresco') could be learned. But there were also those who, like Jacopo Tagliapietra, looked with special attention towards India and the route which the Portuguese had opened to it, even asking their king for authorization to go as far as Calcutta with the caravels. Jealous of keeping trade with those lands in his own hands, he had refused. It was not easy to get the Venetian economy moving

again; despite attempts to reactivate trade routes, reorganize finances and stabilize the currency, the state remained weak. It was not even successful in collecting what was owed by the taxpayers, to the point, in October of 1517, of not having money to pay workmen in the arsenal. The majority of merchants had not yet recovered. Catching this mood, Marino Sanuto, cheered though he was by the lasting peace, noted in early December, 1518, that 'the crafts do little because trade is slow and the merchant convoys do not sail because of Portugal'. But Luca Tron, the most interesting and genial personality of this period, had faith. The important thing was to realize that 'the world has changed', not to limit oneself always to covering the same old ground, but to seek out a new one in the west: 'so', he concluded, 'following the times we must change our habits and set sail.'[101]

These were also years of fervent intellectual life. In October, 1517, the *studio* of Padua was reopened. This was at the request of the Paduans, but the Venetian government, too, was determined to revive the cultural achievement of earlier days.[102] A chair of philosophy was established in Venice in 1521; it was the discipline which seemed to appeal most to the patriciate although a general flowering of humanistic studies can be seen, an interest in literature and archaeology, a love of the arts.[103] As for the religious life, there were certainly pockets of dismal bigotry, like those which insisted upon the expulsion from Venice of the Jewish community. But the city's tone was given at this time by men who looked forward to a far-reaching renewal of the Church and who opposed the worldly ambition within it, its eagerness for temporal power, the piety which moved between on the one hand an obtuse credulity and on the other a complete scepticism, which was spreading in Rome in the world of the *curia* and casting its reflection everywhere upon monasteries and parish churches. So that when Venice was asked by Brescia to intervene in order to put an end to the widespread phenomenon of witchcraft in the Val Camonica, where many women were convinced of being carried aloft to mount Tonale to frolic with the devil, Luca Tron was to say that it was a matter of mere 'lunacy', and the Council of Ten refused to take action.[104] In Venice, the city where the news of Leo X's death was received with joy and that of the disappearance of Hadrian VI with sorrow, the first reaction to reports of Martin Luther's preachings was one not merely of curiosity but of attentive interest, and his first Venetian follower, Andrea da Ferrara, found an attentive and respectful reception. Sanuto, an assiduous listener to the preachers and even the 'hermits' who were arriving in the city, adopted a similar attitude, an attitude no different from that of Gasparo Contarini as we can gather from a splendid letter of April, 1521. It was, in fact, 1524 before Venice took its first official stand against the German reformer and his teaching.[105]

Venetian religious feeling found its most incisive expression on the occasions of jurisdictional dispute which arose between the Republic and the patriarch or even the Apostolic See. We have seen that in the course of the war there had been a great crisis in the administration of justice due to the near impossibility of

administering it in some places or administering it with any regularity in others: a crisis which inevitably carried with it a crisis of faith in the state. In the area of civil law, perhaps the most sensitive to this kind of crisis, the habit had begun to spread of invoking ecclesiastical judges as a way of securing additional time and a wider chance of success, to the point where someone had summoned 'his contestants either to Rome or before other ecclesiastical appeal judges, thus obstructing the sentence of our ordinary civil law judges'. Nor did this practice show any signs of coming to an end when peace had restored territorial unity and full sovereignty to the Republic. A decree published by the Senate on 25th June, 1517, condemned taking legal proceedings before an ecclesiastical judge in cases belonging to the secular courts on pain of perpetual exile and the loss of any redress which might have emerged from the dispute.[106] The Republic, supported with equal vigour by Venetian public opinion, attempted to take action against what had become – probably aggravated in recent times by the increase in criminality – a common abuse. Many defendants were asking to be withdrawn from a secular court and placed under an ecclesiastical one on the grounds that they had taken religious orders. There was also the case of a nobleman condemned for embezzlement of public funds who demanded that since he had taken religious orders his name should not be read out in the Great Council on the first Sunday of March in the list of 'furanti' (it was an old tradition in Venice that those who had committed malversations of public money, the 'furanti', should have as an extra penalty, that of being shown up each year until death to public scorn). He was answered with a refusal: and the patriarch met with a similar response when he came to plead similar cases.[107] When it was Luca Tron's turn to speak on the theme of the defence of the state's sovereignty, the senatorial debate took on a vehement tone. A controversy had arisen between the Republic and certain Benedictine monks with reference to fortification works which it wanted to carry out. The greater part of the members of the *Collegio* would have liked to write a letter to the pope inviting him to advise the monks to take a more submissive attitude towards the Republic. Tron was indignant. 'We are *signori*', he said. 'Do you wish to ask the pope's permission to defend our country?' A nobler retort, one that intimidated his colleagues in the *Collegio* because of the consequences which could have resulted if the pope had been informed of it, was pronounced by Tron on 19th December, 1520. 'When the papal legate came with a certain piece of business, the councillor Luca Tron said a few words about calling the pope's case before a council', wrote Sanuto.[108] It was a topical reference: just one month earlier, on 17th November, Martin Luther had made the second of his appeals from the pope to a general council of the church.[109]

The fact that Luca Tron was, in these same years, the most energetic defender of the *Avogaria di Comun* seems worthy of attention; as it does that it is he who fought, in 1524, to correct the legislation on outlaws in order to give them some protection and guarantee of justice and relieve them from the alternatives of either paying for a pardon or embracing a wandering life in which they were

anybody's prey. Tron produced his first defence of the *Avogaria* in the April of 1518, with reference to the competence of this office in matters of crimes of a religious nature. In the October of 1517 the Council of Ten with the *Zonta* had decided to restore blasphemy cases to the *avogadori*: it was a sign, and not the least important, of that desire to return to the old ways which has been mentioned and which was also a return to the equilibrium between the two principles, 'authority' and 'equality'. In the April of 1518 there was an attempt in the Senate to alter the situation radically: it was proposed that a new magistracy be instituted, the *Corectori sopra le Biasteme et i Sacrilegi*, having the authority of the *avogadori*. The *avogadori* saw the move as an outrage and a diminution of their magistracy; the supporters of the proposed law maintained that, on the contrary, it was their intention only to relieve the *avogadori*, swamped as they were by too much work, from some of their burdens. Entering the argument, Luca Tron had, without dodging the point, put his finger on the sore spot – or, rather, sore spots – of Venetian justice. Woe betide taking authority from the *avogadori*'s authority: they were being reduced to mere semblances, like the *procuratori alle pompe*, who continuously witnessed violations of their extremely severe sumptuary laws but had no power to take any corrective measures. And wishing to demonstrate that the diminution of authority which the *avogadori* had suffered was harmful, he recalled a recent case: the doge had prevented the *avogadori* from doing their duty in the case of eleven noblemen charged with having had illicit relations with nuns (the so-called 'munegini'). He also directed a blow at the *capi* of the Council of Ten, accusing them of wanting to arrogate authority where they had none, as in the Senate. And he ended with this severe accusation: 'there are three groups among us, great, middling and low, and nothing can be done against the great because of the support they can muster, like the 'munegini', some of them sons of procurators, and others.'[110]

It was the *rettori* of the *terraferma* cities who, as is well known by now, suffered the powers of the *avogadori di comun* in a bad spirit: the quashing of their sentences when reviewed by the Venetian magistrates constituted an obstacle to the exercise of their justice, all the more intolerable as it became more necessary – in everyone's eyes, not only theirs – to exercise justice with inflexible promptness. But when, in the middle of May, 1519, the *podestà* of Padua asked the *Signoria* for authorization to outlaw the murderer of a student of the *Studio* and publish the sentence together with the offer of a reward he certainly had the support of many of the ducal councillors but found Luca Tron hostile; Tron maintained that the trial should be put before the *avogadori*. If the *avogadori* were slow to take action, this resulted from their numbers which were too small in relation to the mass of work they had to despatch; and Tron proposed, that same day, a new law according to which three *avogadori straordinarii* would join the three ordinary *avogadori*.[111]

