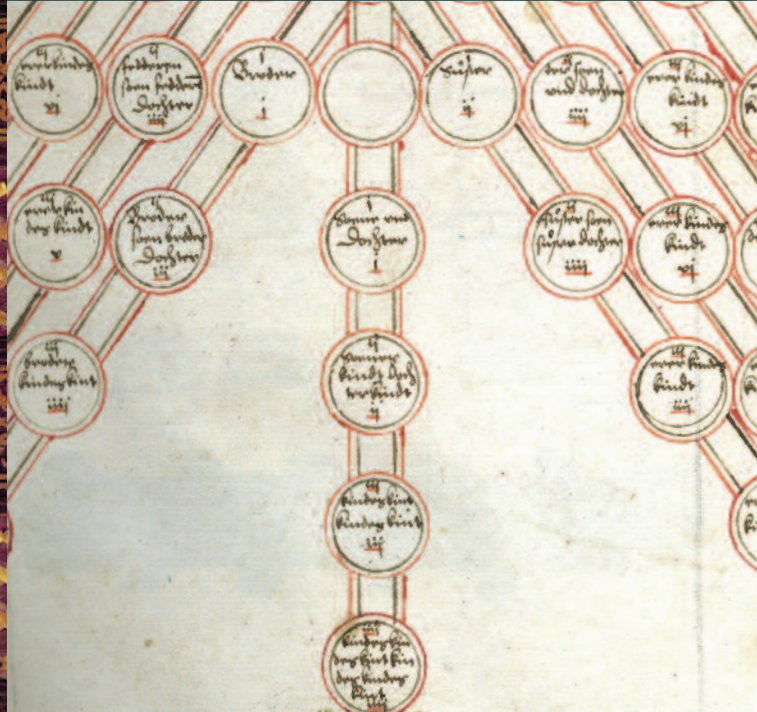


LAW



primer

3

Each volume in the series of “primers” introduces one genre of medieval manuscripts to a wider audience, by providing a brief, general introduction, followed by descriptions of the manuscripts and accompanied by other useful information, such as glossaries, timelines, and suggestions for further reading. We believe that these “primers” will help answer in a concrete way what certain types of manuscripts actually looked like and how they functioned for their medieval readers.

Law manuscripts are among the most complex codices of the Middle Ages. This coherent collection presents an overview of the development of western European law — civil and canon — from Justinian to the sixteenth century. Classic texts of civil law are included along with a significant group of commentaries on canon law, in which medieval canonists attempted to make sense of previously written texts. Working tools, such as class notes and a thesaurus, bring to life the school system of late medieval Europe. Examples of customary and municipal law complete the collection. As Dr. Susan L’Engle notes such manuscripts “survive as important witnesses to the process by which early legal professionals learned to shape the laws that govern... most Western countries to this day.”

Sandra Hindman

primer | 3

general editor Sandra Hindman

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Susan L'Engle and Ariane Bergeron-Foote

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Timeline



Corpus of civil law

- c. 24th century B.C. **Urukagina** (ruler of Lagash in Mesopotamia) composed the first recorded example of a code of reform
- c. 1772 B.C., **Hammurabi** (ruled c. 1792–1750 B.C.), *Babylonian Code of Hammurabi*
- c. 450 B.C., *The Twelve Tables*, the earliest code of Roman law, adapted from the laws of other nations by a panel of ten men and forming the basis for the later Roman legal system
- c. 161 A.D., **Gaius**, Roman jurist (fl. 130–180 A.D.), *Institutes*, a basic textbook of legal precepts in four books
- 529–534 A.D., **Justinian I**, Emperor of the East (ruled 527–565 A.D.), *Digesta/Pandectae* (533 A.D.), *Codex* (534 A.D.), *Institutiones* (534 A.D.), *Novellae* and *Authenticum* (to 565 A.D.)
- c. 1250 A.D., attributed to **Obertus de Orto**, imperial judge at Milan, *Consuetudines feudorum/Libri feudorum*

Glossators and commentators

- Bulgarus de Bulgarinis**, d. c. 1166
- Martinus Gosia**, d. c. 1160
- Hugo da Porta Ravennate** (d. between 1166 and 1171)
- Jacobus** (d. 1178)
- Placentinus** (d. 1192), *Summa Codicis*, *Summa Institutionum*, *Summa Trium librorum*
- Johannes Bassianus** (12th century, pupil of Bulgarus, master of Azo), known for his *Arbor actionem*
- Vacarius** (1120–1200?), *Liber pauperum*
- Azo** (fl. 1150–1230), *Summa Codicis*, *Lectura Codicis*
- Tancredus** (b. c. 1185), *Ordo iudiciorum*
- Odofredus** (d. 1265), *Lecturae in Codicem*, *Digestum vetus*, *Tres libris*, *Digestum novum*
- Accursius** (c. 1182–1263), *Glossa ordinaria* on the entire *Corpus iuris civilis*
- Baldus de Ubaldis** (1327–1400), Commentaries on the *Digesta*, the *Codex*, the *Libri feudorum*
- Bartolus de Saxoferrato** (1313–1357), commentaries on most of the *Corpus iuris civilis*

Corpus of canon law

- c. 1140–1158, **Gratian** (d. c. 1160?), *Decretum (Concordia discordantium canonum, A Harmony of Conflicting Canons)*
- c. 1188–before 1234 *Quinque compilationes antiquae*, five collections of post-*Decretum* decretals
- promulgated 1234, **Gregory IX** (1227–41), *Decretales (Liber extra)*, officially published decretal collection compiled by **Raymond of Peñafort** (1185–1275)
- promulgated 1298, **Boniface VIII** (1294–1303), *Liber sextus*
- 1312, promulgated 1317, **Clement V** (1305–1314), *Constitutiones Clementinae*
- c. 1325, **Zenzelinus de Cassanis** (d. 1354), *Extravagantes Johannis XXII*, a collection of twenty decretals
- 1500, **Jean Chappuis**, compiler, *Extravagantes communes*, small collection of decretals

