

Joseph Canning: ‘How useful are notions of sovereignty and state for interpreting the political thought of Bartolus and Baldus?’

Biography

Joseph Canning read Classics and then History at Cambridge where he also went on to do his doctorate in Medieval History. His first post was Lecturer in Medieval History at the University of Queensland, Australia. He taught for many years at Bangor University where he was Reader in History until 2007. From 1996-2001, he was Director of the British Centre for Historical Research in Germany, at the Max-Planck-Institut für Geschichte in Göttingen. He has now returned to live permanently in Cambridge and is currently Affiliated Lecturer in the Faculty of History.

The field of his research and publications has been in medieval political thought. He began his research by focusing on the political thought of late medieval commentators on the Roman and canon law and in particular on that of Baldus de Ubaldis of Perugia (1327-1400). This resulted in his monograph, The Political Thought of Baldus de Ubaldis (C.U.P., 1987). He also contributed chapters to J.H.Burns (ed.), The Cambridge History of Medieval Political Thought (C.U.P., 1988). His publications have since ranged more widely including articles and chapters on Innocent III, Aquinas and Marsilius of Padua. For a more general audience he published A History of Medieval Political Thought, c.300-c.1450 (Routledge, 1996; repr. with new introduction, 2005). He has also edited volumes: (with Otto-Gerhard Oexle) Political Thought and the Realities of Power in the Middle Ages/Politisches Denken und die Wirklichkeit der Macht im Mittelalter (Vandenhoeck & Ruprecht, 1998); and (with Hermann Wellenreuther) Britain and Germany Compared in the Eighteenth Century (Wallstein Verlag: 2001); and (with Hartmut Lehmann and Jay Winter) Power, Violence and Mass Death in Pre-Modern and Modern Times (Ashgate, 2004). He is also involved in the ongoing History of Medieval Canon Law project.

Joseph Canning is currently completing a book, Ideas of Power in the Late Middle Ages, c.1290-c.1420, which addresses issues of power and legitimate authority viewed from a variety of late medieval perspectives. It consists of chapters on the disputes between King Philip IV of France and Pope Boniface VIII; Dante Alighieri; Marsilius of Padua; Power and powerlessness in the poverty debates with special reference to William of Ockham; Juristic thought; and the power crisis during the Great Schism (1378-1417).

The paper for this seminar relates to chapter 5 of this book: ‘The treatment of power in juristic thought’. It is designed specifically as a seminar paper for discussion and is not the final format which will appear in the book. It is aimed at an audience both of political theorists and of historians of political thought.

Subject of seminar paper

Bartolus of Sassoferrato (d. 1357) and Baldus de Ubaldis were the pre-eminent jurists of the fourteenth century within the ius commune (common law) tradition of scholarship of Roman and canon law. The sheer volume of their writings was prodigious amounting to several millions of words in both cases. Bartolus wrote commentaries on the Roman law and tracts; Baldus was more wide-ranging, producing commentaries on the Roman law, canon law and feudal law, together tracts and more than three thousand consilia (legal opinions). They wrote in Latin and only a minuscule amount of their writings has been translated. With tiny and isolated exceptions, critical editions have not been made of their works.

Most of what they wrote had nothing to do with political thought since they covered the whole range of legal questions considered in their day. On the continent of Europe they exercised a dominant influence in legal studies until the early seventeenth century. Their form of scholastic jurisprudence remained central to the practice of law, despite the criticisms of legal humanists.

This paper addresses the problem of how useful it is to apply standard political thought concepts in interpreting their ideas. The focus is on notions of sovereignty and state. It is therefore a case study for the problems facing any history of political thought enterprise and especially ones in which the language of the original texts is not English.

Both jurists faced the problem of how to accommodate the norms of Roman and canon law to the changing political realities of the fourteenth century. How for instance were they to reconcile the Roman law claim that the emperor was lord of the world (dominus mundi) with the jurisdictional claims of an independent city like Florence? The paper's consideration of sovereignty gives particular attention to the jurists' use of the de iure/de facto distinction. As regards the concept of state, the focus is on their use of corporation theory.

