



**HAL**  
open science

## Medieval jurisprudence on international law

Dante Fedele

► **To cite this version:**

Dante Fedele. Medieval jurisprudence on international law . Tijdschrift voor Rechtsgeschiedenis / Revue d'histoire du droit / Legal History Review, 2017, 85 (3-4), pp.603-611. 10.1163/15718190-08534P08 . hal-01952051

**HAL Id: hal-01952051**

**<https://hal.science/hal-01952051v1>**

Submitted on 12 Dec 2023

**HAL** is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

## Medieval jurisprudence on international law

Review-Essay on BALDO DEGLI BALDESCHI, Commentaire sur la Paix de Constance (1183), traduction, introduction et notes de D. Gaurier, [Cahiers Internationaux d'Anthropologie Juridique, 46], Pulim, Limoges 2016, 251 p. (avec CD-Rom)

Summary: The French translation of Baldus de Ubaldis' commentary on the Peace of Constance (1183) by Dominique Gaurier provides an opportunity to point out some difficulties with regard to the original's textual transmission. A lacuna occurring in the Milanese edition of c. 1502 was reproduced in the collections of treatises printed in Lyons in 1535 and 1544, and spread in the glossed editions of the *Corpus iuris* which appeared after the mid-sixteenth century.

Keywords: Peace of Constance - civil law scholarship - international law - Holy Roman Empire - Italian city states.

Over the last ten years, Professor Gaurier has translated into French several early-modern works related to the history of international law. These include Pietrino Belli's *De re militari et bello tractatus* (Alba, Fondazione Ferrero, 2007), Konrad Braun's *De legationibus libri quinque* (Limoges, Pulim, 2008), Richard Zouche's *Iuris et iudicii fecialis [...] explicatio* (Limoges, Pulim, 2009), Cornelius van Bynkershoek's *Quaestionum iuris publici libri duo* (Limoges, Pulim, 2010), Pierre Goudelin's *De jure pacis commentarius* (Limoges, Pulim, 2011), Alberico Gentili's *De legationibus libri*

*tres* and *De iure belli libri tres* (Limoges, Pulim, 2011 and 2015, respectively), and Carlo Pasquali's *Legatus* (Limoges, Pulim, 2014). The publication of this translation of Baldus de Ubaldis' commentary on the Peace of Constance is particularly welcome, as the text in question, despite being the work of one of the most eminent jurists of the Late Middle Ages, is still awaiting a thorough analysis. In recent years some excellent studies have dealt with Frederick Barbarossa's Italian policy, the events of the Lombard League and the connections between the outcomes of the second Diet of Roncaglia (1158) and of the Peace of Constance (1183), but the commentaries on the Peace written by Odofredus Denari (between 1235 and 1250) and Baldus (between 1390 and 1393) – a few surveys by Gero Dolezalek, Mario Ascheri and Gianluca Raccagni notwithstanding – have not yet received the attention they deserve. Professor Gaurier must therefore be congratulated for producing this translation which, it is hoped, will stimulate scholars to undertake more in-depth investigations of the aforesaid commentaries, and maybe, more generally, of the role played by the Peace of Constance in late-medieval legal literature as a whole.

The translation is preceded by an Introduction which provides some information about both the importance of the Peace (defined by Gaurier as being «quasi-constitutional», p. 7) in Italian communal history and its fortune in legal scholarship, as well as about Baldus and the methodology of his commentary. Unfortunately, a few mistakes should be pointed out: it may come as a surprise, for example, to read that the Peace was accorded by «Frederick II» (p. 7), or, regarding Baldus, that his date of birth is 1324, instead of the widely-accepted 1327 (p. 7 and 9), that «we don't know his first name» and that «he is often confused with his brother Pietro» (p. 9). A translation of the text of the Peace is also proposed at pages 11-17, which proves useful for the reading and understanding of the commentary. Nevertheless, in addition to a few oversights<sup>1</sup>, it is worth remarking that, as showed by

