

redactor of the second recension ('Gratian 2', who may, or may not, have been the same person) was more conservative. Some of the discussion of the dating of the work can be difficult to follow for non-specialists, but the rewarding romp of the chapter on the 'canon law of magic' more than makes up for this. Wei thus shows that the two recensions differ not only in their knowledge and use of Roman law, which has been recognised since Winroth's original work, but also in their theological outlook. This book admirably advances the study of both mediaeval law and mediaeval theology.

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Conciliarism and Church Law: Studies on Franciscus Zabarella and the Council of Constance

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When we read the words 'the Great Schism', we usually think of the tragic divergence of the eastern and western branches of the Christian Church that came to a head in 1054 with mutual excommunications and anathemas. The other 'Great Schism' – the Western Schism, which lasted from 1378 to 1417 and which is the subject of Morrisey's collection of studies – is less well known, and this for two main ideological reasons. First, it does not reflect lustre on the papacy as an institution that stands above all for unity and continuity that it split into first two, then three popes, each with their hierarchical retinue and national allegiances across Europe – that the papacy itself was the cause of one of the greatest traumas ever to afflict Christendom. The second reason is that the Conciliar Movement that was generated by the schism did what the papacy itself could not do: it restored unity to the papacy and thus to western Christendom, both asserting and demonstrating that General Councils were superior in authority to the pope.

It has been gratifying to champions of papal authority through the last seven centuries that the Conciliar Movement eventually overreached itself and was outmanoeuvred by the pope (Eugenius IV) in a way that strengthened the remorseless drive to papal absolutism. So naturally the Roman Catholic Church does not wish draw attention to the Great Schism of the West and the Conciliar Movement that succeeded in healing the fragmented papacy. It does not fit with the supreme papal claims of modern times, articulated above all at the First Vatican Council (1869–1870), that at one time the papacy owed its survival

to a council. But the Conciliar Movement remains highly instructive for our understanding of Church history and for our reflection on ecclesiology and polity, especially with regard to authority, jurisdiction and decision-making in the Church. Conciliarism influenced Martin Luther and other sixteenth-century Reformers and Richard Hooker. And it laid the foundations for the conciliar structures of the churches today, not least in the Church of England.

The Conciliar Movement saw the coming together of ecclesiological work by such scholars as Jean Gerson, Pierre d'Ailly and Franciscus Zabarella (the main subject of this work) with what canonists had been working on for centuries – what to do about a heretical or otherwise errant pope. The Movement did its work in the context of emerging national consciousness in Europe and against the ever-present threat from the Turkish empire on its borders. The three guiding principles of Conciliarism were (and are): constitutionality (the scope, limits and location of authority in the Church are agreed and laid down); representation (the whole body of the Church is responsible for its well-being through elected or appointed representatives meeting in council); and consent (the governed in the Church, the faithful, have the right to be consulted about decisions and policies that affect them; governance requires the acquiescence of the governed). The dominant principle of Conciliarism was (and is), *Quod omnes tangit ab omnibus approbatur*: what affects all must be approved by all. Conciliarists intentionally worked for the common good of the Church, the *status ecclesiae*. Their basic axiom was (and is) that authority in the Church resides in the whole body (the *congregatio fidelium*) and is delegated to certain officers, notably bishops and the pope, who remain accountable to the body through conciliar structures.

Zabarella lived from 1360 to 1417, dying at the Council of Constance, of which he was the leading light. His work *De scismate* (1403–1408) provided the rationale for appeal to the emperor (first Ruprecht, then Sigismund) to do what the papacy was in no position to effect, namely to convene a council, and for the action of the Council of Pisa (1409) in deposing the two rival popes and electing a replacement. Unfortunately, at Pisa the two deposed popes refused to concede, so now there were three. The Council of Constance was called to address this fiasco. Zabarella had a major hand in drafting the decree *Haec Sancta*, in which the council gave itself authority, as representative of the whole Church, to deal with the problem. Constance aimed to deal with the three problem areas of unity, reform and heresy. With regard to unity it succeeded. With regard to reform in head and members (*reformatio in capite et in membris*) it became sidetracked by the more urgent political issues. With respect to 'heresy' it besmirched its reputation for ever by the irregular trial and consequent execution of the Hussites Jan Hus and Jerome of Prague, though Zabarella did what he could in the interests of fair trial. It was the failure of

justice in their case that caused Luther, just over a century later, to lose faith in the infallibility of general councils.

Zabarella was a man of action as well as of intellect. He was a friend and correspondent of Humanist scholars and poets. An academic canonist (at Florence and then Padua) and subsequently a curialist cardinal, his work was distinguished by meticulous attention to detail and to due process, without losing sight of the strategic political goal. Judicious, fair and balanced, guided by realism and restraint, Zabarella had to reconcile conflicting interests and to balance polarities, such as papal prerogatives on the one hand and the welfare of the whole Church on the other. He was not anti-papal and worked for a political ecology where pope, council, bishops and cardinals had their proper place. He believed that the laity should be present at (episcopal) councils when matters that concerned them, such as marriage and family, were being debated.

Thomas Morrisey is a major scholar in the renaissance of conciliar study that has taken place during the half-century since the calling of the Second Vatican Council by Pope John XXIII. This work brings together seventeen of his articles, mostly previously published, dating from 1976 to 2010. They are highly readable, though one is in German. The footnotes take up on average nearly half of each page. There is considerable overlap of content and references. The book is published in the *Variorum* series, which means that the original typeface and pagination of the articles is reproduced. Morrisey's articles are an indispensable resource for studying the Conciliar Movement. So this is a book for libraries of law, history and theology, and one that scholars working on the history and theory of conciliarism will need to use.

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