Divergence and Convergence in the Common Law – Lessons from the Ius Commune

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The questions raised by the conference theme about the factors which make a legal system (or a group of closely related legal systems) cohere and the conditions under which internal tensions are not only sustainable, but may actually function as a catalyst for further development, are not unique to the Anglo-American Common Law world. For centuries, the continent of Europe had a ‘common law’ of its own, literally a ‘ius commune’. The paper seeks to explore, by reference to concrete examples, what – if any – lessons modern-day Common Lawyers can learn from the experience of the European ius commune.