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Early Modern Books and Their Laws: Privileges of Print in Renaissance Italy

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verhalten, sondern der in der oder mit der Person des Juristen ausgetragene potentielle Konflikt zwischen dem weltlichen Recht auf der einen und christlichen Rechts- und Moralvorstellungen auf der anderen Seite.⁶ Erinnert sei nur an den im Sammelband nicht berücksichtigten Gregor VII., den Investiturstreit und die damit einhergehenden rechtlich-kulturellen Veränderungen, denen nicht erst seit Harold Berman wesentliche Bedeutung für die europäische Rechtsgeschichte zugestanden wird. Wer wissen will, welchen rechtlichen Niederschlag dieses innerhalb einer grundsätzlichen Gemeinsamkeit von weltlicher und geistlicher Gewalt sich vollziehende Ringen um Normen im Spätmittelalter und zum Teil noch in der Frühneuzeit

gefunden hat, muss nur einen Blick in die Differentienliteratur werfen.⁷ Sie und andere gelehrte Quellen könnten als Ausgangspunkte für weitere, vielleicht etwas »konfliktfreudigere« Erkundungen von Recht und christlicher Tradition im Spiegel von Juristenbiographien dienen. Einzelne Ansätze dafür finden sich bereits in vorliegenden Sammelband, wenn man etwa an die Darstellung zu Robert Bellarmin und seiner Lehre von der *potestas indirecta* denkt (272–274). Auf den Fundamenten, die von Condorelli, Domingo und ihren Autoren für Italien gelegt worden sind, ließe sich so weiter aufbauen. ■

Manuela Bragagnolo

Early Modern Books and Their Laws: Privileges of Print in Renaissance Italy*

Within the »vastissimum oceanum« of early modern privileges, which individualized law for individuals, groups or local and regional areas,¹ privileges of print are normative sources of particular interest that can be analysed from different perspectives.

An interesting outcome of the ERC funded *Early Modern Book Trade* project, led by Angela Nuovo,

the collective volume *Privilegi librari nell'Italia del Rinascimento* looks at the privileges of print intertwining with book history and economic history approaches.

The book has the merit of gathering some of the most recent and cutting-edge research on early modern privileges of print. The six contributions in the volume, which opens with an introduction by

6 RUDOLF VON SCHERER, Handbuch des Kirchenrechtes, Bd. 1, Graz 1886, 2.

7 ALPHONSE VAN HOVE, Prolegomena (Commentarium Lovaniense in Codicem Iuris Canonici, Vol. 1,1), Mechelen/Rom, 2. Aufl. 1945, 569–570; JEAN PORTEMER, Recherches sur les »Differentiae juris civilis et canonici« au temps du Droit classique de l'Eglise. L'expression des »Differentiae«, Diss., Paris 1946; HELMUT SCHNIZER, Differentienliteratur zum kanonischen Recht. Eine unbekannte Literaturgattung als Beleg zur dialektischen Kraft des kanonischen Rechts in der Privatrechtsentwicklung der Neuzeit, in: DERS., Rechtssubjekt, rechtswirksames Handeln und Organisationsstrukturen. Ausgewählte

Aufsätze aus Kirchenrecht, Rechtsgeschichte und Staatskirchenrecht (Freiburger Veröffentlichungen aus dem Gebiete von Kirche und Staat, Bd. 42), Freiburg i. Ü. 1995, 138–157; MARIO ASCHERI, Le »Differentiae inter ius canonicum et ius civile«, in: Der Einfluss der Kanonistik auf die europäische Rechtskultur, Bd. 1: Zivil- und Zivilprozessrecht, hrsg. von ORAZIO CONDORELLI, FRANCK ROUMY, MATHIAS SCHMOECKEL (Norm und Struktur, Bd. 37,1), Köln u. a. 2009, 67–73. Vgl. auch UDO WOLTER, Ius canonicum in iure civili. Studien zur Rechtsquellenlehre in der neueren Privatrechtsgeschichte (Forschungen zur neueren Privatrechtsgeschichte, Bd. 23), Köln/Wien 1975.

