

NOVELLAE

News of Medieval Canon Law

No. 9 August 2011

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NECROLOGY



Jean Werckmeister, professor of canon law at the Université de Strasbourg, editor of *Revue de droit canonique*, and one of the directors of the Stephan Kuttner Institute of Medieval Canon Law, passed away on June 30, 2011, in Strasbourg, at an age of only 64 years. Requiescat in pace.

CALLS FOR PAPERS

XIV Congress on Medieval Canon Law, Toronto

The readers are reminded that paper proposals for the next Congress are due on August 15, 2011. See note in [Novellae 7](#) or on the congress [website](#).

47th International [Congress on Medieval Studies](#), May 10-13, 2012, Western Michigan University, Kalamazoo, MI.

Institute Session, Kalamazoo 2012:

Ecclesiastical Hierarchies: Law and Custom

Sponsored Session of the Stephan Kuttner Institute of Medieval Canon Law

This session will consist of 3 or 4 papers on topics about the customary practices of the ecclesiastical hierarchy, the canon law about this power structure, and/or about how these customs often afforded ways to avoid the letter of these laws. Recently there has been a renewed interest in questions of hierarchies and power. In fact, the Brill publishing house has just commissioned a collection of essays on this subject. Usually it was expected that medieval Church leaders would enforce the canon law, but also, sometimes, they found ways to observe these canons in the breach. The current scholarship is beginning to recognize how much importance the internal issues of the ecclesiastical hierarchy had for medieval society as a whole. Participants might discuss the power-

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ful as well as the powerless, the theory and law behind the structure of power, or the varying relationships of conflict and cooperation within the hierarchy. Participants could also broaden their scope, to look at how canon law governing the hierarchy shaped not only the ecclesiastical power structure but also the lives of the ordinary faithful throughout Christendom. It is hoped that this session will serve to heighten the awareness of the broader scholarly public about the wide-ranging influence that church law exerted on the society of the European Middle Ages and about the usefulness of such legal material for understanding the medieval social and cultural, as well as political spheres.

Proposals for 15-minute paper presentations should be sent by September 1, 2011 to Dr. Atria Larson (atria.larson@gmail.com). Proposals should include the participant's name, affiliation, e-mail address, and abstract of no more than one page.

ICMAC Sessions, Kalamazoo 2012

ICMAC Session 1

Re-thinking Reform: Law and Change in the Eleventh and Twelfth Centuries

[Co-sponsored with [EPISCOPUS](#): Society for the Study of Episcopal Power and Culture, and with the Re-thinking Reform Working Group]

Legal developments figure prominently in the "classic" narratives (Fliche, Fournier, Tellenbach, Berman) of reform and the investiture conflict. Yet much recent work on canon law and canonical collections does not exactly fit these interpretative frameworks. What kind of narrative might better accommodate our current understanding of the development of canon law and its uses during the reform era? This session invites papers taking a fresh look at a figure, issue, or source. Are there aspects of reform or legal change not captured by the traditional narratives? And, more importantly, what kind of narrative do these aspects suggest? There will be three 20-minute papers.

ICMAC Session 2

Re-thinking Reform: Bishops, Issues, Texts

[Co-sponsored with [EPISCOPUS](#)]

Research on reform in the eleventh and twelfth centuries has, for some time now, expressed dissatisfaction with the standard narratives (Fliche, Tellenbach) of this period in ecclesiastical history. But new, broad interpretations have not yet emerged. This

session invites papers taking a fresh look at a leading clerical figure, issue, or source. What aspects of reform are not captured by the traditional narratives? How crucial is the episcopate and secular clergy to existing and proposed narratives of church reform? And, more importantly, what kind of narrative about reform does a renewed focus on individuals, groups, or documents suggest?

ICMAC Session 3

Re-thinking Reform Round Table

[Co-sponsored with [EPISCOPUS](#)]

This round table will bring together the participants of Sessions 1 and 2 and offer a further opportunity to reflect critically on the papers of both sessions. We also invite proposals for two 5-minute presentations on the advantages/disadvantages of the traditional law and change narrative and two 5-minute presentations on the advantages and disadvantages of the Gregorian reform narrative. The session looks to suggest how these reassessments of traditional narratives concerning reform and law can be extended at future congresses.

