

# **GLOSSAE**

European Journal of Legal History



ISSN 2255-2707

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**Citation**

Stuart M. McManus, “Medieval Milanese Notarial Culture and Uberto Decembrio’s Definition of a Republic (respublica)”, *GLOSSAE. European Journal of Legal History* 19 (2022), pp. 550-566 (available at <http://www.glossae.eu>)

## Medieval Milanese Notarial Culture and Uberto Decembrio's Definition of a Republic (*respublica*)\*

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Received: 15.3.2022  
Accepted: 5.5.4.2022

### Abstract

This research note argues that late-medieval notarial culture had an important influence on the genesis of humanist political thought. In particular, it shows that the definition of a “republic” (*respublica*) put forward by the Milanese notary and humanist Uberto Decembrio borrowed from legal ideas about corporations (*universitates*), which included *respublicae*. Combining Platonic ideas with echoes of learned legal texts and observations on the legal reality, Decembrio put forward a semi-idealized vision of his monarchical city-state.

### Keywords

Notaries; Renaissance Humanism; republicanism; Uberto Decembrio; Italian communes

In his monumental history of European law, Antonio Padoa-Schioppa notes the rapid proliferation of a class of notaries, whose acts (i.e. formulaic language combined with a notarial signature) had important probative value in private law. This echoes the growing body of scholarship on notaries in late-medieval Italy and elsewhere who became essential to numerous aspects of daily life, as well as an important part of the administrative elite, in city-states like Milan. Indeed, notaries became so important that the *ars notaria* was taught separately at Bologna. This in turn spawned myriad written formularies that provided step-by-step instructions for producing the all-important *instrumenta* that were the bread and butter of notarial culture<sup>1</sup>, Intellectual historians too have long appreciated the fundamental role in formulating influential ideas about law and society played not only by famous jurists like Baldus and Bartolus, but also by notaries. Indeed, notaries appear in prodigious numbers among the earliest proponents of Renaissance Humanism. As Paul Oskar Kristeller famously argued, the revival of letters had its origins in the *ars dictaminis* (or “art of letter writing”), which in turn was intimately connected to

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\* [Acknowledgements] All translations are my own, except for those from Decembrio's *De republica*, which are adapted from Donato's recent edition and translation.

<sup>1</sup> Padoa-Schioppa, A., *A History of Law in Europe*, Cambridge, 2017, pp. 131-137; Lauro, M., *Lawyers and Statecraft in Renaissance Florence*, Princeton, N.J., 1967; Stuard, S., “Where Notaries Provided Legal Services to Medieval Townspeople”, *Journal of Family History* 43-3 (2018), pp. 270-280; Wray, S., “Instruments of Concord: Making Peace and Settling Disputes through a Notary in the City and Contado of Late Medieval Bologna”, *Journal of Social History* 42-3 (2009), pp. 733-760; Carniello, B., “The Rise of an Administrative Elite in Medieval Bologna: Notaries and Popular Government, 1282–1292”, *Journal of Medieval History* 28-4 (2002), pp. 319-347.

the *ars notaria*<sup>2</sup>. One particularly important, but today little-known example of the phenomenon identified by Kristeller is Uberto Decembrio (c. 1370-1427), imperial notary, ducal secretary, poet, translator of Plato and founder of a humanist dynasty who was heavily involved in the administration of his city-state of Milan<sup>3</sup>. Like many of his contemporaries, Decembrio was not a university-trained jurist, yet was nonetheless steeped in contemporary legal culture, both learned and as practiced in ways that were not atypical for the time, and which are worth setting out explicitly.

Decembrio's induction into the world of the law began with his notarial training in Pavia, which likely required a two-year apprenticeship under an experienced notary. During this time, he will have also studied important textbooks like the *Ars notariae* of Rainerius Perusinus (1185-1245). Once he had reached twenty years of age, it was then time to take the notarial examination in which his knowledge of various elementary instruments was assessed, followed by a test of his penmanship and an investigation into his moral standing. Only then could he take his notarial oath while symbolically leafing through the municipal statutes<sup>4</sup>. In later roles, Decembrio would also have extensive contact with jurists, from whom he seems to have imbibed elements of the learned law<sup>5</sup>. For instance, from 1389 he served as secretary to the noted theologian, canon lawyer and future anti-pope Alexander V, Pietro da Candia (1339-1410), after whom he named his son Pier Candido Decembrio (1399-1477). During this period, he assisted his employer in resolving various ecclesiastical and political disputes in Pavia and Florence. In 1393, he also accompanied Pietro da Candia on the difficult journey to the court of the Holy Roman Emperor in Prague to secure the title of "duke" for Giangaleazzo Visconti. Subsequently, in 1399 Decembrio was part of a Milanese delegation that saw the submission of Siena, a significant event since it meant that Milan's bitter enemy Florence was now surrounded by hostile forces. As part of this mission Decembrio entered Siena on 3 August 1399 with Candia and a force of four hundred lances, and on 1 September 1399 Decembrio himself drew up the acts of submission attaching his notarial seal. This illustrious career was supplemented by friendships with lawyers of various stripes, including Leone Morigia, a fiscal official in Visconti Bologna and a law graduate from Pavia<sup>6</sup>, and Manfredo della Croce, the abbot of Sant' Ambrogio and a doctor of canon law, who was an orator in the Milanese delegation at the Council of

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<sup>2</sup> Black, J., *Absolutism in Renaissance Milan: Plenitude of Power under the Visconti and the Sforza, 1329-1535*, Oxford, 2009; Witt, R., "Medieval *Ars Dictaminis* and the Beginnings of Humanism: A New Construction of the Problem", *Renaissance Quarterly* 35.1 (1982), pp. 1-35.

<sup>3</sup> Zanella, A., "Uberto Uberto e un codice bergamasco", *Bergomum* XXXVI (1962), pp. 89-124; XXXVII, 1963, pp. 69-79; XXXVIII, 1964, pp. 57-73 (I, pp. 92, 100-1). Black, J., *Absolutism in Renaissance Milan*, p. 94. The text has recently been edited by: Donato, P.P. (ed.), *Uberto Decembrio, Four Books on the Commonwealth = De Re Publica Libri IV*, Renaissance Society of America Texts and Studies Series v. 13, Leide, 2019. Few scholars seem to be aware that the treatise was edited in: Zanella, A., "Uberto Decembrio e il suo *De republica*", Tesi di laurea, 1961.

<sup>4</sup> There does not appear to be any documentation of notarial training in Pavia in the late *Trecento*: Barbieri, E., *Notariato e documento notarile a Pavia*, Florence, 1990. However, since notarial training was broadly similar throughout Italy, and Pavia was both under Milanese control and trained many of Milan's legal professionals at the Pavian *studium*, the following account is based on that of Milan.

<sup>5</sup> Liva, A., *Notariato e documento notariale a Milano*, Rome, 1979, pp. 146-149.

<sup>6</sup> Morigia's degree was examined by the notable Milanese jurist Segnorinus de Homodeis: Maiocchi, R., *Codice diplomatico dell'Università di Pavia*, 2 vols, Pavia, 1905, I, docs 81, 363, 471, 755.

