

THE MEDIEVAL LAW SCHOOL

The origins of modern universities can be traced to the 11th century, when the formal teaching of Roman law began at Bologna, Italy. The city became the center of a great revival of legal scholarship rooted in the study of the newly recovered *Corpus iuris civilis*, a sixth-century compilation of Roman law. Within a few decades, the *Decretum*, a monumental compilation and synthesis of church law, also appeared in Bologna and launched the study of canon law as a legal science.

These texts and the work they inspired were a catalyst for the emergent medieval legal tradition in both civil and canon law that soon extended across Europe and provided the foundation for centuries of Western legal development. The new legal studies quickly traveled from Bologna to the schools emerging at Paris, Oxford, and elsewhere throughout the continent, transforming European legal culture and practice.

The new demands from teachers and practitioners of the law had a profound impact on the history of the book, fostering new systems of book production and presentation, which influenced the way that legal manuscripts, and later, printed works were organized, read, and reproduced.

The Revival of Roman Law

During the 11th century, a manuscript was discovered in Pisa that contained the complete text of the *Digest*, which had been largely unknown to jurists of the early Middle Ages. The *Digest*, a compendium of writings on Roman law compiled under Justinian I between 530 and 533, was one part of a larger compilation of Roman law, the *Corpus iuris civilis* (or, *Body of Civil Law*). The *Corpus iuris civilis* also included the *Code*, a collection of imperial edicts, the *Institutes*, and the *Novella*, new legislation issued during Justinian's reign. The *Institutes*, designed as a textbook for law students, presented an ordered and concise summary of the main concepts of Roman law, and remained a resource for legal scholars for centuries.

In the late 11th century, teachers at Bologna began to lecture on, interpret, and explain these Roman legal texts. Many of these commentaries or glosses were written around the original work, so that the original text formed a central block that was surrounded by annotations and explanations and this became the characteristic format for these books both in manuscript and in print. The early teachers of law, known as the glossators, included Irnerius, one the earliest of these teachers and scholars; the "Four Doctors," Bulgarus, Martinus Gosia, Jacobus and Ugo de Porta Ravennate; and Johannes Bassianus, Bulgarus's pupil. Azo, one of Bassianus's pupils, wrote *Summa* (a compendium or summary) of the *Code*, the *Digest*, and the *Institutes*, which became standard handbooks. He also wrote glosses on all parts of the *Corpus iuris civilis*. His writings were so influential and so useful to legal practitioners that it was said "*Qui non ha Azo, non vada in Palazzo!*" (Whoever does not have Azo may not go to court!).

Accursius, one of Azo's students, undertook the task of compiling and synthesizing the numerous glosses and commentaries of his teacher and the other glossators. The resulting *Glossa ordinaria*, or ordinary gloss, quickly became a standard reference for studying Roman law and remained so into the 17th century.



This page of the *Digest* shows the formatting conventions of early medieval textbooks. There is a central text surrounded by a supporting gloss, *incipit* and *explicit* lines (here in red print) marking the beginning and end of a book or section, and illuminated initials and gothic typeface. Spaces like the one above the red text were left by the printer for illuminations and initials to be added by hand.

Medieval Canon Law Study

The *Decretum discordantium canonum*, or the *Decretum*, commonly attributed to Gratian, was compiled sometime between 1120 and 1150. The *Decretum* gathered together texts from multiple sources—including Church councils, papal decrees, patristic writings, the Bible, penance books, and Roman law—with commentaries and analysis meant to harmonize their contradictions. Although never officially promulgated, the *Decretum* quickly became a standard textbook for studying canon law in Bologna and beyond. Within a generation of its completion, canon law, which had been an adjunct of theology, was being studied and taught as a legal system in its own right.