Glossators and commentators

- Bernardus Papiensis** (d. 1213), *Compilatio prima*
- Johannes Teutonicus** (Johannes Zemeke, c. 1170–1245), first *glossa ordinaria* on the *Decretum*
- Bartholomaeus Brixiensis** (d. 1258), revision and amplification of the *glossa ordinaria* on the *Decretum*
- Bernardus de Botone Parmensis** (d. 1266), *Glossa ordinaria* on the *Liber extra*
- Raymond of Peñafort** (1180/85–1275), *Summa de penitentia*, *Summa de matrimonio*
- Hostiensis** (Henricus de Segusio, before 1200–1271), *Summa aurea*
- Goffredus de Trano** (d. 1245), *Summa super titulis decretalium*
- Johannes de Deo** (c. 1190–1267)
- Bernard of Montemirat** (Abbas antiquus, d. 1296)
- Guillaume Durand** (1231–96), *Speculum iudiciale*
- Guido da Baysio** (Archidiaconus, c. 1250–1313), *Rosarium*
- Johannes Monachus** (c. 1250–1313), *Glossa ordinaria* on the *Liber sextus* (Paris)
- Johannes Andreae** (c. 1270–1348), *Glossa ordinaria* on the *Liber sextus* (Bologna) and the *Clementinae*
- Johannes de Legnano** (c. 1320–1383), *Commentaria in decretales*
- Baldus de Ubaldis** (1327–1400), Commentaries on the *Liber extra* and the *Liber sextus*
- Johannes Nicoletus de Imola** (c. 1370–1436), *Lectura in librum secundum decretalium*
- Dominicus de Sancto Geminiano** (c. 1375–c. 1424), *Lectura super Sexto decretalium, Commentaria super distinctionibus decretorum*
- Mariano Sozzini**, il Vecchio (1397–1467), *Recollectae super quibusdam libri II decretalium*

Studying Medieval Law: “Pilgrims for love of learning”

Thousands of medieval law manuscripts exist in library collections worldwide, church law surviving more plentifully than civil law texts in a ratio of roughly seven to one. Most were produced in Western Europe between the twelfth and early fifteenth centuries. During this period, “entire generations of students ‘became pilgrims for love of learning’ and... made their way to the learned cities... to attend schools [of canon and Roman law] and become doctors... even at the price of considerable economic sacrifice and mortal danger (Bellomo 1995, 82).” The manuscripts described in this primer provide a good sample of the variety of legal texts that circulated during the Middle Ages: some were used for study, and others exemplify the actual written norms that governed specific locales.

The structure and content of these law books ultimately derive from the legal tradition of ancient Rome, expressed through the new texts commissioned in the East by the Emperor Justinian (r. 527–565 A.D.) after the fall of Rome and the settlement of Western Europe by “barbarian” tribes. To counteract the invaders’ unwritten and orally transmitted laws of custom and usage, Justinian’s scholars reorganized a thousand years of Roman law into appropriate formats to govern the various levels of society: tribe, rural community, town, city, and kingdom. The end result was the publication of what was called in the fifteenth century the *Corpus iuris civilis* (the body of civil law). This collection comprised the *Codex* (imperial

edicts) in twelve books; the *Digesta* (*Digest*, or *Pandects* in fifty books); the *Institutiones* (*Institutes*), a basic textbook in four books (no. 1); and the *Novellae constitutiones* (*Novels*), containing decrees transmitted by Justinian until his death. This new legislation, however, was by and large irrelevant to the customary law then in force in both East and West, and so its texts gradually fell into disuse.

Fast forward to the Middle Ages when, between the seventh and eleventh centuries, renewed intellectual energies brought political and social changes to Western society, among them economic growth, greater literacy, and especially Church reform. Though knowledge of Roman law had faded, its traces could still be found. For example, the legal documents produced by notaries (mostly clerics) reflected Roman law procedures, and many of its principles were also incorporated into the ecclesiastical legislature that developed from the legal systems of the early Christian Church. Canon law, constantly evolving, was devised to codify, reform, or control ecclesiastical activities. The wide expansion of monastic communities sparked a need for universal laws to regulate all religious institutions within the larger sphere of the Catholic Church. Created by popes and their advisors, these laws began to be produced in great quantities and formed into collections that were constantly updated by new canons or decrees. Likewise, in the eleventh century scholars began to compose works on legal theory and practice that revealed a familiarity with Justinian’s works. People recognized that Roman law offered useful norms for regulating society under its new social and economic advances. Strong efforts were made to recuperate the texts, and the entire *Corpus* was probably available by 1125.

In the first half of the twelfth century, two events triggered the rise of academic programs for the study of law. First, four Italian legal practitioners — Bulgarus de Bulgarinis (d. c. 1166), Martinus Gosia (d. c. 1160), Hugo da Porta Ravennate (d. between 1166 and 1171), and Jacobus (d. 1178) — began a careful analysis of the Roman law texts, trying to grasp their essential principles and design. Their written expositions clarified juridical concepts and procedures and provided models for the commentaries of subsequent scholars. The methodology they developed for teaching Roman law proved so effective that they became internationally known as the “Four Doctors,” and students flocked from all over Europe to study at their individual schools in Bologna. At the same time, around 1140 and also in Bologna, an individual called Gratian, perhaps a teacher of canon law, composed the first version of a comprehensive work that assembled writings from diverse sources. His intention was to organize and structure the often contradictory body of canonical writings into a logical and consistent format, and he called his work the *Concordia discordantium canonum* (A Harmony of Conflicting Canons). After a second recension was completed some time before 1158, this work became known universally as Gratian’s *Decretum*. Although the *Decretum* was not officially endorsed by a pope, its format was so practical and didactic that it was quickly adopted for teaching canon law (e.g., no. 2, commentary on the *Decretum*).

The *Decretum* became the first volume in the *Corpus iuris canonici* (body of canon law). Subsequently, various canonists put together five collections of later *decretals* (papal judicial decisions) to be used in the schools, collectively known as the *Quinque compilationes antiquae*. In 1234, however, these were superseded by the first text officially promulgated by a pope: a collection of *decretals* compiled by Raymond of Peñafort

(1185–1275) for Pope Gregory IX (1227–1241) and called the *Decretales* of Gregory IX or the *Liber extra*, that is, extra to the previous collections (no. 3). It was followed by a further *decretal* collection commissioned by Pope Boniface VIII (1294–1303), published in 1298 and known as the *Liber sextus*. The last official collection, the *Constitutiones Clementinae* of Clement V (1305–1314), was compiled in 1312 but only transmitted in 1317. Thereafter, the *Corpus* of canon law was finally completed with two small unofficial decretal collections entitled the *Extravagantes Johannis XXII* (published between 1325 and 1327) and the *Extravagantes communes* (published in 1500).

