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**Sailing to Damietta.  
Rent of an anchor for a Venetian ship (1118)**

**ABSTRACT:** A contract for the rent of an anchor in 1118 offers a privileged outlook on how legal forms were employed in the service of the interests of the enterprising Venetian economy, where speculation was open to small as well as great investors. The deed reveals the care employed in preventing occasions for litigation through alternative ways of performance and clauses detailing the responsibility of the debtor. Some formulaic expressions point to evolving trading customs, largely independent from Roman legal institutes. The document is a later authenticated copy, witness to the development of archival methods for private deeds.

**KEYWORDS:** Venetian Republic, Maritime trade, Contract of rent.

**SUMMARY:** 1. Introductory remarks - 2. The deed (1118) - 3. The text - 4. Translation - 5. Comment.

## 1. *Introductory remarks*

The archival document here examined is not a new discovery: it was published about thirty years ago in a sample book for the students of the Scuola di Archivistica, Paleografia e Diplomatica of the State Archive in Venice<sup>1</sup>. However, the volume for the School focused on the contracts as instances of writing practice and witnesses to its context, rather than on their legal features and on the law system within which they performed their function, and bore no detailed legal analysis of the document.

It is well known that the Venetians were never passionate about legal theory. In the early three or four centuries of their millenarian history, the age of the *Ducatus*, they found it expedient to regulate their legal matters by custom, adopting and adapting useful suggestions from the rules followed by their neighbours and their trade contacts around the Mediterranean<sup>2</sup>, and

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<sup>1</sup> G. Migliardi O’Riordan (ed.), *Tipologie di documenti commerciali veneziani. Nolo, mutuo, prestito a cambio marittimo, colleganza. Atlante diplomatico*, Venezia 1988. About the School, founded as far back as 1854, see *online* at: <http://www.archiviodistatovenezia.it> (visited September 9, 2019).

<sup>2</sup> Comparatively few documents remain from this age, but a slow drift away from late Roman customs (based on the Theodosian compilations) and towards more diverse legal tools can be figured from the early judicial remedies applied by the Courts of justice; see B. Pitzorno, *Le consuetudini giudiziarie veneziane anteriori al 1229. La giurisprudenza di Venezia nella prima metà del secolo decimoterzo e la sua efficacia sulla formazione degli statuti*, Venezia 1910. All along the middle ages, until the expansion in the mainland began, it was vital to keep good political and trading relationships with the Byzantine Empire and the other Mediterranean States, as well as the Western Empire and the cities directly adjoining the scant Venetian territory. On the early rise of Venetian diplomacy, see among others D.E. Queller, *L’évolution du rôle de l’ambassadeur: les pleins pouvoirs et le traité de 1201 entre les Croisés et les Vénitiens*, in «Le moyen âge», 67 (1961), pp. 479-501; G. Rösch, *Venedig und das Reich: handels- und verkehrspolitische Beziehungen in der deutschen Kaiserzeit*, Tübingen, translated by C. Vinci Orlando as *Venezia e l’impero 962-1250. I rapporti politici, commerciali e di traffico nel periodo imperiale germanico*, Roma 1985; G. Migliardi O’Riordan, *L’attività consolare del Levante nella documentazione del bailo a Costantinopoli*, in «Byzantinische Forschungen», 12 (1987) pp. 763-768; and the papers collected in C.A. Maltezou - P. Schreiner (eds.), *Bisanzio, Venezia e il mondo franco-greco (XIII-XV secolo)*. Atti del colloquio internazionale nel centenario della nascita di Raymond Joseph Loenertz o.p., Venezia 1-2 dicembre 2000, Venezia 2002. The countries beyond the sea as well as the nearby Italian territories were trading partners; the latter in addition providing an essential source of food, fresh water, fuel and those raw materials whose internal production could not match the needs of a growing population. See the studies by R.S. Lopez, *Venezia e le grandi linee dell’espansione commerciale nel secolo XIII*, in V. Branca (ed.), *Storia della civiltà veneziana*, I, *Dalle origini al secolo di Marco Polo*, Firenze 1979, pp. 363-385, and J. Ferluga, *Veneziani fuori Venezia*, in L. Cracco Ruggini - M. Pavan - G. Cracco - G. Ortalli (eds.), *Storia di Venezia*, I, *Origini-Età ducale*, Roma 1992, pp. 693-722. A compelling instance of openness to foreigners and their laws is the institution, at the end of the XII century, of Curia del Forestier, a court which granted justice to foreigners on an equal footing with Venetian citizens. The *capitulare* of the Court, which specified its powers and the ways of their performance, went as far as binding the judges to look in the first instance, as rules for the cases, at the agreements between the parties, whatever law system such agreements reflected with

supplementing them with original developments<sup>3</sup> and with occasional legislation approved by the *placitum* when pressing matters required immediate provisions<sup>4</sup>. By the time the *Comune*, as a representative democracy, slowly came into being in the late XII century and during the XIII, and the State gave itself a permanent organization of growing articulation, complete with Councils, magistrates, a Chancery and archives<sup>5</sup>, the concurring development in the mainland cities of a legal science based on re-use of Justinian's compilation appeared both as a lure and as a threat. The ancient texts where the Roman experience was distilled offered effective, ready-made rules which

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precedence even over Venetian laws and customs. See M. Roberti, *Le magistrature giudiziarie veneziane e i loro capitolari fino al 1300*, II, Venezia 1909, pp. 103-119.