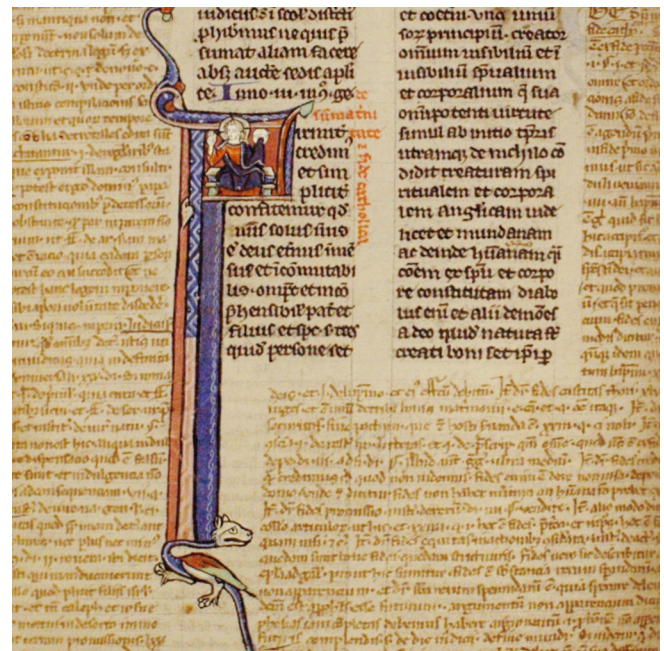
The two legal systems—canon and civil law—were dominated by many of the same questions, and Roman law was often an important source for canonists. The *Decretum* was a foundational text for the study of canon law in much the same way that the *Digest*, *Code*, and *Institutes* were for the study of civil law. Yet, there was a crucial difference: although kings and emperors continued to issue laws, these were rarely incorporated into the body of civil law; the *Digest*, *Code*, *Institutes*, and *Novella* remained fixed. Church law, however, continued to be made. In 1234, pope Gregory IX charged the Dominican friar Raymond de Peñafort with creating a definitive compilation of papal decretals. The resulting collection, known as the *Decretals Gregorii IX* or *Liber extra* (because it contained law that was “extra” to the *Decretum*) was meant to replace earlier collections. Gregory IX sent the *Decretales* to the canon law faculties at Bologna and Paris with a papal bull declaring that it, and no other collection of decretals, was to be used “in courts and in schools.” Divided into five books, the *Decretales* were the *ius novum* (new law) issued after the the *Decretum*'s publication. Students remembered its contents with the mnemonic “*iudex, iudicium, clericus, connubia, crimen*” (judge, judgement, cleric, marriage, crime).

The Beginnings of Law School and Law Students

Teaching at Bologna began as a private enterprise. There was no campus, public subsidy, or institutional framework. Students would enter into a contract with the *doctores legum* (teachers of law). By the late 12th century, Bologna was the foremost center for

legal studies in Europe. The reputation of its teachers of civil and canon law drew students from across the continent and England. In 1155 or 1158, Bologna's masters and students gained added distinction and additional protections when Holy Roman Emperor Frederick Barbarossa issued *Authentica Habita* or *Privilegium Scholasticum*. This document set out for the first time some rights, rules, and privileges for Bologna's university and students.

At Bologna, students organized themselves nations, or mutual aid societies based on their countries or regions of origin that gave them some protections against local authorities and some leverage in their dealings with teachers, booksellers, and landlords. By the early 13th century, these nations coalesced into two corporations: the *universitas cismontanorum*, comprised of students from Italy but not Bologna, and the *universitas ultramontanorum*, comprised of students from north of the Alps. Each *universitas* elected a rector to represent them in their dealings with the city and the doctors of law, who in turn had their own organization, the *collegium*. At Bologna, the students exerted considerable control over the *Studium* (university). In its earliest surviving statutes, the student organizations dictated the academic calendar, how lectures were conducted, and when professors' fees were paid; professors oversaw examinations and degrees; and, from 1219 onward, the city's archdeacon granted



The 13th manuscript edition of the *Liber extra* displayed here was copied within just a few decades of its first edition. It contains many small illuminations throughout.

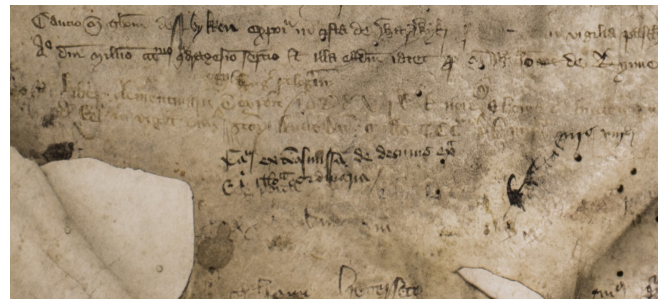
students the license to teach after the completion of their exams.

