



Helle Vogt and Mia Münster-Swendsen (eds), *Law and Learning in the Middle Ages: Proceedings of the Second Carlsberg Academy Conference on Medieval Legal History 2005*, DJØF: Copenhagen 2006. 234 pp.

This volume of essays, originally presented in the picturesque setting of the Carlsberg Academy's institute in Copenhagen in Denmark, once the residence of the venerable brewery magnate, J. C. Jacobsen, is the product of the Second Carlsberg Academy Conference on Medieval Legal History, now an established international conference series. This modestly-sized meeting on medieval legal history of some sixty scholars from eleven different countries took place at the Carlsberg Academy in Copenhagen, Denmark in late May 2005. Since that time, the conference itself has become an annual event of note on the medieval legal historian's calendar. The collection of fourteen essays, assembled by Helle Vogt and Mia Münster-Swendsen, touch upon a large number of interesting topics, all of which fall under the general theme of 'Law and Learning in the Middle Ages.'

While the editors do not reveal their method in ordering the chapters as they do, one can discern a certain thematic fluidity throughout the compilation. Several of the chapters are naturally grouped together as they address similar subjects (such as biography, literature and jurisprudence) while others more clearly stand alone. Unsurprisingly, Vogt and Münster-Swendsen begin their volume with the contribution made by the most eminent scholar to feature in the collection and also the first keynote speaker of the conference. As the leading American scholar of canon law, James A. Brundage is expertly placed to begin the volume with his offering. Appropriately, Brundage gives us a chapter on the fundamentals of teaching and learning the canon law in the medieval period which is prefaced by an introduction to the evolution of the Romano-canonical legal system of education in general. In doing so, Brundage provides the reader with a solid understanding of the formal university education system from its earliest days along with a summary of private tuition for learning civil and canon law.

Regrettably, the chapter that follows is a rather problematic contribution from the late Marie Theres Fögen on learned law and the desire of politics in the twelfth century. This chapter poses far too many rhetorical questions, engages in very little argument or debate and presents a near-total lack of evidence. This absence of substantiation makes the chapter feel incomplete and haphazard and

the disappointment is particularly felt when one considers the volume's strong start with Brundage's work. Fortunately, Fögen's chapter is followed by an intriguing essay by Anders Winroth on the teaching of law in the twelfth century in which he persuasively argues that there is no evidence to prove that the Bologna law school flourished at the turn of the eleventh century as the pervasive mythology would have us believe. Instead, Winroth contends that teaching did not begin there until the 1130s. He also argues that many other law schools in Europe multiplied in the period c. 1250–1299 and suggests that the foundation date for Bologna was artificially set to 1088 by a Bolognese committee as a matter of convenience in order to celebrate the eighth centenary of the school in 1888. To support his argument against this fantasy date, Winroth uncovers the true identity of Irnerius, whose actual name was Wernerius. Rather than a teacher of Roman law, Winroth finds him to be a fairly non-descript, low-ranking, generic North-Italian jurist and by doing so he convincingly dispels the origin myth of Bologna's foundations as a law school with Irnerius as 'the lamp of law' and the first master to teach Justinian's *Corpus iuris civilis*.

Anna Minara Ciardi's examination of the culture and tradition of law and learning of the canons at St Lawrence in Lund in the first quarter of the twelfth century is by far one of the most enjoyable chapters to read in this collection. Despite the relative lack of extant archival sources, Ciardi is able to exploit the material available in the few manuscripts that remain in order to reconstruct the development of a legally literate corpus of canons within the cathedral chapter. She singles out the codex *Necrologium Lundense* as a book of interest to her research in this area but focuses primarily on the Rule of Aachen and the *Consuetudines Lundenses* to form the basis of her assessment of the legally literate culture of Lund's canons and their internal organisation and regulation. Of special interest in this chapter is the jurisprudential contribution that the author makes to the notion of 'law' in the context of the community at Lund and in relation to the aforementioned texts used there. By expanding on traditional interpretations of law, Ciardi considers the Rule of Aachen and the *Consuetudines Lundenses* as internal communal regulations to be complementary, equal and inseparable from the law of the canons when it comes to their functions and utility. Ciardi also considers the meaning of 'learning' in the context of the early twelfth-century canonical community and is able to conclude that by meeting certain criteria, the Lund canons were both learned in the general sense and in the legal sense (narrowly defined by Ciardi) so as to meet the practical and specific needs of the cathedral chapter's community.