Their prestige strengthened and their prerogatives assured, the *avogadori* were to succeed in making their voices energetically felt in defence of the law. In January, 1520, two *avogadori* 'suspended' a law passed by the Senate in which a

question which had not previously been the subject of judicial process – it related to the failure of the Agostini bank – was referred to the judgement, admitting no appeal, of the *Collegio* of the ten *savi*. A dispute of wide-reaching implications grew out of this action. 'The Senate', one *avogadore* stated, 'cannot remit a ruling to an office or council that can be considered definitive unless it has previously been treated in some court of first instance'; from the other side it was said that there was a distinction to be made between magistracies composed of a small number of judges whose decisions always required the possibility of recourse to appeal, and the councils, from which no appeal could be made. The majority were for this limiting interpretation of the right of appeal.[112] The *avogadori* had better fortune in August of that year. This time they found themselves up against none less than the doge because of a death sentence on three thieves pronounced by the *giudici del proprio* with the intervention (which determined the vote) of the doge. The *avogadori* suspended the sentence *in extremis* just as it was about to be carried out, objecting, with the support of a law of 1346 which seems to have been unearthed just in time, that the doge had the right to intervene in judgements of the office of the *Proprio* only on condition that the judges' opinions were divergent, though not when the point at issue was whether to pass or revoke a death sentence. The case having then been brought to the *Consiglio dei Quaranta* and the individual opinions of the judges of the *Proprio* expounded there, a new sentence was issued under which each of the three thieves was condemned to lose an eye and have a hand amputated.[113] On another occasion the *avogadori* challenged the Council of Ten; Giovanni Emo, who had suffered from an extremely severe sentence of exile and of being designated 'furante' for embezzlement committed during the war years while he had been *governatore alle entrate*, asked, in 1521, to be excused from his penalty against payment of an impressive sum of money. The doge and the Council of Ten would have been inclined to consent, but against the opposition of the *avogadori di comun* there was nothing to be done.[114]

Marino Sanuto always followed the activity of Luca Tron with respectful attention. In the June of 1521 he approved the measure with which Tron intended to modify the system of electing the doge in order that it should be infused with that 'equity and equality' which was indispensable to the institutions of a just Republic.[115] But Sanuto had been sharply at odds with Tron when in May of that year, he had proposed and gained acceptance in the Senate for a measure which affirmed the principle that in order to preserve the 'very great importance, dignity and authority' which the *Avogaria* had had in the past it was necessary that it should be entrusted to 'individuals who are of substance and standing'. The way to attain such an object, the decree maintained, was to have the *avogadori* elected by 'scrutinio' of the Senate as well as by 'quattro mani di elezioni' in the Great Council and to increase their perquisites; it added that 'debitori de la Signoria', that is, tax-payers in arrears, might also be elected. Sanuto always cherished the dream of becoming an *avogadore*: he feared that after this law was passed it would be definitively unrealizable. On the very day

that the law was put to the vote in the Great Council (the most important laws had always to be voted on in two different councils), Sanuto launched an extremely spirited attack which was specifically directed towards appealing to the sense of pride in the great assembly of the patriciate. It was a dangerous law; election by 'scrutinio', he told his audience, 'is nothing but the beginning of your loss of liberty; a return to choosing candidates by scrutiny, as happened before, will force your Excellencies to elect one of those chosen in this way, as always happens, and to reject a man chosen after sound and worthy deliberation, so that when an individual is elected who is not one of the country's leaders, he will be held in ill repute'. Next he recounted the various attempts which had been made to have this surreptitious system approved, and repeated that the formulators of the law were aiming at nothing other than the victory of those they had had approved by 'scrutinio' in the Senate, and this in spite of the choices made by the Great Council. Moreover, he pointed out, it had not been said that the 'grandi' on whom electoral favour might fall would then actually be in a position to take upon themselves the extremely onerous duties of the *Avogaria*, which youths but not necessarily older men might be able to endure. Finally it was child's play for him to bring out the contradiction between the intention to give back prestige to the *Avogaria* and to allow those in debt to the state to be admitted there. It escaped him – or he did not want to understand – that in this clause Tron had probably been aiming at making the post available to men who, although capable, were going through a moment of financial difficulty.[116]

The differences among the various magistracies, or rather in the nature of the power which they could effectively exercise, were becoming more and more marked, corresponding with the ever greater distinctions among the several strata of the aristocracy. The smallest magistracies, which in the past century had still had a certain repute, were now reduced, as Gasparo Contarini said, to handling, quite simply 'certain small and ignoble pieces of business which the others scorned'. Things were going no better for the *Quarantia* if the same Contarini, who was highly sensitive to these distinctions, could write that they were accepting nobles who were 'poor, and of little account'.[116a] Indeed, the debasement suffered by this council in the last thirty years was only too evident. In 1525 there was a patrician who tried to deal with the problem on the lines Luca Tron had adopted for the *Avogaria*, devising expedients of the greatest ingenuity to have only men of a certain age – at least forty – and of proven experience accepted in the *Quarantia*. The proposal was dropped after the intervention of Sanuto, who defended the right of young men to hold some offices in order to familiarize themselves with the government of the Republic and begin to make their voices heard.[117] It was a perfectly valid argument. But what was wrong as an approach to the *Quarantia* could be right if applied to the *Avogaria*, if, that is, one wanted it to be a solid and prestigious magistracy, sustained by a vigorous and aware political will, capable of supporting the ideal of constitutional harmony based on the 'law', the law as a guarantee of equality.

Perhaps it was self-deception, given that the standing of the magistracies followed a course determined by so many factors that no single measure could enforce a lasting change; but this was nevertheless the one means one could try.

The problem of the excessive number of the nobility, which we have seen as one of the elements responsible for a loss of equilibrium in the Republic's political and constitutional life, was still far from being resolved. Not long after the end of the war it had been decided to remedy the spreading practice of 'broglio' with a new magistracy, the *Censori* – Domenico Morosini's old idea, it will be remembered – which had the task of anticipating and checking it, in both Senate and the Great Council. At first it seemed to be getting excellent results. But this was a short-lived illusion. In the November of 1519 an anonymous letter informed the Council of Ten of full-scale electoral scandals which were taking place based on the buying and selling of votes. Scandal on every level: on the part of poor nobles, it was in order to have the usual, modest offices with which to cope with the exigencies of every-day life; for the 'grandi', it was to obtain important appointments.[118] There was an attempt to provide for the requirements of the former, on 27th May, 1520, by a decree which enticed the nobles to become 'avvocati alle corti' with the hope of earning a good living. Almost contemporaneously another law emerged from the Senate; after having noted the great increase in the number of gentlemen and having stated that 'it was in the interest of justice and equity to enable everyone to participate in offices and government posts', it established that all offices, in both the city and the *terraferma*, which afforded 'salario et utilità' must also carry a period of quarantine before an individual could occupy the post again, the purpose being to ensure a turn-over of men.[119] Despite these attempts, despite other laws which tended to prevent the formation of factions, the electoral battle continued unbridled. The magistracy of the *Censori* had proved incapable of controlling it: consequently, on 15th October, 1521, it was decided to suppress it and turn over its functions to the *avogadori di comun*.[120]

Not even the *avogadori* succeeded in stemming the practice of 'broglio', which was kept alive by causes which went far beyond a mere bad tradition. Besides, gentlemen who had been conventionally qualified by going through the *cursus honorum* had still been elected. In 1523, even, a gentleman, much celebrated as a lawyer, succeeded in getting himself elected, having been so anxious to achieve that goal as to give up the considerable profits he derived from practising the law. In Sanuto's view, despite all their prestige, despite their power, the *avogadori* were simply standing by, watching but taking no action against the people who were engaged in electoral machinations. And then a ludicrous thing was happening: once the office of *avogador* became thoroughly attractive the flame of the 'broglio' became fanned by the competition for that, too. As a result, on 2nd October, 1524, a day of election for the *Avogaria di Comun*, the *capi* of the Council of Ten decided to take into their own hands the repression of the 'broglio' by sending their men into the Great Council to break up small groups and take note of the names of the offenders. 'A new phenomenon, and

a scandal to the *avogadori di comun*', Marino Sanuto commented, perhaps with just a shade of vexation.[121]

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The peace had lasted only four years. In 1521 imperial and papal troops entered the duchy of Milan, which had been, after 1515, under the control of the king of France; the Venetians, as his ally, found that they too were involved in the struggle. In the July of 1523 the Republic drew up a peace treaty with Charles V and retired from the military vicissitudes of Lombardy. After the battle of Pavia of February 1525, which saw the utter defeat of the king of France and emperor Charles V now incontestable master of Italy, Venice effected the League of Cognac with England, France, the pope and the other Italian princes, the duke of Milan himself, Francesco Sforza, among them. Its purpose was to try to prevent – and, as Federico Chabod has noted, this was the fundamental task for the Republic – 'the excessive power of any one influence in Italy'. The Venetian army had been involved if only for a short time; the duke of Milan had withdrawn suddenly from the struggle after making peace with the Emperor, and it had not been possible for the Venetians to keep the field alone. Also, the rumour was spreading that huge quantities of soldiers were being concentrated over against Bolzano, *Landsknechts* under the command of the Lutheran George Frundsberg and of the constable Charles of Bourbon who had formerly been on the imperial side. Not long before this the Venetians had been able to follow – through the accounts, which were extremely rich in facts and comment, of their ambassador to the archduke of Austria – the peasant uprisings of southern Germany and Austria, a product of the new religious ideals which the peasants there knew how to turn to good account in mobilizing support. The *Landsknechts*, drawn from their ranks and now making ready to swoop down on Italy, were the incarnation of that myth of fiery and brutal force. These were the very worst years for the Venetian economy. The production of wool was collapsing; exchange rates were rising frighteningly; in 1527 a terrible dearth of grain which was to drag on into the next century affected the countryside as a whole. The descent of the *Landsknechts* from the Alpine valleys, the passage of their starving and predatory troops across the lands of the *dominio* and towards Rome was followed with apprehension; the news of the sack of Rome heard with stupefaction. The Republic had not, however, renounced the temptation to profit from the difficulties of the Apostolic See: it unhesitatingly accepted the offer that Ravenna and Cervia should return to Venetian rule. It was an imprudent move – though its supporters in the government were by no means few – but understandable, considering the urgency of the grain problem and the property which a number of Venetian gentlemen had had to give up there; still more hazardous was their acceptance, in 1528, of ports like Monopoli, Bari, Polignano and Brindisi in Apulia, a region which was subject to the crown of Spain. In the June of 1529, Pope Clement VII and the emperor Charles V put their