Students trained in Bologna went on to practice law and found new centers of legal learning in other cities, such as Oxford, Padua, Montpellier, and Paris. Some of these schools, including Montpellier and Padua, followed Bologna's model of student-dominated governance. Although some aspects of these early law schools were quite different from modern ones, medieval students, like their modern counterparts, were often short of money and needed textbooks.

To assist impoverished students, private benefactors to Oxford and Cambridge often gave the universities money to establish "loan chests," which operated like an academic pawn shop. Students could leave collateral—usually books—in exchange for cash and redeem their items once they had repaid the loan. The Countess of Warwick established a loan chest at Oxford in the late 13th century "out of which such as were poor scholars might upon security at any time borrow something *gratis* for the supply of their wants."

Books were particularly expensive. Since universities were founded before the invention of the printing

press, books were all copied by hand. The nascent universities created a growing demand for books that could not be met by the older *scriptorium* model of book production in which one scribe copied one book at a time. The *pecia* (piece) system developed in response. An approved master copy, or *exemplar*, of a book was deposited with a stationer, or bookseller, and was divided into sections, or *pecia*, of about four leaves each, which were then rented out for students or scribes to copy. Each section was marked, sometimes with Roman numerals, in the margin so the copyist could keep track of what had been copied. Committees of teachers monitored the *exemplars* and posted lists of approved texts; there were some 119 legal texts on the *pecia* list at Bologna in the early 14th century.

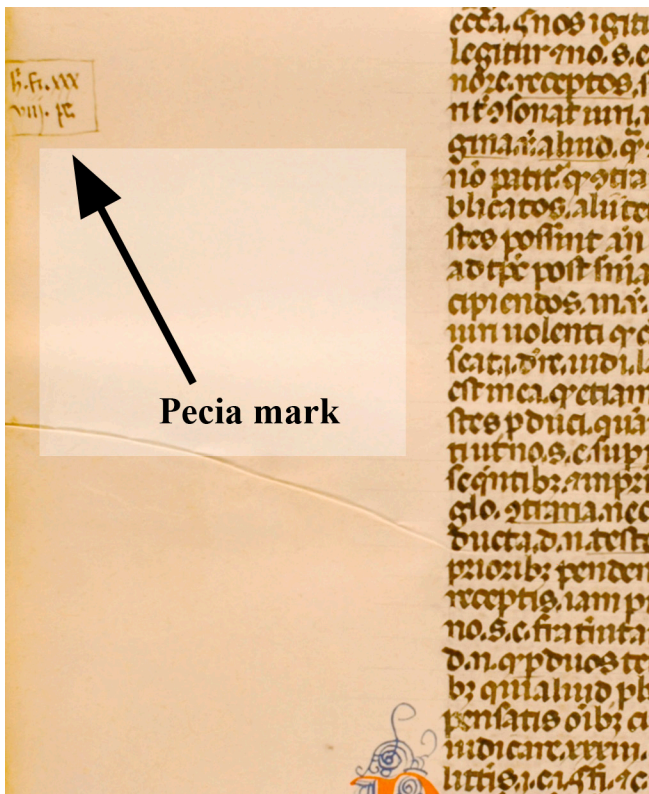


An inscription in Robbins MS 36 shows that an Oxford student, Thomas Bykken, deposited the manuscript in the Warick Chest on the Vigil of Easter, 1347, to secure a loan of one mark.

Practice and Professionalization

Bologna remained a preeminent center for legal study and training for many centuries. Its teachers were, moreover, often advisers, advocates, and judges, who were concerned with the practical application of what they taught.

Since the early years of the legal revival at Bologna, civil and canon law scholars had worked to extract procedural elements from the Roman sources. These efforts reached their pinnacle with the *Speculum judiciale* by Guillaume Durant. The *Speculum* covered civil, criminal, and canonical procedure in four books that examined the parties involved in a legal action, civil and criminal procedure, and pleas. The intelligence and clarity of the *Speculum judiciale* made it an indispensable reference for many generations of both scholars and practitioners. Indeed, the procedural rules developed by Durand and other teachers of the period have proven so durable that some are still engrained in modern procedural codes.



