CHAPTER 9

Return from Constance to Padua

“... Et in ipsa litera mea dedi segna”

As was discussed in chapter four, one possible date when the debate about the Donation could have taken place at Constance was from 1 to 4 January 1415. If this date is added to a chronology of Fulgosio’s activities at Constance the following summary of the jurist’s impressive contribution to the most high profile of questions at the council emerges. Having become embroiled in an altercation concerning the Donation of Constantine and, more broadly, the rights of emperor-elects to wield imperial power at the start of the new year, Fulgosio was then involved from mid-January in the important debates and discussions surrounding the question of representation and how the assembly should vote. He may conceivably have then been party to aspects of the negotiations with both the Aragonese delegation and the supporters of Gregory XII. In the first weeks of February he then composed a tract for use in his capacity as an advocate to defend John XXIII and on 15 February was acting as a go-between for the pope, articulating John’s intentions to the council as pressure mounted on the pontiff to resign.

This is the last date at which Fulgosio’s presence in Constance is officially recorded and it is traditionally assumed that he returned to Padua at some time later during February 1415. It was not however until 27 June that the jurist’s name first reappeared in university records in the city.1 Clearly Fulgosio made the long and arduous journey down through the Brenner Pass at some point between these two dates. Unlike his journey to the council which may well have been made in the company of the papal party, Fulgosio may well have travelled south alone with only his few personal retainers as travelling companions. A reasonable horseman could have made the c.500km journey from Constance to Padua, with the first stage of the journey by boat, in something like a fortnight.2

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1 Zonta, Acta, IV: 140; for the civil law licence for Goffredo di Gaeta.
2 See the average journey times calculated for Venetians to travel to Genoa, Florence and, for example, Augsburg (11 days) in: Pierre Sardella, Nouvelles et spéculations à Venise au début du xviè siècle, (Paris: A. Colin, 1948), 59.

Explaning to his students the difference between taking someone’s property without their consent and borrowing something, in this example his own horse, deceitfully, Fulgosio
Fortunately, Fulgosio left several clues as to the date and manner of his departure from Constance which would indicate that he left the assembly not in February but a month or perhaps two months later. This is important because March 1415 was to witness the most dramatic turn of events in the early history of the council with, firstly, John XXIII’s flight from Constance in disguise and in the dead of night and then the council’s issuance of the foundational document of conciliarism in response to the crisis which the pope’s departure had provoked: the decree *Haec Sancta* with its enigmatic statement that all in the church were obliged to obey the council in the matters of faith, reform and the ending of the schism.3

The first argument against Fulgosio having left the council in the last weeks of February is a circumstantial one. Fulgosio had been in the vanguard of those defending John XXIII at the assembly and it seems unlikely that the pope would have willingly relinquished the services of such an eminently useful jurist at a juncture as critical as that in which John found himself towards the end of February 1415. The day after Fulgosio had acted as an intermediary to convey papal opinions to the council, Francesco Zabarella presented a document formalising John’s willingness to resign the papacy if his two rivals would do the same. This policy failed to satisfy the council who having, in their own words, “chewed over” the matter, replied several days later to demand that the pope adapt his proposal and bring it closer to their preferred ‘unilateral’ solution whereby John would resign unconditionally and as an encouragement to his rivals to follow suit.

On 21 February John presented his more nuanced version of his initial proposal, stating that he was prepared to yield if his opponents did so even by proxy and that, as an enticement to them, all processes for heresy and schism currently on-going against them would be suspended.4 The development of subtle, but ultimately unsatisfactory, amendments like these to what was to a certain extent a contract negotiation process would have been something to which Fulgosio’s skills would have been well adapted.

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3 The literature on the production, dogmatic significance and meaning of the decree is vast. See, however, the survey provided in: Ansgar Frenken, ‘Die Erforschung des Konstanzer Konzils (1414–1418) in den letzten 100 Jahren’, *AHC*, 25 (1993), 365–389.

4 Finke, *ACC*, II: 20; *MANSI XXVII*, 564.