---

<sup>1</sup> At p. 12, the sentence «Cum autem nos Imperator divina vocatione decesserimus...», whilst referring to the (future) time of the emperor's death, is translated as «Alors que nous, empereur, nous avons quitté notre vocation divine...». In two cases, the meaning of a sentence is reversed by the suppression of a negation: at p. 13 (where «Vasalli, qui tempore guerrae, vel treugae non postulaverint investituram...») is rendered as «Les vassaux, qui auront demandé une investiture durant le temps de la guerre, ou de trêve...»), and at p. 14 (here «Item volentibus venire contra pacta non per violentiam factam, & iuramento firmata...») is translated as «De même, voulant venir contre les accords faits par violence et confirmés par serment...»).

Dolezalek<sup>2</sup>, the text presented here as the oath taken by the parties to the Peace in June 1183 (p. 16-17) is actually, with the exception of the first paragraph, the oath taken one and a half years later by the members of the Lombard League, on the occasion of the renewal of the League itself, which took place «at Piacenza» (these last words are not translated by Gaurier). Neither Odofredus nor Baldus seem to have noticed this, since they both also commented on the text of that later oath – for which mistake, in the 16<sup>th</sup> century, Baldus was to be ridiculed by Charles Dumoulin as a senile old man<sup>3</sup>. However, although the text reproduced in most editions of the *Volumen* gives the dates of the oath as 21-22 December 1180 (corrected to «1183» by Gaurier), the manuscript tradition clearly reveals that the correct dates are 21-22 January 1185 (which, as is made explicit in the text, were a «Monday» and a «Tuesday» – but the words «*die Lunae*» are translated as «*au jour de la lune*», and the words «*die Martis*», again, are not translated by Gaurier).

The Latin text on which the translation of Baldus' commentary is based is taken from the sixth volume of the collection *Tractatus ex variis iuris interpretibus collecti*, published by Georges Regnault in Lyons in 1544 (f. 199vA-205vB)<sup>4</sup>. The reproduction, within the translation, of the marginal numbers included in this edition makes it easy for the reader to go back and forth between the two texts. In his Introduction (p. 8), Gaurier says that he also used the version of the commentary published, in the form of a marginal gloss to the text of the Peace itself, in the *Volumen parvum* as part of the last edition of the glossed *Corpus iuris civilis*, which appeared in

---

<sup>2</sup> See G. Dolezalek, *Der Friede von Konstanz 1183 in der Literatur des "Jus Commune"*, in: *Gli inizi del diritto pubblico, 2, Da Federico I a Federico II / Die Anfänge des öffentlichen Rechts, 2, Von Friedrich Barbarossa zu Friedrich II, a c. di G. Dilcher - D. Quaglioni*, Bologna - Berlin 2008, p. 277-306.

<sup>3</sup> New hypotheses about the events which took place in Piacenza in January 1185, and about the reasons why Odofredus might have consciously commented on this oath, are now proposed by G. Raccagni, *When the Emperor Submitted to his Rebellious Subjects: A Neglected and Innovative Legal Account of the Peace of Constance, 1183*, *English Historical Review*, 131 (2016), p. 519-539.

<sup>4</sup> The reader must be warned that, at p. 25, this edition is presented by Gaurier as having been published by the «Compagnie des Libraires» in «1549». In fact, as it is clearly indicated in the frontispiece of this edition, the correct date is 1544. Moreover, the 1549 edition of the collection *Tractatus ex variis iuris interpretibus collecti* does not include Baldus' commentary on the Peace of Constance.