<sup>3</sup> An instance in point is the nature of medieval last wills: they lack *heredis institutio*, which was (although for widely different socio-economical and cultural reasons) their constituent element both in the Roman and in the feudal law systems. For an overview, see L. Margetić, *Il diritto*, in *Storia di Venezia*, I, cit., pp. 677-692; also L. Lanfranchi, *Per un codice diplomatico veneziano del secolo XIII*, in R. Avesani - G. Billanovich - G. Cracco - A. Rigon (eds.), *Viridarium floridum. Studi di storia veneta offerti dagli allievi a Paolo Sambin*, Padova 1984, pp. 355-363, as well as the older, founding work E. Besta, *Il diritto e le leggi civili di Venezia fino al dogado di Enrico Dandolo*, Venezia 1900.

<sup>4</sup> What little has survived from that time, preserved in the archives of monasteries (a State archive did not yet exist) has been edited in various collections: S. Romanin, *Storia documentata di Venezia*, 10 voll., Venezia 1853-61; G.L.F. Tafel - G.M. Thomas, *Urkunden zur alteren Handels- und Staatsgeschichte der Republik Venedig, mit besonderer Beziehung auf Byzanz und die Levante, vom neunten bis zum Ausgang des fünfzehnten Jahrhunderts*, 3 voll., Wien 1856-57; R. Cessi (ed.), *Documenti per la storia di Venezia anteriori al Mille*, 2 voll., Padova 1942. One revealing instance from 971 is the ban on trading in certain merchandise with the Muslim, after a diplomatic incident when a Byzantine ship intercepted a Venetian cargo of military equipment *en route* to the Abbasid caliphates, and the emperor Joannes I Tzimiskes (924-976, emperor since 969) threatened ruthless reprisals unless the practice was discontinued. The text is edited in Romanin, cit., I, 1853, pp. 373-376; *Urkunden* cit., I, pp. 25-30; *Documenti*, cit., II, pp. 86-91.

<sup>5</sup> It is difficult to overestimate the value of the great encyclopaedical series, written in collaboration, that since the second half of the XX century have periodically gathered and discussed the results of historiographical work on the history of the Venetian Republic, also compiling updates of retrospective bibliography. I refer to *Civiltà europea e civiltà veneziana. Aspetti e problemi*, 7 voll., Firenze 1962-73, reprinted in 3 voll. as V. Branca (ed.), *Storia della civiltà veneziana*, Firenze 1979; *Storia della cultura veneta*, 6 voll., Vicenza 1976-86; and more lately the (already partially quoted) *Storia di Venezia. Dalle origini alla caduta della Serenissima*, 8 voll., Roma 1991-98, completed by the volumes of the series *Storia di Venezia. Temi* (*Il mare*, 1991; *L'arte*, I, 1994; and *L'arte*, II, 1995). The plan for this endeavour had to be drastically reduced by lack of resources. It is now time for a new multi-volume effort, but will it ever be realised? Back to the rise of the *Comune*, the hows and whys of the change in the form of government are discussed in S. Gasparri, *Dagli Orseolo al Comune*, in *Storia di Venezia*, I, cit., pp. 791-826; G. Cracco, *L'età del Comune*, in G. Cracco - G. Ortalli (eds.), *Storia di Venezia*, II, *L'età del Comune*, Roma 1992, pp. 1-30; and A. Castagnetti, *Il primo Comune*, *ibidem*, pp. 81-130. On the early organisation of the Chancery and the archives, see A. Rovere, *L'organizzazione burocratica: uffici e documentazione*, in G. Ortalli - D. Puncuh (eds.), *Genova, Venezia, il Levante*. Atti del convegno internazionale di studi, Genova-Venezia 10-14 marzo 2000, Genova-Venezia 2001, pp. 103-128; and S. Gasparini, *Ego notarius complevi et roboravi. Venezia, notai, medioevo*, in F. Parcianello, *Documentazione e notariato nell'età ducale*, Padova 2012, pp. 7-29.

could be adapted to most new legal problems that may arise. The interpretive methods elaborated in the universities were showing themselves fit to graft Roman rules onto medieval customs and statutes more or less seamlessly, acting as a timeless supplement whenever later rules could not apply and allowing for functional interactions among the disparate legal systems of each particular institution endowed with *iurisdictio*<sup>6</sup>. On the other hand, however, Justinian's texts as well as the university science could only be manoeuvred by skilled technicians, whose specialised training took years and who associated in guilds aimed at gaining profit, both as private gain and as access to public influence, from their monopoly of Roman law<sup>7</sup>. Moreover, the Roman system was hopelessly obsolete with regard to the dynamics of medieval trade, and ground to a halt in front of the forms of legal interaction developed in merchant practice on an international scale<sup>8</sup>.