Constance that sought the reinstatement of the title of duke to the Visconti that had been revoked after the death of the Holy Roman Emperor Wenseslas IV in 1419<sup>7</sup>.

As a testament to their friendship, both Morigia and della Croce appear as interlocutors in Decembrio's *De republica*, a Latin treatise, which of all his works (that run the humanist gamut from Latin poetry to translations from Greek into Latin) is considered his most original and important. This is a dialogue in four books, composed around 1422 and dedicated to the new duke of Milan, Filippo Maria Visconti. This presents a semi-idealized version of Milan (the *respublica* of the title) combining observations of the contemporary reality with ideas plucked from various works of Cicero and Plato's *Republic*, in the first Renaissance translation of which Decembrio made a small, but significant contribution as a collaborator of the emigree Byzantine scholar, Manuel Chrysoloras (1355-1415)<sup>8</sup>. The dialogue takes place between five interlocutors: Decembrio himself, whose voice is the most authoritative; two educated young men, the brothers Leone and Simone Morigia; and two ecclesiastics, the abbot Manfredo della Croce and the provost Giacomo da Modone<sup>9</sup>. Each book begins with a prologue addressing Filippo Maria, before recounting the discussions held over four separate days in the scenic settings of the gardens of the Basilica of Sant'Ambrogio in Milan and the nearby house of the provost.

As an important monument of early Milanese humanism, *De republica* has recently attracted considerable attention as one of the earliest Renaissance attempts to harmonize Platonic ideas about governance, Neo-Roman republicanism and the exigencies of contemporary city-state politics<sup>10</sup>. Less appreciated, however, is that the dialogue also showcases this late-medieval Italian notary's knowledge of the key texts of Roman law. While Decembrio's obvious borrowing of Ulpian's definition of justice has been noted, there is little recognition of the fact that he also repeats the traditional division of law into natural law (*ius naturale*), the law of nations (*ius gentium*) and civil law (*ius civile*), although he equates the first two, a not uncommon practice at the time<sup>11</sup>. He then identifies civil law with Roman law, and notes that most cities supplement this with municipal statutes. At this point, Decembrio launches into a defence of customary law. Indeed, he explicitly states that an ideal republic should preserve

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<sup>7</sup> *Ibid.*, docs 217, 431. "Manfredo della Croce" in *Dizionario biografico degli Italiani*, Rome. 1960-, XXXVI, pp. 798-799

<sup>8</sup> Hankins, J., *Plato in the Italian Renaissance*, 2 vols, New York. 1990, I, pp. 105-110.

<sup>9</sup> Ferrà, G., "Esemplarità platonica ed esperienza viscontea nel *De Republica* di Uberto Decembrio", in M. Vegetti, P. Pissavino (eds.), *I Decembrio e la tradizione della Repubblica di Platone tra medioevo e umanesimo*, Atti del convegno internazionale, Naples, 2005, pp. 432-463 (432).

<sup>10</sup> McManus, S.M., "A New Source on Renaissance Colour: Uberto Decembrio's *De candore*," *The Journal of the Warburg & Courtauld Institutes* 76 (2013), pp. 251-263; Hankins, J., *Virtue Politics: Soulcraft and Statecraft in Renaissance Italy*, Cambridge, MA, 2020, pp. 88-98; Hankins, *Plato in the Italian Renaissance*.

<sup>11</sup> Donato (ed.), *Uberto Decembrio, Four Books on the Commonwealth*, pp. 26-27, 91 (henceforth Uberto Decembrio, *Four Books on the Commonwealth*): "constans et perpetua voluntas neminem laedere et ius suum unicuique tribuere". Elsewhere, it has been posited that this definition is of Ciceronian origin, and indeed the ideas are generally in keeping with Cicero's views: Ferrà, "Esemplarità platonica", p. 441. Cicero, *De officiis*, I.20. However, the formulation is from the *Digest*, as one would expect from the mouth of Leone the lawyer, with the two lines from the legal text being combined to include the emphasis on not causing harm as well as creating a neat definition that also fits the line of argument borrowed from Plato. *Digest*, 1.1.10: *Iustitia est constans et perpetua voluntas ius suum cuique tribuendi. Iuris praecepta sunt haec: honeste vivere, alterum non laedere, suum cuique tribuere*. I suggest the *Digest* not the *Institutiones*, which contains the same wording as Decembrio shows a greater familiarity with the former.

unwritten law (*ius non scriptum*), especially as regards religion. The importance of specifically Milanese customs to his Milanese republic is further underlined when Decembrio notes that, although other states may have different traditions and it is, of course, right that their citizens adhere to these, Milan should not partake in any of them, rather: “our citizens should preserve the habits of their ancestors”. Following Cicero, Decembrio then cites the example of the agrarian laws of the late Roman Republic, which, he argues, were the result of the Gracchi, encouraged by the mob, turning their backs on: “public law, the ancient laws of the XII Tables, and the other laws drawn up by the most prudent jurists to protect the republic”. Such descriptions of a semi-idealized Milanese reality are variously then mixed with criticisms of the money-grabbing habits of Milanese lawyers<sup>12</sup>.

Yet, the most important, and hitherto ignored element of the treatise that reflects Decembrio’s background as a notary with significant contact with the learned law is his all-important definition of Milan’s constitutional form, the republic:

*Respublica itaque nihil aliud mihi visa est quam hominum sexus utriusque unum in locum legitima socialisque collectio iisdem legibus et moribus fruuentium*<sup>13</sup>.

It seems to me that a republic is nothing other than a legitimate and social collection of human beings of both sexes in one place, enjoying the same laws and customs.

Decembrio then carefully glosses each part of the definition, including: the concept of the *collectio* as applicable to humans and not animals, the necessity of both genders to a state, the significance of a favourable location for a city and importance of equality before the law<sup>14</sup>.

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<sup>12</sup> The original text is preserved in Milan, Biblioteca Ambrosiana, MS B 123 sup., and has recently been edited: Uberto Decembrio, *Four Books on the Commonwealth*, p. 173: *Iurisconsultorum enim omnium volumina in quinquaginta libros Digestorum et imperatorum edicta in duodecim Codicis libros compendiose contraxit, eaque omnia Πανδικτα Graeco vocabulo quasi omnia demonstrativa et continentia nominavit. Pandects* is of course the Greek name for the *Digest*, not the whole legal code.

<sup>13</sup> Uberto Decembrio, *Four Books on the Commonwealth*, p. 80.