By the late twelfth century Bologna was internationally famous for the study of *utrumque ius* (both laws), and scholars had already begun to compose glosses (commentaries) that were added to manuscripts between the lines of text or alongside in the margins. Large amounts of commentary accumulated over the years, and in the early thirteenth-century Roman and canon law scholars began to rework the collected annotations into consistent formats that could be used as universal standard glosses (*glossa ordinaria*) and were copied into the margins surrounding each text. The definitive *glossa ordinaria* by the brilliant Accursius (c. 1182–1263) on the entire *Corpus* of Roman law was in place by 1250 (see the glossed *Institutiones*, no. 1). For canon law, the first *glossa ordinaria* for the *Decretum* was composed by Johannes Teutonicus (d. 1245) and later revised and expanded by Bartholomaeus Brixiensis (d. 1258). Bernardus de Botone Parmensis (d. 1266) wrote his gloss on the *Liber extra* over various revisions. The Bolognese canonist Johannes Andreae (c. 1270–1348) composed the *glossa ordinaria* for the *Liber sextus* taught in Bologna (see no. 5, which incorporates part of Andreae’s gloss), while the University of

Paris preferred a version by Cardinal Jean Lemoine (Johannes Monachus, c. 1250–1313); the prolific Andreae also authored the gloss for the *Clementinae*. The glossed manuscript was an important tool since it provided the text and its scholarly commentary in one convenient volume, to be discussed together in classroom lectures.

Along with the standard glosses, from the thirteenth century through the fifteenth commentators created other categories of literature to explain and discuss complexities and contradictions found in the canon and Roman law texts. Fully half the manuscripts presented here embody this genre, and — reflecting the greater survival rate — are exclusively devoted to canon law (nos. 2, 4-8). They include the *summa*, which presents systematic summaries of a specific text or topic (e.g. no. 4), and the *lectura*, a commentary in which laws are explained in textual order, reproducing a professor's lesson and generally reported by a student (e.g., no. 7, which records excerpts from a canonist's lectures over a four-year period). Unlike glosses, the *summa* and the *lectura* were published separately from the texts to which they referred, and students could purchase them as supplementary reading. At the same time, these commentaries reveal a progressive interest by canonists and civilians in the practical, rather than merely the theoretical, value of codified norms. Raymond of Peñafort's *Summa de poenitentia* (no. 8), for example, comprises a manual to be used by confessors, whose contents reflect the newly evolved canon law policies and provide criteria and examples through which a priest may identify, judge, and assign penance for sins. A thesaurus (no. 9) constituted a useful working tool for both canonists and members of the clergy.

In fact, not all legal texts were meant to be taught in the universities.

While Roman (and to some extent canon) law provided notional precepts and guides for regulating Church and state, Europe as a whole was governed by diverse types of juridical legislation: the laws established by a royal sovereign or lord, the statutes of independent cities, or the customary laws (*consuetudines*) of smaller rural and urban communities. Collections of the latter began to be compiled in the thirteenth and fourteenth centuries throughout Europe and represented a blend of local customs imbued with a smattering of quotes from other sources, including Roman law. The *Coutumes de Bretagne* (no. 10), for example, includes laws that regulated only the region of Brittany. Similarly, the *Hamburgisches Stadtrecht von 1497* (no. 11) is an interesting case of a reorganized collection of the customary laws and decrees of Hamburg executed by an official of this city, who applied the ideas and methodology he learned at university in Italy to Hamburg's municipal law. And, finally there is a Register of Writs (no. 12). This is not a code of law at all, but rather a collection of writs, documents that were necessary to initiate a lawsuit in an English court. Phrased in formulaic language, writs presented the matter and the plaintiff's claim briefly and clearly. As a handy reference work for a lawyer's library, a Register of Writs brought together copies of writs on a variety of legal issues and thus served as a model to a lawyer preparing his own writs.

Complex in format and varied in content, manuscripts of medieval law survive as important witnesses to the process by which early legal professionals learned to shape the laws that govern Church and state in most Western countries to this day.

Susan L'Engle
Assistant Director of the Vatican Film Library, Saint Louis University

1

JUSTINIANUS, *Institutiones*; ACCURSIUS, *Glossa ordinaria* (unfinished)

In Latin, illuminated manuscript on parchment
Southern France, perhaps Toulouse, c. 1290-1300

This manuscript contains an illuminated copy of the *Institutes* of the Roman Emperor Justinian (c. 482-565) that is partially glossed. The *Corpus Iuris Civilis* ("Body of Civil Law") is the appellation given to the collection of works in jurisprudence, issued from 529 to 534 by order of Justinian I, sometimes referred to as the Code of Justinian. The work as planned had three parts: the Code (*Codex*), a compilation of imperial enactments to date; the *Digest* or *Pandects*, an encyclopedia composed of extracts from the writings of Roman jurists; and the present *Institutes*, a student textbook, mainly introducing the Code. During the Middle Ages, interest in the Justinian corpus revived. Understood primarily as private law, the *Corpus* became the foundation of law in all civil jurisdictions. It was also mined for arguments by ecclesiastical authorities.

The gloss found in the present manuscript covers the first quarter of the manuscript and then stops abruptly at the end of quire two, suggesting the codex is a partially unfinished. It is the classical gloss attributed to Accursius, an Italian jurist (c. 1182-1263). In addition, the present copy contains four miniatures with representations of Justinian enthroned (f. 1), two figures given permission to enter a building (f. 9v), a dying woman on her deathbed dictating her will to a scribe (f. 24), and a judge ordering punishment to be hanged for wrong-doing, with the hangman escaping with his ladder in the margin (f. 37). A place of origin in Toulouse seems likely. Unidentified heraldic elements in this codex merit further study and are not yet identified: *de gueules au croissant montant d'or*. [TM 651]

DESCRIPTION: 51 folios, apparently complete, two distinct hands (ff. 1-30v; ff. 31-50v), copied in a French imitation of *littera bononiensis*, text in two columns, 66 decorated initials, 1 historiated initial, 4 column-wide miniatures, modern full vellum binding. Dimensions 410 x 260 mm.

LITERATURE: For comparisons with other codices tied to Toulouse see Stones, A., [Exhibition], *Le parement d'autel des Cordeliers de Toulouse* (2012), pp. 51-52; L'Engle and Gibbs, 2001; Radding and Ciarelli, 2007.