seals to an agreement: the latter undertook to transfer the Romagnol lands from the Republic to the pope and to come himself to Italy, at the end of the same year, in order to conclude a general peace. Some, including the doge, wanted Venice to oppose this, and to this effect make a new alliance with the king of France; but the French wanted money for coming to Italy, the imposing sum of 20,000 ducats a month, and the majority of Venetians were weary: weary of paying, of being afraid, of continuous uncertainty, of the incubus of the *Landsknechts*, who, it was said, would return to Italy with the emperor. So the Republic accepted, in the winter of 1529–30 at Bologna, the conditions of the peace: to restore the Apulian ports and the lands in the Romagna (except for the right to retain private property), to renounce any expansionistic ambitions that might threaten the duke of Milan or the duke of Ferrara, and to pay a sum of money to the emperor.

The return of peace in 1530, was quite different from that of 1517. There was great joy, now as before; a great desire to overcome as quickly as possible the consequences of past vicissitudes and to eliminate their most typical and important expressions, such as electoral loans, and so forth. But at the same time there was a great sense of fatigue and some doubt as to the possibility of retrieving past glory and continuing to keep step with the states which had come to the fore as the protagonists of political and economic life in the last decades. It was symptomatic that in the October of 1531 two Venetian nobles, Giovan Francesco Giustiniani and Giovanni Contarini, nicknamed 'cazadiavoli', both of them well-known men of the sea, should have left Venice and gone to Constantinople in order to serve the 'Signor Turco'. Giustiniani wanted to embark 'in the fleet which he [the sultan] was proposing to send through the Red Sea against the Indians and the Portuguese'; for Contarini it was enough that he should find 'something new to do'.[122] And it was equally symptomatic that, making his excuses to the advisers of the king of England because the Venetian galley fleet no longer carried spices (the English said that it was useless in that case for them to come to England) the Venetian ambassador to London should have explained that it was not the Venetians' fault 'but that of the changed world'.[123] The very words that Luca Tron had used in 1519, but in another spirit – the spirit of the Renaissance, which the Republic did not now feel or know how to revive.

More than in the institutions, more than in the actions of men in the government – whose capacity, resolute and yet flexible in adapting itself to the new reality, I will speak of later – the fatigue showed itself precisely in the fading of this spirit. After 1524 the official attitude of the Republic to the Lutheran movement (that so many people supported the Reformation, defying the repression of both state and inquisitorial institutions, cannot be dwelt on here) was one of straightforward rejection: it did not want to hear it discussed. Partly this was due to the political and social echoes of the German situation but mainly it was because the Apostolic See, taking advantage of the difficulties in which the Republic continued to flounder and of its need not to aggravate Rome too much,

succeeded in obtaining Venice's voluntary submission to a point of view which the pope was reluctant actually to impose on it; a point of view which found in the patriarch Gerolamo Querini its most convinced interpreter in Venice and the man most determined to bring about its implementation. Questions relating to the right of sanctuary and the power of secular authority to judge delinquents who, at the moment of arrest or sentence, claimed to have taken minor orders and therefore wished to be referred to the ecclesiastical authority – frequent, as we have seen, even under the former patriarch, Antonio Contarini – were now becoming acrimonious in the extreme. The Venetian patricians were certainly not inclined to give in easily. In April, 1526, the patriarch Querini, summoned to the *Collegio* to account for a brief of excommunication he had issued against the *signori di notte* for having imprisoned a priest accused of theft, had had an extremely heated encounter with Luca Tron. To these men, Sanuto relates, 'he used haughty and unusual words, as the patriarch did to him. And the doge supported the patriarch'; but as the city was with Ser Luca, the patriarch had to withdraw the briefs of excommunication from the column where he had posted them.[124] In June, 1529, it was the doge's turn to quarrel with the patriarch, because of a citation issued against some parish priests who had registered a complaint with the *Signoria* against certain of his decisions. There was no way, however, of making him revoke them even though the doge exclaimed that he would have him driven from Venice.[125] Querini was a man much valued by Clement VII; his appointment had been one of the consequences, and by no means the smallest, of the Peace of Bologna, and with him he had brought the unbendingness of his religious convictions and his jurisdictional demands.

By now we have reached the point in time which is usually referred to as the 'Counter Reformation'. One no longer sees – at least to judge from Sanuto's diaries – that quaking religiosity, rapt in anguished contemplation of sin and eschatological expectation, of the previous decade, nor the fresh spirit of charitable fervour that marked the period around 1520, when hospitals were being equipped for those ill with the 'mal franzoso', the eager solicitude for the poor which is echoed in the letter of Paolo Giustiniani and (also reported by Sanuto) in the will of Antonio Tron.[126] Not that similar examples, and of the loftiest kind, are not repeated, or that one cannot catch murmurs of a Savonarolan tone, as in 1528 when there was fear of a second invasion by the *Landsknechts*. But, in the main, the atmosphere appears different. The desperate cries of the poor – peasants who had fled from the countryside where they had sunk to eating grass; fishermen or market gardeners from Burano who had deserted their island and flung themselves upon the bridges and under the colonnades of the *piazza* to die of hunger and cold – the cries which resounded in the city for three winters do not seem to have aroused any profound agitation in men's minds as a whole. The state did something through the organizational capacity and the concern for public order it displayed in those years; it put up shelters, in fact, and severely repressed the begging from which the crowd of unfortunates tried to make a living.[127] In contrast with this background was an abundance of wealth and

festivities, a jubilant thirst for life. On the evening of one of the worst days of February, 1528, a banquet was given with a ball in the house of Cardinal Grimani. '*Tamen*', observes Sanuto, 'it would have been better to give alms.' And two evenings later the cardinal was at another party, in Murano, where the performance of a pastoral eclogue was followed by a ball.[128] Nor was it only exiles from the *terraferma* or the islands who were numbered among the poor, or the many members of the Venetian plebeian class. The poverty of the nobility persisted, with cases which were often pitiful like that of an old man who, in order to live, asked to be given shelter in the prison where his son already lay, or of others who longed to leave Venice; and the problem of numerical excess persisted too, provoking the usual frenzied chase after remunerative offices, the continual 'brogli', the eternal sale of votes by the 'svizzeri'. At the end of the fifteenth century, two *capi* of the *Quarantia* had thought of charging the maintenance of the poor nobles and their families to those who occupied offices, and it will be remembered that they had aroused such indignation among the prominent men of the Republic that they were sent at once into confinement on an island in the Levant. Some thirty years later, in 1528, the *capi* of the *Quarantia* then in office, supported by four ducal councillors and three other members of the *Collegio*, considered solving the same problem with a proposal which was typical of the new atmosphere. 'With trade and industry falling off every day because of the cessation of the trading voyages and because of the wars and the tribulations of the past years and of the present, the means of support of a good part of these our gentlemen' being lacking, it was necessary, the preamble to the decree stated, to find a solution which would be not merely harmless but, rather, a public benefit, and which would at the same time 'redound to the honour of this Republic.' The solution was this: to obtain from the Holy See authorization to appoint as canons of St. Mark's fifty Venetian gentlemen – five of them chosen by the doge, the other forty-five elected *per scrutinio* by the Senate – endowing them with benefices to a total sum of 10,000 ducats annually, equal to 200 ducats per head. They would receive holy orders for life, and by way of services rendered, they would above all dedicate themselves (probably it would mean staying in Padua) 'to the study of sacred and worthy letters'. The Senate approved the proposal; but then, perhaps due to negative reactions in ecclesiastical circles, it was not presented in the Great Council, so that it was left in abeyance and did not receive the final seal of approval.[129]

In the interest of dignity, of order and good manners, decorum and morality, free and easy habits, boisterous and indecent amusements were repudiated. The theatre had been the great solace of the Venetians even in the hardest years of the two war periods: it remained so after Agnadello. In 1520 a law had indeed been approved which forbade it, but it was not published, and people continued to amuse themselves with performances of Cherea and Ruzante. Something analogous had happened with the lotteries, invented in 1522 and regarded by the Council of Ten with such distrust that they had prohibited them – though later on they not only allowed them to continue but assumed control over them.