Proposals for ICMAC sessions should include the following: Title and abstract (c. 300 words); Curriculum vitae (max 1 page); [Participant Information form](#), available online.

Proposals for Sessions 1 and 3 should be sent (preferably via email) by 15 September 2011 to: Kathleen G. Cushing, Department of History, School of Humanities, Keele University, Keele, Staffordshire ST5 5BG, United Kingdom. Tel. +44 (0)1782 733196. k.g.cushing@keele.ac.uk

Proposals for Session 2 should be sent (preferably via email) by 15 September 2011 to: John S. Ott, Portland State University, Department of History, PO Box 751, Portland, OR 97207-0751. Tel. 503-725-3013. ott@pdx.edu

Law and Proceeding Disputes in the Middle Ages

IX. Carlsberg Academy Conference on Medieval Legal History, 9th - 11th May 2012 at the Carlsberg Academy in Copenhagen, Denmark.

Keynote Speaker: Prof. Dr. Stephen D. White, Emory University

The conference is the ninth in an interdisciplinary series which aims at discussing new approaches to

the study of medieval law and legal practice. The first conference, held in 2003, examined the question of how 'Nordic' the medieval Scandinavian law codes actually were.

The upcoming ninth conference in this series continues along these interdisciplinary lines to embrace various aspects of the broad theme of the interrelation between law and the handling of conflicts inside and outside courts in medieval societies. We therefore invite colleagues working within any field of medieval legal history, along with scholars whose research touches upon aspects of the conjunction of law and proceeding disputes in the Middle Ages, to submit proposals for papers of 20 minutes' duration. Title, an abstract of 200-250 words and a short C.V., should be sent by e-mail to one of the members of the organizing committee (see e-mail addresses below).

Deadline for proposals is 15th December 2011

All proposals and presentations should be in English. Soon after the deadline the final programme will be published on the conference website http://jura.ku.dk/crs/english/calendar/bja_100632/

Suggested thematic strands are: Customary dispute settlement, the nature of ordeals, learned law and dispute settlement, dispute settlement without legal institutions, dispute settlement and criminal law, and dispute settlement as a political issue. The list is by no means exhaustive and other proposals on the main theme of law and proceeding disputes are most welcome. The purpose of the conference is to enlighten and discuss how, in different periods and places in medieval Europe, legal conflicts were solved. The wide span in time and place can make it useful to have a common ground, which is why we invite all the participants to read and - if it is relevant for the paper - reflect on the Ordinance on Homicide the Danish king Canute VI gave in 1200. The Ordinance is available at the conference's website.

The proceedings of the conference will be published in our series of books by the end of 2012.

The conference is held at the Carlsberg Academy, formerly the family residence of the founder of the Carlsberg Breweries, J.C. Jacobsen (www.carlsbergfondet.dk). The Academy buildings are beautifully situated, easy to reach by public transport and close to the centre of Copenhagen.

Registration fee for non-speakers will be EUR 100 or 750 DKK. The fee includes lunch on Wednesday, Thursday and Friday, dinner on Thursday as well as an excursion on Friday. Speakers are of course exempt from paying the conference fee.

Please use the registration form which will be available on the conference website in January 2012. Deadline for non-speakers' registration is 15. April 2012. The Academy lecture rooms can only accommodate a limited number of participants so please do not hesitate to register.

If you have any queries or want to submit a proposal, please feel free to use either of these addresses: Helle Vogt (Helle.Vogt@jur.ku.dk) or Per Andersen (pa@jura.au.dk). For the conference website, see the link on http://jura.ku.dk/crs/english/calendar/bja_100632/

CONFERENCE

Early Medieval Law in Context

The Early English Laws project is pleased to announce a two-day conference at the Carlsberg Academy in Copenhagen exploring laws, law-making and legal interpretation in Western Europe in the early middle ages. The conference, organised with funding from the Arts and Humanities Research Council, is a collaboration with the Nordic Medieval Laws project and will draw speakers from Britain, Europe and North America. Professors Bruce O'Brien (IHR, London/University of Mary Washington), Stefan Brink (Aberdeen), Ditlev Tamm (Copenhagen) and John Hines (Cardiff) will be among the speakers. The full conference programme is attached to this email.

