"Something with which we still desire to live". Forms of resistance and royal power in the *Regnum italicum* between the 10th and 11th centuries

by Giuseppe Albertoni

This essay aims to contribute to the reopening of the debate on the emergence of new forms of political and social resistance as a historical turning point that occurred roughly between 950 and 1030. It begins by recalling the closing pages of Bloch's *Société féodale*, devoted to the notion of a 'right of resistance', and reconstructs its historiographical background. In light of the renewed framework of feudalism studies following the publication of Susan Reynolds' *Feud and Vassals*, the essay then proposes to apply Bloch's insight to the role of the *milites* in the society of the *Regnum italicum* from the mid-10th century to the first decades of the 11th, highlighting the role of horizontal ties.

Questo saggio intende contribuire alla riapertura del dibattito sull'emergere di nuove forme di resistenza politica e sociale come svolta storica collocabile approssimativamente tra il 950 e il 1030. Esso prende avvio richiamando le pagine conclusive della *Société féodale* di Bloch, dedicate alla nozione di 'diritto di resistenza', e ne ricostruisce il retroterra storiografico. Alla luce del rinnovato quadro degli studi sul feudalesimo successivo alla pubblicazione di *Fiefs and Vassals* di Susan Reynolds, il saggio propone quindi di applicare l'intuizione di Bloch al ruolo dei *milites* nella società del *Regnum italicum* dalla metà del X secolo ai primi decenni dell'XI, mettendo in evidenza l'importanza dei legami orizzontali.

Middle Ages, 10th-11th centuries, Italy, Lombardy, political conflicts, right of resistance, vassals, Marc Bloch.

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Medioevo, X-XI secolo, Italia, Lombardia, conflitti politici, diritto di resistenza, vassalli, Marc Bloch.

1. *A medieval origin of the right of resistance?*

One of the most stimulating – yet also most problematic and, in some respects, least discussed – parts of Marc Bloch's *La société féodale* is the short concluding section entitled *L'idée guerrière et l'idée de contrat*.[1] Here, Bloch engages with the debate on the 'right of resistance' that emerged in the 1920s in response to an important monograph published by the German medievalist Fritz Kern in 1914, titled *Gottesgnadentum und Widerstandsrecht im früheren Mittelalter*.[2] Bloch had already devoted a detailed review to this volume in 1921, highlighting its contents and innovative aspects. He began by reconstructing the parallel development of two 'political ideas' conceived in the Middle Ages and established in the modern age: the divine right of kings and the right of resistance of peoples.[3] It was precisely because of these innovative aspects that, according to Bloch, Kern's book "deserves to be known, thought about and discussed", despite the serious limitations of its approach – limitations shaped by its attempt to trace medieval political innovations back to a supposed 'Germanic tradition'.[4] "It was once said", Bloch wrote at the conclusion of the review "that the freedoms of modern Europe emerged from the 'forests of Germany'. Kern no longer claims this, but he cannot resign himself to not believing it: the old illusions still have the upper hand over honest minds. When will people finally decide to study the Middle Ages for what they deserve to be studied: for themselves?".[5]

Bloch's critique of Kern clearly exposed the fundamental contradictions of *Gottesgnadentum und Widerstandsrecht* and its reliance on concepts rooted in the 'poisoned landscape' of 19th-century nationalist historiography.[6] Foremost among these was the very concept of a 'right of resistance' (*Widerstandsrecht*), which Kern claimed could be traced back to a medieval conception of the state that he, unsurprisingly, described as 'Germanic'.[7] Equally 'Germanic', in Kern's view, was the concept of 'mutual loyalty' (*wechselseitige*

[1] Bloch, *La société féodale*, 617-9.
[2] Kern, *Gottesgnadentum*.
[3] Bloch, "Fr. Kern, Gottesgnadentum."
[4] Bloch, 248: *Il mérite d'être connu, médité et discuté*.
[5] Bloch, 253: *Un disait jadis que les libertés de l'Europe moderne étaient sorties des 'forêts de la Germanie'. M. Kern ne le dit plus; mais il ne peut se résigner à ne plus le croire: tant les vieux mirages ont encore d'empire sur les plus probes esprits. Quand donc, d'un accord unanime, se décidera-t-on à étudier le moyen âge comme il mérite de l'être: en lui-même?*.
[6] On the concept of 'poisoned landscape' in this context, see Geary, *The Myth of Nations*, 15-9.
[7] See Kern, *Gottesgnadentum*, 169, where he states: *Das Widerstandsrecht ist ein integrierender Bestandteil der germanisch-mittelalterlichen Staatsanschauung gewesen*.

Treue), which he regarded as the basis of feudal law – understood in turn as an essentially Germanic institution.[8]

With these considerations, Kern entered the historiographical debate on the nature of Germanic law – and, within it, of feudal law – which had engaged several leading German medievalists of the late 19th and early 20th centuries.[9] He returned to these issues only sporadically in the following decades, most notably with the English translation and subsequent reissues of his book in 1939 and 1954.[10] By then, however, his scholarly interests had shifted towards a form of universal history that might be described as 'transnational'.[11] Politically, however, the concept of resistance remained significant for him, as it had been for Marc Bloch.[12] In Kern's case, however, this resistance was not without ambiguity: it was directed against Nazism, yet grounded in positions that could be traced back to conservative nationalism.[13]

Despite these political differences, the long-distance dialogue with Bloch remained open.[14] It is worth recalling in this context that Bloch's interest in feudalism and vassalage had, from the outset, much to do with the space they allowed for forms of 'resistance'. It is surely no coincidence that one of his earliest scholarly essays – published when he was only twenty-six – was devoted to a still often neglected aspect of the feudal bond: the breakdown of homage, and thus the possibility for a vassal to abandon his 'unworthy' or 'criminal' lord.[15] Bloch analysed numerous cases reported in historical-narrative sources from the 12th and 13th centuries, beginning with a central episode in a text written in the early 12th century by Galbert of Bruges, a notary and priest of the collegiate church of St Donatian in Bruges. Gilbert was deeply shaken by the dramatic assassination of the Count of Flanders, Charles the Good, which took place in his church in March 1127.[16] His account is well known to scholars of 'feudalism' because it describes how the new count, William Clitus, sought to secure control over his county by received the homage of his subjects in

