THE CAPTAIN OF THE PEOPLE IN RENAISSANCE FLORENCE

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The Renaissance Florentine Captain of the People began as a court, which defended the common people or *popolo* from the magnates and tried crimes such as assault, murder and fraud. This study reveals how factionalism, economic stress and the rise of citizen magistrate courts eroded the jurisdiction and ended the Court of the Captain. The creation of the Captain in 1250 occurred during the external fight for dominance between the Holy Roman Emperor and the Pope and the struggle between the Guelfs and Ghibellines within the city of Florence. The rise of the Ciompi in 1379, worried the Florentine aristocracy who believed the Ciompi was a threat to their power and they created the Otto di Guardia, a citizen magistrate court. This court began as a way to manage gaps in jurisdiction not covered by the Captain and his fellow rectors. However, by 1433 the Otto eroded the power of the Captain and his fellow rectors.

Historians have argued that the Roman law jurists in this period became the tool for the aristocracy but in fact, the citizen magistrate courts acted as a source of power for the aristocracy. In the 1430s, the Albizzi and Medici fought for power. The Albizzi utilized a government mandate, which had the case already carried out or a *bullectini* to exile Medici adherents. However, by 1433, the Medici triumphed and Cosimo de Medici returned to the city of Florence. He expanded the power of the Otto in order to utilize the *bullectini* to exile his enemies. The expansion of jurisdiction of the Otto further eroded the power of the Captain. Factionalism, economic stress and the rise of the citizen magistrate courts eroded the power of the Captain of the people.
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CHAPTER 1

Introduction

The legal system of Florence in the fourteenth and fifteenth century was anything but simple. One of the main goals of the legal system was to stop rival factions from taking power. In order to prevent competing factions from influencing legal officials of the commune required the legal officials to be foreign, that is from an Italian city-state. These rectors changed every six months and at the end of their term, the commune held them accountable for any misconduct.\(^1\) Florence had three foreign rectors: the Podestá, the Executor of Justice, and the Captain of the people. They brought their own officials and presided over criminal and civil cases. Each office had its own jurisdiction, although later the offices shared some responsibilities. The rectors held slight knowledge of local law but understood Roman and common law. The Podestá was the first rector and for many Florentines he represented the aristocracy. Feelings of dissatisfaction with the Podestá and the Emperor led to the creation of the Captain in 1250.\(^2\) The Captain represented the desire of the *popolo* or artisans and common people for a change in the way in which justice and government were structured. The purpose of this study is to illustrate that political factionalism, economic stress and the rise of citizen magistrate courts eroded the jurisdiction of the foreign rectors specifically, the Captain of the People. In order to determine how these factors affected the Captain's jurisdiction a study of his creation, Ordinary, Political, and extraordinary jurisdiction is needed.

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\(^1\) The Podestá originally held office for one year but by 1290, he and The Captain of the people held office for six months. Andrea Zorzi, "I Rettori di Firenze Reclutamento, Flussi, Scambi (1193-1313)," in *I podestà dell'Italia comunale* (Firenze: L.S. Olschki, 1988) 459.

The Captain began as an official whom the *popolo* could trust to give them a proper trial and protect them from the magnates or feudal aristocracy. They believed the Podestá sought to represent the magnates and would not give them the justice they thought they deserved. Especially after the Emperor Frederick II instated his son as Podestá, the *popolo* knew this official did not have their interests in mind. The court system was an integral part of the city, managing everything from petty theft to political crime and tax defaulting. Studying the court records helps to determine the state of the commune politically, economically, and socially. This as well as court records in this sample demonstrate that the Captain’s ordinary and extraordinary jurisdiction remained under his control in the period from 1429-1434. However, his jurisdiction over political crime was eroded by factionalism, economic stress and the rise of citizen magistrate courts in this period. The Court of the Captain records for this study ranges from 1429-1434. This period was not a time of stability in Florence. The Albizzi family gained power within the government and exiled their rivals, the Medici, from Florence. Due to several pivotal miscalculations by the Albizzi, the Medici returned to the city within a year of their exile. Further, the commune was at war with rival city-states Milan and Lucca, which bankrupted the city.

There are several primary and secondary sources pivotal to the study of the Captain. These sources help to depict how factional conflict, economic stress, and the rise of citizen magistrate courts affected the jurisdiction. The primary sources, including Podestá literature, chronicles, statutes, court cases and catasto, demonstrate several things about the Captain. The Podestá literature depicts that he was a political official of the commune. The chronicles demonstrate the ways in which, factionalism plagued the commune and foiled any solution to
end the constant infighting. The statutes explain what the commune defined as the Captain’s jurisdiction. The court records provide are most sensitive to changes in jurisdiction they show the way the law actually works, they particularly show the way in which factionalism affected the Captain's jurisdiction. Finally, the Catasto provided a way to look up the names of defendants who appeared in the Captain’s court.

The secondary sources also help to illustrate the way factionalism, economic stress and citizen magistrates affected the jurisdiction of the Captain. Lorenzo Cantini in his book Saggi istorici d’anticha Toscanne, provides primary documents, which outline the original jurisdiction of the Captain. This is important in determining how the Captain’s jurisdiction was affected. Secondly, Politics of Law in Late Medieval and Renaissance Italy provides articles on the relationship between the lawyers and the commune. In addition, it demonstrates some ways that treason, factionalism, and citizen magistrate courts affected the Captain. Massimo Vallerani in his book Medieval Public Justice describes how Bologna and Perugia conducted their legal system.³ In these two cities their procedure of inquisition and accusation evolved together whereas in Florence, inquisition procedure took precedent. This had a big effect on the judges and rectors. Francesca Klein in her book Scritture e governo dello stato a Firenze nel Rinascimento: cancellieri, ufficiali, archivi, highlights the change in bureaucracy, which indicates that, not only was factionalism affecting the legal system, but the government in general. Randolph Starn’s book, Contrary Common Wealth, illustrates that the commune

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struggled with how to handle those in exile and the procedure of exile cases. These people often, political exiles, who tried to disrupt the government in Florence in support of the political faction. Lastly Andrea Zorzi’s article, "I Rettori di Firenze Reclutamento, Flussi, Scambi (1193-1313), much like that of the Podestá literature demonstrates the Captain was a political figure and that he eventually shared duties and jurisdiction with the Podestá. All of these sources help to define who the Captain was and that political factionalism, economic stress and the rise of citizen magistrate courts affected the jurisdiction of the Captain.

Chapter two will provide an overview of the history of the Captain, specifically how he fits in with the factional chaos of the commune. This overview will cover the beginnings of the Captain up to the rise of the Medici, divided into five sections starting with the foundation of the Captain 1244-1270. The Captain came to power in the chaos of the internal factional conflict between the Guelfs and Ghibellines and the external fight for dominance between the Holy Roman Emperor and the Pope. The popolo or people rise up and create the office of the Captain of the people creating a city within a city. Charles of Anjou, nephew of the Pope, comes to Florence by the Pope’s request and rules for ten years. He ends several offices in Florence including the Captain. The second section will discuss the return of the Captain 1270-1300. In this period, the office of the Captain revived after it is determined that a peacekeeper must come and settle the disagreements between Guelf and Ghibelline. The Pope sent his nephew, Cardinal Latino, and he managed to get both sides to agree to the establishment of the Fourteen, which consisted of eight Guelfs and six Ghibellines which would have an even distribution of Guelfs


and Ghibellines. He further established a new jurisdiction for the Captain including a term of service reduced from a year to six months, new titles Conserver of the Peace and Defender of the Guilds as well as criminal, civil jurisdiction and the treasury.\(^6\)

The next section discusses guild power and the manner in which the guilds affected the Captain. Here the Ordinances of Justice are created to dilute the power of the magnates. The Captain as Defender of the Guilds enforced the Ordinances by presiding over cases in which magnates attacked *popolani*. These Ordinances assisted the rectors in enforcing law and order. Section four, addresses the impact of limiting magnate power on the Captain 1300-1415 and the impact of the statutes on his jurisdiction. The limits on magnate power did not end factionalism within Florence. In 1300, the Guelf party gained power and split into two, white and black.\(^7\) Violence again erupted and Charles of Valois and the Pope became involved with Men from the White Guelf Party. Florence then experienced a period where they willingly surrendered power to three different men, who ruled the commune from 1302-1343.\(^8\) This did not last long and the commune began to create a system of government, which was not good for long-term policy but would help to rid corruption. In all of this chaos, the statutes of 1322-1325, this further defined the jurisdiction of the Captain and the other foreign rectors, and set the number of officials the rectors could have. It also granted the Captain his jurisdiction to protect political rights and execute the judicial decisions of the guilds.

The Captain had his jurisdiction defined again in 1415 and it was not a peaceful time. These statutes would be the last time the commune defined the jurisdiction of the foreign rectors.

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\(^6\) Cantini, *Saggi Istorici*, 218.


\(^8\) Najemy, “Dante and Florence,” 87.
This is due to the growing power of the Otto di Guardia, a citizen magistrate court created after the uprising of the Ciompi in 1378. The Captain’s jurisdiction changed mostly becoming a shared jurisdiction with the Podestá and Executor. The final section will entail the rise and fall of the Albizzi as well as the rise of the Medici 1415-1434. This period for the Captain and the foreign rectors is more chaotic than before. Here the Albizzi rise to power and exile the Medici by utilizing government mandates or bullettini to exile Medici adherents. The Captain, who previously fought against the use of the bullettini in this period, does nothing to stop this process. Further, once Cosimo de Medici comes to power he expands the jurisdiction of the Otto di Guardia in order to carry out the exile through bullettini of all of the Albizzi adherents. This demonstrated by the Captain's jurisdiction over political crime.

Chapter three discusses ordinary crime from a sample of Court of the Captain records from 1429 to 1434. The Captain received cases of Ordinary crime through inquisition and accusation procedure. By 1429, the preferred procedure was inquisition, which allowed the judges more power in criminal cases. They no longer had to wait for accusations to come to them. The statutes of 1415 allowed the Captain the power of arbitrium and he could now utilize his own interpretation of the statutes with measures such as summary procedure and public fame, which provided a check on the rectors. The Captain issued citations to the accused and they had several options: flee, deny, confess or get an exception. Those who chose to flee were condemned but not banned; if they still refused to appear in court then the court banned them. The court utilized Roman law complemented with statute law and the ius commune. If the rectors did not follow this procedure, the commune fined them after their term of service. This

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regulation was called syndication, which the Florentines implemented due to their inability to trust their foreign rectors.

Ordinary crime involved several different kinds of crime including assault, theft and debt. When comparing these cases to previous studies of earlier periods, such as Kohler and Azzi’s study of Captain cases 1344-1345, the most common similarity is the level of violence.11 Men attacked each other with broad swords, knives and lances. Further, the consistency of the manner in which the cases from this sample are written compared to Kohler and Azzi’s sample is noteworthy. The wording in the 1344-45 cases is close to that of the 1429-1433 cases. This exemplifies that the Captain and his notaries kept to the procedure beginning with the praising of God, names of the officials, the charges and condemnation of the defendant, details of the crime and then sentence. Some cases of course were more detailed than the rest. For example, one case gave the gory details of a graphic beating from the beginning of the attack to end, The Captain received violent assault cases, including beatings, and an attempted murder by a husband and wife. One of the beatings tried initially in the court was later also tried by the Captain due to the death of the victim while the offender was in prison.

The theft cases of the Captain were normal for the period. His cases included a man who frequently stole things and the judge only sentenced him to a fine since he stole things he needed. However, in a case involving the theft of gold the penalty was harsher due to the possible affects this crime could have on the gold trade. The debt cases contain nothing irregular. He has a case of a serial debtor who constantly borrowed money and never paid it back, which resulted in several appearances before the court. This later got him in trouble and a fellow citizen beat him.

Comparing all of these cases with previous cases of rape, fraud, and assault illustrate that up to 1429 the Captain’s jurisdiction remained the same. I found by looking at previous cases and the sample from 1429 to 1434 that the factional conflict of the commune did not affect his jurisdiction over ordinary crime in this period.

Chapter four covers the Captain’s jurisdiction over political crime. The Captain and his fellow rectors had the ability to try political crime. Similarly, to ordinary crime, the Captain could receive political crime as an accusation but inquisition procedure in this case was used more often. The Captain arrested for crimes such as treason or sedition, fraud and the inciting of rebellion on certain occasions. The procedure in political crimes was much that in like ordinary crime. The cases began with the praising of God, the listing of officials, the name of the defendant, the name of the victim, the details of the crime and the sentence. If the case had a bullectini then the procedure was different. This mandate came from the executive part of the government and the sentence was already determined. The foreign rectors were expected to follow through with this mandate. Initially in 1379 when the commune demanded the Captain put several Ciompi conspirators to death, he refused and the government put the men to death themselves. However, by 1433, the Captain received several bullectini that demanded he exile Medici adherents and the Captain follows though without complaint.

The Captain received a case in 1433, which involved the French aristocracy. The Duchess of Bourbon needed funds to ransom her husband from English prison. Buonaccorso reveals in his diary that the Florentine elite and French aristocracy had a symbiotic relationship,

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12 Statuta Popoli et Communus Florentiae (1415 ) Liber III, I.
which indicates that the case that seemed out of place before was a relatively normal request. The cases, which came to the Captain, as a mandate from the government, involved the *bullectini*.

Treason in Roman law has been difficult to define. Baldus Ubaldis the Roman law jurist described treason with in the commune as sedition, which falls under the *laesa maiestatis*.\(^{15}\) This vagueness of the treason law allowed those in power to manipulate the law in their favor such as with the *bullectini*. This manipulation began with the creation of the citizen magistrate court the Otto di Guardia after the Ciompi revolt in 1379. The Otto began as a court that filled in the gaps the foreign rector’s jurisdiction did not cover. However, by 1420, the government expanded the jurisdiction of the Otto and by 1433, they began to override the sentencing power of the Captain.\(^{16}\) After the rise of the Medici, the Otto would reach the height of their power and would handle cases, such as gambling, which the statutes clearly outlined, as part of the Captain’s jurisdiction.

The *bullectini* had legal uses in the case of tax defaulting. Previous studies have found that the commune did not utilize the *bullectini* very often. However, the sample of cases from this period clearly exhibits a different pattern. The Florentine commune issues the *bullectini* twenty-one times. Most of them are used in tax defaulting cases. What this illustrates is the economic straits of the commune. The record contains Florence’s richest residents who refused to pay or could not afford to pay.\(^{17}\) The constant wars took a toll on everyone including the wealthy. The other five *bullectini* were issued in two cases of *relegati* or relegation, one case of extraordinary crime and two in ordinary crime. I found through looking at the rise of

\(^{15}\) Fredona, "Baldus de Ubaldis," 154.


\(^{17}\) Molho, *Florentine Public Finances*. 
factionalism between the Florentine families, government interference through government mandates or *bullectini* and the rise of citizen magistrate courts the Captain’s jurisdiction was seriously affected. The Captain no longer served the people as their defender but as the tool in some political cases.

Chapter five discusses the Captain’s jurisdiction over extraordinary crime in which included carrying prohibited arms, playing prohibited games and breaking curfew. Procedure for these types of crime was different from the others. The offenders were caught in the act of committing the crime. The Captain’s *milites* or police officers brought the offender to the Captain’s Notary of the Capsa. The notary assessed the fine and required the offender to pay. If they could not pay, the notary held them for a while and if they still did not pay they then went to prison until they paid. The commune believed that in this case a trial was not needed since the offender was caught in the act of committing the crime. In this sample, the most common type of crimes citizens committed was playing prohibited games or gambling. The statutes themselves demonstrate this with a sharp increase from the statutes of 1322-1325, which included one statute about gambling to thirteen in the 1415 statutes. There were also a few instances of breaking curfew but no examples of carrying prohibited arms.

These cases provide very little in details. The notary wrote down the day of the crime, the name of the defendant, the crime he committed, the fine and sometimes the name of the *milites* who arrested the offender. There is one case in particular where a man was arrested for blasphemy, heresy, playing prohibited games, and murder. The odd part of this case was the charge of heresy. The *milites* were not required to arrest for heresy and it is unclear as to why.

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found that factionalism and the rise of citizen magistrate courts did not affect the Captain’s extraordinary jurisdiction in this period. There was one instance of bullectini but it is not until the 1460s when the Otto reached the height of their power that the Captain’s jurisdiction was usurped by the citizen magistrate courts.¹⁹

I found that factionalism, economic stress and the rise of citizen magistrate courts affected some aspects of the jurisdiction of the Captain. His jurisdiction over extraordinary and ordinary crime stayed relatively consistent in this period. The commune did not yet see the need to interfere in this aspect of the Captain’s jurisdiction. In the case of political crime, the government felt the need to interfere. The Florentines did not trust their foreign rectors to carry out sentences and wanted to take power into their own hands. These rectors came from surrounding city-states and anyone who was not Florentine was considered foreign. The rise and fall of the Ciompi in the late 1300s provided the elite with a perfect excuse to implement citizen magistrate courts, specifically the Otto. As time passed and the powerful Florentine families began to establish their power, the government passed provisions to give the Otto expanded power. When Cosimo de Medici came to power, he further expanded their jurisdiction in order to implement bullectini and exile his enemies. The Medici dissolved the court of the Executor and after this the office of the Captain and Podestá went into decline, ending in 1502.

Literary Review

The existing material about the Captain is not as extensive as that of his counterpart the Podestá. The Podestá appears in chronicles and other primary documents such as the Oculus Pastoris, which characterizes him as a political figure giving speeches and presiding on councils.

Due to the limited accounts about the Captain other documents must be consulted to determine who the Captain was as an official and how his jurisdiction evolved over time. These documents include court cases, statutes and the 1427 Catasto. The secondary literature is also not as extensive. When the Captain is discussed he is not the central figure of the study being conducted such as, Andrea Zorozi's article, in which the Podestá is the focus. This study of the Captain compiles these sources together with the primary documents to determine who the Captain was as an official and how factionalism, economic stress, and the rise of citizen magistrate courts affected the jurisdiction of the Captain.

In order to conduct this study of the Captitano del popolo or Captain of the People there are five kinds of primary source documents which are pivotal: Podestá literature, chronicles, court cases, statutes and the 1427 Catasto. The *Oculus Pastoris*, which is part of the Podestá literature, is useful in this study of the Captain. This document discusses the various models of speeches given by the Podestá. The Podestá gave these speeches in front of the councils, which proves his importance as a political figure. These speeches included subjects such as syndication, war, morality and civil discord. The rector’s speech about syndication exemplifies that the people did not trust the foreign officials. He had to prove to the people that he held good intentions for the commune. For example, a case from 1382 involved a Captain who abused his power by taking bribes. This elucidates that their concerns held merit and that they would not hesitate to hold the rector accountable through syndication. The Podestá had a reputation to uphold to the people and was expected to maintain order. The requirement he speak about civil discord shows that the Podestá was aware of his responsibility to prosecute political crime. The Captain too prosecuted political crime.
The *Oculus* provides insight into what the people expected of their rectors. After the commune chose the Podestá it required him to speak about what he would do while in office. He promised to protect the city from crimes and not leave a crime unpunished. Further, he promised that he would receive all petitions no matter who brought them to his attention. The moral speeches illustrate the issues the commune expected him to manage. Specifically, the moral speeches said that he should not be inclined to the left or the right but should bring peace to the commune. In other words, the Podestá must make decisions according to the law and not bend to his own political beliefs. One of the last issues the Podestá spoke about was faction. This demonstrates the commune’s attempts at ending faction.

Terence Tunberg describes the *Oculus* as more of a guideline than actual rules, classifying it as a treatise of political theory. Tunberg discusses a few other similar works on the Podestá. *Liber de Regimine Civitatum* by John of Viterbo, which was completed in 1264, is a handbook on governing an Italian city-state listing their purposes and types of officials. The *Oculus*, according to Tunberg, is a better source on the Podestá due to the level of detail it provides. Secondly, he writes Viterbo stresses the importance of morals such as the qualities a leader should have. He lists a few other documents *Li Tresors* by Brunetto Latini, a poem *De Regimine et Sapienta* and *Potestatis officius* of Lodi which he writes are similar in nature to the *Oculus* in meaning but do not provide the same level of insight. The *Oculus* provides insight into the requirements for being a foreign rector, which makes it important for the study of the Captain.

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20 Terence Tunberg, “Oculus Pastoralis,” (Thesis, University of Toronto, 1987. 1. Tunberg cautions that even classifying it as political theory can be problematic because people may then conclude the document is planned or inadequate treatise on government. This is an important factor to consider when looking to the document as an instructional guide for not only the Podestá but for other public officials including the Captain.
Chronicles and diaries are the next important source utilized in this study of the Captain. Giovani Villani in his *Florentine Chronicle* describes the origins of the city of Florence all the way to the death of Dante Alighieri in 1321. Giovanni was born in 1277 and began his career as a merchant. Later he became politically enfranchised as part of the bankers' guild. In his later years after his release from prison for debt, he wrote his chronicle in 1338. Villiani contributes to the study of the Captain through his depiction of the creation of the Captain. His contemporaries tend to focus on other aspects or not mention it at all. The downside to Villiani’s chronicle is that he wrote about these events after they occurred. Villiani’s contemporary, Dino Compagni, is similar in that he also writes his account later in life but he primarily focused on the conflict between the Guelfs and Ghibellines. He, like Villani, was a member of a merchant guild. What also separates Compagni from Villani was his role in politics. He served as a consul in his guild, assisted in the establishment of the priorate, the formulation of the Ordinances of Justice, and the revision of the statutes. His chronicle is significant in that it illustrates how people felt about their legal system and the implementation of the Ordinances of Justice, which all helps in understanding the political atmosphere the Captain and other foreign rectors had to manage. Compagni’s and Villiani accounts provide an excellent depiction of the chaos that occurred in Florence during their lifetime.