If you'd like to register for the conference this can be done via the Institute of Historical Research's Google checkout secure online payment system (<http://www.history.ac.uk/events/2594/register>). Fee: £15/20.

Keynote lectures:

John Hines, *The Earliest English Law Codes and Complementary Sources: Reconstructing Society and Social Change in the Seventh Century*

Bruce O'Brien, TBA.

FRAGMENT TOULOUSAIN DU *LIBER SEXTUS*

Un bifolio faisant partie en origine d'un *codex* toulousain de droit canonique remontant au XIV^e siècle (il contient certains *Tituli* – du X au XIV – du premier Livre du *Liber Sextus Decretalium*), réapparu très récemment sur le marché de l'art, a été très récemment découvert par Maria Alessandra Bilotta, historienne de l'art médiéval, spécialiste de l'enluminure languedocienne et toulousaine. Successivement le fragment a été acquis par la Bibliothèque Municipale de Toulouse et aujourd'hui il figure sous la côte Ms 3006 dans les collections du Département des manuscrits. Cette acquisition est un bon exemple de la collaboration que les bibliothèques doivent entretenir avec leurs lecteurs. Dans le cas présent c'est justement grâce à la collaboration entre chercheurs et bibliothécaires que l'acquisition a été possible puisque le fragment Ms 3006 a été découvert et reconnu par Maria Alessandra Bilotta, comme d'origine toulousaine et signalé aux conservateurs de la Bibliothèque Municipale de Toulouse lesquels ont activé toutes les démarches nécessaires pour l'acquisition du fragment qui actuellement enrichi les collections du Département des manuscrits.



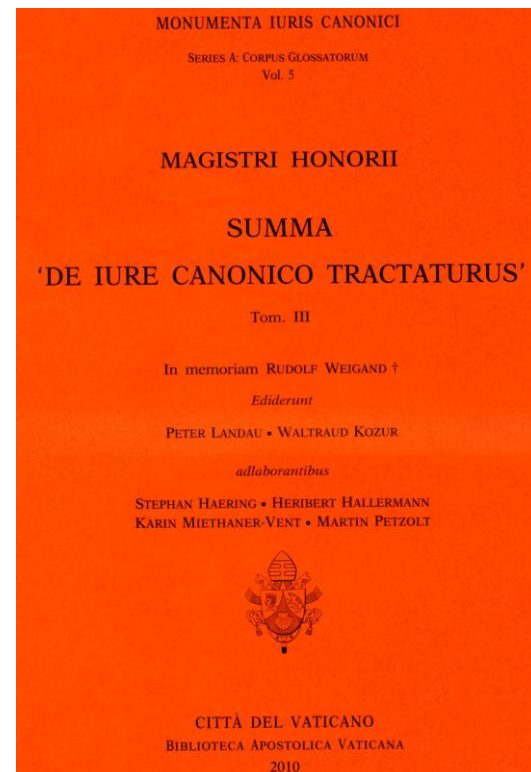
Bibliographie :

M. A. BILOTTA, *Nouvelles considérations sur un manuscrit toulousain du Décret de Gratien reconstitué*, dans *Le livre dans la région toulousaine et ailleurs au Moyen Âge*, éd. par S. CASSAGNES-BROUQUET et M. FOURNIE, Toulouse 2010, pp. 73-83 : 81.

M. A. BILOTTA, « Nuovi materiali per lo studio della produzione miniata tolosana: il ritrovamento di un bifolio staccato proveniente da un *Liber Sextus* del XIV secolo », *Segno e Testo*, 8 (2010), pp. 265–283.

M. A. BILOTTA, « Boniface VIII, Liber Sextus Decretalium – Jean d'André, Glossa ordinaria, Toulouse, Bibliothèque Municipale, Ms 3006 », dans « Un patrimoine vivant ! 10 ans d'acquisitions patrimoniales », Catalogo della mostra (Tolosa, Bibliothèque d'étude et du Patrimoine, 12 aprile – 11 giugno 2011), sous la direction de J. Deschaux et A. Jury, Toulouse 2011, pp. 8-10.

