

The Court of the Captain of the People

Author: Desirae Hamilton

Faculty Mentor: Laura Stern, Department of History, College of Arts and Sciences

Abstract:

The Court of the Captain of the People was part of the judicial system of Florence, Italy, in the 14th century. It was created to defend the common man from the political infighting between the Papacy and the Holy Roman Emperor as well as the noble families who fought for power. There were two other courts that, in the beginning, had their own jurisdiction, the Podesta and the Executor. Later, toward the middle of the 14th century, their jurisdiction began to overlap. All three rectors were foreign and brought their own officials to help them run the judicial system. With the overlapping of jurisdiction it is unclear what kinds of cases the captain and the other rectors oversaw. Through reading and translating court documents from this period, the author will attempt to illustrate what the jurisdiction of the Captain was.

In this paper I will investigate the jurisdiction of the Renaissance Florentine Court of the Captain of the People in the early fifteenth century. The office of the Captain of the People was created between the years of 1244-1250.¹ I am investigating this jurisdiction through examining the court records of the Captain of the People, mainly from the year 1433 thus far. Although the records show that the Captain has a civil jurisdiction I am only looking at the actual criminal jurisdiction. The court records from 1433 show that the Captain had a jurisdiction over ordinary crime such as assault and theft. Political crimes are another part of his jurisdiction and according to the cases I have reviewed, they revolve around misbehaving nobles. This could be attributed to the fact that the year 1433 was a time of financial and political instability. A war and a struggle for power between the Medici and Alberti created a surfeit of political crimes in my sample. Other kinds of criminal jurisdiction found in the cases were extraordinary and defaulting on taxes, specifically the Catasto case roles and cases of the banned also appear in the sample.

During this period Pope Innocent IV and Frederick II fought for dominance of Florence.² Frederick, at this time inserted his son as the Podesta of the Florentines.³ The Florentine people, in fear of losing the support of the Pope, withdrew from the commune and created the office of the Court of the Captain of the People and the defender of the guilds to rule over them.⁴ The Popolo, the people who were not part of the feudal and commercial aristocracy, would now receive representation for their segment of society for the first time with the creation of the office of the Captain. The Podesta represented the wealthy fiscal and commercial aristocracy. The court of the Executor was created in 1307 and this rector could not be a knight.⁵ The Captain on the other hand, was required to be a knight according to the record.

The Captain now became parallel to the Court of the Podesta. The Captain's traditional jurisdiction started with specific jurisdiction but after the statutes of 1415 the jurisdiction of the

three rectors becomes more general.⁶ The generalizing of jurisdictions resulted in an increase of authority of the Captain in criminal cases. The generalization of jurisdiction occurred because all of the rectors could arrest for crimes *inflagranti*, a process, which finally erased the differences of criminal jurisdiction for the rectors.⁷ Before 1415 his criminal cases related to the three titles Conserver of the Peace, Captain of the People and Defender of the Guilds and Guildsman.⁸ He handled cases involving rebels, those guilty of political extortion and corruption, as well as those banned from the city for crimes that required that their goods be confiscated.⁹ The defense of non-magnate classes and guilds was also under his traditional jurisdiction.¹⁰ The magnate classes caused trouble for the commune and their political enfranchisement became limited under the statute of limitation. After the Statutes of 1415 the Captain and the other two rectors handled many of the same kinds of cases.¹¹ The Captain also under the statutes received the power to prosecute more serious crimes. In the fifteenth century, with the creation of specialty courts like the Onesta, that tried cases of prostitution, jurisdictions were subtracted from the three rectors.

Inquisition gave the judges more power over criminal cases.¹² The system changed from a process of accusation, which meant an individual had to come forward for someone to be charged with a crime to inquisition.¹³ Inquisition procedure allowed the judges to choose their own witnesses without having to wait for an accusation.¹⁴ The power of *arbitrium* allowed the rectors to take some liberty with the statutes and they could have some discretion in their interpretation.¹⁵ This power in the Statutes of 1415 extended to all three rectors and the power of the judge over his cases became great. Judges had a great discretion over torture in the crimes of sodomy, hiring assassins, rebellion, and crimes committed by clerics. In most cases the decision to torture had to be preceded by incriminating evidence but in a few instances the rector could use torture without incriminating evidence.¹⁶

The Captain held office in Florence for only six months and then moved on to another city.¹⁷ Some indication of the jurisdiction of the Captain can be gathered from the judges and notaries. The Captain had three judges one Criminal, one Civil and one for Camera and Gablle as well as seven notaries.¹⁸ All three rectors had some of the same notaries such as the notary of the Capsa. The notary of the Capsa, who handled criminal matters, wrote down the names and crimes of those coming into custody at the Palazzo of the Podesta and the Captain.¹⁹ Captured subjects, who had committed various crimes such as breaking curfew, gambling and other similar crimes, were arrested and taken to the notary located inside or near the rector's palace.²⁰ The Capsa assessed and recorded the diligence of the milites that brought the suspects in.²¹ Open at all hours of the day he recorded any flagrant crimes brought to him. He mainly registered those arrested by the milites and other policing officials.²² The duties of this notary show the beginnings of a police system.

