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alūm remouendō famām suam reuē
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MEDIEVAL CANON LAW

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reūm publica fama nūexat tūc
nauctē e iustem. cōdū. mter scām

Kriston R. Rennie

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Medieval Canon Law

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ARC HUMANITIES PRESS

For Paul, who must now read it.

British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library.

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ISBN (print): 9781942401681

eISBN (PDF): 9781942401698

eISBN (EPUB): 9781942401704

arc-humanities.org

Printed and bound by CPI Group (UK) Ltd, Croydon, CR0 4YY

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Glossary

acta: official acts or decrees issued by a church council.

arenga: the introductory clause, or formulaic declaration, of a papal charter.

canon: derived from the Greek κανων, meaning “rule.”

canon law collection: refers, in general, to the various legal materials gathered and organized into one book or manuscript form.

capitula: an organizational term that translates simply as “chapter.”

chronological collection: a canon law collection organized in sequential fashion, from ancient to most contemporary sources.

council: a meeting of church dignitaries and other leading men, convened to discuss ecclesiastical problems, matters of faith, doctrine, and policies.

decretal: an official papal letter, which carries the authority of law.

Decretalist: the name given to a commentator on papal letters or decretals.

Decretist: the name given to a commentator on Gratian's *Decretum*.

diocese: the jurisdictional region/territory for which the bishop is responsible.

formal source: the collections and/or books through which "material sources" are transmitted.

inscription: a detailed title, identifier, or content summary of a particular canon.

material source: an original source of law from the Bible, church councils, writings of the Church Fathers, papal decrees, etc.

metropolitan: the chief bishop, sometimes called "primate," whose "province" includes many individual dioceses.

penitential: a handbook of behavioral canons, compiled and consulted for curative purposes.

rubric: a title, or prefaced statement, that appears before an individual canon.

statute (episcopal): a written law or decree made by bishops.

systematic collection: a canon law collection organized into a workable, logical, thematic form.

Notes on Referencing

Canonists (and medievalists) are a peculiar bunch; their referencing styles even more so. To eliminate any possible confusion, the following abbreviated forms need some explanation:

- 1) Gratian's *Concordia discordantium canonum* (ca. 1140), known in short as the *Decretum*, follows a particular citation style. The first thing to observe is the collection's division into three parts:
 - a. **Pars I** consists of Distinctions (*Distinctiones* = D.), chapters (*capitula* = c.), and Gratian's comments on the canons (*dicta* = d.): e.g., D.1 c.1; D.1 c.1 d.1.
 - i. Further abbreviations are used to indicate the placement of Gratian's comments (*dicta*) either before (ante) or after (post = p.) the chapter (*capitula*): e.g., D.1 ante c.2; D.1 d.p.c.2.
 - b. **Pars II** consists of Cases (*Causae* = C.), questions (*quaestiones* = q.), and chapters (*capitula* = c.): e.g., C.32 q.7, c.7; C. 31 q.2, ante c.1; C. 30 q.5 d.p.c.4.
 - c. **Pars III**, known as the *Tractatus de consecratione* ("Tract on the Consecration of a Church"), consists of Distinctions (*Distinctiones*) and chapters (*capitula*): e.g., De cons. D.3 c.9.