Immediately after the conclusion of the Peace of Bologna in February 1530, after the failure of an attempt at a complete prohibition of plays, which was too hard for passionate theatre-lovers like the Venetians to bear, the Council of Ten decided (the carnival was then in progress) that its *capi* could give 'permission to perform plays, as long as they are respectable'.[130] In this framework of hunger and uncertainty about daily life, of wealth and strident social contrasts, of poor people and deserters from the various armies wandering from the countryside to the cities, delinquency was inevitably bound to increase. The phenomenon was not unique to Venice; one has only to read the ordinances issued by Francis I in this same decade to understand what its dimensions must have been.[131] Letters from cities of the *dominio* spoke of outlaws who were terrorizing the countryside, of innumerable murders and acts of violence. 'Here', noted Sanuto, referring to Venice on 25th April, 1524, 'an enormous number of murders are committed . . . in this month there have been twenty-two people killed, and the greatest enormities perpetrated'.[132] And among the murders, as well as those which were committed on a violent impulse or with the purpose of robbery, were those performed under the consenting eye of the police and justices in order to ease their own situation and to help the state in its tremendous effort to enforce public order: that is, murders committed by outlaws on other outlaws, an activity which in these years came to its height.

Turning to a consideration of the internal politics of the Republic in this third decade of the sixteenth century, it seems dominated by the problem of money even more than in the preceding period. It was a need that grew year by year until around 1530 it became obsessive. And to have money was not simply to have a means of making war and calling for peace. For Venice, to have money, to be lavish with it in gifts and loans and financing represented something more: it became the symbol of its own brand of statecraft, its special strength, the substitute for a military power which was lacking and which it was considered neither possible or profitable to have. Squeezed as they were between politically and militarily menacing powers, the Venetians came to think that there was no bargaining counter available to them other than the contrast between the disastrous financial conditions of the great monarchies – Francis I and Charles V and even the Apostolic See would seek support from their banks – and their own great and relatively easily available wealth. The presence, as doge, of a strong personality like Andrea Gritti's, toughened by personal experience of wars on land and sea and aware therefore of the capacities of and the possibilities open to both the Venetians and others, had considerable influence in persuading the Republic to adopt this stance. Evidence of it was the demonstration organized at Venice to celebrate the promulgation of the League of Cognac in July, 1526. The doge was present, 'dressed in gold', Sanuto tells us, 'with a cloak of gold and white over all and his *bareta* of the type that symbolizes peace'. On the 'soleri', or hustings, commenting on the allegories represented there, were inscriptions like these: 'quisquis habet nummos secura naviget aura fortunamque suo temperet arbitrio'; 'Aurum belli materia'; 'Per aurum victoria'; 'Obediunt

omnia pecuniae'; 'Divitiae si affluant, noli timere'.[133] Such phrases expressed official opinions. This was confirmed, in the February of 1528, by a decree which discussed the necessity of taking measures to oppose any new passage across the *dominio* and he supported the army of the League engaged in southern Italy. Money, it said, is the chief prerequisite for getting what one wants and the thing on which one must rely: it was necessary, therefore, 'to collect it by all possible means'.[134] But the assumption of the myth of wealth as the emblem of the Republic could not have an impact on its international policy alone. There were, necessarily, reverberations in internal policy, an exaltation of those who possessed this wealth and who were therefore the guarantors of the Republic's political activity, the guardians of its power. Wealth thus had a civic as well as a political value. Not to have it, or to have too little, constituted a lessening of rank and prestige, of the possibility of establishing one's own merits. 'Veh civitas', Sanuto is said to have warned during a discussion held on 4th August, 1526, to protest against the fact that appointments were now being granted only to those with money.[135] Domenico Giannotti, writing in those years, expressed a similar concern through his Venetian gentleman, Trifone Gabriello: the method of raising money prevailing in Venice nowadays – that of electoral loans and donatives – can be justified by the necessity of the moment, the protagonist of the *Repubblica de' viniziani* explains, 'though it is not to be praised, lest it adds repute to wealth by taking it away from virtue'.[136]

Of the remedies applied by the Republic to solving the problem of money, the one which heightened ambition to enter the colleges or to win posts in the government was always the most successful. It had been started in November, 1521, first with the admission to the Senate (as usual without the right to vote) of nobles who paid 400 ducats; then, only a few days later, young men were accepted in the Great Council on making loans of as little as 50 ducats (for 100, which would have been preferred, hardly anyone came forward). Then, in 1522, six procuratorships of St. Mark were put up to be competed for and because of the prestige which still surrounded that honour – but which the increase in the number of men who received it and their recruitment by virtue of sheer cash would eventually tarnish – fetched a very considerable sum of money.[137] Those in opposition spoke up when requests for loans were to be accompanied by the adoption of the electoral system of 'scrutinio' in Senate and the 'quattro mani di elezioni' in the Great Council. Sanuto, who in May 1521 had already expressed his disagreement with the electoral law for the *Avogaria di Comun* proposed by Tron – a law which did not contemplate money loans – protested vigorously when that system was extended to an increasingly large number of appointments.[138] Indeed, it was extended to practically all of them. And once the elections to offices presently vacant were exhausted, another resource was discovered in 1526, that of electing the future successors to offices which were for the time being occupied by the same method. These were the so-called 'expectative' appointments. Sanuto rose to speak in the Great Council against them, too, and received the honour of a reply from the doge himself, who

maintained yet again that overriding financial necessity compelled all other considerations to be set aside.[138a]

Also making headway was a tendency to suspend the application of those protective measures, like the 'quarantine' periods and the disqualifications based on personal ties which were aimed at preventing the formation of tight groups of nobles securely ensconced in such important organs of government as the *Collegio*: the excuse was that in times of crisis like the present one could deprive oneself of valuable men by clinging to legal scruple. On 23rd October, 1524, quarantines and disqualifications for the *savi del collegio* were suspended; the next day it was decided to elect three *savi del consiglio di zonta* (that is, 'extraordinary' *savi*) establishing that for them, too, quarantine or disqualification rules need not obtain.[138b] It often happens that an extraordinary solution ends by becoming an ordinary one, and thus on 2nd June, 1525, the election of three *savi del consiglio di zonta* was once again proposed, and accepted. Only for a month, however: but at the beginning of January, 1528, it was decided to elect another three for three months. 'It is the worst of laws', Sanuto commented bitterly this time, 'and the ruin of the state, for it is creating permanent members of the *Collegio*.' Nor was he the only one in the Great Council to think so. In July of the same year and in the April of 1529 proposals to elect the three *savi del consiglio di zonta* were rejected.[139] The protagonist of the *Repubblica de' viniziani*, Trifone Gabriello, shows that he, too, harbours certain suspicions about the existence of a kind of crypto-oligarchy, despite the extreme caution with which Giannotti makes him speak. After explaining that the greater 'magistrates, *savi di mare*, *savi di terraferma*, *savi grandi*, [ducal] councillors, the [members of the Council of] Ten, the *avvocatori*, *censori*, do not obstruct one another', so that 'as soon as a gentleman has obtained one office he can enter the others as well', Trifone is asked by his interlocutor Giovanni, whether, things being as they are, the result is not that 'all these offices . . . rotate among a small number of gentlemen'. 'You speak to the point', Trifone replies. 'And we', he continues, 'are accustomed to say that whenever one of our gentlemen has attained the office of *savio di terraferma*, he is as likely as not to have achieved a place in some of these magistracies.'[140]

In practice this concentration of power was to centre around the *Collegio* and the Council of Ten with its *Zonta*. The fulcrum was the Council of Ten because of the breadth of its field of action and the unusual range of its judicial activity. One must take care to 'maintain it in the highest possible esteem', it being 'the principal magistracy in our state', the doge once said during a discussion about whether to fill vacant posts with premature elections or to observe the time-limits fixed by the law; and his conclusion was that in order to protect that 'esteem' one could at times come to some compromise with the formal aspects of the law.[141] Foreign and financial policy, the oversight of food supplies, and a good part of the legislation on electoral matters, were to originate in the Council of Ten and its *Zonta* to a far greater extent than had been the case in the past few years, years which had nevertheless seen its emergence as the chief organ of the Republic. It was the Council of Ten and the *Zonta*, for example, which in

September 1528, reformed the statutes affecting the quadrennial re-licensing of the Venetian Jews; they took this upon themselves in order to avoid the outbreaks of anti-Semitism which had occurred in the past on other councils and which had raised doubts about whether the renewal would be effected – a matter which, in the judgement of the most responsible men, would seriously damage the entire Venetian economy.[142] It was the Council of Ten with the *Zonta* which decreed, on the morrow of the Peace of Bologna, the cessation of the practice (electoral or not) which has come to be called the sale of offices.[143] And the Council was to institute new magistracies, like the *Esecutori contro la Bestemmia* and the *Inquisitori di Stato*; it was to keep a strict control over others already in existence, like the *Provveditori sopra i Monasteri*, deciding, in 1528, to elect them itself by the 'scrutinio' method. Again, it was to discuss the old project of Piero Tron, disinterred in 1529, to give military commands to thirty-one nobles; and in the same year it oversaw the three *provveditori* responsible for bringing the greatest possible supplies of grain to Venice.[144] In practice it was to take under its control the body of Venetian nobility as a whole, vigorously imposing respect for it on subject citizens, watching over its behaviour and reserving a good part of the crimes committed by its members for its own judgement (although it was not until 1571 that it was established that nobles were subject to its judgement exclusively). Finally, it was to do a tremendous amount of work, judicial and legislative, on ethical and religious matters (quenching the sparks of Protestant reform) and on problems arising from social *mores*, becoming in this way the most resolute guardian of religion and morality, the pillars which upheld its prime goals, public peace and order.