There are several categories of crimes that had their own books in the records from 1433. The Catasto records contain the trials of those who defaulted on their payment the Catasto tax of 1427.²³ In the Florentine Catasto, citizens had to turn in a record of their entire patrimonies and this included all the citizens of Florence.²⁴ During the fifteenth century taxation had become so heavy to pay for the wars that the average Florentine was expected to pay 180 percent of their income in taxes.²⁵ The law provided for a tax on five percent on the capitalization of each individual's total wealth.²⁶ The Catasto records still exist and contain an incredible array of information on the Florentine citizens such as age, occupation and wealthy household. Taxation became such a serious matter that it was considered treason to not pay your taxes. The city desperately needed money and the forced loan system, which caused the government to be in debt to the nobility.

Another record I have is the extraordinary roles which contain information about people arrested for things such as gambling, carrying prohibited arms, and breaking curfew. These criminal records do not contain the trial of these crimes, which are a summary on the streets, but contain the commissions of officials. These men would go out into the city and patrol on their rounds. The notaries told the officials what crimes they were allowed to arrest people for and how they should interpret the crime. The *milites* or knights brought the criminals to the notary of the Capsa. Included in the list of crimes the *milites* could arrest people for was heresy. However, the commission in the statutes for these officials did not include heretic hunting.

The roles of the process of banning are another record I have from the Captain. All three rectors had a notary of the banned and in this year in particular it seemed to be used frequently. When someone was cited to come to court they could respond in four ways: flee, pose an exception, confess and deny.²⁷ If an individual did not respond they could be banned from the city. Individuals could be banned for several different reasons, including not paying taxes and causing trouble for the commune.²⁸ Wealthy and powerful families with their extensive alliances, *consorteria*, kinship ties, and client relationships made them dangerous to the commune.²⁹ Often those banned from the city had all of their goods confiscated. Exiles often resorted to becoming brigands and pirates attacking and robbing anyone who came in and out of the city. Florence was even once blockaded by a group of exiles and had to request help from other city states because their food supply ran short.³⁰ The other cases I have are one murder case, one banning case, one theft case, four assault cases and one case involving the Duchess of Bourbon, which is in its own category.

There are five books that contain different parts of a criminal trial. One book held the accusations accepted and the inquisition formed by the Captain.³¹ The second book contained the

testimony of the witnesses from the defense and in another book the testimony from the witnesses of the prosecution.³² The next book contained the book of the process, holding all of the acts of the court which would bring the case to litigation, such as bans and citations.³³ The final book held the condemnations and absolutions.³⁴ This book gives a summary of the case as well as the final ruling.³⁵ It shows who all of the officials are as well as the defendants and absence witnesses. It describes the crime and then gives the ruling and the punishment. I am looking at the criminal jurisdiction of the Captain and the condemnation book is useful for this purpose.

Florence in 1433 became politically unstable. The city involved itself in a war with Lucca, which brought the city to near bankruptcy. The political fight for dominance in the government resulted in the politically powerful Medici being exiled. The Medici owned banks all over Italy including in Florence and Rome. They established their power through advantageous marriages and political alliances in Florence and in other city states.³⁶ Cosimo de Medici used his wealth and political power to exert pressure, which worked well for Cosimo until 1433. Another rival family, the Albizzi, convinced people that Cosimo only cared about advancing his family.³⁷ Cosimo along with anyone associated with him were exiled from the city, however, due the political ties established by Cosimo, a year later the city requested for him to return.³⁸ All of the political upheaval makes it difficult to determine whether all of the criminal cases in this year are typical for this court. Certainly political jurisdiction involving nobles is established for this court.

There are about ten cases I have looked at in one of the condemnation books. Several of the cases involve nobles and are of a political nature. There are two cases that involve two nobles of the Acciaiuoli and Medici family, who have committed some form of treason or rebellion.³⁹ The actual crime is unclear because both cases were a bullectini from the executive

branch. A bullectino can take the form of either simply an order to proceed in a particular case or of a letter of instruction specifying either the outcome or the penalty.⁴⁰ The Captain, the Podesta, and the Executor executed commands from the executive branch, of exile and even full condemnation without any proof besides the bullectino.⁴¹ This method was rarely used and it is exceptional to find two cases of it. The two bullectini's came to the Captain with the verdict already in place for the rector to carry out. I believe that both of these cases are connected with the Medici and their exile from Florence. Dale Kent in her book *Rise of the Medici* mentions a case, which I have also found in our records, involving a Medici tutor, who was sentenced earlier in the year.⁴² The man who tutored both of Cosimo's children was exiled from the city apparently for just knowing the Medici. Conversely, it seemed to have escalated to the point that the government decided to utilize a bullectino instead of allowing the Captain to carry out the trial.