Buonaccorso Pitti wrote a diary of his experiences from 1412-1422 in Europe and within the city of Florence.\(^{21}\) He spent much of his time in Europe, which is useful in understanding the relationship between the aristocracies in other parts of Europe and the Florentines. Pitti when travelling abroad often gambled with the aristocrats of France. He borrowed money from them.

when he lost and often lent them money when he won. This portrays the kind of relationship they shared. Besides gambling, he assisted some of the French dukes in trying to fix the Great Schism. He does not mention why he was involved but again this demonstrates how deeply involved the French and Florentines were with one another. These events help to explain why the Captain received a case in 1433 involving the duchess of Bourbon.22 Pitti’s account also sheds some light on the political life of the aristocracy. He served as Captain of the People and Podestá in Pistoia and in a few other city-states. As Captain of Pistoia, he was presented with the dilemma of following his oath or doing what Florence asked him to do. His account is significant in several ways. He, unlike other chroniclers, was part of the aristocracy and held higher political offices. Secondly, he provides insight into the way in which the Captain operated under pressure.23 Lastly, he indicates that for the wealthy gambling was an accepted part of their life but for the rest of Florentine citizens this kind of behavior was not, which is apparent in how often people are arrested for this crime.

The third kind of primary document in this study is the Florentine statutes of the Podestá and the Captain. Important statutes that I have examined are the statutes of 1322, 1322-1325 and 1415. They describe the officials, jurisdictions, election and other duties of the rectors. For example, the statutes describe what the Captain is required to do when his policemen arrest an individual for gambling. Primarily for this study the focus will be on the statutes dealing with ordinary crime, extraordinary crime, and political crime. The final primary source of importance

22 A condemnation, which involved the commune lending money to the Duchess in order to release her husband from prison in England.
23 As Captain of Pistoia Pitti the commune of Florence requested he return a thief to the commune of Florence were he would be tried under the Florentine legal system. Pitti initially refused to do this because he believed it went against his oath as Captain. Florence threatened him with exile from the city, which he said he was willing to endure. One he met with the Pistoians they appreciated his attempts to protect their rights but to proceed in complying with the demands of the Florentines. Buonaccorso Pitti, *The Memoirs*, 62-64.
is the court records. The sample of cases used range from 1431-1434 with a focus on the condemnations, which provide a summary of the case. The court cases contain criminal condemnations, information on jurisdiction, oaths of office, and infractions of the tax courts or tax defaulting, banning and extraordinary crimes.\textsuperscript{24} Originally the cases' purpose was to illuminate what the kinds of cases the Captain managed by 1433. However, 1433 is a year filled with political strife, meaning the cases also reflect what is going on within the government, which magnifies their importance to the study of the Captain.\textsuperscript{25}

The Catasto of 1427 provides a mass amount of information about the citizens of Florence. After, other forms of taxation did not work the Priors of Florence implemented a new tax survey that applied to citizens and inhabitants of the surrounding contado or countryside. This source complements the court records especially when trying to determine the names of the participants in cases. The online record allows a search by name, surname, patronymic, age, and sex. The record provides the amount of taxable income, private investments, real estate, deductions, marriage status, age, trade, sex and the number of mouths they had to feed. This source is important in understanding the people involved in the court cases.

These primary source documents highlight several aspects of the Captain which have not been compiled together in previous studies of the Captain. Firstly, that the Captain and other rectors were expected to be the ideal politician. Secondly, what was expected of the Captain as an official and the factional chaos that he experienced. Thirdly, how his jurisdiction compared to the statutes of the commune.

\textsuperscript{24} Civil court cases are also part of the record but not used in this study of the Captain.
\textsuperscript{25} These cases occur during the internal struggle between the rival families of the Albizzi and the Medici. This will be discussed in more detail in later chapters.
Secondary sources

There are five secondary sources of importance to the study of the Captain. Firstly, Lorenzo Cantini is a transitional figure with his book *Saggi Istorici d’antica Toscane*. He compiles his study in 1796 and is nostalgic about the past. He wants to preserve native Italian history and fears it will disappear especially after Napoleon arrives in Italy.\(^\text{26}\) The manner in which he approaches the slow disappearance of Italian officials places him with the primary chronicle writers. However, with his complement of documents from the Florentine archives he is considered a secondary source. Further, he marks the beginning of historians going into the archives to find source material. He includes a treason case from 1302. This case tries several white Guelfs in the court of the Captain.\(^\text{27}\) The men are condemned for treason with their goods confiscated and loss of their castles. The case was brought to the Captain by inquisition and tried summarily. This case illustrates that the commune brought the White Guelfs before the Captain not just the Podestá. Cantini further outlines the jurisdiction of the Captain including his power of criminal and civil jurisdiction.

The next source of importance is *The Politics of Law in Late Medieval and Renaissance Italy*, which contains a compilation of articles, provides some of the most recent information to

\(^{26}\) Lorenzo Cantini, *Saggi Istorici D’Antichita Toscane*, (Florence: Albizziniana, 1797), Lorenzo Cantini worked as a lawyer in Florence and cultivated his passion for the history of Tuscany. He gave lectures on the historical and legal background of Tuscany. Later in his career, he focused his attention on the study of Tuscan sources and dedicated himself to research in libraries and archives. He is a witness to the disappearance of the Italian culture. He writes of the antiquity of Tuscany and may not always be objective but is important as an example of renewed conception of historiography. “Lorenzo Cantini,” Storia di Firenze Il portale per la storia della città, accessed April 2015. [http://www.storiadifirenze.org/storici/cantini-lorenzo](http://www.storiadifirenze.org/storici/cantini-lorenzo). Napoleon Bonaparte arrived in 1796 breathing enthusiasm for republican institutions and welcomed as liberator. They believed Napoleon was the solution to their problems and many liberals at the time were attached to French culture. However, after 1805 government began to resemble enlightened monarchy of the eighteenth century. Their culture more nearly resembled that of French culture more than any other country Napoleon conquered and this upset men like Cantini and inspired them to document their history. Owen Connelly, *Napoleon’s Satellite Kingdoms* (New York: The Free Press, 1965), 23-28.

\(^{27}\) This is interesting because Dante was tried in the court of the Podestá. It is unclear why the commune did not require Dante to appear before the Captain as well. Randolph Starn, *Contrary Commonwealth: The Theme of Exile in Medieval and Renaissance Italy* (Berkeley, University of California Press: 1982), 64.
come out on the Captain and legal officials of the commune. The first article written by Julius Kirshner discusses the previous work by Lauro Martines particularly, his *Lawyers and Statecraft*. Martines concluded that the lawyers, due to their status represented the aristocracy in their legal decisions. Further, he argues the lawyers utilized the *concilia* to increase state power. I believe that the creation of the citizen magistrates such as the Otto di Guardia would later be used to override the power of the Roman law lawyers and foreign rectors. This explains the desire of the lawyers to be honest brokers of the law, not tools of oligarchs and dictators.

Sarah Menzinger in her article looks at three cities: Perugia, Bologna, and Siena. The lawyers of these three cities enhanced their power by utilizing the *concilia sapientes*. The *concilia* allowed the lawyers to assist the rectors by ensuring that the rulings given by the Captain and the other rectors did not contradict the statutes or their oaths. The rectors desired this because they wished to reach the correct judgment and they wanted the commune to pay them for their services. They did not wish to be caught in syndication and this helped them to stay fair to the *popolo*. She writes that the lawyers insisted Florence keep to their treaties with other city-states. Sometimes they supported the subject city-states such as in the case of Pistoia. Florence wanted to enforce taxes on Pistoia after agreeing in their treaty not to tax them. The lawyers ruled in favor of Pistoia holding Florence to their original agreement.

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28 Julius Kirshner,” A Critical Appreciation of Lauro Martines’s *Lawyers and Statecraft* in Renaissance Florence “ in *The Politics of Law in Late Medieval Renaissance Italy* ed. Lawrin David Armstrong and Julius Kirshner (Toronto: University of Toronto Press, 2011), 29-30. This concept was also present in Sbriccholi’s *Interpretatione delle statuti*, which claims that the lawyers did interpret the statutes to help the aristocrats bending to the will of tyrants and oligarchs in the fifteenth and sixteenth century.

Menzinger further argues that the *popolani* use the lawyers often, which demonstrates they believed the lawyers represented the law and that the law would protect them. Menzinger also looks at the change of the Roman law jurists from the creation of the commune through their participation within the commune. She writes that the Podestá gained judicial power and pulled the lawyers into collective participation. This occurred in Perugia through their use of the *concilia*. The rectors asked for the opinions of the lawyers often and this is important to the growth of the commune. In Siena, they had an office of lawyers who gave advice to the *popolo*. These examples further illustrate that the lawyers desired to uphold the law and did not always bend to the pressure of the nobility. She points out that the lawyers in these communes distanced themselves from the aristocracy and people believed the Roman law helped rule the commune.30

Robert Fredona’s article discusses the opinion that the commune could not handle the *laese maiestas* or high treason cases.31 *Laese maiestas* speaks of the majesty of God, the emperor, the Roman people and the king. Cities are in essence private persons and parties such as the Guelfs are factions, therefore, they are subject to a superior and do not possess maiestas. However, they can charge individuals with sedition. The famous Roman law jurist Baldus de Ubaldis agreed, stating those who conspire, betray, or overthrow the government of a city to wage war against it through an act of conspiring, causing tumult, waging war, or occupying territory.32 He discusses how these issues fueled the conflict between the court of the Captain, Executor, and the executive branch. Fredona details a plot to bring the Ciompi back to power in 1379. The executive branch approved a citizen commission to try the Ciompi conspirators with citizen magistrates. The executive branch wanted the political judgment of the citizen courts

30Sara Menzinger, “*Consilium sapientum,* “ 51.
31 Robert Fredona,” *Baldus de Ubaldis.*”
instead of the foreign rectors. They asked the rectors to behead fifty conspirators and the foreign rectors refused to do this. The Signoria carried out the sentence through a guild commission. This personifies that the rectors did not cater to political pressure and would follow their oaths. However, by 1433, cases are brought to the Captain as *bulletini* or already decided cases with little to no resistance from the rectors.

Francesca Klein in her book discusses the changes in the executive bureaucracy from 1293 to 1532 created by the rise and fall of political groups. She details important developments, such as the rise of the priors who began taking power away from the foreign rectors.\(^{33}\)

Previously, the rectors convened with the councils, presided over them, proposed legislation and executed sentences.\(^{34}\) The priors originally proposed legislation and the chancellor of Florence became important redactor of council records.\(^{35}\) After 1429, secret councils or the *pratiche* dominated the government and took power away from the priors to propose legislation.\(^{36}\) The practiche later becomes the instrument of the Medici by being filled with their adherents. They gain further power by removing the chancellor to propose legislation in 1435 and keeping it within the secret council. These councils erode the check and balance of the government. It is difficult to conceptualize Cosimo as a man who held purely republican ideas, especially when he actively participated in the *pratiche*. The existence of these councils illustrates that legislation did not reach all men involved in policy making. The Florentines may still have believed in this concept but it was not what the commune was practicing.

\(^{33}\) Francesca Klein, *Scritture e governo dello stato a Firenze nel Rinascimento: cancellieri, ufficiali, archivi*, (Florence:Edifir, 2013), 123.

\(^{34}\) Archivio de Stato Firenze, *Atti Statuto del Capitano del Popolo anni 1322-1325, Liber 2, XIII.*

\(^{35}\) Klein, *Scritture e governo*, 69-70.

\(^{36}\) Klein, *Scritture e governo*, 129.
Massimo Vallerani, through a compilation of essays delves into the court practices in the Italian city-states of Perugia and Bologna in the twelfth and thirteenth century. His book provides detailed insight into the beginnings of the public justice system. Vallerani does not perceive inquisition procedure to be stronger than accusatory procedure rather that the two systems evolved together. He analyzes the trial, procedure, discretionary power of the judge, role of *publica fana*, and the law. In Perugia and Bologna, he writes that inquisition and accusatory procedure do have their own procedures despite their similarities. However, he applies this model to all Italian city-states and in the case of Florence, accusatory procedure is still utilized but inquisition procedure became the procedure of choice. The two systems were managed together because they are not very different. Further, he believes judge’s discretionary powers to be limited. The judge, according to Vallerani, could not part from the proofs gathered in the case. Again this was the situation in Perugia and Bologna but in Florence the judge had tools he used in making his decision that kept him in check but did not limit his power.

Randolph Starn in his book, *Contrary Commonwealth* discusses the elements of exile in Renaissance Florence. He details the trouble the commune had with exiles who, formed groups and tried to cause rebellions inside the city. Once removed from the city they lost all of their belongings and standing within the city. Starn demonstrates the steps the commune must take in banning individuals and their struggle to manage the exiles that resorted to robbing and attacking people on the road. He highlights the struggle of the commune with exile and the procedure the foreign rectors used for these cases. His study of banning and exile is important because it indicates how these issues affected the commune and the legal system in Florence. Particularly, he utilizes Dante’s exile as an example of the power of the foreign rectors and the management of political banning cases.
The last important secondary source is Andrea Zorzi’s article in *I Podestá del Italia Comunale*, he discusses the recruitment of the three foreign rectors the Podestá, the Captain and the Executor. His study overviews the election process specifically of the Podestá and the manner in which the executive branch eroded his power by the creation of other offices. Zorzi shows how the growth of the office of the Captain eroded the power of the Podestá. For example, before 1250, the Podestá held power over the military but after 1250 this ability went to the Captain. Further, by 1325 the Podestá no longer made a higher salary than the Captain did. Another important aspect of his article is his discussion about the election procedure. Those chosen for Podestá were appointed by the advice of the town they came from. The men chosen were from the highest posts of government and local districts. The executive branch broke the list of names down to four men and if none of them accepted the position, they repeated the procedure. This initially was the procedure utilized for the Podestá and then later implemented for the Captain.

His article complements Tunberg’s analysis of the *Oculus*. Zorzi clarifies that the Podestá was one of Florence’s first real politicians because he guaranteed policy autonomy over operations and marked the spread of writing on political practices. Zorzi shows that the Podestá must be a master of rhetoric, the art of speech, and persuasion in politics, to quell conflicts, and enforce law. Zorzi, instead of referencing the *Oculus*, cites John Viterbo. Despite Zorzi citing the more

idealistic source on the Podestá, he still illustrates the political importance of the Podestá and his fellow rectors to the commune.

All of these sources are pivotal in the study of the Captain of the People. These primary and secondary sources assist in understanding the role the Captain played in the commune and what was expected of him. A study of this nature on the Captain has not been previously conducted. The following chapters will discuss how factionalism, economic stress and the rise of citizen magistrate courts affected the jurisdiction of the Captain.
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Cap. Pop. Lib. Extra. 3128
CHAPTER 2
CHRONOLOGY OF THE CAPTAIN
The Beginnings of the Captain 1244-1270

The chronology of the Captain is important for understanding how the Captain evolved from his creation to the rise of the Medici. Each section represents an important aspect of the Captain’s history. This chapter illustrates that factionalism and constant wars affected the office of the Captain throughout his existence. He emerged out of political conflict between the Guelfs and Ghibellines and slowly lost power through the rise of the Medici. The Ciompi revolt of 1379 marked the beginning of the decline of the Captain. The aristocracy feared they would lose power to the lower classes and created the Otto di Guarida. This office began as a group who managed crime not specifically prosecuted by the Captain and the other rectors and as time passed they gained power. By the time of Cosimo de 'Medici, who made several calculated moves to secure his place within the government, expanded the jurisdiction of the Otto. The following chronology will explain how the Captain fits into the history of the commune of Florence.

The Captain was an official of the commune of Florence who was foreign and a milites as required by the statutes. He traveled with all of his own officials including, judges, notaries, and police officers. This system of traveling rectors required by 1280 that the Captain and his officials change out every six months and prevent the rectors from forming alliances with Florentines. For the popolo or people of Florence, the Captain became the court that was the
protector of their rights, defender of the guilds, and conserver of the peace. He protected the guilds and popolani from the merchant aristocracy or anyone else in Florence.

The commune of Florence flourished during a period when political factions and classes fought for dominance. Elite families and wealthy bankers struggled against the Popolo, which included local merchants, artisans, and the poor. After 1200, further political factions developed. Florentines divided into two main factions: Guelfs, who remained loyal to the papacy, and Ghibellines, who remained loyal to the Holy Roman Emperor. During the conflict between the Guelfs and Ghibellines, the Florentines made changes to their government, including the creation of a new court, the Court of the Captain of the People. The Florentine Chronicler Giovanni Villani believes this division between the two factions occurred due to a quarrel over a marriage contract. Villani states that because of the disagreement Florentines chose to side with Buondelmonti, leader of the Guelf Party or Uberti, leader of the Ghibellines.42

Villani seems to believe this disagreement caused the division but these divisions existed before this conflict occurred. In this period, the Holy Roman Emperor Frederick II and the Pope Innocent IV fought for dominance of Florence.43 The Guelfs and Ghibellines struggled for power and between the years 1248 and 1251 both Guelph and Ghibelline parties held power over the city. Frederick II placed legates, including his own son, as the Podestá of Florence, which further upset the Florentines.44 Frederick believed he had gained enough power that he had the authority to do this.45 In 1244, fearing backlash from the pope, those in the Guelf party withdrew their support from the Podestá and created the Captain of the People. The Podestá at

this time held office for a select period and was elected from another city-state in order to prevent factional divisions. By 1245, the emperor removed the Pope from Rome to Lyons, and in retaliation, the Pope deposed the emperor. This caused civil war in Florence and after the Emperor occupied most of the Papal States, then Florence finally consented to a papal legate. These actions taken by Frederick convinced the popolo they needed their own form of representation and this marks the early stages of the court of the Captain.

In response to this development, the military organization involved in the creation of the Captain took up arms with two Captains as their leaders. They further organized themselves into religious societies. These societies or societates fidei, gained the protection of the Pope and consisted of the men who elected the Captains, which they instilled with judicial and military powers. The Captains received civil authority similar to that of the Podestá. These rectors also had their own notaries and nuntii, and voted in the general council, helping to make decisions of state. During wartime the Captains represented the people and in peacetime this fell to heads of the sectors of the city or buonuomini.46 The Captain and the buonuomini shared power with the Podestá. By 1245, the Podestá was an imperial legate. This of course caused friction between the Captain and Podestá over jurisdiction. By 1246, the position of the Captain contained one rector and this change exemplifies the popolo’s desire to withdraw from the Podestá and become a city with-in a city, which gained them protection of the papacy. Andrea Zorzi writes that the Captain was never meant to be under the power of the Podestá but to represent the counter party as a political ally.47 The Captain spearheaded the popular movement and embodied and defended popular rights of the popolani.48

47 Zorzi, I Podestá ,532.
The *popolo* by 1250 managed to take power from the Ghibelline nobility and declared themselves as the neutral party between Guelf and Ghibelline.\(^4^9\) Two months later Frederick died and his representatives left the city leaving the Ghibellines in disarray. The *popolo* governed for ten years and did their best to reduce factional conflict.\(^5^0\) The Guelfs proclaimed that the commune be made of twenty military administrative subdivisions, each functioning as a *societas populi*, a company or legal corporation with the right to assemble members, elect officers, and send representation to the council, in the form of standard bearers of all twenty companies.\(^5^1\) This council, together with another composed of the heads of the guilds, assumed significant functions in the government, including some role in the election of the chief executive magistracy of the commune, *Anziani* or Council.\(^5^2\) The other council created by the *popolo* was a large legislative assembly, the Council of the People.\(^5^3\) This council acted as a counterweight to the *Anziani*. The *Anziani*, consisted of eight to twelve men, which became advisors with the creation of the Court of the Captain of the People.\(^5^4\) These councils worked with the Priors and Gonfalonier to pass legislation.

All of these events contributed to the rise of the *popolo* and the establishment of the office of the Captain. The Captain, like the Podestá, would be a non-Florentine appointed for one year with the responsibility of ringing the bell and summoning the neighborhood militias and would replace the Podestá as chief military and judicial official.\(^5^5\) He served as a foil to the Podestá and a Defender of the people. Lorenzo Cantini in 1796 wrote, “The Captain was modeled on the tribune of the plebs in the time of the Roman republic, in defense and protection

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\(^{4^9}\) Najemy, “Dante and Florence,” 83.
\(^{5^0}\) Najemy,”Dante and Florence,” 83-84
\(^{5^1}\) Najemy, “Dante and Florence,” 87.
\(^{5^2}\) Najemy, “Dante and Florence,” 87
\(^{5^3}\) Lauro Martines, *Power and Imagination: City-States in Renaissance Italy* (New York: Knopf, 1979), 54.
\(^{5^4}\) Lauro Martines, *Power and Imagination*, 54
of the people against the violence that the aristocrats could bring.” The popolo desired to recreate a similar government to Roman Republic popolo desired to recreate a similar government to ancient Rome. They believed the office of the Captain could provide the solution.

The popolo desired to recreate a similar government to ancient Rome. They believed the office of the Captain could provide the solution.

The popolo established the original jurisdiction of the Captain in 1250. He held criminal and civil jurisdiction. In civil cases, he needed one witness despite the fact that in Roman law two witnesses were required. Under his criminal jurisdiction, he could preside over false accusations, false denunciations, cases of violence and capture of violent men, taking of money, extortion of money through violence, petitions or contracts, criminal acts through violence, power, terror, and threats. Anyone could bring accusations to the Captain as well as the Podestá. The Captain held arbitrium and could decide to accept a case on whether the activity was criminal and whether there was enough evidence that a crime occurred. The current Captain could also take on unfinished cases that occurred before his tenure. He had the ability to inquire and punish with or without accusation or denunciation and he could start an inquisition. His policemen were at his disposal and he could send them out to find information. He also had discretion in cases that did not fall under Roman law or the ius commune. The ius commune complemented other aspects of law such as the ius proprium, which consisted of the law of a geographically, socially, and politically distinct entity. It forged legal unity as an ideological underpinning of national codification. Further, it was an ideal of total justice and dialectic forms

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56 Lorenzo Cantini, Saggi Istorici D’Antichita Toscane, (Firenze: Albizziniana, 1797), 218.
56 Archivio de Stato, Firenze, Atti Statuto del Capitano del Popolo anni 1322-1325 Liber 2 I.
57 Archivio de Stato, Firenze, Atti Statuto del Capitano del Popolo anni 1322-1325 Liber 2 I.
58 Archivio di Stato, Firenze, Atti Statuto del Capitano del Popolo anni 1322-1325 Liber 2 I.
of interpretation devised by learned jurists to fill the gaps and inconsistencies. In this period, if the crime, did not fall under his jurisdiction, then he left it up to the Podestá. However, if the Podestá had a case for more than twenty-five days and did not condemn or absolve it, then it fell to the Captain. This system served as a check and balance on the legal system in Florence.