2

DOMINICUS DE SANCTO GEMINIANO, *Super distinctionibus decretorum* [Commentary on the first part of Gratian's *Decretum*]

In Latin, decorated manuscript on paper
Northern Italy (Ferrara?), dated 1460

This imposing manuscript contains a hitherto unrecorded and dated copy of Domenico da San Gimignano's Commentary on the first part of Gratian's *Decretum*, one of apparently only four known copies of this work. It was written by an unrecorded scribe, Odmettino di Jacopo di Bologna who signs and dates the colophon: "Hereby are finished the distinctions copied by Odmettino di Jacopo di Bologna, in the year of Our Lord 1460, in the month of March..." Although the text was published in the post-incunable period (first edition Venice, 1504), it has not yet received a modern critical edition, nor is there a census of the extant manuscripts. Born in San Gimignano, Domenico da San Gimignano (c. 1375-c. 1424) is considered to be one of the foremost canonists of his time. He studied with Antonio de Butrio and probably Pietro d'Ancharano in Bologna, and then taught law in Bologna.

Gratian's *Decretum* is a collection of canon law compiled and written in the twelfth century as a legal textbook by the jurist Gratian, perhaps a teacher of theology at the monastery of Saints Nabor and Felix (Bologna) and believed to have been a Camaldolese monk. He shares with Raymond of Peñafort the title of "Father of Canon Law." The *Decretum* forms the first part of the collection of six legal texts, which together became known as the *Corpus Juris Canonici*. The text of Domenico da San Gimignano's Commentary is structured, like the first part of the *Decretum* of Gratian, into a hundred and one *distinctiones*. Each distinction starts with a lemma, which is the first word of the original *distinctio*, then the commentary follows. [TM 518]

DESCRIPTION: 270 folios, complete, watermarks dated 1458-1472, copied in an abbreviated minuscule influenced by humanist script, text on two columns, 1 painted opening initial, pen initials, late 19th-century brown calf gold-stamped, reusing elements from the 16th and 18th centuries (good overall condition, acidity of ink at times causing very slight losses to text). Dimensions 430 x 295 mm.

LITERATURE: Schulte, Johann Friedrich von, *Die Geschichte der Quellen und Literatur des canonischen Rechts von Gratian bis auf die Gegenwart*, t. II, Stuttgart, 1877, pp. 294-295.



reduced

3

GREGORY IX, *Decretales (Liber extra)*

In Latin, decorated manuscript on parchment
Northern France or Belgium, c. 1275-1300

The Decretals of Gregory IX, promulgated in 1234, was the first collection of canon law for the Catholic Church invested with universal and exclusive authority, and it was the culmination of a century and a half process by which the now papal-led Church came to be the leading institution within medieval European society. Pope Gregory IX ordered his chaplain and confessor, Raymond of Peñafort, a Dominican, to form a new canonical collection destined to replace all former collections. Peñafort did more than simply compile the documents of former collections. He left out 383 decisions, modified several others, and omitted parts when he considered it prudent to do so, filled up the gaps, and to render his collection complete and concordant, cleared up doubtful points of the ancient ecclesiastical law by adding some new decretals.

This manuscript offers a very unusual “pocket” format for the Decretals of Gregory IX, here copied in two small quarto-size volumes, practical to handle and easy to carry. Although missing its Book V (perhaps there was a third volume), the present copy is quite delicate and minute with wide clean margins. Interesting marginal and interlinear notes pepper the volumes throughout, and they certainly merit study as they inform us on legal reading practices. The Decretals of Gregory IX were copied often; see the preliminary list by Martin Bertram listing around 675 manuscripts, only seventeen of which are in the North America. The present manuscript is a relatively early copy of the text and witnesses the diffusion of the “new” Gregorian Decretals outside of Italy. [TM 732]

DESCRIPTION: 2 volumes, respectively 70 + 58 ff. (vol. I) and 63 + 21 ff. (vol. II), books I-IV, missing book V, copied in a fine regular gothic bookhand, text in two columns in up to 35 lines, pen initials, bound in 18th-century polished and marbled havana calf (bindings a bit faded, text block cropped). Dimensions 188 x 140 mm.

LITERATURE: Michaud-Quantin, P., “Remarques sur l’œuvre législative de Grégoire IX,” in *Etudes d’histoire du droit canonique dédiées à Gabriel Le Bras*, Paris, 1965, pp. 273-281; Bertram, link October 2005.



GOFFREDUS DE TRANO, *Summa super rubricis seu titulis decretalium* [Treatise on the rubrics or *tituli* of the Decretals]; IOHANNES DE DEO, *Liber seu Summa dispensationum* [Book or Treatise on Dispensation]

In Latin, decorated manuscript on parchment
Germany, c. 1400-1425

This large manuscript contains two works by two contemporary canonists, writing in the same period close to the beginning of Pope Innocent IV's pontificate (1243-1256): Goffredus de Trano (1200-1245) and Johannes de Deo (1189/1191-1267). These works are fine examples of the complex relation between theology and law. Copied in a Germanic environment, the manuscript is amply annotated and corrected by contemporary hands, and it boasts an illustrious and learned provenance (Leander Van Ess, Sir Thomas Philipps, Walther Dorch).

Goffredus of Trano was an Italian jurist, canon lawyer, university professor, cardinal, and one of the earliest glossators of the Decretals of Gregory IX. He wrote his full apparatus (*glossa*) on the Decretals of Gregory IX before 1243. Then, between 1241 and 1243, before his death, Goffredus completely rewrote the work as the *Summa super rubricis (seu titulis) decretalium*. Johannes de Deo (d. 1267) was a Portuguese canonist trained in Bologna, whose main public was that of students and practitioners of canon law. His didactic treatise on "dispensation," which is dedicated to Pope Innocent IV in certain codices and recensions of the text, addresses the prickly issue of *dispensatio*, the act by which in a particular case a lawful superior grants relaxation from an existing law. Johannes's treatise enjoyed a wide diffusion, and it still awaits its critical study and edition. [TM 676]

DESCRIPTION: 242 folios, complete, copied in a gothic bookhand in up to 38 lines, text in two columns, pen initials in red and blue, late 15th-century German white pigskin binding (some minor worming and soiling to opening and final leaves). Dimensions 305 x 220 mm.

LITERATURE: Gottofredo da Trani (Goffredus Tranensis), *Summa super titulis decretalium. Novissime cum repertorio et numeris principalium et emergentium questionum impressa*, Darmstadt, 1968; Sousa Costa, A. de, "Redacções do 'Liber dispensationum' e da 'Summula super decimis ecclesiasticis' do canonista João de Deus," *Revista Portuguesa de História* 13 (1971), pp. 269-97.