<sup>14</sup> *Ibid.*, p. 80: *Non enim ferarum aut aliorum irrationabilium animalium rem publicam appellamus. Et si plerumque nonnulla similitudo, ut in apum examinibus rei publicae cernitur, ut in earum congregatione regum sequella et ipsorum tuitione ac dimicatione, conspicitur. Mellis praeterea et cellarum artificiosa fabrica et mirabili ac paene divino ingenio, ut Maro nostro carmine dulcisono prosequitur, a rationabili tamen et humana re publica longe distat. Virorum itaque huiusmodi debet esse collatio, nec virorum tantum, sed mulierum etiam, ut mutuo sexus utriusque consortio ea res publica perpetuo aut saltem diutius conservetur. Nota est Romanorum veterum historia regnante Romulo primis urbis ipsius mitiis, dum timeret idem Romulus, ne mulierum defectu sua res publica deperiret, consualibus ludis simulatis, quas prius orando habere nequiverat, cautis delusit astuciis, ex qua re ingentia subinde cum finitimis bella gesta sunt, quae tandem ipsarum interventu mulierum atque blandiciis sunt sopita. Locus est praeterea commodus et saluber ab urbium fundatoribus eligendus stabilis et naturae benignitate dotatus, de quo suo loco latius disseretur, parum etiam loci fortuna praestaret, nisi socialis sit incolentium et amicabilem connexio eisdem legibus et moribus stabilita, ut neque discordiae aut seditionis fomenta virescant, sed ad iddem velle ac nolle pariter pia et prona intentione festinent. Secus autem saepe licet ex minima iniuriarum finitillula, seditionis ingens flamma surrexit, ex qua urbes plurimae corruerunt. Scitum enim est illud iam tritum sermone proverbium: “concordia res parvae crescunt, discordia maxime dilabuntur.” Leges et mores aequae constat ab omnibus uniformiter observari debere. Cernimus ex Romanis annalibus, quot et quam varias pestes tribuniciae exciverint potestates, dum contra ius publicum et antiquas leges XII tabularum aliasque in conservantiam rei publicae a prudentissimis iurisconsultis editas, modo legem agrariam, modo frumentariam, nunc matrimonialem, nunc antiquarum abrogatorias statuebat, dum popularem favorem acquirerent, et patricos ac consulares ex urbe depellerent. Hinc bella civilia, socialia servilia, et demum bonorum cunctorum et urbis florentissimae et invictae*

For a writer who tends to reproduce sententious passages from classical authors verbatim, Decembrio's definition of a republic has long been a puzzle, as it does not seem to be taken from any single text. As a result, there have been various attempts by leading historians to identify its source. James Hankins and others have noted the similarities between Decembrio's definition and that given by Cicero of a "body politic" (*civitas*) in his *Somnium Scipionis*, which is discussed in detail in Macrobius's well-known commentary on the text: "gatherings and unions of men allied by common laws, which are called the body politic"<sup>15</sup>. In the same vein, Giacomo Ferràu has suggested the Ciceronian definition of a *respublica* given by St Augustine in *De civitate Dei*: "For briefly he defines a republic as a thing belonging to the people (*res populi*) ...and he defines a "people" as a multitudinous union brought together by agreement about their laws and the value of unity"<sup>16</sup>. Most recently, Paolo Ponzù Donato has emphasized that both Decembrio and his Florentine contemporary Leonardo Bruni (1370-1444) employed Ciceronian definitions that blur the line between a republic and the body politic, while noting that they innovate in similar ways without offering an explanation as to what might lie behind these shared innovations<sup>17</sup>.

Of course, a Ciceronian origin for Decembrio's definition is not in and of itself unreasonable, especially given the extensive use of Cicero in his other humanistic works and the fact that it chimes with the Ciceronian commonplace that a *respublica* is a *res populi* (e.g. by describing it in terms of the inhabitants whose association with each other is defined by justice)<sup>18</sup>. However, the phraseology is strikingly different, and has much more in common with high and late medieval definitions of corporations (*universitates*), which included *respublicae*. This is not to deny that the Ciceronian ideas provided an important context for the formulation of the definition, but their influence was probably secondary. Rather, Decembrio's concept of a republic (and arguably those of other contemporary humanists) reflects to a large degree contemporary jurists' notions of a *respublica*, and especially a republic conceptualized as a corporation (*universitas*). This underscores a hitherto ignored dimension of the influence of late-medieval notarial and wider legal culture on the genesis of humanist political thought.

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The practice of calling city states "republics" was accepted albeit grudgingly by late

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*excidia successerunt, quibus nulla unquam arte in haec tempora potuit refragari.*

<sup>15</sup> Hankins, *Plato in the Italian Renaissance*, I, p. 110 n. 10. Cicero, *De republica*, VI.13. Macrobius, *Commentariorum*, I.8.13: *Illa autem definitione quid pressius potest esse, quid cautius de nomine civitatum? Quam concilia inquit coetusque hominum iure sociati, quae civitates appellantur. Nam et servilis quondam et gladiatoria manus concilia hominum et coetus fuerunt sed non iure sociati. Illa autem sola iusta est multitudo cuius universitas in legum consentit obsequium.*

<sup>16</sup> Ferràu, G., "Esemplarità platonica ed esperienza viscontea nel *De Republica* di Uberto Uberto", p. 437 n. 10. Augustine, *De civitate Dei*, XIX.21 (=Cicero, *De republica*, I.26.39): *Breviter enim rempublicam definit esse rem populi [...]. Populum enim esse definit coetum multitudinis iuris consensu et utilitatis communione sociatum.*

<sup>17</sup> Donato (ed.), *Uberto Decembrio, Four Books on the Commonwealth*, pp. 25-6 notes that Bruni and others have a very similar definition (*Civitas autem est congregatio hominum iure sociatorum et eisdem legibus viventium*).

<sup>18</sup> Ryan, M., "Bartolus of Sassoferrato and Free Cities. The Alexander Prize Lecture", *Transactions of the Royal Historical Society*, ser. VI, X (2000), pp. 65-89 (81). Cicero, *De republica*, I.26.39.

medieval jurists despite it not really being justified by the Justinianic corpus, which tended to reserve *respublica* for the Roman Empire. For example, although calling the usage “improper”, Bartolus accepted that city states could call themselves republics, although he argued that the term needed to be qualified with a suitable adjective to maintain clarity<sup>19</sup>. Moreover, both Baldus and Bartolus stressed the malleability of the term *respublica*, which could be applied to three or even four different entities: the Roman Empire or the universal church, the city of Rome as the seat of empire, any city, and even any municipality<sup>20</sup>. Indeed, the great innovation of the commentators was to develop a theory of the corporation as more than the sum of its individual members that in turn supported an expansive understanding of the term “republic”. Provided that their foundation was recognized by a higher power, republics understood as corporations could then hold property, such as the public treasury (*fiscus*), on behalf of the population as a whole<sup>21</sup>. All this was summarized by Baldus, who stated:

Nor does it matter what the gloss says on the law of the *Digest* “that in the name of each corporation” that a people is nothing else than the human beings themselves, because it should be understood as the human beings assumed collectively; hence separate human beings do not make a people and a people is not human beings, but a collection of human beings taken abstractly to be one mystical body, whose meaning is constructed by the intellect<sup>22</sup>.