* ERIKA SQUASSINA, ANDREA OTTONE (eds.), Privilegi librari nell'Italia del Rinascimento, Milano: Franco Angeli 2019, 410 p., ISBN 978-88-917-9725-4, Open access: http://ojs.francoangeli.it/_omp/index.php/oa/catalog/book/430

1 HEINZ MOHNHAUPT, Privileg, neuzeitlich, in: Handwörterbuch zur deutschen Rechtsgeschichte, ed. by ALBRECHT CORDES et al., vol. IV, 2nd ed., Berlin 2018, col. 821–828.

Angela Nuovo (*Introduzione. Le politiche legislative sulla stampa in età moderna*), look at privileges of print as a system born in Venice but that then spread all over Europe. Amongst the crucial objects of investigation are the ways in which the request and granting of privileges of print, which excluded everyone else from printing, importing and selling a book, within a specific geographical context, became a common practice for all the actors involved in book production and trade in the early modern period. Nuovo stresses the great interest of studying privileges of print, not only as a crucial key to access to the understanding of the early modern book market. Systematic studies of privileges of print could also shed new light on other so-far-unexplored historical dimensions, such as the crucial role of privileges in the definition of the nature and function of the author in the editorial system (13).

More generally, the book not only offers a comparative analysis of different systems in early modern Italian states. The contribution of economic history is fundamental for clarifying, in a decisive way, the significance of the institution of the book privilege (14).

In this vein, the first two contributions of the book propose an economic history examination of the institution of the privilege as an instrument of economic policy for promoting innovation.

Francesco Ammannati (*I privilegi come strumento di politica economica nell'Italia della prima età moderna*) provides a general framework of the early modern privilege system from an economic history perspective. In particular, he focuses on privileges as a fundamental component of the new regulations that spread throughout Europe after the original Venetian one, introduced in 1474, aiming at protecting the innovation, perceived as crucial for the economic growth. Three kinds of inventions were protected: technical procedures, machines and consumers goods. The *iter* for requesting a privilege was similar everywhere, based on the inventor's supplication showing the two main characteristics required to obtain a privilege: innovation and public utility. The adoption of the Venetian system as a model contributed to the use of the privilege in similar forms in all the European states, thus »laying the bases for an European market of the invention« (35).

Stefano Comino, Alberto Galasso, and Clara Graziano's chapter (*Brevetti e limitazioni alla concorrenza nei corpi di mestiere della Repubblica id*

Venezia) is dedicated to the 1474 Venetian law, which was the first formalized regulation for the concession of patents. Studying the use of patents in Renaissance Venice after the approval of the regulation, it sheds new light on the factors determining the rapid success of the new institution. In particular, the chapter points out the important and active role played by Venetian corporations, especially those with fewer connections to political power, in the consolidation and use of the patent system, and in the promotion of innovation.

After this introductory section on privileges and patents for new inventions, the following core part of the volume is dedicated to the privilege of print system, originally related to the introduction of the technology of print in Italy (namely in Venice), and then applied to the production of single books. Great attention is paid to the two most important centres of book production in Italy (and also, to a certain extent, in Europe): Venice and Rome, highlighting the specific, different logics and aims which stood behind their privilege of print systems (for Venice it was the promotion of the innovation and of the local book industry, while Rome cared more about the doctrinal correctness and orthodoxy of the printed texts), as well as the conflicts between the two powers, especially around the publication of religious books. But the interesting and less explored context of the privilege of print system in Milan is also taken into account.

Angela Nuovo and Paola Arrigoni (*Privilegi librari nello Stato di Milano (sec. XV–XVI)*) precisely analyse the introduction and first decades of the privilege system in Milan, concurrent with the introduction of the technology of print. Although it remained a much smaller centre of book production compared to Venice, Milan introduced the technology of print very early. The chapter analyses the development of the book privileges in Milan, highlighting the evolution of commercial and authorial privileges, as well as privileges granted to foreign printers for the purpose of pure administrative revenue. It also provides some first very interesting quantitative analysis of the privileges requested and granted in connection with book production in Milan.