The Captain in other Italian city-states held similar powers. For example, in Siena the Captain and Podestá managed a police force. The slow decrease in the amount of policemen the Captain could have illustrates the decline of the office in Siena. In the late thirteenth century, the rector held twenty and by the fourteenth century, it dwindled to ten. Similar to the Captain in Florence, Siena’s Captain by 1334 shared the ability to arrest those carrying prohibited arms, and to hear and terminate their cases. Friction occurred between the Podestá and the Captain constantly in Siena. In order to prevent the two rectors from clashing they established a board of local lawyers whom they consulted to resolve any contradictions. Pisa also had a similar system to protect the Captain and the oath he swore when he took office.

The Popolo governed for ten years in Florence and did their best to remove party conflict and factionalism. However, when the emperor’s illegitimate son Manfred became king of Sicily, the Ghibellines saw an opportunity to regain power. Sienese troops, and Manfred’s Hohenstaufen forces, defeated the Guelfs at the battle of Montaperti. The Guelfs were exiled from the city had their property confiscated and were exiled from the city.

60 Stern, Criminal Law System, 118.
62 Sara Menzinger, Consilium sapientum; “46.
64 Manfred was lord of Sicily and utilized this resource. Giovanni Villani, Villani’s Chronicle, 158.
The Ghibellines held power for six years. The Ghibellines inability to control the influence of Florentine merchant capital within and outside the city ultimately led to their downfall. Pope Urban IV decided to take advantage of several banking families the Ghibellines had exiled when they took power. He convinced them to help him end the Hohenstaufen’s domination of Italy and in return, he would remove the Ghibellines from Florence. Urban, through two years of secret negotiations, enlisted 181 Florentine bankers and merchants from all twenty-one major banks to swear allegiance to the Guelf party and to back Charles of Anjou brother of the king of France, who would help them in their crusade. Together they removed the Ghibellines from power in 1267. The Guelfs exiled the Ghibellines, confiscated their property and destroyed their palaces. This finally ended Ghibelline dominance in Florence and ended Hohenstaufen dominance in Italy. Charles of Anjou became Podestá and ruled the city for ten years. He established a Guelf government and removed a few offices, including the Captain of the People.

The Return of the Captain 1270-1300

Charles of Anjou, after his ten years as ruler ended, refused to relinquish power. The Papacy in an attempt to end Angevin dominance, decided it needed to eliminate the tensions between the Guelfs and Ghibellines. Pope Gregory attempted to reconcile the two factions. It was not until Pope Nicholas III made a similar offer in 1278 to several Tuscan city-states that they agreed and asked for a peacemaker. Nicholas sent his nephew Cardinal Latino Malabranca. He was familiar to the Florentines since his father served as Podestá of Florence in 1238. Latino arrived

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68 Villani *Villani’s Chronicle*, 267.
in Florence in October of 1279. In 1280, he reported to the pope a general peace between Guelfs and Ghibellines. He further instituted a new executive magistracy, with eight Guelfs and six Ghibellines or the Fourteen.\textsuperscript{69} These communal magistrates included a distribution of equal seats between the two parties. The cardinal’s peace affected all aspects of government, such as the guilds and the Captain of the People.

Cardinal Latino negotiated a new order through his peace agreement. By 1280, the main task of the Captain consisted of protecting the non-magnate classes from the magnates and he received the title Conserver of the Peace. Additionally, the office of the Defender of the Guilds and Guildsmen, created in 1282, merged with the Captain in 1284. The guildsmen became his primary people to protect. He had cognition of criminal cases that regarded sedition, uprisings against the people, fraud, violence and extortion. Furthermore, he had the ability to condemn, even to death.\textsuperscript{70} The Captain also held jurisdiction over some civil cases and could try estimo, gabelle, and generally everything involving the treasury.\textsuperscript{71} His jurisdiction fell over the military in times of war, he held the power to put down rebellion, and preside over the council of the people. His power to command the military, originally given to him in 1250, was no longer his after 1282.

\textsuperscript{69} Najemy, \textit{History of Florence}, 76-77.
\textsuperscript{70} Lorenzo Cantini, \textit{Saggi Istorici}, 220-224.
\textsuperscript{71} The judge of camera and gabelle presided over controversies involving communal indirect taxes or gabelles were considered. The jurisdiction of this judge was coordinated with two other offices the Office of the Tower and Office of the Governors of gabelles. He executed all cases that involved gabelles. Estimo was a direct tax on physical wealth, which why many people tried to hide their wealth.
The commune continued to elect the Captain and Podestá. Previously the Podestá held a higher salary but by 1325, both rectors made the same salary. Further, they swore to serve the office faithfully, and the Captain additionally swore to uphold the law, maintain the peace, and be defender of the arts. The Captain was obligated to bring three judges and one had to have a degree in civil jurisprudence. The captain had several other Roman law officials: a head of police, seven notaries, six messengers, fifty police officers and nine armed cavalry. None of these officials could be Florentine. His term of office began at one year and through this new peace agreement the commune reduced his term to six months.

Guild Power and the Captain

The guilds during this period began to gain momentum. They included local merchants as well as men of the aristocracy. Some of the guilds included lana or wool, cambio or banking, and apothecary guilds. They organized themselves into governing groups whose committee of priors claimed the right to represent the interests of their members in communal government. The guild movements of the 1280s and 1290s changed the face of Florentine government. They gained the interest of the people through the benefits they could offer their members. The guilds offered, through their self-constituted authority or universitas, the right to take on responsibilities on their member's behalf, regulate and enforce business and professional activities, regulate agreements between members, and discipline those who did not honor contract agreements. The guilds also maintained a court system where outside parties could bring civil action against members. Each court had a committee of consuls elected from and by members and they held this position for

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72 Zorsi, I Podestà, 469.
73 Cantini, Saggi Istorici, 225-227.
74 Cantini, Saggi Istorici, 227.
75 Najemy, History of Florence, 88.
several months. The men in these councils voted and debated on legal and business issues in the guild, such as business contracts, elections, and penalties.

During the guild movements of the 1280s and 1290s, the guilds created an office which initially included six members of the more influential guilds, then twelve; this office eventually developed into the Priors of the Guilds. Even with this new addition to the government, the elite still held most of the power. This led to the creation of anti-magnate laws, the Ordinances of Justice in the 1290s. The introduction of the Ordinances of Justice created the office of the Gonfalonier, who executed the ordinances and had the same authority as the Priors. The Ordinances included calling up the militia, arresting magnates for crimes, judging magnates, and destroying their towers and palaces. These changes embodied the Florentine constitution by ensuring the position of the popolani in government as well as restricting and excluding the magnates. More specifically the ordinances subjected 140 lineages of the city and contado to tougher applications of the obligation to provide surety and harsher penalties for crimes against non-magnates. The Ordinances prevented seventy-two magnate families from serving in the priorate and guild consolates.

Modifications through the later thirteenth and fourteenth century occurred but the purpose remained the same. These ordinances sought to make the communal government sovereign by enforcing law and order measures on lawless magnates and drawing most of the magnates, except for a very few powerful courts, within Florentine domination for purposes of law and taxation. These ordinances also affected the guilds. All the guilds promoted the

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authority of the central government. Now the number of politically enfranchised guilds was set at twenty-one.\textsuperscript{80} The Captain defended these guilds and under the ordinances defended the popolo against unruly magnates. The ordinances penalized the magnates and brought changes to the foreign rectors. The Captain and the Podestá prosecuted the magnates under the supervision of the Executor. All officials underwent syndication when they left office, which the Executor conducted in order to ensure the ordinances were upheld. The Captain and the Podestá split the jurisdiction of first time magnate offenders. The Captain, in this instance, handled cases involving an offence to popolani possessions. When the crime involved magnates committing conspiracy against the state, the Podestá executed the case.\textsuperscript{81} The commune now held the rectors responsible for taking all measures needed to prosecute the magnates.

The Evolving Captain 1300-1415

The Ordinances did not completely rid the commune of factionalism. By 1300, two factions arose, the white and black Guelfs. The magnates did not appreciate disenfranchisement and conspired to overthrow the popolano. This campaign succeeded in 1295 when a case came before the Podestá concerning the murder of a popolano. A corrupt judge acquitted the case despite the evidence presented. Regardless of his own judge deceiving him, the people turned their anger onto the Podestá and attacked him. This resulted in the exile of Giano Della Bella, the leader of the popolo, which weakened the government.\textsuperscript{82} Tensions came to a head in 1300 resulting in the exile of members of both white and black Guelf parties. Concerned over the violence erupting in Florence, the Pope requested Charles of Valois, brother of the king of France, to go as peacemaker. He arrived in 1301 with the intention of reinstating the black

\textsuperscript{80} Stern, \textit{The Criminal Law System}, 127.
\textsuperscript{81} Stern, \textit{The Criminal Law System},132.
\textsuperscript{82} Najamey, \textit{The History of Florence}, 89.
Guelfs into power. The Florentines did not initially allow Charles into the city. A general council of the Guelfs came together and decided to grant him access to the city. Chaos broke out as the black Guelfs who arrived with Charles installed priors of their own choosing. Violence ensued, and death, destruction of property and exile resulted. The commune exiled over 559 white Guelfs, including Dante Alighieri. He stood accused of fraud, extortion and obstructing the efforts of Charles and Pope Boniface.

After the exile of Dante and the White Guelfs, the Florentine commune voluntarily on three different occasions gave up some their freedoms to a foreign prince. In 1313, King Robert of Naples ruled with dictatorial powers for five years although he became too preoccupied with his realm to do much damage.\(^3\) The second occurred in the 1320s when threatened by the Lucchese despot Castruccio Castracani they invited Charles of Calabria to be the commune’s military captain and governor for ten years. He attempted to establish a permanent rule but he died before he could accomplish this. The final invited ruler came in 1342 the French knight Walter of Brienne. He turned his one year rule into a dictatorship but was kicked out of the city in June of 1343.\(^4\) After Brienne, the commune began to require the nine members of the priors to hold office for two months. The twelve *buonuomini*, who held office for three months and the sixteen gonfalonieri, who held office for four months, advised the priors or *signoria* along with a few other duties. This system made it difficult to make long-term policy. The two legislative assemblies the Council of the People and the Council of the Commune, served as the voice for the guilds and the people. One of the other important developments from this period is the use of the *balie*, which required the appointment of an executive commission with emergency war

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power responsible for waging war, levying forced loans and enforcing the electoral statutes.\textsuperscript{85} This in later years would become a useful tool for those who desired to gain power, such as the Medici.

The statutes of 1322-25 explain that the Captain to have several different duties. The Captain’s criminal and civil duties were very specific, even with some of the changes it underwent throughout the thirteenth century. He had three judges, one for Camera and Gabelle (treasury and taxes).\textsuperscript{86} Another collected all of the denunciations and condemnations. He also carried out the confiscation and destruction of the homes and possessions of those condemned, banned or owing taxes. The third judge tried all ordinary civil and criminal cases assigned to the Captain. As for his criminal jurisdiction, any cases specifically pertaining to his titles fell under his domain.\textsuperscript{87} The statutes also gave him the charge of holding the book of all communal goods including items confiscated from rebels, banned and condemned. Further, the statutes designated him as the main rector to protect the political rights and execute the judicial decisions of the guilds. He had held the responsibility of executing sentences of the rectors and councils of the guilds. He also held the obligation of executing sentences at the request of the consuls or rectors.

His duties to protect the \textit{popolo} continued under the 1322-25 statutes. He had the ability to try crimes involving overbearing behavior, violence, force, and threat. Additionally, he recognized cases of violent compulsion, expulsion, removal of possessions, disturbing the peace, compelling contracts through violence, fraud and kidnapping through abuse of power or threat. He also presided over cases involving infractions of laws concerning the abundance of food.\textsuperscript{88} In

\textsuperscript{86}Stern, \textit{The Criminal Law System}, 119.
\textsuperscript{87}Stern, \textit{The Criminal Law System}, 120.
\textsuperscript{88}Stern, \textit{The Criminal Law System}, 121.
the 1360s, factions of rival families began to appear. These tensions came to a head with the uprising of the Ciompi in 1378 resulting in three years of tumultuous popular guild regime, which fell to a Conservative government managed by conservative patricians. This regime lasted until the rise of the Medici to power in 1434.

By 1415, the Captain had the conglomerate jurisdiction of the Captain of the People, conserver of the Peace and Defender of the Guilds and Guildsmen. The Captain along with the other rectors had to collect his own condemnations and the commune fined the rectors if they did not carry out this duty. The statutes of 1415 removed the power of the Captain to confiscate goods of rebels due to the condemned being regular criminals. He also no longer handled cases involving food infractions. His jurisdiction by this period transitioned to a shared jurisdiction with the Podestá and Executor. However, his criminal jurisdiction increased for he now had the ability to treat any kind of serious crime and one judge who only handled criminal cases. He and the other rectors also experienced an increase in arbitrium or discretion. Another duty of the Captain by 1415 was extraordinary civil jurisdiction, such as treasury and gabelle cases. His judge of appeals was subordinate to him, which put all judicial power into the hands of the regular court system in order to centralize power. He supervised this judge because his court of camera and gabelle did not allow appeals. After 1415, his duties by this time continue after the statutes of 1415 including his criminal jurisdiction, which remained general. Some of his criminal duties transferred to the Podestá because they fit more logically into his jurisdiction.

89 Stern, *The Criminal Law System*, 120.
91 Stern, *The Criminal Law System*, 122. The statutes of the Capitano del Popolo 1324-1325 include from, XVI to XLIII, different kinds of food infractions. For example, XXIII Quod nullus faciat malam misturam in grano vel blado Concercing those who make bad bread or corn. Other restrictions included no being able to buy certain quantities of food at one time. Also restrictions on where food can be purchased such as fish, cheese, chicken and fungi.
The Captain retained sole power over crimes of the magnates, such as magnates taking over the government or the city though partisan warfare. Particularly, he could prosecute any popolano who went into the house of a magnate during a time of sedition, especially if the magnate was involved in the disturbance. Additionally, anyone who impeded the Executor and his foot soldiers, when they attended to a disturbance by magnates or other rebels, received a punishment within the discretion of the Captain. He further shared jurisdiction with the Podestá and Executor in political crimes. Both rectors could arrest for crimes in flagranti, which meant they could arrest someone while they committed the crime. Additionally, he held various other responsibilities such as being head of the system of the syndics of the guilds. The syndic officials within each guild helped guildsmen harmed by magnates to take their cases to court and ensure justice was done. The statutes also gave him the ability to oversee the activities of the Priors and the Gonfalonier of Justice. They could not change the statutes concerning defaulting and fleeing, or those conceding licenses of reprisal, especially those statutes concerning the Councils of the People and of the Commune for the conceding of these licenses. If the Captain failed to fulfill this duty, the commune removed him from office. The office finally failed in 1502 after constant attempts to suppress it.

The Rise of the Medici 1415-1434

Florence in the fifteenth century endured a struggle for political supremacy between the powerful families of the Medici and the Albizzi. After the Ciompi Revolt of 1378, the rich and powerful feared they would lose their political hold over the lower classes. The Medici wielded

power in the banking industry and the Albizzi traded in wool and both families created interconnected patron-client relationships, which allowed them to gain power in the government. The Albizzi gained the upper hand in the Signoria and exiled the Medici in 1433. Due to the extensive network Cosimo de' Medici created before and after his exile, he was able to return to Florence in grand fashion. The Medici gained their power through banking, marriage alliances, amici or political alliances, and manipulation of the government.

The establishment of the Medici banking system was a major aspect of Medici financial power as well as political influence in and outside of Florence. The Bardi, Peruzzi, Acciaiuoli and the Medici lent money to powerful people all over Europe, in particular, Edward III of England, who failed to repay them and caused many of the banks to fail.\footnote{George Pottiger, Court of the Medici (Croom Helm London: Rowman and Littlefield, 1978), 20.} Despite this, the Medici established branches of their bank in Rome, Florence, Naples, Geneva and Venice.\footnote{Raymond A. De Roover, The Rise and Fall of the Medici Bank: 1397-1394  (Washington, D.C: Beard Books, 1999), 55.} The Medici rose to new heights under the direction of Cosimo and by 1397 the Medici bank flourished.\footnote{De Roover, The Rise and Fall, 20.} Under his leadership, the Medici bank became one of the biggest of its time.\footnote{De Roover, The Rise and Fall, 75} Cosimo delegated jobs to other family members and to those who were loyal to him. His ability to master this skill became beneficial later during his exile. According to Raymond De Roover, Pope Pius II stated that princes and rulers from all over Italy actively sought Cosimo’s political advice and prestige.\footnote{De Roover, The Rise and Fall ,75}

Cosimo further established his hold over Florence by cementing political alliances. One of the factors that contributed to his power came in the form of advantageous marriages. Marriage to a woman from one of the older powerful families opened doors for men who wanted

\footnote{George Pottiger, Court of the Medici (Croom Helm London: Rowman and Littlefield, 1978), 20.}
\footnote{Raymond A. De Roover, The Rise and Fall of the Medici Bank: 1397-1394  (Washington, D.C: Beard Books, 1999), 55.}
\footnote{De Roover, The Rise and Fall, 20.}
\footnote{De Roover, The Rise and Fall, 75}
\footnote{De Roover, The Rise and Fall ,75}
to gain political prestige. The Medici before this period were not particularly wealthy and did not have much political influence. An advantageous marriage could provide them with the social connections and money to build their name within the city. The Medici began to establish these connections in 1400 and by 1434 they developed a powerful network of alliances. The Medici expanded their power further by marrying into the older families such as the Rucellai and even families of lesser status often more than once in order to solidify alliances. Marriages reinforced the bond with Medici supporters and strengthened the structure of the party.

Another aspect of Medici power was alliances among friends, or *amici*. Cosimo created an extensive network of friends: the Acciaiuoli, Alberti, Bardi, Cavalcanti, Della Casa, Guicciardini, Pazzi, and Pitti, these are only a few of the families who held loyalties to the party. In some instances, entire families did not give loyalty to the Medici party, such as, in the case of Luca Albizzi who it seems married into the Medici family in order to maintain his political status. Maintaining honor in patronage relationships was central to establishing trust and devotion. *Amici* of the Medici served multiple purposes within the political spectrum. *Amici* could gain positions within the bank and, depending on the standing of the family, they could move up in the ranks. This illustrates the amount of strategic maneuvering that Cosimo had to do in order to cement his power in Florence. The timing had to be right for him to allow those in his circle of friends to hold that kind of power within his bank. They proved their loyalty to him during his exile by keeping the bank running and this proved to Cosimo that he could trust these individuals enough to give them more power.

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According to Dale Kent, the *amici* became essential to Cosimo maintaining the bank while he remained in exile. Cosimo’s brother Lorenzo remained in Florence during his exile and he kept in contact with Cosimo informing him of what was happening with the bank. Machiavelli in his *Florentine Histories*, mentions a letter intercepted from Agnolo Acciaiuoli in which he assured Cosimo: “of the favor of the citizens towards him, and advised him to stir up war of some kind….that in the necessity of the city for money, which no one but he himself could supply, the citizens would again turn their thoughts toward him and demand his return…” The establishment of a strong banking network internally and externally stabilized Medici power and enabled Cosimo to preserve his power even while he was exiled. All of these maneuvers would later allow Cosimo to expand the power of the Otto and erode the jurisdiction of the Captain.

Giving job opportunities to loyal *amici* was not the only way Cosimo developed strong alliances. In order to hold political office a man needed to pay his taxes otherwise he became ineligible. The Medici would assist their fellow partisans by paying their taxes and any other debts they may have had. Kent uses an example of a man requesting assistance in paying for his daughters’ dowries. Through this act of what many perceived to be kindness, the Medici accomplished several things. They promoted their own political agenda by keeping men who were loyal to them eligible to participate in politics. In addition, they continued to develop the notion that Cosimo and his family truly believed in doing things for the good of the people and

106 Machiavelli, *Florentine Histories*, 78.
the commune. Finally, among their amici they established loyalty and trust. All of these elements would become critical after Cosimo’s exile and later when he returned to Florence.

The Albizzi family used similar tactics. They established marriage alliances and interconnected political networks especially through marriage. Other families included in the anti-Medici faction were the Panciatirini, Ridolfio, Peruzzi, Lamberteschi, Bordini, Ardinghelli and Strozzi.107 Rinaldo Albizzi wanted the power Cosimo wielded and he refused to be under his influence. He gained a majority in the Signoria and this enabled him to arrest Cosimo.108 The Albizzi and the rest of the anti-Medici faction utilized exactly what the Medici used to get into power to get them exiled. They promoted the idea that the Medici did not have any interest in helping the commune.

When Cosimo was arrested in 1433, the Signoria charged him with trying to make himself and his family greater than the Priors by offering to defend his friends.109 The Albizzi painted the Medici as a family who had only the interest of themselves and their friends in mind. This to the people of Florence undermined their ideas about promoting the good of the whole instead of the good of the individual or family. Dale Kent believes the arrest, betrayal, and exile shocked Cosimo. Those responsible for his exile may have surprised him; however, the manner in which he established his patronage network suggests he had some inkling that his enemies were plotting his political demise.

According to Machiavelli, the people were not happy with the possible exile or even execution of Cosimo. He states that Florence was in chaos, “Robbed of so great, and universally

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107 Machiavelli, Florentine Histories, 140.
108 Pottiger., Court of the Medici, 34.
109 Pottiger., Court of the Medici., 98.
beloved a citizen, every man in Florence was filled with alarm—not only for the conquered but the victorious party.”\textsuperscript{110} This clarifies that the Albizzi had not established a strong hold on the commune. The anti-Medici faction enacted a \textit{baliā} which in essence could suspend the constitution, claim the authority and power of the Florentine people, and override the written laws, all while acting under the power of the Lord Priors.\textsuperscript{111} This power was influential to maintaining control within the city, for no one would question your actions if they believed that the rules were being broken for the good of the commune. In order to maintain order within the city Rinaldo Albizzi handed the power of the \textit{baliā} over to the Otto di Guardia and the Captain of the People.\textsuperscript{112}

Several instances of Rinaldo Albizzi’s exile of Medici adherents appeared in the record. Initially, Rinaldo successfully exiled his enemies and threatened corporal punishment to anyone who broke their exile. These cases reflect how swiftly the Albizzi took action against their enemies. These exile cases came to the Captain as a government mandate or \textit{bullectini}, which further highlights the slow breakdown of the Florentine government, before the rise of the Medici. The Captain by this period was no longer the upholder of democracy as some historians such as Lorenzo Cantini have argued. This is shown in several ways. Firstly, Cosimo instilled the power of the \textit{baliā} to the Captain in order to exile his enemies in 1434. Secondly, the Captain became the rector in charge of political crime as seen from the vantage point of the Medici, in ways that benefited them.\textsuperscript{113} Thirdly, Cosimo expanded the jurisdiction of the citizen magistrate courts which only furthered weakened the jurisdiction of the foreign rectors. Finally, according

\textsuperscript{110} Machiavelli., \textit{Florentine Histories}, 212.
\textsuperscript{111}Lauro Martines, \textit{April Blood: Florence and the Plot Against the Medici} (Oxford: Oxford University Press, 2003), 52.
\textsuperscript{112} Machiavelli, \textit{Florentine Histories}, 212.Machiavelli wrote his account of Florence when the Medici were in power.
\textsuperscript{113} Stern, \textit{Criminal Law System}, 125.
to Andrea Zorzi, from 1476 to 1478, half of the sentences imposed by the Captain’s court were received by *bullectini* from the Otto di Guardia. However, the excessive use of the *bullectini* starts under the Albizzi and it is clear from the record that the Captain follows the *bullectini* without question. These factors exhibit the importance of the political history of the commune and the ways in which it affected the Captain and the rest of the judicial system.