Here, he was reacting against Accursius who had been more ambiguous:

Likewise, what if any person from the corporation inflicted an injury on you, will it not be said that the corporation has done this, and can it be sued by you? It would seem not, because he did not act as the whole community, namely having held a council, rung a bell or in some other way called a meeting, but each has acted alone. On the other hand yes,

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<sup>19</sup> Bartolus, *Opera omnia*, Venice, 1604. ad C. 2.53.4 “respublica”: *Quaerit glossa de qua republica loquitur haec lex [...]. Nam civitas continetur appellatione reipublicae improprie [...] sed nos debemus legem intelligere secundum propriam significatonem*. Idem, ad 8.17.4 “cum rempublicam”: “*Quod appellatio reipublicae etiam referur ad aliam civitatem, quam ad Romanam, ut hic [...]. Dic quod respublica proprie sumendo intelligitur de republica Romanorum, improprie autem quandoque sumitur pro qualibet alia civitate ut hic. Vel dic, quod hoc contingit ratione adiuncti, quia ad verbum reipublicae adiungitur hic Heliopolitanorum, secus si indistincte profertur.*”

<sup>20</sup> Bartolus, *In tres posteriores codices libros commentaria*, *Opera omnia*, VIII, 1602, ad C. 10.1.1: *Respublica debet accipi quatuor modis. Primo pro toto, veluti imperio. Secundo pro respublica Romanorum. Tertio pro respublica cuiuslibet civitatis. Quarto pro respublica cuiuslibet municipii*. Baldus, *In primam digesti veteris partem commentaria*, Venice, 1577, D ad “omnem”: *Circa secundum notum quod respublica dicitur tribus modis. Primo modo pro tota congregatione fidelium imperii, seu pro toto imperio. Secundo modo pro republica urbis Rome. Tertio modo pro qualibet civitate. Et sic respublica quandoque stat pro civitate et membris simul, quandoque pro capite tantum scilicet pro urbe Romana, quandoque pro aliis membris.*

<sup>21</sup> Baldus, ad C 7.49.1: *Quaero utrum fiscus et respublica differat. Et utrum quod sic que hic ponuntur ut diversa. Sed hoc immo que loquitur de fisco romano et de republica alterius civitatis. Dic quod respublica universitatem significat. Fiscus autem significat rem ipsius universitatis et fuit olim fiscus dictus a fisco infra sacco quasi quoddam continens aurei communis.*

<sup>22</sup> Baldus, ad C 7.53.5: *Nec obstat quod glossa dicit in [D.3.4.7] sicut Digesta quod populus non est aliud quam homines, quia debet intelligi de ho minibus collective assumptis, unde homines seperati non faciunt populum, unde populus proprie non est homines, sed hominum collectio in unum corpus misticum et abstractive sumptum, cuius significatio est inventa per intellectum.* Canning, J., “Law, Sovereignty and Corporation Theory, 1300-1450”, in J. H. Burns (ed.), *The Cambridge History of Political Thought*, Cambridge, 1988, pp. 341-476 (p. 474).

because the corporation is nothing else but the individual people who are there<sup>23</sup>.

It was Baldus' model of a republic as a corporation (*universitas*) that Decembrio had at least partly in mind in his treatise, perhaps supplemented by Ciceronian models. For instance, Decembrio's otherwise hard-to-explain turn of phrase "collection of human beings" (*collectio hominum*) is commonly found, *mutatis mutandis*, in many contemporary definitions of corporations (including universities), in contrast to Ciceronian formulations that use terms such as "gatherings" (*concilia*) and "unions" (*coetus*). To take one example, Joannes Bassianus and his pupil Azo famously defined a corporation as: "a collection of many bodies separate from each other, all considered under a single name" (*plurium corporum collectio inter se distantium, uno nomine specialiter eisdem deputato*)<sup>24</sup>. Decembrio builds on this while also stressing that the *collectio* should be of men and not "of wild or other irrational animals" (*ferarum aut aliorum irrationabilium animalium*)<sup>25</sup>. While it was of course not uncommon in the late Middle Ages to follow Aristotle in defining a man as a "rational animal," it is worth noting that this stance is also taken in legal texts when defining corporations. For instance, Bassianus states that

A corporation is a collection of many bodies separate from each other, all considered under a single name...this does not mean any corporation, such as a heard [of animals], but only refers to rational ones, such as a people, a fellowship or association; this corporation can pursue its interests through another body<sup>26</sup>.

This statement is then repeated almost verbatim by Azo, entering the commentary tradition such that Decembrio is likely to have encountered it fairly frequently<sup>27</sup>.

Another element of Decembrio's definition of a republic that is absent in Ciceronian formulations but widely discussed by late medieval jurists is location: "in one place" (*unum in locum*). Indeed, Decembrio is at pains to stress the importance of the location as both a defining feature of *respublicae* in general and of his ideal city-state in particular. This drew on ideas that had been explored since the time of the glossators who had equated a republic with the people living in a certain geographical area. While less important in the light of a more developed corporation theory, Baldus too resorts to geographical criteria to define *populi*, most notably

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<sup>23</sup> Accusursius, glossa ad D.3.4.7 (Lyon 1627): *Item quid si quilibet de universitate tibi intulit iniuriam, nunquid universitas dicitur hoc fecisse, et poterit a te conveniri? Videtur quod non, quia non ut universitas, scilicet, concilio habito, et campana sonata, vel alias eis convocatis fecisset: sed quilibet suo motu. E contra quod sic, quia universitas nihil aliud est, nisi singuli homines, qui ibi sunt.*

<sup>24</sup> Azo, *Summa* ad D. 3.4, n.1, Venice, 1584, p. 1156. Canning, J., "The Corporation in the Political Thought of the Italian Jurists of the 13<sup>th</sup> and 14<sup>th</sup> Centuries", *History of Political Thought* 1 (1980), pp. 9-32; Mager, W., "Republik," *Geschichtliche Grundbegriffe: Historisches Lexicon zur politisch-sozialen Sprache in Deutschland*, vol. 5, Stuttgart, 1984, pp. 549-651 (p. 559). Societas and universitas were often equated: Fedele, D., *The Medieval Foundations of International Law: Baldus de Ubaldis (1327-1400), Doctrine and Practice of the Ius Gentium*. Leiden, pp. 410-412.

<sup>25</sup> Donato (ed.), *Uberto Decembrio, Four Books on the Commonwealth*, p.80.

<sup>26</sup> Johannes Bassianus ad D 3.4.1 quoted from manuscript in Michaud-Quantin, P., *Universitas: expressions du mouvement communautaire dans le moyen-âge Latin*, Paris, 1970, p. 28: *Universitas est plurium corporum inter se distantium, uno nomine specialiter eisdem deputato, collectio [...] non tamen de qualibet universitate, puta de grege, sed de rationali tantum tractatur, ut de populo, collegio, societate, quae universitas possit per alium sua negotia explicare.*

<sup>27</sup> Azo, *Summa* ad D. 3.4, n.1, Venice, 1584, p. 1156.



when trying to explain the Aristotelian idea of a “political body” (*corpus politicum*)<sup>28</sup>. For Decembrio the humanist, this in turn allowed him to digress into a panegyric of Milan’s particular location: “in addition the place chosen by the founders must be comfortable and healthy, stable and gifted with a benign environment”<sup>29</sup>. In addition, the focus on a particular place also bolstered another unusual element of Decembrio’s definition of a republic as “enjoying the same laws and customs” (*iisdem legibus et moribus fruendum*) that adds the concept of “customs” (*mores*) to the Ciceronian commonplace of a republic enjoying the same “law” or “laws” (*ius* or *leges*). This is, of course, a topic discussed at the beginning of both the *Institutes* and the *Digest*, and which chimes with Decembrio’s later emphasis on unwritten law<sup>30</sup>.

