Charles J. Reid, Jr., *Power over the Body, Equality in the Family: Rights and Domestic Relations in Medieval Canon Law,* Grand Rapids: William B. Eerdmans Publishing Company, 2004. Pp. xii + 335. $35.00 (ISBN 978-0-8028-2211-6).

The study of rights in the medieval Ius commune and in medieval canon law has been a flourishing trade during the last twenty years. Talk about rights had long been seen as having only occurred in modern salons, but recent scholarship has tried to expand the chronological framework of "rights talk." This work has created new questions. If rights arose in a non-democratic, authoritarian world, how and, more significantly, why did this happen? Can they be equated with the human rights that we talk about today?

Reid divides his discussion of familial rights into five areas: the rights of marriage, father's rights, the rights of women, testamentary rights, and the rights of children to inherit property. The last two are of particular interest to those of us who teach courses in comparative law because the common and civil law systems part ways in significant respects in those two areas.

The centerpiece of any discussion of marital rights in medieval canon law must focus on the twelfth-century revolution in which the rights of individuals to marry trumped the rights of families to control the choices made by their children. Roman law recognized that consent was a key element in the law of marriage, but the consent was that of the paterfamilias. The Christian theological tradition in the early Middle Ages did not dispute the family's consent as a key element in a valid marriage. However, both the legal and theological traditions transmitted a number of texts that established consent as the key element in a marriage. Although these statements certainly presumed that this consent was not only that of the spouses, readers in later centuries would not have made the same connections. For example, Justinian's Digest contained a "rule of law" that consent not intercourse created a marriage (Dig. 50.17.30) that influenced juristic thought in the twelfth century. The maxim, "consensus facit matrimonium" or similar wording, was circulating rather widely in the first half of the twelfth century. Gratian (ca. 1125–1130) attributed the tag to Isidore of Seville in the first recension of his Decretum (C.27 q.2 dictum before the quaestio), but no one has found that statement in any work of Isidore.

Gratian was crucial in the development of twelfth-century ideas about the importance of spousal consent in marriage, but Reid's treatment of Gratian is too brief. The key question that Reid does not confront is: did Gratian's doctrine of consent constitute a "revolution" as the reader might have concluded from the title of the subsection? Yet his concluding thoughts are "[my] analysis, however, must be read against the background of other texts . . . placed quite possibly by Gratian's own editing . . . [that] granted the possibility of a decisive parental role" (41). Not only does that conclusion contradict the idea of a "revolution," but Reid missed an opportunity. Thanks to Anders Winroth and Carlos Larrainzar we can trace the development of Gratian's thought as he compiled his Decretum. In his analysis Reid mixes the various recensions of Gratian's text, which does not permit him to see whether Gratian's position evolved or changed.

Consent did triumph as the key ingredient in a Christian marriage during the

twelfth century. As Charles Donahue demonstrated long ago Pope Alexander III's pontificate established consent of the spouses as the foundation stone of marriage. Reid points out that this remained true until the Council of Trent promulgated *Tametsi* in 1563, after which valid marriages had to be contracted in the "face of the church." This canon was, as he argues, a step to rid society of clandestine marriages. And it was. But it was also a step to bring all marriages under ecclesiastical control; people married outside the church for reasons other than secrecy. The really interesting question that Reid does not broach is: why did the Church wait four centuries to assert its authority? The Latin church was well aware that the Greek Church required the blessing of a priest for a marriage to be valid. King Roger II of Sicily had even imposed a requirement of clerical participation in the first half of the twelfth century when he mandated that a public ceremony, officiated by a priest, was essential for a valid, legitimate marriage. Rome, however, did not follow—until *Tametsi.* The issue merits reflection.

As I have indicated above, Reid's book offers much more than a discussion on the rights of marriage. Space does not permit me to explore his treatment of the others. I can say that the book is a valuable contribution to the history of rights in European jurisprudence.

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Penny Tucker, *Law Courts and Lawyers in the City of London, 1300–1550,* Cambridge: Cambridge University Press, 2007. Pp. 424. $100 (ISBN 978-0-521-86668-2).

Among English legal historians, Penny Tucker is known as *the* expert on the London courts. She has published a series of ground-breaking articles on that subject, and this book is a culmination of over a decade of work. It is essential reading for everyone using London court records, whether their interest is political, legal, or social history.

Writing the history of London's courts is an especially difficult task, because so few records survive. Fortunately, because of the close interaction between the London courts and the royal courts in Westminster, much can be learned from records of the latter. Nevertheless, finding the relevant cases requires thousands of hours of searching, and analyzing the material requires an understanding of the unrepresentative nature of cases that made their way from London to Westminster.

The first chapter places London courts in their political and legal context. London, by far the largest and most important commercial city in medieval England, enjoyed considerable autonomy and was governed by a progressively more open elite of "freemen." Royal charters granted London courts exclusive jurisdiction over most cases involving London freemen, except those concerning property outside of London. In addition, London was allowed to retain and develop its own customs.

The second chapter analyzes differences between London custom and the common law. Perhaps most important, all land in London was freehold held directly