The Great Council, the Senate and the *avogadori di comun*, on the other hand, paid the price of the political and constitutional upheavals of recent times. As for the Great Council, decline was really incidental, the result of a transitory electoral system; its distributive and ratifying power had not been substantially harmed. For the Senate the story was different; it had in effect been deprived of a good part of its powers, over foreign policy, economic policy, and so on.[145] Once again it was claimed that it was composed of too many people and that any hope that the more delicate decisions of Venetian policy could be kept secret there was absolutely illusory. But to enlarge its numbers with admissions through loans of money was to aggravate this very defect and to make the loss of its control of policy inevitable. Many senators complained about it: 'the Senate is called to weary the senators in reading letters of no importance', said one of them; and another added that 'when the Senate bell rings it is to govern the country, not to do nothing, as is the case at present'.[146] Nor could one predict that peace would allow a return to the methods of the past. By now, unlike 1517, it was observed that the transformation had been too profound; that there had been a radical shift of wealth within the patrician class (so much so that it was held necessary, in 1528, to order a complete revision of the distribution of fiscal burdens 'because of the inequalities involved in the present tax regulations'), and that such shifts inevitably involved shifts in the centres of

power; that the nature of the state, in its administrative even more than in its political structures, had become more complex, more exacting, more concerned with precision. In connection with this last point – apart from the need, which had emerged years before, for accurate accounting and well-ordered records – there was a demand for clear biographical data on the individuals, especially nobles, but also all others, who had anything to do with the administration of the law; and it is revealing that in 1530 a decree expressing belief in the utility of studies 'of good letters' to prepare 'for the administration of governorships' instituted public instruction in mathematics as particularly suited to that end.[147] In sum, to control all these concerns and the men who had been placed in charge of them, and at the same time to keep in check subjects who were reluctant to accept what the state proposed and to lend it as much as it requested, required that authority be exercised in a way which was not possible for the Senate. It was to recover somewhat, even so, but the balance had been too disturbed by the Council of Ten for it to return to its former status.

The same was true of the organ I have described as the great antagonist of the Council of Ten, the *Avogaria di Comun*. Luca Tron's attempt to bring it back to life, to being one of the poles of the Republic's political structure, the one bound in duty to protect 'law' and aristocratic equality against the prevalence of scarcely controllable oligarchical inclinations and 'auctorità' could be considered to have failed.[148] Not that there was any lack of *avogadori* capable of firmly imposing respect for the law on even the most powerful patricians: let the case of June, 1526, suffice, when the *avogadori* managed to have a *capo* of the Council of Ten dismissed – he was defended, what is more, by his colleagues sword in hand – for having put off taking up his appointment for a few days.[149] But these cases involved the presence in the magistracy of men of unusual energy. One does not have the feeling that the *Avogaria*, by itself, of its own intrinsic force, constituted an autonomous political influence sufficient to counterweigh, in the Venetian constitutional balance, the energy represented by an organ like the Council of Ten. The most serious blow was inflicted when its prerogative of exercising control over the laws and their application ended by being taken over by the Council of Ten; in July, 1526, for example, the Council, together with the *Zonta*, nullified an edict issued by the ducal councillors because it did not have the number of votes required by law. In 1529, again, a law of the council and the *Zonta* rigorously fixed the principles to which offices which handled money had to adhere. The execution of the law was, indeed, entrusted to the *avogadori di comun*, but it was established that in case of controversy between them and the treasurers of the various offices the *capi* of the Council of Ten would have the last word.[150] Gasparo Contarini, one of the leading actors in the Venetian political life of these years and an extremely close observer of it, summed up the decline of the *Avagaria* in harsh words. After having recalled that the *avogadori* could be likened to the Roman tribunes of the people, with the difference that the latter had been instituted in order to defend freedom and the first to keep potent 'the majesty of the law', Contarini concluded that the authority of this

magistracy had been great in the past; 'but now', he continued, 'because the authority of the Ten has spread its roots more widely, the reputation of the *avogadori* has been obscured and diminished by their power'.[151] In substance, the *Avogaria* was above all an organ of criminal justice. This was made clear by a law of 2nd August, 1534, which, in indicating its areas of jurisdiction, stressed above all 'the responsibility for and conduct of criminal affairs, not only in this city but also in all the rest of our state', and then 'the observance' of the laws, but this as though it were a matter for an appendix.[152]

Not even in this connection, however, can one say that the *Avogaria* kept the authority and the full powers and functions it had had in the past, or that it had not suffered from the victorious competition of the Council of Ten. It was inevitable that its decline on the political level should have had repercussions on the judicial one because of the extremely close correlation which existed between them. But the judicial decline of the *Avogaria di Comun* had independent roots as well; it followed from the progressive detachment of judicial methods from the Roman model and thus a widespread intolerance of the formal solemnity of its public proceedings, which fell into several phases, each with its interminable debates between representatives of the prosecution and representatives of the defence, the cavilling that went on in order to suspend the course of the trial, and the endless sequence of appeals. I have already referred to this. In this decade, however, the opposition became even stronger, and lawyers and courts of appeal, symbols of these methods, were the object of continual criticism.[153] And apart from having a name in common, the *avogadori* had come to play a role in the trial which was analogous to that of the lawyers. It was they themselves, moreover, who had confirmed this connection in years when, partly in order to escape procedural burdens, partly to avoid (not being themselves professionals) having to confront, perhaps on technically difficult questions, men who spent their lives in the law courts and understood their every problem and trick, they had had their places taken in criminal trials by ordinary lawyers.[154] As for appeals, they were among the *raisons d'être* of the *avogadori*. It was by virtue of appeals addressed to them that subjects could hope that justice might be done; the quashing of the sentences of inferior judges ordered by the *avogadori* was a restraint on those who might have overridden subjects' rights. But there was no preventing the degeneration of this protection in the hands of able lawyers into a means of protracting trials or of ensuring that the most dangerous offenders might escape the course of justice.[155] These abuses could not happen in the Council of Ten, where lawyers played no part, appeals were not permitted and questions of competence did not arise save in exceptional cases; there the concern was for doing things in a hurry, for penalties that were examples of timeliness and toughness.[156] The Council of Ten had itself intervened in order to try to correct the major procedural vices of the *Avogaria* and of the council through which it habitually worked, the *Quarantia criminale*; on 14th March, 1526, it had limited the number and duration of the interventions and rebuttals both of the *avogadori* and the lawyers.[157] It was not enough, so it continued to take the greater

number of trials upon itself, especially those of some importance. The doge had risen one day to protest against the Council of Ten, saying 'energetically that they should not hamper the freedom of the *avogadori*'.[158] But the evidence was before everyone's eyes. In 1529 the Council of Ten in two days condemned a certain man to death for having predicted in conversation with friends – this was 1529 – that Charles V would overrun Italy and sack Venice. It takes months to pursue a case in the *Quarantia* under the present *avogadori*', Sanuto had remarked in 1526.[159] Six years later the *Quarantia criminale* decided to release another man who, after four years in detention, had still not been tried. Under these circumstances the *Quarantia* itself asked the Council of Ten for permission to use its 'authority' in order to take measures (like allowing a prosecutor to free an outlaw) held indispensable for resolving difficult situations connected with trials, and the *avogadori* wanted a case of embezzlement withdrawn from the *Quarantia* and put to the judgement of the Council of Ten. And once again it was the doge who upheld the traditional jurisdictions.[160] Finally, at the end of December, 1530, it was decided thoroughly to reform the competence and the procedure of the *Avogaria*.

'Defiance, homicides and other contumelies both in this our city and in our lands and territories', began the preamble, 'have increased, and are becoming more and more numerous because the delinquents are too certain of being able to rely on impunity'. It was therefore established that 'excepting and reserving the authority of the *avogadori di comun*, and excepting and reserving also that our laws and ordinances concerning lawsuits cannot be suspended or set aside . . . *de coetero* our *avogadori* neither may nor can, by any way or means or under any excuse, impede by calling to see or in any way altering or suspending the course of any case, as within, so without, which by our *rettori* or magistrates is set in train, until the criminals be called to their defence.' If the guilty persons are imprisoned, the *avogadori* may send for the trial documents which concern them, even if they are as yet incomplete, while the *rettori* and the other magistrates may confine themselves to sending, for their greater security, only a copy, and not the originals. At this point the *avogadori* will have a month at their disposal to decide, having heard the opinion of the ducal councillors, whether to distrain on the case or let it go forward; at the end of which term, *rettori* and magistrates will be able to resume the case which has meanwhile been suspended, and bring it to a conclusion. For the setting of a new time limit or any other decision whatsoever to suspend the case the *avogadori* require the permission of the *Quarantia criminale*.[161] The *Avogaria* had come a long way since the law of 1468 had begun to erode its authority.

