

WHEN PRIVATE VICE MEETS PUBLIC VIRTUE:  
THE END OF COUNT GIUSEPPE BREBBIA'S CAREER  
AS A PUBLIC OFFICIAL

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**Abstract:** Milano, 1827. The criminal proceeding against Count Giuseppe Brebbia, a Lombardo-Venetian' senior official accused of misfeasance, is of considerable significance to investigate the interlinkage between social classes and administration assessment in the first years of Austrian restoration in Italy. At that time, undeniable signs of *Adelstand's* difficulties in handling public affair occurred, mainly at local level. The questions of how and why an impersonal administration rose can be answered only taking a closer look at this trial, around which many social and political interests clustered around.

**Keywords:** Lombardo-Venetian Kingdom; criminal law; public administrations and bureaucracy; provincial delegations; social classes

In the summer of 1827, Austrian authorities became aware of some questionable conduct surrounding the management of the *Fondo di Primitiva Istruzione*, a government institution set up to pay primary school teachers in the department of Mella<sup>1</sup>. They promptly summoned Giuseppe Brebbia to provide answers, as the recently-appointed counselor of the Milanese government was also the former provincial delegate of Brescia<sup>2</sup>.

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<sup>1</sup> Counselor of government Luigi Crespi to Brebbia, July 14, 1827 (ASmi, *Presidenza di Governo*, fold. 102, n. 87/*geheim*). For some information about the *Fondo* – created by the Brescia provisional regency on September 30, 1797 (when «Brotherhoods and charities had been suppressed and all their properties had been confiscated, devolving their funds to communes and provinces to aid primary education», *ibidem*, n. 1266/*geheim*), later placed under the direction of departmental administration in accordance with the law of July 24, 1802, and still not yet abolished when the Austrians came back to Italy – see *Piano provvisorio per la pubblica istruzione del Dipartimento del Mella* (found in Archivio di Stato di Milano, hereinafter ASmi, *Studi*, parte moderna, fold. 396, file 1); report n. 16125 of Prefecture of Mella department to minister of interior, November 14, 1803 (*ibidem*, file. 11), M. Agosti, *La tradizione pedagogica bresciana nei secoli XIX e XX*, in *Storia di Brescia*, vol. IV, *Dalla Repubblica bresciana ai giorni nostri (1797-1963)*, Milano 1964, pp. 787-789 e 821-822). With regard to *Fondo's* workforce cfr. *Almanacco Imperiale Reale per le provincie del Regno Lombardo-Veneto soggette al governo di Venezia per l'anno 1843*, Milano 1844, p. 310. For a detailed bibliography on brotherhoods and other aid agencies, see M. Gazzini, *Confraternite e società cittadine nel medioevo italiano*, Bologna 2006, pp. 22-57.

<sup>2</sup> Eldest child of Francesco (1750-1818) and Camilla Arrigoni (1753-1843), heir of an old noble family, the House of Brebbia Counts of Barzago (see, amongst others, *Alberi genealogici della case nobili di Milano*, con uno scritto di C. Manaresi, introduzione di M.P. Zanoboni, blasonature di C. Maspoli, Milano 2008, pp. 236-237), Giuseppe (1777-May 24, 1851) gradually rose through the public service ranks. In March of 1802 he became an apprentice in the Italian Republic ministry of justice, and two years later he was promoted to administrative assistant. Starting on September 16, 1808, he served in the same capacity in the Council of State's legislative and ecclesiastical sections (see *Raccolta delle leggi, decreti e circolari che si riferiscono alle attribuzioni del Ministero dell'Interno del Regno d'Italia*, vol. I, Milano 1808, p. 11), where, on December 14, he was appointed as an additional member. After Lombardy was re-assigned to Austria, he embarked again on an administrative career, holding higher and more sensitive positions: member of the committee for the liquidation of the public debt from December 1814, on January 19, 1816, he was made provincial delegate of Sondrio (cfr. *Gazzetta di Milano*, Milano 1822, n. 22, January 22, 1816, p. 95). In 1817 he was placed in charge of the more prominent delegation of Brescia (where he took office the following year, on February 11). With the sovereign resolution of June 19, 1826, Emperor Francis finally declared Brebbia's

This was not the first time that the high official had been ordered to account for issues regarding the institution, which he had administered up until the previous year<sup>3</sup>; yet this time, the withdrawals were far too substantial for the eagle eye of the empire to ignore. Despite the fact that the *Fondo* received an annuity of approximately 80,000 lire<sup>4</sup>, thirty years had passed since its establishment and it found itself having to deal with inexplicably meager resources<sup>5</sup>: £ 57,680.27 of «active loans» and £ 25,123.83 of «income properties». In short, an initial estimate put the deficiency at a hefty 131,755.23 Austrian lire<sup>6</sup>.

The expense items aroused suspicion as well, as the descriptions listed («classified police expenses»; «repayable subsidies»; «salary advances») had everything to do with the administration of the provincial delegation and nothing to do with running a scholastic institution. Thus, the authorities called for an immediate explanation, as well as the prompt repayment of all amounts taken out of the coffers<sup>7</sup>: Brebbia, however, did not do exactly as ordered, as a series of complications would result in his waiting until 5 October to deposit a modest partial payment of 18,000 lire in the institution's funds<sup>8</sup>, and only after having reached an agreement with the Imperial-Royal tax authorities to do so. Though there may be

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appointment as an additional counselor of the Lombardy presidency government («Consigliere soprannumerario presso questo Governo») (see protocol July 12, 1826, n. 21864/4088, in ASMi), *Uffici e Tribunali regi*, parte moderna, fold. 479, file *Brebbia Conte Gius.*, e *Presidenza del Governo*, fold. 105, n. 570/*geheim*, May 28, 1827, *Stato personale di Servizio del Conte Giuseppe Brebbia*).

<sup>3</sup> Cfr., e.g., Luigi Crespi to Brebbia, June 11, 1827 (ASMi, *Presidenza di Governo*, fold. 102, n. 87/*geheim*).

<sup>4</sup> Brescia provincial delegate Gaudenzio De Pagave to President of Milanese government Giulio Strassoldo, February 18, 1829, ASMi, *Presidenza di Governo*, fold. 110, n. 217/*geheim*.

<sup>5</sup> De Pagave to Strassoldo, December 17, 1827, report drafted in despatch n. 791/*geheim* of July 18, in ASMi, *Presidenza di Governo*, fold. 102, n. 1266/*geheim*

<sup>6</sup> Then rose to 142,384.39 lire, as a result of supplementary investigations (ASMi, *Presidenza di Governo*, fold. 102, nn. 788, 931, 1180, 1183 and 1184/*geheim*).

<sup>7</sup> See Crespi to Brebbia, n. 327/*geheim*, August 27, 1827, in ASMi, *Presidenza di Governo*, fold. 102, n. 87/*geheim*.

<sup>8</sup> Report n. 931/*geheim*, in ASMi, *Presidenza di Governo*, fold. 102.

interesting aspects to consider from a civil-law point of view, what really makes this matter so compelling is the criminal case that was looming on the horizon.