[8] Kern, 177 and 284. For an effective framing of the issue, see Ryan, "Feudal Obligation," 55-6.
[9] See Oexle, "Feudalismus."
[10] Kern, *Kingship and Law*; Kern, *Gottesgnadentum*.
[11] For an initial overview of Kern and his work, see Valjavec, "Fritz Kern" – one of the most comprehensive obituaries published at his death – and Hallman, "Kern, Fritz." For a more detailed reconstruction, see Defrance, Pfeil, "Ein Nationalist," 21.
[12] Regarding the centrality of the concept of resistance in Bloch's biography and research, Geremek's "Marc Bloch" remains fundamental.
[13] Defrance, Pfeil, "Ein Nationalist," 23-5.
[14] See, in this regard, Defrance, Pfeil, "Ein Nationalist," 21-2, who recall Kern's positive impression of Bloch's presentation at the International Congress of Historical Sciences held in Oslo in 1928. A few years later, Kern contacted Bloch and proposed that they write a 'handbook' of Franco-German history together, though the project never came to fruition. Their paths subsequently diverged, yet – as Defrance, Pfeil, "Ein Nationalist," 32, remind us – the news of Bloch's execution by the Nazis 'traumatised' Kern.
[15] Bloch, "Les formes." On the context in which Bloch drafted this essay, and on its subsequent reworking in 1921, see Le Goff, "Le rituel symbolique," 345-7; Fink, *Marc Bloch,* 45; and Arcangeli, *La storia*, 129, n. 86.
[16] Bloch, "Les formes," 1909-2 and Galbertus, *De multro.*

a ceremony long regarded as the most complete and detailed account of the 'feudal system'.[17] But it was not this supposed system that chiefly interested Marc Bloch, at least in this context.

In fact, contrary to the opinion of many 20th-century scholars, it was another episode narrated by Galbert that drew Bloch's attention: the conflict between William Clitus and one of his vassals, Iwan d'Alost, who – together with others – believed that the new count had failed to honour his commitments.[18] Offended by this accusation, William sought to sever the bond with his vassal in order to challenge him to a duel. Galbert describes this break with the verb *exfestucare*, which refers to the public gesture of throwing a twig to symbolically end a relationship.[19] Iwan d'Alost opposed this solution, however, and, together with his allies, broke off relations with the count by *exfestucatio*.

This is, of course, not the place to elaborate on these and other cases examined by Marc Bloch in his 1912 essay, in which he analysed various episodes of resistance and vassal revolt that can be traced back to the rite of *exfestucatio*, which he understood as *une véritable cérémonie, qu'il n'est pas simplement une expression proverbial et imagée*.[20] From our perspective, it is important to remember that, for Marc Bloch, this was a ritualised form of relationship-breaking that, in rare instances, left a trace of itself, but which in any case revealed the latent tension inherent in the vassalage bond – a tension that Bloch 'intuited' yet which has been rarely explored in depth in the extensive literature devoted to 'feudalism'.

Jacques Le Goff was already fully aware of this almost fifty years ago, and in a famous lecture delivered in Spoleto in 1977 on the symbolic ritual of vassalage, he reconstructed the asymmetry between the rites of entering into vassalage and those of breaking it, noticing that each symbolic moment of the former did not correspond to the equivalent moment of the latter.[21] Le Goff also recalled – this time in the preface to the new edition of *Le rois thaumaturges* – that it was precisely this interest in such questions that led Marc Bloch to turn to German historians, then *ouvert à l'ethnographie et au comparatisme*, as opposed to almost all French historians and historians of medieval law.[22] It is no coincidence that Bloch's essay on the breaking of the vassal bond was accompanied by a brief but significant appendix, in which he addressed the criticism of the German historian and jurist Karl von Amira. In a book that was widely discussed at the time, *Der Stab in der germanischen Rechssymbolik*, von Amira had criticised another German scholar, Ernst von Moeller, who in an equally famous essay had argued that *exfestucatio*

[17] For an up-to-date analysis of Galbert's text and its political context, see Feller, *L'assassinat* and Depreux, "Lehnrechtliche Symbolhandlungen." With regard to the role played by Galbert's text in defining the paradigm of the 'feudal system', see Albertoni, *Vassalli*, 34-6 and 184-9.
[18] Bloch, "Les formes," 190-1 and Le Goff, "Le rituel," 347.
[19] For the 'classical' definition of *exfestucatio*, see Ganshof, *Qu'est-ce que,* 160-1.
[20] Bloch, "Les formes," 196.
[21] Le Goff, "Le rituel," 347.
[22] Le Goff, "Preface," III.

could be traced back to a broader legal practice: the 'breaking of a stick'. This gesture, von Moeller claimed, symbolically marked the rupture of any 'legal community' (*Rechtsgemeinschaft*).[23] Bloch rejected this reconstruction, both on the basis of von Amira's thorough research and on the important methodological principle that, in ritual forms, one must distinguish between the similarity of a ritual from its direct descent.[24]

In the case of *exfestucatio*, as in many other aspects of 'feudalism', Bloch thus always maintained an ongoing dialogue with German medievalists, some of whom he had met during his stay in Wilhelmine Germany – in Berlin and Leipzig, between 1908 and 1909.[25] At present, however, it is unclear whether he met Fritz Kern personally at that time, although he had already encountered him in 1902, when the young German historian spent a short research period in Paris with the assistance of Jean de Pange.[26] Certainly, Kern's *Gottesgnadentum und Widerstandsrecht*, together with a 1911 monograph on royal coronation by another German medievalist, Hans Schreuer,[27] were among the works that most prompted Bloch to reflect on kingship and to write *Les rois thaumaturges*. In some ways, this study can be seen as a dialogue with Kern's work, which Bloch repeatedly cites in the notes and praised as a "beautiful book" to which "one always turns with profit".[28] This dual attitude of criticism and admiration towards Kern's work reemerges in the final pages of *La société féodale*, where Bloch emphasises that, in the last centuries of the Middle Ages, the transfer of vassalage from the level of individual relations to that of political relations brought about a structural political transformation. From this development, in many ways, the modern concept of democracy would ultimately be derived: *Dans cet accent* – he wrote – *mis sur l'idée d'une convention, capable de lier les pouvoirs, réside l'originalité de notre féodalité à nous*.[29]

[23] Bloch, "La rupture," 207-9; von Amira, *Der Stab*; von Moeller, "Die Rechtssitte."
[24] Bloch, "La rupture," 209: *Mais je ne pense pas non plus qu'il soit possible de l'appuyer sur aucune prevue solide: peut-être y a-t-il d'un rite à l'autre, non pas filiation, mais simplement similitude*. For an initial contextualisation of Bloch's reception of von Amira and von Moeller, see Le Goff, "Préface," III; Arcangeli, *La storia*, 134-5.
[25] For an initial overview of this period, see Raulff, *Ein Historiker*, 167-8. Raulff recalls how Bloch spent part of his *Deutschlandjahr* in Leipzig, where he came into contact in particular with the circles that gravitated around Karl Lamprecht, and part of it in Berlin with the historian and theologian Adolf von Harnack. For more on Bloch's year in Germany, see Mastrogregori, *Introduzione*, 23-4 and Fink, *Marc Bloch*, 37.
[26] Defrance, Pfeil, "Ein Nationalist," 21. Concerning Kern's activities during the period when Bloch was in Germany, see Valjavec, "Fritz Kern," 491, who recalls that Kern graduated from Berlin in 1906 with Michael Tangl and moved to Kiel in 1909. He began teaching at Kiel University in 1913.
[27] Schreuer, *Die rechtlichen Grundgedanken*. On the role of Schreuer's book in the conception of *Les rois thaumaturges*, see Fink, *Marc Bloch*, 47-8. For Bloch's admiration and criticism of *Gottesgnadentum und Widerstandrecht*, see the remarks in Arcangeli, *La storia*, 134-6.
[28] See, for example, Bloch, *Les rois thaumaturges*, 54, n. 1 or 120, n. 1.
[29] Bloch, *La société féodale*, 618-9.

