

**Sons of Something:
Taxes, Lawsuits and Local Political Control in Sixteenth Century Castile***

Mauricio Drelichman
The University of British Columbia
Department of Economics
997 – 1873 East Mall
Vancouver, BC
Canada V6T 1Z1
drelichm@interchange.ubc.ca

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Abstract:

The widespread ennoblement of the Spanish bourgeoisie in the sixteenth century has been repeatedly mentioned as one of the causes of Iberian decline, but no primary-source based analysis of its motives and consequences exists. Using a new dataset of nobility lawsuits and local tax rolls constructed from the entire population of cases in the Royal Chancery Court of Valladolid, I link this surge to the fiscal onslaught implemented by Charles V to finance Spain's imperial policy. I find that the tax exemptions are not enough to explain the flight to privilege, since lawsuits were more costly than the present value of the future tax benefits. Using a previously undocumented type of lawsuit in which the petty nobility (*hidalgos*) and commoners acted as collective units rather than individuals, I show how the main motivation behind ennoblement was the control of local government, and the decision-making power over commons that accompanied it. I also provide fresh insights on the composition of Castilian society and on the dynamics of local government.

JEL Classification: N0, N4

Keywords: sixteenth century, Castile, Spain, nobility, rent seeking, local government, litigation.

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1. Introduction.

The stagnation and decline of Spain during the seventeenth century remains one of the quintessential topics in the economic history of Modern Europe.¹ While the literature has gradually moved to emphasize the role played by institutions, it has mostly stopped short of a detailed primary-source based analysis of the institutional structures that are normally identified as the main hold-ups on Spanish economic growth, such as the monarchy, the nobility, the trade, craft and shepherd guilds, and the Catholic Church. The improved access and cataloguing of the vast archival resources on Early Modern Spain make it now inexcusable not to advance in this direction.

As part of a wider research agenda on the institutional foundations of Early Modern Spain, this work takes a close-up look at the Castilian lower nobility, the *hidalgos* of Don Quixote fame, on whom scholars of the calibre of Carlo Cipolla, Fernand Braudel, J. H. Elliott, and David Landes, among others, have squarely placed the blame of spreading a mentality of idleness and a disdain for manual labour.² The number of petty nobles, who were exempt from royal taxes and enjoyed several legal and social privileges, is widely believed to have rapidly grown during the sixteenth century in response to the increasing fiscal pressure of the Habsburg monarchs and to a general aspiration to live a “noble life.” Since *hidalgos* were technically impeded from engaging in trade and industry, and since all their legitimate male sons inherited the title in perpetuity, the foregone conclusion is that such a social migration resulted in a large misallocation of talent. Braudel saw

¹ Major works on Early Modern Spain have continued to appear at a sustained rate in the last decade. For just three very recent influential examples, see Marcos Martín (2000), Kamen (2003) and Yun (2004). For an institutionalist treatment of the Spanish case within a wider European context, see North and Thomas (1973) and Acemoglu et al. (2004).

² The references to *hidalgos* and the “*hidalgo* mentality” can be found in Elliott (1963), p.115-117; Braudel (1972), p. 520-523; Cipolla (1980), p. 237-241; and Landes (1999), p. 172-173.

in the flight to nobility the failure to fulfil a historical duty to nurse the seeds of capitalism to full maturity, and scornfully christened it “the treason of the bourgeoisie.”³

Contrary to the widespread belief that large numbers of *hidalguías* were sold by the Crown, the almost exclusive gate into the lower nobility in the sixteenth century was litigation in one of the two Royal Chancery Courts of the kingdom. The holdings of the Archivo de la Real Chancillería de Valladolid, well known to genealogists but barely exploited in social science, are a treasure trove for the study of *hidalguía*. In a first attempt to characterize the temporal evolution of the institution, I have compiled a time series of the surviving 42,313 cases filed with the Valladolid Chancery Court, which had jurisdiction over the northern half of Castile.⁴ The series, which extends between 1490 and 1834, shows a large increase in legal activity in the mid-sixteenth century, thus confirming the impression that the pace of ennoblement was fastest during that period.

I then turn to the questions of who sought ennoblement, why, and what were its socio-economic effects. Since the non-payment of royal and municipal taxes was the most visible prerogative of *hidalgos*, traditional wisdom has always placed tax exemptions at the centre of the quest for nobility. I find that the present value of the fiscal benefits obtained by *hidalgos* could not have alone covered the cost, risk and trouble of a lawsuit, and then identify the main reason behind the litigation in the privileged access to municipal offices enjoyed by *hidalgos*, and the control over common resources that came with them. I argue that the convoluted interaction of increased fiscal pressure with the particular legal status of the commons of Spanish localities combined to make *hidalguías* more valuable, triggering the social migration of the sixteenth century. I further

³ Braudel (1972), p. 517.

⁴ The compilation of this time series would have been virtually impossible without the new electronic catalogue and the invaluable assistance of the staff of the archive.

characterize this distributive conflict motive through the study of a particular type of lawsuit, in which *hidalgos* and commoners faced each other as collective units. Such a finding frames the *hidalgo* problem as an eminently local issue, and places it firmly into the rent seeking literature, which has made surprisingly little foray into the study of Spanish institutions.⁵

The traditional interpretation of the treason of the bourgeoisie already suggested obvious links with the literature that emphasizes the allocation of talent in the style of Baumol (1990) and Murphy et al. (1991). *Hidalgos* were in fact legally prevented from engaging in “mechanical” professions, that is, anything that involved manual labor, opening up the possibility for large inefficiencies. Unfortunately, the archival record is silent on the degree of compliance, since litigants would have taken care of keeping obvious violations from finding their way into public documents. The anecdotal evidence is also too conflicting to warrant a definite conclusion; while the argument that new *hidalgos* would have been more zealous in complying with the requirement of abstaining from productive work could possibly be advanced, is it equally easy to find widespread violations, particularly in geographical areas that enjoyed universal *hidalguía*.

The distributive conflict at the heart of the nobility litigation, however, provides a much more powerful rent-seeking scenario. Through detailed examination of the litigation in three northern Castilian communities, I document how groups of would-be *hidalgos* orchestrated the capture of local governments to gain control over common resources. In towns with high litigiousness rates, the resources that were transferred to the Valladolid attorneys and courts in the form of legal fees and bribes possibly exceeded the rents that *hidalgos* were able to capture.⁶ The amounts over

⁵ See Ekelund and Tollison (1997) for an example mostly focused on the Mesta.

⁶ Admittedly, few towns had a level of litigiousness high enough to consume all the rents, but one would not expect this to be an equilibrium path behavior. Other towns, seeing the costs incurred by the neighboring communities that chose to fight the capture attempts of the *hidalgos*, might have given in without even trying their luck in court. For a formalization of this argument, see González (2005).

which observable conflict erupted were at times surprisingly small; in the presence of such a predatory environment, investment in both physical and human capital could not have yielded high returns, and economic growth must have been seriously forestalled.⁷

To further buttress the main argument, I examined tax roll data whenever available to complement the mostly qualitative information yielded by the legal files. By matching litigants to tax rolls, I am able to provide insights into the composition of the northern Castilian society in the sixteenth century, the distribution of wealth at the local level, and the strategic behavior of towns when faced with a sudden surge in distributive conflict.

2. Hidalgos: the sons of something.

The very word *hidalgo* embodies the nature of those people that wore the title with pride; while even its origin has been unable to escape dispute, the most commonly accepted etymology is *hijo de algo*, literally “son of something” (where “something” means “someone of value”). The oldest *hidalgo* families claimed to be able to trace their origins to the Visigothic lineages of the days before the Muslim invasion of the peninsula in 711 A.D., and to have achieved their status through distinguished military service to the monarchs of the northern kingdoms in the course of the *Reconquista*. During the Middle Ages, *hidalgos* were in fact expected to maintain weapons and a horse, and to join the king’s army whenever called to war. In return, they were granted special privileges, foremost among which the exemption from royal and municipal taxes.⁸

⁷ A substantial literature exists on the relationship between rent seeking and economic growth; see Murphy et al. (1993), DeLong and Shleifer (1993), Tornell and Lane (1999).

⁸ *Hidalguía*, in its most open meaning, is synonym with nobility; all Spanish nobles, including grandees and *títulos* (dukes, marquises, counts and viscounts), were technically *hidalgos*. I am not concerned with those upper echelons, and will therefore use the word in its narrow sense, designating the lower nobility that, while always striving to climb the ranks of society, was just one step above the plain commoner. For a thorough discussion of the structure of the Spanish nobility see Domínguez Ortiz (1985).

The distribution of *hidalgos* followed clear geographical patterns; they were much more numerous in the North, where they had originated, and where some areas even enjoyed universal *hidalguía*. Northern *hidalgos* were also more heterogeneous, ranging from the very poor to the substantially wealthy, both in the cities and the countryside. The South, not having (Christian) noble lineages of its own, was far more homogeneous, with wealthy urban *hidalgos* being the norm.⁹

By the early sixteenth century, Castile had introduced several indirect taxes from which *hidalgos* were not exempt, but direct contributions, or *pechos*, still constituted a sizable portion of the fiscal burden. So indissoluble were *hidalgo* status and the exemption from royal and municipal *pechos* that someone who did not pay them and remained unchallenged was almost automatically recognized as an *hidalgo*, while paying them at any point would jeopardize any chances of affirming an *hidalguía*. Such identity is again etched into the language: the Spanish word for a commoner is *pechero*, someone who pays direct taxes.¹⁰

While tax exemptions were the most transparent and visible attribute of *hidalgo* status, they were not always its most valuable privilege. In the first half of the sixteenth century royal taxes had not become a significant burden yet, and in many towns they were still assessed on a capitation basis, making them virtually negligible for the rich. *Hidalgos*, however, also enjoyed preferential access to municipal offices under the system called *mitad de los oficios*, which reserved half of the top positions in the local government for them. Their privileges under criminal law were paramount: they could not be tortured, flogged or exposed to public shame; if jailed, they had to be kept separate from the commoners; they could not be sent to the galleys, and, if sentenced to

⁹ Domínguez Ortiz (1985), p. 123.