As regards websites relating to medieval jurists, the most informative, especially for graduate students, is that of Kenneth Pennington:

<http://faculty.cua.edu/Pennington>

Joseph Canning's publications:

Books

Monographs:

The Political Thought of Baldus de Ubaldis, Cambridge Studies in Medieval Life and Thought, Fourth series, 6 (Cambridge University Press, 1987, reprinted 1989, paperback 2003), xi+ 300pp.

A History of Medieval Political Thought, 300-1450 (London and New York: Routledge, 1996 (hardback and paperback), reprinted 1998), xv+255pp.

A Középkori politikai gondolkodás története, 300-1450 (Budapest: Osiris Kiado, 2002). (Hungarian translation of *A History of Medieval Political Thought, 300-1450*).

Histoire de la pensée politique médiévale (300-1450), Editions Universitaires Fribourg Suisse (Paris: Editions du Cerf, 2003). (French translation of *A History of Medieval Political Thought*).

A History of Medieval Political Thought, 300-1450, repr. with new introduction (London and New York: Routledge, 2005), pp. xxiv + 255.

Edited volumes:

Joseph Canning and Otto-Gerhard Oexle (eds.), *Political Thought and the Realities of Power in the Middle Ages/Politisches Denken und die Wirklichkeit der Macht im Mittelalter*, Veröffentlichungen des Max-Planck-Instituts für Geschichte, 147 (Göttingen: Vandenhoeck &

Ruprecht, 1998), pp. 286.(Papers presented at the conference of the British Centre for Historical Research in Germany/ Max-Planck-Institut für Geschichte in Göttingen, 25-26 September, 1996.)

Joseph Canning and Hermann Wellenreuther (eds.), *Britain and Germany Compared in the Eighteenth Century*, Göttinger Gespräche zur Geschichtswissenschaft, 13 (Göttingen: Wallstein Verlag: 2001). (Papers presented at the conference of the British Centre for Historical Research in Germany/ Max-Planck-Institut für Geschichte in Göttingen, 19 September, 1998.).

Joseph Canning, Hartmut Lehmann and Jay Winter (eds), *Power, Violence and Mass Death in Pre-Modern and Modern Times* (Aldershot, Hampshire and Burlington, Vermont: 2004), pp. 220. (Papers from session of XIXth International Congress of Historical Sciences, Oslo 2000).

Chapters in volumes:

[‘Introduction: Politics, Institutions and Ideas, 1150-1450’](#) in J.H. Burns (ed.), *Cambridge History of Medieval Political Thought, c.350-c.1450* (Cambridge: Cambridge University Press, 1988), pp. 341-66.

[‘Law, sovereignty and corporation theory, 1300-1450’](#) in J.H. Burns (ed.), *Cambridge History of Medieval Political Thought, c.350-c.1450*, (Cambridge: Cambridge University Press, 1988), pp. 454-76.

(The above were translated into French:

‘Introduction - Politique: institutions et conceptions, v.1150-v.1450’ in J.H. Burns (ed.), *Histoire de la pensée politique médiévale, 350-1450* (Paris: Presses Universitaires de France, 1993), pp. 323-46.

‘Loi, souveraineté et théorie corporative, 1300-1450’ in J.H. Burns (ed.), *Histoire de la pensée politique médiévale, 350-1450* (Paris: Presses Universitaires de France, 1993), pp. 428-49.)

A chapter on Thomas Aquinas in David Bowker and Paul Kelly (eds), *Political Thinkers: A History of Western Political Thought* (Oxford: Clarendon Press, 2003), pp. 109-123.

Entry on Alanus Anglicus in *New Dictionary of National Biography* (Oxford University Press)

Articles and papers:

‘The corporation in the political thought of the Italian jurists of the thirteenth and fourteenth centuries,’ *History of Political Thought*, I (1980), pp. 9-32.

‘A fourteenth-century contribution to the theory of citizenship: political man and the problem of created citizenship in the thought of Baldus de Ubaldis,’ in B. Tierney. and P.A. Linehan

(eds), *Authority and Power: Studies on Medieval Law and Government Presented to Walter Ullmann on his Seventieth Birthday* (Cambridge University Press, 1980), pp. 197-212.