For Bloch, the complete transfer of vassalage to the level of political relations contributed to the emergence of a new contractual element in political action, with significant consequences for relations between the aristocracy and the king. According to him, this process fully emerged in the second half of the 11th century, within the context of what he called the *protestation grégorienne contre le mythe de la royauté surnaturelle et sacrée*.[30] It was in this context, Bloch argued, that the supporters of this protest began to invoke *parmi les justifications de la déchéance à laquelle ils condamnaient le mauvais prince, le droit universellement reconnu au vassal d'abandonner le mauvais seigneur*.[31] Particularly significant from this point of view were the words of intellectuals associated with the ecclesiastical reform movement, such as Manegold of Lautenbach, who was apparently the first to express clearly and decisively the idea of a contract binding the sovereign to his people as *le porcher au maître qui l'emploie*.[32]

It is precisely the reference to Manegold of Lautenbach and the quotation of this sentence from the *Liber ad Gebehardum*, which the Alsatian monk wrote in defence of Gregory VII and his reform,[33] that reveal the close relationship between Bloch's reconstruction in the final pages of *La société féodale* and certain passages of *Gottesgnadentum und Widerstandsrecht*. By directly citing Manegold, Bloch was actually echoing a similar quotation from the section of Kern's book that defines the right of resistance in the context of the 11th-century reform. Kern there contrasted the 'Italian' jurists, who advocated 'absolute' royal power, with the ideal of 'popular resistance' that had been developed in 'German' monastic circles.[34] While eliminating the ethnic contrast proposed by Kern, Bloch retained his reconstruction, which also appears in *Le rois thaumaturges*.[35]

By doing so, he made an important contribution to consolidating an interpretative paradigm in which a 'fertile principle' existed within the political turmoil of the 11th century – one that soon shifted from the Church to the vassals.[36] It was in this context that the 'right of resistance' (*droit de résistance*), which had its origins in the Carolingian period – in the Strasbourg Oaths of 843 and the *Consilium optimatum Karol II. datum* of 856 – was reaffirmed. However, it "exploded" in the 13th and 14th centuries in texts such as the English *Magna Charta* or the *Sachsenspiegel*, from which Bloch quotes the famous passage: "man can resist his king and his judge when the latter acts against the law".[37]

[30] Bloch, 617.
[31] Bloch, 618.
[32] Bloch, 617.
[33] Manegoldus, *Ad Gebehardum*, 365.
[34] Kern, *Gottesgnadentum,* 251-66, esp. 265, n. 471.
[35] Bloch, *Les rois thaumaturges*, 121-2, where the quotation of Manegold's passage with the swineherd metaphor first appears.
[36] Bloch, *La société féodale*, 618.
[37] Bloch, 618. Regarding the sources cited by Bloch here, see Nithardi *Historiarum libri IV*, III, 5, 35-6; MGH Capit. II, n. 295 (IX 856), 424. The quote from the *Sachsenspiegel* is taken from

However, it must be stressed that while Marc Bloch largely followed the trajectory of the sources presented in Kern's *Gottesgnadentum und Widerstandsrecht*, he proposed an interpretation that differed from the German historian's in several respects. Kern had identified the root of the 'right of resistance' in the concept of 'bilateral' loyalty developed within feudal law, yet he also maintained that it existed prior to and independently of feudal law, as an essential component of the medieval 'German' conception of the state.[38]

Instead, Bloch viewed the 'feudal regime' as the necessary precursor of the 'representative regime'. In this context, he noted that it was surely no coincidence that the latter had developed in states that were freeing themselves from the 'feudal regime', yet still bore its imprint: this was the case, for example, with the British Parliament, the French *États*, the German *Stände*, and the Spanish *Cortes*.[39] For Bloch, the very idea of a convention capable of binding the various powers together was the most original aspect of Western feudalism. He therefore ended his book with a famous, only seemingly paradoxical, sentence: *Par là, si dur aux petits qu'ait été ce régime, il a véritablement légué à nos civilisations quelque chose dont nous souhaitons vivre encore.*[40]

But beyond their differing conclusions, Bloch, as mentioned above, took up the sequence of texts proposed by Kern. These reflected a kind of 'canon' of sources on feudalism and feudal law that had developed since the 16th century – first in the French context, and then, from the early decades of the 19th century, in the German one.[41] This canon emphasised the Frankish and 'Germanic' origins of feudalism and interpreted most of the sources from outside the Loire-Rhine area as 'exceptions' that confirmed the rule.[42] From this perspective, the two historians' reconstructions of the 'right of resistance' gave little weight to sources that did not fit into this interpretative paradigm, such as the *Edictum de beneficiis* of Conrad II, which, according to a then established tradition, was analysed primarily in relation to the history of the fief.[43] We will return to this point in the concluding section of this essay. First, however, it is necessary to consider some methodological aspects.

Eckhardt, *Sachsenspiegel, I, Landrecht,* 260, III, 78, §2: *De man mut ok wol sime koninge unde sime richtere unrechtes wederstan, und san helpen weren to aller wis, al si he sin mach oder sin herre, unde ne dut dar an weder senen truwen nicht*. The debate over the interpretation of this passage – often reflecting positions very different from those of Kern and Bloch – has generated an extensive bibliography that cannot be addressed here.

[38] See Kern, *Gottesgnadentum*, 260-1 and 269: *Das Widerstandsrecht ist ein integrierender Bestandteil der germanisch-mittelaterlichen Staatsanschauung gewesen*.

[39] Bloch, *La société féodale*, 618.

[40] Bloch, 618-9.

[41] On these aspects, see the reconstruction proposed by Reynolds, *Fiefs and Vassals*, 3-14 and 475-82.

[42] The text that most contributed to the dissemination of this 'paradigm' is Ganshof, *Qu'est-ce que*. For a reconstruction of the historiographical tradition that fed into Ganshof's influential work, see Albertoni, *Vassalli*, 21-42 and Patzold, *Das Lehnswesen*, 6-13.

[43] Bloch, *La société féodale*, 281-4.

