



1902

BALDUS DE UBALDIS

Follow this and additional works at: <http://digitalcommons.law.yale.edu/ylj>

Recommended Citation

BALDUS DE UBALDIS, 12 Yale L.J. (1902).

Available at: <http://digitalcommons.law.yale.edu/ylj/vol12/iss1/4>

This Article is brought to you for free and open access by Yale Law School Legal Scholarship Repository. It has been accepted for inclusion in Yale Law Journal by an authorized editor of Yale Law School Legal Scholarship Repository. For more information, please contact julian.aiken@yale.edu.

BALDUS DE UBALDIS.

In the picturesque city of Perugia, its ancient university recently celebrated in the most worthy manner, the fifth centenary of a great mediæval lawyer, Baldus de Ubaldis. All the Italian universities, from Bologna, prototype of the universities of the world, to the most recently created, were personally represented. The universities of almost all those countries where Roman law has, or once had sway took part—France and Belgium, Holland and Germany, Switzerland, Austria and Hungary, Roumania and Russia, even distant Scotland, were in some form represented. Nor were sympathetic adhesions wanting from the countries of the Common Law. Oxford was represented by a distinguished jurist, and other universities in England and some of those in America, namely Clark and Pennsylvania, concurred in tributes to the great lawyer. The Italian Government and the city of Perugia, it goes without saying, took conspicuous parts, and a specially interesting feature of the celebration was that the descendants of the Ubaldi, the Counts Baldeschi, were present. Under the fitting presidency of the distinguished Rector of the University, Professor Bellucci, all went well. When one thinks, how local and how brief is the reputation among the Anglo-Saxon races, of even the most conspicuous of the lawyers of the day, one is tempted to ask, who was this Baldus, and what did he accomplish, that he should have been known so widely, and remembered so long? These questions I purpose endeavoring to answer. Having been asked by the editor of the *YALE LAW JOURNAL* to send him a contribution, and recollecting well how generously the youth of Yale University forgive faults in the teller, if only there be the desire to tell something which may be worth the knowing, I propose to write my answers for the benefit of his readers.

Until lately, the main source of information concerning Baldus was the notice contained in the epoch-making work of Savigny on the history of Roman Law during the Middle Ages. Savigny's graphic picture of him is surprisingly full and clear, when one considers that he had to dispel an atmosphere of myth which had gathered, and to examine original authorities whose existence was hardly suspected before his investigations. Since Savigny's day,

other investigators, both in Germany and Italy, have continued his researches, and in some matters his views have had to be corrected. The whole of what has hitherto been done on the subject of Baldus has been collected, and much additional light upon him has been thrown in the handsome volume which the University of Perugia has published in commemoration of the celebration.* This work is edited and prefaced by Professor Scalvanti, who has contributed to it a paper containing much research into the life of Baldus, and of his brothers who were also jurists of note. Professor Tamassia gives a critical estimate of the writings of Baldus. The effect which they had on his times and in forming a school of law is luminously discussed by Professor Tarducci. Individual parts of his works are treated by other writers. Professor Buonamici analyses his commentary on the title of the Digest *de conditionibus et demonstrationibus*. Professors Navarrini and Barassi discuss respectively his conception of the nature of partnership, and his treatment of legal fictions. Professor Besta thoughtfully tries to restore a lost essay of Baldus in historical legal literature. The volume also contains pertinent extracts from articles published elsewhere and a selection of contemporaneous documents. It is altogether one of unique interest.

To understand the life work of Baldus and what he added to the science of law, one must have an idea of the position which that science held in Italy during the fourteenth century. It was an almost solitary position. Though the Greek School of Jurists at Constantinople had not actually expired, it had long ceased to have influence on the West. Outside of the walls of the Italian universities, legal science can hardly be said to have existed. In the oldest universities of France, particularly in Montpellier and Toulouse, there was legal teaching, but the sphere of these schools, though the Italians knew them and even learnt from them, was otherwise little else than local. In such other universities as had then been founded outside the circle of the Alps, there was no legal teaching. The school which was attempted at Oxford under Vacarius, had long since ended in failure. Whoever wanted in the fourteenth century to learn law, resorted to Italy. To it from all parts of Europe there came, as there had come during the three preceding centuries, streams of young men, mostly destined according to mediæval custom for the priesthood, to study law. Not till the revival of learning in the fifteenth century, could legal science well

