History 1190  *Medieval Law & Government*
Fall Term 2013-2014
Professor Janelle Greenberg (3532 Posvar, 412 648 7461)
Office Hours: Thursday 3:00-4:00
and by appointment
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**TEXTS:**

Brian Tierney, *The Crisis in Church and State* (bring Tierney to each class)
F. Donald Logan, *A History of the Church in the Middle Ages, 2*nd* edition*
Joseph Strayer, *On the Medieval Origins of the Modern State*

In addition, about 250 pages of primary and secondary sources will be available through course web, on-line, and class handouts.

**Requirements:** 1 paper (8 pages), worth 25 points; 1 paper (12 pages), worth 45 points; 2 scheduled quizzes and 2 “pop” quizzes, 1 of which can be dropped (worth 10 points each)

**Cell phones must be turned off, which also means no texting. Students who cannot comply with this requirement should drop the course. Seriously.**

**Attendance is compulsory.**

**Readings:**

A. Here are some general observations regarding the reading of historical documents.

1) Pay attention to the document’s context. When and where was it written? Through what medium was it communicated (government record, letter, personal account, other?)

2) Keep in mind that written and oral expressions, especially those produced for public consumption, constitute an event, an action, in the same way that voting and rioting constitute events and actions. Think, for example, of Martin Luther King’s speech at the Lincoln Memorial on August 25, 1963.

3) Be aware that when we “read” and “listen” we do so through the prism of our own experiences, attitudes, and beliefs, some of which we share with others in our community and others of which are idiosyncratic.

4) This means that monopolizing ideas (and in our case we are interested in religious, political, and legal ideas) is difficult, if not impossible; and it explains why in this course we find the very same writings and ideas often deployed for antithetical causes.

5) But, on the other hand, ideas are not endlessly malleable, because in order to be persuasive they must have resonance with their targeted audiences. This resonance derives from a language shared (in the medieval and early modern period) by religious, political, and legal elites.

6) Equally important is that we understand that in order to be persuasive ideas must have some correspondence to realities on the ground, that is, to circumstances of the life and the problems faced by authors and those at whom the writings and speeches are aimed.
B. More particularly, as you read historical documents, ask yourself these questions:
1) Who were the authors? What was their authority, e.g., personal, institutional? What was their specialized knowledge or experience? Are they writing and speaking for polemical purposes? How would you describe the authorial tone (formal, angry, respectful, humorous, anxious, cheerful, sarcastic, ironic, or something else)?

2) What about the audience? Who was the intended reader(s) or listener(s)? Were there others beyond those originally intended? E.g., was the author trying to reach an unlearned or illiterate audience as well as an educated, elite audience?

3) What was the author’s purpose(s)? What was the explicit intent behind this document? What was it intended to do? Was there an implicit or hidden agenda behind the document? Who benefited, directly or indirectly from the ideas or actions suggested or reflected in the document? Who was ignored? Who suffered?

4) What can you deduce about the document’s meaning? Is there any ambiguity in its literal meaning? Which words? Are there striking omissions in the document? If so, is its meaning affected? Does the organization of ideas or the repetition of themes in the document suggest those that the writer believed most important? Can you detect a bias in the choice of any words or terms? Can you find any political or legal ideas hidden within it?

5) Is the document supported or contradicted by any other documents?

Aug. 27

I. Introduction

August 29

customary rules, the ordeals (handouts)

A. Early Medieval Law and Kingship

Readings: Logan, chapter 3 & 5

Questions to take to Logan: In chapter 3 concentrate on 1) the achievements of the Emperor Justinian and Mohammed; and in chapter 5 concentrate on 2) the creation and spread of the Carolingian “empire”; the Franco-Papal Alliance; the relationship between Pepin III and King Childeric III; and the role of Carolingian rulers in the spread of religion.

Sept. 3

II. The Church: Corruption and Reform

A. The Early Medieval Background


Questions to take to Tierney: What does he have to say about 1) the role of religion in society; 2) the relationship between the Roman state and the Church; 3) Augustine’s view of the nature of man and civil society; 3) the relationship between temporal (i.e., “secular”) rulers and churchmen; & 4) Justinian’s view of imperial power, in particular, its source?