Rinaldo Albizzi extended his power by gaining a majority in the *Signoria* made up of the Council of the Lord Priors of eight priors and the Gonfalonier of Justice. Filling these offices with loyal individuals gave Rinaldo and later Cosimo control of the government. The Lord Priors ran the everyday aspects of the government, initiated all legislation, led and controlled discussions, initiated the holding of *scrutini* and summoned *parlamenti*. The commune selected men for this office and other offices by drawing names by lot. This occurred through what the commune called a scrutiny, which they held every five years.

The *Accoppiatori* were in charge of the *scrutinies*. They checked the borse to be sure it had at least the minimum number of names in each bag. This became important for the Medici later upon their return for if they only had to maintain a minimum number then it would be easier for them to ensure the selection of a Medici loyalist. The Podestà received the bags and drew out the names of eligible citizens. Included in the bags were names from previous *scrutinies* and if a man became ineligible by the time of the next scrutiny then he would not take office. The

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names remaining in the bags could be a hindrance to those who wanted to maintain a majority in the Signoria. The Albizzi would learn that the decision not to destroy the bags from the previous scrutiny would ultimately lead to their undoing.

Cosimo spent much of his exile in Venice and he was welcomed there with open arms by the Venetians. According to Vespasiano, who wrote about the life of Cosimo, the Venetians did everything in their power to return Cosimo to Florence. Vespasiano mentions that Cosimo’s popularity in Venice allowed him to delegate to his supporters what they needed to do and his money was so great he could just send word to Rome that he needed funds. In the scrutiny of 1433, the Albizzi did not remove the previous names from the bags. Instead, Rinaldo just added names to the borse. Unfortunately, for the Albizzi the scrutiny consisted of mostly men who held Medici loyalties. Rinaldo attempted to create another baliá, but he was unable to do so. Cosimo upon his recall to the city was welcomed with praise and fanfare.

Cosimo wasted no time reestablishing his power in Florence. He did not want to make the same mistakes as his enemies. Despite their fall from power, the anti-Medici faction could return to Florence in a similar fashion if they could gather enough outside help. The list of exiles included: Albizzi, Bardi, Bartoli, Brancacci, Castellani, Corsi, Peruzzi, and Strozzi. They, like Cosimo had developed various marriage alliances and even in exile could use this to their advantage. On September 28, 1434 a special the assembly or parlamento was summoned of

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123 Pottiger, *The Court of the Medici*, 35.
125 Kent, *The Rise of the Medici*, 355-357. The full list of Medici exiles can be found in Appendix II 355-357. As with the amici some of those exiled are individuals or parts of disloyal families. Again, in the case of the Albizzi some remained in Florence after 1434 some of those exiled are individuals or parts of disloyal families. Again, in the case of the Albizzi some remained in Florence after 1434.
citizens that created a special council or baliá, which had full powers until December thirty-
first.\textsuperscript{127} The next step was to exile all of the men involved in the exile of Cosimo. He also had the
previous bags from other scutinies destroyed further eliminating the chance of any of the exiles
returning to Florence. His control over the scrutinies and the trust the people had in him
allowed Cosimo to do whatever he wanted including the expansion of the Otto and the exile of
his enemies.

The next step for Cosimo was to exile his enemies from the commune. The baliá of 1434
exiled Cosimo’s enemies for ten years. The baliá granted extra power to the Captain but he only
exerted his authority to prosecute those who violated their term of exile in 1433 and 1434.\textsuperscript{128} The
fear that his enemies would return to Florence remained on Cosimo’s mind. He wasted no time
in extending the term of exile another ten years in the baliá of 1444.\textsuperscript{129} His fear of the exiles
returning was so great according to Rubinstein that extensions on the term of exile occurred in
1454 and in 1458. This extended their term of exile for twenty-five years. After Rinaldo Albizzi
tried to overthrow the regime in 1440, Cosimo had to take all of these precautions in order to
maintain power.

In order to maintain his hold over the commune, Cosimo found subtle ways of
manipulating the system. Nicciolo Rubenstein states that the Medici had to stay within specific
rules and regulations of the government and that there is no evidence proving they went outside
of this. The baliá became the ultimate tool of the Medici, for it allowed them to go against the
rules of the republic without upsetting the people. In the beginning, the use of the baliá was
acceptable because previously the Florentines used it in cases of emergency. Florence during this

\textsuperscript{128} Rubinstein., \textit{The Government of Florence},77.
\textsuperscript{129} Rubenstein, \textit{The Government of Florence},124.
period was constantly at war. This gave the Medici an excuse to enact balie constantly. Once the commune entered a time of peace, they used the excuse of plague as a reason to call a baliá.\textsuperscript{130} After the baliá of 1434 they invoked it again in 1438, 1444, and 1452 and it continued after the death of Cosimo in 1464.\textsuperscript{131} With the manner in which the plague ravaged the Italian cities, it was a perfectly reasonable excuse.

The Accoppiatori under the baliá had more power in the selection of qualified men for office. The Podestá did not draw the names by lot; this was now under the control of the Accoppiatori. They controlled the names that went in to the bags for Gonafaloiner of Justice, the Lord Priors, the war office ten, the eight and the Monte officials.\textsuperscript{132} The Florentines had two bags the borsellino for all of the high offices and the borsellino generale for all of the smaller offices.\textsuperscript{133} They placed names into the bag to be selected for the top office of the Gonafaloiner of Justice; man must receive twelve of the nineteen votes of the Accoppiatori.\textsuperscript{134} The combination of the baliá and having men loyal to the Medici in this office provided Cosimo with a powerful tool. If those loyal to him could have a say in what names went into the bag then he could almost guarantee that the individual selected for office would be loyal to him. The baliá also allowed Cosimo to have power over the Otto di Guardia, which was a security force that could be used to maintain order in the city under the baliá.\textsuperscript{135} 

The magnate classes began to gain more rights during this period. According to Niccolo Rubinstein, they had to rely on the younger generation’s qualification for office in order to gain

\begin{footnotes}
\item Rubinstein, \textit{The Government of Florence}, 22.
\item Rubenstein, \textit{The Government of Florence}, 79.
\item Martiens, \textit{April Blood}, 51.
\item Rubinstein,., \textit{The Government of Florence}, 52.
\item Rubinstein,., \textit{The Government of Florence}, 54.
\item Rubinstein,., \textit{The Government of Florence}, 56.
\end{footnotes}
any power. Those from the newer families could triple their representation if two or more members of their family were chosen.\textsuperscript{136} The wealthy may not have been happy with this occurrence, but this process did make the government seem more democratic. This again fit right into what Cosimo wanted everyone to believe. According to the statutes of 1415, specially appointed councils had to be convened for each scrutiny and these councils included the Signoria, the colleges, the nine Captains of the Guelph Party, the \textit{Sei di Mercanzia}, a consul from each guild and eighty elected members by the Signoria and Colleges.\textsuperscript{137} Thus the government had a say in who was selected for these councils. With the government, being under a \textit{balià}, this gave the Medici a powerful advantage, for if they controlled who was selected in the \textit{scrutinies} as well as the \textit{Accoppiatori} officials, then they did not have to leave it up to chance that they would get the majority they needed to pass legislation.

The Medici needed to have loyal support in all aspects of government, but the \textit{Signoria} was vital. Florentine constitutional law stated that all bills public or private had to be endorsed by the \textit{Signoira}, then it needed the consent of the colleges, once it received their approval, it was sent to the Council of the People and if it passed, it then went into law.\textsuperscript{138} Once they had had their hands in the \textit{Signoria}, they then had a say in what legislation came to the \textit{Signoira}. The Council of the People did not hold a lot of power, they were a group of citizens who when compelled by the \textit{Signoria} came forward and were asked to supply a yes or no vote about issues such as the \textit{balià}. For the Medici the \textit{balià} allowed them the power to improve their chances of Medici partisan’s selection for office. Control of the \textit{Signoria} gave them control over how frequent they could call a \textit{balià} and therefore they had control over the office that assists in the

\textsuperscript{136} Rubinstein., \textit{The Government of Florence}, 74.
\textsuperscript{137} Rubinstein., \textit{The Government of Florence}, 75-76.
\textsuperscript{138} Rubinstein., \textit{The Government of Florence}, 78.
election of all government offices. The creation of their extensive network of *amici* became even more vital when they were unable to get Medici into office at all.

The office of the Captain changed from the time of his creation to the rise of the Medici. The constant factional conflict between the Guelfs and the Ghibellines brought the commune into continuous wars within and outside the commune. In this chaos, the *popolo* created the Captain and he for a time gave a voice to the people. However, by the time of the struggle between the Albizzi and Medici his role changed. No longer did he serve the *popolo* but those who held power with the government. The next few chapters will break down the kinds of crime encountered by the Captain and specifically, how the previously discussed factional conflict affected his court.
139 Cap. Pop. Lib Cond. 3146.
In this chapter, I will discuss the procedure of the Florentine legal system specifically, the procedure of the Captain. In addition, I will examine how the Captain and his officials applied this procedure to ordinary crime. The Captain’s jurisdiction for ordinary crime stayed the same in this period from 1429 to 1434 as before. Factionalism and the rise of citizen magistrate courts did not affect ordinary crime under that Captain. The Captain tried all sorts of crime, even serious crimes such as murder, theft, assault and debt. The procedure was Roman law with citations, testimony, a trial before the judges of the Captain, a sentence and execution of the sentence. Often the crimes which the Captain tried were violent in nature and included the use of broad swords and lances. The Captain had the ability in this period to carry out his ordinary jurisdiction without too much trouble from the commune. This aspect of the Captain's jurisdiction was not affected by factionalism and constant wars. The following crimes, of theft, assault and debt were violent and graphic but this was a common in this period and it demonstrates that citizens preferred in some cases to resolve their issues through acts of violence.

In order to prosecute ordinary crime or any crime for that matter the Captain needed the ability to take action. Initially citizens brought cases by private accusation. The individual had to come and accuse another individual. Accusation procedure required the accusers to provide their own evidence and witnesses.\textsuperscript{140} However, people hesitated to come forward because if they lost the case they had to pay the legal fees and in some instances take on the penalty the accused would have received. The implementation of inquisition procedure allowed judges more power

\textsuperscript{140} Stern, \textit{The Criminal Law System}, 24.
in criminal cases. They could now choose their own witnesses without having to wait for an accusation.141 This provided the judges with ability to inquire about cases. The rectors could seek out cases and arrest people for crimes, which fell under their jurisdiction. Inquisition procedure grew in popularity and became the process of choice. Florentines still utilized accusation procedure but with less frequency by the 1400s. Unlike in Bologna and Perugia the two procedures did not maintain equal supremacy.142 The statutes of 1415 extended jurisdiction to all three rectors and the power of the judge over his cases grew. The rectors and the judges now had the power of arbitrium, which allowed them to utilize their own discretion and interpretation of the statutes. Nevertheless, the judge did not make decisions by just his conscience. The judge had other extraordinary measures at his disposal such as summary procedure, public fame torture, and other partial proofs.143 This process helped to prevent corruption and made them accountable for their decisions.

Evidence

Public fame assisted the judge in making an informed decision. This measure became an important tool in inquisition procedure. When a case lacked physical evidence which occurred often, the judge used public fame because the information was independent of the accuser.144 Public fame involved a citizen’s reputation within the commune. Fama was gossip or even common knowledge, but in court the law treated it as status with consequences. It was the point where facts met law. Fama held an association with honor.145 Individuals who had bad public fame were excluded from testifying in court and being elected to government positions. Many

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Florentines believed being poor was better than having bad *fama*. If the accused had a reputation for petty theft or assaults, witnesses were more likely to testify they had bad public fame.\textsuperscript{146} Those who did come before the court as witnesses did not necessarily know anything about the case but they could provide information on the public behavior of the accused.\textsuperscript{147}

Public fame served as both initiation and proof especially when the judge had little proof to utilize. Sodomy cases often had little proof and in this instance, public fame could make the case. In cases where torture was applied, public fame was often used along with evidence acquired from torture. Further, witnesses did not have to reveal where they received their information. Public fame cases had high conviction rates because these witnesses counted toward the number of the witnesses needed to convict. Previously, accusations made in secret or *tamburazioni* often caused cases to fall apart due to incomplete evidence.

**Court Proceedings**

Once the court cited an individual for a crime, they had four options: flee, deny, confess, or get an exception. The accused could call their own witnesses to testify on their behalf. If an individual refused to appear at court or respond to the citation, he was considered guilty by his silence. A confession reduced the penalty unless it was a capital case. Gene Brucker observes that the court relied on fines rather than imprisonment unless they could not pay their fines.\textsuperscript{148} Often individuals stayed in prison until they could pay the fine. If an individual could not go to court, they could pose an exception. Men who were out of town for business could effectively utilize this option; however, often exceptions served as a way to delay going to court. The Captain declared those who did not heed the citation were banned but not condemned. At this

\textsuperscript{146} Kuehn, *Fama as Legal Status*, 38.
\textsuperscript{147} Stern, Criminal Law System, 224.
\textsuperscript{148} Brucker, Renaissance Florence, 139.
stage, the judge issued another citation and if the individual still refused to come to court then he was condemned. The judge determined the length of this term by the severity and quality of the crime. If the individual came to court and paid the fine, he could defend himself in court. 149

The trial itself consisted of several parts: accusation, citation, possible dilatory exceptions of the defendants, response of the defendant examination, proof from both sides, publications of witness, judgment and, if necessary, execution. The courts utilized Roman law or common law of Italy and the statute law of the commune. 150 The commune documented this process within five books for the criminal trial. One book contained accusations accepted and the inquisitions conducted by the Captain. The second book held the testimony of the witnesses for the defense. The third contained the witness testimony from the prosecution. Book four held all of the acts of the court related to bringing the case to litigation. The final book contained condemnations and absolutions. This book provides a summary of cases and the final ruling. This final book is important for the study of the Captain and his jurisdiction. Not only does this book contain the officials, defendants and witnesses but also it describes the crime committed, ruling, and punishment. The commune required condemnation or absolution to be reached in twenty-five days from the day of the response. Judges conferred with the other judges and the rector decided the case. 151 The councils read the condemnations and copies were taken to the camera of the acts. 152 Those condemned of corporal crime were whipped through the street, dismembered, burned, or decapitated as specified in their condemnations. Those condemned of pecuniary crime

151 Statute 3.2
152 This was the room where they kept their records.
were compelled to pay their fines and if they failed to pay then they sat in prison until they did pay or received some kind of cancellation.

Sometimes the Signoria or the executive branch of the government would send out a bullectino. A bullectino was a document, which included an already judged out sentence. The Captain would not try cases with a bullectino attached to them; however, he was required to carry them out. In this sample of cases, this happens more often than previously thought. Other studies done of the Captain during this period do not cite bullectini as being a common occurrence. The Captain swears an oath to carry out all cases according to the statutes, which theoretically he could not accept a bullectini for anything other than tax defaulting cases in good conscience. Bullectini in this sample of cases occurs often in political and tax defaulting cases. However, there are times when the commune used the bullectini in a case of ordinary crime. This is significant because it portrays the breakdown of the Florentine legal system.

Syndication

The Florentines placed other regulations in place to keep them in line. One of the more important regulations was syndication. This regulation allowed the government to have some control over the officials. Syndication ensured the accountability of public officials, that every foreign magistrate had to undergo. With the creation of independent forms of government in the late twelfth century, people began to demand accountability for their officials, which led to the concept of syndication. The commune implemented syndication after the official’s term, and men drawn by lot presided in the summary inquisitional trial led by a legal advisor. Any

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155 Isenmann., “From Rule of Law,” 59. Drawn by lot mean making a decision based on chance with lots such as pebbles and straws.
citizen of the commune could produce a complaint against an official. If convicted the verdict could not be appealed and the Captain, Podestá or Executor could not serve in another city.\textsuperscript{156} The commune attempted to make their officials accountable for their actions. According to Moritz Isennmann the council members were strictly forbidden from even mentioning that the Captain could be removed from syndication.\textsuperscript{157} These controls provided the court officials with guidelines, and when the Florentine families began to struggle over control of the commune these regulations began to become less clear. The commune had stipulations for times of emergency. Often during times of political unrest, the people would grant officials special emergency powers or \textit{baliá}. This gave officials the power to suspend accountability.

The commune held rectors accountable for any misconduct at the end of their term served. A case from 1382 exemplifies that some rectors did not hold themselves to the same level of honor.\textsuperscript{158} The Captain at the time, Messer Obizzio degli Alidosi fell in love with one of the unmarried women of the Figliopetri family. Their father was in exile and had not arranged marriages for them. Obizzio communicated with one of the girls and eventually sent one of his notaries and some guards. He justified this action by claiming that he believed her father had broken his term of exile. The notary brought the girl to the Captain’s place where Obizzio assaulted her. Obizzio laid the blame on the notary and had the girl sent to a brothel. Her brother returned from out of town and killed his sister for her dishonor. The record states that Obizzio had committed many illegal and arrogant acts such as wrongly sending men into exile and taking

\textsuperscript{156} Isenmann., “From Rule of Law,” 59.
\textsuperscript{157} Isenmann.,”From Rule of Law,” 60.
\textsuperscript{158} Brucker, \textit{The Society of Renaissance}, 130.
bribes.\textsuperscript{159} This case exhibits that the rectors committed criminal acts and the commune held them accountable. The case does not provide any details on how the commune punished Obizzio.

Buonaccorso Pitti, who held several important offices in his political career, is a good example of a rector who followed his oath. In his diary, he wrote an account of his experiences specifically of his time as Captain of Pistoia in 1339. Pitti holding offices in other city states shows that other city-states had a similar legal system involving foreign rectors. He expressed his discontent with what the commune of Florence wanted him to do. While Captain of Pistoia he arrested a public thief. The Signoria of Florence demanded that he let them bring the thief to the Podestá of Florence. Pitti did not comply; instead he wrote back begging the commune to respect the rights of the people of Pistoia. Florence replied telling him if he did not give them the thief, they would inflict punishment, which would be a perpetual example to all who refused to obey them. He then sent representatives to Florence to persuade them. They begged the commune to allow him to administer justice and keep faith with the oaths he had sworn when he took office. This of course backfired on Pitti and the Signoria voted to condemn him to twenty-one years banishment. The motion did not pass, however the Signoria told the representatives that if Pitti did not comply then they would put the issue to another vote until it passed. Pitti called a meeting and told them he was willing to go into exile and other trials to defend their rights. The Pistoians thanked him for his dedication to the office and told him they appreciated his efforts. They decided that they had no choice other than to give the thief to Florence. Pitti begrudgingly handed the thief over to Florence. Buonaccorso’s account illustrates what the office of the Captain represented to the people, a rector who stood up for the rights of the people and would go against corruption. Pitti's account is unique in that it personifies the view of a

\textsuperscript{159} Brucker, \textit{The Society of Renaissance}, 131.
Florentine aristocrat who believed in the Republican ideas of the commune. This episode, however, personifies that Florence did not believe these rules applied to the city-states they ruled.

Ordinary Criminal Cases 1429-1434

Ordinary crime often involved theft and assault. These crimes were usually violent and the severity judged by the amount of blood effused and the extent of disability. The sample of Captain cases from 1431 to 1434 utilizes the same procedural formula as Josef Kohler and G. Azzi’s, collection of cases, which range from 1344-1345. One of the most consistent factors in these cases is the profuse amount of violence. Kohler and Azzi cite several cases of men attacking each other with broad swords, lances and knifes. The cases in this sample like Kohler and Azzi’s vary in severity. For example, a case from 1432 involved one man violently stabbing and beating another man with a knife. Whereas a case from 1434 involved a serial thief, who stole basic items but committed no physical harm.

The condemnation record provides the main aspects of the case, including the name of the defendant, name of the victim, the charges, location, some details on the crime itself and then the sentence. All the cases followed the same formula beginning with the praising of God, names of the officials, the Captain and the Pope. The next part of the record states if the cases came to the court by accusation or inquisition and that under the statutes and the ordinances that the Captain condemns the defendant. Further, it states that the crimes through the defendant committed and perpetrated in the place and time appearing in the accusation and the trial formed against the defendant reflects the crime the defendant committed. Each case followed this general formula with some variations before the actual details of the crime. For example, in one
case, the notary specifically mentioned the man who made the accusation swore an oath on the bible that what he claimed was true.\(^{160}\)

The next part of the case detailed the crime itself beginning with the date of the crime and sometimes the location. Particularly in assault cases the notary included the weapon used to attack the victim and the formula “with all things suitable for committing a crime and with the malice and forethought deliberately moving from place to place to make an assault.”\(^{161}\) Another important aspect of assault cases was the amount of bloodshed, which the notary would include in the details of the case. Once the notary provided the details of the case, he wrote down the sentence and the fine the defendant needed to pay. Some cases were short and simple providing very little in details about the crime committed. Other records provided graphic detail about the crime but, unfortunately, the notary usually neglected to include motive.