* L'Opera di Baldo, per cura dell' Università di Perugia nel V. centenario dalla Morte del grande giureconsulto. Perugia 1901. pp. XXVIII and 499.

be studied elsewhere. In Italy itself, the teaching had not been unbroken since the fall of the Western Empire. Five dark centuries passed between the time of Justinian and the first revival of Roman Law in the eleventh century when the University of Bologna came into existence and under Irnerius became a great law school. It is noteworthy that Irnerius is said to have come from Rome, and that Bologna was the first centre of the new teaching. What was taught was not the Roman Law of the Western, but the farther advanced Roman Law of the Eastern Empire. This is probably explained by the facts that Rome after the Western Empire fell, had long been the capital of the duchy of that name; that Bologna was in the exarchate of Ravenna; and that these two districts (afterwards forming part of the States of the Church, the loss of which the Pope mourns in lonely grandeur in the Vatican), having been reconquered by Justinian, remained for centuries in the Eastern Empire, after the rest of Italy had fallen under Teutonic rule.

Between the first and the second and greater revival of Roman Law, which took place when at the revival of letters it spread over nearly the whole of continental Europe, there passed about four centuries. This period in legal history is divided almost equally between the schools known as those of the glossators and of the post-glossators. The former began under Irnerius and continued under his numerous successors—the once famous Azo being perhaps the most distinguished—down to Accursius. This school regarded the Roman Law of Justinian as the only law worthy of consideration. Other legal customs prevailing in Italy, including the feudal law, they regarded—perhaps not wrongly—as little better than barbaric. The Canon Law they could hardly afford to treat so contemptuously, inasmuch as it was largely founded on Roman Civil Law, but they gave it a place far inferior. The glossators in their teaching, restored all of Justinian's works to their original importance. In particular, along with his Codex, they elaborately studied the Digest. The most of the glossators were professors at Bologna, where, as their stately tombs still witness, they were held in high honor. They lectured, we are told, in a free and conversational manner—dictation being, as a rule, prohibited—and they took part in the "disputations" which were of much repute before the days of printing, where, upon some particular topic, a professor would take the field against all comers, answering all questions, and solving all difficulties. Or he might preside when some graduate, or promising student, entered the lists, for in the early universities, the students were encouraged to take a more active

part than is now usually allotted to them. The writings of the glossators took the form of notes, or "glosses"—whence their name—upon the *Corpus Juris*. A collection of the most important of the glosses was made by Accursius in the middle of the thirteenth century, and with him the school ended. His annotated edition of the *Corpus* remained for long the standard one, and after printing was introduced, went through many editions.

The value of the permanent work of the glossators suffered from its form. The arrangement of the *Corpus Juris*, though a natural one for its compilers to make, was from a scientific point of view full of every kind of fault. To readers separated by centuries from the ideas of the framers, the arrangement was arbitrary, unintelligible and inconvenient. The law on any one point had to be gathered from many different parts. The glossators, starting with this bad arrangement, simply added to the confusion. Individually, many of them, notably Azo, were concise, acute, and clear, but as a body, they were full of repetitions, and contrived to cloud and obscure matters till the original text was lost in a maze of comment. As time went on things grew worse, as each teacher had to expound not only the text, but the glosses of his predecessors. Glosses, in fact, became more important than text, and it became a proverb that it was better for a client to have the former rather than the latter in his favor. The school broke down under its own weight. Under the impulse of new ideas, for which the circumstances of the time urgently demanded attention, a new school arose. The school of the post-glossators succeeded, and remained dominant for about other two centuries.

The Post Glossatorial school has had many other names. Flourishing in the age of the schoolmen, it drew largely from their philosophy, and in Italy Scholastic seems to have been its usual designation. Dialectic, analytic, eclectic, and practical are all names which have been assigned to it, and recently in Germany the term, School of the Commentators, has frequently been applied. None of these names completely describe its character, and I prefer the name of Post Glossators, because it involves no theory. Scholastic and practical are the words which best describe it, the former explaining its method, the latter its object. It had become no longer possible for jurists to confine attention to the *Corpus Juris* and to try to solve all cases by ingenious interpretations of its texts. Jurists could no longer waive aside all laws except those of Justinian. Feudal Law was maintained by persons too powerful to be neglected. Canon Law was professed by authorities who were not content that