The Austrian criminal code (*Franziskana*) – famous for investing the powers of both judge and examining magistrate in the same person – had provided for the introduction of a *criminal procedure* in Lombardy starting in 1816<sup>9</sup>. The various steps could be described as a mix of repressive measures with the occasional glimmer of respect for civil liberties, and they were distinctly inquisitorial in nature: it would start with the «notice of crime» and proceed to verify the existence of «legal evidence» («preliminary investigation», §§ 211-333 of the first part). From there, a search for «piena prova» (incontrovertible evidence, as provided for by either the «ordinary inquisition process» or «special inquisition», §§ 334-414) would lead to the sentencing phase (§§ 415-444)<sup>10</sup>. In addition, the Austrian regime also charged the judge with acting as the defense attorney of the accused, a peculiarity that arose from the fact that «defense was one of the official duties in criminal proceedings» (§ 337)<sup>11</sup>.

<sup>9</sup> See sovereign resolution of October 22, 1815, in circular letter of October 26, 1815 (*Raccolta degli Atti del Governo e delle disposizioni generali emanate dalle diverse autorità in oggetti sia amministrativi che giudiziari*, Milano 1815-1839, from now on only *Atti del Governo*, 1815, vol. II, second part, n. 55, p. 361). In Venetian territory the 1803 penal code had been in force since July 1, 1815 (cfr. sovereign resolution of April 24, 1815, in *Collezione delle leggi, istruzioni e disposizioni di massima pubblicate o diramate nelle provincie venete in oggetti di amministrazione politica, camerale e giudiziaria*, Venezia 1815, vol. II, first part, p. 139).

<sup>10</sup> *Codice Penale Universale Austriaco, coll'Appendice delle più recenti norme generali. Seconda versione ufficiale*, Milano 1815 (hereinafter only *Codice Penale*). Similar, but simplified, the procedure for serious police transgressions: §§ 293-406, second part. On this, see E. Dezza, *L'impossibile conciliazione. Processo penale, assolutismo e garantismo nel codice asburgico del 1803*, in *Saggi di storia del processo penale nell'età della codificazione, in Casi, fonti e studi per il diritto penale*, S. Vinciguerra (ed.), serie III, vol. 19, Padova 2001, pp. 141-169, previously in *Codice penale Universale austriaco (1803), Casi, fonti e studi per il diritto penale*, ristampa anastatica con scritti di S. Ambrosio, A. Cadoppi, A. Cavanna, C. Carcereri de Prati, M.A. Cattaneo, M. da Passano, P. de Zan, E. Dezza, P. Pittaro, P. Rondini, S. Tschigg, S. Vinciguerra, S. Vinciguerra (ed.), serie II, vol. 18, Padova 2001, pp. CLV-CLXXVIII.

<sup>11</sup> Cfr. Dezza, *L'impossibile conciliazione* [note 10], p. CLXXIII, and Id., *Il nemico della verità*.

The Habsburg obsession with ‘formalizing’ all administrative affairs meant that the proceedings were meticulously transcribed. As such, we are able to consult a step-by-step record that takes us from beginning to end in an intricate and sensitive case<sup>12</sup>. In accordance with the tasks assigned to him by the *Strafgesetz*, a judge operating in the Italian *Länder* had to first open an investigation so as to establish valid grounds for bringing charges. Thus, the initial phase of this case saw the loyal magistrate sleuthing behind the scenes as thoroughly as he could, and almost two years after the first injunction, he finally had enough evidence to issue a decree that called for the opening of a «special inquisition».

The charge brought against the counselor on 4 May 1829 would have set anyone’s pulse racing: *abuse of power*, on the grounds of having maliciously taken advantage of his official capacity and breaching the duties thereof, thereby causing great detriment to the public administration<sup>13</sup>. To make matters worse, it was also held that he had breached his oath of allegiance in the form of aggravated theft, thus constituting grounds for a concurrent charge of *treason*<sup>14</sup>.

Brescia was promptly suspended from all official duties without pay and placed under arrest: he had been deemed a ‘flight risk’, and there was also the fear that he could tamper with evidence<sup>15</sup>. For the Milanese

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*Divieto di difesa tecnica e giudice factotum nella codificazione penale asburgica (1768-1873)*, in M.N. Miletta (ed.), *Riti, tecniche, interessi. Il processo penale fra Otto e Novecento: Atti del Convegno (Foggia, 5-6 maggio 2006)*, Milano 2006, pp. 32-47.

<sup>12</sup> See, generally, N. Raponi, *Il Regno Lombardo-Veneto (1815-1859/66)*, in *Amministrazione della giustizia e poteri di polizia dagli stati preunitari alla caduta della destra: Atti del LII Congresso di storia del Risorgimento italiano (Pescara, 7-10 novembre 1984)*, Roma 1986, p. 99; L. Rossetto, *Un protagonista nascosto: il ruolo del fascicolo nella giustizia criminale asburgica in territorio veneto*, in G. Chiodi-C. Povolo (edd.), *Amministrazione della giustizia penale e controllo sociale nel Regno Lombardo-Veneto*, Sommacampagna 2007, pp. 61-91.

<sup>13</sup> *Codice Penale*, first part, § 85.

<sup>14</sup> *Codice Penale*, first part, § 161. For an account of the oath of loyalty which all Lombardy-Venetian employees took, see, at length, A. Arisi Rota, *Pubblici impiegati e processi politici nel Lombardo-Veneto degli anni Trenta*, in *Storia Amministrazione Costituzione*, 9 (2001), p. 118, and also F. Rossi, *Il cattivo funzionario. Fra responsabilità penale, amministrativa e disciplinare nel Regno Lombardo-Veneto*, Milano 2013, pp. 153-155.

<sup>15</sup> Asmi, *Uffici e Tribunali regi*, parte moderna, fold. 479, session of May 15, 1829. With

aristocrat, the next stop on this tumultuous journey would be prison<sup>16</sup>. This level of severity was nothing out of the ordinary for the Habsburg criminal procedure, as preliminary detention was considered a fundamental and instrumental part of exercising criminal jurisdiction: indeed, it was no coincidence that the code provided for «criminal arrest» and «preliminary examination of the accused» (§§ 281-306, first part)<sup>17</sup> immediately following the «investigation» (§§ 226-280), as it was an appropriate way to cap off this initial phase<sup>18</sup>.

The second phase of the *processura* focused on gathering legal proof of guilt of the person placed under investigation, and whose status was «aggravated by the existence of legal evidence of a crime»<sup>19</sup>. In this case, it became very difficult to substantiate the allegations against the Count. The only irrefutable fact available was that the accused had reached an agreement with the Imperial-Royal tax authorities in which he undertook to pay back the missing money to the *Fondo*<sup>20</sup>. This sort of unsolicited apology on his part – an *excusatio non petita* – might have been incriminating, but from a penal point of view it was irrelevant: according to the *Franziskana*, «when deciding on a case, only that which has been legally proven may be held as true» (§ 396).

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regard to the suspension from service (with or without pay) see circular n. 17043-2375 P, June 18, 1828, in *Atti del Governo*, 1828, vol. I, second part, n. 27, p. 76, and also Rossi, *Il cattivo funzionario* [note 14], pp. 278-279.

<sup>16</sup> General police director of Lombardy Carlo Giusto Torresani to Strassoldo, n. 2538 PR, May 4, 1829, in ASMI, *Presidenza di Governo*, fold. 117, n. 374/*geheim*, and also ASMI, *Uffici e Tribunale regi*, parte moderna, fold. 479, session of the government of May 15.