¹⁰ See Thompson (1987) for a discussion on the language of class distinction in Spain.

death, they had the right to be beheaded rather than hanged. Perhaps their most valuable immunity on a practical basis was the exemption from prison by reason of debt, undoubtedly the main motive behind many a quest to obtain an *hidalguía*.¹¹

A much debated attribute of *hidalguía* is its theoretical incompatibility with the so-called “mechanical” and “vile” professions, virtually any occupation that involved manual work, together with tax collection (but not tax farming) and a few other outcast activities. The increase in the number of *hidalgos* in the sixteenth century has been repeatedly singled out as one of the reasons behind the decline of Castile, as more and more successful merchants and traders supposedly abandoned their activities to live off the rents of the land or of tax farms. Clearly such a prohibition was not universally enforced, as it would have been a practical impossibility for everyone to abstain from manual work in areas with universal *hidalguía*.¹² The concern still remains that those who attained *hidalgo* status during the sixteenth century could have been more zealous in keeping to the legal requirements of nobility in a bid to affirm their newly achieved social rank.¹³

It has long been contended that the number of *hidalgos* swelled in the sixteenth century; while several studies exist on particular families and individuals that entered the lower nobility during this period, the magnitude and characteristics of the larger phenomenon have not been the subject of a thorough scholarly discussion so far. A very common misconception is that the increase in the *hidalgo* ranks was the result of massive sales of letters of privilege on the part of

¹¹ Antonio Alvarez de Alcocer, for example, avoided imprisonment in 1572 through the purchase of a letter of privilege. See Thompson (1979), p. 342.

¹² See Marcos Martín (2000), p. 301.

¹³ We know, for example, that the father and uncles of Saint Theresa of Avila closed down their silk trade operation after obtaining a judgment of *hidalguía* in their favor in 1522, but retained their tax farms. See Egido (1986), pp. 18-20.

the Crown during the reigns of Charles V and Philip II; the myth has continued to surface every now and then, even in the face of Thompson's categorical refutation.¹⁴ Sales of privileges of *hidalguía* were indeed an extremely rare occurrence, as a result of a combination of the Crown's strong grip on the nobility and the nature of the privilege itself. The archetypical *hidalgo* was, in fact, someone who could trace his lineage to the medieval noble families of old, whose first noble ancestor was lost in time immemorial, and whom people would recognize and repute as a noble person without the need of an intervening authority. Paying for the privilege was the ultimate admission that one did not deserve it. In addition, the administrations of Charles and Philip made it a point of maintaining a tight control on the upper nobility, which they indulged with titles and lustre while striving to reduce what was left of its power and political influence. The petty nobles were not in the monarchy's plans; while patents of *hidalguía* remained available for sale, their price was set so high that only the most desperate persons, such as those who needed to take advantage of a bankruptcy or criminal law privilege, would pay for them. Thompson's exhaustive analysis of the sales of *hidalguías* uncovered an utterly insignificant grand total of 72 royal letters of privilege for the whole kingdom of Castile in the sixteenth century. A substantial portion of these, moreover, was extended to individuals who had some previous claim to nobility and wanted to swiftly settle any challenges against it, rather than to plain *pecheros*.¹⁵

3. The lawsuit of *hidalguía*.

When an *hidalguía* was challenged, usually by a town council who tried to collect direct taxes from its holder, the individual claiming to be an *hidalgo* could only affirm his status by suing the

¹⁴ Thompson (1979). It probably has not helped that the hypothesis of the sales of *hidalguías* has been endorsed by scholars of the calibre of J. H. Elliott and Jordi Nadal. See Elliott (1963), p. 116 and Nadal (2001), p. 40.

¹⁵ Thompson (1979), p. 357.

town in one of the two Royal Chancery Courts of Castile, which resided at Valladolid and Granada. The Chancery Courts (*chancillerías*) were the highest tribunals in the kingdom short of the Royal Council, and had exclusive jurisdiction in all cases concerning the dispute of an *hidalguía*, which were heard by a special chamber called the *Sala de Hijosdalgo*.¹⁶

To win a lawsuit, a claimant of *hidalguía* would have to prove, at a minimum, that his father and grandfather had been *hidalgos*, widely reputed as such in the places where they had lived. He had therefore to produce witnesses that had known (or claimed to have known) his father and grandfather, and could confirm their status. The town council, together with the king's prosecutor (who intervened *ex-officio* in all lawsuits of *hidalguía*), would try to show that the claimant or his ancestors were not *hidalgos*, presenting evidence that they had paid direct taxes or had not enjoyed certain criminal or legal privileges. Alternatively, they could try to find one or more impediments to their *hidalguía*, such as having engaged in mechanical occupations, being illegitimate sons, or having Jewish ancestry.¹⁷

If the claimant won the case, upon receiving a favourable final sentence (which might not come until after one or two appeals) he could ask the court to issue a final writ, called a *carta ejecutoria*, which summarized the lawsuit and ordered all authorities in the kingdom to recognize

¹⁶ The mandatory reference for the structure and operation of the *Sala de Hijosdalgo* is Martín Postigo and Domínguez Rodríguez (1990), on which virtually all my references to the functioning of the chamber are based.

¹⁷ As a result, the prosecution often presented very colorful stories. The lawsuit of St. Theresa's father contains a copy of the Inquisition proceedings that documented how his grandfather had converted from Judaism and had been forced to wear the shameful robe of the *conversos* for two months [Ejido (1986)]. In the lawsuit of Benito de Caldas in 1544 witnesses for the prosecution testified that his grandfather had been held in a common jail and sentenced to lashes for petty theft (SHP 68.3). In the lawsuit of Alonso de Melgar in 1556, the prosecutor alleged that he was the son of "plain commoners, converted Jews, adulterous and incestuous" (SHP 871.8). Similarly, in the lawsuit of the brothers Gaspar and Francisco de Villodas in 1554, the town produced witnesses who testified that their grandfather had been a clergyman, and hence their father was an illegitimate child (SHP 351.3). Melgar lost his case, but all the others were able to have their *hidalguías* confirmed despite the obvious impediments.

its holder as an *hidalgo*. Individuals who had affirmed their status through the legal system were hence known as *hidalgos de ejecutoria*.

Lawsuits were not cheap; a claimant had to retain attorneys in Valladolid or Granada, pay a number of court and secretarial fees, and, if successful, pay the fee for the issuance of the *carta ejecutoria*. In addition, more or less overt bribes and gifts to several court officials were essential to ensure that the proceedings would move forward at a reasonable pace.

Two cheaper legal devices, albeit of lower standing than a lawsuit, were available to claimants of *hidalguía*. An *hidalgo* that anticipated a legal challenge or feared that the only witnesses capable of supporting his claim could die or relocate could register the depositions of those witnesses with the court in a document called *probanza ad perpetuam rei memoriam*. The town and the king's prosecutor did not intervene in the process and the document was not enforceable by itself; it could, however, be used as evidence in lawsuits, and therefore its existence could conceivably deter future legal challenges. Another possibility was to request a *royal provision* from the court, which was an enforceable document but could still be challenged in a full lawsuit. The town and the king's prosecutor normally opposed the claim of *hidalguía* in the legal proceedings (called *expedientes provisionales*), which, although reminiscent of lawsuits, were simpler, faster and cheaper. They did not result in a *carta ejecutoria*, though, which remained the only document impervious to any kind of challenge.

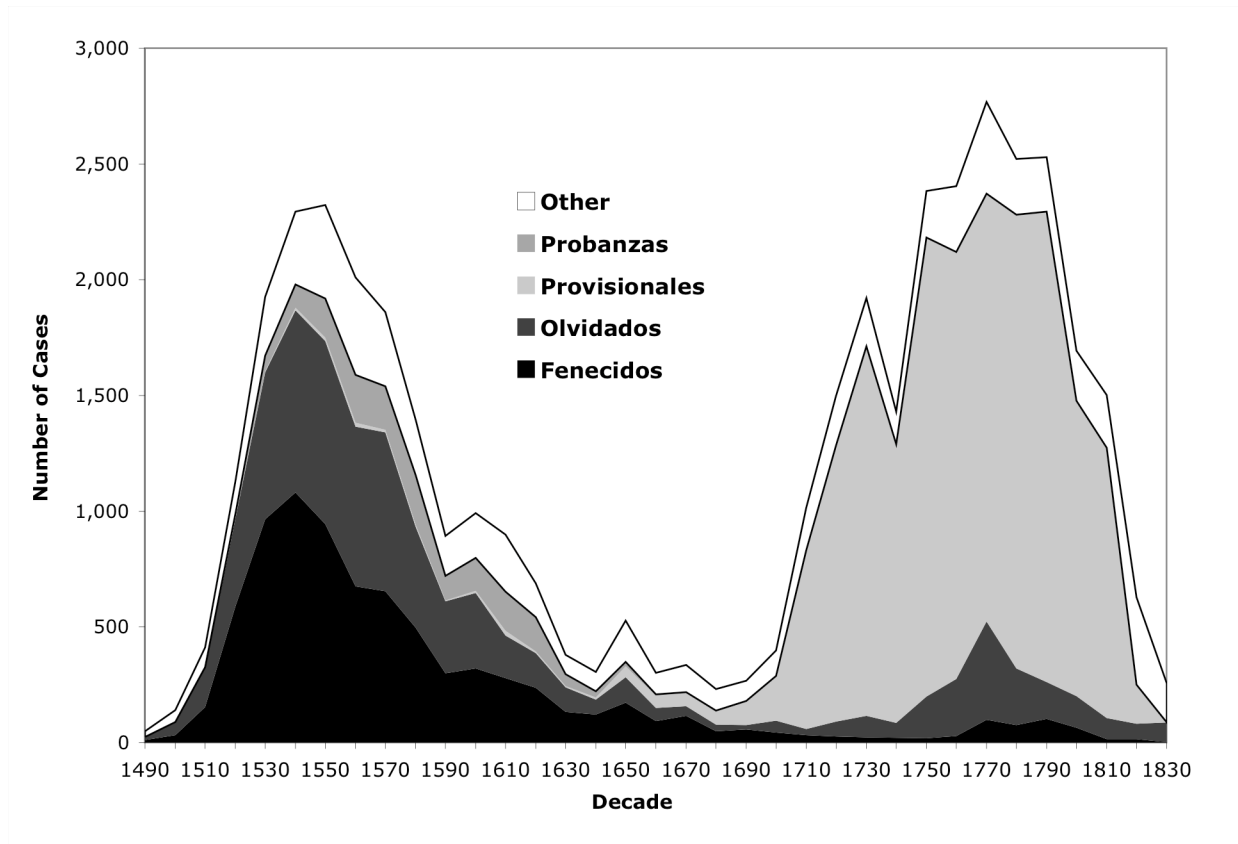
The Archive of the Royal Chancery Court of Valladolid is an invaluable source of information on the judiciary route to nobility. With the exception of short interruptions forced by the plague or the presence of the king's entourage in town, the court resided in the same Valladolid palace throughout its entire existence. Its archive opened in the early years of the seventeenth century as a venal office, and gradually acquired the records from the court secretaries, who had until then

treated the files as their personal property. Since the holder of the records could charge for access to them, there was a continuous interest in preserving their integrity; while some files must have certainly gone missing, the holdings of the archive can be reasonably trusted to provide broad and representative coverage of the universe of cases heard by the court. In contrast, the Archive of the Royal Chancery Court of Granada did not open until forty years after the court was closed in 1834; as a result, a large number of cases have been lost, and the surviving holdings number less than a quarter than their Valladolid counterparts. This work is limited to cases from the Valladolid court, and hence to its geographical jurisdiction north of the river Tagus (roughly the northern half of Spain). The loss of geographical coverage is mitigated by not having to worry about issues of representativeness, and by the fact that the scarcity of noble lineages in the South would provide less opportunities for litigation, legitimate or otherwise.