it should hold a subsidiary place. The numerous republics and principalities into which Italy was then divided had much statute law, and had set up many local usages which could not be ignored. These local laws, it was no longer possible to treat at the highest on the tribal system of letting each man live according to the law under which he was born. Modern notions were arising and the beginnings of a territorial law, to be binding on every one who resided within the territory of a state, were being formed. Thus the rudiments of international law, both public and private, required to be considered. Lastly, Commercial Law was arising, and with it the Italian system of banking, bringing into use a new system of currency, and new contractual documents, as to the interpretation of which the older authorities were silent. From this medley, the scientific jurist, if he would meet the wants of the day, had to extract something like order. The schoolmen supplied the clue. They were idealists; under concrete laws there lay abstract ideas and principles; and through particular rules there ran general conceptions. When laws therefore were in apparent conflict, the jurist had carefully to examine and analyse. He had to see if there was any common principle upon which they could be reconciled. If, after this search, they were still irreconcilable, he had to see which law in the circumstances of the case was in equity, the more important, and which ought therefore to overrule the others. In the mediæval confusion of Italian laws a *modus vivendi* had to be found, whereby a working harmony could be secured, and progress facilitated. This was secured by an appeal from the texts of the laws to the ideas which underlay them. In this process, if the Roman Law was not as it had been, the sole authority, it was still the supreme authority. This position was assured to it by its intrinsically superior merit. With the help of it the Post Glossators interpreted and co-ordinated the other laws, thus settling precedents which in after years were to be of great value and utility when Roman Law came to be extended over the rest of Europe. As Sohm and others have pointed out, the Post Glossators were truly the founders of the Modern Jurisprudence of the continent of Europe. They created the comparative method of studying law. It was the fault of their age that they had only a glimmering of the historical method, and that they knew nothing of the conception with which we are now familiar, that it is by a combination of these two methods that a science of law can be evolved. To know a law thoroughly, or scientifically, it is now self-evident that one must know the changes which it has undergone in the past, and be,

moreover, able to see how it stands as compared with similar laws elsewhere. A man can know little about the law he practises if he knows about it only. Simultaneously with the change in the nature of the teaching, there came another change. Under the glossators the University of Bologna had held almost undisputed pre-eminence. Under the Post-Glossators, other universities, as places of law teaching, came also to the front. While Padua, Pavia and Florence acquired fame, it was Perugia which had the honor of being the headquarters of the new learning, for it was there that during its zenith, the two great and famous leaders, Bartolus and Baldus, chiefly taught. They stood to each other as master and pupil, and for well-nigh four centuries their names were associated in legal science. One cannot help remembering that it has twice happened to Perugia to have the glory of giving to the world a great intellectual partnership of this kind, for it was there that Raphael was the pupil of Perugino.

In Italy, in the Middle Ages, the universities led progress in law. Of great legislators there were none. Judges and advocates did the routine work of the courts, often amid sufficient noise of applause or disapprobation, and then passed from the scene, leaving no mark. The earliest name of distinction in the post-glossatorial school was that of Cinus. Born at Pistoja in 1270, he received his earlier education there, and completed his studies at Bologna under Franciscus Accursius. For some reason he did not then graduate, but left for France, where he remained for an unknown but considerable time, during which he attended the University of Paris. Indirectly, this was important. Paris had at the time no reputation in law, but since the days of Abelard, it had been one of the great centres of the schoolmen. There Cinus came under the influence of the scholastic philosophy. Returning to Italy, he went, after some years of an unsettled life, again to Bologna, where he graduated at the ripe age of 44, and took to the teaching of law, and was the first to apply to it those scholastic methods which in the hands of his successors were to operate so great a change. Among other places, he lectured for some years at Perugia, and there, as one of his pupils, came a certain Bartolus of Sassoferrato. Born in 1314, Bartolus, after studying several years under Cinus, went to Bologna to complete his education, and there graduated. From Cinus he learned the scholastic methods which he afterwards applied when he came to be a lecturer in Pisa and in Perugia. He died at the comparatively early age of forty-three. He was a voluminous writer, and in his hands the scholastic methods were far more

fruitful than they had been in those of their original introducer. Bartolus was the true founder of the post-glossatorial school, and although for a while his reputation was eclipsed by that of his brilliant pupil, Baldus, posterity was not long in doing him justice, and in placing him in an equally distinguished position. The jurist, however, among all the post-glossators of whom we now know most was Baldus, and he seems to have been indeed a very remarkable figure, and a most interesting personality.