INSTITUTE PUBLICATION



Magistri Honorii Summa 'De iure canonico tractaturus', III. In memoriam Rudolf Weigand†, ediderunt Peter Landau, Waltraud Kozur; adlaborantibus Stephan Haering, Heribert Hallermann, Karin Miethaner-Vent, Martin Petzolt. Monumenta Iuris Canonici. Series A: Corpus glossatorum 5/III. Città del Vaticano: Bibliotheca Apostolica Vaticana, 2010. pp. xiv-336. ISBN: 978-88-210-0869-6.

The edition of the important summa of Master Honorius is now complete with introduction, indices, etc.

RECENT PUBLICATIONS

Per Andersen, Ditlev Tamm & Helle Vogt, [How Nordic are the Nordic Medieval Laws?](#) Proceedings from the First Carlsberg Conference on Medieval Legal History. 2nd edition, 2011. 248 pp. 260 DKK.

Proceedings from a conference held at the Carlsberg Academy in May 2003 in Copenhagen. The theme was the Nordic medieval laws seen in a European context, raising the question of just how Nordic these laws were. Traditionally, the Nordic medieval laws have been seen as expressions of an ancient Nordic culture – but this interpretation is under change.

The first edition of the proceedings was published in 2005, but since then much has happened. This is not only a reprint of the proceedings published in 2005, since several of the articles have been revised and updated.

Contributors are Peter Landau (Germany), Dirk Heirbaut (Belgium), Mario Ascheri (Italy), Lars Björne (Finland), Michael H. Gelting (Denmark), Per Andersen (Denmark), Tore Iversen (Norway), Lars Ivar Hansen (Norway), Mia Korpiola (Finland), Kjell Åke Modéer (Sweden) and Ditlev Tamm (Denmark).

Maria Alessandra Bilotta, [I Libri dei Papi. La Curia, il Laterano e la produzione manoscritta ad uso del Papato nel Medioevo \(secoli VII – XIII\)](#). Studi e testi 465. Città del Vaticano, 2011. Xxxii + 284 pp., 63 tavole. 70 €.

John W. Cairns and Paul J. Du Plessis, eds., [The Creation of the Ius Commune: From Casus to Regula](#). Edinburgh Studies in Law. Edinburgh 2010. Xiii + 304 pp. 60 £.

This book discusses in detail how medieval scholars reacted to the casuistic discussions in the inherited Roman texts, particularly the Digest of Justinian. It shows how they developed medieval Roman law into a system of rules that formed a universal common law for Western Europe. It considers the sources of medieval law and how to access them; the development from cases to rules; medieval lawyers' strategies for citing each

other and their significance; and the growth of a conceptual approach to the study of law

DISSERTATIONS

Ute Pfeiffer, "Untersuchungen zu den Anfängen der päpstlichen Delegationsgerichtbarkeit im 13. Jahrhundert: Edition und diplomatisch-kanonistische Auswertung zweier Vorläufersammlungen der Vulgataredaktion des *Formularium audientie litterarum contradictarum*." Julius-Maximilians-Universität Würzburg, 2007.

This dissertation is available online at http://opus.bibliothek.uni-wuerzburg.de/volltexte/2008/2775/pdf/pfeiffer_diss1.pdf.

Thibault Joubert, "La formation du lien entre l'évêque et son Eglise dans les versions successives du Décret de Gratien." Université Paris 11 and Institut catholique de Paris.

In treating every area of the life of the Church, Gratian constantly refers to the bishop as the major organizing figure in canon law. Because the Decretum was composed between the Gregorian Reform and the advent of the pontifical monarchy, its understanding of the episcopal office holds together several different ecclesiological models in tension. In light of the discovery of several consecutive recensions of the Decretum, this thesis seeks to demonstrate that Gratian's conception of the formation of the relation between the bishop and his Church is based on the ecclesiology of the first millennium, and that his reception of these ancient authorities, by means of dialectical reason, is an act of the canonical process of tradition. The thesis studies, in particular, DD. 62-80 and C. 7, q. 1.

