

History 550

Medieval Society and Law

Fall 2012

Prof. Karl Shoemaker
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Office Hours: Wednesdays 1:30-3:30
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Course Description:

This course is intended to introduce students to the central historical developments related to law in the European Middle Ages. Chronologically, this course will cover the dissolution of the Roman Empire and the last gasps of imperial codification in the fifth and sixth centuries until the late medieval appearance of the great European legal traditions, i.e. the common law of England and the so-called Roman-canonical tradition. Our primary focus will be on law as an aspect of political, cultural, and social organization. Hence, we will be concerned with substantive laws (e.g. whether you could marry your first cousin in thirteenth-century France, or the required number of days you had to wait before attacking your enemy in his home in ninth-century Britain) only as a secondary matter. Instead, we will be more concerned with the conditions of thought that made these laws intelligible in their own age. Although we will not be exclusively focused on those aspects of medieval law that have direct links to contemporary legal practices, we might still occasionally learn something important about our own age as well.

Course Requirements: All reading materials will be distributed by email or available digitally through the UW-Madison Library or other websites. For those interested in acquiring or bolstering their background knowledge of medieval Europe, I recommend Edward Peter's *Europe and the Middle Ages* (4th ed. 2004).

Assignments: To receive credit for this course students must choose between two methods of evaluation.

Option A requires writing 3 short response papers on an assigned topic over the course of the semester. The dates upon which these response papers are due are **October 4, November 8, and December 6.**

Option B requires one 20-page research paper, due on December 22, 2012. A list of suggested topics will be distributed at an early point in the semester.

Students must choose Option A or B by October 4th.

Evaluation: Both Option A and B will be graded on a letter grade basis: A=93-100%, AB=88-92%, B=83-87%, BC=78-82%, C=70-77%, D=60-69%, F=0-59%

Attendance is required. Students missing more than four (4) class meetings over the course of the semester will not be able to pass the class.

Schedule of Themes

Week 1)

A) Introduction to Course Themes and Description of the Course

B) The Legislative Legacy of Rome: Codification and Empire

Reading: *The Theodosian Code and Novels and the Sirmondian Constitutions*, Book 9.45 and Book 12 (these readings are available online through the UW-Madison Library. Instructions on accessing these readings will be give on the first day of class.)

and <http://www.fordham.edu/Halsall/source/const1-laws2.asp>

C) Early Ecclesiastical Law

Reading: The First Council of Nicea

<http://www.ewtn.com/library/COUNCILS/NICAEA1.HTM>

The Didache

<http://www.spurgeon.org/~phil/didache.htm>

Weeks 2 and 3) The Germanic Traditions and the Emergence of Early Medieval Written Law

Reading: Early Medieval Legislation: Salic Law, Visigothic Law, Carolingian Law, and Anglo-Saxon Law

<http://www.fordham.edu/halsall/source/salic-law.asp>

<http://libro.uca.edu/vcode/visigoths.htm> (Book 1, Title 1 only)

<http://www.fordham.edu/halsall/source/560-975dooms.asp>

<http://www.fordham.edu/Halsall/source/carol-saxony.asp>

Week 4) Legal Process before 1200

Reading: On Duels and Ordeals

<http://www.fordham.edu/Halsall/source/12Cduels.asp>

<http://www.fordham.edu/Halsall/source/ordeals1.asp>

<http://www.fordham.edu/Halsall/source/water-ordeal.asp>

Week 5) The English Common Law and the Rise of the Jury in England

Reading: <http://vi.uh.edu/pages/bob/elhone/glanvill.html>

<http://www.fordham.edu/Halsall/source/cclarendon.asp>

<http://www.fordham.edu/Halsall/source/isheriffs.asp>

Week 6) The Forms of Action and Early Legislation in the English Common Law

Reading: Writs and *Quia emptores*

<http://www.fordham.edu/Halsall/source/englishwrits.asp>

<http://www.fordham.edu/Halsall/source/ed1-quia.asp>

Week 7) England's Itinerate Justices and Royal Control

Reading: Pleas of the Crown

<http://www.fordham.edu/Halsall/seth/pleas-lincolneyre.asp>

<http://www.fordham.edu/Halsall/seth/pleas-northamptoneyre.asp>

<http://www.fordham.edu/Halsall/seth/pleas-bedfordeyre.asp>

<http://www.fordham.edu/Halsall/source/wulftrans.asp>

Week 8) English Law and Social Unrest

Reading: The Statute of Laborers

<http://www.fordham.edu/Halsall/seth/statute-labourers.asp>

Week 9) Canon Law after 1140

Reading: Gratian on Marriage and an early *consilia*

<http://www.fordham.edu/halsall/source/gratian1.asp>

<http://www.fordham.edu/Halsall/source/oldradus35.asp>

Week 10) Canon Law and Papal Supremacy

Reading: <http://www.fordham.edu/Halsall/source/B8-unam.asp>

<http://www.fordham.edu/Halsall/source/b8-clericos.asp>

Week 11) Legislation on the Continent after 1200

Reading: <http://www.fordham.edu/Halsall/source/papal-elect1059.asp>

<http://www.fordham.edu/Halsall/source/papal-elect1059.asp>

<http://www.fordham.edu/Halsall/source/fred2-princes.asp>

<http://www.fordham.edu/Halsall/source/1224germanserfs.asp>

<http://www.fordham.edu/Halsall/source/licetjuris.asp>

Week 12) The Twelfth-Century Revival of Roman Law

Reading: The *Corpus Iuris Civilis*

<http://www.fordham.edu/Halsall/source/corpus1.asp>

<http://www.fordham.edu/Halsall/source/cjc-marriage.asp>

Week 13) The New Legal Process

Reading: Heresy Inquisitions

<http://www.fordham.edu/Halsall/source/heresy2.asp>

<http://www.fordham.edu/Halsall/source/bernardgui-inq.asp>

<http://www.fordham.edu/Halsall/source/naprous.asp>

Week 14) Law and the New Learning

Reading: Thomas Aquinas and Marsiglio of Padua

<http://www.fordham.edu/Halsall/source/aquinas2.asp>

<http://www.fordham.edu/Halsall/source/marsiglio4.asp>

Week 15) Sanctuary Law and the end of “Medieval Law”

Readings: To be distributed electronically

Option B papers due December 22 at 5pm.