<sup>17</sup> The police interrogation, technically speaking. In this regard, see L. Garlati, *Il volto umano della giustizia. Omicidio e uccisione della giurisprudenza del Tribunale di Brescia (1831-1851)*, Milano 2008, pp. 70-72, note 194.

<sup>18</sup> Cfr. G.A. Castelli, *Manuale ragionato del codice penale, e delle gravi trasgressioni di polizia ossia Prontuario per agevolare ai pubblici funzionarij criminali e politici la notizia di tutte le disposizioni che hanno rapporto con ciascun paragrafo di detto Codice penale, e delle gravi trasgressioni, ed in ispecie quelle state pubblicate posteriormente alla sua attivazione ecc. ecc.*, 4 voll., Milano 1833-1834, vol. II, § 281, pp. 72-73 and Garlati, *Il volto umano della giustizia* [note 17], pp. 69-70.

<sup>19</sup> *Codice Penale*, first part, § 281.

<sup>20</sup> See *supra*, text and note 8.

In that regard, the magistrates had some initial hurdles to overcome, as they were faced with a lack of evidence: the *Fondo's* cash books had been missing for some time. For Gaudenzio De Pagave, who was Brebbia's successor to the Brescia delegation, this was somewhat embarrassing to admit<sup>21</sup>. Yet in the spirit of fair play, De Pagave sought to release the Count of all responsibility, as he felt any potential involvement on the part of Brebbia was unlikely and unsubstantiated<sup>22</sup>: to what advantage, he argued, seeing as how he had already declared himself the debtor for sums that he had even partly repaid? De Pagave was of the opinion that in order to track down the culprit, it was necessary to shift the focus elsewhere: namely, to someone who was afraid of being connected to the crime, and who would have had no difficulty in eliminating evidence of the misdeed; in short, someone who could have easily arranged for all responsibility to fall upon the then delegate<sup>23</sup>.

Now, it would be a mistake to claim that Brebbia had absolutely nothing to do with the missing books. But then again, he would have never been able to withdraw all of that money without paying off the officials in charge of the institution's financial administration: namely, the cashier, Giovanni Cantoni, and the accountant, Antonio Superti. The former was in charge of payments and balancing the fund's budget<sup>24</sup>: his malfeasance could be inferred based on the amount of money he was paid by Brebbia himself, in what were only described as «advances»<sup>25</sup>. The latter was

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<sup>21</sup> «With reference to the disappearance of acts, records and documents, the Delegation can only refer to the reports of March 16 and April 19, 1828. [...] Up to now, the search for cash books has not led to any results» (De Pagave to president of criminal court in Milan, Giovanni Gognetti, 12 May, 1829, in ASmi, *Presidenza di Governo*, fold. 117, n. 429/*geheim*).

<sup>22</sup> De Pagave to Strassoldo, n. 298 PR, May 26, 1829, in ASmi, *Presidenza di Governo*, cart. 110, n. 472/*geheim*. In response Count Brebbia will blame his successor for the loss of records (see Crespi to Strassoldo, n. 1369/*geheim*, February 23, 1831, in ASmi, *Presidenza di Governo*, fold. 148, n. 954/*geheim*).

<sup>23</sup> De Pagave to Strassoldo, n. 429/*geheim*, May 17, 1829, in ASmi, *Presidenza di Governo*, fold. 117.

<sup>24</sup> De Pagave to Gognetti, May 12, 1829, n. 409/*geheim*, in ASmi, *Presidenza di Governo*, fold. 117.

<sup>25</sup> De Pagave to Gognetti, n. 283 PR, May 20, 1829, in ASmi, *Presidenza di Governo*, fold. 117, n. 446/*geheim*.

responsible for approving accounts that had clearly been forged, and his wrongdoing could also be deduced from the disappearance of the books, a fact for which he was at least strictly liable: had they been kept properly, those records would not have vanished so soon after the investigation began<sup>26</sup>. Lucky for them, these hypotheses, which were certainly well-founded, were nonetheless tenuous in terms of probative value, and as such insufficient to include as the «legal evidence» required by § 281 of the first part of the code.

In the end, it would be the provincial delegation's expense reports that revealed the fraudulent workings behind the Brebbia administration's 'creative' money management scheme: the listed descriptions showed substantial cash withdrawals had been made to compensate for the payment of classified police expenses, not to mention «salary advances»<sup>27</sup>. Put briefly: the Count was trying to make up for the *Fondo's* losses by dipping into the delegation's funds!

The prosecution was pleased, as it had finally found the foothold it needed to knock down this house of lies once and for all. In fact, even if one admitted that the civil unrest of the early 1820s had indeed called for «costly surveillance», the 88,279.25 Austrian lire withdrawn between 1821 and 1825 still came off as an exorbitant amount of money; all the more so if one considered that in the same time period, the Count had requested a hefty 49,302.19 lire from the general director of police, for the same reason no less<sup>28</sup>.

And it was hard to turn a blind eye to the regrettable event that had occurred in September of 1825, when a certain Professor Horaczech was to be sent back to Moravia, and to do so the then delegate had withdrawn 1,705.29 lire not once, but twice: one withdrawal had been

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<sup>26</sup> De Pagave to Strassoldo, n. 298 PR, in ASMI, *Presidenza di Governo*, fold 110, nn. 446 and 472/*geheim*.

<sup>27</sup> De Pagave to Gognetti, May 12, 1829, n. 409/*geheim*, in ASMI, *Presidenza di Governo*, fold 117.

<sup>28</sup> Gognetti to Strassoldo, n. 2908 PR, May 28, 1829. The certified abstract demonstrating the liquidation of his accounts, as provided by the then-delegate, shows that Brebbia's excuses are full of holes: from June, 1821 to April, 1825 he had a «permanent fund» of £ 1,200 for secret expenses, which rose to £ 1,500 on June 14, 1822».

from the scholastic fund, while the other from a fund for the secret police. Brebbia, however, had not repaid the amount relative to the unjustified withdrawal, and to make up for the deficiency, there had been no other choice but to dock the sum from the professor's pension<sup>29</sup>.

Yet what counted more than anything else were the statements made during interrogation, a phase that was known as «ordinary examination»<sup>30</sup>. Standing before the 'three-headed dog' that was the Lombardo-Venetian criminal judge, Brebbia did not attempt to evade questioning: rather, he sought to fend off attack by adopting a clumsy and awkward defense. After admitting to his mistakes, the ex-delegate assured the judge that he had not misappropriated the *Fondo's* resources «with iniquitous intent», but rather to deal with his own «domestic needs», and that he had done so with the intention of paying the money back; at a certain point, however, his accumulation of debt had become so uncontrollable that it became impossible for him to make good on the repayment<sup>31</sup>.

*Luce meridiana clarioris*: in light of the confession, the actual facts of the case could now be held as legally true, thus eliminating the need for due process and further investigation<sup>32</sup>. In an inflexible criminal procedure that revolved around legal evidence, an admission of guilt was tantamount

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<sup>29</sup> Gognetti to Strassoldo, May 28 (Asmi, *Presidenza di Governo*, fold 117, n. 483/geheim).