2. *Vassals, 'resistance' and the 'semantic triangle'*

As noted above, despite the great influence of *La Société féodale* since the Second World War, Marc Bloch's reflections on the vassal-derived 'principle of resistance' as a periodising factor in medieval political history have remained on the fringes of the cyclical debates on feudalism. They found little space in either the decade-long discussion of the *mutation féodale* or in the debate that followed the publication of Susan Reynolds' *Feuds and Vassals*.[44]

A partial exception was the legal historian Magnus Ryan. In an essay published in 2002 on 'feudal obligations' and 'rights of resistance', he drew attention to the parallel reconstructions of Kern and Bloch.[45] With regard to the former, he stressed that the German historian's main concern was twofold: on the one hand, he had set out to demonstrate that "subjects could legitimately use violence to compel their rulers to obey and enforce the law"; on the other, he had argued that in this context "vassals enjoyed an enhanced version of this right because for them such a right was founded on contract".[46] With regard to Bloch, however, Ryan recalled how he had transposed the legal concept of the bilateral contract between vassal and lord to the political level. This intellectual operation, Ryan argued, underpinned the striking conclusion of *La société féodale*, according to which European feudalism had left our civilisation "something with which we still desire to live".[47]

But, accepting Ryan's remarks, how should we evaluate Marc Bloch's intuition in light of the debate sparked thirty years ago by Susan Reynolds's *Fiefs and Vassals*, which 'deconstructed' the concept of vassal and highlighted the changing meaning of the term *vassus/vassallus* in different contexts and historical phases, with its legal definition in relation to *beneficium/feudum* not dating back before the 12th century?[48] One possibility is to follow the approach taken by Reynolds herself, who suggested analysing sources in light of the so-called 'semantic triangle' – i.e. the distinction between 'word', 'concept', and 'phenomenon' – not only in relation to the question of vassalage, but more broadly.[49]

According to the English historian, the most common mistake made by those who studied the role of fiefs and vassals in the past was precisely the tendency to conflate these levels – for example, by assigning to the word 'vassal' a general meaning derived from concepts elaborated by jurists from the 12th century onwards and later adopted by modern and contemporary schol-

[44] Poly, Bournazel, *La mutation;* Reynolds, *Fiefs and Vassalls*. For further bibliographical references and an overview of this debate, see Albertoni, *Vassalli*, 65-86.
[45] Ryan, "Feudal Obligation."
[46] Ryan, 52.
[47] Ryan, 53 e Bloch, *La société féodale*, 619.
[48] See Albertoni, *Vassalli*, 65-86 and Patzold, *Das Lehnswesen*, 1-13. Over the years, Reynolds herself has overcome her initial reluctance to consider vassalage. See Reynolds, *Fiefs and Vassals*, 17-34 and Reynolds, *The Middle Ages without Feudalism*, XII.
[49] Reynolds, *Fiefs and Vassals*, 12-3 and Reynolds, "Fiefs and Vassals", 18-9.

ars. Even great historians such as Marc Bloch, François-Louis Ganshof, and Jacques Le Goff were not exempt from this error. Although approaching the subject from very different historiographical perspectives, they all took for granted the postulate of a uniform condition of the vassal from the Carolingian age to the late Middle Ages, with serious consequences in their reconstructions and interpretations.[50] This led them, among other things, to consider prejudicially as vassals persons who were not defined as such in the sources, but who were involved in bonds of loyalty or received a *beneficium/feudum* for their services. Significant examples from the early and late Middle Ages include the *Formula* of Tours No. 43 and the aforementioned homage to the Count of Flanders narrated by Galbert of Bruges, which were associated with vassallage by Ganshof and many other scholars without paying particular attention to the lexicon of the sources or the absence of the word *vassus/vassallus*.[51] This does not mean, of course, that we can only speak of vassals when they appear explicitly in the sources; rather, we must try to understand the meaning of the sources' lexicon and the relationship between words and concepts. As Jürgen Dendorfer and Steffen Patzold, two leading figures in the recent renewal of studies on 'fiefs' and 'vassals', have emphasised, "Not every *vasallus* mentioned in a 9th-century document reflects a contemporary concept of vassalage in the Carolingian period and, in any case, does not necessarily refer to a component of feudalism as defined by classical terminology of the medieval studies".[52]

Taking these observations into account, we can uphold Kern and Bloch's insight into the spread of political forms of resistance in the 11th century. This can be done by reversing the terms of the argument in *La société féodale* and positing that political action preceded the formalisation of a legal and political discourse based on feudal law. In this perspective, I aim to avoid misleading generalisations and, employing Reynolds' semantic triangle, focus on the 'phenomenon': the role played in the political dynamics of the *Regnum italicum* between the 10th and 11th centuries by representatives of a middle military class, traditionally defined as *secundi milites*.[53] This requires setting

[50] See, for instance, the convincing criticism of Le Goff's essay on the symbolic ritual of vassalage (Le Goff, "Le rituel") made in Reynolds, "Afterthoughts."

[51] Ganshof, *Qu'est-ce que*, 26 e 123-4. For a more detailed discussion of these aspects, see Albertoni, *Vassalli*, 99-101 and 184-9.

[52] Dendorfer, Patzold, "Tenere et habere", 17. This is the original text: *Nicht jeder* vasallus*, der in einem Dokument des 9. Jahrhunderts erwähnt wird, steht für ein zeitgenössisches Konzept der Vasallität in der Karoligerzeit, und schon gar nicht muss damit eine Komponente des Lehnswesens im Sinne der klassischen mediävistischen Teminologie angesprochen sein.*

[53] More than forty years ago, Hagen Keller already observed that the term *secundi milites* can be misleading when interpreted socially. Although frequently employed in 19th- and 20th-century Italian historiography, it appears in the sources only once: in a 997 letter (Hehl, *Die Konzilien Deutschlands*, doc. 60C, 584) in which numerous bishops in northern Italy accused Arduinus of Ivrea of various crimes. See Keller, *Adelsherrschaft*, 273. On this letter and its over-interpretation within an outdated master narrative, see the important discussion in Roach, *Forgery and Memory*, 253-5.

aside the 'feudal sunglasses', to use Reynolds' apt expression,[54] and reconstructing the political and social categories developed by those who were contemporary with the events. In this context, I will reflect on some episodes of 'resistance' by these *milites*, not so much in terms of their possible specificity as vassals, but rather as a social group that, as François Menant observed in his monograph on the *Campagnes lombardes*, at the turn of the 11th century 'jammed' the mechanisms regulating relations between royal power and the aristocracy, and contributed to affirming a political principle that was in many ways new – one based on horizontal relations between 'peers'.[55]

3. Milites *and kings: from Berengar II to Arduin*

As pioneering researchers such as Hagen Keller or François Menant pointed out a few years ago, from the second half of the 10th century onwards, a social group of *milites* that was internally very varied in terms of status and function began to play an increasingly autonomous political role, entering into a dialectical relationship with royal power, the episcopate, and the more established aristocracies.[56] In the past, this group was often subsumed under the general category of vassals, projecting onto the 10th and 11th centuries a reality that, as we have seen, would only later acquire a proper vassal sense, precisely as a result of the action of these *milites*. In reality, over the fifty years between 970 and around 1030, vassal relationships were established or maintained within a vast network of personal ties, many strands of which elude us when viewed through the lens of legal definitions.[57] In this context, the *milites* of the *Regnum italicum* operated in a political landscape where opportunities to swear oaths and forge both vertical and horizontal bonds were virtually limitless. There were also countless opportunities to 'remunerate' their loyalty through established contractual forms such as the *libellum*, the *precaria,* or *emphyteusis*, as Cinzio Violante and Amleto Spicciani had already noted.[58] At this stage, the granting of *beneficia* was not yet exclusively 'feudal': *beneficium* remained a word without clearly defined legal contours, suggesting a form of service that was far from specifically military.[59] Indeed, it was the political action of the lower-middle *milites* and their efforts to assert their