Figure 1 shows the temporal distribution of the 42,313 cases conserved in the section *Sala de Hijosdalgo* of the Archive of the Royal Chancery Court of Valladolid. Lawsuits proper are classified according to whether a *carta ejecutoria* was issued in the case or not; if a *carta ejecutoria* exists (and hence the *hidalguía* was confirmed), the lawsuit is said to be *fenecido* (defunct).¹⁸ Otherwise, the lawsuit is called *olvidado* (forgotten). *Probanzas*, *expedientes provisionales* and unclassified papers are also shown.

¹⁸ If the *hidalguía* was denied, the town could always tax the claimant or seize his goods without the need of a royal writ; it is hence safe to assume that all *fenecido* lawsuits did confirm an *hidalguía*. In an extremely rare exception, the town of Medina de Pomar requested a *carta ejecutoria* on the lawsuit it had won against Juan del Campo, its second wealthiest taxpayer, in 1555. The town might have sought additional assurances in view of the wealth, and perhaps power, of its opponent. See SHP 424.4, RE 845.2, PP 68.6.

Figure 1: Cases by type, 1490-1834



Compiled from the catalogues of the Archivo de la Real Chancillería de Valladolid and an unpublished classification table by Eduardo Pedruelo Martín.

Figure 1 reveals that the activity in the *Sala de Hijosdalgo* had two peaks, in the sixteenth and eighteenth centuries, with a prolonged slump in the seventeenth. Lawsuits proper, however, are concentrated only in the sixteenth century, peaking in the decade of 1550, which had a yearly average of almost 200 cases filed, with over half of them resulting in a confirmation of the *hidalguía*.

The number of *fenecido* lawsuits is not an exact reflection of the increase in the number of *hidalgo* families. A substantial number of “forgotten” lawsuits also confirm the *hidalguía*; it is possible that the claimant, having settled his position within the town, did not request a *carta ejecutoria* to avoid further expenses. On the other hand, some lawsuits were filed by legitimate

claimants, whose rights were being infringed upon; favourable sentences in such cases did not increase the number of *hidalgos* (although unfavourable ones might have reduced it). Finally, it is important to keep in mind that legal proceedings only capture situations of conflict; if someone declared himself an *hidalgo* and no one challenged him, after a few years he would most likely be reputed as such without the need of a lawsuit. As a speaker in the Cortes of 1624 put it:

The officials of the towns and villages will not dare list anyone in the tax tolls who is prepared to go to litigation, however notorious a pechero he is. Thus he is left exempted as if he were an hidalgo, and so becomes one. Contrariwise, if they list an hidalgo who is poor, he cannot litigate and loses his hidalguía.¹⁹

The shape of the distribution is nonetheless consistent with contemporary and historiographical accounts of the swelling of the ranks of *hidalgos* in the sixteenth century. In remainder of the paper, I use the lawsuits of *hidalguía* to explore the evolution of this institution and its effects on the social and fiscal structure of different towns across Northern Castile.

4. A glimpse on the composition of Northern Castilian society.

The only relatively firm observation on the number of *hidalgos* in sixteenth-century Spain is the census of households taken in 1542, which revealed that 108,358 out of 897,130 households in the Crown of Castile, about 12% of the total, enjoyed noble status.²⁰ The global figure, however, yields little information about the regional variation in the distribution of *hidalgos*, as well as no insight into the finer distinctions within the noble and commoner ranks.

A rare 1530 tax roll from the town of Briones, in modern-day La Rioja, can provide some additional insight into the matter. This document lists the individual assessments of a direct royal

¹⁹ Quoted in Thompson (1987), p. 26.

²⁰ Nadal (2001), p. 41. A household corresponded to roughly 5 inhabitants, which puts the population of Castile in 1542 at about four and half million. Excluded from this are the roughly 100,000 households of the Crown of Aragon, which had a different nobility structure. See Artola (1993), vol. 6, p. 589.

tax (*moneda forera*), which the village paid to the Crown every six years. Unlike most rolls that only list commoners, this particular one lists *hidalgos* as well, further breaking down their status into notorious *hidalgos*, those who had bought the privilege, and those who were in possession of a *carta ejecutoria*, all of them duly entered with a zero tax liability. It also identifies “dubious” *hidalgos*, who were assessed taxes as plain taxpayers. It is not clear why this particular classification was used; presumably those so labelled had claimed to be *hidalgos* when the roll was compiled, perhaps reserving the right to sue the town at a later date while still paying taxes to avoid confiscation of their goods. Table 1 reports the breakdown of this tax roll by the status of the head of household.

Table 1: Heads of households by status (Briones, 1530)

Status of the head of household	Number	% of Total
<i>Hidalgo households</i>		
Notorious hidalgo	125	25.46%
Hidalgo by privilege	3	0.61%
Hidalgo by ejecutoria	1	0.20%
Widow of an hidalgo	32	6.52%
Orphaned son of an hidalgo	7	1.43%
Orphaned daughter of an hidalgo	1	0.20%
Total hidalgo households	169	34.42%
<i>Taxpayer households</i>		
Dubious hidalgo	67	13.65%
Widow of a dubious hidalgo	3	0.61%
Pechero	189	38.49%
Widow of a pechero	25	5.09%
Orphaned son of a pechero	11	2.24%
Pechero woman	6	1.22%
Total taxpayer households	301	61.30%
Clergy	21	4.28%
Total	491	100.00%

Compiled from the tax roll for 1530 contained in PP 137.6

Even at the early date of 1530, this northern community of approximately 2,500 inhabitants already had 34.42% of *hidalgo* households, with 13.65% more claiming to be such while still

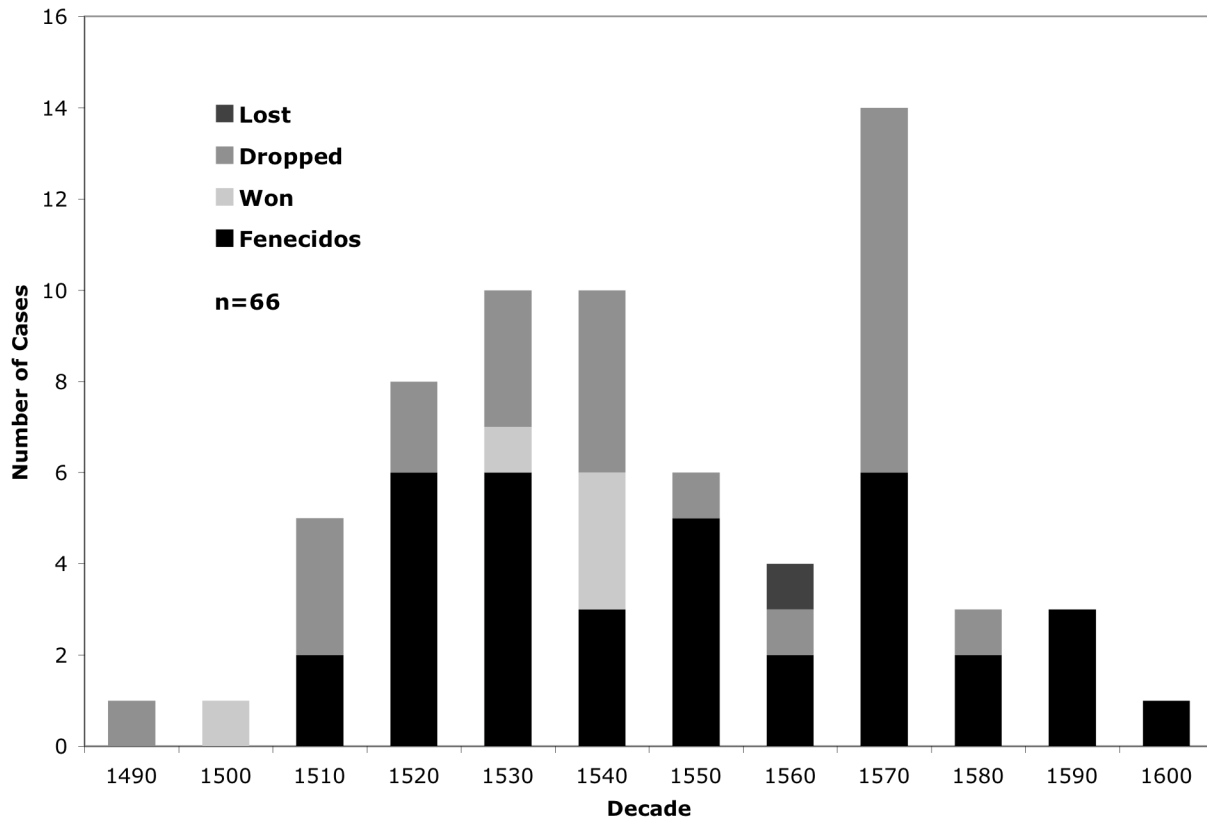
paying taxes.²¹ Of the 169 *hidalgo* households, only one had won its status in the courts, while three had attained it by royal privilege, either bought or conferred. *Hidalgos* were twice as likely as *pecheros* to leave behind widows and orphans; while their military duties certainly come to mind as an explanation for this phenomenon, it is not possible to rule out the many other factors that can affect longevity and fertility. Finally, 28 taxpayer households were exempted from taxes by reason of extreme poverty; their breakdown was 16 *pecheros*, 2 dubious *hidalgos*, 3 widows and 3 *pechero* women. These figures imply a 9.3% poverty rate among taxpayer households. Since the tax was assessed on a capitation basis, it is not possible to use these data to draw further inference about the wealth distribution of the town.