<sup>30</sup> *Codice Penale*, first part, §§ 348-373. That is, the «structured examination of the accused» (S. Jenull, *Commentario sul Codice e sulla processura criminale della Monarchia Austriaca ossia il diritto criminale austriaco esposto secondo i suoi principj ed il suo spirito da Sebastiano Jenull, Dottore in legge, Professore ordinario delle scienze politiche, e del diritto criminale privato austriaco. Prima versione italiana dal tedesco. Con l'aggiunta delle leggi e disposizioni colle quali venne posto in attività il Codice predetto nel Regno Lombardo-Veneto*, 4 voll., Milano 1816, vol. III, § 348, p. 322). For a discussion in detail about the meaning of the word, and especially about the difference between *costituito sommario* and *ordinario*, see Garlati, *Il volto umano della giustizia* [note 17], pp. 70-72, note 194; with regard to interrogation see also A.A. Cassi, *Negare l'evidenza e avere salva la vita. Codice penale e tribunali speciali nei processi contro la Carboneria bresciana*, in *L'ABGB e la codificazione asburgica in Italia e in Europa: Atti del Convegno Internazionale*, Pavia, 11-12 settembre 2002, Padova 2006, pp. 317-337, p. 327.

<sup>31</sup> Asmi, *Senato lombardo veneto, Protocolli di consiglio*, fold. 132, protocol November 17, 1829, spokesman counselor Raicich, p. 2966.

<sup>32</sup> On this aspect, see Dezza, *Il nemico della verità* [note 11], pp. 60-61.

to a *relevatio ab onere probandi*, meaning that the Austrian judge was now relieved of the burden of proof. Just three months after the trial had begun<sup>33</sup>, the judge was now in the position to make a ruling in the case.

Thus, on 25 August 1829, Giuseppe Brebbia was found guilty of *abuse of power*. He was sentenced to two years of *carcere duro* (harsh imprisonment), stripped of his nobility, and ordered to pay all court costs; this, of course, in addition to compensating the *Fondo* for the damages incurred<sup>34</sup>.

While the sentence might not have been lenient, it was not as harsh as it could have been: at the time, the standard sentence for that crime was harsh imprisonment for one to five years, which could potentially be extended to ten years based on a «higher degree of malice, and the significance of damage»<sup>35</sup>. The complete text of the ruling delivered by the court of first instance is missing, but it seems reasonable to attribute this act of measured clemency to a combination of «mitigating circumstances relative to the offender» (§ 39): namely, his irreproachable behavior before the crime (letter *b*), his willingness to compensate for the damage caused (letter *g*), and above all, his confession (letter *h*)<sup>36</sup>.

There is also another factor to consider. It is a well-known fact that the Austrian system provided for a series of checks in the most serious of crimes<sup>37</sup>, in order to ensure greater certainty in sentencing and at the same time compensate for the lack of a defense attorney during trial: as such, all court documents relating to the case were sent to the court of appeal (§

<sup>33</sup> Cfr. Mazzetti to Hartig, n. 14254, December 28, 1830, in ASMi, *Presidenza di Governo*, fold. 136, n. 1285/*geheim*.

<sup>34</sup> In the court of appeal's sentence we can find the ruling (*concluso*) of the first instance (see *Sentenza del 25 agosto 1829, n.° 1908, dell'I.R. Tribunale Criminale in Milano*, in ASMi, *Presidenza di Governo*, fold. 136, n. 1825/*geheim*, and also in ASMi, *Senato lombardo veneto, Protocolli di consiglio*, fold. 132, protocol November 17, 1829, p. 2962).

<sup>35</sup> *Codice Penale*, first part, § 87.

<sup>36</sup> See G. Chiodi, *Il fascino discreto del libero convincimento. Per un identikit del giudice penale lombardo-veneto*, in *Amministrazione della giustizia penale* [note 12], Sommacampagna 2007, p. 23.

<sup>37</sup> For a detailed account see Garlati, *Il volto umano della giustizia* [note 17], pp. 29-30, and for a general discussion, Dezza, *L'impossibile conciliazione* [note 10], p. CLXXII.

433), and from there to the supreme court, known as the *Lombardo-Venetian Senate of the Supreme Court of Justice* (§ 442).

The court of appeal's task was to ensure the proper application of criminal law: in this case, the ruling at first instance was upheld, though the sentence was reduced «for the purpose of mitigation» to two years of ordinary imprisonment<sup>38</sup>.

The counselors of the Senate continued the trend of progressively reducing Brebbia's original sentence by putting forward an even more lenient proposal. While all of the senators «unanimously» confirmed the defendant's guilt, only five magistrates suggested commuting the sentence to one year's imprisonment, and in the end the entire assembly proposed that His Majesty «reduce the sentence, for the purpose of a pardon, to the time served under arrest up until that moment»<sup>39</sup>. Even though the emperor would not ultimately accept this request<sup>40</sup>, it was clear that the judges did not have it in them to come down mercilessly on the Count.

There were a few factors that had worked in the Count's favor. First of all, not only had Brebbia been held in high regard for his loyalty to the regime, but also for his commitment and dedication to the administration of a turbulent province during some difficult years. This loyalty and selflessness – the highest values that the Austrians asked of their officials – had allowed the Milanese nobleman to garner the esteem and respect of the empire's upper echelons. Those same high officials, however, would eventually be put in the difficult and somewhat embarrassing position of removing Brebbia from public office.

Though he did not know Brebbia personally, Governor Franz Hartig felt there was a special set of mitigating circumstances working in the Count's favor<sup>41</sup>. And so too did the general director of police, Carlo

<sup>38</sup> Cfr. *Sentenza n. ° 9133, Milano, dall'I.R. Tribunale d'Appello generale il 8 ottobre 1829*, in ASMi, *Presidenza di Governo*, fold. 136, n. 1825/*geheim*, and also ASMi, *Senato lombardo veneto, Protocolli di consiglio*, fold. 132, protocol November 17, 1829, p. 2962.

<sup>39</sup> ASMi, *Senato lombardo veneto, Protocolli di consiglio*, fold. 132, protocol November 17, 1829, pp. 2970-2972.

<sup>40</sup> Sovereign resolution of February 6, 1830, in ASMi, *Senato lombardo veneto, Protocolli di consiglio*, fold. 133, protocol February 25, 1830, p. 485.

<sup>41</sup> President of the government of Lombardy Franz Hartig to SMIRA (= Sua Maestà Imperiale

Torresani, who wrote a most heartfelt report to the Governor to inform him of the situation. Normally parsimonious with praise, he described a *Beamte* who had had a «long and brilliant career», who had been «appreciated for his noble and courteous ways», who – it was true – had «erred by making use of some funds under his tutelage meant for the public administration», but that «he did so without committing an immoral act». And Torresani lauded Brebbia for the economic sacrifice he had made in agreeing to repay such a considerable amount of debt, which in his view was only further testament to the Count's good intentions; moreover, he would repay the sum «with the appropriate interest on the amount owed»<sup>42</sup>.

Similar considerations had indeed led the magistrates to conclude that the delegate's conduct had not been the result of a «well-thought-out deliberation», but rather an improper decision made without reflecting upon his duties, and even less upon the potential consequences of his actions<sup>43</sup>.