This manuscript of the *Commentaria libri Decretalium* offers an example of a *pecia* mark.

Bartolus de Sassoferato, or Saxoferrato, who trained at Bologna and taught at Perugia and Pisa, wrote commentaries on the *Corpus iuris civilis* that were similarly known for their practical approach and lasting influence. Bartolus wanted more than to simply understand texts as they had been handed down—he wanted to derive them from rules applicable to the legal problems of his day. He combined the study of Roman law with the analysis of local laws. Bartolus' teaching was so influential that in Portugal and parts of Spain his opinions were to be followed where Roman law was silent, and his methods were followed by later generations of commentators and scholars.

The success of practical handbooks also reflects the growing professionalization of law and lawyers and the importance of knowing something of both civil and canon law. The *Modus legendi abbreviaturas in utroque iure*, attributed to Wernherus of Schussenried, was a reference book first published in 1475 that explained how to read abbreviations in both laws (books in the late Middle Ages were often heavily abbreviated). It was in such high demand that roughly 50 editions were printed before the turn of the century. The *Modus legendi abbreviaturas* was, moreover, frequently printed with other reference works—these might include extracts from Bartolus, writings on procedure, and treatises on marriage and/or impediments to marriage—providing legal practitioners with a compendium of useful texts that they might refer to in their work.

Glossary

Canon law – the body of laws that govern the Catholic Church and its members, deriving from the decrees and rules (“canons”) made by the pope and ecclesiastical councils.

Canonist – an expert in canon law.

Code or Codex Iustinianus – part of the compilation of the *Corpus iuris civilis*, it outlined the laws of the empire, citing imperial constitutions, legislation and pronouncements. The *Code* both encompassed earlier codes and replaced them. The first edition was enacted in 529, and the second in 534.

Corpus iuris civilis – the multi-part compilation of Roman law ordered by Emperor Justinian I in the sixth century CE. In the 11th century, this compilation came to be known as the *Corpus iuris civilis* or “body of civil law.”

Digest – part of the *Corpus iuris civilis*, the *Digest* collected and summarized all of the classical Roman jurists’ writings on law and justice.

Decretum – a decree or a collection of laws and decisions in canon law.

Decretum Gratiani or Concordia discordantium canonum – a systematic compilation of canon law compiled in the mid-twelfth century and often attributed to Gratian. It was used as a textbook for canon law through the late nineteenth century.

Decretal – a letter written by the pope, usually a response to a question, that contains a decree or a ruling on doctrine, church law, or clerical discipline.

Decretales Gregorii IX, or Liber extra – Officially titled the *Liber decretalium extra decretum vagantium*, the *Decretales* are compilation of decretals issued after the publication of the *Decretum Gratiani* (and so “extra” to it), which was intended to replace earlier collections of decretales.

Doctor legum – teacher of law.

Four Doctors – Bulgarus, Martinus Gosia, Ugo de Porta Ravennede, and Jacobus were teachers of law and glossators of the *Corpus iuris civilis* in Bologna during the twelfth century.

Glossa ordinaria, or the ordinary gloss, on the Corpus iuris civilis – Compiled by Accursius around 1230, the *Glossa ordinaria* organized and synthesized the commentaries on Roman law of the late eleventh and twelfth centuries. There are also *Glossa ordinaria* on other normative texts, such as the *Decretum*, the *Decretales*, and the Bible.

Glossator – scholars and teachers of Roman law of the late eleventh to the twelfth century, who commented on, interpreted, explained, and analyzed the *Corpus iuris civilis* in marginal annotations or glosses to the text.

Institutes – part of the *Corpus iuris civilis*. The *Institutes* summarized the *Digest* and was intended to be used as a textbook for students of law. It has remained a resource for legal scholars for centuries.

Novella – part of the *Corpus iuris civilis*. These laws were issued after 534 CE and were not part of the original compilation.