On the whole, the Venetians chose to be wary of legal science. They made use of it when the need arose<sup>9</sup>, but took care never to be limited by

<sup>6</sup> The concept of pragmatism (*prammattizzazione*) of the knowledge of Justinian's texts in one with Accursius' *Magna Glossa* was defined, together with europeisation (*europizzazione*) and nationalisation (*nazionalizzazione*) by A. Cavanna, *Storia del diritto moderno in Europa. Le fonti e il pensiero giuridico*, I, Milano 1982, pp. 59-62, 146-148 and 383-387. It seems to me that the immediate, incisive influence on the law systems of the Italian cities which these three features of the re-use of Roman law performed already in the late XII and XIII centuries brought about not only useful solutions in those practical cases where *ius proprium* was silent, but also as a common legal language and conceptual framework which all particular institutions, whatever their specific interests, could usefully share to settle the relationships among themselves. This co-ordinating effect would endure throughout the late Middle Ages.

<sup>7</sup> M. Sbriccoli, *L'interpretazione dello statuto. Contributo allo studio della funzione dei giuristi nell'età comunale*, Milano 1969 opened a lively discussion when he pointed out how, at a time when corporatism was the most natural way of self-organisation, the holders of a much sought-after know-how could not but join in formal colleges to abate competition and promote their own group interests.

<sup>8</sup> The four contracts of *emptio-venditio*, *locatio-conductio*, *mandatum* and *societas* acknowledged by the ancient Roman *ius gentium*, plus the abstract promise in *stipulatio*, were largely inadequate in the economy of the later Middle Ages, based on trade in moveable goods and speculation on currencies. An iconic instance is the radical difference between the Roman *societas*, mainly aimed at preserving and increasing agricultural estates in which administration by the *socii* was conjunctive, and the medieval *compagnia* in Venice, where administration was disjunctive in order for the *compagni* to take immediate advantage of favourable business opportunities although they were travelling far from each other. See the classic studies by F.C. Lane, *Family partnership and joint ventures in the Venetian republic*, in «Journal of economic history», 4, 1944, pp. 178-196, now in Id., *Venice and history. The collected papers of Frederic C. Lane*, Baltimore 1966, pp. 36-55 (translated by E. Basaglia as *Società familiari e impresa a partecipazione congiunta*, also in *I mercanti di Venezia*, cit., pp. 237-255) and Id., *Investment and usury in medieval Venice*, in «Explorations in entrepreneurial history», s. 3, 2 (1964) pp. 3-15 (translated by E. Basaglia as *Investimento e usura*, in Id., *I mercanti di Venezia*, Torino 1982, pp. 205-217). More recently, U. Tucci, *L'impresa marittima: uomini e mezzi*, in *Storia di Venezia*, II, cit., pp. 627-659, and J.-C. Hocquet, *I meccanismi dei traffici*, G. Arnaldi - G. Cracco - A. Tenenti (eds.), *Storia di Venezia*, III, *La formazione dello Stato patrizio*, Roma 1997, pp. 529-616.

<sup>9</sup> The earliest signs of some interest for Roman law in Venice dates from the early XIII century,

preordained concepts or rules, standing for flexibility rather than theoretical order and refusing to delegate institutional and legal decisions, even just in judicial matters, to any third parties who may be pursuing their own conflicting corporate interests<sup>10</sup>.

It so happened that during the late medieval and the modern age, legal theorising about the Venetian law system remained minimal and largely unsystematised. The legal practitioners (public servants, notaries in the Courts of justice, attorneys, legal counsellors at the side of the rectors in the Dominions<sup>11</sup>) did develop a technical language to deal with official affairs, but

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when a faster evolution of custom and judicial practice, and of legislation in the form of the early statutes, required some theoretical ordering criteria. The *Cod. Marc. Lat. cl. V CXXX* in the Biblioteca Nazionale Marciana includes, together with the text of a few of those early statutes, two short compilations called *Ratio de lege Romana* and *Iudicia a probis iudicibus promulgata*. Both are modeled on a lost *Liber Romanae legis*, in turn adapted from the antiquated *Lo Codi*, a Provençal handbook reflecting an earlier knowledge of Justinian's texts than that developed in the universities. See B. Pitzorno, *Il Liber Romanae legis della Ratio de lege Romana. Per la storia del c.d. Codi in Italia*, in «Rivista italiana per le scienze giuridiche», 43 (1907) pp. 101-136, and Id., *Il Liber romanae legis degli Iudicia a probis iudicibus promulgata. Nota seconda per la storia del c. d. Codi in Italia, ibidem*, pp. 4-12. A. Padovani, *La politica del diritto*, in *Storia di Venezia*, II, cit., pp. 303-329, makes much of the suggestions included in the prologues to the statutory compilation *Statutum Novum* (1242), promoted by the controversial doge Jacopo Tiepolo, in office 1229-1242; however, Roman law remains resolutely excluded from the list of sources that the judges must consider in their deliberation on the case. Glosses were privately added to the text of the *Statutum* by at least two legal practitioners (one of them endowed with some knowledge of *littera Bononiensis*), but a deliberation of the Major Council issued on May 3, 1401 forbade retroactively to write on the margins any *pustille que non sint de tenore statutorum*. An indirect influence, not so much on private or criminal law as rather on the conceptual structure of the public archives, came instead from the professional assignments given during the XIII century to *doctores iuris* hired to organise and direct the Chancery; later, once the offices were in place, the staff would entirely be chosen among Venetian *cittadini originari*. See again A. Padovani, *Curie e uffizi, ibidem*, pp. 311-347; A. Zannini, *Burocrazia e burocrati a Venezia in età moderna: i cittadini originari (sec. XVI-XVIII)*, Venezia 1993; A. Bartoli Langeli, *Il notariato*, in *Genova, Venezia, il Levante*, cit., pp. 73-101.