5

**PETRUS DE UBALDIS IUNIOR (PETRUS DE PERUSIO),
Lectura super quibusdam titulis lib. II. Decretalium Gregorii IX [Commentary
on certain *tituli* of Book II of the Decretals of Gregory IX]**

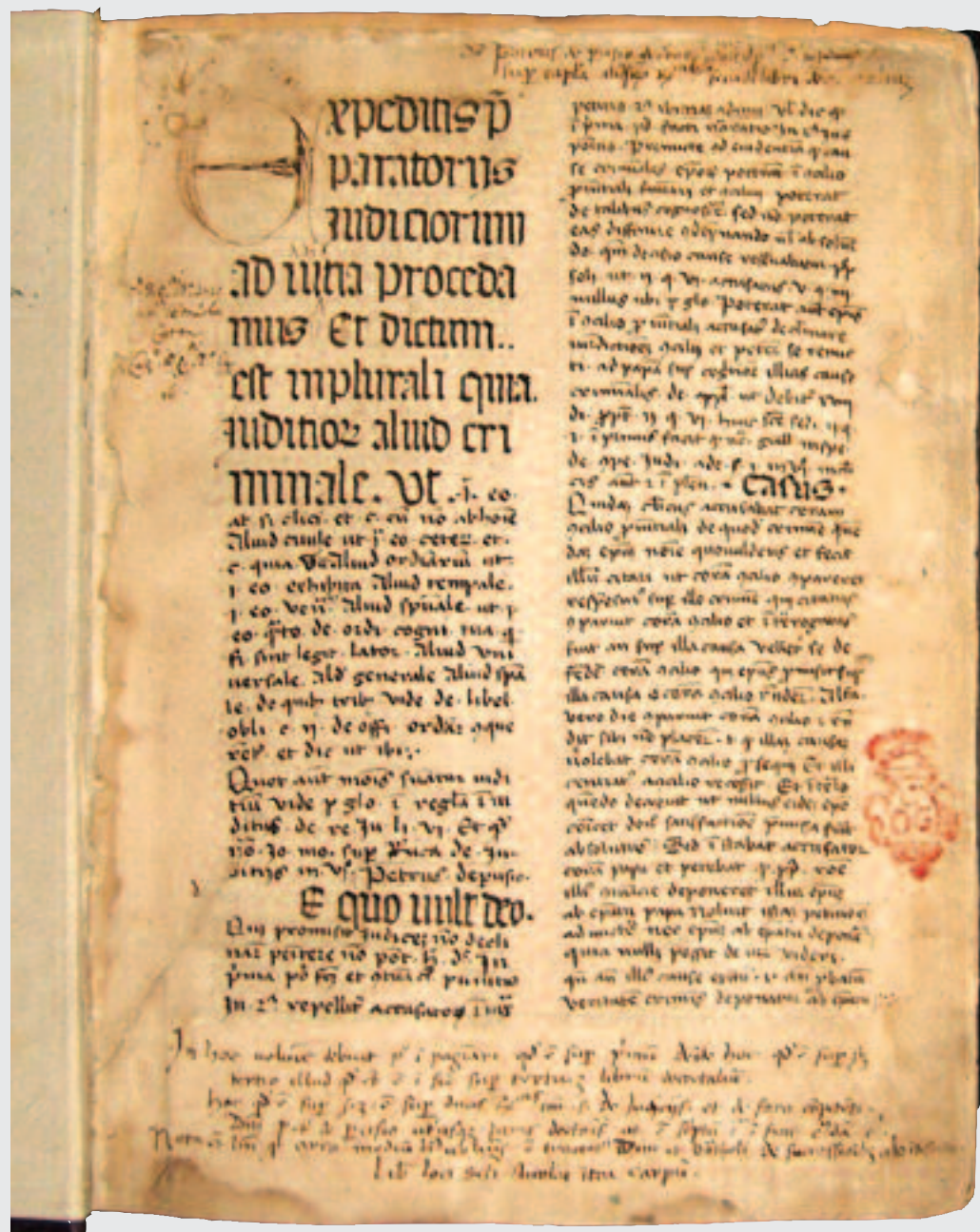
In Latin, manuscript on paper
Northern Italy, perhaps Perugia?, c. 1400-1425

This manuscript contains an unrecorded copy of a commentary on the first two *tituli* in Book II of the Decretals of Gregory IX, attributed to Petrus de Perusio, who is most likely Petrus de Ubaldis Junior from an important Perugian family of canonists. This codex attributes the commentary to a "Petrus de Perusio" at the foot of a number of different columns. Further study of the relationship of the manuscript to other commentaries by the same author, as well as to those by his presumed father (Petrus de Ubaldis Senior, 1327-c.1406) and uncle (Baldus de Ubaldis, 1327-1400), would help disentangle the manuscript tradition of these interrelated commentaries. This particular manuscript comes from the important library of the Franciscan convent of San Nicolò de Carpi.

After their promulgation in 1234, the Decretals of Gregory IX were soon glossed both between the lines and in the margins: the commentaries and glosses were copied in independent codices. The identification by canonists of the numerous glossators, and the content and importance of the commentaries is a study unto itself. Petrus de Ubaldus Junior's commentary on the two first *tituli* of Book II of the Decretals of Gregory IX, here respectively *De iudiciis* (On Judges) and *De foro competente* (On the jurisdiction of the court), covers successive cases in these chapters. Integrating the beginning of Johannes Andreae's commentary on each chapter of the Decretals (Book II), his work branches off and introduces differing original cases. This constitutes its original contribution. We have identified only one other manuscript with the same content and ascribed to Petrus de Ubaldis Junior, although the incipit differs (*Lectura super quibusdam titulis lib. II Decretalium*, Bologna, Bibl. di. Collegio di Spagna, Cod. 110, copied in Perugia, c. 1450). [TM 168]

DESCRIPTION: 57 folios, lacking a leaf after f. 7 and probably leaves after f. 54, watermarks dated 1372-1402, copied in a cursive bookhand in up to 37 lines, text in two columns, headings and opening words in gothic display script, modern diced calf (some internal stains, some skillful repairs to opening leaves). Dimensions 296 x 218 mm.

LITERATURE: Maffei, D. et al., *I Codici del Collegio di Spagna di Bologna*, Milan, 1992.