Sept. 5

B. Corruption and Reform
Readings: Logan, chapter 6; Tierney, pp. 24-32

Questions for readings: What was wrong with the Church in the period from c. 850-c. 1050?
Sept. 10 continued

Readings: Tierney, pp. 33-73; Logan, chapter 7, pp. 98-108

Questions for readings: 1) What reformers led the way in the mid- and late 11th c.? 2) What opposition did they face? 3) What issues were involved in the controversies?
Sept. 12 continued

Readings: Tierney, pp. 74-95

Questions for readings: 1) What was the "War of Propaganda"? 2) What arguments did each side put forward? 3) What kind of sources (e.g., scriptural, historical, legal) did they use? 4) What was the outcome of the "Investiture Struggle"?
Sept. 17 continued

Readings: Logan, pp. 109-119

Questions for Logan: What role did the Crusades play in the reform movement?
Sept. 19

H. Law, Government, and Politics in the 12th & 13th Centuries

A. The 12th-Century Renaissance
B. The Economic and Commercial Revival

Readings: Maurice Keene, PENGUIN HISTORY OF MEDIEVAL EUROPE, pp. 84-102 (course web 2141, Documents); Logan, chapt. 8 and chapt. 12, pp. 211-220

Questions for readings: 1) How would you characterize the economic changes of the 12th and 13th centuries? 2) What changes in the intellectual world did the Renaissance bring? 3) How did these changes affect law and legal systems? 4) And what was the role of the universities in bringing about these changes?
Sept. 24 QUIZ #1

Sept. 26 C. Innovations in Law, Government, and Politics in the 12th & 13th Centuries: The "Reception" of Roman Law and the Growth of Canon Law & English Common Law


Questions for the readings: Pay close attention to what the authors have to say about Roman, canon, and English common law. This information forms much of the foundation for the rest of the semester's work. Take extensive notes. They will come in handy for the next quizzes and for the papers.
Oct. 1


Questions for readings: 1) What were John of Salisbury’s views on papal and royal authority? What point was he making when he referred to “Attila, the scourge of God”? 2) What was the difference between a king and a tyrant? 3) Be ready to discuss in class at least 2 other points that he made.

Oct. 3  continued QUIZ 1

Readings: Tierney, pp. 97-115; Keene, PENGUIN HISTORY, pp. 103-116. (course web)

Questions for readings: 1) How did Roman law and canon law contribute to the growth of legal and political thought in the 12th and 13th centuries? 2) What practical political purposes could these theories serve? 3) How did rulers, both lay and ecclesiastical, benefit from the changes associated with “the 12th century revolution in government”? 4) In what ways did 12th and 13th c. European governments differ from their earlier counterparts?

Oct. 8  continued

Oct. 10  PAPER #1 DUE

Readings: Tierney, pp. 116-126;

Questions for readings: Who were the Decretists and how did they view the relative powers of popes and empresses and the possibility of resistance to papal power? Be prepared to discuss each of the writers in Tierney’s pages.

October 15  Fall Break  No Class

Oct. 17

Readings: Tierney, pp. 127-149; Logan, chapt. 10

Questions for readings: 1) What reforms did Innocent III and the General Council institute at the 4th Lateran Council meeting in 1215, and which particular reform had a dramatic effect on law and legal institutions? 2) What role did deposition play and how was it opposed and defended? 3) What was the role of the Donation of Constantine in Frederick II’s quarrel with Gregory IX?

Oct. 22  QUIZ #2

Oct. 24

Readings: Tierney, pp. 150-157

Questions for readings: 1) Who were the Decretalists and what views did they hold regarding resistance to the pope? 2) How did Innocent IV view the rights of infidels? What were the grounds for his arguments? Be prepared to discuss each of the writers in these pages.
III. The Rise of National Kingdoms

A. Aquinas and the "Christianization" of Aristotle


A WORD TO THE WISE: GET A HEAD START ON READING STRAYER.