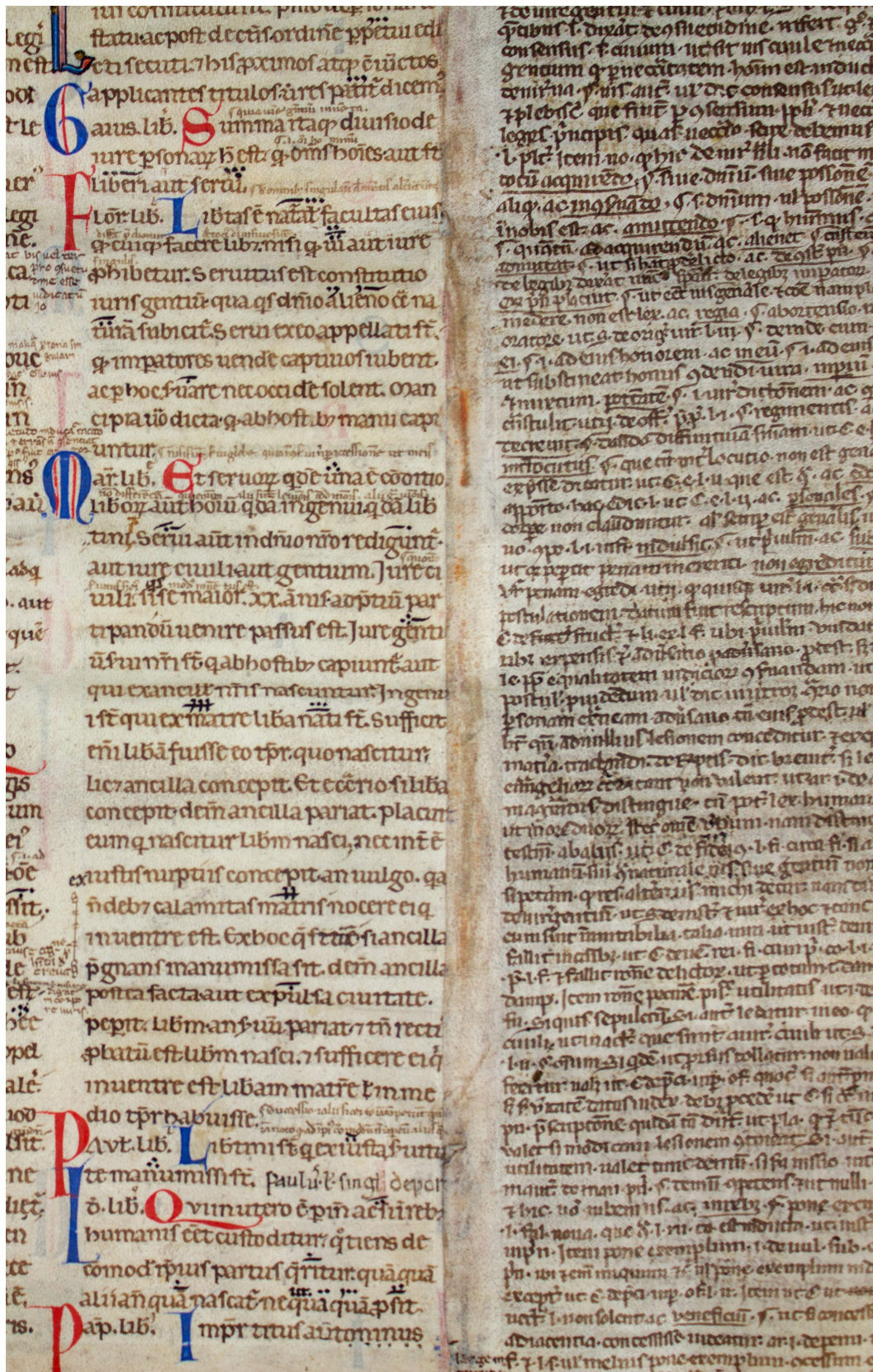
Papal bull – an official letter issued by the pope. It is named for the leaden seals, or *bullae*, that were used to authenticate it.

Pecia – a piece or gathering of a book that formed the basis for the *pecia* system, whereby an *exemplar* was divided into pieces and rented out to be copied.

Studium – medieval term for the university, a school or center of learning whose graduates earned a license to teach that was recognized by other universities. A *studium generale*, such as Bologna’s, taught students from everywhere, had a faculty that taught law or medicine or theology, and most of the teaching was done by masters. A *studium particulare* taught only local students.