JOHANNES NICOLETUS DE IMOLA, *Lectura in librum secundum Decretalium* [Commentary on Book II of the Decretals of Gregory IX]

In Latin, illustrated manuscript on paper
Italy, Padua?, c. 1431-1447

With its very large format, its wide margins, and its elegant page layout, this manuscript presents a copy of the commentary to Book II of the *Decretales* of Gregory IX written by Johannes de Imola (c.1370-1436) and completed, according to colophon (f. 333), on the morning of 26 June 1425. Only three other copies are recorded of this commentary, which deals with legal justice procedures and trials. No modern critical edition exists, although the author's commentaries on Books I and II were printed twice in Venice in 1500. The manuscript merits further study especially in the light of the large number of marginal notations (in at least four different late fifteenth-century hands), which should certainly shed light on reading practices in legal circles.

An impressive frontispiece, a pen drawing highlighted in colored wash, bears the arms of Pope Eugene IV, which dates the completion of the manuscript between 1431 and 1447, the years of his papacy, just shortly after the composition of the work in 1425. The three men praying at the feet of Saint James and the man in the initial below are presumably lawyers and members of a confraternity dedicated to Saint James. Johannes de Imola taught in both Padua and Bologna, and a Paduan copyist might have preserved the papal reference as a compliment to the author, since the city of Imola was also officially part of the Papal States, or as a reference to the highest ecclesiastical authority. Although the Guild of Notaries in Padua generally revered the local patrons, Saints Prosdocimus and Giustina, the cult of Saint James had achieved great prominence in the city during the lordship of the Carrara, who dated the establishment of their rule from his feast day.

[TM 505]

DESCRIPTION: 332 folios, complete, watermarks dated 1438-1447, copied in a rounded gothic libraria script in up to 65 lines, text in two columns, 18 large decorated initials in red and blue with contrasting penwork, 3 historiated initials, 1 large miniature across both columns, 18th-century mottled calf binding (slightly rubbed, wormholes to spine). Dimensions 424 x 287 mm.

LITERATURE: Belloni, A. *Professori giuristi a Padova nel secolo XV: profili bio-bibliografici e cattedre*, Frankfurt-am-Main, 1986.



MARIANO SOZZINI, *Recollectae super quibusdam libri II Decretalium*
 [Notes on certain points of Book II of the Decretals of Gregory IX]

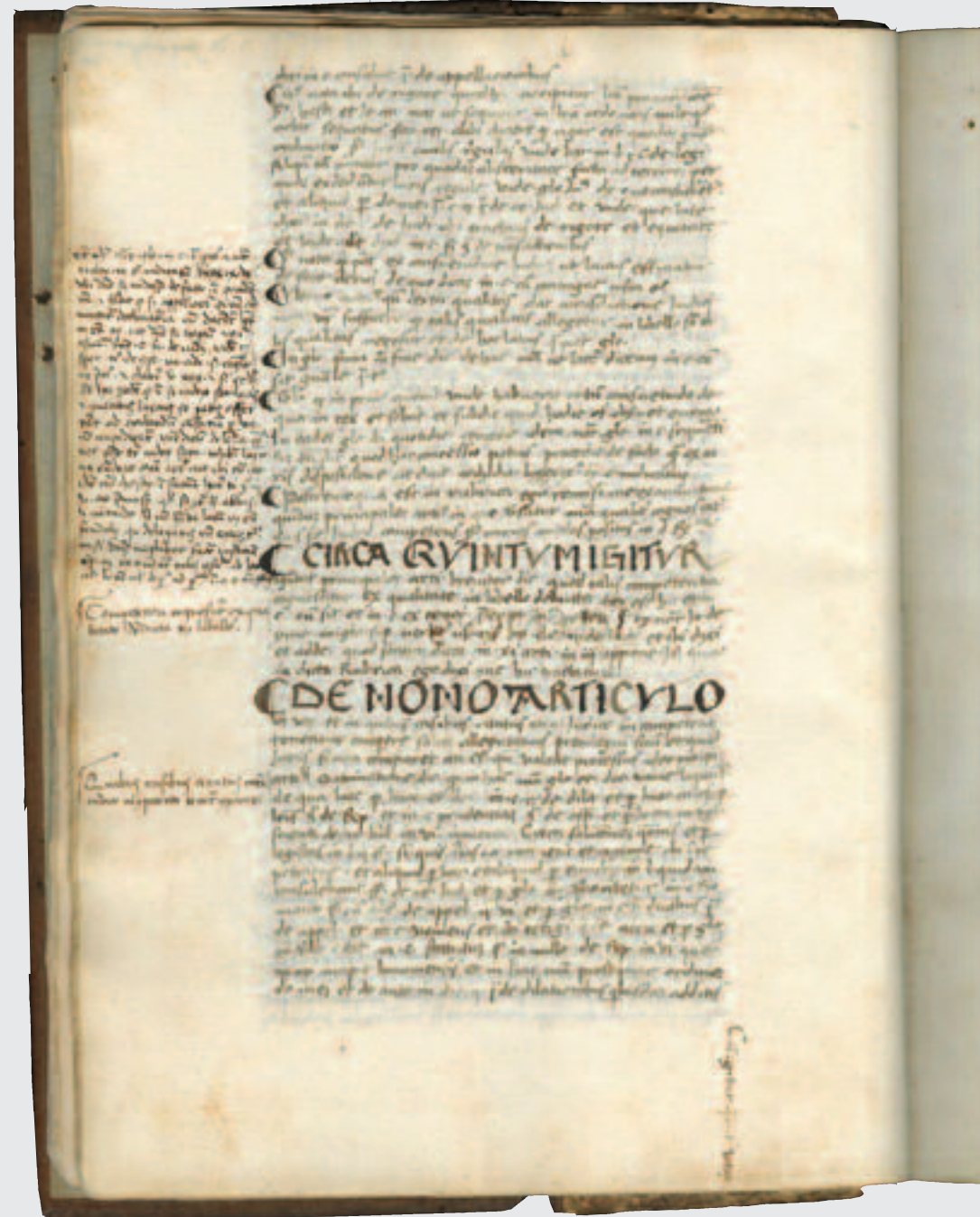
In Latin, decorated manuscript on paper
 Italy, Tuscany, probably Siena, dated 1451-1454

This manuscript contains *recollectae* (student notes) of the courses held by the canonist Mariano Sozzini (1397-1467) in Siena between 1451 and 1454 on Book II of the Decretals of Gregory IX. Apart from its great rarity (only three manuscripts known), the interest of this collection — lacking a modern critical edition — lies in the many contemporary marginalia, the method of copy and assembly with at least a dozen different scribes, and the frequent colophons. This is a fine example of book production in late medieval Siena associated with the University of Siena founded in 1240. These *recollectae* or *reportationes* are copies or notes taken by students at lectures or disputations held in the University. The *reportator* quotes the word of the text; *additiones* contain other people's additions to the original; and when a professor takes another author's text in class and adds to it, the result is *suppletiones*.