Assault

The assault cases often involved the most violence. A case from 1432 entailed the horrific beating of a man named Piero by a man named Thomas.\(^{162}\) He attacked Ser Piero at first with a knife then later with a lance. The notary writes that Thomas was not satisfied with one attack and detailed the profuse amount of bloodshed throughout the gruesome beating. Thomas used the lance to stab Piero in the chest with what the notary described as a maximum effusion of blood. Piero tried to fight back and grabbed the lance with both hands. He could not defend himself as Thomas continued to beat him with the lance and this caused Piero to fall to the ground. Thomas continued to hit Piero on the head and then the arms. He pulled out the knife and stabbed him in both arms. The notary again stressed the act caused the greatest effusion of

\(^{160}\) Atti del Capitano del Popolo liber condemnationes 3195, f. 11.
\(^{161}\) Cap.Pop.Lib. Cond. 3195, f. 11.
\(^{162}\) Cap.Pop.Lib. Cond. 3195, f. 11.
blood and broke Piero’s arm. Thomas continued to stab him in the unbroken arm with a maximum effusion of blood and then proceeded to cut off his ring finger and middle finger. The beating still did not stop and continued to beat Piero’s head until he fractured bone with a maximum effusion of blood.

The only reason the beating stopped was a few men living nearby intervened. They took Piero into their home preventing Thomas from doing more damage. The reasoning behind the beating was not included in the case but Thomas was required to pay a fine of twenty-two libri and eighty fiorini piccoli or be banned from the city. Piero miraculously managed to survive for the record reveals him as the individual who accused Thomas of the assault. His survival explains why Thomas did not receive the death penalty for his crime. This case is different from many of the others for graphic detail it provides. There is a possibility with this case that Piero lied about the severity of the beating. His survival is quite miraculous and he may have exaggerated his account in order to get Thomas in trouble. The notary writes that Piero swore his account was true:

“Ser Piero Ser Laurenti citizen of Florence before everything else he gives an oath in front of the Captain and his judges. And he swears while touching the bible that the within written accusations is true and he does not do it through calumny and not extended with the attempt to commit calumny but to prove everything the best he can…….”

Despite the notary recording these actions by the court there is still no way to prove whether Piero lied under oath. Another case from 1433 similarly involved a man getting his skull fractured with a knife. The notary wrote that the wound bled profusely but does not provide

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much other information. The assailant Julian never appeared in court, which may explain the lack of detail. The Captain banned Julian after he never appeared to face his charges.

Several other cases in the sample involve acts of violence. A man named Andrea Matei stabbed a man with a small knife in 1432.\textsuperscript{165} A woman named Nicoleta in 1429 stabbed a man with a knife and went to prison for several years.\textsuperscript{166} Her fine was paid and she was released from prison. This is not the only case involving an act of violence by a woman. Filippo Tebaldini and his wife Pera conspired together to attack a man named Nanus in his own home.\textsuperscript{167} Pera with an ax in hand beat Nanus resulting in a lot of blood according to the notary. This case just like the others does not mention the motive. Pera does not appear when cited and the Captain bans her from the commune. Filippo on the other hand was absolved after paying a fine. Out of the ten cases in this sample involving violent assaults, only one mentioned the victim died. This case from 1432 is particularly interesting because the commune tried the defendant in two courts.\textsuperscript{168} Bartolomeo beat a man named Ugolino until several of his bones broke. The motivation for this crime is not included but Ugolino died while Bartolomeo was in prison a month or so after the beating. The Podestá condemns Bartolomeo to have his head amputated if he did not pay the fine and after the death of Ugolino the Captain sentences him to be banned. In this instance, they had to take Bartolomeo to another court to charge him with murder. The court agreed that the wounds he sustained from the beating caused Ugolino’s death.

Circumstances like Bartolomeo’s are still relevant particularly in the United States. For example, the assassination attempt on president Ronald Reagan in 1981 resulted in James Brady, Reagan’s press secretary, receiving a severe gunshot wound to the head. On August 4, 2014

\textsuperscript{165} Cap.Pop.Lib. Cond. 3146, f. 15.  
\textsuperscript{166} Cap.Pop.Lib. Cond. 3146, f. 15.  
\textsuperscript{167} Cap.Pop.Lib. Cond. 3195, f. 3.  
\textsuperscript{168} Cap.Pop.Lib. Cond. 3154, f. 1.
according to the DC police department Brady died due to the injuries he sustained during the assassination attempt. The chief medical examiner after performing an autopsy revealed the consequences of the gunshot wound and ruled Brady’s death to be a homicide. John Hinckley the man who shot Brady has been under psychiatric care since he was found not guilty of assault with the intent to kill because of insanity. The Virginia police department launched an investigation to decide if new charges should be filed against Hinckley. In January of 2015, after reviewing applicable law, history of the case and circumstances of Brady’s death, the US Attorney for the district decided not to charge Hinckley with murder thirty-four years after the crime. Eugene Volokh, who teaches law at UCLA, lists two reasons why Hinckley should not be charged, the year to day rule, which requires the charge to come within a year and a day after the injury, and double jeopardy. This case portrays the manner in which law changes but also how some legal questions remain open.

Theft

Another part of his jurisdiction, which stayed the same, was theft. There are several incidences of men stealing gold and other property. However, in this sample one criminal stands out. Rofrus Antonio Pagni stole several items particularly from monasteries and mills. He was caught stealing in 1426, 1427, 1431 several times in 1433 and in 1434. He stole what it seems he needed to survive: sacks of grain, a cloak, vegetables, bread, linen and pants. He is often only fined for his crime. The last entry in 1433 clarifies he was incarcerated. Since he stole items he

171 Volokh, “Hinckley Won’t Face Murder Charge in Death of James Brady Prosecutors Say,”
needed to survive the commune did not punish him as harshly as those who stole things such as gold. He may have had to stay in prison for the last offense due to his inability to pay the fine. The record does not mention if he managed to gain his freedom.

In 1433, Jacobus Leppi stole gold jewelry and a few other items. The Captain fined and condemned Leppi to amputation of his foot if he did not comply. The punishment for Leppi is harsher than in the case of Rolfus for several reasons. Firstly, gold does not fall under the necessities for survival in the commune. Secondly, Florence had a plentiful gold trade and by stealing gold Leppi could potentially harm this lucrative business. Thirdly, he did not come to court after the original citation. He appeared after the second citation but was unable to pay the fine and served time in jail. Lastly, this case came to the Captain as a bullectini, which illustrates how serious the commune considered this crime. At this time, the signoria held the power of the balià, which may explain why they used a bullectini in this case. Leppi was released from prison after paying his fine. Another case from 1432 involved a man named Domini Paulus Bartololemeo who stole items such as cushions and linens.

Debt

The several debt cases in this sample, further demonstrate that the Captain’s jurisdiction did not change in regard to debt cases. A man named Bartolomeo Johannes de Castel Florentino appears several times in the record for not paying debts he owed. The first time his name appears in the record is in 1431 but the notary mentions that the previous Captain had initiated the case. He confesses under the current Captain and pays the fine. In October of 1432, he was accused of not paying back a debt to a fellow merchant and is fined 40 florins. The accuser in

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176 Cap.Pop.Lib. Cond. 3154 f. 11.
this case had several witnesses, Paul Tomas, Federico Niccoli and Francesco Bonaparte who testify Bartolomeo did not pay what he owed. This illustrates that the people in the city itself knew he did not often pay back his debts. However, this bad reputation seemed to have caught up with him. In 1433, Georgio Jacobi de Cavillier viciously beat Bartolomeo with a sword and rocks.\textsuperscript{178} The notary writes that Georgio beat Bartolomeo until he bled profusely. The record depicts that he was not condemned but was absolved of the crime. It does not explain why the judge decided to absolve him of the crime. All of the ordinary criminal cases in this sample illuminates that the Captain maintained his jurisdiction by this period.

Several cases from Gene Brucker’s source book, \textit{Society of Renaissance Florence}, demonstrate the other kinds of ordinary criminal cases the Captain presided over not included in the sample of cases from 1432 to 1434. A case from 1379 highlights the importance of public fame. Domenico Pellegrini of Bologna a cavalryman to the commune of Florence, broke into a house and raped the wife of Giovanni di Noldo Porecllini, Monna Anastasia, then he proceeded to steal emerald rings made of gold. The record describes Anastasia as an honest woman of good condition. Domenico tried again to rape Anastasia but Giovanni caught him and beat him in the head with a sword. Domenico confessed to the crime of rape and this part of the case stressed the good reputation of Anastasia and Giovanni.\textsuperscript{179} Their good reputation aided them in proving their case. People with good reputations have better luck at being taken at their word. The Captain sentenced Giovanni to execution as an example to the people of what will happen if you harm someone of good reputation.

A case from 1402 illustrates that the Captain still held the ability to preside over cases of fraud. An alchemist Master Antonio di Luca of Messina described in the case as a perpetrator of

\begin{footnotes}
\item[178] Cap.Pop.Lib. Cond. 3195, f. 5.
\end{footnotes}
fraud and a man of evil condition promised several men that he could perform an act of alchemy. This act involved transforming and reducing copper from the original color into a white color. He told them to do this he would need gold to melt down as well as a few other ingredients. Antonio deceived them and pocketed the money but the Captain caught him. He tried to kill himself but they found him in time, sentenced and burned him at the stake.\textsuperscript{180} The penalty for both of these crimes is harsh and the intention of the harsh sentence was to point out to the rest of the people of the commune what would happen if they committed the same crime.

Not all penalties delegated out by the Captain involved execution. A case from 1415 reveals that a man could receive a more lenient sentence if he could prove insanity. Anastasio di ser Domenico assaulted his mother Mona Novella with a stick on the head with heavy effusion of blood and killed her. The court decided Anastasio was insane and not in his right mind. However, the court could not let this crime go unpunished. The Captain sentenced him to perpetual imprisonment. Later in 1428 Anastasio on the feast of Saint John the Baptist and was taken to the church of Saint John the Baptist by means of ceremony received absolution.\textsuperscript{181} This case exhibits the need for order as well as mercy on the mentally ill.

The need to keep order and set an example for others is illustrated in a case from August of 1423. Niccolo di Ser Matteo, described in the record as a violator and corruptor of convents, man of evil condition, life, and reputation went into the convent of Saint Salvestro and had his way with a nun Monna Tita. However, he returned on another day with friends to have his way with her and she refused. Niccolo became angry, threw stones on the roof and shouted vile words. He of course did not get away with this crime and confessed. The Captain sentenced him

\textsuperscript{180} Brucker, \textit{Society of Renaissance Florence}, 157-159.
\textsuperscript{181} Brucker, \textit{Society of Renaissance Florence}, 170-172.
to be whipped in the streets of Florence and held in prison until he paid a 500 lire fine. The cases from the sample of 1431 to 1433, Kohler and Azzi, and Bruker’s source book exemplifies that the Captain maintained jurisdiction in ordinary crime at least up until the rise of the Medici. These cases also illustrate that the Captain followed his oath more often than not.

The Captain’s ordinary jurisdiction stays the same during this period. Factionalism and the rise of citizen magistrate courts did not affect the ordinary jurisdiction of the Captain. Crimes of assault, murder, debt, and theft did not concern the families fighting for power. The Otto gained power but they did not yet arrest citizens for ordinary crime. He prosecuted cases of assault, theft, murder, and debt. These cases followed the same formula as cases from previous years and contained the same pattern of violence. The Captain maintaining his ordinary jurisdiction emphasizes that the commune believed the rectors could preside over these cases without their involvement. This does not mean the Florentines did not have their suspicions about the rectors. However, it does exemplify the commune was more concerned about other types of crime particularly political crime, which is the topic of the next chapter.
CHAPTER 4
POLITICAL CRIME

In this chapter, I will discuss the Captain and his management of political crime. The Captain’s political jurisdiction did not stay the same in this period from 1429 to 1434. He tried crimes involving the French aristocracy, Medici adherents, and tax defaulting. Florence had a symbiotic relationship with the French, so for a French Duchess to ask for a favor from the commune, for Florence was not out of the ordinary. The cases involving Medici adherents eroded the jurisdiction of the Captain because the Albizzi utilized government mandates or *bullectini* to exile them. This took away the ability of the Captain to give them a trial and there is no indication by 1433 that the Captain says anything against this procedure. The tax defaulting cases epitomizes the economic woes of the commune for even the wealthiest residents could no longer pay their taxes to the commune. The trial without a *bullectino* followed Roman law procedure with testimony, a trial before the judges of the Captain, a sentence, and execution of the sentence. Further, the rise of citizen magistrate courts such as the Otto eroded the power of the Captain. He was no longer the defender of the people but the tool of those in power to carry out what they desired. The Captain's political jurisdiction was affected the most by factional conflict. Those who reigned supreme within the government did so by eroding the political jurisdiction of the Captain and the other rectors.

The commune of Florence, as previously discussed, struggled to prevent faction. However, the commune, by the fifteenth century could not solve the problem. This is the main reason they adopted a system with foreign rectors. They did not trust their local officials to make legal decisions without factional loyalty influencing their ruling. The Captain and the other foreign rectors had a duty to follow their oath and deliver justice. Despite these precautions, the
foreign rectors often found themselves at odds with the local officials concerning political crime. The foreign rectors did not have expert knowledge of the local statute law and they spent their first few weeks reviewing it. Further, the local officials and aristocracy believed they should have input into what happened to their political criminals. This type of crime affected the commune on a larger scale than any other kind, which caused tension. Elites tried various strategies to weaken the foreign rectors especially through citizen magistrates and *bullectini*.

All three rectors according to the statutes of 1415 held the jurisdiction to try political crime. They could receive these cases in several ways. Firstly, individuals could bring an accusation through accusation procedure. However, this was by this period the less common way cases came before the foreign rectors. Public crimes were less likely to come to the attention of the rectors through accusation. Secondly, the rectors could use inquisition procedure, through which, as previously discussed, the rectors could inquire about the issue themselves. Lastly, they could catch the defendant *in flagrante* or while he or she committed the crime. The commune would arrest for different kinds of political crime such as treason or sedition, fraud, and inciting rebellion, on certain occasions. The commune wanted to try these cases themselves, and as time passed this desire became more apparent.

The procedure for political crime cases within the record followed a similar formula to ordinary crime cases. Much like ordinary crime cases began with praising God, listing of the officials involved and the Pope. The next part detailed whether or not the case was brought by accusation or inquisition. The notary then writes about who the Captain condemns often with a formula much like this, within the written things we pronounced, we sentenced and we absolved

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183 Statuta Popoli et Communus Florentiae (1415) Liber III, i.
in this manner. Absolved usually indicates the sentence the defendant received was served or the individual was found innocent. Again, like ordinary crime cases some are more detailed. The details of the crime can range from several lines to several pages. If the case contained a bullectini the record began similarly to the other cases praising God and listing officials and the Pope. Instead of going straight into who committed the crime, the record states the case was mandated to the Captain by the Priors and the Gonfalonier of Justice. The case often did not describe the crime committed by the defendant. In the bullectini cases in this sample, the defendant was relegato or relegated to another city. The notary throughout the record noted that the commune mandated the case to the Captain. The case ended much like the others giving the sentence.

Florence and the French Aristocracy

The Florentine elite built relationships with aristocrats outside of Florence. A case from November of 1433 involved the French nobility and initially seemed out of place. However, when considering accounts by Dino Campagni, Giovanni Villiani and Buonaccorso Pitti the events, which follow, make sense. As previously mentioned, Campagni and Villanni, discuss Charles of Anjou ruling Florence for ten years. Further, Buonaccorso Pitti in his diary describes his interactions with members of the French nobility. He gambled and borrowed money from several French elite when he lost large sums of money, during a game of dice. He also lent a great deal of money to elites for gambling. Pitti also accompanied the Duke of Orleans on his journey to Avignon along with the Dukes of Berry, Bourbon, Burgundy and several other lords to negotiate with Pope Benedict about healing the schism of the Catholic Church.184 Further,

while he served as Captain of Barga, the Duke of Milan attempted to frame him for the attempted poisoning of the Emperor.\textsuperscript{185} Pitti immediately wrote the Duke of Orleans informing him he held no blame in this case.\textsuperscript{186} These connections with French aristocrats benefited Pitti and demonstrate the kind of symbiotic relationship they had with each other.

After the battle of Agincourt in October of 1415, the King of England kept many of the French nobility as prisoners of war.\textsuperscript{187} In 1433, the wife of the Duke of Bourbon, Marie de Berry, requested Florence grant her 150,000 florins to ransom her husband John from England.\textsuperscript{188} The Duchess lost her son-in-law and cousins in the war and her son and brother-in-law were English prisoners.\textsuperscript{189} Florence granted her request; however, she never received the money. Guelfo Rucellai negotiated this treaty with the Ten of War but instead of bringing the money to Marie’s negotiator Castiglioni, Rucellai pocketed the money. The record states Guelfo negotiated the treaty with the intention of cheating the Duchess. He was not alone in the crime. He had the assistance of a man named Peter Mano, which only incriminated Guelfo further.\textsuperscript{190} The political consequences of this case for the commune could have been astronomical. One could argue that cases such as this only motivated the elite of Florence to increase their power over the political and legal functions of the city. The first part of the case began like this:

“Against within written persons and whoever of them on the behalf of the crime within written crimes, faults, excess crimes for or through them and whoever of them committed and perpetrated in this location and times contained in the inquisitions and trials against themselves

\textsuperscript{185} Buonacorso Pitti, \textit{Two Memoirs}, 74.
\textsuperscript{186} Buonacorso Pitti, \textit{Two Memoirs}, 82.
\textsuperscript{188} Cap.Pop.Lib. Cond. 3195, f. 1.
\textsuperscript{189} Barker, Agincourt,Ch.18 Rewards of Victory.
\textsuperscript{190} Cap.Pop.Lib. Cond. 3195, f.1.
and whoever them having been formed after the trials. The within written things we said
pronounced. We sentenced and we condemned and we absolved in this manner and form Guelfo
son of the late Lord Francis of Rucellais of Florence accused by public fame.…..The license is
concerning the cause of Mary of Bourbon and the liberation of the illustrious Prince Lord
Ludavico Duke of Bourbon husband of the said magnificent madam captured and in prison into
the hands of the king of England….. ”191

This is an example of how most of the cases began with the condemnation of the defendant and
the people who are involved in the case.

The case ended in confession, that the notary wrote “was spontaneously made.” The
notary always wrote that confessions were spontaneously made. If the confession was made
through torture the defendant had to repeat the confession in court without torture. This man was
a noble so it was slightly unlikely the commune resorted to torture. The notary does not elaborate
any further on the matter but when considering the implications of this case to the commune it
would not be surprising if the court did resort to torture. They had no other method of getting the
information and they needed to keep those involved satisfied. The court demanded he pay a fine
of 500 fiorini piccoli and was required to go to prison until he paid. If he did not pay the fine
within one year, it increased. The incident could have destroyed the commune’s relationship with
the French aristocracy. However, their relationship survived this ordeal as is illustrated by
Catherine de Medici’s marriage to the king of France in 1533.192 Not many sources exist about
the Duchess and the record does not mention her feelings about the commune’s inability to assist


her rescue of her husband from English prison. Unfortunately, the Duke died in prison in January of 1434 and she followed, passing away in June of 1434.193

Treason

Historians have found it difficult to define treason within the Roman law. F.W. Maitland described it as a “crime with a vague circumference and more than one center.”194 There are various terms applied to treason but perduellio and crimen laese maietsatis are two common ones. Perduellio under the early Roman republic was a crime of hostility toward the state. For example, an individual who consorted with the enemy against the state was charged with perduellio or high treason, which included forfeiture of property, exclusion of sons from inheritance, exile and sometimes death.195 The term maiestatis denotes sovereign authority of the state lodged in one person, persons and any violation of this authority.196 Under Emperor Augustus perduellio would fall under crimen maiestatis but proditio remained as the term for an individual traitor. The crime of crimen maiestatis now pertained to the subjects of the realm and did not apply to external cases of treason, death was often the punishment. Several different types of treason fell under crimen maiestatis including high treason, sedition, and criminal attack against a magistrate.197 The distinction between these two terms is small. It is not surprising that by the 1300s the Italian city-states still struggled to define what constituted an act of treason.

196 Samuel Halifax, An Analysis of the Roman Civil Law, 129.
The Roman law jurist Baldus de Ubaldis attempted to define the law of treason in Florence by looking at condemnations of the Captain of the People in 1379. He concluded that since the commune did not have a king or emperor who ruled over them a crime of *lease maiestatis* is an act of sedition. *Laesa maiestatis* according to Baldus could only be committed against the highest level of authority, therefore *laesa maietsatis* involved treason against the emperor and sedition involved treason against the individual communes. A crime of sedition against an entity with *maiestatis* is still treason, but against a smaller entity instead of an emperor or king. Sedition or *seditio* is defined in the Roman law as open resistance an uprising of a large group, armed or unarmed force against magistrates; a violent disturbance of a meeting of the senate and this fell under the *Lex Iulia vi or crimen maiestatis*. A person who commits sedition must betray their city or *municipium* in some material manner.

Due to the citizens being governed under their own laws, they must prosecute acts of sedition under the statutes of the commune not the *ius commune*. Baldus concluded that confiscation of property occurred by the discretion of foreign rectors since the statutes gave them *arbitrium* when sentencing. This vagueness within the treason law gave jurists the freedom to defend the rule of law against political regimes; however, with the later rise in political power of the Medici they no longer enjoyed this ability. The jurists in these situations served as trusted third parties and honest brokers of law. The Florentine guild governments attempted to make it appear they followed the rule of law. According to Robert Fredona, the Florentine guild government at their moment of greatest weakness cloaked itself in language of Roman imperial

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200 Statuta Popoli et Communus Florentiae (1415 ) Liber III, 1,
201 Fredona, “, “Baldus de Ubaldis,” 159.

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power and maiestas. The later rise of more powerful regimes and their subtle manipulation of the law to fit their own needs are, as Fredona states, the most dangerous.202

Attempts by the elite to undermine the authority of the Florentine government occurred as early as 1379. A conspirator Jacobino Nello stated that he and the other conspirators wanted to bring back to Florence those who were chased out and ring the bell of San Lorenzo raising the Guelf flag shouting, "Viva la Parte Guelfa!"203 Events like this brought the creation of the citizen magistrate the Otto di Guardia. The conspirators wanted to return the exiled men of the Ciompi revolt. A more serious plot came not long after which involved men who wanted to take Florence by force. Benedetto di Simone met with Giannozzo Sacchetti and they laid out a plan that required about 400 men to retake Florence.204 They believed that once they took power the city would be a greater Florence. Giannozzo returned to Florence with the support of Angevin Prince Charles. They arrested Giannozzo and the Captain beheaded him but not before he implicated his accomplices.205 In December of that year, they learned from the Mercenary John Hawkwood that the conspiracy was still ongoing. He stated that disgruntled exiles and Ciompi planned to march on Florence with the help of Charles of Durazzo’s seneschal Giannotto da Salerno.206 The commune dispatched the Otto di Guardia and apprehended the conspirators.