The next chapter in the volume also considers canonical literature found in medieval Sweden. Mia Korpiola's analysis is based upon predominantly published sources which she employs to ascertain the number and nature of canonical books owned by Swedish individuals and institutions. In doing so, Korpiola has begun to redress the imbalance between the amount of work already done on the subject by archivists, librarians, linguists and historians by contributing a much needed perspective from a legal historian. This chapter provides an intriguing survey of surviving wills from certain Swedish dioceses and considers the absence of bequests of canonical literature within them. Korpiola assesses the various sources

of medieval canonical literature by tracing the origins of this material to the lands visited by Swedish students (and to some extent, marauders as well) which ultimately accompanied these travellers on their return to Sweden. Korpiola's chapter is presented by the author herself as a humble offering, however she has done much to contribute to our understanding of the transfer of canonical literature into private, lay, and institutional hands in this period by convincingly suggesting that canonists acquired their canon law knowledge from abroad as evidenced by the large collections of basic sources of canon law that are known to have existed in Sweden from the late thirteenth century onwards.

The next three chapters are grouped geographically as they are concerned with medieval Denmark, and start with Anders Leegaard Knudsen's very interesting offering on the legal literary inventions created and propagated by the Danish historian Saxo Grammaticus in his *Gesta Danorum*. Knudsen paints a fascinating picture of Saxo's views on lawmaking which the author explains were based on legal and historical fictions invented by Saxo that expressed complex notions of justice (fairness) and morality that paralleled the Roman law and Christian ideals taught by the canons. Saxo presented his mythical kings as being on the same level as historical kings and viewed each as equally capable of making both just and unjust laws. In Saxo's binary view on lawmakers and lawmaking, good kings made good laws while bad kings made bad laws. Knudsen explains Saxo's use of legal fiction as an expression of his artistic licence. By exploring this literary device, Saxo was free to portray Danish kings and the Danish people as being part of an evolved and morally integrate society, on par with that of ancient Rome, but with a legal system guided by the principles of canon law.

The subsequent chapters, written by Anthony Perron and Inger Dübeck, respectively, present the reader with some insights into St William of Æbelholt, a man who brought his knowledge of canon law to one of the remotest regions of north-eastern Denmark in the twelfth century. For his part, Perron focuses on St William's views on religious reform and order with the ecclesiastic community at Eskilsø while Dübeck considers William's role as a teacher of matrimonial law, first at Eskilsø and then at Æbelholt. Unfortunately, their shared subject is where the similarities between these two contributions end when evaluating their historiographical value.

Perron's well-crafted chapter considers William's experiences with apostates at the wayward and unregulated canonry of St Thomas at Eskilsø. He examines what recourse was available to William as a leader when dealing with defectors and evaluates how well William's own strict rule of discipline fit in with the programme of reform within the twelfth-century Church. Perron finds that in the absence of a clear canonical doctrine relating to apostasy before the thirteenth century, William was left with few examples from which he could draw, and many of the existing cases advocated exceptionally harsh punishments. William's own treatment of 'fugitives from the cloister' exhibited lenience and a tendency to forgive absconders for their foibles, which Perron concludes must be a reflection of William's personal views on religious reform and order.

Dübeck also aims to contribute to our understanding of William as a man (rather than as a saint) by attempting to prove that he was (p. 139) a 'good teacher

and as such had some influence upon the clerical understanding of matrimonial law in Denmark'. Disappointingly, she is mostly unsuccessful in this endeavour. Given Dübeck's clear statement of intent it is surprising to find that her thesis is deliberately left unanswered. Despite the author's attempt to justify the absence of any real findings at the chapter's end, what the reader is left with is an essay that begins with the impossible task of ascertaining what qualifies as 'good' teaching, then presents an abundance of interesting (although perhaps irrelevant and predominantly descriptive) material but then fails to adequately analyse this material in order to reach a clear conclusion. As a result, the chapter is wanting and does not succeed in making an impact. However difficult it may be to evaluate the quality of medieval teaching based on a series of letters alone, Dübeck's claim that William brought the teachings of Peter Lombard and Gratian to Denmark is rooted in stronger foundations. What cannot be refuted is that William certainly drew inspiration from the work of both Lombard and Gratian and this is sufficiently evidenced in his fictional letters, making this section the chapter's saving grace. To what extent William was actually able to influence Danish understanding of matrimonial law through his letters, as Dübeck's thesis sets out to prove, is another question left unanswered and therefore remains to be seen.

The chapter contributed by Sally Vaughn on law at the Abbey of Bec addresses similar themes of the balance between justice and grace within monastic communities as examined in the preceding chapters written by Perron and Dübeck. Because of this similarity, Vaughn's chapter might have been better placed here, after Perron and Dübeck's contributions, instead of after Bruce Brasington's as it appears in the volume. Vaughn's chapter considers the aforementioned themes within the context of the teaching and practice of law at Bec and highlights the importance of leading by example for Bec's founders. In addition, Vaughn addresses the interesting notion of customary law as constituting a sort of 'legislation by example'; an idea that complements Perron's and Dübeck's chapters on St William and his approach to law and order.