<sup>10</sup> For reasons pertaining to international policy no less than to internal affairs, since at least the XII century the Venetian government chose to stress its independence from the Holy Roman Empire as well as from the need of external authorities in matters of law, jealously reserving any decision on public matters to collective deliberation focused on general, not on corporate, interests. Following in the steps of Sbriccoli, I approached the momentous question with regard to the Venetian legal developments in an early paper, S. Gasparini, *I giuristi veneziani e il loro ruolo tra istituzioni e potere nell'età del diritto comune*, in K. Nehlsen-von Stryk - D. Nörr (eds.), *Diritto comune, diritto commerciale, diritto veneziano*. Colloquio tenuto al Centro tedesco di studi veneziani dal 20 al 21 ottobre 1984, Venezia 1985, pp. 67-105.

<sup>11</sup> The government of the territories of the Dominions was approached, *mutatis mutandis*, according to a model experimented since the XIII century for the minor centres of the metropolitan territory: the prototype was Chioggia, which even erected itself in a Comune of its own (see among others S. Perini, *Chioggia al tramonto del medioevo*, Sottomarina 1992, and Id. (ed.), *Chioggia medievale. Documenti dal secolo XI al XV*, Sottomarina 2006). A Venetian rector, elected for a short time in office, oversaw the regular functioning of the local institutions according to their particular law systems in the cities

it mostly referred to procedural acts and phases, with a pre-eminence of criminal over civil matters, while little attention was given to substantive legal institutes<sup>12</sup>. In the XVIII century, the cultural impulse toward rationalisation brought about ground-breaking works like the encyclopaedic comparative compilation by Marco Ferro, but it was too late: four centuries of close contact with *ius commune* in the administration of the Dominions cast a shadow on the peculiarity of the Venetian system of private law, and the similarities, born from practice within the territory of the State, between the Roman and the Venetian institutes received on the whole better relief than the differences<sup>13</sup>.

In view of these considerations, it is no surprise that a properly legal analysis of the growing number of published documents has lagged behind the many (and brilliant) historical, economical, social, cultural and religious studies. These few pages aim at adding my crumb to the bread basket.

## 2. The deed (1118)

At the time, metallic anchors were difficult to produce, rare and expensive; however, they were much more efficient than the commonly used surrogate, heavy stones grooved (“waisted”) or bored with holes and tied to ropes<sup>14</sup>.

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of the Dominions, with reserve of superior jurisdiction and avocation to the central Councils if necessary, according to the pacts of dedition with each territory (see C. Passarella, *I rettori veneziani e l'amministrazione della giustizia in Terraferma*, online at: [http://www.arielcaliban.org/PX\\_passarella\\_rettori.pdf](http://www.arielcaliban.org/PX_passarella_rettori.pdf) (visited September 17, 2019). An *assessore* sat at the side of the rector as an advisor on matters of local statutes, customs and *ius commune*, both civil and canonical, as well as a delegate judge in certain cases (see C. Povolo, *Il giudice assessore nella Terraferma veneta*, in Id. (ed.), *L'assessore. Discorso del Sig. Giovanni Bonifaccio (Rovigo 1627)*, Pordenone 1991.

<sup>12</sup> The genre of the *pratiche*, compendious handbooks useful to legal practitioners to navigate the many courts of justice and magistrates with judicial attributions and to compile legal documents according to proper forms, flourished in the last three centuries of the Republic, with a number of the works being printed and offered for sale while many others (especially those compiled by civil servants for office or personal use) remained manuscripts and only now are being discovered and published. A bibliography of printed books can be found under the heading 04.04 «Pratiche» forensi in G. Zordan, *Repertorio di storiografia veneziana. Testi e studi*, Padova 1998.

<sup>13</sup> M. Ferro, *Dizionario del diritto comune e veneto che contiene le leggi civili, canoniche e criminali, i principj del jus naturale, di politica, di commercio con saggi di storia civile romana e veneta*, 5 voll in 10 tomes, Venezia 1778-81; reprint in two voll., Venezia 1845-47; on CD-ROM, S. Gasparini (ed.), Padova 2007.