Lyons in 1627 (col. 175-204)<sup>5</sup>. As with the previous translations published by Gaurier for Limoges, a photographic reproduction in PDF format of the original text (in both the versions mentioned) is helpfully made available in the CD-Rom attached to the book. However, the use of these particular editions is problematic. First, the reader may be confused by the fact that the order of the glosses in the two editions is not always the same – the 1627 edition being in this sense more consistent with the wording of the Peace –, and that the translator does not always follow the same edition. At p. 198-204, after the gloss «Seront tenues (*Teneantur*)», the translation presents in sequence the glosses «[Ils répareront] les routes et les ponts (*Vias et pontes*)», «[La marchandise] suffisante (*Sufficiens*)», «Seront remis en l'état initial (*Restituantur*)», «Mais, si par quelque moyen (*Si qua vero*)», «[Les autres cités la] contraindront (*Compellant*)» and «Nous, étant entrés [en Lombardie] (*Nobis intrantibus*)», just as in the 1544 edition, whilst the 1627 edition places the glosses *Vias et pontes*, *Sufficiens*, and *Restituantur* after the gloss *Nobis intrantibus*. Similarly, at p. 226-227 we find the glosses «[Leur] majorité (*Maior*)» and «[Toutes] les prescriptions (*Praecepta*)», as in the 1544 edition, despite their being inverted in the 1627 edition. In contrast, at p. 180-182 the order of the glosses «Selon les lois et les coutumes (*Secundum leges et consuetudines*)» and «Annulés (*In irritum*)» is the same as in the 1627 edition, whereas the 1544 edition inverts them. And again, at p. 183-190 the translation is based on the order of the 1627 edition, in which the gloss «Les possessions (*Possessiones*)» is followed by the glosses «[Les possessions] seront remises en leur état initial avec leurs fruits et sans dommage (*Cum fructibus et sine damno*)», «*Restituantur*» (without any heading, which may well be confusing), «Ou, s'il les a récupérées (*Recuperaverit*)» and «Pour la connaissance (*Ad cognitionem*)», while in the 1544 edition the sequence is *Possessiones*, *Restituantur*, *Ad cognitionem*, *Cum fructibus et sine damno* and *Recuperaverit*<sup>6</sup>.

---

<sup>5</sup> Although Gaurier refers to this edition as being the fifth volume of «Cujas' work», the text is actually taken from the 1627 *Volumen parvum* (which naturally includes Cujas' «notae, observationes & emendationes»).

<sup>6</sup> Gaurier justifies this inconsistency by saying that, in the last two cases, he chose the 1627 edition to respect the order established in the wording of the Peace (see p. 180, note 578, and p. 184, note 589), whereas in the first two cases he chose the 1544 edition to respect the sequence of the marginal numbers included in this version (see p. 201, note 663, and p. 226, note 769). However, since the order of the 1544 text was to be altered, it would probably have been more convenient to alter the sequence of the marginal

As well as the order of the glosses, this last passage presents another – more serious – problem, which may, however, actually provide new insights into the study of the textual tradition of Baldus' commentary: a substantial portion of text is missing here. What, in both the 1544 and the 1627 editions, is supposed to be the gloss «Ou, s'il les a récupérées (*Recuperaverit*)» is in fact a text which combines the first part of the gloss *Recuperaverit* (until the reference to D. 23.5.16, at p. 187 of Gaurier's translation) with the last part of the gloss *Aliquem* (from «D'où, cela ne lui est pas accordé en vain...», *ibid.*), while the glosses *Arbitros*, *Assignentur*, *Opizoni*, *Nobis*, *Per aliquam personam* and *Defendendo*, which should appear between them, are simply left out. To my knowledge, this lacuna has never been noticed by scholars; it undoubtedly calls for further study. Here, I can only note that – as far as the editions of the commentary which appeared within the *Corpus iuris civilis* are concerned – this portion of text is present in the (few) incunabula of the *Volumen* which include the Peace of Constance, while the lacuna becomes quite common after the mid-16<sup>th</sup> century<sup>7</sup>. On the other hand, in the editions of this work which have appeared outside the *Corpus iuris civilis*, the lacuna seems to be extremely rare: other than the 1544 edition included in the *Tractatus ex variis iuris interpretibus collecti*, and the one published in the third volume of the previous collection of legal treatises, which appeared in Lyons in 1535 under the title *Tractatus doctorum iuris*, the only edition I know with the same omission is the one printed in Milan after 1502 and apparently based on the *editio princeps* of c. 1474 – where the text is nevertheless complete<sup>8</sup>. Moreover, the lacuna is not always perfectly

---

numbers as well, given that their presence in the translation allows the reader to find his way in the original version.

