ecclesiastical jurisdiction, exercised exclusively by the Council itself, and in practice the acts of the Council were often strongly influenced by papal methods (imitatio papa). The present book does not focus on the legal doctrines of the Council, but on all the other facets of its work: settlements of disputes (both ecclesiastical and secular), litigation in heresy cases, a canonization process, decisions in matters of faith and the granting of an indulgence. It offers an invaluable picture of the Council in its historical context. As such it will beyond any doubt also contribute to the understanding of those legal historians working in fields of ecclesiology or canon law.

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One of the general principles underlying the law of delict of the articles 1382 to 1386 of the French Code Napoléon (1804), is that of liability for personal fault (faute personnelle). The present volume aims at tracing the historic origins of this principle, more specifically the influence of Roman and Canon Law on the indigenous French system of civil liability. As appears from Descamps’ introduction, this can only be achieved by taking into consideration other elements which have contributed to the formation of the law of delict, such as damages and causal connection. The material investigated is subsequently discussed in an historical and chronological order. In the first part of the volume, the medieval developments are described, i.e. both the ius commune and the particular law of the various regions of France (jura propria). The second part deals with the formation of a general doctrine of delictual liability from early modern times until the promulgation of the Code civil (1804).

In the Middle Ages it was the canonists who considered the attribution of fault as determining personal responsibility and they discussed the various elements which were seen as essential for this responsibility. Of these one was the will of the doer to perform the wrongful act. Investigating the wrongdoer’s will led to analyzing his psychology, which was considered to be based on free will. Similarly, in ascribing fault to a certain person, his intention had to be taken into account. The development of these concepts in Canon law also penetrated the pastoral practice of confession and resulted in an individualistic responsibility based on personal fault. However, for civil liability the culpable act itself was insufficient. Damages and causal connection remained indispensable conditions. While the civilians were divided among themselves – some were more inclined to emphasize the delictual character of the actio legis Aquiliae, others more the reipersecutory character of this remedy – the canonists approached the problem of compensating for damages from their doctrine of restitution and in this they showed greater unanimity than the civilians. In spite of the fact that they held to the idea that inflicting damage is always a sin, which also constitutes a crime, they accepted the passive transmissibility of delictual liability. The obligation to restore the original situation before infringement had taken place, implied the necessity of ‘undoing’ all delicts committed by the offender. If necessary, this has to be performed by his heir. Claiming compensation for moral damages, however, was not acknowledged in Roman law and neither was it accepted in the medieval doctrine of the learned jurists. In indigenous law, civil liability for damages was further promoted by the emergence of an inquisitorial procedure. The victim could implore the admission of a public prosecutor. The latter’s task was limited, but litigation offered the victim the opportunity of claiming compensation. This resulted in a growing distinction between penalty and damages. In the course of time, the scope of civil liability was extended, injuria being used to claim
damages for personal injuries, the *lex Aquilia* for damages to property. The development of compensation for damages, either in money or in kind, constituted the most important element of civil liability. Compensation was often completed by a penalty of a religious nature, showing that the original penal character of the law of delicts still continued to play a role in the texts of customary law. In spite of a strong community feeling with collective responsibility, personal liability towards the community was predominant and was, moreover, promoted by the formation of the medieval cities. The casuistry concerning damages as found in customary law texts and in charters, shows a strong inclination towards maintaining the peace. The exercise of the royal right to grant pardon, as well as the procedure developed for this purpose, promoting the wrongdoer’s confession, were elements which confirmed the increasing subjectivity of civil liability.

From the sixteenth century, the civil aspect of delicts, which for so long a period retained their penal character, was confirmed by reintroducing the distinction between private law and public law as opposing concepts. For the kingdom of France this separation was established for legal practice by the ordinance of 1670. Herein the contribution of Domat was of major importance. His line of reasoning was completed by Pothier who, in his *Traité des obligations*, presented a clear definition of civil delictual liability without any penal element. Nevertheless the civil delict retained certain penal elements, especially as regards the unlawfulness of the damaging act. In the attempts to develop general notions for the law of delict, legal doctrine, more specifically the writings of Domat, emphasized the duty of foreseeing: there is fault from the moment that someone who has to foresee certain damages, fails to do so (p. 322). The notion of damage was interpreted extensively, viz. to include moral damages, while the causal connection had to be direct and exclusive in order to justify a remedy for damages and interest. The amount of damages to be awarded, had to be estimated, either by the victim, by the court or by experts. After twenty years the action for damages was extinguished through prescription.

The formation of a general principle of civil liability for damages can be found in Grotius. It includes all the elements necessary for the obligation to redress damages, including all kinds of fault and damage. Such a general approach can also be found in Pufendorf, Thomasius and in French legal scholarship of the eighteenth century, although Domat to a certain extent remained influenced by the casuistic method of Roman law. Prévost de la Jannès adopted the ideas of Domat, but separated the general principle from its casuistry. Generally phrased starting points provided the framework for constitutive elements of delictual liability which lay at the root of the future *Code civil*, e.g., the distinction between *délit* and *quasi-délit* as defined by Pothier. Whereas the first drafts of the *Code civil* adopted liability without personal fault and focussed on damages and the obligation to restore, the final draft not only based civil liability for damages on facts but also on fault. As a consequence, a system based on personal fault was embodied in the *Code civil* (art. 1382 ff.). The sources used were Domat and Pothier, whose concepts had been previously systematized by the legal practitioner Garat in his contribution to the *Répertoire Guyot*.

In the present volume, which is based on a thorough analysis of primary sources and secondary literature, the author clearly tried to confine himself to the historical roots of only one element of delictual liability in the French *Code civil*, i.e. personal fault. However, it appeared necessary to discuss various aspects of extra-contractual liability, including for example the various kinds of damages and the causal connection between act and damage. Moreover, much of the historical origin of the French law of delicts coincides with that of many other continental systems of law. In particular the Medieval interpretation of Roman law and Canon law, the schools of Natural law and the scholarship of the eighteenth century form a legal heritage which France shares with many other countries. As a result, the interest of the present volume is by no means limited to a deeper understanding of contemporary French civil law. However, one should not expect to find a full history of