disciplines. Additionally, the notes to most of the essays provide ample documentation, a rare virtue in a French scholar. Arthur Goldhammer's translation renders the text clearly and with due care for the scholarly usages of English-speaking medievalists. Although the title and the introduction promise more than the book delivers, *The Medieval Imagination* gathers a number of provocative essays which should interest scholars of both history and literature.

Peter Diehl
History Department
University of California, Los Angeles

Charles M. Radding, *The Origins of Medieval Jurisprudence: Pavia and Bologna 850–1150.* New Haven: Yale University Press, 1988. xiii, 258.

Medievalists have long considered the development of scientific legal study an outstanding achievement of the "Twelfth-Century Renaissance." While some have stressed the shock of the Investiture Contest as the crucial event behind this legal renaissance, and others instead a gradual evolution of institutions and techniques within secular and canon law, none have disagreed on the importance of law in the crucial period around 1100. In *The Origins of Medieval Jurisprudence*, Charles Radding has thus set out on a well-worn path. His journey is, however, ill-conceived, flawed in conception, method, and conclusions.

Radding's argument can be briefly summarized. He disagrees completely with the traditional emphasis on the rediscovery of the *Digest* in the late eleventh century as the critical moment in the development of jurisprudence (9). To provide an alternative approach, one that seeks to discover how jurisprudence gradually evolved to the point where men could put the *Digest* back in circulation (152), Radding turns to the interpreters of Lombard law. Originally a coherent group of judges at the Lombard court at Pavia in the late ninth century, they became dispersed during the political turmoils of the tenth century. According to Radding this "dispersion of the palace" (72–8) led to contact with other legal experts outside of Pavia and, consequently, to greater familiarity with Roman law. The eleventh century then witnessed rapid advances in jurisprudence, from the debate in the glosses of the "antiqui" and "moderni" over "literal" and "interpretative" readings of laws (101–12) to the formal, separate exposition of Roman law in handbooks such as the *Exceptiones Petri* (142–51). From

these expositors came the impetus to place the *Digest* in circulation. Now, at the end of the eleventh century, legal science had been born, with the earlier, primitive undifferentiated appreciation of individual laws replaced by jurisprudence based upon abstract categories (180–1). To Radding this evolution of juristic self-consciousness and jurisprudence overturns the traditional, cautious interpretation of jurisprudence and, especially, the transformative role played by the *Digest*. Through the Lombard lawyers we can observe the cognitive change that sparked the invention of jurisprudence, a process hitherto obscured by scholars whose methods are unfortunately restricted to studies of texts and schools (184–5).

Radding's argument is flawed on many levels. The conceptual foundations of his work are unsound. His decision to trace the evolution of legal theory among the Lombard jurists provides a far too narrow context in which to examine the "origins of medieval jurisprudence." His equation of jurisprudence solely with reflection on secular law is too restrictive and contrary to the increasingly syncretic tendencies of early medieval law. Moreover, by focusing exclusively on the interpreters of the Lombard law, Radding has not chosen the best legal minds of the period, despite his claim that their initial, primitive legal knowledge was typical of the early Middle Ages regardless of the legal tradition (37). This is simply untrue. His omission of canon law is particularly unfortunate, for the prologues to early medieval canonical collections reveal increasing reflection on the sources of law, the fundamental question of jurisprudence. Here compilers discussed the complexities and contradictions transmitted by the mass of sacred texts and, over time, their prologues became a jurisprudential forum for reflection on the authenticity and applicability of inherited authorities. Thus long before the Lombard jurists, intellectuals in the West had begun to fashion jurisprudence in the cloisters rather than the court. Prologues to canonical collections are but one source that indicates growing reflection on the law in an age when Radding would see only simplistic concerns with individual laws and rules. A work that claims to examine early medieval jurisprudence should be more broadly conceived.

Radding's method is also flawed from the outset. He ignores the vexing problem of how the law was learned, the great barrier that has prevented a more precise understanding of how jurisprudence evolved. The Lombard glosses were a product of education, however informal, and this education must have been linked with increasing rhetorical sophistication. What little Radding says on rhetoric is, however, superficial and entirely subsidiary to his main argument (89–91). An extensive rhetorical and grammatical examination of the Lombard laws—in some other form than

the translation by Drew—and their abundant glosses remains an essential component of an adequate history of their contribution to medieval jurisprudence.