Yet one fact remained: the case against the Count had been brought to three trials, and though the sentence had been gradually reduced, the verdict had stayed the same. In short, the judicial system believed that the elements of the crime as described in § 85 of the criminal code did in fact exist. After all, the provincial delegate was tasked with overseeing and safeguarding the empire's resources, and those of the *Fondo*, «due to its very nature and purpose, and to the duties of the Authority in charge of it», were to be considered «a sacred object, not to be touched for any other

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Reale Apostolica, His Imperial and Royal Apostolic Majesty), n. 1363/*geheim*, April 26, 1832, ASMi, *Presidenza di Governo*, fold. 176.

<sup>42</sup> Torresani to Hartig, n. 4141 PS, June 28, 1832, in ASMi, *Presidenza di Governo*, fold. 176, n. 641/*geheim*. On Carlo Giusto Torresani de Lanzfeld (1779-1852), cfr. *Biographischer Lexicon des Kaiserthum Oesterreichs*, vol. XLVII, Wien 1833, p. 161; P. Pedrotti, *Contributo alla biografia di Carlo Giusto Torresani*, in *Lombardia nel Risorgimento italiano*, 16 (1929), pp. 3-55; M. Bellabarba, Il «fondamento dei miei regni». *Giudici, cultura politica e letteratura nell'Impero austriaco di primo Ottocento*, in M. Bellabarba, B. Mazhol, R. Stauber, M. Verga (ed.), *Gli imperi dopo l'Impero nell'Europa del XIX secolo*, Bologna 2008, p. 286.

<sup>43</sup> ASMi, *Senato lombardo veneto, Protocolli di consiglio*, fold. 132, protocol November 17, 1829, p. 2967.

purpose»; as such, it was clear that any misappropriation of the institution's money could only have resulted in charges against him for abuse of power<sup>44</sup>.

There was no doubt about the defendant's «culpability» according to Vincenzo Raicich, the reporting judge for the supreme court trial. In his opinion, not only was the commission of the crime clearly evidenced by the amount of embezzled money, but also by the way in which the offender carried out the withdrawals. Indeed, if «it was already abuse to use the money of a charitable Institution for purposes other than those for which the money was meant», then «such an arbitrary act is all the graver, when that purpose is for private use»<sup>45</sup>.

Placing all the facts in a legal context, the magistrates took a number of erroneous assertions off the table. First of all, contrary to what was initially alleged, they excluded the possibility of concurrent offenses having been committed: namely, the Count's conduct could not be considered grounds for a charge of *treason*, as such a charge implied a direct connection to «the property of others as entrusted [...] by virtue of public office»<sup>46</sup>, and Giuseppe Brebbia could not have managed the *Fondo's* money without going through Cantoni and Superti. Even the special inquisition had acknowledged that there were doubts surrounding this issue<sup>47</sup>: Brebbia had not had direct access to the misappropriated funds, and therefore the *intervensio possessionis* (change of possession), which was a fundamental element of the crime, could not be legally proven.

Secondly, the fact that Brebbia had attempted to repay the embezzled money did not even partially absolve him of criminal liability. Indeed, this had no bearing on the charge of *abuse of power*, because § 85 clearly stipulated that «the law only provides for the potential damage

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<sup>44</sup> Counselor Vincenzo Raicich (ASmi, *Senato lombardo veneto, Protocolli di consiglio*, fold. 132, protocol November 17, 1829, p. 2963).

<sup>45</sup> ASmi, *Senato lombardo veneto, Protocolli di consiglio*, fold. 132, protocol November 17, 1829, p. 2963.

<sup>46</sup> See *Codice penale*, first part, § 167. «The crime of treason cannot be committed by anyone other than he to whom the thing has effectively been entrusted».

<sup>47</sup> Crespi to Hartig, n. 1369/*geheim*, February 23, 1831, in ASmi, *Presidenza di Governo*, fold. 148, n. 954/*geheim*.

[caused], and any indemnification that should perchance be provided after the fact does not invalidate the criminal nature of the action»<sup>48</sup>. Likewise, even a charge of *theft* would not have been affected by Brebbia's attempt at reparations. The law provided for 'exoneration' if the stolen property was returned in full, in a timely fashion and before the public authorities became aware of the crime<sup>49</sup>, but Brebbia's case clearly did not meet those conditions, as he had only partially repaid the amount he owed, and had been late in doing so<sup>50</sup>.

Moreover, the magistrates did not lend any credence to Brebbia's spurious and fanciful theory that as the supposed administrator of the *Fondo* – having identified himself as such in report n. 9938, dated 6 June 1819 – he had had the power to use its money at will<sup>51</sup>. In their eyes, this was nothing but a laughable attempt at «vain refuge», and was not worthy of the slightest consideration: even if the management of the institution did not fall within the duties of provincial delegate, there were specific rules in place – set forth in both the civil code and in several circular letters – that forbade «any guardian» from claiming the right to use money to his own benefit<sup>52</sup>. What's more, any respectable public official could certainly not «in such a strange and bizarre manner

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<sup>48</sup> Asmi, *Senato lombardo veneto, Protocolli di consiglio*, fold. 132, protocol November 17, 1829, p. 2965. See also Hartig to Ranieri, n. 1361/*geheim*, April 26, 1831, and Crespi to Hartig, February 23, 1831 («the crime of abuse of power [...] cannot be invalidated by the provision of indemnification»), Asmi, *Presidenza di Governo*, fold. 148, n. 954/*geheim*.

<sup>49</sup> «any theft or robbery shall cease to be a crime when the offender has compensated for all of the damage caused by his action before the authorities have been informed of his guilt» (*Codice penale*, first part, § 167).

<sup>50</sup> President of court of appeals in Milan Carlo Della Porta to Hartig, n. 58 PS, April 21, 1831 (Asmi, *Presidenza di Governo*, fold. 148, n. 954/*geheim*).

<sup>51</sup> The report shows that he «replaced his predecessor» in the administration of the *Fondo* (Crespi to Hartig, n. 1369/*geheim*, February 23, 1831, in Asmi, *Presidenza di Governo*, fold. 148, n. 954/*geheim*).

<sup>52</sup> Cfr. *Codice Civile Generale Austriaco. Edizione seconda e sola ufficiale*, Milano 1815, first part, §§ 234-236; circulars dated June 9, August 13 and 21, 1828, in *Atti del Governo*, 1818, vol. I, second part, n. 101, pp. 353-354, vol. II, second part, n. 134, pp. 457-458, and n. 143, pp. 468-475.

authorize operations that he himself had put into action in his own interest or for secret, illegitimate purposes»<sup>53</sup>.

The duty of «administration or oversight» meant that Brebbia would never have had the authority to make such arbitrary decisions, and each of the three courts had taken this into account when issuing their sentences<sup>54</sup>.

With the punishment of a rogue official, human dignity and institutional dignity converge. Thus, the House of Austria had no intention whatsoever of absolving Brebbia by citing his innocence of the crime, or even a lack of evidence<sup>55</sup>: on the contrary, the official was held to his undeniable responsibilities. They used no uncertain terms in denouncing him for having stained «the integrity and purity that each Royal Clerk, especially high-ranking Officials, must exemplify», and they stripped him of his prestigious public office, as the high ranks had definitively lost all confidence in him due to his conduct<sup>56</sup>.