<sup>14</sup> The use as anchors of stones (or even more haphazard contraptions like leaded logs) goes back to the Bronze Age and only gradually gave way in Roman times to metal grapnels or plows, more efficient but also subjected to corrosion. In the early Middle Ages stones had a resurgence before improvements in metallurgy made iron anchors convenient. See G. Kăpitan, *Ancient anchors: technology and classification*, in «International Journal of Nautical Archaeology and Underwater

Purchasing an anchor of their own was an investment which not all ship owners could afford; conversely, owning anchors meant high profits for enterprising financiers, who would rent them out. Just as companies were established to build, purchase or rent ships, so they were for purchasing and renting out anchors, both endeavours usually being beyond the possibilities of individual parties. As results from the document here presented, a society had been established between Piero Caraciànape and Vitale Navigaióso, joint owners of an anchor, who rented it out to the society among Domenico Morosini, Viviano da Molin and Matteo Mastrocòli, in view of the latter's business travel to Damietta. The agreement took into due consideration the degree of risk, which depended in a large measure on the proficiency of the captain and on the route to be followed. Rules are stated about the rights and the liability of heirs, the extent of the debtors' patrimonial liability, the form of payment (a specific currency being required), the extent of liability in case of acts of God, and an alternative way to fulfill the obligation by way of an agent.

The deed<sup>15</sup> is an authenticated copy written in clear, small, businesslike characters with no decorations, making maximum use of the expensive medium of parchment.

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Exploration», 13, 1 (1984) pp. 33-44; L. Ray Martin, *The art and archaeology of Venetian ships and boats*, College Station 2001; F. Avilia, *La storia delle ancore*, Formello 2007. Numerous ships, mostly merchant, sunk in the Black Sea from antiquity to Ottoman times, are being detected and investigated by the Black Sea Maritime Archaeology Project (see the website at <http://blackseamap.com/>, visited 23 September 2019), where anoxia of deep waters allows perfect preservation of materials. See the overview drawn in S. Ghervas, *The Black Sea*, in D. Armitage - A. Bashford - S. Sivasundaram (eds.), *Oceanic histories*, Cambridge 2017, pp. 234-266.

<sup>15</sup> Archivio di Stato di Venezia, *San Zaccaria*, b. 34 pergg., in *Tipologie di documenti commerciali veneziani*, cit., pp. 18-21. The earliest documents, both private and public, were often deposited in monastic libraries for long-term safekeeping. Since early in the age of the Comune, when a Chancery and archive for public documents was instituted, a Lower Chancery (*Cancellaria Inferiore*, so called because it was located on the ground floor of the ducal Palace and accessible by the public) gathered the archives of those notaries who were not practicing in Venice anymore, either because they were retired or dead, or being away on merchant ships and far away locations. The latter recovered their papers when they returned and resumed their practice in Venice. The interest taken by the Comune in the permanent preservation of private documents aimed at limiting litigation by insuring that deeds stating obligations and rights could be produced at any time by the parties as evidence in authenticated copies. See M. Pozza, *La Cancellaria*, in *Storia di Venezia*, II, cit., pp. 349-369.

### 3. *The text*

*In nomine domini Dei et salvatoris nostri Ihesu Christi. Anno ab incarnatione eiusdem Redemptoris nostri millesimo centesimo octavo decimo, mense februarii, indictione duodecima, in Bari.*

*Manifesti sumus nos Iohannes Mauroceno de duabus partibus et ego Vivianus da Molino de media sorte et ego Matheus Mastroscoli de alia media sorte cum nostris heredibus quia recepimus de te Petrus Caraciacanape de Torcello modo habitator in Rivoalto et tuis heredibus tres partes de anchora ad nabulum in taxegio de Damniates in nave ubi nauclerus vadit Vitalis Navigaioso, pesante ipsa anchora libras ducentas septuaginta et ipse Vitalis Navigaioso habet duas partes in ipsa anchora.*

*Unde nabulum nos suprascripti tibi vel tuo misso revertentes nos de Damniates in Constantinopolim dare debemus ad rationem quantum vobis evenerit de bizanciis duos perperos bonos et si, quod absit, a mare vel gente ipsa anchora perdita fuerit et fuerit clarefactum, tunc alias tres partes de ancora tantum pesante quantum ipsa fuit, dare et restituere promittimus cum dato suo nabulo in eodem Constantinopoli.*

*Quod si, cum reversi fuerimus de ipso taxegio et predictam tuam anchoram tibi vel tuo misso non reddiderimus cum deliberato suo nabulo ut supra legitur, tunc omnia in duplo caput et prode cum nostris heredibus tibi et tuis heredibus dare et reddere promittimus de terris et casis nostris vel de omnibus que habere visi fuerimus in hoc seculo.*

*Signum manus suprascriptorum Iohannes, Vivianus, Matheus qui hec fieri rogaverunt. +Ego Vitalis testis. +Ego Dominicus testis. +Ego Stephanus testis. Notitia testium id est. Vitalis Navigaioso. Dominicus Entio. Stephanus Guriano. Ego Martinus presbiter Sulmulo scripsi, complevi et roboravi.*