The weaknesses of each stage in Radding's supposed evolution (in his words, "invention" [179]) of jurisprudence become ever more apparent in the course of the work. While aspects of his discussion of the early Pavian jurists are certainly correct, particularly when he emphasizes their notarial training (53ff.), his claim that their apparent consensus and common background account for our lack of evidence on their judgments (66) is an unconvincing argument from silence. We encounter similar evidence in his subsequent argument that a "dispersion of the palace" (74) destroyed this comfortable, unspoken legal solidarity, compelling the Pavian jurists to experience the legal traditions of the wider world and thus explain themselves for the first time (75–7). This "dispersion" forms a crucial link in Radding's entire schema, outlining the evolution from Lombard musings to the sophistication of Roman law. It is, however, based on evidence such as the "disappearance of large gatherings of judges" (77). There is not enough hard evidence to support the silence that Radding employs in his analysis of the "dispersion" and its effects.

Radding's treatment of the eleventh century is similarly unsatisfactory. While debate between the *antiqui* and *moderni* is the title for an entire chapter, neither group is studied in sufficient detail to gain definite contours. Remarkably few glosses are actually analyzed and compared. Radding's claim that the *antiqui* preferred a "literal" reading is also astonishing (87, 101–2).[1] It would be more accurate to state that the *antiqui* based their readings partially on custom. Reference to the works of Fritz Kern would have clarified the issue.

Problems abound in the treatment of the rediscovered *Digest* as well. Some are relatively minor errors, though not without significance within the overall argument. Two examples suffice. Radding's belief that "ruptum" is a characteristic term innovated by the Lombard jurists to indicate "superseded" is wrong. The usage traces back to classical sources. Likewise he is incorrect when he states that Ivo of Chartres used the *Collectio Britannica*, an early transmitter of fragments from the *Digest*. As Stephen Kuttner has shown, it is actually the other way around, with the *Britannica* at least partially dependent upon Ivo. Radding also examines texts in an inconsistent and uncritical fashion, sometimes giving a Latin text without translation, sometimes a translation without a text (145). At one point he even evaluates two Latin texts by comparing only English translations (154). The argument is sometimes baffling, generally unconvincing.

A more serious problem remains. Radding's confident assertion (152) that the *Digest* was "put back into circulation" as a sort of final achievement by jurists who had now achieved sophistication is unconvincing. Like the "dispersion of the palace," the evidence is both too obscure and too meager to support Radding's contention. The traditional view of rediscovery and gradual assimilation provides a more satisfying explanation of the progress of jurisprudence in the late eleventh century than Radding's belief in a conscious intent behind the reappearance of the *Digest*.

Finally, Radding's work is flawed in its conclusions. He wants to discover the "invention of a discipline" which is traced, not by studying texts, but rather through examining the "activity of human minds" (185). He consequently criticizes those who either emphasize events, like the Investiture Contest, or propose gradual institutional and intellectual change as the guiding forces behind the evolution of medieval jurisprudence. Radding claims that he has created not a compromise (184) but a third way. I remain unconvinced that Radding has created a way at all. What little I can see of his path seems obscure, rough and precarious, a dangerous shortcut to the trail blazed by pioneers such as Stephen Kuttner, whose emphasis on the decisive contribution of the *Digest* to medieval jurisprudence Radding criticizes as "typical of approaches to intellectual history that place books and not people at the center of cultural developments . . ." (115). This criticism is nonsense. Only from the painstaking labor of identifying, editing, and explicating texts, a task to which Kuttner has devoted his entire scholarly life, does intellectual history fully emerge. No interpretive grid or schema can replace this effort. In *The Origins of Medieval Jurisprudence* Charles Radding has told us little about the Middle Ages or jurisprudence. He has, however, said a great deal about invention.

Bruce C. Brasington
History Department
University of California, Los Angeles

1. For a concise summary of the Pavian judges of the eleventh century and the *moderni* who began a fuller exposition of the law, a summary which also contains observations shared with Radding, see Margaret Gibson, *Lanfranc of Bec* (Oxford, 1978), 4–11. While Radding cites Gibson's authority in his discussion of Lanfranc, whom he accepts as a Pavian judge (88, 126), he curiously fails to give a page number in both places. Gibson actually disagrees (7–11) with this traditional reading of the *Vita Lanfranci*. Gibson's brief remarks on Lombard law, including her discussion of rhetoric, provide an excellent, succinct alternative to Radding.