The distribution of claimants of *hidalguía* in Briones during the sixteenth century, shown in Figure 2, is quite similar to the distribution of lawsuits in Northern Castile.²² The black bars represent the *fenecido* lawsuits, while, upon individual examination of the files, I have further classified the *olvidados* into won, lost and dropped.

²¹ These figures are in strong contrast with a 1554 legal filing in a lawsuit over the allocation of communal revenue, in which the attorney for the town declared that there were no more than twenty *hidalgos* among the 400 households within the town limits of Briones (the additional 100 households in the surrounding villages are not mentioned; SHP 1546.6). This kind of gross exaggeration was not uncommon when arguing a case before the court. Since the tax rolls shows who was effectively taxed by the town, I regard them as a much more reliable source on the distribution of households by status.

²² Since the number of lawsuits involved allowed for a manual inspection of each of the files, I have chosen to use heads of households, rather than lawsuits, as my unit of observation; since proving someone's *hidalguía* would automatically prove that of his brothers and cousins (born to a brother of his father), it was not unusual for several individuals to file a single lawsuit. The most obvious difference between Figure 1 and Figure 2, the latter's peak in the 1570s, is explained by a single lawsuit, later dropped, filed by the brothers Francisco, Juan and Pedro de Castejana, and their cousins Juan and Pedro de Castejana (SHP 1506.3).

Figure 2: Claimants of Hidalguía in Briones, 1490-1610



Compiled from the catalogue of the Archivo de la Real Chancillería de Valladolid and a manual classification of each of the files involved.

Out of 66 claimants, 36 received a *carta ejecutoria*, while another 5 received favourable sentences but did not request the final writ. Only one lawsuit, in 1565, resulted in a negative sentence; interestingly, the claimant was clearly identified as an ironsmith, a profession technically incompatible with nobility.²³ It would seem that claimants whose lawsuits were not proceeding favourably preferred to drop them rather than continue until the sentencing stage and risk an assessment of costs. Alternatively, if the lawsuit dragged long enough, they could die, run out of money, or relocate to a different town, abandoning the proceedings. The remaining 24 cases were indeed dropped, although it is often difficult to ascertain the precise reason why.

²³ SHP 853.2.

Crossing the names in the tax roll summarized in Table 1 with the claimants in the lawsuits represented in Figure 2 yields some suggestive insights. I have been able to match 11 persons listed in the 1530 tax roll to claimants of *hidalguía* from Briones between 1520 and 1570.²⁴ Two of the matched claimants filed their lawsuits in 1527, before the tax roll was compiled. The first one, Martín Frías, won a *carta ejecutoria*, but in 1530 we nonetheless find his widow enrolled as a commoner.²⁵ The second one was filed by Hernando de Rojas, who dropped his lawsuit but was nonetheless enrolled as an *hidalgo* in 1530. The town might have decided to refrain from taxing him rather than fight him in court.²⁶

The nine matched individuals who filed after the tax roll was drawn include four people recognized in 1530 as notorious *hidalgos* (one of which had nonetheless been assessed taxes); three of them won *ejecutorias*, while the fourth, despite winning his lawsuit, did not request one.²⁷ Two brothers who had been enrolled as orphaned sons of an *hidalgo* in 1530 filed a lawsuit in 1533 and won it, although no *ejecutoria* was issued.²⁸ Another two individuals were listed as dubious *hidalgos* in the tax roll; one won an *ejecutoria* in 1533, while the other dropped the case.²⁹ The last one was a *pechero*, who won a favourable sentence in 1544 but did not ask for an *ejecutoria*.³⁰

²⁴ Since there were 50 claimants between 1520 and 1570, this represents a 22% matching rate. A major source of missed matches is the failure of the tax roll to report many last names or first names, together with the extremely difficult calligraphy in several portions; these two hurdles made it impossible to capture about 25% of the names. Some individuals may also have filed after relocating to another town, and many claimants in Briones would have certainly moved to town, or reached legal age, after the 1530 tax roll was compiled.

²⁵ SHP 421.9.

²⁶ SHP 690.6.

²⁷ SHP 842.21; SHP 148.20; SHP 351.3; SHP 324.7.

²⁸ SHP 835.3.

²⁹ SHP 82.14; SHP 644.25.

³⁰ SHP 786.6.

While the above list is somewhat thin, it still provides some key insights. Only one person out of the eleven in the sample had no previously established claim to *hidalguía*, suggesting that in towns with a strong *hidalgo* heritage, like Briones, a substantial portion of the lawsuits merely confirmed previously acquired rights. The only widow in the sample was enrolled as a commoner in spite of her late husband having won an *ejecutoria* just three years earlier, and the orphans were forced to litigate in 1533 despite having been recognized as *hidalgos* in 1530. Four persons recognized in the tax roll as notorious *hidalgos* were later taken to court as well. One cannot help the impression that many lawsuits originated in the attempts of the town to extract tax revenue from particularly vulnerable persons, perhaps supplemented by the will of the authorities to clean the *hidalgo* ranks from unsightly elements, rather than from the aspirations of nobility of plain commoners.

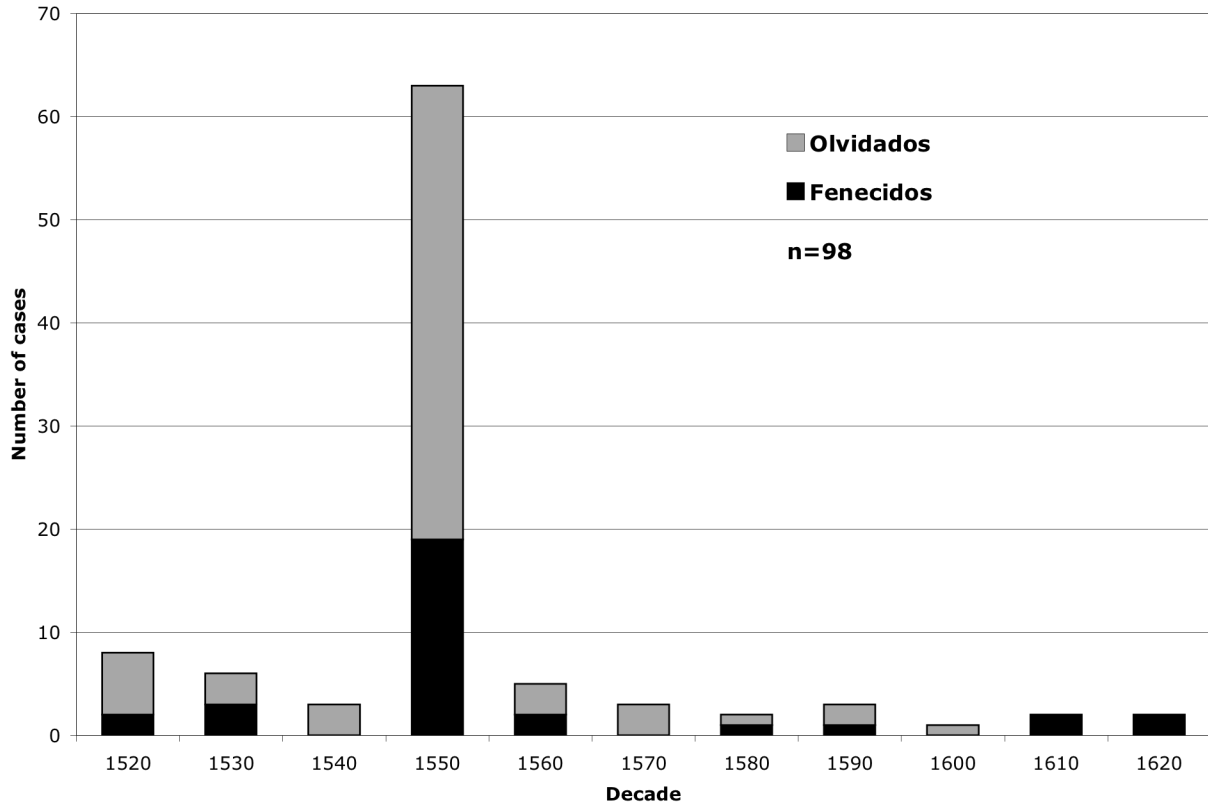
5. Fiscal pressure, the timing of lawsuits, and the effectiveness of towns.

While the residents of Briones paid direct taxes for the whole period covered by the archival record, inhabitants of other towns entered it without paying royal contributions. Starting in the late Middle Ages, and for much of the modern period, the Crown divided its fiscal requirements among the towns of the kingdom, which had substantial discretionary power to satisfy them in whichever way they preferred. Some towns had enough sources of communal income to pay their royal obligations without the need of directly assessing their citizens; the advent of the imperial policies of Charles V and the corresponding increase in fiscal pressure had far reaching consequences on this kind of arrangements.

Medina de Pomar, a town in the jurisdiction of Burgos that counted about 300 households in 1550, is among the localities with most lawsuits filed in the *Sala de Hijosdalgo*. There are no

lawsuits until 1526, but 98 were filed between that year and 1630. Their distribution, as Figure 3 illustrates, is nonetheless very different from that of Briones.

Figure 3: Lawsuits of *hidalguía* in Medina de Pomar, 1490-1630



Compiled from the catalogue of the Archivo de la Real Chancillería de Valladolid.