<sup>7</sup> For the incunabula, I have consulted the editions published in Milan 1482, Venice 1494, Venice 1497, Venice 1498-99 and Venice 1500, which are the only editions including the Peace of Constance, according to V. Colli, *Incunabula operum Baldi de Ubaldis*, *Ius commune*, 26 (1999), p. 279-280. The edition which appeared in Venice in 1502 also presents a complete text. Some French editions of the early 16<sup>th</sup> century, like Lyons 1511, Paris 1513, Paris 1515 and Paris 1520, only include the text of the Peace of Constance, without Baldus' commentary. For later editions, I have seen those published in Lyons 1541, Lyons 1557, Lyons 1558, Paris 1559, Paris 1566, Venice 1569, Venice 1574, Turin 1576, Venice 1581, Venice 1598, Lyons 1604, Venice 1606 and Lyons 1627, in all of which the lacuna occurs.

<sup>8</sup> This edition, entitled *Baldi de Ubaldis de perusio utriusque iuris doctoris Excellentissimi de Pace constantie Tractatus subtilissimus* and unpagged, was printed in Milan by Johannes Jacobus de Legnano and brothers (whose printer's mark can be seen in the frontispiece), although the colophon reproduces the indication given in the *editio princeps* («Impress[um] Rome apud sanctum Eustachium in domo minorum Anthonii et Raphaelis de vulturis Scriptorum apostolicorum»): see ISTC n° iu00034300. In

identical in all the editions. Until (possibly) 1559, the missing portion of text exactly corresponds to the first column of f. 159r in the *editio princeps* («[...] *possidere / cumque personam ut apparet in predictis ll. et capitulis. Unde nota frustra* [...]»), with minor differences in the various editions). The cut here operates between the words «*possidere*» and «*cumque*». By contrast, in the Parisian 1559 edition of the *Volumen parvum* the text is slightly different: «[...] *possidere: ut ff. de fundo dotali l. si fundum. / Unde non frustra* [...]». The lacuna is practically the same in size as in the previous editions, but here the cut operates between the words «*fundum*» and «*Unde*». This version was adopted not only in the following Parisian and Lyonnais editions, but also in late Venetian editions (like the one printed in 1598, whereas until at least 1581 the Venetian editions kept offering the older version). The Turinese edition of 1576 presents the older version but, like the Paris edition of 1559, gives the text «*Unde non frustra*» instead of «*Unde nota frustra*».

Gaurier's translation of the commentary is sober and literal, and obviously intended to reflect Baldus' Latin as closely as possible. This choice may challenge