Furthermore, Decembrio’s definition follows contemporary jurists and other humanist writers in that it implies almost nothing about the political entity’s constitution except that it was supposed to be well-governed. While the sixteenth century would see the term republic applied to more popular forms of government, Decembrio like Baldus clearly had no problems with applying the term *respublica* to monarchies, as well as other forms of rule (*principatus*)<sup>31</sup>. As regards terminology for particular constitutional forms, Decembrio borrows from Plato, suggesting a five-part division into aristocracies, timocracies, oligarchies, democracies, and tyrannies<sup>32</sup>. This said, he almost immediately excludes aristocracy from his discussion, claiming that it is almost impossible to establish. Here, he was probably also motivated by a desire to distance himself from the scandalous ideals suggested by Plato, whose authority he rejects in favor of Aristotle in the prologue to the same book, and who called his ideal state an “aristocracy”<sup>33</sup>.

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<sup>28</sup> Baldus ad D 1.1.9: *Queritur ulterius numquid intrinseci possint facere statuta contra expulsos. Et videtur quod sic quis intrinseci faciunt populum, non dispersi et vago per mundum [...] et concedo quod iurisdictio remanet penes intrinsecos, quia coheret territorio, et intrinseci possident territorium. Item intrinseci sunt universi, et expulsi sunt singuli. Idem, ad C 7.53.5: Tertio modo [homo] potest considerari prout est quoddam corpus civile seu politicum [...]. Si consideratur in congregatione tunc homo naturalis efficeretur politicus, et ex multis aggregatis fit populus ut [D.41.3.30]. Iste populus quandoque muris cingitur, et incolit civitatem et idem proprie dicitur politicus a polis quod est civitas. Canning, “The Corporation in the Political Thought”, p. 20.*

<sup>29</sup> Donato (ed.), *Uberto Decembrio, Four Books on the Commonwealth*, p. 80.

<sup>30</sup> *Institutes* 1.2.3. A, 93v: *Postremo est ius non scriptum, quod consuetudine et hominum moribus continetur.*

<sup>31</sup> Hankins J., “Exclusivist Republicanism and the Non-monarchical Republic”, *Political Theory* XXXVIII (2010), pp. 452-82. Baldus *Consilia*, Brescia, 1490, n. I.359: *Nec mirumque in regno considerari debet dignitas que non moritur et etiam universitas, seu res publica ipsius regni que etiam exactis regibus perseverat non enim potest respublica mori, et hac ratione dicitur quod respublica non habet heredem que semper vivit in semetipra. Uberto Decembrio, Four Books on the Commonwealth*, 128: “Princeps etenim caput urbis reipublicae censetur.” *Ibid.*, fol. 88r: ‘secunda, quae oligarchica dicitur, est quando a paucis divitioribus respublica gubernatur’.

<sup>32</sup> Uberto Decembrio, *Four Books on the Commonwealth*, p. 128: *Quattuor, inquam, principatuum species esse cognovi: unam honorabilem, quam Plato Τίμοκρατικὴν vocat; aliam paucorum regentium, quae Graeco vocabulo Ολιγαρχικὰ dicitur; tertiam popularem, quam Διμοκρατικὴν Graeci vocant; quartam, quam nos una cum Graecis tyrannidem nominamus.* Note the Byzantine spellings of the Greek, presumably due to the influence of Chrysoloras.

<sup>33</sup> Donato (ed.), *Uberto Decembrio, Four Books on the Commonwealth*, p. 130: *quintam his omnibus Plato praeponit ceterorum optimam Αριστοκρατικὴν appellatam, quam ideo non appono, quia phenicis more anno quingentesimo semel fortasse aut numquam conspicietur.* Plato reiterates the “scandalous” features of his state immediately before analyzing the other constitutions: Milan, Biblioteca Ambrosiana, MS B 123 sup., fol. 192v (=Plato, *Republic*, 543a-544b). Given that Decembrio had essentially no access to the Greek text, it would be anachronistic simply to cite a modern critical edition; so, all references to Plato’s *Republic* in this study will be to his manuscript translation, although, for convenience, the modern reference will also be given.

Decembrio then launches into a revealing discussion of timocracy, a type of republic he classifies according to its “honorable” nature and its desire for glory, as well as the presence of a monarch who similarly seeks honor, praise, and glory<sup>34</sup>. This is, of course, a vast simplification of the Platonic model, in that it does not take into account timocracy’s intermediate position between aristocracy and oligarchy with the resultant mixture of positive and negative features, including the widespread love of money and tendency to favor the ignorant for office. Decembrio apparently had some concept of the mixed nature of timocracy, judging from his translation of the *Republic* and the prologue to the same translation, however, following his rejection of Platonic aristocracy, timocracy takes over the mantle as the perfect regime<sup>35</sup>. Consequently, Decembrio’s timocracy, which has no negative characteristics at all, should not be seen in relationship to the Platonic hierarchy, in which it is placed second, but as the most desirable constitution that it is reasonably possible to produce.

Given its highly positive character, the extent to which Decembrio’s timocracy can be identified with the Milanese *respublica* has rightly been the subject of some debate in the limited scholarship on the treatise, as the link is not explicitly made in the text. The primary argument against such an identification is that, given the view in the prologue to his translation of Plato’s *Republic* that timocracy is the first step to tyranny, Decembrio would not offer it up as a model for Milan<sup>36</sup>. However, given that in *De republica* timocracy is not a descent from aristocracy, but seemingly the ideal regime headed by the virtuous prince envisioned by Decembrio in the rest of the text, timocracy may indeed be reasonably identified with the idealized Milan that he is advocating, if not the historical Milan as it existed in the 1420s. This said, after the section on constitutional forms there is no further mention of timocracy, suggesting that the categorization is not essential to Decembrio’s view of his ideal republic, but rather is more a product of the Platonic model he is following. As elsewhere, Decembrio is perhaps not concerned so much with the exact categorization of his ideal regime beyond the fact that it must be virtuous and preferably, although not necessarily, monarchical. Instead, in the section of the dialogue on constitutional forms the Platonic categories mask a simple dichotomy between the positive *respublica* and the negative tyranny, with timocracy coming under, or perhaps entirely constituting, the former class<sup>37</sup>.

If timocracy is the constitutional model to which Decembrio wanted the Milanese

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<sup>34</sup> Uberto Decembrio, *Four Books on the Commonwealth*, p. 130: *Prima igitur, quam horrabilem diximus et victoriarum cupidam, ea est quam apud Cretensis et Laconas, ait Plato, consistere, cum vir aliquid honoris victoriaeque cupidus appetit principari, non ut ad se rapiat, aut quemquam violet, sed ut belligerando aut rempublicam diligenter et salubriter gubernando laudem et famam quaeritet, sicut de L. Bruto Regis ultimi depulsoe Romana narrat historia.*

<sup>35</sup> Milan, Biblioteca Ambrosiana, MS B 123 sup., fol. 194v: *In hoc vero quod sapientes ad principatus ducere reformidet, tamquam non iam simplices et sinceros, sed mixtos habens, ad iracundosque neque simplices inclinetur, quos ad bellum magis quam ad pacem natos ... pecuniarum tales igitur, sicut oligarcici fierent amatores ... civilitatem prorsus, inquit, asseris ex bono maloque permixtam.* (=Plato, *Republic*, 547e-548c). Hankins J., *Plato in the Italian Renaissance*, II, p. 526.

