



12-1-2022

A Brief History of Insanity: The Gaudio Translation

Benjamin G. Davis
University of Toledo College of Law

Andrew Gaudio
United States Library of Congress

Follow this and additional works at: <https://scholarlycommons.pacific.edu/uoplawreview>

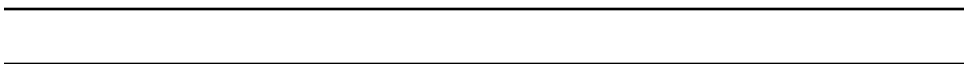
Recommended Citation

Benjamin G. Davis & Andrew Gaudio, *A Brief History of Insanity: The Gaudio Translation*, 53 U. PAC. L. REV. 716 (2022).

Available at: <https://scholarlycommons.pacific.edu/uoplawreview/vol53/iss4/8>

This Symposium is brought to you for free and open access by the Journals and Law Reviews at Scholarly Commons. It has been accepted for inclusion in University of the Pacific Law Review by an authorized editor of Scholarly Commons. For more information, please contact mgibney@pacific.edu.

UNIVERSITY OF THE PACIFIC LAW REVIEW



A Brief History of Insanity: The Gaudio Translation

Benjamin G. Davis*

Andrew Gaudio**

TABLE OF CONTENTS

WE HAVE TO RECOVER THE HISTORY	716
II. EXTERMINATE ALL THE BRUTES.....	717
III. SEARCHING FOR THE POPE SIXTUS IV 1478 LETTER.....	717
IV. THE ENGLISH TRANSLATION OF THE PAPAL LETTER OF 1478 BLESSING THE SPANISH INQUISITION	718
V. THE IMPORT OF THIS PAPAL LETTER FOR US TODAY	720
VI. WHITE SUPREMACY IS NOT ORDAINED BY GOD	722

WE HAVE TO RECOVER THE HISTORY.

James Meredith, the African-American who integrated the previously whites-only segregated University of Mississippi in the mid-1960s, once told me it was only when he worked in Japan after WWII that he realized segregation of the races was not ordained by God.

Recently, I think I received some indication of why he thought that and why the current situation is as it is. I had, of course, been familiar with American slavery, but before that 1619 project,¹ I was surprised to come across the *Dum Diversas*² and *Romanus Pontifex*³ Papal Bulls/Letters of Pope Nicholas V in the mid-1400s blessing and calling for the perpetual enslavement of Africans.⁴

I was dismayed to see an online presentation of the Catholic Church and Slavery simply glide over and ignore these important documents when they

* Emeritus Professor of Law, University of Toledo College of Law, Visiting Professor of Law, University of Illinois Chicago School of Law and Washington and Lee University School of Law.

** Andrew Gaudio, Classics, Medieval Studies, Linguistics specialist, Researcher and Reference Services Division, United States Library of Congress. All comments except the Gaudio translations are of Professor Davis.

1. See generally *The 1619 Project*, N.Y. TIMES, <https://www.nytimes.com/interactive/2019/08/14/magazine/1619-america-slavery.html> (last visited Mar. 22, 2022) (on file with the *University of the Pacific Law Review*).

2. *Dum Diversas (English Translation)*, UNAM SANCTUM CATHOLICAM (Feb. 5, 2011, 9:19 PM), <http://unamsanctumcatholicam.blogspot.com/2011/02/dum-diversas-english-translation.html?m=1> (on file with the *University of the Pacific Law Review*).

3. Pope Nicholas V, *Romanus Pontifex* (1455), translated in EUROPEAN TREATIES BEARING ON THE HISTORY OF THE UNITED STATES AND ITS DEPENDENCIES TO 1648, at 20–26 (Frances G. Davenport ed., 1917), reproduced in *The Bull Romanus Pontifex (Nicholas V), January 8, 1455*, CHRISTIAN ABORIGINAL INFRASTRUCTURE DEVS., http://caid.ca/Bull_Romanus_Pontifex_1455.pdf (on file with the *University of the Pacific Law Review*).

4. I discuss this in my recent article: Benjamin G. Davis, *American Diversity in International Arbitration: A New Arbitration Story or Evidence of Things Not Seen*, 88 FORDHAM L. REV. 2143 (2020).

wrote:

Unfortunately, slavery returned to European society in the fifteenth century, with the conquest of the Canary Islands and the discovery of the New World. But from 1435 to 1890, a succession of popes condemned the slave trade and slavery in no uncertain terms. The first pope to do so was Eugenius IV (r. 1431-1447), who in his 1435 bull *Sicut Dudum* demanded that Christians free all enslaved natives of the Canary Islands within fifteen days; failure to do so would incur automatic excommunication. Thus, fifty-seven years before Columbus's first voyage, the Roman pontiff unequivocally prohibited the enslavement of native peoples.⁵

The use of the passive voice—seeming to see slavery as somehow dropping out of nowhere—disturbed me. Does it disturb you?

