CHAPTER 6

Fulgosio, the Case of the Anonymous Archbishop and the Legal Legacy of the Great Schism at Constance

“Per d.H. d.W requisitus ab ipso W.”

Fulgosio’s paper for the voting debate is the only document among the jurist’s consilia which can be identified as representing work which he prepared during his time at Constance. Only one other document in that collection appears to date from Fulgosio’s time at the assembly and this is the sixth consilium in the 1607 and 1613 editions of the jurist’s consilia and concerned a case before the rota romana.1 This fact in itself is distinctive as no other surviving consilium by Fulgosio clearly related to a case before the rota auditors.2 Such cases would

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1 There are two separately identifiable collections of Fulgosio’s printed consilia: – (i) those published first in 1490 by Johannes Dominicus in Brescia from manuscripts which Johannes Roselli had held and subsequently re-published by Bernardinus and Ambrosius de Rouellis in 1508, the heirs of Giovanni Giunctae in Lyon in 1548 and finally by Gasper Bindoni in Venice in 1575; and (ii) a separate collection of opinions written by the jurist and published by Johann Schönfeld in Amberg in 1607, with a further re-badge copy of the same edition (perhaps intended for the Frankfurt book fair?) produced by Johannes Bringeri in 1613.

The German editions include one consilium identifiable from the manuscript collection of Fulgosio consilia held in Ravenna which often relate to cases from Belluno and appear to be connected to a jurist and court official there, Giorgio Doglioni. The consilium ms. Biblioteca Classense Ravenna, 484, 104–105r is the same as consilium 32 in Fulgosio, Consilia 1607, 177 (sic – duplicated pagination). The only other manuscript versions of printed consilia of which I am aware are: (i) the copy of Fulgosio’s contribution to the disputed inheritance of Caterina of Riva on Lake Garda (Fulgosio, Consilia, 144r–145r) which survives in: ms. Universitätsbibliothek Graz, 356, 22r–24v and which was discussed above at p. 119; (ii) ms. Biblioteca Marciana, Venice, v, 2 (=2324), 384v–385r which is partially printed as consilium 107 in Fulgosio, Consilia, 178v; (iii) ms. Biblioteca Marciana, Venice, v, 2 (=2324), 382v–383v which is printed as number 122 in: Fulgosio, Consilia, 187r–v; (iv) Consilium 88 in Fulgosio, Consilia, 164v–165r which is the same document as ms. Biblioteca Bertoliana Vicenza, 476, 24r–25v.

2 I disregard the consilium concerning the man imprisoned by a rota auditor in Siena discussed above, p. 64, on the basis that it was a case before the secular courts which felt the rota auditor had acted ultra vires. It was not therefore a case brought before the rota per se.
typically concern ecclesiastical benefices and other church business. *Consilium* six is somewhat different in that its subject was a feudal right.

### 1.a Identifying the Litigants

Unfortunately the two parties who were in dispute over these rights are not fully named by Fulgosio in his *consilium* and a certain amount of detective work is required in order to reveal their identities. Fulgosio refers to the two litigants in the case as a ‘Lord W’ and an unnamed Archbishop. He was similarly unforthcoming about how their dispute had originated. The text merely explains that a sale had historically been made by a similarly anonymous Lord “H” to the same Lord “W” of a feudal possession which Lord “H” had held of his overlord, the unnamed archbishop.

This is not much to go on, however a certain amount of information can be gleaned even from these rudimentary facts. On the assumption that Fulgosio was using the real initials of those involved, the letters “W” or “H” would suggest a Germanic or Slavic language forename and not a Romance one. Italian and French have Guiglelmo or Guillaume, for example, not Wilhelm or William. W and H therefore look to be more like the names of lords from Germany, Poland or Scandinavia; or even from Britain. As regards the unnamed archbishop’s identity, here the limited number of metropolitans across Europe can be of assistance.

Furthermore, at a later point in the *consilium* Fulgosio referred to testimony which had been provided in the case by a ‘former’ archbishop. We are therefore dealing with a case which had evidently begun during the archiepiscopacy of one man but had continued under his successor; and although cases before the rota had a sometimes justified reputation for being long drawn out affairs, even allowing for this we would still be dealing with an archbishop litigant who had only recently taken up office at the time of the *consilium*; say in the previous five years. This reduces the list of possible candidates across Europe for the identity of the archbishop considerably.

There are also some directly datable facts contained in the *consilium*. Both Pope John XXIII and his opponent Gregory XII are mentioned, as are the Council of Pisa and the Great Schism. Furthermore, the manner in which both popes are referred to suggests that they were both still in office at the time that the *consilium* was written and the legal case was under way. This would all date the *consilium* to some point between 1410 and 1415. The fact that certain aspects of the case refer to adherents of Gregory XII also further narrows