Jane C. Ginsburg (*Proto-proprietà letteraria ed artistica: I privilegi di stampa papali nel XVI secolo*) focuses on the specificities of the system of papal privileges of print as a form of »proto-property in

literary and artistic work». In particular she focuses on the author's role in this process: in fact, differently from other States in which the privileges were granted to printers, editors and authors, papal privileges were mostly granted to authors.

Based on an impressive study of about 500 unpublished documents (privileges and petitions), preserved at the Vatican Apostolic Archives in Rome, the author explains how the papal privilege system worked, highlighting the procedure, the beneficiaries, the protected works (mainly religious and legal books), the geographic area and the enforcement of the privilege. Particularly interesting is the analysis of the motivations that stood behind the granting of a privilege, which makes the Papal privilege system different from the others: together with the protection of the petitioner's economic investment and the public utility, papal privileges expressly aimed at rewarding the author (or, less often, the printer) in maintaining high quality standards of the work's accuracy and conformity to Church doctrine. This is the reason why derivative products, such as translations, compendia, and the apparatus of glosses, could also be protected by a papal privilege. A rich table (141–284) published as an appendix to the chapter, collects and catalogues the Papal printing privileges and related documents preserved at the Vatican Apostolic Archives, also identifying the work for which the privilege was granted (often providing a bibliographic cross-reference).

Andrea Ottone (*Il privilegio del Messale riformato. Roma e Venezia fra censura espurgatoria e tensioni commerciali*) explores the conflicts between Rome and Venice around the publication, supervised by specific commissions, of the new editions of liturgical and doctrinal books after the Council of Trent. Originally, texts such as the new *Roman Catechism*, the *Breviary*, the *Missal*, or *Corpus Iuris Canonici* were planned to be printed in Rome, and covered by the papal privilege, in order to guarantee direct control from the Papacy in the passage from the manuscript to print. But this generated a tension between Rome and the Venetian book industry. Ottone's chapter focuses on a specific phase of this conflict, between 1601 and 1603, around the publication of the *Roman Missal*. In this conflict, Rome used the instrument of the expurgatory censorship to guarantee the correctness of both the textual form and the doctrine mobilized in the book, thus trying to put into practice its claims of authorial control on canonical

texts. The chapter analyses the rich documentation now available, and stresses, in an innovative way, the economical and juridical aspects more related to the production and commercialization of the religious book.

Based on the attentive cataloguing and analysis of a remarkable documental corpus, organized in a fully accessible online database, Erika Squassina's chapter (*I privilegi librari a Venezia, 1496–1545*) finally focuses on the Venetian privilege system from its beginning to the Council of Trent. The author shows how, from a privilege *pro arte introducenda* for the introduction of the new technology of print in Venice, the privilege system was then transferred to the book production, considering each edition an innovation. It soon became the only system printers had to protect themselves and their economic effort from a competition perceived as unfair.

The chapter provides an overview of the use and abuse of the privilege of print in Venice, as well as of the legislation through which Venice, in the first half of the 16th century, tried to regulate and improve the system. It also offers an interesting analysis of the typologies of applicants (authors but most of all printers), of the objects of legal protection (typographical innovations but most of all printing and selling of literary works), and of the business strategies behind obtaining a Venetian privilege, which allowed for the control of the entire Italian market, due to the crucial role of Venice not only in the book production but also in the book trade.

The chapter ends with the presentation of the database of early modern Venetian privileges, entitled *Early Modern Privileges in Venice*, which is one of the most impressive results of the *EMoBookTrade* Project, and is fully accessible online (<http://emo-booktrade.unimi.it>). The database, which is unique in its genre, currently contains the privileges granted by the Republic of Venice up to 1553, but will reach to 1603. It comprises 460 transcriptions, testifying the granting of privileges by the magistrates in charge. A list of the Venetian privileges of prints granted to authors is printed as an appendix to the chapter.