II. EXTERMINATE ALL THE BRUTES

When I read *Dum Diversas* and *Romanus Pontifex*, I had thought they must have spawned the idea of white domination over other races, but a recent HBO series called “Exterminate All the Brutes” corrected me.⁶

The HBO series made the case that the white supremacy idea really germinated from another source—Pope Sixtus IV's 1478 letter to Ferdinand and Isabella that blessed and called for the Spanish Inquisition. That letter blessed the process of differentiating Jews and infidels (Moors, Saracens, Muslims, i.e., those coming from Africa to Spain)—both whether converted or not—which led in due course to them having to wear distinctive garb (Jews having to wear a red cloth, Moors having to wear a blue cloth). The subsequent 359 years of the Spanish Inquisition with its depravity is, of course, common history to all of us.

III. SEARCHING FOR THE POPE SIXTUS IV 1478 LETTER

So, I wanted to find this letter called *Exigit Sinceras Devotionis Affectus*. I had a terrible time first finding the text of Pope Sixtus' letter; and then when I did, I only found it in Latin. The text in Latin is in a Spanish periodical called *Boletín de la Real Academia de la Historia* “(Bulletin of the Royal Academy of History” or “BRAH”). This text is in volume 15 and begins from the last two lines on page 449 and ends after the first third of page 452.⁷

5. Steve Weidenkopf, *Did the Church Ever Support Slavery?*, CATH. ANSWERS (Sept. 18, 2017), <https://www.catholic.com/magazine/online-edition/did-the-church-ever-support-slavery> (emphasis in original) (on file with the *University of the Pacific Law Review*).

6. Raoul Peck, *Exterminate All the Brutes*, VELVET FILM (Apr. 7, 2021), <https://www.hbo.com/exterminate-all-the-brutes>.

7. *Nuevas Fuentes para Escribir la Historia de los Judíos Españoles. Bulas Inéditas de Sixto IV É*

I then sought an English or French translation contacting every place I could find, including the Vatican Library, the Vatican Archives, and Catholic University of America—all to no avail. My attention was drawn by Professor Mortimer Sellers of the University of Maryland to a book, by Vice Provost Georgina Dopico of New York University, entitled *Perfect Wives, Other Women: Adultery and Inquisition in Early Modern Spain*. This book discusses at length the letter at pages 9–12 and 42–45 but did not have the text.⁸ I was unable to find an English or French translation.

However, thanks to Jason Dominguez, former Assistant Professor of Law at Texas Southern University, I have the Spanish translation that Vice Provost Dopico said was serviceable, to wit, from Gonzalo Martinez Diez's *Bulario de la Inquisición Española*.⁹

IV. THE ENGLISH TRANSLATION OF THE PAPAL LETTER OF 1478 BLESSING THE SPANISH INQUISITION

Well, I should say that I and the world did not have an English translation until May 20, 2021.

Andrew Gaudio, Classics and Medieval Studies, Linguistics Specialist, Researcher and Reference Services Division, United States Library of Congress, provided the first English translation of Pope Sixtus IV's 1478 letter—the Gaudio translation.

The Gaudio English translation is reproduced in its entirety below:

Bishop Sixtus, servant of the servants of God, to our most dear son in Christ illustrious King Ferdinand and to our most dear daughter in Christ Elisabeth, illustrious Queen of Castile and Leon, [sends] health and apostolic blessing.

The feeling of sincere devotion and the entire faith —with which you revere us and the Roman church—demand that we approve your requests, as much as we can under the command of God, specifically in these matters which concern the exaltation of the Catholic faith and the salvation of souls. Certainly for your part, your petition recently presented to us maintained that in various cities, lands and locations of the Kingdoms of Spain under your authority there are many designated

Inocencio VIII, 15 BOLETÍN DE LA REAL ACADEMIA DE LA HISTORIA [BRAH] [BULLETIN OF THE ROYAL ACADEMY OF HISTORY] 442, 449–452 (1877), <https://archive.org/details/boletndelarealac15madr/page/448/mode/2up?view=theater> (on file with the *University of the Pacific Law Review*). Thanks to Cheryl Adams and Andrew Gaudio of the US Library of Congress.

8. GEORGINA DOPICO BLACK, *PERFECT WIVES, OTHER WOMEN: ADULTERY AND INQUISITION IN EARLY MODERN SPAIN* 9–12, 42–45 (2001).

