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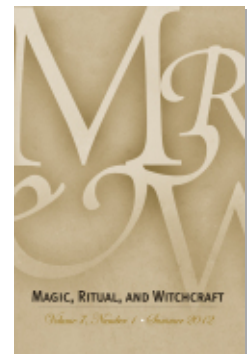
*Hexenprozess und Folter. Die strafrechtliche Spruchpraxis
der Juristenfakultät Tübingen im 17. und beginnenden 18.
Jahrhundert (review)*

Johannes Dillinger

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and conspicuous showcase. Taking into account the basic misunderstandings alluded to above, the two adversaries stand out, in Rousse-Lacordaire's thorough and careful examination, as opponents worthy of each other but also as exponents of essentially differing worldviews. The fact that their worldviews came to a head is not just a sign that Pico's "philosophical concord" (had it ever reached completion) would have had a hard time gaining acceptance within contemporary Roman Catholic orthodox perception. It also outlines, with one of the first outward manifestations of Renaissance *philosophia occulta*, a moment of upheaval in the history of Western European culture and esotericism. Of this important—albeit hitherto understudied—debate between the Church and one of the most illustrious representants of fifteenth-century Humanism, *Une controverse* provides us with a learned, insightful, and, what is more, highly readable critical study.

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MARIANNE SAUTER. *Hexenprozess und Folter. Die strafrechtliche Spruchpraxis der Juristenfakultät Tübingen im 17. und beginnenden 18. Jahrhundert*. Bielefeld: Verlag für Regionalgeschichte, 2010. Pp. 306.

Do you plan a research trip to the archive of Tübingen University? Do you plan to work with the almost unique corpus of expert opinions concerning witch trials issued by the Tübingen law faculty? The university's archive boasts a nearly complete set of the law faculty's legal opinions written since 1602, so you might feel tempted. Save your time and your money. Somebody else already did the job. Marianne Sauter's book is the expressive result of seven years of meticulous work. And she has written it in a way that makes trips to the Tübingen archive superfluous for the foreseeable future.

Sauter's research question seems simple enough: Were the jurists of Tübingen University more willing to recommend the use of torture in witch trials than in other criminal trials? However, this question addresses one of the core issues of the legal history of witchcraft: Was torture, as the classical study of Soldan and Heppe claimed, really the "very soul (*eigentliche Seele*)" of the witch trials?¹ Sauter tries to answer the question using the expert opinions issued by the Tübingen law faculty. Evidently, the question implies the

1. Wilhelm Soldan and Heinrich Heppe, *Geschichte der Hexenprozesse*, revised and edited by Max Bauer, 2 Vols. (München, 1912), 1:339.

need for a comparison, so Sauter works not only with the expert opinions dealing with witchcraft but also with those referring to murder, infanticide, sex crimes, and theft. Thus, her book is not only a contribution to *Hexenforschung* (witchcraft research) but also to legal history in general and to the history of crime and criminal justice in particular. Sauter's comparison certainly works but one would have wished that the author had taken more time to reflect on her own approach and on the methodology of comparative historiography.

The structure of the book is simple enough. In the first chapter, Sauter explains the system of juridical consultations in early modern Germany, the role of torture in criminal proceedings, the peculiarities of witch trials, and the conditions and preconditions of criminal justice in the duchy of Württemberg. Sauter is nothing if not thorough. She explains every technical term of early modern German law. She checks the biographies of the members of Württemberg's government, the Oberrat, from the sixteenth to the eighteenth centuries in order to find out whether they had any connections to the law faculty of Tübingen University. She proves that these connections were especially strong during the heyday of witch-hunting. The second chapter consists of the quantitative analysis of the Tübingen legal opinions. The author proves and illustrates her argument with a number of statistics and graphs in color. The book comes with a CD that provides additional statistical material. Thus, a grand total of thirty graphs and forty-nine tables present a huge mass of data in a plain and most accessible form. The third chapter analyzes the source materials qualitatively. Sauter asks what witness accounts, what material or circumstantial evidence the Tübingen jurists required before they were willing to recommend the torture of the suspect. The sources give about thirty different kinds of evidence—including the denunciation by alleged accomplices, a bad reputation, and a suspicious physiognomy, as well as specific evidence for witchcraft such as pricking. Sauter correlates the expert opinions with the rules of the imperial law and with the recommendations of the juridical literature. She concludes the chapter with helpful short comments about the role that individual professors of the Tübingen faculty of law played in witch-hunting.

The results of the study are unequivocal. The Tübingen jurists did not recommend the use of torture more readily in witch trials than in any other criminal trials. On the contrary, the percentage of legal opinions that rejected the use of torture against the clear wishes of the local judges was higher in witch trials than in any other trials. Witch trials were exceptional only insofar as the Tübingen experts treated them with greater caution than other trials. The Tübingen faculty strictly adhered to the rules of the imperial law. Tüb-

ingen's stubborn legalism clashed with the rigorism of the lay judges in the village courts, who were most eager to use torture to get speedy confessions. Once more, Sauter demonstrates that the driving force of the persecutions were local courts run by lay judges who came under massive pressure from the so-called common men. The higher strata of the administration and the judiciary were comparatively skeptical. At least, they were not willing to bend the rules of due process, no matter if the country people thought they had caught a disciple of Satan. Unfortunately, Sauter does not realize the connection between state building and patterns of witch-hunting.²

The crowning piece of this most painstaking (if we may use the term in connection with a book on torture) study is the summary. A mere page and a half give the reader the very essence of the preceding 278 pages. This is a bold understatement but it works nevertheless.

If you do not trust your German entirely, trust Sauter's style to guide you. She writes plainly and matter-of-factly, sometimes maybe verging on the brusque, but never dull. Sauter's book provides you with all the data from the archive, although unfortunately the index of persons and places is not entirely reliable. In any case, the book is a lot more than a narrative of "facts" and an array of statistics. It is an exemplary study of the legal history of witchcraft that effortlessly overcomes the imagined boundaries between witchcraft and other crimes in early modern justice.

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EUAN CAMERON. *Enchanted Europe: Superstition, Reason, & Religion, 1250–1750*. Oxford: Oxford University Press, 2010. Pp. 473.

It may seem that there is little more to be said about the role in intellectual history of "magic," "demons," and related subjects in early modern Europe, especially after such important recent works as Stuart Clark's *Thinking with Demons* and Walter Stephens' *Demon Lovers*. Euan Cameron's new book, however, opens up yet another way to think about the meaning of magical ideas in European "high culture." Cameron, whose previous publications concern ecclesiastical history and the Reformation, approaches the subject as a historian of theology, focusing on the shifting meaning of the first word in

2. For recent work on this topic see Johannes Dillinger and Jürgen Schmidt, eds., *Hexenprozess und Staatsbildung—Witch-Trials and State-Building* (Bielefeld, 2008).