The other highly political case is in a category of its own. The Duchess of Bourbon in this case is attempting to collect money to release her husband, the Duke of Bourbon, from prison in England.⁴³ He was captured after the Battle of Agincourt in 1415.⁴⁴ The commune of Florence offered her 150,000 Florins for her husband's release. The money never made it to the Duchess because another noble, Guelfus Rucellai along with an accomplice, pocketed the money. He was supposed to deliver the money to the Duchess' ambassador Castiglione and never showed up. Guelfus was caught and his confession was "spontaneously made," it is not clear if this means he was tortured. Typically nobles did not get tortured, which makes this case even more odd. Guelfus was found guilty and charged a fine of 500 *florentini picoli*, restitution and sentenced to a year in the Stiche prison. This case indicates Florence's desire to make political connections

with foreign nobility; however Florence requires loans from its nobility to function where the funds came from for the Duchess is not clear.

Ordinary crime, such as theft and assault were violent, but it was what we anticipated to find. One of the murder cases involved a man named Bartolomeo stabbing another man seventeen times.⁴⁵ The theft case involved two brothers and another man who owned a shop next to theirs.⁴⁶ The man stole from the two brothers and fled the city. One of the assault cases involves a husband and a wife who attacked a man in his home with an axe.⁴⁷ The case does not go into detail as to the motive, however the wife flees the city and the husband is cleared of all charges; the wife appears to be the one who wielded the axe. The descriptions of the actual crimes are very graphic and it gives a good picture of what occurred. One of the assault cases I have looked at is a good example of this. A man named Thomas continuously beats another man Peter almost to death.⁴⁸ The level of severity of the assaulted affected the amount of the penalty making details necessary. The notary describes the effusion of blood and the various cutting of off of fingers and the fracturing of Peter's skull. In Venice they only provide a summary of events and never in such detail. This kind of detail gives the court an option to go back and look at the details of the case.

The Court of the Captain of the people by the year of 1433 had a jurisdiction over ordinary crime as well as political crime. This year being such an unstable period in Florence politically, makes it difficult to know if such political cases are normal for the Captain. The Captain was created as a court of the popolo and the political cases involve nobles infringing on the rights of the commune. His jurisdiction appears in this period to extend to ordinary crime, summarily crime on the streets, political crimes perpetrated by nobles; and tax defaulting.

¹ Laura Stern, *The Criminal Law System of Medieval and Renaissance Florence* (Baltimore: Maryland Johns Hopkins University Press, 1994) 117

² Ibid., 117

³ Ibid., 117

⁴ Ibid., 117

⁵ Ibid., 126

⁶ Ibid., 54

⁷ Ibid., 34

⁸ Ibid., 119

⁹ Ibid., 119

¹⁰ Ibid., 118

¹¹ Ibid., 55

¹² Ibid., 38

¹³ Ibid., 24

¹⁴ Ibid., 24

¹⁵ Ibid., 38

¹⁶ Ibid., 38

¹⁷ Ibid., 38

¹⁸ Ibid., 54.

¹⁹ Ibid., 56

²⁰ Ibid., 56

²¹ Ibid., 56

²² Ibid., 56

²³ Anthony Molho, *Florentine public finances in the early Renaissance, 1400-1433* (Harvard University Press: 1971). 81

²⁴ Ibid., 81

²⁵ Ibid., 91

²⁶ Ibid., 81

²⁷ Stern., 30

²⁸ Ibid., 30

²⁹ Randolph Starn, *Contrary Common Wealth* (Berkeley and Los Angeles: California: University of California Press, 1982) 43

³⁰ Ibid., 47

³¹ Stern 54

³² Ibid., 54

³³ Ibid., 54

³⁴ Ibid. 54

³⁵ Ibid., 54

³⁶ Dale Kent, *The Rise of the Medici: Faction in Florence 1424-1433* (Oxford University Press: 1978.) 94

³⁷ Ibid., 128

³⁸ Ibid., 128

³⁹ Capitano del Popolo 3195, P. 6-10 Cases of two nobles Acciaiuoli and Medici causing trouble and the government using a Bullectino sentence them

⁴⁰ Stern., 176

⁴¹ Ibid., 178

⁴² Dale Kent., *Rise of the Medici*

⁴³ Capitano del Popolo, 3195 p.1-5 Case of the Duchess of Bourbon not receiving the funds needed to get her husband the Duke of Bourbon out of prison. He dies a year later In prison and she a few months later.

⁴⁴ Juliet Brown, *Agincourt: the King, the Campaign, the Battle* (Britain: little Brown Book, 2005) 378

⁴⁵ Capitano del Popolo, 3154 p. 1-3 Violent murder of a man and for some reason the final sentencing is missing from this condemnation

⁴⁶ Capitano del Popolo 3154 p.4-10 Theft case involving merchants and the theft on their goods

⁴⁷ Capitano del Popolo 3195, p.4-5 Assault case involving a husband and wife attacking a man in his home

⁴⁸ Capitano del Popolo 3195 p.11-14 Assault case involving the beating of a man almost to death