Mariano Sozzini began attending the law courses offered at the *Studium* in Siena in 1418. There he followed the courses of Niccolo dei Tedeschi, took his doctorate *in utroque* in 1427, and he also developed a deep friendship with Aeneas Silvius Piccolomini (who would become Pope Pius II). With the departure of his teacher, Mariano Sozzini was promoted to teach the Decretals of Gregory IX. He is known to have begun the examination of *tituli* 2-7 of Book II of the Decretals after 1450 and until c. 1457. Contemporary with his teaching in Siena, the present manuscript thus offers a precious snapshot of how canon law was actually taught. Scrutiny of the division of labor in the manuscript reveals how hard the multiple scribes tried to make sure that the text flows. [TM 587]

DESCRIPTION: 492 folios, apparently missing a leaf between ff. 471 and 472, else complete, watermarks dated 1454-1482, written by a dozen different hands in a cursive and highly abridged bookhand in up to 52 lines, original binding of thick wooden boards left bare (acidity of ink at times with small losses of text; paper restorations to first quire). Dimensions 305 x 217 mm.

LITERATURE: Nardi, P., *Mariano Sozzini. Giureconsulto senese del Quattrocento*, Milan, 1974.



RAYMUNDUS DE PENAFORTE, *Summa de poenitentia* [Treatise on Penitence]

In Latin, decorated manuscript on parchment
Northern France, Paris, c. 1235-1250

Patron saint of lawyers, Raymond of Peñafort (c. 1180/85-1275) was a noted Dominican, who is well known for his career as a canonist. He was born in Catalonia, near Barcelona, where he studied and taught arts courses at the cathedral school and subsequently taught law at the University of Bologna between 1218 and 1222. He entered the Dominican Order c. 1222, and at the request of Pope Gregory IX went to Rome in 1230 and began work on a new compilation of Decretals. He also composed a number of canon law and penitential treatises, such as the present *Summa de poenitentia*, a manual of instruction for confessors, through which the newly developed canon law that flourished under the impulse of the Gregorian Reform became available to the ordinary confessor.

This is a very early copy of the second recension of Raymond of Peñafort's penitential handbook likely dating close to its composition in c. 1234-1236 and not including the fourth book on marriage. The extensive corrections to the text are of particular interest given its early date. Of Parisian origin, it may have been associated with the Dominican convent of St.-Jacques or have been owned by a student at the university. In the fourteenth century, the manuscript belonged to the Augustinian Canons of St.-Denis at Reims. Raymond states that he compiled his work, "... so that if brothers of our order, or others, should perhaps have doubts concerning the judgment of souls in sacramental confession, through using it, as much in their counseling as in their judgments, they may be able to untangle many questions and various cases, both difficult and perplexing" (Mulchahey, 1998, p. 535). The number of extant manuscripts of the *Summa de poenitentia* attests to the work's enormous popularity. [TM 580]

DESCRIPTION: 160 folios, copied in a very small upright gothic bookhand in two columns of up to 35 lines, pen initials in red and blue, vellum binding (some inner wear and staining; binding in very good condition, covers slightly stained and cockled). Dimensions 175 x 115 mm.

LITERATURE: Raymundus de Peñaforte, *Summa de casibus poenitentie...*, ed. X. Ochoa and A. Diez, 1976, col. 277-884; Mulchahey, M. M., "First the Bow is Bent in Study": Dominican Education before 1350, Toronto, 1998.



Repertorium juris [Legal Thesaurus of Canon Law]

In Latin, decorated manuscript on paper,

The Netherlands, Utrecht?, or Belgium, Antwerp?, c. 1450-1470

This is a fine example of an exhaustive canon law thesaurus or *repertorium*, signed by the scribe (and/or author?) Simon Lambrecht, *presbiterum* (priest), in the partially defective colophon (f. 269). The thesaurus contains over 500 entries, arranged alphabetically, and the entries quote a variety of canonists such as Baldus de Ubaldis, Johannes Andreae, Azo de Romanghis, Bartolus de Saxoferrato, Johannes de Lignano, Antonius de Butrio, and many others. The text is not recorded in the *In Principio* database nor in the list of incipits compiled by Giovanna Murano (see link below), and it may well be unique. However, as a type of text that served as a tool for canonists and students of canon law, the alphabetical thesaurus is quite well represented in the Middle Ages.

These types of legal thesauruses (canon and/or civil) are not yet fully studied, although they offer interesting insight into the classification of legal notions, especially into the choice of key concepts for the study and practice of canon law in the later fifteenth century. A census and analysis of these alphabetically-arranged thesauruses of canon law concepts and words would allow the student of canon law to answer better a series of questions pertaining to these thesauruses. Specifically, are there national differences between a *repertorium* copied in Italy or in the Netherlands? Are there dogmatic differences and/or conceptual variations? Are the sources and *auctoritates* cited different depending on the periods and regions of compilation and redaction? Who used these *repertoria*, and how did they circulate? The number of similar *repertoria* that circulated in Europe suggests that they constituted a common, though yet-unstudied working tool for canonists and/or members of the clergy. [TM 679]

DESCRIPTION: 270 folios, complete (parts of first and last leaves damaged, with some loss of text), watermarks dated 1451-1483, copied in a regular gothic bookhand with some cursive features in up to 46 lines, text in two columns, painted red initials, contemporary blind-stamped binding (binding worn and defective but sound, crudely rebacked). Dimensions 292 x 212 mm.

LITERATURE: Unpublished, but see other similar *repertoria* listed in Giovanna Murano, Canon Law Incipit List.



10

Coutumes de Bretagne [Customs of Brittany]

In Latin and French, decorated manuscript on parchment
France, Brittany (likely Rennes), c. 1460 (after 1456).