*+Ego Iohannes Barzigessus vidi et legi matrem istius exempli tantum continet in ista quantum in illa testis subscripsi. +Ego Henricus Steno sicut vidi in matre ita testifcor in filia. +Ego Iohannes Scandolarus sicut vidi in matre ita testifcor in filia +Ego Michael Caraciacanape subdiaconus et notarius hoc exemplum exemplavi percurrente anno Domini millesimo centesimo quadragesimo, mense augusti, indictione tertia, nec ampliavi nec minui, sed prout reperi in matre in filia explevi et roboravi.*

### 4. *Translation*

In the name of the Lord God and our saviour Jesus Christ. In the year since the incarnation of our Saviour one thousand one hundred eighteen, in the month of February [*more Veneto*, the year begins on March 1], indiction twelfth, in Bari. We Giovanni Morosini for two shares and Viviano da Molin for a half share and Matteo Mastroscòli for another half share declare together with our heirs that we received from you Piero Caraciacanape from Torcello,

who used to live in Rialto, and from your heirs three shares of an anchor you rented us for the route of Damietta [on the Nile delta] with the ship whose captain will be Vitale Navigaióso, the abovementioned anchor weighing two hundred and seventy pounds, and said Vitale Navigaióso owns two shares of said anchor. From this rent we abovementioned, when we will have returned from Damietta to Constantinople, shall pay to you or your agent according to count what will be your share of two good pure bezants, and, let us hope not, if by reason of shipwreck or pirates said anchor shall have been certified as lost, then we promise to give and refund three shares of another anchor of the same weight, together with the promised price of the rent, in the abovementioned Constantinople. And if, once we shall have returned from said route, we shall not give back that abovementioned anchor of yours, together with the agreed rent, to you or your agent as stated above, then we promise with our heirs to give and refund wholly to you and your heirs the double of the capital [i.e. the cost of the anchor] and profit [i.e. the amount of the rent] [and we shall answer] with our estates and houses and everything we shall own in this world. Signature of the hands of the abovementioned Giovanni, Viviano, Matteo who requested this deed to be drawn.

+I, Vitale, witness.

+I, Domenico, witness.

+I, Stefano, witness.

This is the list of the witnesses: Vitale Navigaioso. Domenico Entio. Stefano Guriano.

I, Martino, priest in Sulmulo, wrote, completed and gave public authority.

+I, Giovanni Barzigesso saw and read that the original of this copy contains as much in the one as in the other, and sign as witness.

+I, Enrico Steno, as much I saw in the original I witness in the copy.

+I, Giovanni Scandolaro, as much I saw in the original I witness in the copy.

+I, Michele Caraciàcànape, subdeacon and notary, drew this copy in the year of our Lord one thousand one hundred and forty, in the month of August, indiction third, and nothing did I add or subtract, but as I found in the original so I wrote and certified in the copy.

## 5. *Comment*

Following the usual practice, the deed begins with the invocation of God's witness, the date and the place where the agreement was taken: Bari, where

the Venetian parties have no difficulty in finding a Venetian priest-notary<sup>16</sup>. The style of Venetian deeds follows a different development from other Italian areas, maintaining for a long time features similar to Byzantine deeds in the early Middle Ages, as well as March 1 as the beginning of a new year. Dates *more Veneto (m.v.)* for the months of January and February thus translate in dates *more ordinario* on the following year<sup>17</sup>.

Then the parties in the agreement are indicated. The three merchants who rent the anchor participate with unequal shares in the obligations assumed with the deed: Giovanni Morosini has two shares, Viviano da Molin and Matteo Mastroscòli<sup>18</sup> only half a share each. Joining with a moderate investment the speculation of a merchant endowed with more capital could be a good way for a lesser dealer to access international trade, in the relative security given by up-to-date anchor technology. Owner of the anchor is Piero Caraciànappe: he came from the once florid Torcello to Rialto, the new centre of trade, possibly in order to step up his involvement in long-distance business, and is in Bari when the deed is made.