<sup>36</sup> *Ibid.*, I, p. 113. Ferraù G., “Esemplarità platonica ed esperienza viscontea nel De Republica di Uberto Decembrio”, pp. 447-450.

<sup>37</sup> This view was first suggested in Ferraù G., “Esemplarità platonica ed esperienza viscontea nel De Republica di Uberto Decembrio”, pp. 450 n. 28, 450-452.

*respublica* to aspire, oligarchy, defined as “when the republic is governed by a few rich individuals, while at the same time the poor [*lege*: the masses] have no power”, represents an intermediate category between it and the more degenerate constitutions. This he identified historically with Rome’s senatorial oligarchy before the reforming tribunes of the first century B.C.E.<sup>38</sup> However, although Decembrio certainly believed that monarchy was the best constitution for Milan, there seems to be no overt attempt to criticize oligarchy, which receives little more than a passing mention, nor to condemn oligarchic states such as Venice and Milan’s arch-enemy Florence, which in the text are mentioned in relation to their geographical locations and military practices, but never their constitutional form<sup>39</sup>. In this respect, the late Ronald Witt was right to assert that *De republica* is not a reaction against Florentine anti-monarchical propaganda in that it does not criticize the Florentine constitution, but rather advocates monarchy within the context of being a work focused entirely on Milan, a republic in which there seems to be no market in constitutional forms<sup>40</sup>.

Nonetheless, Decembrio makes it clear that oligarchy’s Achilles’ heel is its inevitable descent into democracy, a constitution defined by the power of the *populus*, a term which he uses to denote the poor majority, who easily take to rioting and pillaging the possessions of the rich<sup>41</sup>. Again, his version of this Platonic constitution is decidedly one-dimensional, as he makes no mention of democracy’s redeeming features found in his translation of Plato’s original, such as its greater level of personal freedom. In *De republica*, democracy is simply chaos and popular rioting<sup>42</sup>. Of course, Decembrio’s characterization of any government which enfranchises more than a select few as chaos is typical of the political discourse of the humanists, for whom democracy meant mob rule and was highly undesirable, a stance found even in the most “proto-democratic” works, such as Bruni’s *Laudatio Florentinae urbis*<sup>43</sup>. It is also closely linked to

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<sup>38</sup> Donato (ed.), *Uberto Decembrio, Four Books on the Commonwealth*, p. 130: *secunda, quae oligarchica dicitur, est quando a paucis divitioribus res publica gubernatur, cum interea non sit fas pauperibus principari... Verum quia, ut vitiorum omnium mos est semper in declivia peioraque deflecti, appetitu pecuniarum aucto et virtutum pariter immunito boni utique prostergantur, crescentibus [crebrescentibus MS] dietim ex invidia damnosis iniuriis, tertia principandi species ortum duxit.*

<sup>39</sup> Donato (ed.), *Uberto Decembrio, Four Books on the Commonwealth*, p. 120 (probably a reference to Florentine cultural supremacy), 124 (location of Venice), 234 (military exercises and navy in Venice).

<sup>40</sup> Witt, R. G., *In the Footsteps of the Ancients: The Origins of Humanism from Lovato to Bruni*, Leiden, 2000, p. 484.

<sup>41</sup> Donato (ed.), *Uberto Decembrio, Four Books on the Commonwealth*, p. 130: *tertia principandi species ortum duxit, quae dimocratica a potestate populi nominatur. Cum enim pauperes a divitibus varie et multipliciter laederentur, quibus nec tribunicia potestas sufficiens plerumque fuerat obviare, furore conciti impulsu etiam tribunorum regnantes divites invaserunt, partemque eorum trucidarunt, partemque exilio mulctavere, imperandique populariter in se ipsos verterant potestatem.*

<sup>42</sup> Milan, Biblioteca Ambrosiana, MS B 123 sup., fol. 196v (=Plato, Republic, 557b-c). At this point in the translation, there is a marginal note that expresses doubt about the positive features of democracy: *Et forte non faciliterit rem publicam in ipsa quaerere.*

<sup>43</sup> Leonardo Bruni, *Laudatio Florentinae urbis*, p. 246 (=Baron, H., *From Petrarch to Leonardo Bruni: Studies in Humanistic and Political Literature*, Chicago, 1968, pp. 232-263): *Adactus est gladius per senatorium ordinem, trucidati clarissimi atque optimi cives, consulares, et triumphales, familie funditus delete, plebs duntaxat in urbe relicta, quam tamen quotidianis cedibus veluti pecora turmatim concidebat.* *Ibid.*, p. 250: *“Nulla unquam civitas adeo bene morata aut instituta fuit ut malorum hominum esset omnino vacua. Sed quemadmodum recte paucorum mentes stultam ac perversam multitudinem non liberant ab infamia, ita perversitas ac malitia paucorum universam rem publicam recte factorum laudibus privare non debet.* Similarly, Uberto stress later that the *custodes* should not be swayed by the views of the mob. Uberto Decembrio, *Four Books on the Commonwealth*, p. 152: *nec*

tyranny, the rule of an evil individual, who, after initially emerging as a popular champion, then shows his true colors by founding a regime devoid of all virtue. This is perhaps the constitutional form most similar to its Platonic model out of the five, in that for both Plato and Decembrio it represents a rejection of all virtues and laws<sup>44</sup>. Predictably, given his passion for Cicero, Decembrio associates tyranny with the rule of Saturnius and the Gracchi, under whose influence the *populares* gained the upper hand in their struggle with the *optimates*, a turn of events heavily criticized by the Roman orator<sup>45</sup>.

This said, Decembrio's image of tyranny (i.e. monarchies in which the monarch did not rule in the interests of the common good, but selfishly pursued his own personal agenda at the expense of the population) is based less on classical models, and more on the recent history of Milan under Facino Cane and Otto Terzi. During this period, not only was Decembrio himself thrown into prison having had all his goods confiscated, but all of the former Milanese territories suffered a prolonged period of war, with wide-spread famine and displacement of people<sup>46</sup>. Here, Decembrio also shows some signs of appreciating Bartolus' distinction between a tyranny *ex parte exercitii*, (when a ruler acts like a tyrant) and tyranny *ex defectu tituli* (when a tyrant claims jurisdiction to which he has no right). This is most apparent in his discussion of the ten-year dictatorship of Facino Cane (1360-1412):

He appointed himself regent for Giovanni Maria, then the most renowned duke, in order more easily to be able to despoil him of life and lordship, and he also determined to receive the vicariate of this city from the emperor, so that he might then appear to oppress the duke himself on reasonable grounds<sup>47</sup>.

Decembrio himself suffered during his period, and spent many years trying to recover his property, as his co-translator of Plato's *Republic*, Manuel Chrysoloras, lamented in a letter of consolation to his friend<sup>48</sup>.