[54] Reynolds, *Fiefs and Vassals*, 12: "However feudalism is defined, many medieval historians feel uncomfortable without their feudal sunglasses".
[55] Menant, *Campagnes lombardes*, 589-94, a chapter significantly entitled *Résistances et conflits*.
[56] Keller, *Adelsherrschaft*; Keller, "Militia;" Menant, *Campagnes lombardes*, 564-671.
[57] The reconstruction proposed in Menant, 580-600, is exemplary in this respect.
[58] See Violante, *La società milanese*, 94-113 and Spicciani, *Protofeudalesimo*.
[59] Unfortunately, there is no recent study on this subject. For an overview, Giordanengo, "Les féodalités italiennes," 215, may be useful. Even if one may not always agree with his reconstruction, Brancoli Busdraghi, *La formazione storica*, remains indispensable on the subject of the *beneficium* in the *Regnum italicum*.

'rights' through the use of writing that marked a turning point towards what would later become feudal law.

To identify the starting and ending points of this political trajectory, we can look to the political crisis triggered by the rise of Berengar II and Otto I's acquisition of the Italian royal title, and the 'revolt of the vavasours' in Milan, which ended with Emperor Conrad II issuing the *Edictum de beneficiis*. At least from the perspective of the *Regnum italicum*, these eighty years were crucial not so much for a feudal 'revolution' or 'mutation', but for the initial redefinition of political relations within the kingdom, shifting from the plane of orality to that of writing, thanks to the affirmation of the 'right to resist' and to be judged by peers, as discussed by Marc Bloch. It was only from the mid-12th century that this political process began to be interpreted retrospectively in terms of the then nascent feudal law, creating an interpretative paradigm from which I will propose a way forward.

But let us proceed in order and turn our attention to the first stage of this process. In the sources, a new political opposition between two groups of *milites*, the *maiores* and the *minores*, began to emerge and to be noticed by some keen observers of contemporary events. This contrast appears less in documentary sources than in historical-narrative accounts, thanks to authors who were also themselves political actors and employed a vocabulary that reflected the ways they categorised the political and social reality in which they were embedded.

In the *Praeloquia*, a well-known text written in prison by Bishop Ratherius of Verona between 935 and 937, we find the earliest evidence of this process.[60] It is in this work that the first reflections appear on who the *milites* of the *regnum Italicum* were and what their social and political role was. In particular, they are described as a group of low social status and obscure origin who sought social advancement through military service.[61] Years ago, Giacomo Vignodelli highlighted that Ratherius used the term *miles* differently in the *Praeloquia* and in his letters.[62] Indeed, in the latter, he employs *miles* as a technical term to refer to the vassals of his church, as well as other powerful individuals, including the emperor.

In a text by another bishop of the *regnum Italicum*, Atto of Vercelli, this distinction between *milites* of different ranks is even more pronounced. He was an active participant in the political events of the 10th century, siding with Berengar II against Otto I. He developed important reflections on the role of the *milites* in some cryptic passages of his political pamphlet, with the equally enigmatic title *Polipticum quod appellatur Perpendiculum*, now made accessible thanks to a critical edition with translation and commentary again

[60] Ratherii Veronensis *Praeloquiorum libri VI*.
[61] Ratherius, I, 3, 24. On this passage and the historiographical debate it has provoked, see the brief but concise overview in Vignodelli, "*Milites*," 115, n. 64.
[62] Vignodelli, 147-9.

by Giacomo Vignodelli.[63] From our point of view the passages in which Atto describes the various levels of the aristocracy are of particular interest. He mostly uses "terms indicating social preminence: *proceres*, *potentes*, *summates*, *magnates*, *primates*, *insignes*, *praeclares*, *eugenes*".[64] As Vignodelli pointed out in his monograph on the *Perpendiculum* of Atto, the Bishop of Vercelli also uses the more generic term *milites*, which is always employed in a relational sense in relation to the king. Only when it is applied to the bishop's military clientele is it specified that these are *primi milites*, demonstrating that "the term alone fails to express a recognisable social status but should primarily be understood as denoting position within a relationship".[65]

Vignodelli has also highlighted how Atto assigns a relational value to the term *miles,* even when it is used to define lower-level aristocracies, who, not by chance, appear in the *Perpendiculum* only when they enter into direct fidelity with the king.[66] It is in this context that Atto draws a distinction between *milites primi* and *milites secundi ordinis*, to be understood as a hierarchy of prestige and political capacity for which the king was supposed to serve as guarantor.[67]

A model for relations between *milites* and kings was thus outlined, linking political and social 'peace' relationally to the 'rights' for which the king was to act as the guarantor. Breaking this relational balance, however, led to *chaos*. According to Atto, this is what happened after Hugh of Provence renounced the kingdom.[68] The ensuing situation was only made possible by the joint action of the *proceres* of the kingdom, but only the *maiores* ultimately gained substantial advantages, while the *minores* – also defined by Atto as *iuvenes*, meaning those recently elevated to honours – felt excluded from the division of offices after Lothair II assumed the royal crown.[69] In fact, as Vignodelli has again pointed out, if we consider the allocation of the kingdom's highest offices between 945 and 947, all the recipients belonged to the old aristocracy, while the 'new' families that had contributed to the emerging political order remained outside this division.[70]

In this context, in addition to the *milites secundi ordinis* who were partly out of the picture, there were also those whom Atto described in one passage as *neoterici buteones* – an expression referring to the animal world which, as Vignodelli suggests, can be rendered as 'new hawks'.[71] Subordinate to the king without holding any particularly prestigious positions, they were in fact

[63] Attone di Vercelli, *Perpendiculum*; for its contextualisation, see Vignodelli, *Il filo a piombo*, and Vignodelli, "Politics."
[64] Vignodelli, *Il filo a piombo*, 198.
[65] Vignodelli, 198.
[66] Vignodelli, 199.
[67] Vignodelli, 200.
[68] Attone di Vercelli, *Perpendiculum*, I, cap. 23, 274-6 e II, 95-7.
[69] Vignodelli, *Il filo a piombo*, 201.
[70] Vignodelli, 119-20.
[71] Attone di Vercelli, *Polipticum*, I, cap. 21, 195 e II, 95.