The Otto di Guardia brought the men to the Captain and the Executor for trial. Neither rector wanted to declare the men guilty. The leaders of the government called a *practica* or large assembly in an attempt to convince the rectors to rule in their favor. Some men called for the

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202 Fredona, "Baldus de Ubaldis,,” 158.
203 Fredona,” Baldus de Ubaldis, 144.
204 Fredona, "Baldus de Ubaldis,” 145.
205 Fredona,”Baldus de Ubaldis,” 145.
206 Fredona, "Baldus de Ubaldis,” 146.
guildsman and citizens to carry out justice if the rectors refused. The turbulent meeting ended with the citizens and guildsmen deciding to allow four individuals the power to carry out justice.\(^\text{207}\) The Captain however still refused to do their bidding stating, “Put them to death yourselves, I won’t do it unless I find them guilty!” Despite his protests, the government executed more than a dozen men.\(^\text{208}\) The Captain and the other foreign rectors needed to make a choice between what the commune wanted of them, their careers and the oaths they swore when they took office. If the Captain decided to do what the people asked of him then he could be syndicated and no longer serve as an official in other Italian city-states. The signoria and aristocracy wanted a voice in what happened to men who committed political crime. They believed that the foreign rectors prevented justice for the commune. They began to find ways around the law.

The Elite and the *Bullectini*

As previously stated, *bullectini* were executive mandates ordering the courts to initiate cases or to perform other procedures.\(^\text{209}\) These mandates came from the executive branch, which included the Priors and the Gonfalonier. The mandates instructed the foreign rectors to proceed, condemn, or mete out a particular penalty. According to the statutes, *bullectini* initiated cases involved those who were delinquent in their taxes for over three years or revealed government secrets.\(^\text{210}\) The government would grant *bullectini* excusing citizens from a debt owed to the commune. If they still did not pay their debt within a month of the *bullectino* the rector revoked the *bullectino* and the Priors, Gonfalonier and the Colleges could not issue another unless the

\(^{207}\) Fredona,”*Baldus de Ubaldis,“* 146.
\(^{208}\) Fredona,”*Baldus de Ubaldis,“* 146.
\(^{210}\) Archivio de Stato,Firenze, Atti Statuto del Capitano del Popolo anni 1322-1325 Liber 3 XLIII.
individual received a minimum of thirty-seven votes.\textsuperscript{211} This system of checks supposedly prevented the government from taking serious advantage of the system.

Andrea Zorzi records no \textit{bullectini} in his sample of court cases from 1400 and Laura Stern in her study of the Podestá records two from 1426-28. \textsuperscript{212} In the sample for this study however, the commune mandated the \textit{bullectini} twenty-one times. Most of them applied to those who did not pay their taxes or needed some kind of extension. Five of them were in ordinary crime, extraordinary crime and treason cases. The \textit{bullectini} for tax cases in this sample all occurred in 1431. This surge in unpaid taxes directly correlates with Florence’s war with Lucca. The war began in 1429 and lasted through April of 1433.\textsuperscript{213} The other \textit{bullectini} were issued in 1433 and this corresponds with the rise in power of the Albizzi and the exile of the Medici.

When the Albizzi took power, they wasted no time exiling people who held loyalty to the Medici. The commune utilized the \textit{bullectini} in the case of Angelo Acciaiuoli in February of 1433. The \textit{bullectini} came from the Priors and the Gonfalonier of justice right to the Captain. According to Dale Kent, the Albizzi intercepted letters of Angelo’s, which, if nothing else showed that he and Cosimo de Medici knew each other on an intimate level. The case record presents his offence as upsetting the present state of Florence by speaking out against the Albizzi. Further, it states that the case occurred \textit{post bancum}, or after the hours of justice. This goes directly against the statutes, which state that all cases must be conducted during business hours.\textsuperscript{214} He is condemned, and released from prison and relegated to Calabria and if he returned, Angelo would face \textit{sub pena capitus et confiscationes omni suorum bonorum} or death under

\textsuperscript{211} Laura Stern, \textit{The Criminal Law System}, 184.
\textsuperscript{212} Laura Stern, \textit{The Criminal Law System}, 185.
\textsuperscript{213} Dale Kent, \textit{Rise of the Medici}, 256.
\textsuperscript{214} Archivio de Stato,Firenze, Atti Statuto del Capitano del Popolo anni 1322-1325 Liber 2, VIII.
the penalty of the law and confiscation of his goods. The record applies the terms *rebellus* and *relegatus* to Angelo. The commune condemned him as a rebel and placed him in relegation, which allowed him to retain citizenship and keep his goods. If Angelo returned to Florence from Calabria, he faced incarceration and execution. The Captain of this case Ugolinus de Montagnis does not speak out against the *bullectino*. He carries out the sentence just like the previous cases.

Another case from February 1433 involved Marius Medici. The case is similar to Angelo Acciaiuoli’s, Marius is declared in *relegato* and his *bullectino* comes from the Priors and the Gonfalonier of Justice straight to the Captain. The *bullectino* states “sententiam condemnatus domini Mariam inampututione capitus tamquam rebellem et pro rebelli communus Florentiae.” This sentenced Marius to be beheaded if he returned to the commune. Marius is relegated to the region of Apullia. The Captain again follows through with the mandate. The record does not specify what crime Marius committed. It is likely that his proved association with Cosimo caused the commune to want him exiled.

Christopher Hibbert's *The House of the Medici: It’s Rise and Fall* discusses the case of Mario Medici. He implies that the Albizzi exiled Mario due to his attempt to uproot Albizzi foreign policy. More than likely, he was attempting to remove the Albizzi. However, Hibbert fails to mention where he found this information. Dale Kent however, states that Mario conspired with condottiere Niccolo Piccinio against the Florentine government in January of 1434 and was

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arrested by the Venetian authorities. According to a letter from Cosimo to a man named Giuliano he turned Mario into the Venetians. Cosimo wanted to return to Florence but not with violence. Kent writes that after the arrest of Cosimo, the tutor of his children and member of his household Ser Giovanni de Caffarecci, was tried before the Captain in 1433. The Priors detained Giovanni on the charge of knowing Cosimo.

The compliance of the Captains can be due to multiple factors. The rectors may have been friends of the Albizzi, which is less likely since they were foreign rectors. Another option is that they succumbed to political pressure and complied with the mandate ignoring the possibility of syndication. In addition, the court of the Executor, which managed syndication of officials was dissolved in 1433. The procedure of syndication did not disappear but this may have made prosecution for syndication less likely. The baliá of 1433 is in effect and those in control of the baliá can remove the possibility of syndication leaving the rectors grappling more with their morals and futures than the possibility of punishment. Previously attempts occurred to make the Captain the Captain of the baliá. This would allow those in power to keep the Captain longer than the six-month requirement of the foreign rectors. After the Medici returned from their exile, the baliá of 1434 was issued and in this instance, the baliá extended power to the Captain to handle rebellious individuals who violated the terms of their exile. This mandate did not work like the bullectini because the Captain still had the ability to preside over the case instead of taking the government mandate and sentencing the defendant without trial.

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221 Kent, The Rise of the Medici, 310.  
222 Kent, The Rise of the Medici, 236.  
223 Statuta Popoli et Communus Florentiae (1415 ) Liber, III, II  
The desire to take control in political crimes did not end with the executions and exile. The government continued to push for carrying out what they believed to be justice. Those who supported the government agreed that the execution of conspirators was not enough. A doublet maker Giovanni di Filippo, who served on the priorate at the time, wanted pure and undiluted justice while Feozzo di Casino a wool shearer claimed “The only way to save the government is to let justice be done, yielding to no one.” The statements from both of these men personifies the desire for change in their government and their limited trust in the foreign rectors to carry out what they determined to be justice. This faction attempted to rig the election of government officials by altering the names selected from the borse or bag. Florence held elections every two months for government officials and selected names by lot. Men who did not pay their taxes, served a recent term, or were related to men already drawn were ineligible to serve. Those selected held the title of Priori and presided over the government or Signoria. This constant overturn of internal and foreign officials contributed to the people’s misgivings and fueled the desire for change. These reservations are exemplified in 1433 when the Albizzi implemented a balià. The Albizzi claimed the balià existed to "assist the Signora and the Podestá in their activities, so that with God’s grace, scandals might be gotten rid of and dangers removed." Once the Albizzi took power, they wanted to control the exile of their enemies. Using the balià the Albizzi did not have to ask the rectors to assist them.

The Catasto and the Bullectini

Florence often found itself involved in numerous wars with surrounding Italian communes. The commune felt the pressure to pay their condottieri higher wages and better

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225 Fredona, "Baldus de Ubaldis," 147.
terms. According to Anthony Molho, the sums the citizens of Florence paid to the commune from 1422-1433 were the highest in their history. The commune collected forced loans or the *prestanza* for their revenue. This tax often presented a burden on the citizens they could not afford despite the promises of the commune of repayment with interest. The wealthy in essence funded the wars of the commune and became the backbone of the city. The commune further taxed the *contado* until they drove it into poverty. Molho illustrates this when discussing the merchants who threatened to take their money to other city-states or retire, which would dramatically hurt the possible income the commune could receive, if they did not make the *prestanze* more evenly distributed. The commune needed to find another way to create revenue fairly but not eliminate the forced loans. Rinaldo Albizzi believed the current taxation system did not foster *caritas inter cives* or charity among citizens. However, under this new system the catasto, those who did conceal their patrimony defrauded the commune. Defrauding the commune was an act of treason. The Catasto of 1427 simply distributed the forced loans more equitably and assessed them by taking into account all movable and immovable assets.

There are further examples of citizens doing their best to avoid paying their taxes. Francesco di Marco Datini was a prosperous merchant but he made a serious effort to conceal his prosperity. The commune when it implemented the *prestanza* not only levied a high tax but sometimes insisted upon immediate payment of a large sum from one of the rich merchants,

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229 Molho, *Florentine Public Finances*, 63.
230 Molho, *Florentine Public Finances*, 78.
231 Charity among citizens
233 Molho, *Florentine Public Finances*, 87.
especially if like Datini, he was not a Florentine citizen. Generally, a man only paid taxes to the county or the town. Datini did not approve of being asked to pay the _prestanza_ when he had already paid his taxes to the county. Datini wrote a friend in 1401 that he paid 6,000 florins to the commune within six years. It is not surprising the aristocracy and merchants did all they could to hide their assets.

The record from 1432-1434 further exemplifies that the commune had to seek out those who did not pay their taxes. These lists contain men from wealthy Florentine families such as Masi, Bardi and, Rinaldo Albizzi. The record reveals that after their citation they paid their tax which if they did not pay would have be charged with treason against the statutes of Florence. These entries do not specify the amount these men owed but it provides a large number of entries citing various days in the year where men were required to pay their taxes. This further explains how often the commune had to ask for funds. The notary does go out of order in his entries. Initially, he stays on track citing cases from November, December, and January. After this, the entries go out of chronological order. He jumps from February to March several times. He records an entry for April and then returns to March and ends his entries with this month. It seems the notary left blanks in the record and then filled them in later, he was not supposed to conduct business in this way.

By the time of the Medici and Albizzi conflict, the government no longer held assemblies to determine punishments for political crime. The Albizzi wrote up a _bullectino_ and the Captain’s job when he received a _bullectino_ was to carry out the sentence without any delay. In

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235 Origo, _The Merchant of Prato_, 140.
236 Origo, _The Merchant of Prato_, 145.
237 Cap. Pop. Lib. Cond. 3146
Court records from the Catasto rolls, cases of people charged for not paying their taxes frequently come to the Captain as bullectini.\textsuperscript{238} What is interesting about these cases is that several members of the more powerful Italian families are included in this list such as Albizzi and Strozzi. This demonstrates the economic stress of the commune considering the richest citizens could not afford to pay their taxes or just refused because they believed they had given enough to the commune. All of those involved belonged to families loyal to the Albizzi and Medici. They illustrate that the Captain received bullectini for cases that did not directly involve political crime.

Citizen Magistrate Courts

After 1415, with the formation of citizen magistrate courts the Captain and the other rectors lost some of their jurisdiction. The commune decided this would give the rectors more time to focus on other serious crimes. For example, the Onesta created in 1403 served to regulate prostitution within the city. According to John Brackett, the explanation provided for the creation of the office is vague but the Florentines decided if they could not eliminate prostitution then they at least needed to find a way for it to benefit the community.\textsuperscript{239} Prostitutes through the court’s regulations had their own sector of the city; had to carry a license; and had to wear specific kinds of clothing such as bells, gloves, and high heels. The rectors involved with the Onesta did not change every six months, which allowed them effectively to carry out a system of regulation for the commune’s prostitutes and cleaned up the city. Despite what may have originally been good intentions the specialty courts eroded the power of the foreign rectors leading to their eventual demise.

\textsuperscript{238} Cap. Lib. Cond. 3146, f 44.
Samuel Cohn in his study of criminal cases considers various types of crime from 1344-45, 1374-75 and 1455-1466. He provides various statistics on these periods and discovers an overall decrease in the total number of sentences, which he attributes to plague and the expansion of the jurisdiction of the citizen magistrate courts, specifically the Otto di Guardia. Further, by looking at various criminal offences from these periods, he found a fundamental shift in the nature of prosecution rather than criminal behavior. He believes the commune became more selective in some of the crimes they prosecuted.\textsuperscript{240} For example he found that the ratios of murders to assaults soared by 356\% from his 1370s records to his 1455 records\textsuperscript{241}. He argues this indicates the assault cases were not reaching the courts because the commune did not prosecute them as often. Cohn concludes that the structural changes in criminality, the strategies of prosecution and the organization of law enforcement were not far removed from the political conflicts of the commune. This demonstrates that the growing power of the Otto affected the foreign rectors in not only jurisdiction but also the manner in which they prosecuted crime.

The creation of citizen magistrate courts represents the slow breakdown of the power of the lawyers and foreign rectors. Cohn details this breakdown of power in his study. The Otto di Guardia created in 1378 after the fall of the Ciompi, slowly assumed power. The Otto, unlike the Captain and the other courts, was not established with procedures of inquisition and testimony.\textsuperscript{242} The Otto operated as a summary court and the record from this court often only contains the sentence and the name of the accused. They did not fill in gaps that the other courts failed to fill; instead they opened new areas of surveillance, prosecution and criminality.\textsuperscript{243}

\textsuperscript{240} Cohn,” Criminality and the State,” 219.  
\textsuperscript{241} Cohn, “Criminality and the State.” 219.  
\textsuperscript{242} Cohn,” Criminality and the State,” 213.  
\textsuperscript{243} Cohn, “Criminality and the State,” 221.
Originally, they began as an executive commission with great powers of investigation and arrest in the limited area of state security and did not have the power to try cases or promulgate sentences.²⁴⁴ Provisions in 1420 and 1421 authorized them to make declarations of their investigations and expanded their jurisdiction. Beginning in 1433, according to Brackett, the Otto began to erode sentencing powers of the Podestá, Captain, and Executor through the use of *bullectini.*²⁴⁵

The Otto expanded jurisdiction and by 1434 assumed responsibility over the affairs of Jews and other areas.²⁴⁶ What truly separated the Otto from the Captain and the other rectors was their procedure. The procedure was different in several ways. Firstly, the notary no longer needed to draw up an inquisition describing the crime and the circumstances surrounding it. Secondly, they no longer considered the testimonies of the prosecution or defense. Thirdly, and most importantly, the condemned did not necessarily have to commit a crime. He or she could be convicted simply *prosopetto or pro suspicione.*²⁴⁷ The Otto would later be responsible for the exile of several important Florentine families such as the Machiavelli, the Strozzi and the Castellani through the issue of *bullectini* in 1458. These summary courts directly defy the statutes, which states that legal officials were to follow Roman law procedure.²⁴⁸ Through the Otto they found a way around procedure.

The Otto did not reach the height of their power until the 1460s however, their creation and slow building of power epitomizes the desire of the local officials to take crime into their own hands. Another citizen court, the Ufficiali di Notte or the Officials of the Night, shows the

²⁴⁴Brackett, *Criminal Justice*, 57.
²⁴⁶Cohn, “Criminality and the State,” 221.
²⁴⁷Samuel Cohen, “Criminality and the State,” 222.
²⁴⁸Statuta Popoli et Communus Florentiae (1415 ) Lib. III, I I
state invading areas of jurisprudence, which the foreign rectors did not tend to prosecute. The Captain had the jurisdiction to try cases of sodomy and rape however the officials of the night by 1344 adjudicated rape and particularly homosexual rape. The previously mentioned, the Onesta is another example of the rector’s jurisdiction being eroded. None of these courts officially removed jurisdiction of the foreign rectors but it did dilute their power. Everything begins to fall apart especially with the abolition of the court of the Executor in 1434.

Marvin Becker does not agree with Cohn’s assessment. He argues that the formation of the Otto saved the republic from anarchy because the strict manner in which the court did business kept people from breaking the law. He writes that the courts cannot be characterized by a handful of dramatic cases. He believes the chief concern of the Otto was to assist citizens into returning back into society rather than swift and terrible justice. The criminals they arrested committed middle range crimes not such nefarious acts such as sodomy or murder. The Otto by the late 1370s operated in tandem with the high magistrates and minor courts systematically to ensure procedure, which would help citizens with settlement and rehabilitation. The Otto did not save the commune from anarchy and this is illustrated in several ways. Firstly, the Otto was a summary court and as their power grew citizens received justice without the procedure they could have under the Captain’s jurisdiction. Secondly, the Otto started with a jurisdiction, which filled in the gaps of the foreign rectors, but later they began to encroach on upon the powers of the foreign rectors. There are a few examples of this growth in power. In 1434, Cosimo expanded the jurisdiction of the Otto and further asserted his power. In addition, by 1460 the

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249 Samuel Cohen, “Criminality and the State,” 222.
252 Becker, “Changing Patterns of Violence,” 29.1
Otto prosecuted gambling crimes which before belonged to the Captain and the other rector’s jurisdiction. Finally, Cohn in his study mentions that the increase in the power of the Otto affected the amount of cases coming to the foreign rectors. The Otto like the baliá was created with good intentions but men like Cosimo figured out how to get around these checks and balances to their advantage.

All these factors created the perfect atmosphere for Cosimo de Medici to take power in Florence. As previously discussed, he established connections through placement of banks, marriages and patron client relationships. Further, after 1429 secret councils or pratiche dominated the government, which he in turn filled with Medici adherents. Along with the citizen magistrate courts, bullectini and baliá the pratiche eroded the law and all of the checks and balances that the commune originally put into place. The Albizzi did not have the external system of supporters nor banking system that Cosimo had. Cosimo’s bank in Rome helped him to create a relationship with the Pope, which for Guelf Florence was an important ally to have. Rinaldo Albizzi also made three fatal mistakes, which led to the return of Cosimo. When it came time to elect new people for government positions, he did not remove the names from the previous election and in turn Medici adherents were elected. Secondly, he allowed Cosimo to choose his place of exile. Venice did everything in their power to help Cosimo return and one of his banks was located there. Lastly, he did not attempt to expand the time of Cosimo’s exile. Clearly, Rinaldo was not entirely ready to take power and unlike Cosimo, he was not popular.

One could argue that the Florentines followed the Venetian model. Florence did not close their councils to non-elites but there are some striking similarities between the two city-states.

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253 Klein, Scritture e governo, 129.
Venice creates its Council of Ten in 1310 after the Tiepolo Conspiracy. A group of conspirators attempted to assassinate the Doge.\textsuperscript{254} As previously mentioned, Florence created the Otto di Guardia after the Ciompi revolt under fear of further rebellion. The similarities do not stop there both the Ten and the Otto worked with their respective offices to carry out swift and decisive action.

The change brought by Cosimo to the commune of Florence was not unnoticed. Leonardo Bruni, who would later become chancellor of Florence, noted in his \textit{Histories of Florence}, that Florence had become less a popular state than a mixed one in which there was a clear differentiation between the political functions of the few and the many.\textsuperscript{255} Political power now remained in the hands of the few or elite to deliberate and propose policies and the many or everyone else needed to accept or reject with the limited options before them.\textsuperscript{256} J. G. A Pocock argues that the power being distributed between Aristotelian policy and a republic brought balance to the city. Bruni was not the only one who noticed these changes Giovanni Cavalcanti noted that in the last phases of pre-Medicean rule strange discrepancies occurred between what was said and who was elected in the public assemblies, and what was determined and how it was determined in the political backrooms where actual work was done.\textsuperscript{257} He observed, “Many were called few were chosen; many were called and few to real power.” He further adds that the assemblies continued in times of crisis to which citizens came and gave their views and what was said had rationality but there was no longer a connection between what was said and what was ultimately done. Cavalcanti remains ambivalent “if I had supposed that human virtues could be

\textsuperscript{256} Pocock, \textit{Machiavellian Moment}, 89.
\textsuperscript{257} Pocock, \textit{Machiavellian Moment}, 93.
immutable and perpetual in this our transient and momentary life, I would have ventured to say that Cosimo was a man rather divine than mortal.”

258 He believes in the republic but in some ways sees that Cosimo has brought some order to the commune. Cavalcanti understands that unlike a republic, Cosimo could not embody what all the people want and once he died, the commune ran the risk of falling into chaos without Cosimo there to put things in order.

The Captain’s jurisdiction over political crime was severely eroded due to factionalism and the rise of citizen magistrate courts. The Captain had become the tool of those who held control of the government in this period. The Albizzi utilized the bullectini to exile Medici adherents. The record does not contain any indication that the Captain was upset with the rampant use of the bullectini such as the rectors in Fredona’s Ciompi conspiracy cases. This means either they did not voice their misgivings within the court records or those in power found men who would be compliant to their needs. The commune utilized bullectini not only in relegato cases but also in delinquent tax cases. This was an instance where the bullectini was legal to use but the frequency at which the commune used it emphasizes how badly they needed funds. The wars fought by the commune and the political infighting between the Medici and Albizzi affected the court of the Captain. Factionalism, economic stress and citizen magistrate courts brought about the slow destruction of the Captain along with his fellow rectors.

die xii. december.

