

# 2021-22 / LESSON 13 / 2021-11-11

## Later Middle Ages -- ~1000-1492 ce/5

### 1181

The *promissio maleficiorum* by Orto Mastropiero includes the discipline of the crime committed by a public officer (e.g. a gastaldo) who receives payment for his services by the Comune, but omits to perform them. If found guilty, he must repay to the Comune the sums he had received (*restitutio in integrum*, reinstatement) plus an equal sum for damages; this restores the economic loss suffered by the Comune as the victim of misappropriation. In addition, however, the condemned party owes to the Comune a fine, which is not a form of restitution but a public penalty for breaking the law. Carceration ensues for a maximum of eight days, within which term the prisoner must pay to the Comune the whole amount due. Only if he cannot procure the money he is subjected to corporal punishment.

### 1185

Legislative deliberation, in the form of a *promissio* by the doge, adding to the former rule of law: the elected magistrate who will not assume his office within three days after the election will be forbidden to assume any public office in the future, unless the Minor Council judges that there is serious and unavoidable reason for the omission.

The institutions taking part in this deliberations are as follows:

- the doge;
- the *iudices*, long since collaborating with the doge in the drafting of proposals;
- the *sapientes*, first mentioned as delegates of the *placitum* in the law of 1143;
- the *placitum* itself, which is informed of the new rule of law and approves its tenor;
- the earliest magistrates: five Avogadori di Comun (*Advocatores*, attorneys, who support the right of the Comune on public land against usurpations by monasteries or private persons) and two Camerlenghi di Comun (*Camerarii*, treasurers, who collect the sums due to the Comune as taxation, customs duties, fines, etc., and pay out the sums for the expenses of the Comune in the public interests, e.g. public works on infrastructures, etc.).

The document is written in the form of a deed of unilateral promise (*cartula promissionis*) and signed by a subdeacon acting as public notary.

[http://www.arielcaliban.org/PX\\_refused\\_appointment.pdf](http://www.arielcaliban.org/PX_refused_appointment.pdf)

## **~1185?**

A very short time later, it seems that the introduction of the Minor and Major Council took place, both elected and presided by the doge. Their functions are respectively of calling the sessions, listing the agenda and drafting proposals (Minor Council) and of discussing and voting deliberations (Major Council). The members of the Minor Council and the doge take part like the other members in the discussion and vote during the sessions of the Major Council, with no special privilege.

This decisive step toward representative government is aimed at a wider and more involved participation of the people to decision making, in consideration of the small number of citizens actually coming to the gatherings of the *placitum*; the elected members of the Councils indeed are bound under criminal penalties to take active part in all the proceedings.

The procedure for the election of the members of the Minor and Major Councils, as well as the magistrates instituted so far, is stated in a law of 1207.

***I am here breaking the chronological order so that the topic of the elections may be discussed in its entirety.***

## **1207**

Electoral law, legifating constitutional custom about the composition and election of the Councils.

The electoral base are the 35 *trentaciè* (districts for military conscription or for the collection of the exemption tax with which mercenaries were hired during the wars against the Western Empire. The choice of organising the elections according to military districts harks back to the concept of the *placitum* as the assembly of the army.

Every year on St. Michael's day, September 29, when most merchants are back in Venice for winter, 3 *trentaciè* in turn elect one elector each; these 3 electors in turn elect the members of the Councils and magistrates.

The procedure is aimed at a form of staggered territorial representation by turns.

Minor Council = 6 members (one for each *sestiere*) presided over by the doge;  
Major Council = 35 members (one for each *trentacià*) presided over by the Minor Council, for a total of 42 elected members.

Aggregation of the magistrates, adding to the number of the members admitted and indeed due to take part in the sessions of the Major Council.