None other than the governor of Lombardy himself reaffirmed the upper echelon's stance on the matter: even if one were to ignore the conviction delivered by the supreme court, which by law would have resulted in Brebbia's removal from office<sup>57</sup>, «the arbitrary and illegal withdrawals made by Count Brebbia in his capacity as Delegate, from a public fund under his charge and tutelage, and put to his private use, would be such an [egregious] offense, that it alone could have resulted in that grave disciplinary action»<sup>58</sup>.

<sup>53</sup> Crespi to Hartig, n. 1369/*geheim*, February 23, 1831, ASmi, *Presidenza di Governo*, fold. 148.

<sup>54</sup> Della Porta to Hartig, n. 58 PS, April 21, 1831, in ASmi, *Presidenza di Governo*, fold. 148, n. 954/*geheim*.

<sup>55</sup> *Codice Penale*, first part, §§ 427 e 428.

<sup>56</sup> Crespi to Hartig, n. 1369/*geheim*, in ASmi, *Presidenza di Governo*, fold. 148, n. 954/*geheim*).

<sup>57</sup> V. Guazzo, *Il funzionario pubblico ossia Manuale pratico-disciplinare pegli'impiegati regii, pegli addetti ai Corpi tutelati e pei disciplinati dallo stato, in cui sono e saranno raccolte tutte le prescrizioni delle leggi civili, giudiziarie, amministrative (politico-camerale), ecclesiastiche, militari e penali di ogni genere che si riferiscono al personale di tutti i pubblici funzionarii*, Venezia 1846, tit. XII, cap. IV, §§ 113 e 125, pp. 207 e 209, especially § 99, p. 206. In particular, see F. Rossi, *Il cattivo funzionario* [note 14], pp. 105-106, 216, 238-239.

<sup>58</sup> Hartig to Ranieri, n. 1363/*geheim*, April 26, 1831, in ASmi, *Presidenza di Governo*, fold. 148, n. 954/*geheim*.

Indeed, the Count had been granted somewhat special treatment up until that point: the court of appeal had even moved to sentence him to ordinary imprisonment after his initial sentence of the much harsher *carcere duro*<sup>59</sup>. But once the conviction was delivered in Milan, there was a marked turnaround and the government counselor was a dead weight to be unloaded as soon as possible.

What was unfolding bordered on *damnatio memoriae*. But upon further reflection, perhaps such a reversal was not to be unexpected: after all, in the kingdom of Lombardy-Venetia, a public official was looked to as a repository of public virtue; he was a living, idealized model that the sovereigns hoped could inspire profound feelings of loyalty and respect for the *res publica* on the part of the kingdom's subjects<sup>60</sup>.

It was no coincidence that after the «opening of the special inquisition», the 'imperial eagle' had swooped in to conceal the Count's inopportune arrest from its subjects, in anticipation of how the matter would unfold: in a world of appearances, nothing was to disturb the regular course of events. None other than the general director of police himself had dealt with the issue, and he had been quick to report the success of his operation to the governor, stating that everything had gone swimmingly, «without anybody noticing a thing»<sup>61</sup>.

And yet, while Brebbia was left to his fate – as he appealed to the sovereign for «any means to free himself and his innocent victims from the distress caused by his first and only transgression»<sup>62</sup> – the sad ending to Giuseppe's career was also the consequence of an inveterate vice that ran in the family.

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<sup>59</sup> *Codice Penale*, first part, §§ 12 e 13.

<sup>60</sup> Cfr. C. Mozzarelli, *Il modello del pubblico funzionario nella Lombardia austriaca*, in *L'educazione giuridica*, vol. IV, *Il pubblico funzionario: modelli storici e comparativi*, part. II, *L'età moderna*, Perugia 1981, pp. 439-459; Rossi, *Il cattivo funzionario* [note 14], pp. 55-86.

<sup>61</sup> Torresani to Strassoldo, n. 2538 PR, 4 maggio 1829, in ASMi, *Presidenza di Governo*, fold. 117, n. 374/*geheim*, and also ASMi, *Uffici e Tribunale regi*, parte moderna, cart. 479, government session of May 15.

<sup>62</sup> Hartig to SMIRA, n. 1363/*geheim*, April 26, 1832, in ASMi, *Presidenza di Governo*, fold. 176, n. 641/*geheim*.

Indeed, the Brebbia family's financial situation had been anything but stable since the late 18th century: there was no other explanation for the considerable sum of money (24,000 lire!) lent to Francesco Brebbia and his sons Giuseppe and Luigi by Pietro and Alessandro Verri on 27 March 1783. The loan – which was to be paid back at 5% interest over three years – was so substantial that it required a special dispensation from the Senate, as the Count had guaranteed repayment with the income earned on a trust (Pietro was not concerned, however, as he considered Francesco «a temperate, punctual and honorable man»<sup>63</sup>). A few years later, Francesco would have his wife register «596 poles and 13 planks estimated to be worth 2293.5.3. scudi» in his name, so that he could then transfer them to Count Andrea Passalacqua Lucini on 14 August 1792<sup>64</sup>: it is very likely that this was yet another debt to be settled. In the autumn of 1827, his inept first-born son was only able to reimburse a very small portion of what he had so inexpertly embezzled; Giuseppe was already in prison by the spring of 1829, when the family's financial status had become so precarious that his relatives were no longer able to come to his aid, and he was forced to ask the court for financial support during his incarceration (as per § 313)<sup>65</sup>.

Yet not all of the blame lay with Giuseppe. Indeed, the wealthy, notable and liberal province of Brescia certainly needed more than a tarnished coat of arms at the helm of its government in order to feel represented. While it was true that Giuseppe had given in «to a sort of hereditary disease in his family by spending beyond his means»<sup>66</sup>, things

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<sup>63</sup> Letter of March 15, 1783, cited in G. di Renzo Villata, *Verri contro Verri. «Una famiglia sbranata pel delirio di pochi anni» (1782-post 1709)*, in *Edizione nazionale delle opere di Pietro Verri*, vol. V, *Scritti di argomento familiare e autobiografico*, (ed. G. Barbarisi), Roma 2003, pp. 727-728). For a good description of Senato dispensations, see A. Monti, *Iudicare tamquam Deus. I modi della giustizia senatoria nel Ducato di Milano tra Cinque e Settecento*, Milano 2003, pp. 184-216.

<sup>64</sup> Asmi, *Presidenza di Governo*, fold. 125, n. 1184/*geheim*.

<sup>65</sup> In addition to an imprisonment treatment ensuring only their survival, the criminal code allowed detainees «to dispose of their property» and even «to receive aid from other people», usually close relatives (see *Codice Penale*, first part, § 312).

<sup>66</sup> Torresani to Hartig, n. 4141 PS, June 28, 1832, in Asmi, *Presidenza di Governo*, fold. 176, n. 641/*geheim*.

would have been better had the regime appointed someone who would have exalted the province's pedigree and heritage; someone who would have made his mark on the way the province was run and have his own success come to be identified with the position itself. This was certainly not the case with the poor Count, whose family funds had already been in dire straits for some time. In short, though he had proved himself a fairly capable *Beamte* over his career, it had been an ill-advised decision to appoint Brebbia to Brescia: it had only damaged the efforts of a foreign government to be socially accepted by a demanding province with a strong, class-driven identity<sup>67</sup>.