Baldus was born in Perugia in the year 1319. He belonged to the family of the Ubaldi, who although nobles, were usually members of learned professions. His father, Franciscus de Ubaldi, was in high repute as a physician, and his two brothers were also distinguished lawyers. Baldus—according to the custom of the time, always known by his christian name—received the usual education of one preparing for a learned profession, going through the “Trivium,” or first part of the full curriculum intended for professional scholars and philosophers. The second part—the Quadrivium—occupied too much time for any except these to take it. The general education of Baldus was thus completed at the age of 15, and, as this was the common practice, it explains a good many things both in him and in others which would otherwise be difficult to understand. At 15, he began his legal studies, it is reported, with great distinction. The obligatory curriculum in law lasted six, and might extend to eight years. Baldus went through it at Perugia and at Bologna, graduating at the latter place at the age of 24, and being “promoted” by Bartolus. He began to teach at once, and rapidly became the most popular lecturer in Italy. He soon obtained a professorship, and he continued to lecture to the ripe age of eighty. He lectured in several universities, notably in Perugia, Bologna, Pavia, Padua and Florence. Most of his time, however, was spent, as was fit, in his native city of Perugia. There was naturally keen competition for his services, and when he was at the height of his fame, at the age of 66, Perugia took a remarkable manner of securing a preferable claim upon his services. The city government exacted from him an oath that he would never lecture elsewhere without permission “*ut studium perusinum non devastaretur considerata sapientia dicti Domini Baldi.*” The resolution of the City Council and the record of the taking of the oath are still extant. With his hand on the holy gospels, Baldus is narrated as having duly sworn obedience. Nevertheless, his last services were not given to Perugia. The Duke of Milan made a request for the loan of them, and Giovanni Galeazzo Visconti was too formidable

a personage to be refused. The last ten years of his life were spent in Pavia. He lectured there till within a day or two of his death, and there was buried in the Franciscan Church.

Baldus lectured mainly on Roman Law. His lectures were chiefly elucidations of the *Corpus Juris*, and followed its arrangement, though with more freedom than was customary with the glossators. Even in his long term of office he did not overtake the whole of that large work. He lectured repeatedly on the portions of it which were of practical use in his day. The time had not come when the portions of it which were of historic interest only, could be considered to be of value. The thorough and systematic division and treatment of the subject with which we are now familiar was then impossible. But he did not, and could not confine himself to Roman Law. He was well known as an expounder of the Canon Law, and of the law of procedure, which was largely of ecclesiastical origin. He gave instruction likewise in Feudal Law. The statute law of the day did not escape him, nor did Criminal Law, or Commercial Law. Thus, during the curriculum he took his students through all branches of legal knowledge. His lectures are described as having been full of life and vigor. They seem to have claimed and, without effort, to have held the attention of the student. Sallies of sarcastic and pungent wit, often at the expense of his rivals, kept them from being dull. The same qualities gave him a reputation as a "disputant" not less brilliant. The crowds which came from all parts of Italy, and from all parts of Europe, attended specially upon him; and returning home with well stored memories, and well filled notebooks, spread and perpetuated his fame.

But Baldus was not a teacher and nothing more. He does not, indeed, appear to have practised much as a pleader. He was the great consulting counsel of his time, and his reputation for solving legal difficulties of all kinds was such that he was looked on popularly as an oracle. He was employed in every kind of question, from that of the validity of the election of a Pope, down to the construction of a will. His knowledge of law was so thorough, and through his natural shrewdness his intuition of what the courts would do so exact, that he was regarded as being able to predict what the decision would be. He by no means despised money, and as his consulting practice seems to have been enormous, he made a large fortune. In construing "substitutions" alone, he is said to have earned fees to the amount of fifteen thousand crowns. Some of his active life was spent in employments of a less remuner-

ative kind. He frequently acted as judge, or assessor, both in civil and in ecclesiastical courts. As an arbitrator he was in high repute, being employed to settle differences between states as well as between individuals.