9. GONZALO MARTINEZ DIEZ, *BULARIO DE LA INQUISICIÓN ESPAÑOLA* 74–79 (Editorial Comptulense, 1997).

[as Christians] who reborn in Christ by the holy bath of baptism have not yet been strictly compelled to it, conducting themselves like Christians in appearance to cross back or revert to the rites and customs of the Jews and to keep the dogmas and precepts of the Jewish superstition and perfidy and to withdraw from true orthodox faith through worship and belief in their articles [of faith]. Thus up to this point they have not been afraid nor do they fear every day to incur the judgments and penalties borne against the followers of this heretical perversion according to the constitutions of the blessed recollection of our predecessor Pope Boniface VIII. Not only do they themselves persist in their own blindness, but also some who are born of them and some who associate with them are poisoned by their perfidy, and the number of these people does not grow insufficiently. Because of their sins and our negligence and that of the ecclesiastical prelates towards those whom it is necessary to inquire into these matters – as it is piously thought – wars, the slaughter of men and inopportune inconveniences increase in the aforesaid kingdoms, – by God’s permission – in the offense of the Divine Majesty, the contempt of the said faith, the danger of souls, and the scandals of many. Wherefore you have humbly occasioned to beseech us that to utterly eradicate this pernicious sect concerning the same kingdoms, we, from our apostolic beneficence deign to employ those remedies which are known to be suitable for the maintenance of the faith and for the salvation of the souls of the faithful living in those aforesaid kingdoms.

Therefore, in regard to your laudable enthusiasm of the faith towards the salvation of souls, we, taking up joy in God and hoping that not only to expel this perfidy from the aforesaid Kingdoms themselves but also in our time to subject the Kingdom of Granada and the locations next to it, which are inhabited by the infidels, to your authority and to convert the infidels to the proper faith, with the workings of divine mercy, you will be cured by the result, as much as your predecessors hindered in various ways could not be, in the exaltation of such true faith, the salvation of souls and to your perfect praise with the desired protection of the reward of eternal blessedness, and wishing to grant your requests of this sort, and to employ suitable remedies against them, we so inclined, consent to your supplications and grant to you that:

three bishops or superiors themselves, or other upright secular priests, either from a mendicant order or not from a mendicant order, surpassing forty years of age, of good conscience and of a laudable life, holding either a bachelors or a masters in theology or a doctor in canon law, or licensed by the rigors of an examination, God-fearing, whom in every city and

diocese of the aforesaid kingdoms you will consider to be selected according to the exigency of the locations at the current time, or at least two men like this, that they entirely enjoy the same jurisdiction, domain, and authority over those guilty of such crimes along with their harborers and followers which the Ordinaries and the Inquisitors of the heretical perversion enjoy in accordance with the law and the custom of the locations notwithstanding any contrary apostolic ordinances to the constitutions, or if for some there exists a pardon, jointly or separately from the Apostolic See that they cannot be prohibited, suspended or excommunicated by Apostolic letters, which does not make a complete, express and word for word mention of this sort.

We concede to you in this document the means of appointing such upright men as often as it seems fitting to you; the means of removing those appointed and of choosing others in their place, likewise with similar upright men; and the means of using for the time being such aforesaid jurisdiction, dominion, and authority against those guilty of crimes and their harborers.

You however should take care to choose and appoint such men to these tasks with whose honesty, integrity and diligence the desired fruits of the exaltation of the faith and the salvation of souls prosper to the extent that we hope.

Therefore let it be permitted for no one at all to infringe upon this document of our permission and consent or to oppose it with reckless audacity. However if anyone should dare to attempt this, let him know that he will incur the indignation of almighty God and of the blessed apostles Peter and Paul.

Issued at Rome in the presence of Saint Peter, in the year of the incarnation of our Lord 1478, on the first of November, in the eighth year of our pontificate.

V. THE IMPORT OF THIS PAPAL LETTER FOR US TODAY

The continuum for me—from Pope Nicholas V through Pope Sixtus IV; through slavery; through the American and European reaction to the Haitian revolution in the 1790s; through the Civil War in the United States; through segregation alongside the division of Africa, European Imperialism, and American Manifest Destiny Imperialism—has at its heart this effort at

differentiation on race. Rudyard Kipling captures this effort most clearly in his poem “White Man’s Burden,”¹⁰ written for Queen Victoria’s Diamond Jubilee in 1897 but apparently revised in 1899 to exhort the Americans to rule the Philippines.¹¹ The poem reads as parody today.

And in the United States, we can speak of Jim Crow, *Brown v. Board of Education*, the Civil Rights Movement and Martin Luther King, Jr. and others, up to today and George Floyd. In Europe, we can speak of colonization, the German genocide of the Herero in 1905–1907, King Leopold, the two World Wars including the Holocaust, the Holodomor, decolonization, and neo-colonialism up to the present.