The legal activity emanating from Medina de Pomar would clearly not be worthy of mention if it were not for the 1550s. A closer look at the 63 lawsuits filed between 1550 and 1559 further reveals that fully 41 of them were filed in 1554. The key to the flurry of litigation is found in a different legal document, filed in a lawsuit between *hidalgos* and *pecheros* over the distribution of the public offices of the town. The complaint reads:

*In this town there has never been a difference between hidalgos and pecheros because all the pechos were always paid from the common bourse until one and a half years ago, when it was ordered that they should not be paid from that bourse.*³¹

In another document related to the same dispute, several witnesses were asked how many households were there in the town, and how many of them were headed by *hidalgos*. All but one of them reported that the town counted about 300 households, of which no more than 3 or 4 were from *hidalgo* lineages; the last witness put the numbers at 350 households and 6 or 7 *hidalgo* ones.³²

In response to the beginning of direct taxation about 20% of the population of Medina de Pomar claimed *hidalguía*, and the town found itself in the uncomfortable position of having to defend over sixty lawsuits with limited resources. As it will become clear, the ex-post optimal decision might well have been not to fight back; at the time, the prospects of a widespread flight to *hidalguía* and of a large drop in tax revenue probably convinced it to do otherwise.

The opening salvo in the battle of Medina de Pomar was a request that the Royal Chancery Court authorize a special contribution of 15,000 *maravedíes* to pay for the several lawsuits it had to fight. Since direct taxes were the domain of the king, all extraordinary contributions had to be vetted by the Court, which also functioned as depositary of the royal seal. Despite the vigorous opposition of the *hidalgos*, the Chancery Court granted the request, with the added provision that all those who were not in firm possession of an *hidalguía* should be included in the assessment.³³

³¹ SHP 828.2. In a similar case, we learn that the small town of Villalobos, in the jurisdiction of Montes de Oca, was also free of direct taxes until 1540. See SHP 679.1.

³² SHP 707.2. Most of the witnesses were former town officials, including a former mayor, which lends some credibility to their estimates.

³³ SHP 653.107. The motion was initially granted by the *Sala de Hijosdalgo*, but the judges of a civil chamber (which functioned as an appellate court) reversed the decision, ruling that those with pending lawsuits could not be taxed. A second appeal, this time moved by the *pecheros*, resulted in the president of the court and the civil judges

Since by the time of the special contribution of 1554 no lawsuit filed that year had yet come to a close, and since individual contributions were determined in rough proportion to individual wealth, the tax roll that was drawn as a result is an excellent tool to determine the socio-economic extraction of those who filed for *hidalguía*.³⁴

I started by looking for the name of everyone who filed a lawsuit between 1550 and 1559 in the 1554 tax roll. Unlike the list from Briones, this one was compiled with the utmost care to identify each taxpayer, fully spelling out first and last names. Common names were supplemented with the neighbourhood in which the person lived, and sometimes with their profession as well. As a result, I have been able to uniquely match 50 of the 63 claimants to the tax roll, almost an 80% success rate. Table 2 shows that the matched sample is strongly representative of the population.

reversing once again, thus confirming the original decision, authorizing the extraordinary contribution, and specifying that no one without an *ejecutoria* should be exempt from it.

³⁴ The 1554 tax roll is found in PP 68.5. While the general rule was that richer people should receive a higher assessment, the tax assessor, who was appointed by the town council, had a large degree of discretion in determining individual tax bills. Since the situation was being closely monitored and there were no cries of outrage over unfair assessments, it does not seem unreasonable to assume that the rule was largely observed.

Table 2: Distribution of the lawsuits and of the matched sample, 1550-1559.

Year	Number of Claimants	Matched Claimants	Percentage Matched
1550	1	1	100.00%
1551	1	0	0.00%
1552	3	3	100.00%
1553	4	3	75.00%
1554	41	34	82.93%
1555	1	1	100.00%
1556	6	4	66.67%
1557	3	2	66.67%
1558	3	2	66.67%
1559	0	0	-
Total	63	50	79.37%

Compiled from the catalogue of the Archivo de la Real Chancillería de Valladolid and the tax roll for 1554 in PP 68.5.

I then used a 1562 tax roll corresponding to the regular royal tax (the earliest extant one after 1554) to determine whether the people in my matched sample were still paying taxes. I defined a litigant as “unsuccessful” if, despite having filed a lawsuit, he or she was still being assessed direct taxes by 1562. Conversely, if the litigant was no longer in the tax roll, I called him or her “successful.” Unlike the 1530 document from Briones, the tax rolls of Medina de Pomar did not list neighbours without any tax liability, and so the meaning of “success” needs to be qualified; while winning an *ejecutoria* would certainly make someone a successful litigant by this measure, so would dying, becoming poor or relocating to a different town (as well as being missed in the matching process). Unsuccessful litigants, on the other hand, are a very good lower bound on the ability of the town to keep claimants of *hidalguía* within its tax rolls.

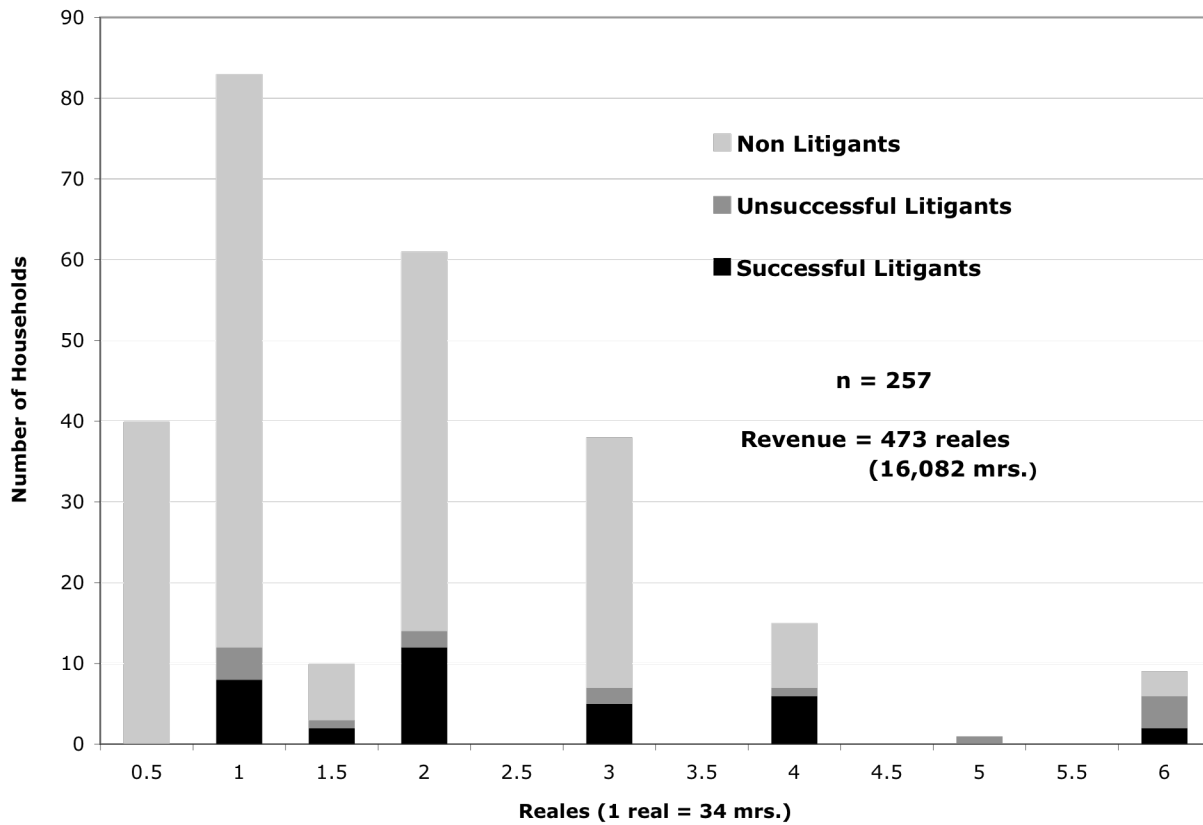
For the purposes of the 1554 extraordinary tax, the population of the town was divided into 8 brackets; at the lower end, people were taxed in increments of half a *real* (1 *real* = 34 *maravedíes*). After the 2 *reales* bracket, tax liability was assessed in increments of one *real*, with a maximum of six *reales*. A total of 257 households were assessed; the remaining ones would

have been *hidalgo*, poor, or might have been exempted for other reasons. If the poverty rate had been similar to the 9.3% observed in Briones, these numbers would be strongly consistent with the witness accounts that put the population of the town at about 300 households, of which between 3 and 7 would have been *hidalgo*. Overall, slightly over 16,000 *maravedies* of tax liability were assessed; while this exceeded the 15,000 authorized by the court, the extra amount was probably meant to compensate for potential non-payers.

Figure 4 shows the distribution of the tax liability that emerges from the 1554 tax roll, further broken down by the litigant status of the household. The implied distribution of wealth has a very plausible shape; the 1562 and successive tax rolls imply an even more skewed distribution, since some of the households that were assessed at the maximum of six *reales* in 1554 were even further to the right when the total tax bill allowed for it.³⁵

³⁵ Since the court had allowed the town to assess anyone without an *ejecutoria* for the purposes of the 1554 extraordinary contribution, town officials might have wanted to tax as many households as possible as a way to strengthen the case for denying them *hidalgo* status. As a consequence, the tax bill of the richer households might have been kept artificially low to ensure that every taxable household in the lower wealth brackets was assessed at least some tax, while not exceeding the maximum revenue allowed by the court.

Figure 4: Distribution of tax liability by litigants – Medina de Pomar, 1554.