Questions for readings: 1) What points were the authors in pp. 161-164 making? 2) What did their arguments say about the relationship between national rulers and the papacy? (Be prepared to discuss each of these writers) 3) How did Aquinas go about "Christianizing" Aristotle? 4) What were the effects of Aquinas' efforts on medieval thinking about law and government?

Oct. 31 Readings: Tierney, 172-192; Logan, chapt. 13, pp. 238-246

Questions for readings: 1) Regarding the protracted struggle between Philip IV and Boniface VIII, what issues were involved? 2) What arguments did each side put forward in support of its position? What sources did they utilize? 3) What was the role of "representative" assemblies in the struggle? What role was played by the Corpus Iuris Civilis and canon law in the development of such assemblies?

Nov. 5

Readings: Strayer, On the Medieval Origins of the Modern State

Questions for readings: 1) How does Strayer define a "state" and what are the conditions under which it can come into existence? 2) What political and legal institutions (e.g., representative assemblies) accompany and speed the growth of the medieval "state"? 3) What does Strayer mean when he labels France a "mosaic state"?

Nov. 7 E. Medieval Constitutionalism: Secular Kingdoms

Readings: Greenberg, The Radical Face of the Ancient Constitution, chapter 2 (course web—the 2nd listing of chapter 2);

Magna Carta 1215 (Medieval Sourcebook www.fordham.edu/halsall/source/magnacarta.html); Edward the Conqueror's Laws/Laws of Edward the Confessor (course web); William the Conqueror's Laws/Laws of William the Conqueror (course web); Henry I's Charter of Liberties (google).

Print all of these except for Greenberg) and bring to class.

Questions for readings: 1) What was the Cult of St. Edward and his Laws? 2) Why did early Norman rulers encourage it? 3) What role was played by the coronation charters of William I, Henry I, King Stephen, Henry II, and the new Coronation Oath of Edward III? 4) What was the constitutional significance of article 4 which was added to the ancient oath?

Nov. 12 continued

The Golden Bull of Charles IV (Medieval Sourcebook www.fordham.edu/halsall/source/goldenbull (print and bring to class)

Questions for readings: 1) What was the purpose of the Golden Bull? 2) What does it tell us about the relationship between the emperor Charles IV and his subjects, the German princes? 3) How would you
compare the position of the German emperor in the 14th c. to the position of the kings of France and England?

"The Aragonese Coronation Oath" (handed out in class)

Nov. 14 continued

Readings: Marsilius of Padua, Defensor Pacis/Defender of the Peace (Medieval Sourcebook
http://www.fordham.edu/halsall/source/marsiglio.html

Print and bring to class.

Nov. 19 F. Medieval Constitutionalism: The Papacy, Conciliarism, and the Growth of Political Thought

Readings: Tierney, pp. 193-210

Questions for the readings: 1) What was the background of the disputes between kings and emperors, on the one hand, and the papacy on the other in the early to mid-14th century? 2) How did the controversialists argue? Bring to class a summary of all of the disputants in the controversy.

Nov. 21 A. The Great Schism and the Conciliar Movement

Readings Logan, chapt. 16

Questions for readings: 1) What was the Great Schism and 2) what role did it play in the beginnings of the Conciliar movement?

Nov. 26 B. The Conciliar Movement

Readings: Logan, chapt. 17, pp. 308-312; Greenberg and Sechler, pp. 1038—1043

Haec Sancta (also known as the Sacra Sancta) and the Frequens (these two pronouncements of the Council of Constance are available at numerous online sites. One conveniently accessed at
http://www.fordham.edu

Nov. 28 THANKSGIVING CELEBRATION

Dec. 3 continued

Dec. 5 Epilogue: Early Modern Political and Legal Thought: The Medieval Inheritance

Readings: Greenberg and Sechler, pp. 1043-1047

FINAL PAPER DUE DECEMBER 10, 5:00 PM, IN HISTORY DEPARTMENT, 3RD FLOOR POSVAR HALL