This differentiation on race is a 550-year-old pandemic with international trade at the heart. As the concern in the 1400s was the dominance of Muslim control of the trade routes of the Mediterranean leading to the effort of Columbus to sail west to go east. And of course, the centuries of the Transatlantic Slave Trade when Africans were literally the center of international trade—this time as cargo.

And to go further, my attention has been drawn by Dr. Linda M. Rouillard, Professor of French, Chair of the Department of World Languages and Culture of the University of Toledo, to the Fourth Lateran Council of 1215 Canons on Jews, which includes the fact that separation of Jews dated to at least the Synod of Macon in 581 (not going out during Holy Week) and Jews being required to wear something differentiating dated to 1227 as required by the Synod of Narbonne.¹² Canon 68 of the Fourth Lateran Council of 1215 is of interest in relation to Pope Sixtus IV’s 1478 Papal Bull/Letter as it specifically references the wearing of a distinctive garment by both Jews and Saracens (i.e., non-Christians).¹³

Far be it for me to say I am a medieval scholar, but reading the three letters together suggests that the intersection of Pope Nicholas V’s Papal Bull/Letters of 1452 and 1455 with Pope Sixtus IV’s Papal Bull/Letter of 1478 may have operated to accelerate the effort at differentiation of Africans drawing on these older trends inside the church and blessing of white supremacy with all its horrors.

10. Rudyard Kipling, *The White Man’s Burden*, THE KIPLING SOC’Y, http://www.kiplingsociety.co.uk/poems_burden.htm (last visited Mar. 28, 2022) (on file with the *University of the Pacific Law Review*).

11. *The White Man’s Burden*, THE LITERATURE NETWORK, <http://www.online-literature.com/kipling/922/> (last visited Mar. 29, 2022) (on file with the *University of the Pacific Law Review*).

12. See CANONS ON JEWS, FOURTH LATERAN COUNCIL (1215), reprinted in *Fourth Lateran Council, 1215 Canons on Jews*, HANOVER COLL. HIST. DEP’T, <https://history.hanover.edu/courses/excerpts/344latj.html> (last visited Mar. 29, 2022) (on file with the *University of the Pacific Law Review*).

13. *Id.*

VI. WHITE SUPREMACY IS NOT ORDAINED BY GOD

So finally, in English, we have a plausible identification of the specific time and place where the idea of white supremacy was born. And the 550 years of affinity seeking and struggle against it by all kinds of people was a human made struggle. No divine imprimatur underlies the supporters of white supremacy's oppression of other races.

While Lord Mansfield, in *Somerset's Case*, noted the unnaturalness of slavery, stating:

The state of slavery is of such a nature, that it is incapable of being introduced on any reasons, moral or political, but only by positive law, . . . It is so odious, that nothing can be suffered to support it, but positive law. Whatever inconveniences, therefore, may follow from the decision, I cannot say this case is allowed or approved by the law of England; and therefore the black must be discharged.¹⁴

He points out that positive law permits slavery.¹⁵ Looked at today, when efforts at positive law are the means to address inequality, this paean to the English common law as more humanistic than positive law suggests that something was perverting the common law.

That perversion is most eloquently described on the American side of the Atlantic with the appeals to divinity to underpin case law as described as follows:

For example, nineteenth century case law refers to the blessing of the church for European enslavement of Native Americans and Africans, as purportedly legitimate treatment of "heathen" non-Christians. Case law and other literature from that era refers to the ancient traditions of slavery, to Biblical and otherwise Divine support for slavery, and to the slave status of Africans and their descendants as their "natural position," so much so that this status was acknowledged in the Constitution and constituted an "excepted case" from the "great principles of natural right asserted in the Declaration of Independence."¹⁶

It is tragic that James Meredith had been so inculcated with this false consciousness that he thought God ordained white supremacy.

That today, in reading Pope Sixtus IV, we each see how little we have progressed since 1478 in our thinking about each other shows us just what we

14. *The Somerset Case*, THE NAT'L ARCHIVES, https://webarchive.nationalarchives.gov.uk/ukgwa/20210803195130/https://www.nationalarchives.gov.uk/pathways/blackhistory/rights/docs/state_trials.htm (last visited Mar. 29, 2022) (on file with the *University of the Pacific Law Review*).

15. *Id.*

16. See Charles Calleros, *Advocacy for Marriage Equality: The Power of a Broad Historical Narrative During a Transitional Period in Civil Rights*, 2015 MICH. ST. L. REV. 1292-1293, 1292-93 (2015).

have to do to free our minds of these shackles that hold back all of us—confusing true faith with merely terrestrial human frailty to the detriment of so many millions.

For the avoidance of doubt, this is not a critique of Catholicism; rather it is a critique of the hiding of important history and a call for accurate history to avoid false consciousness.