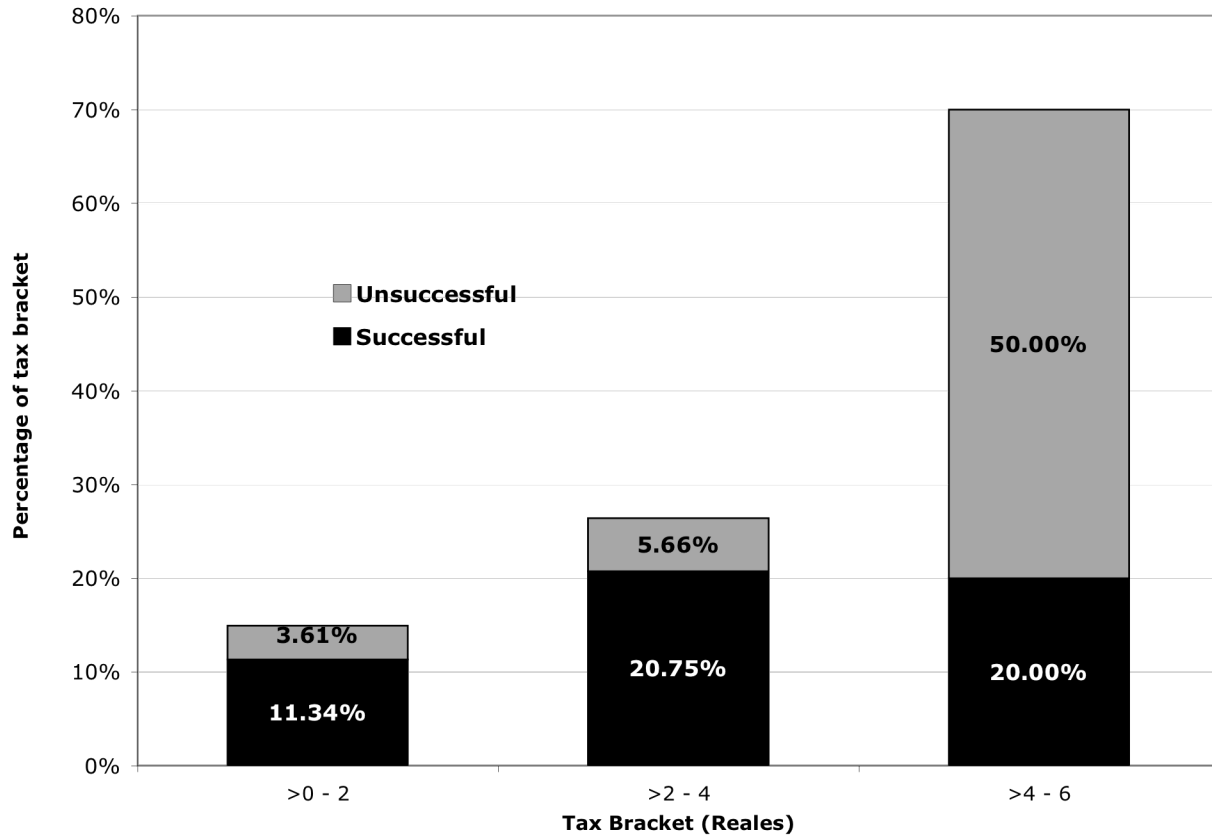


Compiled from the catalogue of the Archivo de la Real Chancillería de Valladolid and the tax rolls for the years 1554 (PP 68.5) and 1562 (PP 68.6).

The above data allow to examine the town’s strategy for fighting the avalanche of lawsuits.

Figure 5 divides the population into 2-reales tax brackets, and reports the percentage of each tax bracket that filed a lawsuit of *hidalguía* between 1550 and 1559, further broken down by whether they were successful or not as defined above.

Figure 5: Litigants as percentage of tax bracket



It is immediately clear that richer households were much more likely to claim being *hidalgo* in response to the advent of direct taxation; 70% of households in the highest tax bracket filed a lawsuit, while only 14.95% of those in the lower bracket did. It is also apparent that the city concentrated its legal efforts on keeping the wealthy households in the tax rolls. Two thirds of the households in the upper bracket of the 1554 assessment that claimed an *hidalguía* were still paying taxes in 1562; in comparison, only one quarter of the lower income households that filed a lawsuit during the 1550 decade were still in the 1562 tax roll.

Table 3 shows the percentage of households claiming *hidalguía*, as well as the percentage of the tax liability they represented, and reports bounds on the effectiveness of the town at maintaining taxpayers within its tax rolls. The second column lists “unsuccessful” claimants as a percentage of litigants; since all these people were still being assessed in 1562, this is a lower bound on the

town's effectiveness. The third column augments the number of unsuccessful claimants with all those that didn't win a *carta ejecutoria*, even though they were no longer included in the 1562 tax roll. Since some of this people might have died, relocated, become poor, or might simply have been recognized as *hidalgos* before the final sentence, this is only an upper bound, and probably a high one, on the ability of the town to win lawsuits and preserve its tax base.

Table 3: Claimants and town effectiveness

	% of population claiming <i>hidalguía</i>	Lower bound on town effectiveness	Upper bound on town effectiveness
Weighted by enrolled households	19.46%	30.00%	62.00%
Weighted by tax liability	28.44%	36.06%	65.42%

Compiled on the basis of the catalogue of the Archivo de la Real Chancillería de Valladolid, the tax rolls for the years 1554 (PP 68.5) and 1562 (PP 68.6), and manual inspection of each of the lawsuits filed by residents of Medina de Pomar between 1550 and 1559.

Since richer people were more likely to sue, the percentage of claimants weighted by tax liability is about ten percentage points higher than the figure for enrolled households. The focus of the city in fighting the lawsuits of the wealthiest taxpayers also means that the proportion of unsuccessful claimants is higher when weighted by tax liability, both in the lower and upper bound figures. This latest difference is not very large; the tax-weighted lower bound is only six percentage points higher than the household-weighted one, and the difference in the upper bounds is an even lower 3.4%. One would be tempted to conclude that, despite focusing on the wealthiest taxpayers, the town did not do too well, as the many poorer ones that got away nonetheless put a significant dent in the tax base. It is nonetheless necessary to keep in mind that the 1554 tax distribution, which is the only one useful for the matching exercise, was more compressed than that of the regular royal taxes, and hence the money-weighted differences will

be lower than those that could be found in a normal tax assessment. And since lawsuits had significant fixed costs, fighting the wealthiest taxpayers was still the optimal strategy in the face of limited resources to spend on legal counsel and court fees.

The introduction of direct taxation seems to explain fairly well the timing of the litigation emanating from Medina de Pomar, as well as that of several other localities, and is entirely consistent with the focus on tax exemptions that traditional scholarship has used to explain the increase in the ranks of *hidalgos*. The main problem of this theory, however, is that the amount of direct taxes was not nearly high enough to justify by itself the trouble and expense involved in acquiring an *hidalguía* through the judicial route. In Briones, for example, the wealthiest commoners paid less than 300 maravedíes per year in royal taxes in 1568.³⁶ In Medina de Pomar, with the exception of one person who paid 1,200 maravedíes, no one was assessed over 375 maravedíes in 1580.³⁷ Such sums were equivalent to about a week of an urban labourer's wages; while rural incomes must have been lower, it is hard to argue that these amounts were the defining motive for the substantial change in the composition of Castilian society during the sixteenth century.³⁸

The incentive structure certainly encouraged claims; in case of a favourable decision, the new or confirmed *hidalgo* usually had all his legal costs reimbursed by the town. If he lost, he only had to bear his own expenses.³⁹ It is easy to imagine a scheme in which a smart lawyer could encourage many neighbours in a town to file for *hidalguía*, offering to represent them free of

³⁶ PP 37.13.

³⁷ PP 68.6. The person who received a 1,200 maravedíes assessment was Juan del Campo, who had sued the town for an *hidalguía* in 1554, but lost. His lawsuit is SHP 424.4.

³⁸ Labourer wages for the relevant years in Old Castile are available in Hamilton (1934). In 1568 they were 68 mrs. per day, while in 1580 they were 60 mrs. per day.

³⁹ This was not a written rule, and the assessment of costs remained a judicial decision on a case-by-case basis. The pattern nonetheless emerged from the overwhelming majority of the lawsuits I examined.

charge. He would only need to succeed in a few of lawsuits to make a handsome profit from the legal costs assessed to the city, and easily write off the cases that didn't prosper. The more cases he managed to file, the better his chances for collecting fees would have been, since the city could not hope to defend effectively more than a handful of lawsuits. Nearly all the claimants from Medina de Pomar were represented by the same attorney, and the witnesses backing the claims of *hidalguía* in most cases were the same persons; while these observations do not constitute hard evidence that such a scheme was actually in operation, they are certainly suggestive.

Fiscal considerations, then, can still be useful to explain the timing of the rush to *hidalgo* status, but the tax exemptions were at best gravy for those who managed to enter the nobility. As the next section argues, conflict over the control of local government and common resources is a much more powerful explanation for the activity recorded in the *Sala de Hijosdalgo*.

6. Distributive conflict.

Two perennial issues of contention between *hidalgos* and *pecheros* were the allocation of local government posts and the use of town revenues. An old unwritten rule, later confirmed by the Cortes of 1522, established that *hidalgos* and *pecheros* should split evenly the available positions in local government; since *pecheros* were normally much more numerous, the system, known as *mitad de los oficios*, gave enormous influence to *hidalgos*.⁴⁰ The other topic of contention was the use of revenue generated by a particular kind of communal goods called *propios*; unlike proper commons, a local government could enclose or otherwise grant the exclusive use of *propios* to a private party in exchange for a monetary payment.⁴¹ *Pecheros* in the city

⁴⁰ On the system of *mitad de los oficios* see Domínguez Ortiz (1985), p. 129.

