

University of Chicago Law School

Chicago Unbound

Journal Articles

Faculty Scholarship

1985

Book Review (reviewing Kenneth Pennington, Pope and Bishops: The Papal Monarchy in the Twelfth and Thirteenth Centuries (1984))

Richard H. Helmholz

Follow this and additional works at: https://chicagounbound.uchicago.edu/journal_articles



Part of the [Law Commons](#)

Recommended Citation

Richard. H. Helmholz, "Book Review (reviewing Kenneth Pennington, Pope and Bishops: The Papal Monarchy in the Twelfth and Thirteenth Centuries (1984))," 60 *Speculum* 1011 (1985).

This Article is brought to you for free and open access by the Faculty Scholarship at Chicago Unbound. It has been accepted for inclusion in Journal Articles by an authorized administrator of Chicago Unbound. For more information, please contact unbound@law.uchicago.edu.

considerable editorial adaptation. This applies as well in all likelihood to the *Sermo de assumptione beatae Mariae*, which was read during the time preceding and following the feast of the Assumption. In each case we have a text intended for reading in the refectory of the monastery on these separate occasions (p. 30). An interesting feature of Odo's style is the use of rhyme within the sentence, which lent itself to oral reading.

Odo of Canterbury, who probably arranged the sermons in a certain order in an author's collection (p. 34), was reputed to have been an eloquent and interesting preacher. While he preached in French and in Middle English, none of those sermons has survived. Indeed the number of authentic Latin sermons is small, and some of these were adapted to a longer literary form after delivery. Odo's sources include Scripture, the Rule of St. Benedict, and liturgical texts. De Clercq concludes: "The sermons of Odo of Canterbury are worth publishing because they are important documents of the XIIth century, and because they are interesting in their own right" (pp. 34–35).

In addition to the introduction and the texts of the sermons, which the editor aims to construct as close as possible to the original, there are a number of tables: table of quotations (pp. 323–31), explanation of medieval and classical Latin words (p. 332), onomastic table (pp. 333–34), quoted manuscripts (p. 335), quoted publications (pp. 336–37), and contents (pp. 339–41). I noted several minor typographical errors, especially in the introduction.

The late Msgr. Charles de Clercq has left us a valuable edition of these Latin sermons by Odo of Canterbury and an important contribution to our knowledge of twelfth-century monastic preaching.

PHYLLIS B. ROBERTS

College of Staten Island and
Graduate Center, City University of New York

KENNETH PENNINGTON, *Pope and Bishops: The Papal Monarchy in the Twelfth and Thirteenth Centuries*. (The Middle Ages.) Philadelphia: University of Pennsylvania Press, 1984. Pp. xiii, 225. \$30.

THIS MONOGRAPH should establish its author's place in the front ranks of historians of the canon law. It is well researched, incorporating extensive study of manuscript glosses and reading in recent Continental scholarship. Its presentation is thorough and clear, but never self-consciously exhaustive. The author's approach to controversial matters is thoughtful. He is alive to the need to test theory by practice, and he is constantly aware of the implications of his subject for the larger history of political thought.

The subject is the church's internal government; the book designedly ignores papal claims to jurisdiction over secular rulers, thus avoiding some of the wilder flights of canonistic fancy. After a preliminary examination of the meaning of papal *plenitudo potestatis* for twelfth- and thirteenth-century canon lawyers and a finely nuanced appreciation of the role of Innocent III in the development of theories of papal monarchy, the book moves to a series of practical issues that brought episcopal rights into (at least potential) conflict with the papacy: the translation and deposition of

bishops, papal provision of clerics to local benefices, the interpretation of papal privileges, and the treatment of monastic houses enjoying papal exemption from episcopal jurisdiction. For each, the author states the problem, then describes the solutions advanced by the canonists between 1180 and 1270. Roughly speaking, the book starts with the Decretists and ends with Hostiensis.

Running throughout the book's descriptive material is a larger theme: that the monarchical system created by the medieval popes and canonists was no arbitrary tyranny, but rather a constitutional form of government that guaranteed rights to all who were subject to it. Papal monarchy was a real monarchy, attributing the greatest authority to the occupant of the chair of St. Peter, but that authority went hand in hand with episcopal rights. Three factors worked to this end. First, the canonists held that particular papal mandates must be based on "cause and good reason." This protected against arbitrary action. Second, "constant restraint" in exercising papal power was an inherent part of the system. However sweeping the claims that flowed from the mellifluous language of papal decretals, in practice prudence tempered their exercise. Third, the canonists took episcopal rights seriously, holding that they could be overthrown only for the weightiest of reasons. Papal monarchy, at least as understood before 1270, was quite compatible with "the inviolability of individual rights within the church" (p. 189). Paradoxically, it supported them.