---

the ISTC this edition is said to have been printed «not after 1503»; however, it was actually published after 1502, since the inscription on the printer's mark is «Io. Iacomo e fratelli de Legnano», and the brothers Giovanni Giacomo, Bernardino and Giovanni Antonio only took over from their father in that year (see for instance M. Breccia Fratadocchi, s.v. «Giovanni da Legnano», in *Dizionario biografico degli italiani*, vol. 56, Istituto dell'Enciclopedia italiana, Roma 2001, available online at the address [http://www.treccani.it/enciclopedia/giovanni-da-legnano\\_\(Dizionario-Biografico\)/](http://www.treccani.it/enciclopedia/giovanni-da-legnano_(Dizionario-Biografico)/)). Moreover, in addition to the two copies indicated in the ISTC (Scheurl-Bibliothek in Nürnberg and Biblioteca Colombina de Sevilla), the Italian catalogue EDIT16 shows that two other copies of this edition are located in Italy (Biblioteca civica Aprosiana di Ventimiglia and Biblioteca Comunale di Trento – this last is the one I consulted). Another copy is also available at the Biblioteca Nazionale di Napoli and was mentioned, drawing on Douglas Osler's Census, by R. Feenstra, *Editions lyonnaises des lectures de droit civil de Balde par Jean de Gradibus, avec un aperçu des autres éditions du XVI<sup>e</sup> siècle*, *Ius commune*, 27 (2000), p. 353-354, note 52 (I wish to thank Dr Osler for giving me the shelf-mark of this copy, and Dr Simona Pignalosa, from the Biblioteca Nazionale di Napoli, for providing me with a digital reproduction of its frontispiece and colophon). Except for the 1535 and 1544 editions which appeared in Lyons, already mentioned, and which at any rate were both included in a collection of legal treatises by many different authors, this seems to be the only edition in which Baldus' commentary on the Peace of Constance appears by itself: since the dedication manuscript sent by the author himself to Giangaleazzo Visconti in 1393 and, almost a century later, the publication of the *editio princeps* (on both of which see V. Colli, *L'esemplare di dedica e la tradizione del testo della Lectura super usibus feudorum di Baldo degli Ubaldi*, *Ius commune*, 27 (2000), p. 69-117), this commentary has always been published as an appendix to Baldus' commentary on the *Libri feudorum*. I have seen the editions which appeared in Rome c. 1474 (i.e. the *editio princeps*), Parma 1474, Venice 1486, Pavia 1490, Pavia 1495, Lyons 1497, Venice 1500, Lyons 1502, Lyons 1522, Lyons 1524, Lyons 1530, Lyons 1536, Turin 1578 and Venice 1580: in all of them the portion of text under discussion is present.

readers who are not familiar with late-medieval legal literature, since it is somewhat lacking in fluency, but it has the merit both of keeping close to the original text and of offering a reading which reflects the overall style of the work. Unfortunately, the translation is also marred by some minor and major errors, some of which may mislead readers<sup>9</sup>.

---

<sup>9</sup> The following remarks, which follow the page order, should not be regarded as a comprehensive list: at p. 34 the word «rebelles (*rebelles*)» is missing between «les» and «(38)». At p. 86, the sentence «statuta potius accedunt ultime voluntati quam contractui» seems to mean that statutes are closer, or more similar, to wills than to contracts, instead of «les statuts ajoutent plutôt à une dernière volonté qu'à un contrat». At p. 100 one may be surprised to read that «Ici, à travers Cino, Hostiensis dit qu'il a vu...»: in fact in the original text the references to Cino and to Hostiensis belong to two different sentences («Pro hoc not. C. de quadri praescr. l. bene a Zenone, & ibi per Cy. Dicit Host. quod vidit...»). At p. 104 the words «Dans les cités [but *In civitate*]» should be in bold, as they mark the beginning of a new gloss. At p. 107 the meaning of the words «Sed tu[tius] est dicere, ...» is rendered as «Mais toi prononcer est ce qui, ...» (with the words «Mais toi» in bold as if they were the beginning of a new gloss, which – despite the wrong indication given in the 1544 edition – is not the case). At p. 113, the words «si quis recte inspiciat» are translated as «si quelqu'un ne regarde nulle part». At p. 133, incorrect punctuation in the translation makes it difficult to understand the meaning of a sentence: «Nota ex eo, quod dicit mores, quod licitum est cuilibet civitati habere consuetudines proprias. Ex eo quod dicit leges, nota quod licitum est civitati habere propria statuta confirmata per praesidem provinciae. Sed si civitas sit sibi ipsi praeses, sufficit quod potestas civitatis cum decurionibus faciat statuta» is rendered as «Ici, [c'est] selon les usages et les lois de cette cité. Relevez à partir de cela que [le texte] appelle usages le fait qu'il est licite pour n'importe quelle cité d'avoir des coutumes propres et c'est à partir de cela, qu'il les appelle des lois. Relevez qu'il est licite pour une cité d'avoir des statuts propres confirmés par le gouverneur de la province, mais, si une cité est un gouverneur pour elle-même, il suffit que le pouvoir de la cité fasse les statuts avec les décurions». At p. 143, where the text says that «monachi [...] pro mortuis reputantur», the translation reads «ils sont médités en faveur des morts». At p. 149 «Cato», the author of the *Disticha* who wrote «Pugna pro patria», is misunderstood as being «un catholique». At p. 177, note 563, the reader is informed that the first sentence of the gloss «Les jugements aussi (*Sententiae quoque*)» is missing in the 1627 edition: actually it is present, but it is included in the text of the Peace itself as a summary of the relevant paragraph, instead of being printed in the apparatus as the beginning of the gloss. At p. 179, the word «dit» is missing between «Car il est» et «expressément». At p. 184, Gaurier oddly (and incorrectly) claims that in the 1544 edition the words «tene menti» are not separated and says that he prefers this version to the one reported in the 1627 edition (where they are, again, separated); the sentence «Nota quod fructus et damna ponuntur ut diversa, et sic non dicitur damnum dare qui tanquam possessor percipit fructus, quod tene menti» is therefore translated as «Relevez que les fruits et les dommages sont exposés comme différents et ainsi, n'est pas réputé causer un dommage celui qui, en tant que possesseur, perçoit les fruits, parce qu'ils appartiennent] à la la (*sic*) tenure». At p. 185-186, in two cases the addition of a negation reverses the meaning of a sentence: the first is «Et nota quod in istis restitutionibus, quae fiunt vigore capitulorum pacis, obstat exceptio, dolo facit» (translated as «Et relevez que, pour ces justes remises en l'état initial qui se font par la force des articles de la paix, l'exception "tu le fais par dol" ne fait pas obstacle»); and the second is «Et sic nota quod tempore guerrae licitum est recuperare qualitercumque» (translated as «ainsi, relevez qu'il n'est pas licite durant un temps de guerre de récupérer quoi que ce soit»). At p. 199, third line, between the words «*Legatio*» and «Cela» the word «*Solutio*. (*So[lutio]*.)» is missing. At p. 212, the sentence «quia iniustus in uno, praesumitur iniustus, & suspectus