The descriptions left of the personal appearance and temperament of Baldus are hardly flattering. He is said to have been small of stature and slight of build, and somewhat irritable, and if the portraits of him can be trusted, he was not handsome. He did not look a man to take a leading part in public affairs. Yet so great were his abilities and his strength of character, that even in the troubled times in which he lived, he came to the front. In his day, Italy was no united land. There were numerous independent or semi-independent states, each struggling with the other. There were kingdoms, dukedoms, feudal principalities and republics, and as if these could not make quarrels enough there was the endless strife between Pope and Emperor. Then to complete the confusion, there were in his day Popes at Rome, and anti-Popes at Avignon. Every now and then a French King would interfere. Intrigue, more or less criminal, never ceased, and of open war there was never a lack. To come to the front in such times required a man of courage, and Baldus could leave his library and lecture hall and descend into the arena. He was a man of affairs and of the world. For many years he was one of a Triumvirate which governed Perugia. As its ambassador he frequently represented his native state to the other states, having in particular been twice ambassador to the Pope at Rome, and once to the King of the Two Sicilies at Naples. Sometimes he was commissioner to settle the terms of peace at the conclusion of wars in which the republic was engaged. Naturally he made enemies, and they were so industrious in circulating stories to his disadvantage that finally they were believed and formed part of the accepted myths which surrounded his memory. He was, it was said, mean, envious and avaricious; he traduced the memory of his great teacher, and betrayed his friends. He would give, it was said, opinions on both sides of a question, and when attacked cynically defend the practice. For the credit of human nature, it is gratifying to be able to say that these slanders have been carefully investigated, and that the contemporaneous evidence is all to the effect that they are unfounded.

Baldus was, however, by no means a universal genius. While his acquaintance with the legal literature accessible to him was profound, his knowledge of other literature was meagre. Before the age of printing, even the learned were men of comparatively

few books, and one must not compare the library with which Baldus was familiar with the extent of reading which would be nothing uncommon at the present day. But even when one remembers that the village schoolmaster of to-day may possess a library for which the wealthiest in Italy might have sighed in vain in the fourteenth century, one does feel astonished that some half-dozen of non-legal authors seem to have been nearly all whom Baldus knew. Aristotle, Seneca, Averroes, and St. Augustine seem to have formed his staple. To these may be added a little of Cicero, and perhaps one or two other classics. Literature and Art seem to have been far from his domain. He kept pedantically to the writing of Latin, even in private correspondence, and the new glories of his native Italian tongue, of which his immediate predecessors, Dante and Boccaccio, were the great pioneers, and Petrarch, the great living example, seem to have left him altogether unmoved. And, though he lived when men were ringing the praises of the wondrous works in religious painting and architecture, which Giotto and his school had done at Assisi and Padua and Florence, and though he was himself of a profoundly religious turn of mind, not a word of sympathy with the new movement in Art seems ever to have escaped him.

It is difficult now to weigh exactly the causes of the great reputation which Baldus had during his life, and to separate what was temporary in them from what had a permanent value as advancing legal science. Much, no doubt, was temporary, and Baldus, like many another great man, gave his mind to the doing of the work which lay ready to his hand, with little thought of influencing those who were to come after him. He seems scarcely to have written anything deliberately destined for permanent use. The only works of his which can with certainty be said to have come down to us as he wrote them are his "Concilia," or opinions. With modern counsel opinions are looked on as confidential affairs;—the opinion book is kept under lock and key, and I doubt if the public or the profession would greatly benefit were the seal of secrecy broken. It was not so in earlier times. The opinions on actual cases of the great jurists of the Middle Ages were regarded as professional and public property. Before the age of printing, they circulated widely in manuscript, and when printing began, they were among the earliest books to be printed. This was the case with the opinions of Baldus. They were printed at Milan about 1490, in handsome, unpagged black-letter folios which bear that they were edited from the papers of Baldus himself. The rest of the writings which go

under his name are almost entirely notes of portions of his lectures, taken down by his students. It is doubtful if his lectures were ever written out in full by himself. What his students noted of them has moreover suffered by its after treatment, the notes having been cut up so as to be interleaved with or written on the margins of the various passages of the Corpus Juris of which they treated. The notes of the lectures, such as they are, are also far from complete. The manuscripts from which they have been printed are seldom contemporaneous, most of them dating from the century after his death. In the course of the sixteenth and seventeenth centuries nearly all that Baldus left, whether lecture or tract, was printed, and the remains of his works fill many a stately volume on the shelves of the older law libraries.*