'Ideas of the state in thirteenth and fourteenth-century Commentators on the Roman law', *Transactions of the Royal Historical Society*, 5th series, XXXIII (1983), pp. 1-27.

'A state like any other? The fourteenth-century papal patrimony through the eyes of Roman law jurists', in D. Wood (ed.), *The Church and Sovereignty, c. 590-1918. Essays in Honour of Michael Wilks*, Studies in Church History, Subsidia 9 (Oxford: Basil Blackwell, 1991), pp. 245-60.

'Italian juristic thought and the realities of power in the fourteenth century', in Joseph Canning and Otto-Gerhard Oexle (eds.), *Political Thought and the Realities of Power in the Middle Ages/Politisches Denken und die Wirklichkeit der Macht im Mittelalter*, Veröffentlichungen des Max-Planck-Instituts für Geschichte, 147 (Göttingen: Vandenhoeck & Ruprecht, 1998), pp. 229-39.

['The role of power in the political thought of Marsilius of Padua'](#), *History of Political Thought*, XX (Spring, 1999), pp. 21-34.

'Power and the pastor: a reassessment of Innocent III's contribution to political ideas,' in John C. Moore (ed.), *Pope Innocent III and his World* (Aldershot: Ashgate, 1999), (proceedings of the conference at Hofstra University, New York, 1-3 May, 1997), pp. 245-53.

'Permanence and change in Baldus' political thought', *Ius Commune. Zeitschrift für Europäische Rechtsgeschichte. Veröffentlichungen des Max-Planck-Instituts für Europäische Rechtsgeschichte, Frankfurt am Main*, XXVII (2000), pp.283-97.

'Baldus de Ubaldis and the language of power in the *ius commune*', in Kenneth Pennington, Stanley Chodorow and Keith H. Kendall (eds), *Proceedings of the Xth International Congress of Medieval Canon Law (Syracuse, NY, 13-18 August 1996)*, Monumenta Iuris Canonici, Series C: Subsidia, 11 (Città del Vaticano, Biblioteca Apostolica Vaticana: 2001), pp. 593-601.

'The pope as teacher and judge: how Innocent III saw himself as the teacher who coerced', in Brenda Bolton, Christoph Egger, James M. Powell, Andrea Sommerlechner (eds), *Innocenzo III. Urbs et orbis* (proceedings of the International Congress held in Rome, 9-15 September, 1998) (Rome: Istituto Storico Italiano per il Medio Evo and Società di Storia Patria, 2003), vol. 1, pp. 74-83

'Why Baldus was no republican', in Carla Frova, Maria Grazia Nico Ottaviani, Stefania Zucchini (eds.), *VI Centenario della morte di Baldo degli Ubaldi 1400-2000* (Perugia: Università degli Studi, 2005), pp. 193-204.

'Power and powerlessness in the political thought of Marsilius of Padua', in Gerson Mareno-Riano (ed.), *The World of Marsilius of Padua* (Turnhout, Brepols, 2006), pp. 211-225.

Forthcoming publications

Entries on Despotism and Tyranny, Four Doctors, Guido Terreni, James of Viterbo, John of Segovia and Juan de Torquemada for *Oxford Dictionary of the Middle Ages* (Oxford University Press) (accepted for publication).

Entries on Civil Law and Feudal Law for *Encyclopedia of Medieval Philosophy*, ed. Henrik Lagerlund (Springer Verlag) (accepted for publication).

‘Juristic language and the fourteenth-century commune’ in published papers of conference on ‘Urban Witness: the Languages of the Italian Medieval Commune’ (submitted).

‘The intellectual and practical world of the canonists in the Late Middle Ages: the Avignonese papacy, the Great Schism and the Conciliar Movement’, in Kenneth Pennington and Wilfried Hartmann (eds), *History of Medieval Canon Law*, vol. 10: ‘Canon Law in the Late Middle Ages, 1300-1500’, *Studies in Medieval and Early Modern Canon Law* (Baltimore: Catholic University of America Press) (most of this has been written).