<sup>16</sup> Parish priests functioned as notaries in Venice, drawing private deeds and testaments as well as public deliberations, until the XV century, while on the mainland the influence of the resurgence of Roman law on notary practice produced a class of lay professionals at least since the middle of the XIII century. See G. Cracco, *Relinquere laicis que laicorum sunt. Un intervento di Eugenio IV contro i preti-notai di Venezia*, in «Bollettino dell'Istituto di storia della società e dello Stato veneziano», 3 (1961) pp. 179-189, and the essays gathered in *Studio bolognese e formazione del notariato*. Convegno organizzato dal Consiglio notarile di Bologna, Bologna, 6 maggio 1989, Milano 1992. Venetian priests often traveled as chaplains on merchant ships and served as notaries both on board and in the ports of call and the Venetian *fondachi* in the Eastern Mediterranean, as witnessed by the documents published by the Comitato per le fonti relative alla storia di Venezia in the *Sezione 3, Archivi notarili*. Bari in particular was a hub of Venetian notaries: see the old but still informative works by F. Carabellese, *Le relazioni commerciali fra la Puglia e la repubblica di Venezia dal secolo X al XV. Ricerche e documenti*, Trani 1897; G. Luzzatto, *Studi sulle relazioni commerciali tra Venezia e la Puglia*, in «Nuovo Archivio veneto», n.s., 7 (1904) pp. 174-195; M. Colangelo, *Le relazioni commerciali di Venezia con la Puglia da Federico II a Carlo II d'Angiò*, Trani 1925; G.I. Cassandro, *Contributo alla storia della dominazione veneta in Puglia*, in «Archivio veneto», s.5, 17 (1935) pp. 1-58; R. Cessi, *Venezia e Puglia nel sistema adriatico del passato*, in Atti del II congresso storico pugliese e del convegno internazionale di studi salentini. Terra d'Otranto, 25-31 ottobre 1952, Bari 1952, pp. 1-6 and Id., *Venezia, la Puglia e l'Adriatico*, in Atti del IV congresso storico pugliese. Brindisi, 4-7 novembre 1954, Bari 1958, pp. 1-7. More recently, but with a focus on political history, V. Bianchi - C. Gelao, *Bari, la Puglia e Venezia*, Bari 2013.

<sup>17</sup> See A. Bartoli Langeli, *Documentazione e notariato*, in *Storia di Venezia*, I, cit., pp. 847-864. Venetian chronography and its reflexes on public life are discussed in S. Gasparini, *La Temi Veneta 1787*, Padova 2009.

<sup>18</sup> The surname literally means «schoolmaster»: and he may well have been, or have belonged to a family of such and have branched out in trade. Medieval Venetians seem to have been less illiterate than most European peoples: see the documents gathered in E. Bertanza - G. Della Santa (eds.), *Documenti per la storia della cultura in Venezia*, I, *Maestri scuole e scolari in Venezia fino al 1500*, Venezia 1907 and G. Ortalli, *Scuole e maestri tra medioevo e Rinascimento. Il caso veneziano*, Bologna 1996.

Note that Morosini and da Molin are families which, in their numerous branches, would remain prominent in economy as well as in politics until the end of the Republic<sup>19</sup>, and that they willingly join in the transaction with the lesser-known Mastroscòli and Caraciàcànape.

In fact, the core of the people who candidated themselves for public offices in the age of the Comune seems to have emerged not as a blood nobility, like in the well-known feudal system, not as a military pressure group linked to ecclesiastical power, as in the case of Padova<sup>20</sup>, not even as a mirror of the wealthiest echelons of society as such, but as the result of the long-term interest in politics by those families who were interested in having a say in those public deliberations which influenced business; and business, not primary production, was the principal means of subsistence of a large part of the people, if nothing else because of the lack of usable resources in the metropolitan territory<sup>21</sup>. It seems to me that the availability of forms of rewarding investment also to small and very small capitalists would keep such a group quite open until the Serrata of the Major Council in 1297<sup>22</sup>. The hereditary ruling class which emerged as a consequence of the Serrata was

<sup>19</sup> The ruling class in Venice through the shift from democracy to aristocracy has been researched under different points of view. See, as relevant here, as well as showing the changing attitudes of historiographical attitudes, the seminal study by M. Merore, *Der venetianische Adel (Ein Beitrag zur Sozialgeschichte)*, in «Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte», 19 (1926) pp. 193-237; R. Cessi, *Le origini del patriziato veneziano*, in Id., *Le origini del Ducato veneziano*, Napoli 1951; A. Castagnetti, *Famiglie e affermazione politica*, in *Storia di Venezia*, I, cit., pp. 613-644; Å. Boholm, *Venetian worlds. Nobility and the cultural constructions of society*, Gothenburg 1993; S. Chojnacki, *La formazione della nobiltà dopo la Serrata*, in G. Arnaldi - G. Cracco - A. Tenenti, *Storia di Venezia*, III, cit., pp. 641-725; D. Raines, *Cooptazione, aggregazione e presenza in Maggior Consiglio: le casate del patriziato veneziano (1297-1797)*, in «Storia di Venezia». Materiali per la ricerca, 1 (2003), pp. 1-64, and of course the (partially iconoclastic) analysis by D.E. Queller, *The Venetian patriciate. Reality versus myth*, Urbana-Chicago 1986. A complete list and some (not always dependable) information about the aristocratic families through the history of the Republic can be found in F. Schröder, *Repertorio genealogico delle famiglie confermate nobili e dei titolati nobili esistenti nelle Province venete*, 2 voll., Venezia 1830-31, compiled during the second Habsburg domination on the basis of the logbooks kept since the early XIV century by the Avogadori di Comun.

<sup>20</sup> See on the point S. Bortolami, *L'alto medioevo (secoli VI-XI)*, in G. Gullino (ed.), *Storia di Padova dall'antichità all'età contemporanea*, Sommacampagna 2009, pp. 88-104.

<sup>21</sup> An exception is of course the production of salt: see among others J.-C. Hocquet, *Le sel et la fortune de Venise*, I, *Production et monopole*, Lille 1978.

