

Foreword	...	XI
Main abbreviations	...	XII
1	Introduction	1
	1.1 On the non-linearity of (legal) thought	1
	1.2 Invalid appointments, fugitive slaves and heretical prelates (or, on the content of this book)	5
	1.3 A few methodological remarks	10
<b>Part I: From Accursius to Bartolus (via France)</b>		
2	The Accursian Gloss	17
	2.1 The <i>lex Barbarius</i>	19
	2.2 Barbarius' praetorship	23
	2.3 Putative freedom and the validity of the acts	31
	2.4 The problem of presumed will	40
	2.5 Applications of Barbarius' case	49
	2.6 Putative notary?	52
3	Postglossators and Common Mistake: a tale of Odofredus, Jacobus de Arena and Butrigarius	61
	3.1 Variations on the Gloss: Odofredus de Denaris...	62
	3.2 The dissent of Jacobus de Arena	72
	3.3 Butrigarius and the Accursian Orthodoxy	81
4	<i>Ultramontani</i> & Co...	89
	4.1 Jean de Monchy	91
	4.2 Jacques de Révigny	93
	4.3 Martinus Syllimani	106
	4.4 Pierre de Belleperche	111
	4.5 Cynus da Pistoia	125
	4.6 Guido da Suzzara	133
	4.7 Guillaume de Cunh	140
	4.8 On the risk of being quoted by Cynus...	156
5	A fragile synthesis: Bartolus de Saxoferrato	161
	5.1 A strategic defence of the Gloss	161
	5.2 Legal ecumenism	168

5.3	Ambiguous notaries ... ..	172
5.4	Bartolus <i>ultramontanus</i> ? ... ..	177

**Part II: Canon law and the development of the concept of toleration**

6	From Gratian's <i>Decretum</i> to its Gloss ... ..	189
6.1	Sacramental and jurisdictional powers ... ..	191
6.2	Toleration in the <i>Decretum</i> ... ..	196
6.3	The decretists and the concept of toleration ... ..	200
6.3.1	From Rolandus to Huguccio ... ..	200
6.3.2	The excommunication by the secret excommunicate ... ..	211
6.4	Johannes Teutonicus and the Ordinary Gloss on the <i>Decretum</i> ... ..	228
7	Innocent IV and toleration ... ..	241
7.1	Confirmation and toleration ... ..	241
7.2	Toleration and representation ... ..	244
7.3	Scope of toleration ... ..	246
7.4	Some specific applications ... ..	254
7.5	Toleration, common mistake and public utility ... ..	260
7.6	Innocent IV and the <i>lex Barbarius</i> ... ..	277
8	Toleration in the aftermath of Innocent IV ... ..	283
8.1	Parmensis and the Gloss on the <i>Liber Extra</i> ... ..	283
8.2	Hostiensis ... ..	287
8.3	Guido de Baysio ... ..	291
8.4	The <i>Speculum Iudiciale</i> ... ..	295
8.5	Johannes Andreae ... ..	303

**Part III: Baldus de Ubaldis and the limits of representation**

9	Toleration without representation: Albericus de Rosate ... ..	317
10	Baldus' writings on the <i>lex Barbarius</i> ... ..	333
10.1	Two authors for one <i>repetitio</i> ... ..	333
10.2	<i>Lectura, repetitio, additio</i> ... ..	339
11	The anatomy of representation ... ..	345
11.1	<i>Dignitas</i> : worthiness and aptitude ... ..	348
11.2	Office and incumbent ... ..	352
11.3	Collegiate bodies and possessory issues ... ..	361
11.4	Incumbent vs. office ... ..	365

11.5	Confirmation in office	370
11.6	Toleration and representation	375
11.7	Toleration and sacramental issues	393
12	Baldus and the <i>lex Barbarius</i>	397
12.1	A different perspective	397
12.2	Barbarius and the problem of toleration	401
12.3	Common mistake and public utility	417
12.4	From Innocent to Barbarius: Baldus' three-step approach	424
12.4.1	Voidable election	426
12.4.2	Possession of ordinary jurisdiction	431
12.4.3	Public utility and representation: internal vs. external validity	445
13	Extensions of the <i>lex Barbarius</i> to other cases (or vice versa)	463
13.1	Judges and prelates	463
13.2	Notaries	470
<b>Part IV: <i>Barbarius post Baldum</i></b>		
14	From the <i>lex Barbarius</i> to the brocard <i>error communis ius facit</i>	489
14.1	Late commentators and early simplifications	489
14.1.1	Angelus de Ubaldis	489
14.1.2	Raphael de Fulgosiis	492
14.1.3	Paulus de Castro	495
14.1.4	Jason de Mayno	498
14.1.5	Felinus Sandeus, delegate judges and public utility	501
14.2	Early modern times	504
14.2.1	Simplifying the simplification	504
14.2.2	The <i>fonctionnaire de fait</i>	512
14.3	Toleration in late medieval and early modern canon law	514
14.3.1	Toleration and sacraments	514
14.3.2	Coloured title	521
14.4	Bellapertica the American (or, a hint at the common law side of things)	524
Conclusion		529
Appendix		535
Bibliography		539
Index		581