- 2) The *Decretals of Gregory IX* (1234), also known as the *Liber Extra* ["X" for short], are cited by book, title, and chapter: e.g., X 3.5.12.
- 3) Papal letter collections, called Registers, are cited according to the edition in which they appear. The letters of Pope Gregory the Great, for example, are cited by book and letter: e.g., 9.13. The letters of Pope Gregory VII are cited in the same fashion: e.g., 2.55a.
- 4) The *Monumenta Germaniae Historica*, known as the MGH, is a vast German repository of edited medieval texts that began in the nineteenth century. The following editions, which are cited by series title, volume, and page number, are used below:
 - a. "Concilia" is shorthand for an 8-volume series of councils: e.g., MGH Concilia 3, 189.
 - b. "Epistolae" (or Epp.) is shorthand for an 8-volume series of letters: e.g., MGH Epp. 5, 595–96.
 - c. "Libelli de Lite" is shorthand for "Libelli de Lite imperatorum et pontificum saeculis XI. et XII. conscripti"—a 3-volume series of imperial and papal polemical writings: e.g., MGH Libelli de Lite 2, 140.
- 5) The *Patrologiae Cursus Completus: Series Latina*, abbreviated to PL, is an invaluable 221-volume series of Latin writings, edited and published between 1844 and 1864 by the French abbot, Jacques-Paul Migne. It is commonly cited by volume and column number: e.g., PL 156: 354–55.

Introduction

Medieval canon law is an invention—an evolutionary story of human industry, ingenuity, and change. This book explains part of its creation, adopting a slightly different interpretive lens. It tackles the subject's formulation through a social history framework, with a view to making sense of a rich and complex legal system and culture, and an equally rich scholarly tradition. But it focuses primarily on a developing period in European history (ca. 400–ca. 1140), before the emergence of professional lawyers, law schools, courtrooms, and universities. It looks more closely at the incipient (early medieval) centuries, when the legal structures, rationales, norms, and practices were just beginning to take shape. As this book explains, the law was a dynamic and fluid process that transformed with time, experience, and necessity. It was a living and breathing organism, created, pronounced, and legitimated across a growing Christian world.

For these simple reasons, canon law is an unavoidable theme for medieval historians. It intersects with every aspect of medieval life and society. At one point or another, every medievalist works on the law. Every medievalist is confronted—and necessarily engages—with legal sources of various description. And every medievalist employs medieval canon law in the formulation of individual

arguments, theses, chapters, articles, and books. Thinking of it as part of the greater, cohesive whole is key to assessing its purpose and appreciating its wider historical relevance. As an analytical tool, canon law frames the socio-political and religious world that we investigate. As material remnants of a distant western European past, it defines the transformative society in which it was created and applied. Embodying myriad social, political, and cultural qualities and characteristics, moreover, the law is a subject too important to be left to canonists alone.

Why, then, does it remain an esoteric field of historical research? The subject as a whole carries a mixed reputation, despite its obvious connection with—and influence on—the development of pre-modern European culture, systems, and structures. To be sure, it is a specialized sub-field of medieval theological, religious, and intellectual history and thought. As a consequence, it conjures the image of inaccessible jargon, textual criticism, and technical studies on legal minutiae and manuscripts. The field of research and its community of practitioners are sometimes imagined as intimidating and intense, because of the capaciousness of existing, unedited materials and their subsequent treatment from the Middle Ages to the present day.

There are some basic truths underpinning these assumptions. The study of medieval canon law demands a particular knowledge of classical languages, paleography, codicology, philology, biblical exegesis, legal conventions and traditions. Its past and future study relies fundamentally on recording, identifying, and classifying medieval manuscripts—that “necessary prerequisite for a valid interpretation of history.”¹ This particular skill-set attracts enthusiasts from various disciplinary backgrounds whose comprehension of, and capacity for, manuscript study advances our knowledge of the field incrementally. Many

who tackle the subject are in fact trained legal historians, qualified (canon) lawyers, and ordained clergy. Others flirt with the canon law out of sheer necessity, too afraid to plunge into its depths for fear of drowning. “Canonical waters,” we have been warned, “although alluring, can also be treacherous.” Historians “must be prepared to steer carefully when they embark on investigations that may bring them into the vicinity of canonical shoals.”² But as I argue in the following pages, the rewards far outweigh the risks.

Notes

¹ Stephan Kuttner, “The Scientific Investigation of Mediaeval Canon Law: the Need and the Opportunity,” *Speculum* 24 (1949): 493–501 at 499.

² James A. Brundage, *Medieval Canon Law* (London: Longman, 1995), x.