Truth to tell, to the modern lawyer, the works of Baldus are somewhat hard reading. In the days when they were of practical value, they well repaid study. Now, their fragmentary form makes continuous reading difficult, and though there is much that is instructive and interesting, it requires to be disinterred. His opinions are often given with the greatest conciseness. The acumen with which he hits the true solution of a question and raps it out is extraordinary, though sometimes in the citation of his authorities it is plain that there are evidences of haste. The remains of the lectures show best his greatness as a jurist, and were it only possible to piece them together in their original form, they would be marvellous works of ingenious analysis. "*Qui bene distinguit bene docet*" was one of the rules which he carefully applied. He would take some doctrine of law, explain exactly what it meant, get, as it were, at its essence, then distinguish it from all that was similar but really different, and thus to get at the reason or equity which was its foundation. He is perhaps at his very best, when he leaves the order of the Corpus Juris altogether, and takes up some particular topic and concentrates his whole learning and acumen on it. His tractate on Pacts is an excellent example of his style. His analysis of legal fictions, with their connection with the presumptions *juris et de jure* and his discussion of when they were legitimate and when illegitimate is full of pregnant ideas. The distinctness with which he applied old doctrines to new situations was sometimes startling. In commercial law, he contributed greatly to the development of the law of partnership and, in particular, to the idea of the firm being a legal person. But when asked whether it was lawful for a single individual to trade as if he were a company, or for one person without notice to trade in the name of others, his answer was

very pat: it was unlawful, because doing so was getting credit or business upon representations which were not true. It will puzzle all his successors taken together to explain this answer away. Of the satire which was so famous in his lifetime morsels have been preserved. Nothing could be happier than the way in which he hit off the fashion in which the church courts competed for jurisdiction: "*Item clerici sitiunt jurisdictionem, quemadmodum cervus desiderat fontes aquarum*"—though he cautiously fathers this use of the psalmist's image upon some unknown person, desirous of speaking evil of dignitaries. Of those nobles who were proud and luxurious, and of the rich who could make no better use of their wealth than to spend it on eating and drinking, he had many bitter things to say. A collection of his clever sayings, if any one had leisure enough to make it, would still supply good reading.

When at the revival of letters, Roman law spread over Europe, and when almost within two generations the poverty of the local laws was enriched by that wealth of legal learning which it had taken a people of the highest talent a thousand years to accumulate, there may have been new methods of teaching, but most of the old problems remained the same. The *mos italicus juris docendi*, yielded to the *mos gallicus* of which Cujacius was the great exponent. The glosses were mostly thrown aside, the original documents of Justinian were edited anew, and when stripped of all incumbrances, were diligently studied. But in Holland, in Germany, in Scotland and in the other countries which adopted the Roman law, the main problems were still exactly those which in the two preceding centuries had occupied the Italian universities. Roman Law in its new countries did not find a clear field, and its reception was not always friendly. The ground was largely occupied by other laws, which were like in many respects to those which Bartolus and Baldus had to harmonise. The task was almost precisely the same. The older laws could not at once be uprooted. The new law came as the *jus honorarium* of the Roman Praetor had come ages before, *gratia adjucandi vel supplendi vel corrigendi juris civilis*. The new learning came not to supplant the old Northern customary law, but to help, to supplement and to correct it, and if in the end the new did almost supplant the old, it was only because a law which was in itself singularly wise, complete and perfect, could not help when once it was brought into contact, supplanting a law which was singularly rude, incomplete and imperfect. There is an eloquent passage in Shering in which he describes Rome as having thrice conquered the world—once in the old imperial days by force of

arms; once again after the Empire had crumbled in the dust, in the days of the great churchmen, when it held Christendom in the bond of one faith, and once yet again after the bond of faith had broken it spread its law over the length and breath of Europe by the pure power of reason. It was in this last conquest that the works of Bartolus and Baldus played so memorable a part. So much did they come to the front, that with the conservative opponents of the new learning, they became almost synonymous with the Roman Law itself. The learned dean of the University of Basle happily reminded the quincennial gathering how it came to pass that when the Roman Law was being introduced into Switzerland, a counsel who had repeatedly been quoting Italian jurists, was at last interrupted by one of the rustic judges, to whom the very names were strange, with the exclamation, "What to us are your Bartolus and Baldus? We have no need of foreigners in Helvetia; enough for us our old customs and the laws of our forefathers." But in spite of all opposition the Roman Law made its way and shed the light of a great jurisprudence over the continent of Europe. If the works of Baldus and his teacher, Bartolus, have accomplished their purpose, and be now altogether things of the past, and if the interest of the common law countries in them be only indirect, yet I trust I have done something to show that for long their works were of critical importance and that the memory of the great mediæval jurists is still worthy of all honor.

J. Dove Wilson.