A large part of the book is dedicated to the translation of the texts of Roman, canon and Lombard law which are referred to in Baldus' work. As in most of his previous translations, Gaurier has devoted great effort to provide as many identifications as possible, and to make these references immediately available to the reader, which is extremely useful for all direct references to texts taken from the *corpora iuris*<sup>10</sup>. Regrettably, Gaurier has adopted the same approach in the many cases in which Baldus refers not to such texts directly, but to one or more of the commentaries on them written by other medieval jurists: in these cases, the translation of the original text proves to be less useful, since, as is well known, commentaries at times developed into long discussions which could touch on subjects more or less removed from the issue at stake in the *lex* or *canon* in question; and so the passages from medieval

---

in alio» is translated as «parce que celui qui est *juste* pour l'un, est présumé [être] injuste et suspect pour l'autre» (emphasis added).

<sup>10</sup> Here again there are some inconsistencies. In the Introduction (p. 20), and at p. 29 (note 10) Gaurier maintains that Baldus uses the term «Novella» to designate the decretals included in the *Liber Sextus*: naturally, as the example at p. 29 clearly shows, by this term Baldus refers to Johannes Andreae's famous work. At p. 48, a reference to «Décrétale III, xxiii, 3» is wrong: the original text says «supra in qui. cau. feu. amit. c. Obertus § j coll. x», and so it refers to LF, 2.23.1. At p. 67, note 128, the *lex Omnes populi* is misunderstood by Gaurier as being D. 1.3.2, instead of D. 1.1.9. At p. 78-79, notes 174 and 180, the *lex Omnis iurisdictio* cited by Baldus is actually one of the three lost laws of Roncaglia, rediscovered at the end of the 1960s by Vittore Colorni in the manuscript Lat. 4677 of the Bibliothèque Nationale de France (in this respect, see more recently D. Quaglioni, *Vecchie e nuove testimonianze sulla l. "Omnis iurisdictio"*, in: *Iuris historia. Liber Amicorum Gero Dolezalek*, ed. by V. Colli and E. Conte, Berkeley (CA) 2008, p. 89-104). At p. 86, the jurist «Pe.» cited before Cinus of Pistoia is to be identified as Petrus de Bellapertica rather than as «Pelagius». At p. 112, note 311, the *lex* from the section *De prohibitis nuptiis* of the *Lombarda* referred to by Baldus is not «*Quem nobis*» but *Quoniam nobis*, and so the reference is *Lombarda* II.8.15 (according to the numeration of the edition used by Gaurier, i.e. *MGH, Legum*, vol. IV, ed. by G.H. Pertz, Hannover 1868). At p. 115 (note 328) and 117 (note 338) the same text is quoted in the footnotes for two different references to the *Lombarda*: in the first case, the text reproduced is consistent with the bibliographical information given by Gaurier, but whereas Baldus cites the *lex finalis* of an inexistent section *De officio vicarii*, Gaurier translates the penultimate *lex* of the section *De advocatis et vicedominis* (*Lombarda* II.47.11); in the second case, the identification of the passage referred to by Baldus is correct, but naturally the translation is not. At p. 149, the paragraph *Sententiae quoque* cited by Baldus is not taken from the *Clementinae*, but from the Peace of Constance itself (the text reads «infra eo. sententiae quoque»): see the col. 162 in the 1627 edition. It must be said, however, that some references are indeed quite difficult to trace back. Lastly, the reader should beware of some misinformation given in the footnotes: the author of the *Magna Glossa*, for example, is not «Francesco Accorso» (p. 28, note 8), but his father Accursius (whose dates of birth and death are actually c. 1180 – ante September 1262, and not «vers 1151-1229»). And, contrary to what is said at p. 55, note 79, the canonist Huguccio author of the *Summa decretorum*, as demonstrated by Wolfgang P. Müller, was not born in Pisa and did not write the grammatical work *Derivationes* long attributed to him.

commentaries cited by Baldus may not bear any direct link with the texts translated in the footnotes. The identification and translation of such passages would undoubtedly be extremely time-consuming for any translator, but the effort would, in the end, make the critical apparatus much more valuable.

Another point concerning Baldus' sources can be made. It is known that, in his commentary, Baldus drew upon Odofredus' work on the same Peace. The relationship between the two texts has not yet been studied, except for a remark made by Dolezalek, according to whom Odofredus' gloss, albeit formally not edited, has been largely reproduced, and quite correctly, by Baldus, who always also reproduced the signature of his precursor<sup>11</sup>. This – accurate – remark reveals that the addition of the word «*voir*» before the name of Odofredus, often made by Gaurier within square brackets, is in most cases misleading, as «*Odo[fredus]*» actually indicates the signature of the 13<sup>th</sup>-century jurist at the end of a verbatim quotation, not a reference to his work.

In spite of these shortcomings, Gaurier's translation should be gratefully welcomed, since it offers the opportunity to revisit a major legal text and to further the understanding of its author. Baldus deals here with several crucial topics in late-medieval legal thought, particularly concerning the complex interplay of various political actors in a multi-layered political and legal order, and addresses a wide range of challenging issues which are now raised again for scholars.

Dante Fedele, KU Leuven

---

<sup>11</sup> See Dolezalek, *Der Friede* (*supra*, n. 2), p. 283. At the same page, note 24, Dolezalek also lists the surviving manuscripts of Odofredus' gloss, which are Basel, Universitätsbibliothek, C.I.31, f. 221vA-226vA; Lucca, Biblioteca Capitolare Feliniana, 427, f. 59-65 (*rectius* 67); München, Bayerische Staatsbibliothek, Clm 21242, f. 2v-6r (*rectius* 6v); Paris, Bibliothèque Nationale de France, Lat. 5414A, f. 10r-19r (but the f. 12v-13v and most of the f. 17v are blank); Venezia, Biblioteca Nazionale Marciana, Lat. V.18 [2305], f. 239vA-239vB (fragment) and Lat. V.119 [2307], f. 29rA-34rB; Wien, Österreichische Nationalbibliothek, 2094, f. 24vA-26vB.