Continuing with a biographical approach to law and learning, Bruce C. Brasington's chapter provides a welcome dimension to this collection as it represents one of the few contributions that explores the situation faced by a person who was not quite a lawyer, but was 'a lawyer of sorts'. Best known as an historian and chronicler, Brasington's subject, Ralph of Diss (d. ca. 1202), also possessed a significant amount of legal knowledge (both civil and canon/the learned laws) which infused the histories he wrote and which Brasington is able to explore in depth through an examination of Diss' own varied writings.

Shifting away from conventional documentary evidence as the basis for legal history research, Albrecht Cordes' chapter on fourteenth-century schools in Lübeck focuses on material objects in the form of wax writing tablets to provide a tantalising glimpse into the world of the medieval pupil. Discovered in a nineteenth-century archaeological dig, the wax writing tablets reveal evidence of the type of subjects emphasised in the curriculum of the Latin school of St Jacobi. The main subjects appear to have been commercial and political letter-writing, both of which were essential skills for Hanseatic merchants' children to learn as

they were future Hanseatic merchants (and wives of merchants) themselves. One of the twenty or so wax tablets recovered from this site also shows evidence of basic legal procedure being taught at this Lübeck school. This echoes the type of foundational training in the *ars dictaminis* and scribbling craft that was taught in town schools elsewhere in the same period, such as at the Oxford business school and, as Cordes points out, in Brussels as well.

In the next chapter, Bernd Kannowski applies Michael Clanchy's approach to memory and the written record to the customs of medieval Wurzen by using Wurzen as a case study to consider the laws in the thirteenth-century *Sachsenspiegel* and evaluate its approach to criminal procedure. Specifically, Kannowski focuses on the question of the validity of customs based on oral tradition when they are found to contradict, or be in opposition to, the written law. Furthermore, he considers the meaning of both types of law within the context of the *Sachsenspiegel* (as a record of customary laws) and its gloss which provided an invaluable legal commentary for those who consulted the text. Kannowski's chapter also examines the role of medieval vernacular glossators as interpreters and translators of civil law and canon law texts which were composed in Latin and thus constituted the 'written law' or 'learned law'. Kannowski contrasts this with the customary laws found in the *Sachsenspiegel*, while arguing that Johann von Buch's fourteenth-century gloss ought to also be considered alongside the written law.

Samantha Worby's contribution, the penultimate chapter in the book, continues on this theme of the learned laws by considering the influence of civil and canon law systems on common law ideas of kinship in thirteenth- and fourteenth-century England as demonstrated in *Bracton* and *Britton*. Kannowski and Worby both address issues surrounding the 'learned laws' and their impact on custom (in the case of Germany) and common law (in the case of England) and in doing so set the stage for the final chapter in the book written by Frederik Pedersen.

In Pedersen's inimitable style, he presents the reader with two English marriage case studies in order to demonstrate that 'there were two marriage ideologies – secular and spiritual – operating well into the Late Middle Ages' (p. 224). These jurisdictions could also overlap, on occasion, as both lay and ecclesiastical courts exercised their rights to regulate marriage contracts and marital affairs. These authorities sometimes came into conflict as can be seen in the first case, but ultimately each court was used at the discretion (and usually to the advantage) of the plaintiffs who chose where they brought their action. The clarity with which the two cases are presented and dissected is a testament to the author's ability to craft a cogent narrative which leaves the reader with an overwhelmingly positive impression of the collection as a whole.

Overall the contributions to this volume on law and learning in the middle ages are well-written and mostly well-thought out, with only a few exceptions. The entire book would have benefited from more thorough copy-editing to correct the numerous spelling and grammatical errors which are rife not only in the body of the text but are also prevalent in the footnotes. These oversights extend so far as to include anomalous spellings of the name of one of the

contributors. Unfortunately, pedants will find that the sheer volume of orthographic errors and stylistic inconsistencies ultimately distract from the otherwise excellent content of the volume. One further, albeit minor, criticism is that this book could have been subtitled to reflect the preference for canon law and Scandinavian perspectives within the selection of papers presented therein, but this is in no way meant to devalue the book as it does include civil and common law perspectives as well. A subject index would have been a welcome addition here, especially as several of the chapters touch on similar topics and use similar sources to which their titles do not allude.

As is typical of conference proceedings, few of the published contributions can be considered contentious or polemical, and as such are easily digestible by experts and students alike. Each of the contributors to this volume ought to be commended for collectively covering the gamut of legal learning and teaching, both in theory and in practice, in the medieval period. Specialists in Scandinavian canon law will primarily benefit from this particular volume, however the contributions are varied enough so as to appeal to a wide variety of reading audiences. As it is one of several publications to come out of what is now an established conference series, when taken together with the preceding, present and predicted volumes of proceedings, this book is a truly welcome addition to the ever-expanding body of literature reflecting upon questions pertaining to European legal history in the middle ages.

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