The book's thesis is thus directed against the views that the medieval canon law was a sternly hierocratic system and that the "descending theme" of governmental power adequately describes its features. The argument is well made, a useful antidote beyond doubt. Perhaps, however, the author has pushed his argument a little hard. This is a common failing of corrective scholarship, no matter how good. The author himself acknowledges the compatibility of the doctrines he describes with the later development of a papal monarchy that would make it meaningless to speak of inviolable episcopal rights. His argument requires greater discontinuity between canonistic thought of the thirteenth and fourteenth centuries than the sources warrant. Moreover, the test of "constitutionality" in the sense used here cannot be whether the monarch commonly acts prudently or assigns reasons for his actions. No ruler but a careless, boasting tyrant will say "*sic volo sic jubeo*" aloud. The test must be whether there is an independent body to weigh the validity of the reason assigned against a standard not set by the ruler. And the canon law created no such body.

There is little doubt that the government of the medieval church worked to secure a considerable degree of power to local bishops. Mostly their interests coincided with those of the papacy. But even in cases of conflict the bishops were not without resources. The difficulties of communication with the distant papal court, the powerful hold of custom on all medieval legal practice, the inevitable exceptions and loopholes in papal commands, the existence of antipapal secular laws even bishops could take advantage of, the manipulability of law at the papal court itself, and the possibility of simple disobedience — these were all limiting factors.

In the face of these realities, what must be most striking is the considerable success of papal government in stifling the expression of local opposition. This success is, at least in some measure, a tribute to the canon law and the work of the canonists. The canonists constantly reminded the bishops of the legitimacy and the divine sanction of papal monarchy. Though they were not blind to the limited power of government, or unaware of the fact that even popes could err, their principal contribution was nonetheless to support and to shape a decidedly monarchical form of government.

They gave it concrete form in many and various ways this excellent book brings to light.

R. H. HELMHOLZ
University of Chicago

PIERRE PETITMENGIN, et al., *Pélagie la Pénitente: Métamorphoses d'une légende*, 1: *Les textes et leur histoire*; 2: *La survie dans les littératures européennes*. (Séminaire d'Histoire des Textes de l'École Normale Supérieure.) Paris: Etudes Augustiniennes, 1981 (vol. 1), 1984 (vol. 2). Paper. 1: pp. 361. 2: pp. 386. 1: F 360. 2: F 450.

THE GENESIS of the two substantial volumes under review deserves to be told. In 1970 the participants in the palaeography course given by Pierre Petitmengin at the Ecole Normale Supérieure (Paris) requested their mentor to introduce them to research methods by choosing some project they could work on together under his expert guidance. Soon after, while on a visit to the Institut de Recherche et d'Histoire des Textes, the head of its "section grecque," Fr. Joseph Paramelle, drew Petitmengin's attention to some newly discovered fragments of the Greek life of St. Pelagia, the actress of Antioch who had turned penitent and ended her days as a recluse in Jerusalem. The text of these fragments did not seem to coincide with that of the only critical edition of the Greek life, published by Usener in 1879. This suggested that a further textual exploration might be in order. The original task Petitmengin set his students was, in fact, a quite limited one: to determine whether the Latin translation of this life, printed many times since its first appearance in the fifteenth century, rested on a solid textual basis.

As the search for new manuscript evidence got underway, the project developed into one of unforeseen dimensions and unsuspected importance. Unknown Greek and Latin versions were identified; a series of early translations into Georgian, Syriac, Arabic, and Armenian emerged; and a wealth of evidence was discovered to prove that the story of Pelagia had had a very wide circulation: it had in fact been a best seller, known to many medieval readers either in its full or in shorter derivative forms. There could be no doubt that all this accumulated evidence provided a splendid object lesson, well worth investigating and publishing. To assure high quality in the publication Petitmengin had recourse to experts in many fields, in addition to his own group of students. Needless to say, the work took far more time than anticipated, but the two volumes that have so far appeared — with one more to come — are a tribute both to Petitmengin's gifts as a teacher (one wishes more professors would undertake such collaborative efforts with their students) and to his skills as editor-in-charge of an international team of scholars.

Volume 1 contains the primary texts. The section on the Greek texts (pp. 41–131) is by Bernard Flusin. The Greek life of Pelagia was written — probably in the fifth century — in a Syro-Palestinian milieu. How much of Pelagia's story is based on historical fact is difficult to tell. What remains certain is that the original narrator was a gifted storyteller who knew how to enliven his narrative by injecting himself into the account, thus giving it a more authentic tone. In fact, the main split in the Greek transmission comes at the epd, where in one version, π , the narrator claims to have