a creation of King Hugh, who had elevated them to *homines regales* and favoured their integration among the *proceres*, particularly within the ranks of the *minores*.[72]

For Atto, involving these 'birds of prey' in political affairs was a tragic mistake on Hugh's part. Although they did not participate in the distribution of offices, their numbers exceeded those of the more powerful *maiores*. This imbalance, he argued, generated political *chaos* and destabilised the highest strata of the social hierarchy. The only remedy lay in the restoration of political order on a twofold basis: curbing the political ambitions of the *minores* while at the same time recognising some of their claims, so that they would not become a dangerous obstacle to royal authority. It is no coincidence that Atto concluded his *Perpendiculum* with a prayer to God, asking that future kings "preserve just rights for the *milites* of the second rank, so as not to appear ungrateful to them, nor to favour them over their superiors". Only by "granting to each his due" could kings hope to maintain peace.[73]

"Granting to each his due": this was the political action that a good king was expected to take. But how was one to determine what was due? And what might happen if a king proved unable to fulfil his function, or if it was unclear who should legitimately occupy the throne? This was precisely the situation that arose from the mid-10th century, following the sudden assumption of the royal title by Berengar II. His coronation on 15 December 950 created a new political balance that seemed likely to foster integration between the *milites minores* of the kingdom and the *milites maiores*, a group to which Berengar himself had belonged until then.

To understand how contemporaries perceived this situation, it may be useful to revisit Atto's words. On the one hand, he emphasised the rapacity of the 'new hawks'; on the other, he reminded us that a strong royal power was the least thing the *potentes* desired. They – wrote the Bishop of Vercelli – preferred "to elect an inept king" through whom they could secure what suited them.[74] As a result, Berengar II feigned weakness: first by retaining Hugh of Provence in his post, then by acting alongside Lothar II as *summus consiliarius*, and finally by securing the royal crown after Lothar II's premature and sudden death. In his rise to power, Berengar displayed his determination by elevating many of Hugh's *homines novi*, for example by conferring the title of *marchio* on some of them.[75] It was precisely this resolve, and the consequent reshuffling of the cards, that prompted the other *maiores*, who had now become his enemies, to send emissaries abroad to request the intervention of transalpine dukes or kings. It is no coincidence that, according to a gloss in

[72] Vignodelli, *Il filo a piombo*, 201.
[73] Attone di Vercelli, *Polipticum*, I, cap. 50, 220: *Secundi uero ordinis militibus ita debita iura conseruent, ut nec ipsis se ingratos exhibeant, nec eos prioribus anteponant. Quia tunc pacem firmam poterunt obtinere, si congrua cuique studeant adimplere*, and II, 67.
[74] Attone di Vercelli, *Polipticum*, II, cap. 24, 29.
[75] Vignodelli, *Il filo a piombo*, 120, and Attone di Vercelli, *Polipticum*, 97.

the *Perpendiculum*, their motto was: *Non enim volunt imperantem habere dominum, sed potius obsequentem*.[76]

One of the consequences of Berengar II's political unscrupulousness was the direct involvement of Otto I in Italian affairs. Until then, Otto had remained a distant yet interested observer of political events south of the Alps, and the main ally of the *marchio* of Ivrea, who had risen to kingship. This role, however, shifted amid the constant making and unmaking of political alliances that marked Berengar's fluctuating relations with Otto.[77] It was precisely this instability that enhanced the political prominence and contractual power of the *milites* at various levels, enabling them to insert themselves effectively into the loyalty networks established by the key figures in the struggle for the kingdom.

The role they were able to play in this new political context becomes clear if we look at the political crisis that erupted after the death of Otto III, with the ensuing conflict between Arduin of Ivrea and Henry II. In this perspective, it may be useful to focus our attention in particular on Arduin, himself a *homo novus* whose story, as Giuseppe Sergi pointed out a few years ago, illustrates that the social climate was already one that would later determine the granting of the *Edictum de beneficiis* by Conrad II.[78] Of course, as Levi Roach has recently argued, it would be misleading to attribute his political rise solely to the contrast between the *primi* and *secundi milites*.[79] Nevertheless, the years of Otto III's reign and those immediately following certainly point to the existence of strong social tensions in which *milites* of different levels participated.[80]

This social climate was characterised by a variety of personal relationships in which many *milites* were entangled, moving on unstable ground defined by bonds of loyalty that were sometimes ephemeral and could not a priori be ascribed to a feudal-vassal relationship, which at this time was anything but clearly defined. Landholding was equally ephemeral, mostly made up of *beneficia* that could easily be revoked with the breaking of ties of loyalty.[81] Among these *milites*, very similar to Atto's *neoterici buteones* in their desire for social advancement, Arduin in some respects became the interpreter, although he also found support among many members of the 'great families', such as the Obertenghi.[82]

[76] Attone di Vercelli, *Polipticum*, 98.
[77] See Albertoni, "Otto I. in Italien."
[78] Sergi, "Arduino," 19. For more information on Arduino and the political context of his reign, see Brunhofer, *Arduin*.
[79] See Roach, *Forgery and Memory*, 193-255, esp. 253-5.
[80] For an overview of the political balances and tensions in 'Ottonian' Italy, see Sergi, "The Kingdom;" D'Acunto, Nostrum Italicum regnum, 154-8; Manganaro, Stabilitas regni; and Roach, "The Ottonians."
[81] Keller, "Militia" and Menant, *Campagnes lombardes*, 580-96.
[82] Sergi, "Arduino," 20 and Lucioni, "Re Arduino," 53.

Arduin's sudden departure from the scene did not, however, result in their marginalisation. Intricate threads of the 'web of loyalties' entangled *milites* of different social levels around the royal court, the bishop's *curiae*, and those exponents of the aristocracy who, precisely between the end of the 10th century and the first decades of the 11th century, were asserting their seigneurial rights at the local level – a phase defined by François Menant, with reference to Lombardy, as the 'second seigneurial age'.[83] These were threads that could easily be severed by those who had created them, preventing the socially ascendant *milites* from projecting confidently into the future.[84]

4. *Between revolt and 'resistance': the case of the vavasours and the* Edictum de beneficiis

These new dynamics emerged, often in dramatic and conflictual forms, after the age of Arduin. As Hagen Keller argued more than forty years ago in his famous book on the aristocratic society of the *Regnum italicum* and in an equally well-known article on the *militia*, it was precisely in the thirty years between the age of Arduin and the *Edictum de beneficiis* that the *milites* increasingly began to define themselves politically through their royal service (*Königsdienst*).[85] In this context, the *secundi ordinis milites* constituted that group of the *fideles regis* who entered the clientele of the bishops and *marchiones*, thereby assuming a political profile very different from that of the public office holders of the Carolingian era.[86] For Keller, it was precisely this dual level of loyalty – the need to guarantee military support for kings when they travelled to Rome with their armies for the imperial coronation, and the latent competition between different social levels of the *milites* – that caused the political tensions which periodically erupted into 'revolts' in the first thirty years of the century. Consider, for example, the destruction of the *palatium* of Pavia in 1024, the banishment of the bishop of Cremona in 1030, or the so-called 'revolt of the vavasours' in 1035, to which we will now turn our attention.[87]