This thesis was defended on December 4, 2010. Its author tells us that he hopes to publish it in the collection Théologie historique of Beauchesne editions, Paris.

ZRG: KANONISTISCHE ABTEILUNG

Zeitschrift der Savigny-Stiftung für Rechtsgeschichte 128: Kanonistische Abteilung 97. Böhlau Verlag, 2011.

Becker, Hans-Jürgen, Kirche und Staat vor 200 Jahren. Die „verspätete“ Säkularisation in Regensburg im Jahre 1810

Brasington, Bruce, *The Distinctiones Cantabrigienses* (Cambridge, UL Add. 3321.1): Authority, Power, and Jurisdiction in a Twelfth-Century Commentary on Gratian's Decretum

Förster, Hans, Trat um das Jahr 328 ein unmündiges Kind entgegen dem elterlichen Willen in das Kloster des Pachomius ein? Juristische Probleme in einer ägyptischen Mönchsvita

Kalde, Franz, Wissenschaftliche Vernetzung in der Nachkriegszeit, Der Briefwechsel zwischen Stephan Kuttner und Martin Grabmann

Kermabon, Nicolas, La contribution romano-canonique à la distinction entre le gage et l'hypothèque (XII^e–XIV^e siècle)

Löhnig, Martin, und Mareike Preisner, „Möglichst viele vollendete Tatsachen schaffen“: Zur Geltung und Fortgeltung des Bayerischen Konkordats von 1924

Mizuno, Koji, Das officium iudicis und die Parteien im römisch-kanonischen Prozess des Mittelalters, Eine Betrachtung über die clausula salutaris

Neuheuser, Hanns Peter, Zur Typologisierung und Normierung der liturgischen Gewandung. Das Beispiel des Kölner Domordinarius aus der Zeit um 1322

Rennie, Kriston R., Poitevine Collections: Looking Behind the Manuscript Evidence

Schmitz, Gerhard, Benedictus Levita und die Lex Baiuvariorum. Eine quellenkritische Studie

Totzeck, Markus M., A Lutheran Jurist and the Emergence of Modern European States – Dietrich Reinking and his Late Work *Bibliche Policye* (1653)

Miszellen

Arend, Sabine, Emil Sehling (1860–1928). Zum 150. Geburtstag des Erlanger Ordinarius für Kirchenrecht

Engl, Richard, und Atria A. Larson, Ein unbeachtetes Zeugnis zum dritten Laterankonzil: Bernardo Maragones *Annales Pisani*

Kindermann, Udo, Bruno episcopus, Pater filii spiritus

Miethke, Jürgen, Ockham und die Kanonisten. Ein Beispiel des Streits der Fakultäten um politiktheoretische Kompetenz im 14. Jahrhundert

Schmitz, Gerhard, Die *Francofurtana* und *Benedictus Levita*. Kritische Bemerkungen zu einer neu erschienenen Edition. Erwiderung auf den Beitrag von Gerhard Schmitz „Die *Collectio Francofurtana* und *Benedictus Levita*. Kritische Bemerkungen zu einer neu erschienenen Edition“, von Gisela Drossbach. Appendix, von Peter Landau

Schnabel, Patrick Roger, Die Entstehung eines „europäischen Religionsrechts“ – Kirchliche Interessen und kirchlicher Beitrag

Theisen, Karl Heinrich, Offiziale und Assessoren im Bistum Trier seit 1802

Ubl, Karl, Ein unbekanntes Gutachten des Hrabanus Maurus? Anmerkungen zu einem Neufund

In memoriam André Gouron, von Peter Landau.

Manche Besprechungen, Anzeigen und Mitteilungen.