Unviuersitas citramontanorum – the corporation of this side of the mountains, that is, students from the Italian Peninsula, but not Bologna.

Unviuersitas ultramontanorum – the corporation of the other side of the mountains, that is students from north of the Alps.



Digestum vetus cum Glossa ordinaria Accursii, Robbins MS 36

This manuscript of the Digest with Accursian gloss is notable for its great quantity of marginal notes, annotations, and doodles, all of which attest to heavy use by a succession of law students over the centuries. Produced in Italy, probably Bologna, around the turn of the 14th century, also vividly illustrates the diffusion of civil law from Bologna to other medieval universities.

Further Readings

Primary sources

Corpus iuris civilis. Available online at: <http://www.thelatinlibrary.com/justinian.html>

Translated selections, at Medieval Sourcebook, <https://sourcebooks.fordham.edu/source/corpus1.asp>

Birks, Peter and Grant McLeod, transl. *Institutes of Justinian*. Cornell: Cornell University Press, 1987.

Blum, Fred and Bruce W. Frier, et al. eds. *The Codex of Justinian: A New Annotated Translation, with Parallel Latin and Greek Text*. Cambridge: Cambridge University Press, 2016.

Miller, David J.D. and Peter Sarris, transl. *The Novels of Justinian: A Complete Annotated English Translation*. Cambridge: Cambridge University Press, 2018.

Watson, Alan, ed. *The Digest of Justinian, Revised English-language Edition*. Philadelphia: University of Pennsylvania Press, 1998. Two volumes

Decretum Gratiani. Emil Friedberg and Emil Ludwig Richer, eds. Leipzig 1879. Available online: <https://geschichte.digitale-sammlungen.de//decretum-gratiani//text/>

“Gratian on Marriage (dictum post C. 32. 2. 2),” at Medieval Sourcebook, <https://sourcebooks.fordham.edu/source/gratian1.asp>

Gratian: The Treatise on Laws (Decretum DD.1-20) with the Ordinary Gloss. Augustine Thompson and James Gordley, trans. Washington, D.C.: The Catholic University of America Press, 1993.

Decretalium D. Gregorii Papae IX compilatio, available online, <https://www.thelatinlibrary.com/gregory.html>

Maitland, Frederic William. *Select Passages from the Works of Bracton and Azo*. London: B. Quaritch, 1895. Available online: <https://babel.hathitrust.org/cgi/pt?id=coo.31924032664025>

Habita autentica, Appendix, Koeppler, H. “Frederick Barbarossa and the Schools of Bologna,” *The English Historical Review* 54.216 (1939): 606-607. Available online at: <https://www-jstor-org.libproxy.berkeley.edu/stable/pdf/554698.pdf>

Bartolus of Saxoferrato. *Bartolus on the Conflict of Laws*. John Henry Beale, trans. Cambridge: Harvard University Press, 1914. Available online: <https://catalog.hathitrust.org/Record/100766525>

Oldratus de Ponte. *Questio 92*. Translation available at, <https://sourcebooks.fordham.edu/source/oldradus92.asp>

Secondary sources

Bellomo, Manlio. *The Common Legal Past of Europe, 1000-1800*.

Brundage, James. *The Medieval Origins of the Legal Profession: Canonists, Civilians, and Courts*. Chicago: University of Chicago Press, [2008]. Available as [e-book](#)

The Cambridge Companion to Roman Law, David Johnson, ed. New York, NY : Cambridge University Press, 2015. Available as [e-book](#)

Helmholz, Richard. *The Profession of Ecclesiastical Lawyers: An Historical Introduction*. Cambridge: Cambridge University Press, 2019. Available as [e-book](#).

Noonan, John. *Canons and Canonists in Context*. Goldbach: Keip, 1997.

Ridder-Symoens, Hilde, ed. *Universities in the Middle Ages*. Cambridge University Press, 1992.

Stein, Peter. *Roman Law in European History*. Cambridge: Cambridge University Press, 1999.

de Zulueta, Francis and Peter Stein. *The Teaching of Roman Law in England around 1200*. London: Selden Society, 1990.