The best-known account of this 'revolt' was written about ten years after the events by Wipo, chancellor of Conrad II, in a complex text whose interpretation depends on the meaning we attribute to his vocabulary, which in part differed from that used in contemporary Lombard society.[88] Referring to 1035, Wipo speaks of a *magna et inaudita confusio*, arising from *coniuratio-*

[83] Menant, *Campagnes lombardes*, 411-6. For an up-to-date summary of these processes, see Cortese, "Strutture aristocratiche," 75-81.
[84] Sergi, "Arduino," 22-3.
[85] Keller, *Adelsherrschaft*, 270-1 and Keller, "Militia."
[86] Keller, 88.
[87] Keller, *Adelsherrschaft*, 271.
[88] Keller, 56.

nes made by the *populus* against the *principes*. After this general premise, he provides a more detailed description, stating that those who *coniuraverunt* were all the vavasours of Italy (*omnes valvassores Italiae*) and the *gregarii milites*, who allegedly rose up against their lords (*dominos suos*). This statement that is clarified – or perhaps further obscured – by his claim that *omnes minores* opposed the *maiores*, insisting that nothing could be done by their lords (*domini*) beyond their will (*supra voluntatem*). From this situation, the rebels are said to have requested the emperor's intermediation, declaring that if he did not act, they would make a law for themselves (*ipsi per se legem sibimet facerent*).[89] Wipo, in perhaps the best-known passage in his work, recounts: "When this was announced to the emperor, he is said to have said: 'If Italy is greedy in this way for law, with God's grant I will satiate it well with laws'".[90]

This episode was also reconstructed, in roughly the same years as Wipo, by the *Annales Sangallenses maiores* and Hermann von Reichenau. The anonymous author of the former recalled that a *foedus coniurationis* had taken place in Italy, setting the *inferiores milites* against the unjust rule of the *superiores*, while the latter reported instead that it was the *minores milites* who had risen up in Italy against their 'lords' because they wished to live according to their own law.[91] The only contemporary source by a Lombard author – Arnulf of Milan – written probably forty years after the events, adopted terminology also used by Wipo, recalling that *quidam urbis milites, vulgo valvassores nominati*, had started the 'conspiracy', seizing the occasion from the loss of a *beneficium*.[92]

All these passages are well known and have been widely discussed in the past, beginning with the very terms used by Wipo to define the protagonists of the *coniuratio*.[93] Who were the *valvassores Italiae*? Who were the *gregarii milites*? To whom did the distinction between *minores et maiores* apply? And who were the *domini*? For a long time, the discussion of these questions remained polarised between the reconstruction proposed by Cinzio Violante in *La società milanese nell'età precomunale* and that offered some twenty years later by Hagen Keller in his book on aristocratic society in the *Regnum Ital-*

[89] Wipo, "Gesta Chuonradi," Cap. 34, 54: *De coniuratione Italorum. Coniuraverant enim omnes valvasores Italiae et gregarii milites adversus dominos suos et omnes minores contra maiores, ut non paterentur aliquid sibi inultum accidere a dominis suis supra voluntatem ipsorum, dicentes, si imperator eorum nollet venire, ipsi per se legem sibimet facerent.*

[90] Wipo, Cap. 34, 54: *Hoc cum nunciatum esset imperatori, fertur dixisse 'Si Italiam modo esurit legem, concedente Deo bene legibus hanc saciabo'.*

[91] *Annales Sangallenses maiores*, 83: *Foedus validae coniurationis in Italia exoritur. Inferiores namque milites superiorum iniqua domination plus solito oppressi simul omnes illis resistunt coadunate*; Hermann von Reichenau, "Chronicon," Cap. 35, 98: *In Italia minores milites contra dominos suos insurgentes et suis legibus vivere eosque opprimere volentes validam coniurationem facere.*

[92] Arnulf von Mailand, *Liber*, 154: *Unde factum est, ut quidam urbis milites, vulgo valvassores nominati, clanculo illius insidiarentur operibus adversus ipsum assidue conspirantes.*

[93] See e.g. Violante, *La società milanese*, 239-43 and Keller, *Adelsherrschaft*, 289-91.

iae.[94] Schematically, the former gave the uprising a social connotation, while the latter traced the conflict back to the relationship between aristocracies and kings.

"The vavasours – wrote Violante – created by the lay vassals of the Church, assault its property".[95] Through their actions, including the 'revolt' of 1035, they established themselves as leading figures in a 'feudal society' in which power was not devolved hierarchically from above, but rather "conquered by assault, with a motion that starts simultaneously from above and from below the social classes through violent clashes and contrasts".[96] In this context, they would have constituted a 'class' clearly distinct from the *capitanei*, the great royal vassals, and would have used their feudal bond as a means of inserting themselves into the feudal hierarchy and actively participating in the governance of public affairs.[97] By appealing directly to the sovereign, they thus reclaimed the feudal bond as an 'instrument of freedom'.[98] This interpretation seems to echo the final words of Bloch's *Société féodale*, from which we began.

Very different was the reconstruction proposed by Keller, who begins with an important linguistic observation. He noted that the term *valvassor* had not been used in Italian sources before 1037, when it appeared in the *Edictum de beneficiis*.[99] By treating it as a synonym for the *secundi milites* occasionally attested earlier, Violante, and with him other eminent historians such as Giovanni Tabacco, would, according to Keller, have made a serious 'prospective' error.[100] Keller's argument is based on the fact that, as noted, the *Edictum de beneficiis* and some historical-narrative sources speak of *valvassores maiores et minores*, who are placed in opposition to the *principes* or *senatores Italiae*, the powerful royal vassals from whom, according to Keller, the vavasours received their fiefs. Since, in the 12th century, feudal law treaties define these *principes* as *tenentes in capite*, and therefore as *capitanei*, and since this designation had also been previously applied *valvassores maiores*, Violante and others have erred in thinking that in 1035 the conflict was between *maiores* and *minores valvassores*. In fact, Keller argues, the conflict arose between the *principes* on the one hand and all the *milites* – then defined as vavasours, a terminology foreign to the Italian social reality – on the other.[101] Certainly, as Chris Wickham noted, the only preserved definition of

[94] Violante, *La società milanese* and Keller, *Adelsherrschaft*.
[95] Violante, *La società milanese*, 171: *I valvassori, creati dai vassalli laici della Chiesa, danno l'assalto ai suoi beni.*
[96] Violante, 177: *conquistato d'assalto, con un moto che parte contemporaneamente dall'alto e dal basso delle classi sociali attraverso violenti scontri e contrasti.*
[97] Violante, 237.
[98] Violante, 172.
[99] Keller, *Adelsherrschaft*, 272.
[100] A refutation, citing the 'incriminated' passages by Violante and Tabacco, can be found in Keller, 272-3, n. 111.
[101] Keller, 272.