<sup>22</sup> Also, there seems to have been no opposition on the part either of the *placitum* (or what was left of it) or of the section of the people which found itself barred from access to the offices during the two years, equating three further turns of election, between the temporary, experimental deliberation of September 29, 1297, dictated by emergency circumstances, and the stabilisation of the new regime on the same date in 1299. See for all F.C. Lane, *The enlargement of the Great Council of Venice*, in J.G. Rowe - W.H. Stockdale (eds.), *Florilegium historiale. Essays presented to Wallace K. Ferguson*, Toronto 1971, pp. 236-274, now anastatically reprinted in Id., *Studies in Venetian social and economic history*, London 1983, part III.

therefore proportionally many times more numerous in comparison with other European aristocracies<sup>23</sup>.

I would like to push the argument further. In the cities of the Middle Ages, trade guilds had *iurisdictio*, and they were often in competition for access to public offices in the territorial institution of the autonomous Comuni; thus it happened that corporate economical power could arrogate a major role in politics, and so unburden the cost of infrastructure implementation and maintenance on the whole of the people by imposing taxes and contributions<sup>24</sup>. In other cities, it was the different territorial areas which fought each other for control of the government<sup>25</sup>. In both cases, one group held the most influence and managed that in such a way as to promote its own corporate interests. The Venetian Comune instead was governed by a wide cross-section of the people; trade guilds were controlled by the government and the sestieri were evenly represented<sup>26</sup>, so they had no means or reason to compete.

One last element of interest is that the deed published in the *Atlante diplomatico* is an authenticated copy, drawn in 1140 by subdeacon Michele Caraciàcànape.

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<sup>23</sup> It is tempting to go as far as suspecting that one deep, long-term element in the crisis of the Venetian aristocracy in the XVII and XVIII centuries was a sort of inferiority complex, fostered by contact with mainland «blood» aristocracies after the acquisition of the Terraferma. The cultural shift towards the alleged *pregiudizio meccanico* turned away the Venetian ruling class from trade, isolated it from its roots, and promoted a self-idealisation which their involvement in the agricultural exploitation of the Dominions would not limit, but enhance. The aristocratic Venetian families who went to spend summer in those villas by Palladio who look like Greek temples were no gods, but a class on its slow way out, despite a glorious past.

<sup>24</sup> See F. Galgano, *Lex mercatoria. Storia del diritto commerciale*, Bologna 1993, III ed., especially pp. 35-37.

<sup>25</sup> One instance is Siena, where competition among the *contrade* was sublimated into the Palio; see for all M. Ascheri, *Siena e la città-Stato nel medioevo italiano*, Siena 2003 and, although with a later focus, A. Savelli, *Siena. Il popolo e le contrade (XVI-XX secolo)*, Firenze 2008.

<sup>26</sup> It is significant that the deliberation taken by the Major Council in April 1207, which turned into law the constitutional custom established in the last few decades about the election to public offices, took care to provide not only for regular turns among the 35 *trentacìe* of the city, but also for a mathematical guarantee against the establishment of long-term alliances among them. In fact, three *trentacìe* every year elected each a member of the electoral college, and as 35 is not a multiple of 3, the association among the districts changed every year. The *trentacìe* were enlistment districts, established at the time of the wars against the emperor Frederick I Hohenstaufen in the second half of the XII century, but the payment of a contribution toward the hiring of mercenaries was widely employed as a lawful way to be exempted from active service. The topography of early *civitas Rivoalti* has been reconstructed by W. Dorigo, *Venezia romanica. La formazione della città medioevale fino all'età gotica*, 2 voll. plus maps, Sommacampagna 2003. The deliberation of 1207 is held in Archivio di Stato di Venezia, *Atti diplomatici restaurati*, n. 105, and published in W. Lenel (ed.), *Die Entstehung der Vorherrschafts Venedigs an der Adria mit Beiträgen zur Verfassungsgeschichte*, Strassburg 1897, pp. 137-138.

It is disappointing that we have no means of discovering for what purpose the copy was needed. Had a dispute arisen about the terms of the rent? The matter of responsibility for “acts of God”, for instance, was not yet settled in custom and would not be for some time, as proven by the diversification of recurring formulas in insurance contracts according to whether such unfortunate circumstances were covered by the insurance or not. So *salvi in terra* meant that any possible risk was covered until the insured person and his wares were brought “safe to land”, while *a rischio e pericolo di mare e di genti* meant that the risk for shipwreck, loss of merchandise thrown overboard to avoid it (*getto* or *alleggio*), or robbery by pirates, remained unrelieved by the insurer<sup>27</sup>.

Human stories hide within the documents, but not always the thread can be followed to the end.

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<sup>27</sup> On the development of maritime insurance see A. Tenenti, *L'assicurazione marittima*, in *Storia di Venezia. Temi: il mare*, cit., pagg. 663-686, and K. Nehlsen von Stryk, *L'assicurazione marittima a Venezia nel XV secolo*, Roma 1988.