The center-periphery dialectic was an unavoidable variable to consider when building and managing an imperial system<sup>68</sup>, but it did not account for all the factors at play in what was still a 'trial phase' for the kingdom of Lombardy-Venetia. One must only take a closer look at how the functions of local government were put in practice to get a clearer idea of what the role of provincial delegate entailed: while the position's responsibilities made it an extremely delicate office to hold, it was tremendously appealing to those who wished to hold it.

Delicate indeed. A telling memorial written around that time period revealed that «little is needed to be a counselor of the government», but that on the contrary, «the good government of a province requires greater intelligence, more skill, more knowledge of the world, a conviction that the public Spirit of the citizens towards the Sovereign must be preserved as is when favorable, and if it is not too favorable, that it may become so». The

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<sup>67</sup> Cfr. C. Mozzarelli, *Sovrano, aristocrazia e amministrazione: un profilo costituzionale*, in P. Schiera (ed.), *La dinamica statale austriaca nel XVIII e XIX secolo*, Bologna 1981, pp. 127-159, particularly p. 147, and also A. Gottsmann, *I rapporti politici e istituzionali tra il veneto e l'area centro-europea nell'Ottocento*, in *La storia e le tradizioni del Veneto. Le relazioni e la forma della comunicazione tra l'area veneta e il mondo germanico: Atti del convegno*, Venezia 2003, p. 165.

<sup>68</sup> Cfr. L. Mannori *Introduzione*, in L. Mannori (ed.), *Comunità e poteri centrali negli antichi Stati italiani: Atti del Convegno «Comunità e poteri centrali negli antichi Stati italiani»*, Napoli 1997, pp. 38-42; Id., *Modelli di governo territoriale nell'età della Restaurazione*, in F. Micolò, G. Baggio, E. Fregoso (edd.), *Diritto, cultura e riforme nell'età di Maria Luigia: Atti del Convegno – Parma, 14 e 15 dicembre 2007*, Parma 2011, pp. 242-243.

key to success, therefore, was staying in contact with the people, in order to examine things from up close. Thus, it had been a wise decision to call Brebbia back to the capital and assign him a role in Government, where high-ranking officials had nothing to deal with except «the things on [their] desk». All the more so considering that he was in such «bad shape» physically that he had actually been impeded in his work<sup>69</sup>.

On the other hand, it would not be fair to accuse these provincial officials of being unjustifiably ambitious. After all, the law itself provided for it, as demonstrated by some of the broadly-defined tasks that were assigned to the *provinzial Delegiert* in the *Istruzioni* published on 26 May 1817: «*inform and consult*» the government; «*oversee* [...] all things related to the public administration»; «*take definitive measures* [...] for public order»; what's more, this same legislation allowed delegates to expand these powers at their discretion during emergencies (§15)<sup>70</sup>. A counselor of the government had far less authority, as the organic laws of 1815 commanded his strict subordination to the «*aulic ministers whose orders he must carry out*» (§ 4)<sup>71</sup>.

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<sup>69</sup> *Pro Memoria per VE il Signor Conte Presidente di Strassoldo*, August 29, 1825, in Asmi, *Presidenza di Governo*, fold. 57, n. 1104/*geheim*. This was confidential information taken from a report on higher officials in Lombardy, drafted by Giulio Strassoldo on July 24, 1825 (in Haus-, Hof- und Staatsarchiv, *Verträulichen Akten*, fold. 56-10, file CCXVIII, pp. 38-66, particularly pp. 38-44).

<sup>70</sup> *Istruzioni per le imperiali regie delegazioni del regno lombardo-veneto approvate da S.M. con risoluzione sovrana data a Klausenburg il 26 agosto 1817*, in *Atti del Governo*, 1818, vol. I, second part, n. 16, §§ 3-4, 14 and 16, pp. 62-92. Cfr., on the theme, N. Raponi, *Politica e amministrazione in Lombardia agli esordi dell'unità. Il programma dei moderati*, Milano 1967, p. 31; B. Mazhol-Wallnig, *Ordinamento centrale e amministrazioni locali: burocrazia austriaca nella tensione tra interessi statali e interessi locali. La provincia di Verona 1848-1859*, in *I problemi dell'amministrazione austriaca nel Lombardo-Veneto: Atti del Convegno di Conegliano organizzato in collaborazione con l'Associazione Italia-Austria 20-23 settembre 1979*, p. 30; Gottsmann, *I rapporti politici e istituzionali* [note 67], pp. 161-182; Rossi, *Il cattivo funzionario* [note 14], pp. 29-30; L. Rossetto, *Il commissario distrettuale nel Veneto asburgico. Un funzionario dell'Impero tra mediazione politica e controllo sociale (1819-1848)*, Bologna 2013, p. 208.

<sup>71</sup> *Regolamento per il Governo ed il Senato politico*, cap. II, §§ 3-11, found in A. Sandonà, *Il Regno lombardo veneto. La costituzione e l'amministrazione. Studi di storia del diritto: con*

Of course, a delegate was expected to be willing to travel, as duly confirmed by the regulatory framework in place. There was indeed historical precedent: the protocol under Joseph II had provided for the heads of departments to make periodic visits to their offices, a practice that could even be partially traced back to the Spanish reign<sup>72</sup>. A circular letter sent out on 17 December 1817 recalled as much, ordering provincial officials to personally inspect their areas of jurisdiction at least once a year, not necessarily in one fell swoop but «even in various phases [...] in order to enlighten the government as to the wishes and needs of the citizenry, and as to the conduct of its local administrations»<sup>73</sup>.

In short, this was one of the few opportunities left for those in the noble ranks to show what they were made of in terms of running an administration: the imperial system was not yet fully operational, and there was still some control to be had at this intermediate level in the

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*la scorta degli atti ufficiali dei Dicasteri centrali di Vienna*, Milano 1912, pp. 105-110, and also Rossi, *Il cattivo funzionario* [note 14], pp. 23-24.

<sup>72</sup> See edict of January 20, 1784, in *Biblioteca Ambrosiana*, ms. H 113 suss., *Raccolta di Piani, Regolamenti ed Ordini*, pp. 145-183, found, in printed version, in ASMi, *Uffici e Tribunali regi*, parte moderna, fold. 3, under the title *Disposizione di SMIRA L'Imperadore Giuseppe II ai corpi dei Dipartimenti sul modo di trattare gli uffici pubblici, datata in dicembre 1783, avanti la sua partenza per l'Italia. Tradotta dal tedesco*. In this regard, see C. Mozzarelli, *Per la storia del pubblico impiego nello Stato moderno: il caso della Lombardia austriaca*, Milano 1972 e A.A. Cassi, *Il bravo funzionario asburgico tra Absolutismus e Aufklärung: il pensiero e l'opera di Karl Anton von Martini (1726-1800)*, Milano 1999, p. 304). For the previous period one can think of the visitors («visitatori»), Spanish nobles in whom the king had complete confidence, sent to the Duchy of Milan to verify the office attendance of Italian public employees (see F. Chabod, *Usi e abusi nell'amministrazione dello Stato di Milano a mezzo del '500*, in *Studi storici in onore di Gioacchino Volpe per il suo 80° compleanno*, vol. I, Firenze 1958, pp. 93-194, D. SELLA, *Sotto il dominio della Spagna*, in D. Sella, C. Capra (edd.), *Il Ducato di Milano dal 1535 al 1796*, Torino 1984, p. 40, C. Porqueddu, *Amministrazione centrale e amministrazioni periferiche in Lombardia tra '500 e '600*, in *Comunità e poteri centrali* [note 68], pp. 89-92). For a detailed account of visits between the 16th and 17th centuries within Italian territories, see A. Dani, *Le visite negli Stati italiani di Antico regime*, in *Le Carte e la Storia*, 18.1 (2012), pp. 43-62.