In conclusion, this volume is a fundamental reference work for the investigation of the early modern privilege system in Italy. But a better knowledge of the privilege of print system could serve research of even broader scope. Books were objects that, more than others, stored and mobi-

lized knowledge in the early modern period. A better understanding of the regulation that stood behind the book production and trade, and of the way in which the protagonists of the early modern book world made use of the privilege

system, could therefore, for instance, shed new light on not yet explored aspects of early modern knowledge production.



Marek Starý

Rechts- und Sprachtransfer in Mittel- und Osteuropa*

Es dürfte kaum zu bestreiten sein, dass das sächsisch-magdeburgische Recht über Jahrhunderte grundlegend die Entfaltung des Rechts in Ost- und Mitteleuropa beeinflusst hat. Dem Transfer dieses Teiles der Rechtskultur aus Magdeburg gen Osten ist die Bücherreihe »Ius Saxonico-Maieburgense in Oriente« gewidmet, deren fünfter Band die Anwendung des sächsischen Stadtrechtes auf dem Gebiet von zwei slawischen Nachbarstaaten in den Blick nimmt, nämlich Tschechien und der Slowakei.

Die Vernunfttheirat, welche die Tschechen mit den Slowaken seit 1918 für ein dreiviertel Jahrhundert in einem Staat zusammenschloss (wobei diese Rolle zuvor der Herrscher erfüllte), kann kaum etwas am Tatbestand ändern, dass die böhmischen Länder im Mittelalter und in der frühen Neuzeit – trotz gegenseitiger Kontakte und Einflussnahmen – eine etwas andere Entwicklung als das Gebiet der künftigen Slowakei genommen haben. Daher stellt die sehr sinnvolle gemeinsame Untersuchung der tschechisch-slowakischen Problematik in einem Band keine Selbstverständlichkeit dar.

Es überrascht aber, wie unterschiedlich die Passagen, welche jeweils die böhmischen Länder und die Slowakei betreffen, verfasst sind. Diese Unterschiedlichkeit wird bereits im Vorwort wie auch an anderen Textstellen erwähnt. Begründet wird sie u. a. mit der »Rücksicht auf die nicht vergleichbare

Quellenlage« (1) oder dem Verweis auf die Tatsache, dass »die Rezeptionssituation in beiden Untersuchungsgebieten trotz vieler Gemeinsamkeiten aus rechtshistorischer Perspektive nicht homogen erscheint« (517) – zweifellos bedeutende Aspekte. Andererseits wäre es in praktischer Hinsicht noch nützlicher, wenn die Bearbeitung beider Regionen möglichst viele Vergleiche enthalten würden.

Unterschiedliche Ansätze werden gleich im ersten Kapitel sichtbar, das dem Rechtstransfer gewidmet ist. Der den böhmischen Ländern gewidmete Teil beginnt mit einer kurzen Skizze der Entwicklung der Verwaltung und der Rechtsprechung dieses Gebiets (11–25). Dabei war die Herausforderung für die Verfasserin Katalin Gönözi sehr groß, eine so umfangreiche Problematik auf einer begrenzten Zahl von Seiten zusammenzufassen. Diese anspruchsvolle Aufgabe ist ihr gut gelungen, auch wenn darüber diskutiert werden kann, welcher Raum der Entwicklung des Landrechtes gewidmet werden sollte, das durch die Einflüsse des magdeburgischen Rechtes höchstens am Rande berührt war. Es überrascht auch der Umstand, dass in der Rekapitulation der territorialen Zusammensetzung der böhmischen Krone die sog. *feuda extra curtem* kaum behandelt wurden: relativ umfangreiche deutsche Enklaven, auf die sich auch die Lehnsoberhoheit der böhmischen Könige bezog.

* INGE BILY, WIELAND CARLS, KATALIN GÖNÖZI, MARIJA LAZAR, Sächsisch-magdeburgisches Recht in Tschechien und in der Slowakei, Berlin/Boston: De Gruyter 2021, 685 S., ISBN 978-3-11-044402-5