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A crisis of law, then, and at the same time a crisis of institutions, involving the nature of the state itself. It was a crisis of institutions in as much as men's relationships with them had changed. Their feelings about life and – both in its material

and spiritual aspects – the way they lived, differed from the preceding century. We have pointed out the violence, the long periods of dearth, the economic and financial upheavals, the religious crisis which overran all Europe, the change of manners and morality: all things which could not but have had consequences for the state, for its institutions as well as for the conception of its sovereignty, its way of imposing it and the attitude of its subjects. The state sought to emphasize its authority, to forge it in a way which would make its exercise more rapid and efficient. But it was an authority which, despite this zeal, remained precarious, which found itself forced to accept being conditioned by the power, political and economic, of a part of its subjects, to face and combat the resistance of those who rejected it. It was an authority which showed tears in its fabric, great gaps even, incongruences, things which became all the more evident and dangerous the greater the attempt to overcome or eliminate them with inefficient or inadequate measures: and through these tears and gaps the activity of those who were not disposed to suffer authority filtered and spread. It is interesting that shortly after the Peace of Bologna, and above all between 1532 and 1533, the sense of unease which had been building up within the state found an outlet in Venice itself through angry criticism of the nobles. Judging from the tone of the graffiti which expressed this protest, it came from members of the bourgeoisie, that is, from men who were also in a position to express the state of mind of the unfortunates who were most cruelly affected by the war, dearth and hunger. 'The people will rise and punish you', threatened one of these slogans.[161a] The outlaw problem was another symptom of this dual crisis of men and the state. It assumed particularly grave proportions at this very time, and the government resorted to the wildest and most impracticable ways of containing it.[161b]

As early as 1523, the law of 28th January, 1515 was not only reconfirmed but extended to the whole of the *dominio* – the law which, with its evocation of mythic times gone by when no one aspired 'to break the terms of their outlawry or their obedience to the state' showed, despite its gross exaggeration, an awareness that a new age had dawned. The question of outlawry was still, however, complex and confused. In 1524 Luca Tron had thought of rationalizing it in a single law. In this initiative there was even an aspect which we would call 'liberal', and which was part of the policy Tron sought to promote in these years; that is, while he recognized the acceptability of the murder of those who were 'definitive' outlaws, following their sentence, he maintained that those who were only outlaws *ad inquirendum* or still awaiting judgement should not be the objects of the same treatment; they should have a fixed term for presenting themselves to their judges.[162] The extent of the intellectual and moral confusion of these years, of the alarm in the face of the enormity of the problem of outlawry, of the sense of terror and of atrocity which it raised can be seen in the negative reaction which greeted this proposal even on the part of men like Sanuto, whose lucid and balanced vision of the situation we have come to understand in a different light. 'It is true, *O signori*', he stated in a speech which

he reported in his *Diarii*, 'that when the law was made there were attempts to find ways round it and some disadvantages followed, that men killed twice and yet returned, but it is not for this that so good and holy a law should be broken; if it is really needful, change it somewhat, but do not repeal it . . .'[163]

Tron's law remained in force for a few months. In June of the same year, 1524, it was revoked.[164] And yet facts had been uncovered which might well have seemed horrifying. Continuing to exploit the current regulations of the *cinque savi alla pace*, the rascally practice of causing the names of murdered men to figure in the records of the condemned, so that the murderer would be exempt from penalty, had been systematically organized with the support of one of the judges and the clerks. The case assumed massive proportions, so much so that even the responsibility of the grand chancellor was involved and he was forced to resign. But when in May, 1525, the Council of Ten and *Collegio* decided to bring this lamentable turn of events to a close, regulating the functions and jurisdiction of the *cinque savi alla pace* with a new law which branded the office by saying that it would have been more exact to call it the 'stimulus and cause of evil deeds, homicides and unpunished enormities', they restricted the earlier licence to murder by only a little: it was merely forbidden to kill those who, sentenced to fines of less than ten *lire di piccoli*, had not paid them. 'Indeed', the law went on, 'from fifty *lire* up let the custom be retained that they can be attacked and killed without penalty, to bring terror to the evil-living and temerarious.'[165] Once the avenue was open, there was no reluctance to pursue it. There was no lack in these years of cases of outlaws who returned to Venice with the head of another outlaw and displayed it to qualified judges as evidence for having their own sentences remitted. It was mainly a question of patience and information. There was always someone who could help – like a certain priest of Torreglia, in the Euganean hills, who, having realized in confession that he had before him an outlaw from Friuli, hastened to inform another outlaw, also from Friuli, of this in exchange for a suitable recompense, so that the man might make use of it to escape from his own situation.[166]

This was 1532, only a few months after the Council of Ten had authorized, with the statute cited near the beginning of this essay, the killing of anyone, including relatives, who aided an outlaw.

NOTES

1. A.S.V., *Maggior Consiglio, Libro d'oro*, pt. viii, f. 9. Also when there was a preliminary vote in the *Quarantia* the law had met with a certain amount of opposition. Out of 37 voters, 30 had voted 'yes', 6 'no', and 1 '*non sincero*'. In both councils, then, there was the same percentage – 20% in one, 18% in the other – of gentlemen who disagreed with the proposed law.

2. Ibid., f. 10. This law passed unanimously in the *Quarantia criminal.*

3. In *Leggi criminali del Serenissimo Dominio Veneto in un solo volume raccolte e per pubblico decreto ristampate* (Venice, 1751) 14.

4. C. Calisse, *Storia del diritto penale italiano* (Florence, 1895) 105 seq. A. Esmein, *A history of the continental criminal procedure* (New York, 1968) 75.

5. M. Ferro, *Dizionario del diritto comune e veneto* (Venice, 1778) ii, 1778; L. Priori, *Prattica criminale secondo il ritto delle leggi della Serenissima Republica di Venetia* (Venice, 1663) 52 seq., sets out the Venetian legislation on this point in a weighty synthesis. In M. Roberti, *Le magistrature giudiziarie veneziane e i loro capitolari fino al 1300* (i, Padua, 1907; ii and iii, Venice, 1909–11) there are references to outlawry laws; according to a law of 1229 (i, 283) it was accepted that the aggrieved could kill the offending party if he, once outlawed, returned unlawfully to Venice; other laws of 1284 and 1289 (iii, 43 and 84; ii, 54) speak of giving cash rewards to whoever captured an outlaw or arranged the sequestration of the goods of anyone outlawed for homicide.

6. M. Sanuto, *Cronachetta* (Venice, 1880) 200–201. Girolamo Priuli also referred to this custom in his *Diarii* under the date 28 May, 1511 (ms. in B.C.V., *Provenienze diverse*, P.D. 252–c, libro 6°, 206v seq.). In the capitularies of this office, preserved in A.S.V., there is no explicit mention of this: on the other hand, the principle of 2 March, 1318, which is mentioned in the text, is recorded there. On 21 Sept., 1474 a law of the Great Council, designed to put a limit to the excessive number of pardons conceded to the *Cinque alla Pace*, 'la qual cosa', it noted, 'dà materia che senza timor de pena ogni uno ardisce disnudar arme et ferire cum exfusion di sangue', ordered that they could 'far grazia solo del quarto delle condanne pecuniarie' (*Libro d'oro*, pt. viii, f. 187).

7. In *Leggi criminali* . . ., cit., ff. 30v and 31.

8. In J. S. F. Boehmer, *Elementa iurisprudentiae criminalis* (Halle, 1749); the treatise is preceded by the text of the Caroline ordinance; *Recueil général des anciennes lois françaises*, by Isambert, Decrusy and Arnet (Paris, 1828) xii, 600 seq.: cf. on this ordinance A. Esmein, op. cit., 145 seq.; J. F. Stephens, *A history of the criminal law in England* (London, 1893) ii, 204 and 459 seq. For an analogous evolution of the Florentine judicial system in this period, see A. Anzilotti, *La costituzione interna dello stato fiorentino sotto il duca Cosimo de' Medici* (Florence, 1910) 14 and 132, and L. Martines, *Lawyers and statecraft in Renaissance Florence* (Princeton, 1968) 130 and 142.

9. F. Braudel, 'La vita economica di Venezia nel secolo XVI', *La civiltà veneziana del Rinascimento* (Florence, 1958) 101.

10. Sanuto, ii, 390–1.

11. P. Dolfin, 'Annali', *Diarii veneziani del secolo decimosesto*, ed. R. Cessi and P. Sambin (Venice, 1943) i, fasc. i, pt. iv, 5.

12. F. Braudel, op. cit., 85 seq.; G. Luzzatto, *Storia economica di Venezia dall' XI al XVI secolo* (Venice, 1961) 236 seq.