RICORDANDO GRAZIANO

The anniversary of Gratian's death was celebrated in Chiusi on August 10, 2011. The date was chosen with reference to the memorial notice under that date for "Gratianus Clusinus episcopus" in the necrology of the cathedral in Siena

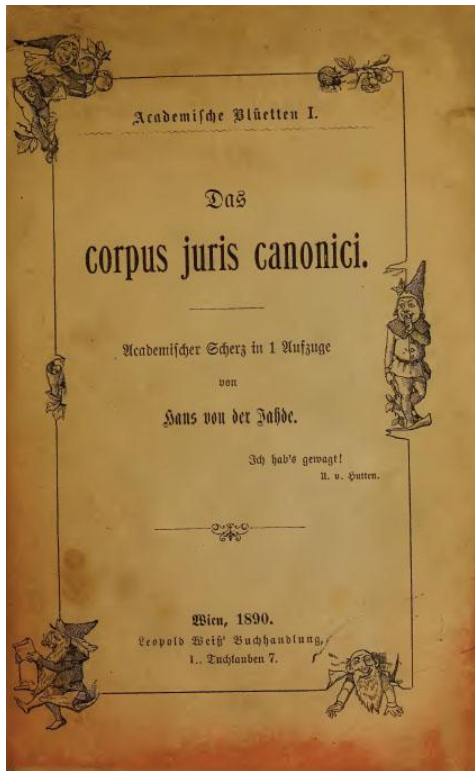


From the invitation: "L'evento sarà preceduto da una messa nell'antica e suggestiva cattedrale "clusina" di San Secondiano (sec. VI) alle ore 18:00, dedicata al Magister Gratianus ("Maestro Graziano)."

AUDITA ODOFREDI

Serendipitously, the editor happened upon a digitization of an interesting published comedy from 1890: Hans von der Jahde [pseudonym for Hans, Freiherr

Krticzka von Jaden], *Das corpus juris canonici: Akademischer Scherz in 1 Aufzuge* (Wien: Leopold Weiß' Buchhandlung, 1890).



The play figures four persons, including Palmhorst, “Arzt auf dem Lande,” who rents a room to Magnus, “stud. jur., Zimmerherr bei Palmhorst.” Dr. Palmhorst is annoyed that Magnus has a large very dusty book in his room, but he is unable to read the title. When he asks his daughter Gustchen to read the title to him, she says:

Gustchen (buchstabiert). *Corpus iuris canonici* – u. s. w.

Palmhorst (gelehrt). *So, also ein gefährliches Werk über Kanonen. Vielleicht ist er ein stiller Feuerwerker und geht damit um, uns mit Sprenggeschossen den Garaus zu machen.*

Gustchen. *Aber, er ist doch Jurist.*

Palmhorst. *Juristen sind schlechte Christen, mein Kind.*

The play continues in similar style, allowing Magnus (whose first name turns out to be Egbert) to tell Gustchen the story of Novella, “die wunderschöne Tochter eines Gelehrten.” Everyone discuss glosses in the margins of the book (Palmhorst: “Ich liebe Glossen nicht, doch manchmal sind sie nützlich”). The editor hopes no colleague minds that we give the end away: Gustchen and Egbert get engaged with

the blessing of Palmhorst, allowing the student to rhyme:

Ein guter Christ
Ist der Jurist
Durch dessen List
Ein jeder Zwist
Wie billig ist
In kurzer Frist
Entschieden ist.

Apropos of Dr. Palmhorst’s misunderstanding of what kind of can(n)ons Egbert Magnus’s book treats, this is an old joke. The editor recalls his high school religion teacher once upbraiding parts of the class for in a test defining “canon” as a metal tube shooting balls (the editor maintains that he did not belong to those thus upbraided). Our colleague Otto Vervaart draws our attention to a [blog post](#) from the blog *Et Seq.* of Harvard University Law School Library, in which a librarian recounts how he found this drawing in their copy of the 1615 Giunta (Venice) edition of the *Liber extra*.



Dr. Vervaart recounts, in a comment to the blog post, that the Stephan Kuttner Institute possesses, as one of its most cherished items, a cartoon from the San Francisco Chronicle with a similar pun: An instructor set the following question: “Define canon law”. After a few moments thought the pupil wrote: “Never stand in front of a cannon”.

FROM THE EDITOR

The editor continues to be most grateful to colleagues who send him news for the *Novellae*.

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