Canus Lantzi, etc., et aliae feliciter iunam.

raptus fuit in me hum. non tamen eas poteram

impedit, quod inuentus fuit, et Lanzio

militer dicit caput, licet ad hunc ostiul
centrum formidavit illius flore.

John de Alemania de muno, cujus capite

incineratus sunt, et me hum. poteram

tiu impedit, quod inuentus est, et hic

teburnia multa et min. exspectavit ad illam ostiul

e formidavit illius flore.

Simtichti sunt veluti et restitutis, pelaginis

mater eamque; et flores et solutis odii.

pelaginis pena non tanquam dominis patiunt.

in pelaginis solius nihil nisi radio

et non solutis eae.
CHAPTER 5
EXTRAORDINARY CRIME

In this chapter, I will discuss the Captain’s jurisdiction over extraordinary crime. The Captain’s jurisdiction over extraordinary crime was not affected by factionalism and the rise of citizen magistrate courts in this period from 1429 to 1434. He tried different kinds of extraordinary crime including playing prohibited games, breaking curfew and carrying prohibited arms. For extraordinary crime, there is a limited procedure. The Captain sends out his milites or police officers to search for people committing these crimes. They arrested offenders in the act of committing the crime and brought them to the Captain’s notary of the Capsa. The notary determined the fine for the crime that was committed. If the defendant could not initially pay, the milites put them in a holding room. If after a certain time the offender still could not pay then he stayed in prison until he paid. The Captain had the ability in this period to carry out his ordinary jurisdiction without too much trouble from the commune. This type of crime led to other kinds of crime and the Florentines considered this extraordinary crime. Extraordinary crime much like ordinary crime was not affected by factionalism and the rise of citizen magistrate courts in this period. The Captain and the other rectors were able to prosecute this crime despite the chaos going on around them.

Another kind of crime that fell under the jurisdiction of the Captain and the other foreign rectors was extraordinary crime. The rectors could arrest people for carrying prohibited arms, breaking curfew, and playing prohibited games. In this period, many believed if they did not maintain a virtuous city then the wrath of God would come down upon them. Therefore, it was

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260 A good example of this fear is demonstrated in a case from 1435. Citizens believed a group of men who gambled frequently attracted swindlers and brigands who cursed the name of God and the celestial court. They were surprised God had not sent pestilence and other evils to a city with such thieves. Brucker, The Society of Renaissance Florence, 184-185.
vital that the laws against these kinds of crimes were enforced. Furthermore, the commune believed these crimes specifically would lead to other types of crime, such as brawling and blasphemy. In this sample of extraordinary cases from 1432 to 1433, the Captain most often arrested citizens for playing prohibited games.

The Florentine statutes of 1415 contain various laws about crimes of gambling, breaking curfew, and carrying prohibited arms. The Captain had the authority to send men or milites out at night to arrest citizens breaking these laws. Those arrested for their nocturnal offences, were taken to the notary of the capsa. This particular notary wrote down the names and the crimes of the criminals. The milites took these offenders to the Podestá’s fort or the door near the Captain’s palace.\textsuperscript{261} Criminals stayed in the fort until the trial or in some instances, the milites took them straight to prison. The Podestá’s and the Captain’s milites brought people suspected of carrying prohibited arms, playing prohibited games, going out past curfew, and other crimes to the rectors.\textsuperscript{262} The milites who carried out this duty reported the number of times and the hours they went out and the notary recorded this and determined the diligence or negligence of the milites.\textsuperscript{263} The Capsa registered every man brought to him. This included men accused privately and not by inquisition procedure.\textsuperscript{264}

The Captain, Podestá and Executor could arrest people for committing extraordinary crime.\textsuperscript{265} All three rectors sharing this jurisdiction demonstrates how often citizens committed these infractions. This distribution of jurisdiction also indicates the foreign rectors had an

\textsuperscript{262} Stern, \textit{The Criminal Law System}, 56.
\textsuperscript{263} Stern,\textit{The Criminal Law System}, 56.
\textsuperscript{264} Stern, \textit{The Criminal Law System},56-57.
\textsuperscript{265} Stern, \textit{The Criminal Law System}, 56-57. Second gambling statute
efficient policing system. In comparison, Siena’s Podestá and Captain had a police force that was particular to that rector. Similarly, the Florentine rectors all shared the same jurisdiction and had policemen or berrovarii as part of their allotted officials. Florence’s Captain began with twenty-four berrovarri in 1325 and by 1415 had fifty. The Podestá stayed consistent with sixty, the Executor had four in 1325 and thirty by 1415. However, in Siena, the Captain’s berrovarii dwindled from twenty to ten and the Podestá dwindled from sixty to twenty by the fourteenth century. Siena’s Podestá supervised the day watch and had some power over the Captain’s police force. This was not the case in Florence where the Podestá and Captain supervised day and night watch. Siena’s Captain and the Podestá similarly to that of Florence shared the power to search for persons bearing prohibited arms and to hear, define, and terminate their cases.

The police force in Siena was quite large compared to Florence. In Siena by the mid-1330s, there was a foreign policeman for each one hundred and forty-five inhabitants of Siena. For Florence, it is estimated that the ratio is about one policeman for every eight hundred inhabitants. Florence did not have a police force that was as intensive as Siena. Siena and Florence resorted to various regulations in order to curb the violence. Both implemented a curfew. A citizen of Siena had to carry a special permit in order to be out late in the evening and

269 Bowsky “The Medieval Commune,” 8. The government of Siena was aware of the need for a police force as well as the inadequacies within the police system. It was often the object of mass legislation and the commune often experimented with size, organization, distribution, tours of duty, and jurisdictions of their police. The decline of police also reflects the overall decrease in the authority of the magistrates in Siena.
usually he had to be of a particular profession such as a physician or garbage collector.\textsuperscript{273} Florence and Siena both also had a bell they would ring in order to inform people when it was time to return home. If a citizen was out past the ringing of the bell in Siena, the commune fined them twenty soldi.\textsuperscript{274} The Florentines also arrested citizens who broke curfew and fined them.

Gambling

The offense that the Captain handled frequently in this period was gambling. Out of the twenty-seven cases in the extraordinary records concerning these offenses, seventeen of them involved arrests for gambling. Samuel Cohn in his study argues that the Florentines thought nothing different of gambling then they did before the Black Death.\textsuperscript{275} However, when looking at the statutes from 1322-1325 and 1415 the attitude of the commune changes. The amount of statutes specifically devoted to prohibited games increased from one in 1325 to thirteen in 1415. The initial statute in 1325 stated the basics such as arresting people for playing prohibited games and lending money to gamblers.\textsuperscript{276} The Florentine people may not have changed their opinions about gambling but the commune believed they needed to contain the problem. In the ninety-year period between statutes, the crime of playing prohibited games clearly affected the commune in such a way they needed to implement some damage control. All of these statutes describe the kinds of crimes involving gambling the Captain can prosecute and arrest.

Each 1415 statute specifically describes how, where, and what a citizen was prohibited from doing. Further, these statutes are important because they provide details about crime committed frequently, that the summary cases do not. The first statute, \textit{Quod officiales rectorum}

\begin{itemize}
  \item \textsuperscript{273} Bowsky, “The Medieval Commune,” 6.
  \item \textsuperscript{274} Bowsky, “The Medieval Commune,” 6.
  \item \textsuperscript{275} Samuel Cohn,” Criminality and the State,”
  \item \textsuperscript{276} Archivio de Stato, Firenze, Atti Statuto del Capitano del Popolo anni 1322-1325 Liber III, VI.
\end{itemize}
*rimari debeant ludentibus*, asserts what generally would happen to an individual if the *milites* arrested him for playing prohibited games. The fine according to the statutes would be five-hundred *fiorini piccoli* for each time the crime was committed. The Captain and other rectors if they did not do their duty of seeking out the criminals for playing prohibited games then the official had to pay one hundred *fiorini piccoli* for each flagrant crime they did not report. This provided an incentive to arrest citizens for these types of crimes.

**Kinds of Prohibited Games**

The second statute, *De poena ludentis ad ludem Zardis aliorum prohibitum, locis et temporibus infracripis*, describes illegal games and prohibited locations. Florentines used various objects as their gambling tools. The statute lists different kinds of illegal dice. This list included dice made of bone, wax, stone or wood. The statute also lists types of prohibited dice games, such as *zardi*, and *gherminelle* or slight of hand. As for prohibited locations, Florentines could not gamble in any public place, such as taverns, roads, or any private place including their homes. If the *milites* caught a citizen committing this crime the commune charged the accused with a fine of ten *fiorini piccoli* and if the fine was not paid in a timely fashion the rectors incarcerated him in the *Stinche* prison for thirty days. If the fine remained unpaid, the commune set the fine at 100 Libra and as punishment baptized or submerged the offender in water. Trevor Dean writes that this took place in the Arno River and utilized it as a shaming tactic. In

other words, the commune used this as a way to discourage citizens from gambling. This is the only statute that mentions this type of punishment.

_Zardi_ or Hazzard was a popular dice game in Florence. The game is compared to modern day craps. Zardi was a popular dice game in Florence. The game is compared to modern day craps. The game entailed high stakes where an individual could win big or go home empty handed. This high stakes game consisted of two dice. In the first roll or main, if less than five or greater than nine the dice went to the next player. If not then the other players place their bets. The next player roles the dice called the chance. This role provides three options win immediately, lose immediately or go to the next phase. The chart below portrays the possible combinations that make up an immediate win or loss:

The Risks of Hazard

<table>
<thead>
<tr>
<th>Main Roll</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chance Roll Caster Wins</td>
<td>5</td>
<td>6,12</td>
<td>7,11</td>
<td>8,12</td>
<td>9</td>
</tr>
<tr>
<td>Chance roll Caster Loses</td>
<td>2,3,11,12</td>
<td>2,3,11</td>
<td>2,3,12</td>
<td>2,3,11</td>
<td>2,3,11,12</td>
</tr>
</tbody>
</table>

In the second phase, if the caster did not win or lose on the second roll then he continues rolling and those who are betting can bet between each roll. If the main is rolled, the betters win and if the chance is rolled then the caster wins. If the caster loses, then he has to match all of the bets and then the loser passes the dice to the left. If the caster wins, he keeps the dice and plays again.

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282 The table above is an example of how gamblers determined who won the bet. The rules may have varied depending on the group of people playing. The table demonstrates the extreme stakes involved in Zardi. “Medieval and Renaissance Games”, accessed April 16, 2013 http://www.gerryadamsconstruction.com/germans/hazard.html
Zardi is mentioned in most of the Florentine statutes on gambling. A Florentine could easily lose his entire fortune in this game. It is not surprising the commune believed gambling could lead to violence especially with these types of high stakes.

Samuel Cohen in his study of criminality in Renaissance Florence cites zardi as the most popular game. In his findings, those who the rectors arrested for gambling usually committed another crime. Typical, these other crimes involved violence related to the game of dice. However, in the Captain’s record of twenty-one arrests for extraordinary crime none of the arrests specifically involved Zardi but general dice games or tassalorum. Out of the eleven of the arrests made for tassolorum none were arrested for other crimes and eight of the ten men arrested for playing prohibited games only two committed another nonviolent crime. For example, Johannes de Alma in December of 1433 arrested for playing prohibited games, his only other crime was breaking curfew. Cohn writes that when looking at Otto records from 1460, people arrested for the crime of zardi had not committed any other offense. Cohn’s study does not look at records from this period. However, with the increase in the number of statutes this illuminates that the crime of playing prohibited games had increased. Those in power may have used this as a way to give the Otto jurisdiction over extraordinary crime. Cohen’s records depicts that by 1460 the Otto was arresting citizens for crimes that used to be under the jurisdiction of the Captain and Podestá.

Location of Prohibited Games

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284 Samuel Cohn, “Criminality and the State,”

The next statute involved location, *de poena ludentis in platea dominorum*. Florentines could not play games of Zardi, Narbae or any other prohibited games in the streets nor at the *platium per brachia vinticinque* or the fork in the road. Narbae or Nabi was a card game of chance and unfortunately, the rules for this game have been lost. Those accused of this crime were charged with a fine of twenty-five *fiorini piccoli* for each offense. If the accused did not pay the fine then they would have to pay one hundred *fiorini piccoli* and spend two months in the Stinche prison until the accused paid the fine. The Florentines seemed to have problems not only with people playing prohibited games in the streets but also citizens playing them in and near ecclesiastical buildings. The statute titled *De poena ludentibus in platea hortis san michaelis, vel ecclesies San Ioannis*, describes more locations where gambling could not take place. If an individual played Zardi in either of the aforementioned places then they paid a fine of forty *fiorini piccoli* for each offense and if they did not pay the fine, the rectors had the offenders incarcerated in the Stinche prison for thirty days. If specifically caught playing these games in the Baptismal of the church of San Giovanni then the accused must pay ten *fiorini picoli* for each offense.

Dice games were not the only prohibited games played near churches. The statute *De poena ludentium in infrascriptus locis* not only names Zardi and Narbae but also Pallone. *Pallone* was played with a good-sized ball filled with air, it was struck with the fist against the

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286 Statuti di communi Firenze 1215, Tractatus Contra Ludentis Ad Ludem Zardi Et Alios Ludos Prohibitos Rubrica XXIX, 406-407, 1. Concerning the Penalty for Playing Prohibited Games in the Piazza Signoria
287 Statuti di communi Firenze 1215, Tractatus Contra Ludentis Ad Ludem Zardi Et Alios Ludos Prohibitos Rubrica XXIX, 406-407
288 Walter B. Scaife, Florentine life During the Renaissance (Baltimore: John Hopkins University Press, 1893). 201
289 Statuti di communi Firenze 1215, Tractatus Contra Ludentis Ad Ludem Zardi Et Alios Ludos Prohibitos Rubrica XXX, 407, sc, 1. concerning the penalty for playing games in the Piazza or garden of Saint Michael or in the church of San Giovanni.
290 Statuti di communi Firenze 1415, Tractatus Contra Ludentis Ad Ludem Zardi Et Alios Ludos Prohibitos Rubrica XXXI, 407-409, sc, 1. Concerning the penalty for playing the in the below written places
wall, and the goal was to not let the ball touch the ground on your side of the wall.\textsuperscript{291} This naturally would be disruptive to the peace of the churches, convents and monasteries. If anyone was caught playing any of these games in the streets or near the ecclesiastical buildings then the fine would be ten \textit{fiorini piccoli} and one hundred \textit{fiorini piccoli}, if the fine was not paid. If an individual was caught for a second time, they could be fined thirty \textit{soldi}. The statute goes into detail describing all the possible ecclesiastical walls \textit{Pallone} could not be played on and it even names a few specific buildings such as the church of Saint Felicita, Monastery of Saint Verdiane and the Convent of Saint Dominic. Clearly, citizens played \textit{pallone} often and the commune had difficult time managing the crime. Men of Florence considered \textit{pallone} a nobler pursuit because the Florentines believed it too difficult to cheat at this game. In addition, men could spotlight their prowess during the game, which they could not do in dice and card games.

The next statute specifies other places where prohibited games cannot be played, \textit{De poena retinentis ludem in aliqua loggia and de modis tendis per familiam rectorum and de ludo tabularum premisso}.\textsuperscript{292} This statute delegates to the Captain and other rectors that they can investigate and find those who are playing prohibited games. The rectors were supposed to look for any kind of table games possible places a table game could set up, and stones, which could be used to gamble with. It further details that these table games and any other prohibited games cannot be played in homes, porches, court, or other loggia, such as taverns. Anyone caught in in the act must pay a fine of fifty \textit{fiorini piccoli}. If property located in the court, porch or home is destroyed during the process the accused had to pay a fine of fifty \textit{fiorini piccoli} for each time

\begin{footnotesize}
\begin{enumerate}
\item \textsuperscript{291} Scaife, \textit{Florentine Life}, 200.
\item \textsuperscript{292} Statuti di communi Firenze 1415, Tractatus Contra Ludentis Ad Ludem Zardi Et Alios Ludos Prohibitos Rubrica XXXIII, 409-410, sc, l.concerning the penalty of those holding games in any loggia and the retinue of the rectors and concerning board games and permitted table games
\end{enumerate}
\end{footnotesize}
the crime is committed. However, this crime requires, according to the statute, an accusation of one witness for sufficient proof. As well as two witnesses of sight who could provide *publica fama*. Any rector who did not carry out his job or got caught committing any of the aforesaid crimes was required to pay one hundred *fiorini piccoli* of his salary. This further depicts the communes desire to stop the violence in their streets.

The statute, *De poena ludentis in aliqua taberna vel hospito*, specifically discussed what would happen to anyone who gambled in a tavern or inn.293 The penalty for playing *zardi* or any other prohibited games consisted of five hundred *fiorini piccoli*. The fine for gambling in a tavern or inn was actually higher than for those who gambled in or near ecclesiastical buildings. When considering the Florentines belief that these types of crimes led to other crimes then a higher fine is understandable. Gambling in a crowded tavern could not only cause fighting between those involved but also a brawl could break out among law-abiding customers in the tavern or inn.

**Debts and the Lending of Funds**

The next problem the statutes tackled involved *Quod nullus mutient ad ludem Zardi vel ad alium ludem prohibitem*.294 The game of *Zardi* was quite popular and this indicates how widespread the problem became. The fine for lending money for *zardi* or any other prohibited game to a friend was two-hundred *fiorini piccoli*. What this illustrates is that the Florentines were

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293 Statuti di communi Firenze 1415, Tractatus Contra Ludentis Ad Ludem Zardi Et Alios Ludos Prohibitos Rubrica XXXVIII, 414, sc, 1. concerning the penalty for playing in a tavern or inn

294 Statuti di communi Firenze 1415, Tractatus Contra Ludentis Ad Ludem Zardi Et Alios Ludos Prohibitos Rubrica XXXIV, 410-412, sc, 1. Concerning that no one should lend money for Zardi games or other prohibited games.
concerned with the rapid spreading of these games especially zardi and implemented a hefty fine in order to prevent the problem from getting any worse. This crime also included the need for legitimate witnesses for publica fama and a condemnation. However, in this particular statute there is an emphasis on the duty of the Podestá, Captain and Executor to investigate and discover the legitimacy of the claim. There was also a fine of two hundred fiorini piccoli towards the end of the statute, it mentions the selling of wine and the merchants who sell the wine to tables full of gamblers. If an individual is caught selling wine to gamblers, they pay a fine of twenty fiorini piccoli. The statute further states merchants should not sell wine in the atrium of Saint John the Baptist. What this shows is that the Florentines had a serious problem on their hands.

An important element in these cases was a citizen’s reputation or Publica fama. Fama as previously stated pertained to local gossip or an individual’s local reputation. Those caught gambling usually earned themselves bad public fame. The statute, Denari perditi ad ludem repetantur, described what compulsive gamblers had to do in order to pay back their debts.295 The statute states that the gambler or ruined person has an obligation to repay what he owes. The rectors are required to carry out sentences against those who owe gambling debts. The Florentines had a statute of limitation. The person who is owed the debt had five years to demand restitution. If the gambler behaved in a lawful manner, they could take up to ten years to repay what they owed. The process for restitution of funds was not a simple one. If the gambler or ruined person could not repay the debt then the next of kin became responsible. If the father could not be found nor pay the debt then the debt fell upon the mother, brother or sister. The two parties could even come to an agreement that an individual who was within the four degrees of

295 Statuti di communi Firenze 1415, Tractatus Contra Ludentis Ad Ludem Zardi Et Alios Ludos Prohibitos Rubrica XXXV, 412-413 , sc, l. money lost to repeat gambling,
consanguinity pay the debt. The rectors also had a responsibility in this statute to investigate the claim and verify its validity. The case required sufficient proof and depositions of two witnesses providing *publica fama*.

Cheating

Another problem the commune needed to combat according to the statute *De poena ludentis de vantaggia aut cum taxillus de vantaggio*.  This statute stresses the importance of the words exchanged between the individuals playing the game. If a person used altered dice or made a move that was not sanctioned by those participating then it was considered a crime of *vantaggio* or advantage. If this crime occurred then the accused must pay a fine of two hundred *fiorini piccoli* for each time they committed the crime. The amount needed to be paid in full by a year’s time. This is a steep fine and it is understandable. If an individual discovered his opponent cheated then he is more likely to lash out violently than in other situations. Gambling often led to fights among those participating due to the large sums of money lost and won. Cheating adds to this already tense situation and gives men a reason to seek revenge on the man who cheated them.

Officials of the Commune and Prohibited Games

Another problem the commune had to combat was their own rectors participating in gambling and then borrowing money from the commune to pay for it. The statute *De eo quod retores et officiales civitatis florentiae possunt petere, et accipere a captis per suam familiam*

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296 Statuti di communi Firenze 1415, Tractatus Contra Ludentis Ad Ludem Zardi Et Alios Ludos Prohibitos Rubrica XXXVI, 413-414, sc.1 concerning the penalty for playing with an advantage or loaded dice
pro ludo, describes this situation. This behavior was definitely, not what officials should be doing. The rectors could take out loans from the commune but if the purpose was to gamble with the money they borrowed then it went against the statutes. If any rector committed this crime, it resulted in a fine of five hundred fiorini piccoli. The commune also passed laws, which prohibited rectors from accepting money for any reason as well as fodder or grain from incoming shipments. Florence wanted to remove temptation from rectors becoming corrupt. In 1419, the commune passed a measure that prevented vicars from interfering in cases concerning prohibited games to put an end to any abuse of office. The vicars would go out with their deputies and accuse people of playing prohibited games just to collect the fines, which would cause people to flee the city to escape officials. This explains the statutes, which stressed the need of the rectors to investigate the truth of gambling accusations.