13. G. Priuli, *Diarii*, *R.I.S.* 2, ii, 297.

14. P. Dolfin, op. cit., 219.

15. Domenico Malipiero, *Annali veneti dall' anno 1457 al 1500*, ed. Longo-Sagredo, *A.S.I.*, vii (1843) 535.

16. Sanuto, ii, 616.

17. Ibid., iv, 167–9; G. Priuli, *Diarii*, ii, 187 and passim in the succeeding volumes.

18. Matters were regulated by two laws of the Council of Ten of 6 Sept., 1506. Here and in the rest of this article I will do no more than allude briefly to the various organs of the Venetian constitution by way of introducing, from the point of view of my subject, the particular problems with which I shall try to deal. For a modern view of the constitution, see the two volumes of the classic work by G. Maranini, *La costituzione di Venezia dalle origini alla serrata del Maggior Consiglio* (Venice, 1927) and *La costituzione di Venezia dopo la serrata del Maggior Consiglio* (Venice, 1931) and the perceptive study by G. Cassandro, 'Concetto, caratteri e struttura dello stato veneziano', *Rivista di storia del diritto italiano*, xxxvi (1963) 23 seq. From the point of view of clarity and organization, the course by Paolo Selmi on *La costituzione della Repubblica di Venezia dopo la serrata del Maggior Consiglio* (as yet unpublished) written for the school of history of the University of Warwick, is an admirable introduction to the study of the constitution.

19. *Libro d'oro*, pt. vi. On variations in the numbers of members of the Great Council

(augmented from 1437 to 1510, diminishing thereafter) see G. A. Muazzo, *Del governo antico della Repubblica veneta, delle alterazioni e regolazioni di esso, e delle cause e tempi che sono successe fino a' nostri giorni. Discorso istorico-politico.* Ms. in B.C.V., *Cod. Cicogna*, 2080, f. 119.

20. *Cronachetta*, cit., 222; Sanuto, viii, 411–2.
21. Sanuto, xvi, 645–6.
22. Maranini, cit., 42–3.
23. See, for example, Sanuto, i, 275, 303, 338; iv, 249–50 and 338.
24. Priuli, *Diarii*, cit., e.g. i, 211 and 245–6.
25. *Libro d'oro*, pts. vii, viii, ix, passim.
26. Ibid., pt. viii, f. 232.
27. D. Morosini, *De bene instituta re publica*, ed. C. Finzi (Milan, 1969) 94. See also G. Cozzi, 'Domenico Morosini e il *De bene instituta re publica*', *Studi Veneziani*, xii (1970).
28. D. Malipiero, cit., 691.
29. Sanuto, iv, 201–4, 209. Contrary to the expectation of many gentlemen Minio's sentence was not proclaimed in the Great Council, as would have been the normal course, 'o per più teror, o perché non era da meter cause aperte, ma dubiose da interpretar'.
30. Sanuto, v, 388.
31. P. Morosini, '*De rebus ac forma reipublicae venetae*', in G. Valentinelli, *Bibliotheca manuscripta S. Marci Venetiarum* (Venice, 1870) iii, 246.
32. Malipiero, cit., 21.
33. D. Morosini, cit., 113 and 155.
34. Sanuto, iv, 181–182; Priuli, cit., ii, 176.
35. *Libro d'oro*, pt. vii, viii, ix: alterations in the 'promissio' were made on the occasion of a doge's death.
36. D. Morosini, cit., 100, 113–114.
37. P. Morosini, op. cit., 256 and 259. 'Il magistrato degli Avogadori a que' primi tempi fu di grande auttorità et d'incredibile stima: il principale ufficio del quale è la guardia delle leggi, cioè che in parte veruna non si offenda le leggi', wrote Gasparo Contarini, *Della republica et magistrati di Venetia* (Venice, 1630) 91–92.
38. *Cronachetta*, 95 seq.
39. Ibid., 100 seq.
40. *Libro d'oro*, pt. viii, ff. 111 and 112.
41. Sanuto, *Cronachetta*, 170–171.
42. *Libro d'oro*, pt. viii, f. 130.
43. Ibid., f. 184.
44. Sanuto, vi, 137 and 142.
45. Criminal legislation from the fifteenth century on (we have seen an instance in the laws respecting outlaws) bore above all the stamp of the Council of Ten. On the rise in criminality caused by the wars and the misery that accompanied them, see the statute of 22 July, 1475, setting up the institution of 'advocato dei poveri presonieri'. *Libro d'oro*, pt. vii, f. 206.
46. Malipiero, op. cit., 492.
47. Sanuto, iv, 182.
48. Op. cit., 196.
49. Morosini, op. cit., 112–114.
50. D. Giannotti, *Libro della repubblica de' viniziani* in *Opere* (Florence, 1850) ii, 120; Morosini, op. cit., 98.
51. *Libro d'oro*, pt. viii, f. 125.
52. Sanuto, iii, 665.
53. R. Fulin, *Gl'Inquisitori dei Dieci*, in *A.V.*, 1 (1870) 361.
54. Ibid.
55. Sanuto, vi, 133 and 159.

56. G. A. Muazzo, *Storia del governo della Repubblica di Venezia*, ms. in B.M.V., It., VII, 963 (8239); on the procedure of the *avogadori* see D. Giannotti, op cit., 132 seq. and 144–45.

57. M. Sanuto, *Cronachetta*, cit., 100. On the procedure of the Council of Ten, see R. Fulin, op. cit., above all, i (1871) 40 seq. and 361 seq. G. Maranini, op. cit., 455 seq. There is a rapid sketch in G. Contarini, op. cit., 87.

58. Claude de Seyssel, *La victoire du roy contre les Veniciens* (Paris, 1510).

59. Sanuto, xx, 155. A full picture of the situation in the Venetian *dominio* in this period is given in A. Ventura, *Nobiltà e popolo nella società veneta del '400 e' 500* (Bari, 1964).

60. Priuli, *Diarii*, ms. in B.C.V., P.D. 252–c, libro 6° ff. 57, 152v, 383, 400.

61. Ibid., libro 7°, f. 31 (I have taken these details about the situation in Venice from Priuli and Sanuto).

62. 'Schiopeto'. Sanuto, xix, 331.

63. Ibid., xxv, 113 seq.

64. *Diarii*, libro 6°, ff. 64–65.

65. Ibid., f. 462v.

66. Sanuto, xv, 329.

67. Priuli, *Diarii*, libro 6°, f. 344, 9 Aug., 1511.

68. Sanuto, xiv, 109 and 621.

69. Priuli, *Diarii*, libro 6°, f. 466, Aug., 1511. The soldiers were also astonished 'per li modi de li vestimenti chome etiam per la aparentia et presentia loro, et sì per il portar dele arme'.

70. Ibid., f. 226. On the 'nobili da pope' or 'of the galleys', see G. Contarini, op. cit. 130.

71. Sanuto, xxi, 70.

72. In May, 1512, Priuli wrote that the army was costing the Republic 40,000 ducats a month (ibid., libro 8°, f. 74).

73. Priuli, *Diarii*, libro 6°, f. 544v.

74. Sanuto, x, 27. On the sale of offices in Venice – but without reference to the decisions recorded here – see R. Mousnier, 'Le trafic des offices à Venise', now in *La plume, la faucille et le marteau* (Paris, 1970) 387 seq.

75. Sanuto, x, 44.

76. Priuli, *Diarii*, libro 6°, f. 368; Sanuto, xii, 363, refers in detail to the contents of the proposal.

77. Sanuto, xix, 67–70.

78. Ibid., xix, 22 and 83, and xx, 150. On 2 Aug., 1515, there was open talk of the possibility of selling Asolo, xx, 446.

79. Ibid., xx, 451–5.

80. There is an excellent explanation of the electoral procedures used in Venice in Giannotti, op. cit., 114.

81. Sanuto, xxiii, 70 and 317.

82. Ibid., xxix, 530 and 532.

82a. On the religious atmosphere in Venice at this time I limit myself to citing the recent articles of I. Cervelli, 'Storiografia e problemi intorno alla vita religiosa e spirituale a Venezia nella prima metà del '500', and of G. Fragnito, 'Cultura umanistica e riforma religiosa', both in *Studi Veneziani*, viii (1966) and xi (1969).

83. Passim in Priuli's *Diarii*. Sanuto emphasizes this point, though in a less emotional manner than does Priuli. E.g. xvi, 500 seq.