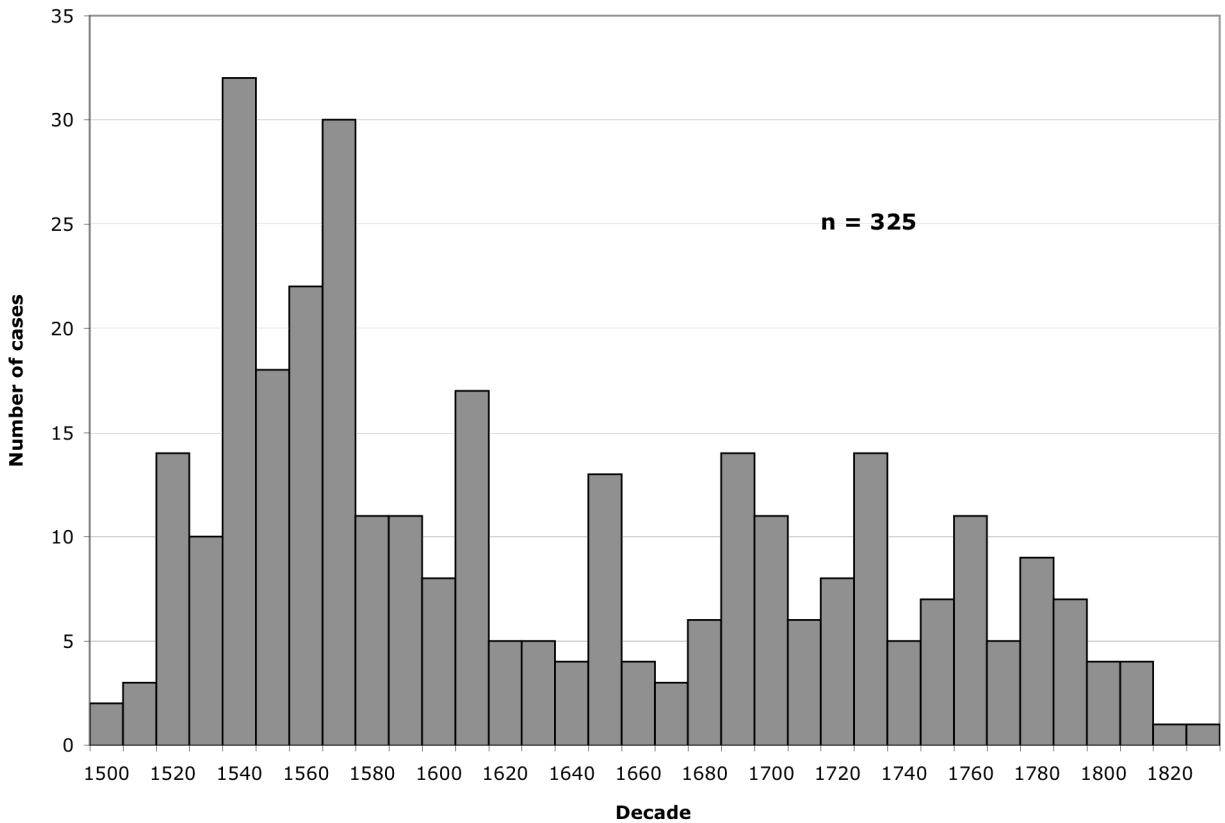
⁴¹ On *propios* see Artola (1993), vol. 5, pp. 981-83.

government usually tried to use *propios* revenue to pay the royal taxes allocated to the city and to defray the cost of lawsuits of *hidalguía*. These moves were vigorously contested by *hidalgos*, legitimate ones and self-avowed alike. Established *hidalgos* didn't want to see their share in the common revenues used to pay for a tax they were exempt from; claimants of *hidalguía* naturally opposed the use of communal revenue in which they had a stake to fight lawsuits against them.

The key document to the analysis of distributive conflict is a particular kind of lawsuit in which *hidalgos* and *pecheros* took part as collective units (*estados*), rather than individually. While these lawsuits normally saw *hidalgos* facing *pecheros*, either group could also sue the mayor and the justice of the town, depending on the issue at hand. For lack of a better word, I use the term “distributive” to refer to this kind of lawsuits. Figure 6 shows their temporal distribution.⁴²

⁴² I define distributive lawsuits as those in which one of the parties is formed by *hidalgos* as a collective, and the other by *pecheros*. I also allow either *hidalgos* or *pecheros* to be replaced by village authorities, such as *alcaldes*, *regidores* or *justicia*. The expressions found in the database of the archive are: the *hidalgos*, the state of the *hijosdalgo*, those who call themselves *hidalgos*, some *hidalgo* neighbors, the officers of the *hijosdalgo*, the *pecheros*, the council, the justice, the state of the *pecheros*, some *pechero* neighbours, the mayor of the town. The plaintiffs often used denigratory expression, such as “those who call themselves *hidalgos*,” to address the defendants.

Figure 6: Distributive lawsuits



Compiled from the Catalogue of the Archivo de la Real Chancillería de Valladolid.

Distributive lawsuits follow a very similar progression to that of lawsuits proper during the life of the Chancery Court, peaking in the mid-sixteenth century, declining, and experiencing a recovery of smaller magnitude in the eighteenth century. Different towns exhibited varied propensities to engage in distributive litigation; to use two familiar examples, Briones is the Castilian locality with the largest number of distributive lawsuits – nine, all except one filed between 1529 and 1570, – while Medina de Pomar has a more average four, all of them in its troubled 1550s.⁴³

⁴³ Characterizing the geographic distribution of lawsuits is fairly challenging because Castile was dotted with supra-local entities (*hermandades* and *merindades*) that handled administrative functions for groups of small towns; in some cases the lawsuit was described as emanating from supra-local entity and in others from a particular town within it.

I analyzed in detail the distributive lawsuits of Medina de Pomar, Briones, and those of the *Hermandad* de Montes de Oca, a supra-local entity composed by a group of small towns near Burgos. While the issues always revolved around the allocation of offices and the use of *propios* revenue, the proceedings, the questions posed by the attorneys and the depositions of the witnesses provide a clear view of the struggle for local control in Northern Castile.

The 15,000 *marvedíes* levy on which I based my matching exercise for Medina de Pomar is a good example of the issues at stake in a distributive lawsuit. The commoners first asked that the money to defray the legal costs be taken from *propios* revenue, a move vigorously opposed by the attorney of the *hidalgos*. As a way of persuading the court to deny the motion, he called witnesses to testify that the village had very little income from *propios*, and what little it had was urgently needed to attend to more pressing matters, such as repairing the walls. He also tried to show that those “who call themselves the state of the *pecheros*” were a only a vocal few, and that commoners at large would have no trouble in paying for the costs out of direct taxes.⁴⁴

The commoners begged to disagree. They retorted that until 1553 there had been no direct taxes in the village, but when they first were imposed (in unclear circumstances) a small group tried to capture the local government:

*“[...] those who were then holding public office pretended to be hidalgos and tried to hold on to their offices, saying that they held them as hidalgos, appointing to office others that pretend the same, and excluding those who don’t hide the fact that they have paid taxes in the past.”*⁴⁵

Witnesses for the *pecheros* further testified that in the town there had never been a distinction between *hidalgos* and *pecheros*, and that the indirect taxes collected in the village generated a

⁴⁴ SHP 828.2.

⁴⁵ SHP 828.2.

surplus of 150,000 *maravedíes* per year, which would have been more than enough to pay for the royal taxes. This number is in all probability an exaggeration, since it would have implied a fiscal surplus of 500 *maravedíes* per household, or about 14 days of a urban laborer's wages, a very large amount for a pre-industrial society where the total tax burden did not exceed 9% of GDP; both parties were probably distorting the truth in opposite directions.⁴⁶

The conflict continued in a different proceeding, were the *pecheros* produced further evidence of connivance among the self-avowed *hidalgos*:

*[...] those who called themselves regidores (co-mayors) and fight in this lawsuit are all relatives among themselves, brothers, cousins, brothers-in-law, fathers, and they appoint each other to the offices of the village, in such a way that those offices are always held by relatives.*⁴⁷

The *pecheros* conclude their testimony by saying that if the court did not allow the legal expenses to be paid out of *propios*, the town had no hope of defraying the costs out of direct taxes, since its taxpayers were very poor. The court ruled that legal expenses had to be paid out of direct taxes anyway, but that for the special levies taken between 1554 and 1556, everyone who had not won an *ejecutoria* would have to be assessed, including those who claimed to be *hidalgos*.

By the end of the decade the town was in dire straits. Despite being quite successful at keeping some of its wealthiest taxpayers at bay, 27 claimants had won *ejecutorias*, and many others had won their lawsuits. Normally towns were required to pay for their own expenses in the lawsuits of *hidalguía* regardless of the outcome, and in the ones they lost they had to reimburse the costs

⁴⁶ Urban salaries for different kinds of workers can be found in Hamilton (1934). Laborers were paid around 34 mrs. per day in the 1550s. Rural incomes were certainly lower, and Hamilton's data are from institutions that tended to pay above market wages (such as cathedral works). On the tax burden in Early Modern Spain, see Yun (2002), pp. 79-80.

⁴⁷ SHP 707.2

of the winning party as well. Since the 1555 decision set the precedent that Medina de Pomar could not tap *propios* revenue to pay for legal costs, the blow to its taxpayers must have been quite large. While the costs of lawsuits are seldom given in detail, a loose filing shows that in just one of the cases of Medina de Pomar the council was sentenced to reimburse the costs of the successful *hidalgo* in the amount of 9,000 *maravedíes*, in addition to paying its own attorneys and court fees.⁴⁸ This figure is still lower than the one reported in a survey of cases by Kagan (1981), who agreed with a 1570 estimate by a royal auditor that put the average cost of a lawsuit at 24,000 *maravedíes*, but it also corresponds to a fairly simple and short case.⁴⁹ Fighting 98 lawsuits to at least some degree during the 1550s was a losing proposition for Medina de Pomar. While it had started by asking the court to authorize the 1554 special contribution of 15,000 *maravedíes*, by 1557 it was already asking for an additional 42,000; faced with at least 27 firm negative decisions, it probably found itself unable to continue disputing the claims of *hidalguía*. As shown in Figure 3, very few lawsuits emanate from Medina de Pomar after 1560; the social and political structure of the city must have been radically altered as well.

In Briones the distribution of lawsuits was more spread out, and hence the distributive conflict dragged on longer. In a significant difference, the town was allowed to cover legal expenses out of *propios* revenue at least until 1571, despite vigorous opposition from the *hidalgos*.⁵⁰ The sums, however, were not large when considered the period over which they were spread; the total documented expenses from *propios* revenue between 1530 and 1570 were around 100,000

⁴⁸ The loose paper, SHP 1923.1, is a 1556 legal filing against the mayor of the town, who was refusing to levy a special contribution to pay the costs. The lawsuit in question was that of Francisco Barbero (SHP743.7), who filed it in 1554. Since he won it before 1556, he was not included in that year's special levy, and so we don't know in what particular tax bracket he would have fallen.

⁴⁹ Kagan (1981), p. 39.

⁵⁰ Several lawsuits result in or refer to royal provisions authorizing the town council to use *propios* to cover legal expenses. See SHP 675.9 (1529), SHP 1546.6 (1554), SHP 70.17 (1563), SHP 162.3 (1571).

maravedíes, which would only have covered the cost of a handful of lawsuits. In 1570, the town was already in debt for over 50,000 *maravedíes*, and had resorted to authorizing the logging of an entire woodland, a precious resource in barren Castile, to raise an additional 15,000.

Attorneys for the town also reported that many lawsuits had to be dropped for lack of funds.⁵¹

From a 1572 filing, we learn that the town had incurred large debts with private residents to keep the wheels of the Chancery Court spinning.⁵² The document also reports that, in the rush to raise money, many *propios* had been leased for less than half the amount they would have normally fetched (although malfeasance on the part of town officials was also suggested).