<sup>73</sup> *Atti del Governo*, 1817, vol. II, second part, n. 186, pp. 454-455, also cited in A. Lorenzoni, *Istituzioni del diritto pubblico interno per il Regno Lombardo-Veneto*, vol. I, Padova 1835, § 45, p. 55.

*Italienische Provinzen*<sup>74</sup>. Although the new political climate was not particularly hostile to the *Adelsstand*, the latter had lost much of its past glories: from the period under French rule to the return of the Austrians, ‘bureaucratic reform’ had cut all ties to the venality and inheritance of office. Any members of the nobility who wished to undertake a public career would now have to be properly inserted into the government hierarchy: they were to be subjected to an oath of office and all the symbolism that that entailed; they were to respect the rules of public office if they wished to remain in that role; and they were to comply with any procedures put into place to remove them from office in the event of serious offenses. Put briefly, they were to be treated on the same terms as any other official: the conclusion of the so-called ‘dethronement of the noble ranks’<sup>75</sup>.

While the Napoleonic *élite* were being deprived of their rank in those early years of Lombardy-Venetia, the bourgeoisie had not yet formed. Consequently, the Lombard aristocracy was able to assert itself in the management of local affairs, if nothing else because there were quite a few positions to be covered, in addition to the fact they put up less resistance to the changes taking place. It is no secret that the initial appointments of high officials to the provincial government had one thing in common,

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<sup>74</sup> On this, see cfr. F. Arese, *Nobiltà e patriziato nello Stato di Milano*, in S. Pizzetti (ed.), *Dallo Stato di Milano alla Lombardia contemporanea*, vol. I, Milano 1980, pp. 71-96; A. De Maddalena, E. Rotelli, G. Barbarisi (edd.), *Economia, istituzioni, cultura nella Lombardia di Maria Teresa*, vol. III, *Istituzioni e società*, Bologna 1983; M. Meriggi, *Amministrazioni e classi sociali nel Lombardo-Veneto (1814-1848)*, Bologna 1983, especially pp. 87-149; M. Bigaran (ed.), *Istituzioni e borghesie locali nell’Italia liberale*, Milano 1986; B. Mazohl Wallnig, *Österreichischer Verwaltungstaat und administrative Eliten im Königreich Lombardo-Venetien (1815-1859)*, Mainz 1993; E. Tonetti, *Governo austriaco e notabili sudditi. Congregazioni e Municipi nel Veneto della Restaurazione (1816-1848)*, Venezia 1997; L. Rossi, *I ceti nobiliari europei nell’800*, Napoli 1998, especially pp. 72-75 and 147-155; G. Melis (ed.), *Le Élités nella storia dell’Italia Unita*, Napoli 2003; W. Heindl, *Bureaucracy, Officials, and the State in the Austrian Monarchy: Stages of Change since the Eighteenth Century*, in *Austrian History Yearbook*, 37 (2006), pp. 35-57; A.G. Manca-F. Ruge (edd.), *Governo rappresentativo e dirigenze amministrative (secoli XIX-XX)/Repräsentative Regierung und führende Beamte (19.-20 Jarhundert)*, Bologna-Berlin 2007; M. Meriggi, *Gli stati italiani prima dell’Unità*, Bologna 2011<sup>2</sup>, especially pp. 125-154.

<sup>75</sup> Quote from Mazhol-Wallnig, *Ordinamento centrale e amministrazioni locali* [note 70], p. 33.

«which evens out the apparent lack of homogeneity: namely, membership of the nobility»<sup>76</sup>. From this point of view, Giuseppe Brebbia's *curriculum* was very similar to that of the other provincial delegates at the time, as were his origins. It would not be until the decades to follow – and the change would become increasingly apparent from the late 1830s to 1848 – that a more clear-cut 'professional calling' emerged, thus marking a new way of becoming part of the *establishment*<sup>77</sup>.

Even though social class and administrative institutions were inextricably tied, it is certainly not difficult to see that therein lay a fundamental contradiction: on the one hand, the central government was relying on a 'traditional' aristocracy that represented the society's *élite*, «a landed nobility that, on a provincial level, counted the most important and influential people among its ranks»<sup>78</sup>; on the other hand, the Habsburg regime aspired to a modern sense of impersonal, or better still, classless administration. Therein lay the empire's weakness in mediating between the political and social spheres during this stage of their rule; that is, before the cards would be reshuffled in the bourgeoisie's favor.

And just when the time was ripe to take stock of what was, for the most part, the positive work that had been carried out by the aristocrats in the department, Count Giuseppe Brebbia of Milan risked stoking tensions and throwing everything out of balance with his misconduct, which very well might have been the spark that set off the powder keg. No wonder, then, that the upper echelons took immediate action to contain the damage; that they carefully performed a thorough investigation; and that they discreetly and promptly took all the necessary steps to eventually remove him from office and deliver a sentence in the utmost secrecy.

Of course, whether they were counselors or magistrates, the fact that the high officials of Lombardy had to bring one of their own to trial clearly put them in a difficult position, and no less so when it came time to

<sup>76</sup> Meriggi, *Amministrazioni e classi sociali* [note 74], p. 102.

<sup>77</sup> On this matter see C. Mozzarelli, *Il modello del pubblico impiegato nel Lombardo-Veneto della Restaurazione*, in F. Valsecchi-A. Wandruzka (edd.), *Austria e province italiane 1815-1918. Potere centrale e amministrazioni locali*, Bologna 1981, pp. 279-300; W. Heindl, *Gehorsame Rebellen. Bürokratie un Beamte in Österreich 1780 bis 1848*, Wien 1991.

<sup>78</sup> Gottsmann, *I rapporti politici e istituzionali* [note 67], p. 166.

permanently dismiss him from his post. In sum, can it be said the scandal surrounding the *Fondo di primitiva istruzione* was actually the first step towards a change in how one gained access to local government? That finally, it was no longer social prestige that opened the doors to the high ranks, but rather the high ranks that opened the doors to social prestige?

Not yet. Rather, I would say that the problem was still being 'digested' towards the end of the 1820s, and while there was growing awareness that the traditional order was flawed, there were still no signs of making any radical adjustments. Witness Brebbia's replacement to the Brescia delegation, Gaudenzio De Pagave: a man of similar 'caliber', he was a capable official who belonged to the gentry, and indeed his social class had had a decades-long history of members in public office<sup>79</sup>.

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<sup>79</sup> On De Pagave (1776-1833) see ASMi, *Uffici e Tribunali Regj*, parte moderna, fold. 594; Meriggi, *Amministrazioni e classi sociali* [note 74], pp. 105-106; Rossi, *Il cattivo funzionario* [note 14], pp. 32 e 212.