84. Sanuto, xxi, 317, 479, 568.

85. Ibid., xxii, 95–6, 344, 382; xxviii, 516, 554–6.

86. Ibid., xxi, 479.

87. Ibid., xxi, 502; xxii, 84, 223 seq.

88. Ibid., xix, 446.
89. Ibid., xviii, 144 and xx, 40.
90. Ibid., xx, 116, 185–6 and xxi, 147–9.
91. *Cronachetta*, cit., 98–103.
92. Priuli, *Diarii*, libro 6°, f. 128.
92a. A.S.V., *Provveditori sopra monasteri, transunto leggi e capitolari*, B.1, f. 1.
93. Sanuto, xiv, 258 and 473.
94. Sanuto, xix, 141.
95. Priuli, *Diarii*, libro 6°, ff. 206v seq.
96. Ibid., libro 8°, f. 83v and 168.
97. The text of the law referred to here is taken from A.S.V., *Maggior Consiglio, Deliberazioni*, reg. Deda (1503–1521) f. 100r and v.
98. Sanuto, xxiii, 483.
99. Ibid., xxv, 263–4.
100. Ibid., xxiv, 69 seq.
101. Ibid., xxv, 20; xxvi, 243; xxvii, 456–7.
102. Ibid., xxiii, 562 and xxv, 30, 69.
103. Ibid., xxv, 83–4 and xxxi, 60.
104. Ibid., xxiv, 50; xxviii, 250; xxix, 465. It is worth noting certain contradictory features of penal justice which emerge in this period. On the one hand the harshness of penalties; on 3 Aug., 1521, Sanuto recorded (approving the judges' opinion) the first case known to him of a woman condemned to be quartered for premeditated uxoricide and concealment of the body. On the other hand, judgements took insanity into account, though only as an extenuating circumstance: an insane woman, guilty of killing a child who had derided her, was sentenced to life imprisonment after a long debate among the members of the *Quarantia* about the criteria to use in this and similar cases.
105. On the spread of Lutheranism in Venice, see F. Gaeta, *Un nunzio pontificio a Venezia nel cinquecento: Gerolamo Aleandro* (Venice–Rome, 1960) 112 seq. See also Sanuto, xxxiv, 410.
106. An echo of these controversies, and the negative reaction they found among many subjects of the *terraferma* can be caught in one of Luigi da Porto's letters, which reflects the state – and mood – of affairs in that grim period; *Lettere storiche*, ed. B. Bressan (Florence, 1857) 25 seq.
107. For instances of this sort, see e.g. Sanuto, xxix, 45, 192, 206, 256, 282, and xxxiv, 436–7.
108. Ibid., xxix, 297–8 and 468.
109. H. Jedin, *Storia del Concilio di Trento* (Brescia, 1949) i, 151–2.
110. Sanuto, xxv, 356–7; xxix, 45, 192, 256, 282, 316 seq.
111. Ibid., xxviii, 294.
112. Ibid., xxviii, 206.
113. Ibid., xxix, 181–2.
114. Ibid., xxxi, 28–9 and 121–2.
115. Ibid., xxx, 395, 402.
116. Ibid., xxx, 156 seq., 253, 310.
116a. Contarini, op. cit., 102.
117. Sanuto, xxxviii, 377 and xxxix, 24 seq.
118. Ibid., xxxvii, 25 and 216.
119. Ibid., xxviii, 366.
120. Ibid., xxxi, 37.
121. Ibid., xxxvii, 71.
122. Ibid., lv, 37.
123. Ibid., lv, 191.
124. Ibid., xli, 196.

125. Ibid., l, 499.
126. Ibid., xxx, 252, 330 and 299.
127. Ibid., xlvi, 611–2; lxvii, 30.
128. Ibid., xlvi, 611.
129. Ibid., xlvi, 101. For the amount written on the problem of poor nobles by the papal nuncio in Venice, Gerolamo Aleandro, see Gaeta, op. cit., 80. Unfortunately, I was unable to take advantage of B. Pullan, *Rich and poor in Renaissance Venice* (Oxford, Blackwells, 1971).
130. Sanuto, lii, 583.
131. The edicts of Jan., 1521 and Sept., 1523, and Jan. and April, 1534, are in Imbert, *Recueil . . .*, cit., xii.
132. Sanuto, xxxv, 389 and xxxvi, 258.
133. Ibid., xlii, 67.
134. Ibid., xlvi, 641.
135. Ibid., xlii, 317. See also xl, 596.
136. Giannotti, op. cit., 155–6. On the dating of Giannotti's work, *see* R. Starn, *Donato Giannotti and his Epistolae* (Geneva, 1968) 18–19. There are many signs in Giannotti, albeit heavily veiled, of fears about the prevailing influence of money (see 61–2, 84, 88, 126–7). G. Contarini, on the other hand, appears as the spokesman for the new reality of the situation in Venice, e.g. his initial definition of Venice as 'città richissima et abondantissima', and his praise of the Republic for its being ordered for peace and as a place which does not offer nourishment for warlike myths; op. cit., 9, 10–11, 13.
137. Sanuto, xxxii, 96 seq.; xxxiii, 203 seq. And see Giannotti's observations (op. cit., 126) on the decline of the office of *procuratore di San Marco*.
138. Sanuto, xxx, 301.
138a. Ibid., xliii, 235.
138b. Ibid., xxvii, 82.
139. Ibid., xxxvii, 82–3.
140. Giannotti, op. cit., 124–5.
141. Sanuto, xlviii, 300.
142. Ibid., xlviii, 443 and 450.
143. Ibid., lii, 600.
144. *Provveditori sopra monasteri*, cit., B.1, f. 9; Sanuto, li, 147 and l, 495.
145. G. A. Muazzo, in his *Discorso istorico-politico*, cit., f. 191, writes that from about 1470 to 1582 the Senate's authority 'restò in parte offuscata da quella del Consiglio di X con la Zonta'.
146. Sanuto, xli, 664 and l, 368–9.
147. Ibid., liv, 20–1.
148. The most tangible proof of this is that in July 1534 a law of the Great Council made another attempt to attract gentlemen of the highest standing to put themselves forward for election to the *Avogaria*, to this end reducing the tenure of the office, which was indeed an extremely burdensome one, to one year, and guaranteeing that tenure of this office would qualify a man to present himself for the highest honours of the Republic. A.S.V., *Avogaria di comun, capitolari*, reg. 4.
149. Sanuto, xlviii, 88.
150. Evidence of the energy with which many *avogadori* continued to exercise their duties is shown in the protests which papal nuncios continued to bring against them, accusing them of damaging both the secular jurisdiction and ecclesiastical immunities. See the letters of 7 July, 1537, 9 Aug., 1588, 5 Oct., 1540, 9 April, 1541 in *Nunziatura di Venezia*, ed. F. Gaeta (Rome, 1960) ii.
151. Contarini, op. cit., 9.
152. *Avogaria di comun, capitolari*, reg. 4.
153. See Michel de l'Hospital, *Traité de la reformation de la justice* in *Oeuvres inédites*

(Paris, 1825) i, 339 and ii, 274. Francesco Guicciardini, in his *Dialogo e discorsi del reggimento di Firenze* (Bari, 1932) 114 also speaks of the plague of appeals. In England, too, similar protests and similar demands were being raised. In the *Dialogue* between Reginald Pole and Thomas Starkey, written between 1536 and 1538, the English common law is described as 'confused, full of delays which cause suits to be long in decision. Process, therefore, should be made more summary. Similarly, both statutes and the reports of cases are over-many and should be reduced to manageable size by the wisdom of some politic and wise men'. Quo. in S. E. Thorne, 'English law and the Renaissance', in *La storia del diritto nel quadro delle scienze storiche* (Florence, 1966) 437–447.

154. Contarini writes that the authority of the *Auditori*, a magistracy created to control the functioning of civil justice in the *dominio*, is 'molto oscurata e diminuita' because people prefer to trust advocates with the management of their private interests rather than that magistracy. Op. cit., 108–9.

155. Nor was it admitted that a defence could be waived. As has been said, there was an office designed to this end, that of the advocate for impoverished prisoners, but in a case tried in 1530 against the assailant of a noble, the *avogadori* wanted the accused to be defended in the *Quarantia* by one of the most outstanding advocates. Sanuto, liii, 95.

156. In exceptional cases a trial could be reviewed by the Council itself. See the example of Jan. 1531 in ibid., liv, 265.

157. Ibid., xli, 78.

158. Ibid., xlvi, 445.

159. Ibid., l, 417.

160. Ibid., lv, 129, 190. A symptomatic consequence of this state of affairs occurred in 1530 when an *avogadore di comun* had the *Quarantia* arrest a captain of the guard of the Council of Ten; the *capi* of that council hastened to claim that the *avogadori* had no right to intervene because the captain was 'homo sottoposto al Conseio di X'. After discussion, however, the Council disavowed their *capi* so that the *Quarantia* was able to try the captain. Sanuto, liii, 269.

161. *Avogadori di comun, capitolari*, reg. 4.

161a. Sanuto, lv, 18; lvi, 76–8 and 845; lvii, 584 and lviii, 247. Luigi da Porto who, as we have seen, expressed the moods of Venice and the *dominio* in the years before the Peace of Bologna in his *Lettere storiche*, devoted a letter to expounding the conflict between *nobili* and *segretari*. The latter accuse the *nobili* of keeping power exclusively in their own hands and claim that it is only right that they alone should pay the expenses of a war as they alone decide on it and derive 'l'utile e l'onore' from it. The *nobili* reply that the true beneficiaries of the present state of affairs are the *segretari*, for to all intents and purposes they are the owners of their offices, from which they draw a large and secure profit, while the *nobili*, because of the rotation of their offices, live in constant uncertainty – and they add that because of the long tenure of their offices the *segretari* do, in fact, possess the effective power. Op. cit., 128 seq.

161b. For stimulating *aperçus* on the progressive extension of banditry in the Mediterranean area see Fernand Braudel, *La Mediterranée et le monde Mediterranéen à l'epoque de Philippe II* (Paris, 1949) 643 seq.

162. Sanuto, xxxvi, 121.

163. Ibid., xxxvi, 127 seq.

164. Ibid., xxxvi, 408.

165. A.S.V., *Cinque savi alla pace, capitolari*; Sanuto, xxxviii, 339 seq.

166. Ibid., xliii, 502.