As the statutes illustrate, Florentines gambled all over the city taverns, brothels, public streets, private homes, and ecclesiastical buildings. According to the extraordinary records of this sample when they did gamble they, most often played games of chance such as tassilorum or dice. Dice were small and easy to transport from place to place which made it the ideal tool to use. The cases do not always specify what prohibited game the accused played nor where they played. Besides the dice games the only other game mentioned in the record was narbae or card games. Once arrested the Captain and other rectors required the offender pay a fine or go to prison until they paid the fine. The Captain of course could arrest citizens for other kinds of

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297 Statuti di communi Firenze 1415, Tractatus Contra Luidentis Ad Ludem Zardi Et Alios Ludos Prohibitos Rubrica XXXVIII, 414, sc. 1. those rectors and officials of the city of Florence who are able to seek out loans from the commune to play games
299 De Angelis, Territorial Offices, 181.
300 De Angelis, Territorial Offices, 181.
301 Capitano Popolo Liber Extraordinaria 3128.
extraordinary crimes. The sample contains a few individuals breaking curfew but no cases involving carry prohibited arms. These results do not mean that these crimes did not trouble the commune. The increase in statutes about playing prohibited games may indicate that this type of crime concerned the Captain and other rectors the most and that their milites specifically searched for citizen committing this crime.

Extraordinary Cases

The notary did not record extraordinary crime in the same manner as the other type of crimes. The notaries do not follow a procedure because these are summary cases. These cases are not tried in court. In this situation, the commune considered the evidence strong enough that they did not require the rectors to conduct a trial. The closest term in the Roman law for this procedure is presumptio, defined as a fact is deemed proved although not directly proved and is logically inferred from another fact established through evidence.\(^\text{302}\) The offender was caught by the milites in the act or in fraganti. In the gambling and breaking curfew, cases often the name of the defendant, the crime and then the fine was the only thing provided. Sometimes the cases would also provide the name of the soldier or milites that arrested the offender in the act of committing the crime. Then the milites took the offender to the notary of the Capsa. The notary assessed the fine and if the offender could not pay their fine then the milites took them to a holding room. If the offender still could not pay, the milites took him to the stinche prison. The details are also lacking on what the defendant used to commit the crime. For example, if a milites arrested an individual for playing prohibited games, the notary often did not mention what type of game the milites caught him playing. Cases in which someone broke curfew never specified

\(^{302}\) Berger, “The Encyclopedic Dictionary, 646.
what time of night they were out. If the notary provided any detail more than what was required usually, the defendant committed more than one crime.

In the sample of cases ranging from 1431 to 1434 there are arrests for gambling, blasphemy, heresy and staying out past curfew. The notary left blanks in the book and filled them in later. As a result, most of the entries are out of order and it is unclear exactly what year these arrests occurred. The statutes say nothing about heresy as a crime for which the milites could arrest. The case that contains an arrest for heresy named a specific kind, pataria. The Pataria movement started in Milan in 1056 and those involved patarini attempted to reform the clergy. Initially, this movement worked for the church but things got out of control and the church deemed it a heresy. Why the Captain arrested the man for this particular heresy is unclear. It is possible they are using the term for all heresies but the case does not describe in detail what heresy the accused committed. The two most common crimes the milites arrested for in this sample was playing prohibited games and being out past curfew. For each recorded crime, there is not a lot of information. Each entry contains the usual formula, the milites that arrested the accused, the crime they committed and what they needed to do in order to be released from prison.

The man arrested for committing the patarini heresy also committed a few other crimes, which fell under extraordinary jurisdiction. Francesco Pali in May of 1433 played prohibited games in the Garden of Saint Maria Novella. The record does not specify the kind of

306 Voegelin, The collected Works, 85.
prohibited game he played. Secondly, the record states that Francesco committed blasphemy against the Virgin Mary, her son Jesus and all the saints. This is the only detail the notary gives for his act of blasphemy. Secondly, he remained out in the city after the bells of the evening rang, which meant he broke curfew. Thirdly, he killed a man named Latrionus. The case does not provide any details about the murder. They arrested Francesco in September for playing prohibited games, being out past curfew and blasphemy. The Captain banned him but in May, the case was given to the Captain as a *bullectini* and he is sentenced to exile or *relegatio*.

Gene Brucker mentions a similar case from 1406 where Antonio di Tome of Castro Tremoleti defaced a picture of the Virgin Mary with a knife and cursed her name after losing several florins while playing prohibited games. It is possible Francesco’s act of blasphemy involved a similar act. These cases have a few other similarities in that Antonio committed another crime besides gambling and blasphemy. Similarly to Francesco the rectors arrested him a second time in 1410. He again defaced a picture of the Virgin Mary and this time broke the knife after losing a large sum of money gambling. Once arrested Antonio confessed to committing incest with his niece Margherita. Antonio’s punishment was much more severe than Francesco’s penalty. The Captain originally sentenced Antonio to be burned alive in a wooden cage but the sentence was reduced to beheading.

**The Account of a Serial Gambler**

Gambling for those of the aristocracy was different. Buonaccorso Pitti held a high standing in the Florentine community and often gambled with foreign aristocrats. His story gives insight into the Florentine aristocracy’s opinions about gambling and their relationship with one

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another. In his diary, Buonaccorso describes several instances of him gambling with German and French aristocrats. For example, when he began the game with fifty-five Venetian soldini, by the end of the night he had earned twenty florins. He repeated playing this dice game at his friend Bartolommeo’s house for twenty-five days and earned 1,200 gold florins. He did not always do well at the gambling tables. He cites that a few months later he had lost almost all of his money gambling in Modena except for 100 florins. His personality and friendship with the French aristocracy seemed to be what helped him to retain his good standing with Florentines. He tells of another situation where he lost 2,000 francs, which belonged to his business partner, and 500 francs that he had borrowed from the Duke of Brussels. When he explained to the Duke what occurred he laughed at him and told him to pay him back when he had either won back the money or had better fortune. His ability to amuse and dazzle his peers enabled him to get himself out of unfortunate situations and retain his level of respectability.

Buonaccorso gambled his way across Europe and made a name for himself in the French and Burgundian courts. He even managed to be the Master of the Horse to the Duke of Orleans. Buonaccorso while in the service of the Duke got himself into trouble with the Viscount de Monlev. The viscount according to Buonaccorso was known as a drunkard and a compulsive gambler. Buonaccorso continuously challenged him winning twelve times in a row and this angered the intoxicated Viscount. He yelled angrily “Hey Lombard are you going to keep on winning all night, you dammed cheat? Are you, you sod, you bugger?” When

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311 Buonacorso, Two Memoirs, 27.
312 Buonacorso, Two Memoirs, 36-37.
313 Scaife, Florentine Life, 199.
314 Scaife, Florentine Life, 199.
315 Buonacorso, Two Memoirs, 51.
Buonaccorso won the next hand, the Viscount flew into a rage and tried to attack him. The Viscount threatened him “I have never been given the lie and now I shall have to kill you!”\textsuperscript{316} The Duke of Brussels handled the situation by going to the king for help. The king, disturbed by the behavior of his Viscount, required the Viscount to pardon him. The king did not approve of Buonaccorso provoking the Viscount but he did not want his courtiers, especially those related to him, acting in such a matter. This demonstrates how strong the relationship was between the French and the Florentines. Buonaccorso, according to his diary, never gambled within the city of Florence and that may be why he maintained a good reputation.

Buonaccorso was a wealthy man and a merchant by trade. According to the \textit{Catasto of 1427}, Buonaccorso owned his own home and cattle.\textsuperscript{317} His private investments or mobile property, amounted to 117 florins and the investment he made to the Monte, or public debt, reached 500 Florins. The value of his real estate amounted to 2394 florins and he maintained fifteen \textit{boca} or mouths. For every mouth that needed to be fed, an individual received a deduction of two hundred florins, which left only 1822 florins to be taxable.\textsuperscript{318} The record does provide information about his trade however, this was not uncommon. His son Luca Pitti acquired this large sum of money and built the Pitti Palace, which would eventually become a ducal residence under Cosimo I.\textsuperscript{319}

Gene Brucker, in his source book, provides a few examples of more detailed crimes of gambling. There is one instance in particular that stands out. A case from December 10, 1443

\textsuperscript{316}Buonacorso \textit{Two Memoirs}, 52.
\textsuperscript{317}David Herlihy and, Christine Klapisch-Zuber et al ed, Online Catasto, Data file based on D. Herlihy and C. Klapish-Zuber, \textit{Census and Property Survey of Florentine Domains in the Province of Tuscany, 1427-1480} (Florentine Renaissance Recourses: Brown University, 2002)
\textsuperscript{318}David Herlihy ed, Online Catasto
\textsuperscript{319}Scaife, \textit{Florentine Life}, 200.
tried in the court of the Podestá involved compulsive gambling, the clergy, and blackmail. A man named Giovanni di Donato, described as villainous and a lawless man of evil habits and reputation, saw Messer Niccolo di Antonio of Florence, the abbot of San Tommaso, in Foglia, adorned in his priestly garb gambling. When Giovanni expressed the desire to take him to the Eight of Security, Niccolo replied, “I would risk my life to gamble.” He without any authority or license attempted to take Niccolò to the authorities, who begged Giovanni not to humiliate him because he was a priest. Giovanni decided at this point to extort money out of the abbot even resorted to locking him in a basement. When others asked him about the abbot, he lied and said that he had let the priest go or that he already turned him in. Another one of his friends became upset when he thought the abbot was gone, allegedly stating, “You have acted stupidly, because we could have profited greatly, for he had a lot of money that we could have taken…. One he learned otherwise he stated, Let’s take the money which he has on his person and send him away.”

Giovanni and Francesco were caught and the commune charged Francesco with a fine of 1,500 lire and Giovanni 750 lire. Failure to pay these fines in ten days’ time would result in Francesco being taken to the hangman’s noose and the amputation of Giovanni’s right foot. This case again personifies the correctness of the Florentine's belief that gambling could lead to other despicable crimes. In this instance, the abbot did not receive charges for the crime of gambling. Attitudes toward the clergy in Florence were not always very positive. The commune had problems with people attacking clergy and stealing objects from churches. The commune

seemed most concerned with what occurred due to the abbot’s compulsive need to gamble. Giovanni did not lock the abbot in his own basement but the basement of Piero de Nardo. He even attempted to hide the abbot from Piero by hiding him in the study. This actually worked out in the abbot’s favor because by being in Piero’s house he could be placed under his protection.

The Captain’s extraordinary jurisdiction in this period much like ordinary crime, remained his domain. As Cohen’s study illustrates prosecution for extraordinary crime would not remain within the sole power of the Captain and Podestá. The Captain tried cases of carrying prohibited arms, playing prohibited games and breaking curfew. He most often tried cases of playing prohibited games, and his jurisdiction over the types of gambling cases he could arrest for greatly expand in 1415. This sample did not include any arrests for carrying prohibited arms. This seems out of place when looking at the types of weapons used in ordinary crime. The Captain’s extraordinary jurisdiction was not affected by factionalism or the rise of citizen magistrate courts in this period. The Captain was able to prosecute these crimes with little involvement from the commune.
CHAPTER 6
CONCLUSION

The commune of Florence constantly faced factional conflict often fueled by the fight for domination of Italy between the Holy Roman Emperor and the Pope. This situation caused Florentines to question their religious beliefs as well as their political ideals. The court of the Captain came into being in this period of chaos and uncertainty. Some citizens did not want to lose the support of the Pope and believed the court of the Podestá had become a tool of the emperor. They created the Captain as an official who could represent them and carry out justice. The Captain, Podestá and Executor evolved into three courts, which shared power but also wielded some individual jurisdiction. The Executor, for example, presided over syndication and Ordinances of Justice.

The Captain of the People was an intriguing figure. I have found that he followed procedure efficiently and when he broke his oath, the commune punished him with syndication such as in the case of Obizzio. The accuracy in which the cases are written from the late 1300s to
1434 illustrate that despite the constant change in officials, the Captain followed the procedure designated to him. His jurisdiction changed from 1260 to 1415 but not drastically. The Captain’s original jurisdiction established in 1260 allotted him several different abilities. He could preside over civil cases and in his criminal jurisdiction, presided over false accusation, false denunciation and various acts of violence. He had the ability to assess cases and had the power to decide what cases he took. The Captain had the ability to inquire, and punish with or without accusation or denunciation and send out inquisitions. He also had a police force at his disposal and could send them out to find information. The Captain had his own discretion if the case did not fall under Roman law or the *ius commune*.

In 1280, the Captain’s jurisdiction was redefined. His main task consisted of protecting the non-magnate classes from the magnates and received the title Conserver of the Peace as well as Defender of the Guilds. He had the ability to preside in criminal cases that involved sedition, uprisings, fraud, violence, and extortion. The Captain could also condemn, even to death. He still held the ability to try civil cases and anything that had to do with the treasury. He had the jurisdiction over the military in war, power to put down rebellion and to preside over the council of the people. He did lose his power to command the military. The Captain’s jurisdiction would not be adjusted again until the statutes of 1322-1325.

The later statutes of 1322-1325 and of 1415 also gave definition to the Captain’s jurisdiction. The statutes of 1322 to 1325 outlined his officials specifically his three judges, one of Camera and Gabelle, one for denunciations and condemnations and his criminal and civil judge. The Captain was in charge of holding the book of all communal goods including confiscated items from rebels. These statutes also specify that Captain was the main rector to protect political rights and execute judicial decisions of the guilds. He kept his ability to try
crimes of a violent nature, fraud, kidnapping, and disturbing the peace. The 1415 statutes
designate that the Captain had a shared jurisdiction with the other foreign rectors. They all had to
collect their condemnation and if they did not do the commune fined them. The Captain lost the
power to confiscate the goods of the rebels and to preside over cases of food infractions. His
criminal jurisdiction increased for he now had the ability to treat any kind of serious crime and
one judge who handled criminal cases. The Captain retained his power over crimes of the
magnates and he shared his political jurisdiction with the Podestá and Executor.

In between the passing of the 1325 and 1415 statutes, a power shift began to occur.
Historians have argued that the lawyers became the tools of the oligarchies and the aristocracy.
Roman law Jurists such as Baldus provided advice on how the commune should conduct
business. Their advice mainly supported the rule of law, not the aristocracy. If they concluded a
treaty with a conquered city-state, then a commune should abide by the terms of the treaty. In
1379, it is not the jurists who attempted to work the system for themselves but the leaders of the
Ciompi revolt. The Ciompi were not part of the aristocracy, nor were they oligarchs. The
aristocrats saw themselves losing power over the lower classes. In order to combat this problem
they created the Otto di Guardia with the premise that this citizen magistrate court would lessen
the burden of the foreign rectors and fill in the gaps of jurisdiction the three courts did not have.
The Otto did not follow procedure like the foreign rectors nor did it include the Roman lawyers
who kept the power-hungry aristocracy in check.

Early attempts by the executive branch to undermine the Captain’s jurisdiction, through
the bullectini, personifies that the rectors still held themselves responsible to their oath and did
not follow the demands of those in power. The implementation of the 1415 statutes emphasizes
that the foreign rectors still held jurisdiction over ordinary, extraordinary and political crime.
The commune made changes such as increasing the number of statutes pertaining to playing prohibited games. This further exhibits the desire of the commune for the rectors to continue prosecuting these extraordinary crimes. The Otto di Guardia created in 1378, after the uprising of the Ciompi, eroded the power of the foreign rectors. They began as a supplement to the foreign rectors filling in the gaps in jurisdiction. In the 1420s, the commune passed provisions, which allowed them the ability to make declarations of their investigations and investigations of their own. When Cosimo de Medici later came to power, he authorized the expansion of the jurisdiction of the Otto. They now had the ability to erode the sentencing power of the foreign rectors. The Otto did not follow procedure but determined justice by summary procedure and people lost the ability to go before the foreign rectors for trial. The fact that the Otto by 1460 arrested people for gambling illustrates the extent of their power. There are not many ledgers which exist on the Otto, three remain on from 1409 and the other two from 1460 to 1461.\textsuperscript{325} This exposes the importance of the court records in determining the changes within the commune, including factionalism and the rise of the citizen magistrate courts.

The 1430s were the turning point for the Captain, the other foreign rectors, and the people of Florence. Particularly, 1433 and 1434 stand out as years of significant change. The Albizzi gained power in 1433 through advantageous marriages and political patronage; however, they had difficulty maintaining it. Rinaldo Albizzi exiled Cosimo and his adherents from the city but allowed Cosimo to select where the commune exiled him. Cosimo, who could easily be described as a likable Caesar, had a good reputation among the people and his exile did not help Rinaldo’s popularity. Rinaldo further failed to remove names from the previous election. This

\textsuperscript{325} Cohn, Criminality and the State, 213.
allowed men with Medici loyalties to come to power. Further, in this year the Captain received many *bullectini*. These *bullectini* eroded the power of the rectors by demanding that they carry out sentences already mandated by the government. The record does not contain any cries of outrage from the Captain Ugolino who allows and follows through with the *bullectini*.

In 1434, Cosimo returned from his exile and takes calculated steps to ensure the Albizzi and their adherents remain exiled from the city. He used the *baliá* effectively several times to implement his sentence of exile and then to make sure the terms of exile lasted for years to come. Cosimo in order to carry out his exile expanded the jurisdiction of the Otto. The Otto could now try political crime and send out *bullectini* for the enemies of Cosimo. In this same year the court of the Executor, which was responsible for the syndication of officials, was dissolved.326 This weakened the check, which demanded rectors follow the rules of the commune. The removal of the Executor may explain the Captain’s lack of protest against the *bullectini*. This does not mean the commune no longer syndicated their foreign officials.

I have found that the cases from this sample of ordinary and extraordinary crime remain under the control of the Captain in this period. Ordinary crime under the Captain remains normal for this period especially when compared to other case studies such as Kohler and Azzi. The consistency of writing of Koher and Azzi’s sample of cases from 1344-1345 compared to the Captain’s records from 1429 to 1434 is amazing. This illustrates that the Captain’s notaries followed procedure at least in the instance of ordinary crime. The crimes were by no means ordinary but they represent the typical kinds of crime the Captain presided over. Crimes of rape, assault, theft, and fraud came before the Captain and he prosecuted them as the statutes required.

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326 Cohn, “Criminality and the State, 213.
of him. Further, I have found, in the instance of extraordinary crime, the Captain’s jurisdiction was barely affected by factionalism and citizen magistrate courts. The crimes contained within the record reflected what that was required of the Captain of course with a few exceptions such as the arrest of a man for committing heresy. The requirement to arrest for this crime did not appear in the statutes but he was also arrested for other crimes such as murder and prohibited games. The cases were carried out as summary procedure but these criminals were caught in the act and that was considered enough evidence for the Captain’s notary to assess a fine to the offender. It was not until the 1460s that the citizen magistrate courts held the ability to try cases of prohibited games.

I have found that factionalism, economic stress and the rise of citizen magistrate courts affected the political jurisdiction of the Captain severely. Firstly, the cases reflect the struggle of the Albizzi to conquer their enemies by their use of the bullectini. The record contains two cases of relegato or relegation with a bullectini. Here the Albizzi are successful in exiling their enemies and the Captain does not refuse to follow through with the bullectini as he had done in 1379. Previous studies have shown little use of the bullectini but in this sample, the government utilizes it twenty one times. Secondly, the constant wars of the commune affected the Captain in that most of the bullectini issued in this sample applied to aristocrats who failed to pay their taxes. This depicts how much economic stress, war bought to the commune that drained the wealthy and even the poor of funds to pay the commune. Lastly, the rise of the citizen magistrate courts affected the Captain’s political jurisdiction. The Otto di Guardia only grew in power and by 1433; the Otto was eroding the sentencing ability of the Captain. Once Cosimo took power, he expanded the jurisdiction of the Otto further, which allowed him to try political crime through the Otto and exile all of his enemies. The Captain was at this point no longer the defender of the
people but a tool of the Medici to carry out their desires. It further reveals that the attempts of the elite to gain enough power to change things within the government, which is exactly what Cosimo did. He led Florence out of war and brought a level of stability the commune had lacked.

Cosimo established his hold over Florence and his family remained in power until their exile from the city in 1494. Cosimo’s son Piero ruled after his death for a few short years. He suffered from gout and often stayed out of public life. As a result, he did not focus his attentions on cementing Medici power in the manner his father did. Piero’s son Lorenzo the Magnificent became the leader of Florence after the death of his father. He spent most of time managing the lives of his children and affairs of state. He neglected managing the bank and this helped with the later downfall of the Medici. Lorenzo did not have the flare for business like his father and relied too much on his branch managers. Several branches collapsed over the years most notably the branch in England after lending too many funds to Edward III during the war of the Roses. The branches in Burges and Milan followed. The other branches in Rome, Lyons and Naples were unstable under Lorenzo. Lorenzo after the Pazzi Conspiracy in 1478 delayed the inevitable ruin of the bank by dipping into funds of others. Despite all of his calculated maneuvers, everything fell apart under his son Piero the Unfortunate. The rise of the Medici marked the end of the republic of Florence. This is not only exemplified with the baliá, bullectini, and citizen magistrates but the secret councils or practiche. Cosimo participated in these secret councils that made decisions without the consent of the people.

327 Hibbert, The House of the Medici, 189.
328 Najemy, A History of Florence, 298-306
329 Hibbert, The House of the Medici, 158.
330 Hibbert, The House of the Medici, 158.
Cohn’s study does not investigate the years after 1466 and the records, which survive on the Otto, are limited. A study of surviving Court of the Captain records from 1470 to 1502 needs to be conducted in order to know if any other factors contributed to the final decline of the Captain. Particularly, other aspects of the court records besides the condemnations including the testimony of the witnesses, the acts which include the information related to bringing the case to litigation and the accusations accepted and the inquisitions conducted by the Captain. Further translation of these records from 1429 to 1434 can help to characterize the court of the Captain. For instance, looking at the records of accusations and inquisitions can demonstrate not only the type of crime the Captain himself inquired about but also the kinds of crimes people believed they had to bring to court. This can also point out if different Captains inquired about certain crimes more frequently, or if this stayed the same. Additional study of the court records of the Captain will contribute to understanding how the maneuvering of the system by the elite further affected the legal system of Florence.

Factionalism, economic stress and the rise of the citizen magistrate courts specifically the Otto ended the Court of the Captain and Podestá. The Captain’s ordinary and extraordinary jurisdiction remained relatively the same from the late 1300s to 1434. The Captain carried out his cases with little involvement from the government. In the case of his political jurisdiction, this was not the situation. The infighting between the Albizzi and Medici led to the use of *bullectini* and the continued rise of the citizen magistrate courts. The constant wars of the commune led to further use of the *bullectini* illustrating an inability and unwillingness to pay needed taxes. After Cosimo’s rise to power and the rule of his grandson Lorenzo the Magnificent, the Captain still presided over cases but, as shown by Samuel Cohn, the amount of cases he presided overall decreased until the Captain’s end in 1502.
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