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*ex errore et opinione imperitiae multitudinis pendent.*

<sup>44</sup> Milan, Biblioteca Ambrosiana, MS B 123 sup., fol. 88v: *sub specie viri boni et opinione iustitiae insidiosa scelera machinantur. Ibid.*, fol. 198r (=Plato, *Republic*, 562c).

<sup>45</sup> A, fol. 88v. Cicero, *De legibus*, III.20-26. Idem, *De officiis*, II.43, II.80. Murray R. J., "Cicero and the Gracchi", *Transactions and Proceedings of the American Philological Association* XCVII (1966), pp. 291-298.

<sup>46</sup> Donato (ed.), *Uberto Decembrio, Four Books on the Commonwealth*, p. 134: *Vidistis aetate nostra quas strages, quae scelera, quos cruciatus et carceres, quot suspendia, quae machmata facinora Canis Facinus adversus amiciores ducalis egerit principatus, dum spurcius homo et nequam de stercore ad tyrannidem evectus se adepturum speraret gubernaculum urbis huius ... Quot ex adverso pestes, pernicies caedes, et rapinas Otho de Terciis popularibus seditionibus adiutus effecerit, quis sufficeret numerare? Factionum etenim furore semente, dum Gibellini alterum Guelfi reliquum funestis auxilium foverent, civile bellum inexhausti instar incendii undique persusum vidimus, nec oppida solum et castra, sed veteres et famosas Liguria civitates hostili clade percussas, prostratas, et haste subietas agnovimus. Piget reminisci quam brevis temporis lapsu haec nostra res publica, quam serenissimum olim Dux Iohannes Galeaz huius clarissimi nostri ducis genitor florentissimam potentissimamque reliquerat acerba lacrimabilique sorte corverit.*

<sup>47</sup> Canning, J., *The Political Thought of Baldus de Ubaldis*, Cambridge, 1987, pp. 225-226. Uberto Decembrio, *Four Books on the Commonwealth*, p. 134: *Gubernatorem etenim Iohannismariae tunc Ducis clarissimi se ipsum instituit, ut eundem posset facilius vita et dominio spoliare, decreverat insuper huius urbis vicariatium ab imperatore percipere, ut subinde rationabili causa ducem ipsum videretur opprimere.* The phrase *rationabili causa* is perhaps an attempt to employ juridical reasoning, cf. Pseudo-Cicero, *Rhetorica ad Herennium*, II.18.

<sup>48</sup> Milan, Biblioteca Ambrosiana, MS B 123 sup., fol. 233r-v.

In the treatise, tyranny of this sort, Decembrio underlines, arises from the “defects and heedlessness of the masses.” He then brings the discussion to its logical conclusion with the commonplace that the virtuous *princeps* is the solution to civil disorder, under whose rulership “harmony and endless brotherly love may flourish”<sup>49</sup>. Thus, his argument comes full circle and returns to what it is essentially the timocratic model.

This said, the elephant in the room in Decembrio’s treatment of the Milanese *respublica* is its status as a self-governing entity independent of the Holy Roman Empire, and the extent of the jurisdiction of its ruler, especially his *plena potestas* (the right normally attributed to emperors to override civil law using the famous line from *Institutes* [1.2.6] “quod principi placuit, legis habet vigorem”). It is indeed somewhat strange that such questions are not raised in Decembrio’s treatise considering that he himself was a member of an embassy to the emperor to discuss this very issue<sup>50</sup>! Such was the importance of these questions that Giangaleazzo Visconti frequently consulted Baldus on them, while they were also the impetus behind the acquisition and subsequent attempts to re-obtain the title of “duke” for the Visconti, which imparted *plena potestas*<sup>51</sup>. Although Decembrio’s departure from the Ciceronian norm to define republic as a “legitimate collection” (*legitima collectio*) may be an attempt to address this issue, there is no clarification of the relationship between his republic and any higher power.

Indeed, the only mention in the text of the reliance of the Visconti regime on imperial power comes in his account of Cane’s coup d’état. Here, he narrates that the *condottiere* even claimed the Visconti’s status as imperial vicars<sup>52</sup>. This passage is also interesting because it seems to contradict Decembrio’s practice of calling Filippo Maria a “duke”<sup>53</sup>. This said, the usage is technically correct, as, after the death of Wenselas IV, the Visconti were no longer considered “dukes” by the imperial electors, and so reverted to the status of “vicars”<sup>54</sup>. Decembrio perhaps also did not want to dwell on the thorny issue of the legally-sanctioned power of the prince to whom he had addressed his dialogue, with this brief mention of him being merely an imperial vicar being a simple slip of the pen. For Decembrio, as for many jurists, entrenched reality always trumped *de iure* technicalities, and so perhaps he was following the same strategy employed by Baldus when writing to the Visconti about political issues:

Because all the lords of Lombardy attach as a usual custom and, as it were, by a certain theory and practice the phrase, “from the fullness of power” (*de plenitudine potestatis*),

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<sup>49</sup> Donato (ed.), *Uberto Decembrio, Four Books on the Commonwealth*, p. 136: *magnopere laborandum cavendumque fuerit, ne accidant [clamitosa facinora] culpa aut negligentia populorum. Optimum ergo prae cunctis extiterit a prudentissimo principe gubernari, cuius cautione atque consilio iustitia inviolata permaneat, concordia amorque perpetuus in populo vigeant, rectoque et moderato ordine universa gerantur.* On the commonplace of the *signore* as the solution to the problems of the *comune*, see: Ferrà G., “Esemplarità platonica ed esperienza viscontea nel *De Republica* di Uberto Decembrio”, pp. 449-452.

<sup>50</sup> *Digest*, 1.1.4 pr. Black J., *Absolutism in Renaissance Milan*, Oxford, 2009, p. 19.

<sup>51</sup> *Ibid.*, pp. 18-20, 64-67.

<sup>52</sup> Donato (ed.), *Uberto Decembrio, Four Books on the Commonwealth*, p. 134: *decreverat insuper huius urbis vicariatum ab imperatore percipere.*

<sup>53</sup> *Ibid.*, p. 68: *UMBERTI DECEMBRII AD ILLUSTRISSIMUM DOMINUM FILLIPUM MARIAM DUCEM MEDIOLANI TOTIUSQUE LIGURIAE DE RE PUBLICA LIBER PRIMUS.*

<sup>54</sup> Canning, *The Political Thought of Baldus*, pp. 18-19. Conetti, M., “Baldo e la politica viscontea. Appunti a *quaestiones e consilia*”, in C. Frova, M. G. N. Ottaviani, S. Zucchini (eds.), *VI centenario della morte di Baldo degli Ubaldi 1400-2000*, Perugia, 2005, pp. 473-522 (pp. 501-504).

and are almost in a sort of possession of it in both word and deed; I think, without prejudice to the substance of the truth, we must believe their speech because it is not likely that they would speak out of turn<sup>55</sup>.

In other words, it was not only the humanists who were creatures of the powerful (to echo Burkhardt), but many jurists too<sup>56</sup>. For this and other reasons, Decembrio's borrowing from contemporary legal thought does not come as a surprise.