The *pecheros* made one last stand in 1589, trying to keep *hidalgos* out of positions of power by interpreting in a peculiar way the requirement of reserving for them at least half of the public offices. Town officials manoeuvred to place *hidalgos* in those offices that would be regarded as incompatible with nobility, such as innkeeper and tax collector. Such a move had no chance of success, and after a swift intervention by the Chancery Court *hidalgos* firmly established their right to hold at least half of the honourable positions in the town, and with them a sufficient amount of power to control its resources. After that date, no further distributive lawsuits were filed by residents of Briones.⁵³

⁵¹ SHP 641.3.

⁵² SHP 50.11. This lawsuit also gives a detailed account of the town's budget. Its total annual income was slightly over 50,000 *maravedíes*, all of which were committed to the payment of salaries and repairs. Except for an attorney on its regular payroll, all legal expenses needed to be funded out of extraordinary income.

⁵³ SHP 1632.1. Since in many places appointments to public office could not be refused under penalty of prison, commoners hoped to place *hidalgos* in the dilemma of declining to serve, thus breaking the law, or accepting offices incompatible with nobility. The mandatory character of public service was often used to punish one's enemies; in 1654, for example, Luis de Vega was appointed by the mayor of the town of Valderas, in the jurisdiction of León, as a collector of the excise on wine. Being illiterate, de Vega could not hope to discharge his duty in any meaningful way, but he was nonetheless imprisoned for refusing it. He then appealed to the Royal Chancery Court, claiming that, being an *hidalgo*, he was nonetheless exempt from acting as a tax collector. See SHP 1982.9.

Very similar situations are evident from the lawsuits originating from the group of towns known as the Hermandad de Montes de Oca, near Burgos. Like Medina de Pomar, the *hermandad* (brotherhood) experienced a flurry of litigation after direct taxes were first introduced around 1535, with over 60 claimants of *hidalguía* between 1540 and 1550; as Briones, it eventually ran out of money to defend its lawsuits, but not before selling or leasing its communal assets and incurring large debts.⁵⁴ Its situation was further complicated as some of the member towns in the brotherhood tried to separate themselves from the legal actions and avoid sharing in their financial burden.⁵⁵

It is worthy of note that the amounts over which conflict erupted were rather small. The 1554 Briones special levy of 15,000 maravedíes (coincidentally the same amount that the town later obtained for the logging of its woodland), for example, represented just one tenth of the yearly salary of just one judge in the *Sala de Hijosdalgo*.⁵⁶ Easily twice as much could be wasted in any single lawsuit, to the benefit of the attorneys and legal officials of the Chancery Court. When even such small sums attracted the attention of rent seekers, it is difficult to imagine how any long-term investment and growth might have been supported.

⁵⁴ The distributive conflict in the Hermandad de Montes de Oca is documented in SHP 685.6, SHP 100.13, SHP 656.15, PP 200.1 and PP 200.2. In SHP 656.15 the King's prosecutor denounced that most claimants of *hidalguía* were acting as each other's witnesses and attorneys, and that witnesses brought to Valladolid to testify in favor of the claimants were regularly treated to luxurious accommodations and meals right before their court hearings.

⁵⁵ In SHP 100.13, the town of Quintana de Lozano filed suit against the brotherhood asking to be left out of further litigation, since there were no *hidalgos* among its residents. In SHP 656.15, the mother superior of the monastery of Santa María la Real de las Huelgas in Burgos enjoined the council of the town of Santa María del Invierno, from which the monastery received different kinds of revenue, to separate itself of all lawsuits of *hidalguía*. The brotherhood, however, had the power to litigate on behalf of its component towns, and continued to distribute the costs among all of them.

⁵⁶ A judge in the Sala de Hijosdalgo received a yearly salary of 150,000 maravedíes since at least 1565, plus multiple allowances; see Martín Postigo and Domínguez Rodríguez (1990), p. 61.

7. The decline of litigation.

While I have so far scrutinized the surge of nobility litigation, its decline towards the end of the sixteenth century, clearly evident in Figure 1, remains to be explained. I have already shown how towns could quickly run out of resources to defend the lawsuits filed against them; such financial distress can explain the reduction in the legal activity of certain towns, and must surely have acted as a deterrent in many other cases. Open conflict is, after all, an off-the-equilibrium-path behavior in rent seeking scenarios, not unlike the way the most successful organized crime outfits are the ones that manage to avoid observable violence. There are, however, a few other factors behind the slump that started in the late sixteenth century. Kagan (1981) finds a similar decline in the activity of all the chambers of the Royal Chancery Court, which he attributes to the widespread economic stagnation that affected Spain for most of the seventeenth century.

Additionally, by the last quarter of the sixteenth century the increase in the number of *hidalgos* had become a concern for the Crown, which in 1593 intervened by adding a number of costly and time consuming hurdles to successfully complete a lawsuit of *hidalguía*.⁵⁷ Finally, direct taxes had remained frozen in nominal terms since 1539 in the face of widespread inflation, while the bulk of the fiscal burden had gradually shifted to sales and excise taxes, from which *hidalgos* were not exempt. With the costs of obtaining a nobility title on the rise and its benefits constantly eroded, it is not surprising to see a decline in the lawsuits of *hidalguía*. The fall in litigation, however, does not imply the decline of *hidalguía* as an institution. The title of *hidalgo* was

⁵⁷ The most important rules imposed by Philip II in 1593 were a) that all witnesses travel to Valladolid to be personally examined by one of the three judges rather than having an itinerant court official depose them in their hometowns; b) that when a witness was unable to make the trip, one of the three judges travel to take a deposition; c) that all “dubious” *ejecutorias* issued in the last 20 years be revised and, if justified, revoked. While the extent of the enforcement of this last requirement is unclear, the other two (and many minor ones) were certainly a major factor in increasing the length and cost of the proceedings. The judges protested the new norms, but the king imposed his will. See CP 5.5 and CP 5.7.

hereditary, and its social lustre persisted well into the nineteenth century, relieved, from 1783 on, of the incompatibility with any kind of profession.⁵⁸

8. Conclusion.

The institution of *hidalguía* emerged during the late Middle Ages as an efficient way to carry forward the war against the Arab kingdoms; distinguished military service was rewarded with an honorific title, the advantages of which included tax exemptions, legal privileges and an ongoing commitment to serve in times of war. The prohibition of engaging in “vile” or “mechanical” occupations, though of unclear origin, did serve to keep *hidalgos* well trained in the military arts. Over time, the concept of *hidalguía* came under pressure from several directions. The grant of universal privileges to certain areas, such as Biscay, made it difficult for everyone to honour the technical requirements of the title. By the sixteenth century the entire peninsula was in Christian hands, all but ending the intermittent episodes of small-scale warfare to which *hidalgos* had been normally summoned, and the rapid changes in military technology required the creation of armies with an increasing degree of time commitment and professionalism.⁵⁹ While *hidalguías* were often used to reward special favours or monetary contributions, most notably by Henry IV Trastámara (r. 1454-1474), the Catholic Kings (r. 1474-1516) revoked most of the privileges granted in such fashion, and the institution seemed headed towards an opaque decline.

The revival and unprecedented expansion of *hidalguía* during the sixteenth century was traditionally blamed on supposedly indiscriminate sales of patents by Charles V and Philip II; while the argument had been proved wrong by Thompson (1979), no alternative explanation had surfaced to replace it. Using legal cases argued before the Valladolid Royal Chancery Court, I

⁵⁸ Thompson (1987), p. 29.

⁵⁹ On Spain's role in pioneering the military revolution of the sixteenth century see Parker (1976).

have further shown that tax exemptions, while a welcome bonus for an *hidalgo*, in most cases could not justify the time, expense and risk involved in a lawsuit of *hidalguía*. Criminal privileges, while very valuable in some cases, were also unlikely to be the reason behind the increase in litigation; someone in urgent need of them would most likely purchase a patent directly from the Crown at a very high price, rather than risk waiting several years for a *carta ejecutoria*.

As a result of the increased fiscal demands of the Crown throughout the sixteenth century, towns that had previously met royal tax obligations from their commons revenue were increasingly forced to tax their citizens directly. The tax benefit received by *hidalgos*, however, cannot alone account for the surge in litigation; a closer inspection of a particular kind of lawsuit, which I have called “distributive,” shows that the strongest incentives behind the flight to nobility were the allocation of local government offices and the use of revenue generated by common goods (*propios*). From 1522 on, *hidalgos*, including those who became such through litigation, were guaranteed half of the “honourable” positions of each town, which gave them disproportionate influence on local affairs, if not outright control. The Chancery Court also ruled that royal contributions had to be paid out of direct taxation, thus increasing the revenue stream from *propios* accruing directly to town governments, which *hidalgos*, old and new alike, set their sights on.

In the cases where litigation flared, however, the conflict over local control depleted the resources of the towns, which were spent fighting *hidalguía* and distributive lawsuits. Despite legal strategies aimed to keep the richest (and possibly most powerful) neighbours in the tax rolls, towns could not hope to defend the dozens of lawsuits that piled up against them over the year. Many of them probably chose not to fight, and hence did not surface in my data; those who

did incur large expenses and debt, transferring substantial resources to the myriad of attorneys, officials and judges that pullulated around the Royal Chancery Court. It is even likely that some episodes of raging litigation might have been engineered by attorneys, exploiting the regularity that forced towns to always pay their own legal costs and reimburse those of the claimant in case of a negative judgment.

By 1600 at least 6,221 *ejecutorias* had been issued, each representing the start of a new *hidalgo* lineage or the confirmation of one whose purity had been challenged. Since *ejecutorias* do not include self-avowed hidalgos that were not challenged (or whose lawsuits were dropped by the towns), they represent just a lower bound on the number of families that established themselves as part of the petty nobility during the sixteenth century. Their disdain for productive work made them the scorn of political and fictional writers; their efforts at redistribution and rent seeking became an enormous liability for the fledgling local economies of Castile.

References

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Unless otherwise noted, all primary source references are from the holdings of the Archivo de la Real Chancillería de Valladolid. The abbreviations corresponding to the different sections of the archive are:

SHP: Sala de Hijosdalgo – Pleitos

PP: Protocolos y Padrones

RE: Registro de Ejecutorias

CP: Cédulas y Pragmáticas

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