

2021-22 / LESSON 17 / 2021-11-25

Later Middle Ages -- ~1000-~1492 ce/9

Statutory law introducing the legal institute of *venditiones ad usum novum* = land sales in a new (optional) way.

Instead of performing *investiciones*, repeated notification by public officers to neighbours that the land is for sale (giving time to those abroad to receive news and enact pre-emption), the seller now can have the land estimated by public officers, and if it remains unsold at the price, the Comune buys it at a discount. Thus the Comune maintains control of the use of the territory and moderates the exalating prices of land and buildings.

1227

The expansion of the Mongol empire of Gengis Khan and his Tatar army has expanded westward to the Caspian Sea; death of Gengis Khan.

Early maritime statutes: *Ordinamentum super saornatione, caricatione et stivatione navium*= safety rules about ballast, load distribution and provisions for ships, limiting private contractual freedom in the name of safety during navigation.

1228-1229

Capitulare navium = restatement (with additions) to the whole discipline of navigation, including technical guidelines for shipbuilding.

1229

Death of Pietro Ziani. The new doge is Jacopo Tiepolo. Likely introduction of Correttori alla promissione ducale, a magistrate tasked with updating the text that the new doge will swear.

The *promissio ducis* of Tiepolo is in fact longer and more articulated than the earlies ones, and remains the permanent draft for the following.

It includes the promise to have a *rector* for Chioggia elected by the Major Council.

The experience of government in the dominions of Romània has consolidated the recourse to unipersonal magistrates, elected to short-term offices, whose powers are appointed through very detailed capitulars called *commissioni* (*commissions*), which specify the duties of the rector with consideration to the current affairs of the territory entrusted to him.

1230

Instead of 3 electors chosen by the trentacìe, 10 electors are elected by the Major Council and approved by the Forty: the trentacìe are abandoned as

obsolete, with a shift from territorial representation of all parts of the territory to semi-professional politics.

Novae leges = statutes in civil matters; new maritime statutes, collecting and expanding former statutes and legislating additional customs to keep pace with technical innovations.

1231

Constitutiones Melfitanae = Liber Augustalis by Frederick II.

Sacralisation of the imperial power against the demands of the popes; reorganisation and centralisation of secular power against feudal and urban autonomies; new class of civil servants; ritual evidence in secular trials is abolished, according to the Lateran Council.

Duplication of the Procuratori di San Marco; the second magistrate is invested with the office of *commissario* whenever there is no nomination in a last will, nor any adult relative able to manage the patrimony.

Statutum Qualibet about procedure for faster credit recovery by Venetians in Curia del Forestier.

1232

Updated *promissio maleficiorum* by Jacopo Tiepolo

http://www.arielcaliban.org/PX_maleficiorum_tiepolo.pdf

1233, 1236

Additional statutes on civil matters; additional maritime statutes.

1234

Liber extravagantium = decretales by pope Gregory IX in five books: *iudex*, *iudicia*, *clerus*, *conubia*, *crimen* = ecclesiastical courts of law, procedure, clergy, marriages, criminal law. The first two books introduce the Roman-canon procedure, on the model of the ancient Roman *cognitio extra ordinem*: an inquisitorial trial by civil servants aimed at repression (esp. of heresy) rather than finding the truth, with judges strictly bound by rules of procedure and answering to their superiors.

1237

Speculum iudiciale by Guillaume Durand: a doctrinal analysis of the Roman-canon procedure, widely used in the following centuries as a handbook for its use.

1240

Treaty between the Venetians and the Estensi, lords of Ferrara: trade by sea directed to Ferrara will pass through the port of Venice and be subjected to customs duties, in exchange for Venetian protection.

1242

Statutum Novum = extended recompilation of former statutes in civil matters, in the light of the interpretation given so far by judicial customs.

Drafted by a committee of four, elected by the Major Council, then deliberated by the same and approved by the *placitum*; for the first year of application, as a controlled test, only authentic interpretation will be admitted.

http://www.arielcaliban.org/PX_statutes_comparison.pdf

The rules of law are applied judicially in this order: 1) *Statutum Novum* and further additions, 2) analogy (also in criminal matters), 3) customs supported by evidence and reason, 4) equity in the Venetian, not the canonical sense.

http://www.arielcaliban.org/PX_imagery.pdf