what constitutes a *capitaneus* and a *valvassor* comes from the mid-12th century, in the well-known section of the *Antiqua* version of the *Libri feudorum* attributed to Oberto dell'Orto, which may itself have been interpolated at a later date.[102]

But, beyond the sometimes arguably excessive rigidity of Keller's definitions, the risk he warns of – projecting later legal constructs onto the first decades of the 11th century – remains significant, and it limits our understanding of how the 'revolt' of 1035 involved a vast class of *milites*, admittedly internally diverse but united in their aims.[103] From our point of view, it is also important to recall that the *confusio* evoked by Wipo was characterised by two fundamental aspects: firstly, the unexpected predominance of horizontal ties binding the 'rebels' to one another, at the expense of the vertical ties linking them to their lords; and secondly, their appeal the emperor, and above all their request for a resolution of the conflict through written law – a request attested in various contemporary sources and made particularly explicit by Wipo in the famous passage already quoted. This request found expression in the text we usually call the *Edictum de beneficiis*.[104]

Of course, this is not the place for an in-depth analysis of the edict.[105] From the perspective of this essay – namely, the presence of forms of resistance – it is important to remember that the edict aimed to pacify the *milites* with their *seniores* and *satiate* the rebellious ones, distinguished in the edict as *vasvasores maiores* and *minores*, using a political vocabulary that, as already mentioned, was foreign to the Milanese area at the time and was most likely introduced by Conrad II's transalpine entourage. This bipartition testifies to the crystallisation, within what had previously been the magmatic world of the *milites*, of a hierarchical structure determined by the typology of the *seniores*, all of whom, according to the *Edictum*, were in any case linked to networks of loyalties reporting to bishops, abbots, abbesses, marquises, counts, or all those who had received a *beneficium* drawn from the royal *fiscus* or ecclesiastical lands.[106] The edict thus attests, on the one hand, the centrality of the *fiscus* as the linchpin of the king's network of relations – an aspect often misunderstood[107] – and, on the other, to a relational hierarchy within the vast world of the *milites*, for whom the main problem was not, as an outdated commonplace often claimed, so much the inheritance of the *ben-*

[102] Wickham, *Sleepwalking*, 60 e n. 63, 224-5. Lehmann, Karl. *Consuetudines feudorum*, 128: *Qui vero a capitaneis antiquitus beneficium tenent, valvassores sunt.*
[103] Keller, *Adelsherrschaft*, 290.
[104] Bresslau, cur. *Die Urkunden Konrads II.*, doc. 244, 335-7.
[105] Since the bibliography on the *Edictum de beneficiis* is so vast, in addition to the essays already cited, I will refer only to two summaries and the bibliography they cite: Albertoni, *Vassalli*, 141-51 and Patzold, *Das Lehnswesen*, 45-50.
[106] On these aspects, see Keller, *Adelsherrschaft*, 54-8, Keller, "Das Edictum." See now also the up-to-date *status quaestionis* in Stella, *The* Libri feudorum, 8-12 and West, *Europe*, 92.
[107] The role of the royal fisc in the *Edictum de beneficiis* has recently been highlighted in Lazzari, "Risorse contese," 395-7.

eficia, but their *subtractione sine certa e convicta culpa*.[108] This was a central issue because, from the beginning of the 11th century onwards, there was an increasing tendency to replace precarious or level contracts with *beneficia*, which, by their vagueness, offered less protection to the *milites*, who not infrequently reacted with forms of resistance or revolt – the 1035 case being the last of these.[109]

But the edict also testifies to the existence of horizontal ties, at least between the *valvassores maiores*, and of an *iudicium* of peers that had to be exercised regarding the confiscation of *beneficia* by the *seniores*. By referring to this, the *Edictum de beneficiis* thus brings to light, for the first time, the importance and formalisation of a horizontal bond between peers – something that the documentary sources do not reveal and that a narrative based on the feudal paradigm has largely ignored.

This narrative began to be elaborated a little more than a century after the events of 1037, once Conrad II's edict had become, as the Milanese *valvassores* had most likely hoped when they invoked the use of a written law, an important point of reference within the informal world of military loyalty relations – so much so that it found its way into the *Liber Papiensis* and the oldest redaction of the *Libri feudorum*, the aforementioned *Antiqua* of the Milanese consul Oberto dall'Orto.[110] In the evocative portrait of Oberto proposed by Chris Wickham in his *Sleepwalking into a New World*, he appears as the prototype of those who, in the communal context, can be defined precisely as 'sleepwalkers' because of the sharp contrast between practice and thought. "Oberto was – Wickham writes – (along with his peers) taking his city in a profoundly new direction, but his mind was elsewhere".[111] His 'elsewhere' was the world of the military aristocracy, to which he did not belong, yet he solved many of its problems in his work as a judge. These problems often revolved around the inheritance of fiefs, the historical genesis of which Oberto reconstructed by projecting the problems he faced in the present into the past. For example, he isolated only the part of the *Edictum de beneficiis* relating to inheritance, recounting how, "when Conrad was setting out for Rome, he was asked by the vassals who were in his service that he consider it convenient, with the promulgation of a law, to extend this to grandsons in the male line, and that a brother is to succeed his brother who had died without a

[108] Bresslau, cur. *Die Urkunden Konrads II*., doc. 244, 336.
[109] Menant, *Campagnes lombardes*, 591; Giordanengo, "Les féodalités italiennes," 217. On the centrality of the *beneficium/feudum* as a social marker in this context, see now Stella, *The* Libri feudorum, 9.
[110] Menant, *Campagnes lombardes*, 591-601, remains indispensable for the analysis of the consequences of the *Edictum de beneficiis*. For the broader legal context, Stella, *The* Libri feudorum, 8, is a useful starting point. For an initial overview of Oberto, see the biographical profiles by Giancarlo Andenna, "Dall'Orto, Oberto" and Loschiavo, "Oberto dall'Orto."
[111] Wickham, *Sleepwalking*, 61.

lawful heir in the benefice which was their father's".[112] Thus began the narrative that gave rise to the often still prevailing commonplace about Conrad II's *Edictum*, while its truly central and structural aspect – the legal recognition of peer mediation, and thus an early form of 'principle of resistance' between *milites* and *seniores* that anticipated broader developments in the following decades – fell into oblivion. With this essay, I hope to have made a small contribution to reopening the debate on this specific aspect and, more generally, on the role of horizontal loyalty relations in a world that cannot be understood solely through the distorting lens of vertical vassalage. It was in this world of fluctuating loyalties that Bloch's idea of a convention that could restrict powers emerged – an idea that, however, would only be formalised in feudal law from the second half of the 12th century onwards.

[112] Lehmann, *Consuetudines feudorum*, 33. For the translation, see Stella, *The* Libri feudorum, 57.

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