Finally, although Decembrio remains conservative regarding the laws of the republic, his condemnation of the Milanese judicial system arguably represents the most overt criticism of contemporary Milan in *De republica*. This simultaneously underlines his close connection to the exercise of the law, and shows that his treatment of law and justice is not a purely descriptive *laudatio urbis*, but to at least some extent an attempt to improve the exercise of justice in Milan. In the treatise, the criticism of the legal profession is a continuation of a long speech by the abbot about whether the just man dies happier than the man who simply cultivated the appearance of justice, which follows closely the final part of initial treatment of justice in Plato. In the end, the abbot concludes that men indeed lead a more comfortable life if they simply seek to appear just. At this point, the abbot asks whether: "those you see sent by their fathers to study law and justice, are motivated by the love and consideration of justice, or rather by the love of the perks and certain commercial benefits"<sup>57</sup>. If, as Decembrio claimed, the aim of justice is to create just individuals, then the financial motivations of those studying law clearly represents a conflict of interests. The abbot then answers his own question by citing a famous medieval student dictum:

Galen and Justinian's law give riches;  
from them you'll gather grain, from the others only straw<sup>58</sup>.

Predictably considering the importance of the Platonic text and institutional history to the dialogue, the heart of the issue is that lawyers spend too much time studying contracts, testaments, and other legal instruments, and devote too little time to the "origins of law and philosophical doctrine, and the judgements and motives of the most prudent jurists", a situation that would be reversed in Decembrio's improved Milanese republic<sup>59</sup>. Thus, although remaining

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<sup>55</sup> Baldus, *Consilia*, I. 267: *quia omnes domini Lombardie de consuetudine usuali et quasi de quadam theorica et pratica apponunt haec verba "de plenitudine potestatis" et sunt in quasi possessione verbi et facti; puto, salva substantia veritatis, credendum eorum sermoni quia non est verisimile quod falsa voce uterentur*. Black, *Absolutism in Renaissance Milan*, pp. 63-67.

<sup>56</sup> Buckhardt, J., *Die Cultur der Renaissance in Italien: ein Versuch*, Basel, 1860. pp. 268-270.

<sup>57</sup> Milan, Biblioteca Ambrosiana, MS B 123 sup., fols 143r-144v (=Plato, *Republic*, 362d-367e). *Ibid.*, fols 83v-84r. *Ibid.*, fol 84r: "Praeterea vero an putas, quos ad iuris et iustitiae studia a patribus mitti vides, amore intuituque iustitiae, an emolumenti potius cuiusdamque lucrosae mercaturae transmitti?"

<sup>58</sup> Donato (ed.), *Uberto Decembrio, Four Books on the Commonwealth*, p. 98: *Notum est illud vulgatumque carmen:*

*Dat Gallienus opes et sanctio iustiniana,  
ex aliis palleas, ex istis collige grana."*

Probably composed by a 12<sup>th</sup> century law student, the verse was popular until the 17<sup>th</sup> century: Kuttner, S., "Dat Gallienus opes et sanctio Justiniana", in A. Crisafulli (ed.), *Linguistic and Literary Studies Presented in Honor of Helmut A. Hatzfeld*, Washington (DC), 1964, pp. 237-246; Scoggin, G. C., "A Popular Commonplace", *Classical Philology* XIV (1919), pp. 386-389.

<sup>59</sup> Uberto Decembrio, *Four Books on the Commonwealth*, p. 98: *Contractibus itaque et iudiciis ac obligationibus testamentis et legatis fideicommissis ceterisque actionibus, quae in hominum litigiis saepius*

conservative in that he is not suggesting abandoning the Neo-Roman legal tradition and its institutional basis, Decembrio is arguing for the realignment of its education and priorities, so as to create a Milan truly founded on justice.

After the abbot leaves for vespers, mimicking Cephalus in Plato's *Republic*, Leone the Milanese lawyer continues the assault on his own profession<sup>60</sup>. Concurring with everything the abbot has just said, Leone calls the college of jurists a "mob", admonishing his colleagues for complicating and drawing out simple cases that should be settled quickly. Lawyers are then compared to doctors - a profession with which Decembrio was familiar as he had married into a notable medical family - who sought to extend illnesses so as to increase their profits<sup>61</sup>. For Leone, as for the abbot, the solution to such problems was the study of philosophy, presumably the classical philosophy of Plato and Cicero, which should inspire jurists, just as much as juridical ideas inspired classically-inclined humanists like Decembrio.

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Overall, it is clear that Uberto Decembrio drew on his notarial background and ongoing interactions with the learned law to build his vision of a republic. While reminiscent of Ciceronian formulations and embedded in a framework inspired by Plato's *Republic*, Decembrio's semi-idealized image of Milan was described in ways that mirrored the contemporary juristic terminology for a city state as a corporation (*universitas*). This is especially apparent from his choice of phraseology, as well as his stress on the geographical location, unspecified constitution and the necessity of the rationality of its members. This said, he may have purposefully glossed over thorny issues of jurisdiction, realizing that like the jurists he had to come to terms with the political reality in the rough-and-tumble world of Italian city states.

As Paul Oskar Kristeller noted several generations ago, notaries in Italian communes and principalities were among the first to embrace Renaissance Humanism because of its affinities with their own textual culture. Yet, this insight has to some extent been side-lined as the scholarship has concentrated on Humanism's classical underpinnings and the role of the learned law in defining its political thought. The value of the case of Uberto Decembrio therefore is to highlight the ways that the particular background of a notary could shape the thinking of a leading early proponent of the movement in one of the most important city states in Northern Italy. It is only by exploring the partly learned, but also eminently practical world of Decembrio

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*obversantur, multo ardentius et acutius insistitur, quam iuris origini phylosophorumque doctrinae ac prudentissimorum iurisconsultorum rationibus et motivis, qui iuris illius sacratissima fundamenta ad salutem et communionem tutandam humani generis invenerunt.*

<sup>60</sup> Milan, Biblioteca Ambrosiana, MS B 123 sup., fol. 134r (=Plato, *Republic*, 331d): "Atqui, inquit Cephalus, vobis sermonem relinquo. Oportet enim me sacra peragere iam incepta."

<sup>61</sup> Borsa, *Un umanista*, p. 12 n. 1. *Uberto Decembrio, Four Books on the Commonwealth*, p. 98: *hanc iudicium turbam in foro obversantem, quam "collegium" nominamus, horum nonnullis causam quandam commiseram, quae licet clara et aperta mihi - etiam rudioribus - videretur, eam tum tot cavillationibus et ... turbavere, ut ex re minima et clarissima anceps et dubia lapsu pauci temporis redderetur. Mores enim hi iudices quorundam retinent medicorum, qui saepe divitum student vulnera improbo medicamine dilatare, quo longa curatione et graviore morbo praemia amphora suscipiant. Itaque ut ad causidicos meos redeam, quod una hebdomata [hebdemoda MS] commode poterat, meo iudicio, declarari, in biennium prodixerunt.*

and those like him that we can develop a fuller understanding of the relationship between notaries (alongside jurists) as important actors in the legal landscape of the period and the intellectual current that would drastically reshape the political thought of the Italian city states, and later in the hands of humanist jurists like Andrea Alciati and Guillaume Budé would revolutionize the learned law as well.

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