Manuscripts of customary law are scarce. The present codex reflects the important independent legislative power enjoyed by the Dukes of Brittany from the twelfth century onwards. It joins the *Coutumes de Bretagne* with supplementary legal texts such as ducal ordinances and statutes, including the important *Assise au comte Geoffroy* (1185) that sought to limit the division and dispersal of large fiefdoms during successions and inheritances. Custom in law is the established pattern of behavior that can be objectively verified within a particular social setting, in defense of “what has always been done and accepted by law.” The area where the French customary law was in force, such as the Duchy of Brittany, was known as the *pays de coutume*, whereas in southern France, the *pays de droit écrit*, or Roman law, was paramount. The line separating these two areas was generally the river Loire. There were about sixty such regional *coutumes* and also more than three hundred local *coutumes* in specific towns and villages. Voltaire said that in France a traveler changed laws as often as he changed horses!

The *Coutumes de Bretagne* were probably put into writing circa 1315-1325 since customary laws, which were largely oral, were only progressively written down. This codex is a deluxe rather than workmanlike copy, written in a refined script, with handsome initials, and it might well have been illuminated (some opening leaves have been excised). Blank ruled leaves, also found here, were usually left on purpose at the end of the codex to allow the practitioner to add any ordinance or constitution that would be issued later. The manuscript was known to M. Planiol and figures in his census of thirty-one identified manuscripts; it is one of the few identified codices still in private hands. Boasting the provenance of early practitioners, the manuscript was clearly used by a string of Breton notaries and lawyers, well into the sixteenth century. The first edition of the *Coutumes de Bretagne* was printed in Paris in 1480. [TM 733]

DESCRIPTION: [III] + 188 ff., number of leaves excised, written in a bâtarde script in up to 30 long lines, initials in burnished gold on dark pink and blue grounds, bound in a restored binding preserving original 15th-century blind-stamped dark brown goatskin over wooden boards. Dimensions 160 x 110 mm.

LITERATURE: Published in Planiol, M., *La Très ancienne coutume de Bretagne...*, Paris and Geneva, 1984 [reprint from 1896], p. 30; Planiol, M., *L'assise au comte Geoffroi. Etude sur les successions féodales en Bretagne*, Paris, 1888.



Register Brevium [Register of Original Writs]

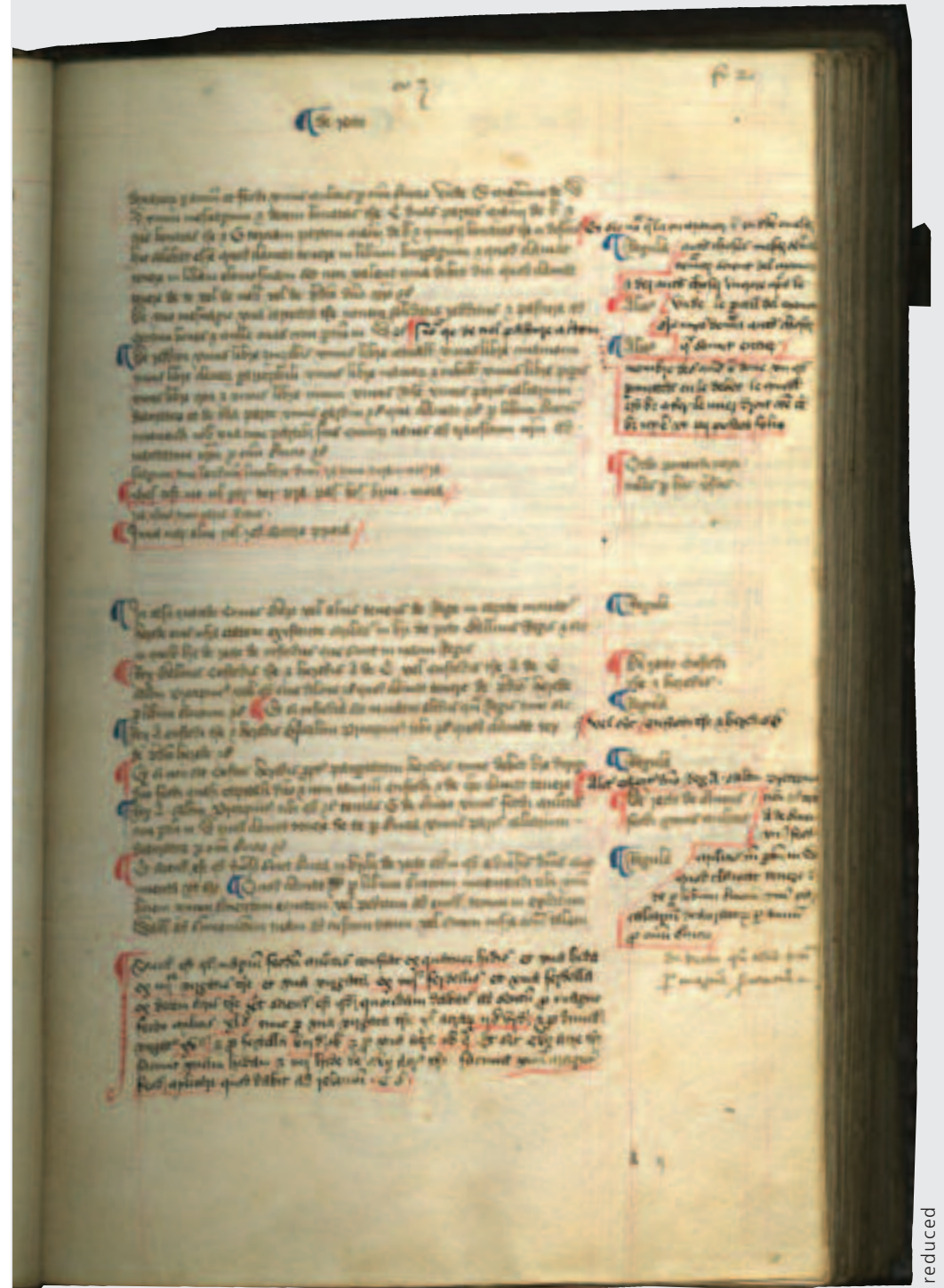
In Latin, Anglo-Norman and Middle English, on parchment
England (likely London), c. 1460-1475 and later additions in the 16th century

In common law, a “writ” is a formal written order issued by a body with administrative or judicial jurisdiction. In England, a writ became necessary to have a case heard in one of the Royal Courts, such as the King’s Bench or Common Pleas. A *Register brevium* contains a selection of writs: it was a formulary book, a compilation and selection of real and fictitious examples of documents issued by the Royal Chancery. This particular Register of Writs is important because it belonged to the later fifteenth and first quarter of the sixteenth century to Richard Nykke (or Nix, c. 1447-1535), a noted bibliophile and trained lawyer, the last Catholic bishop of Norwich before the religious reforms of King Henry VIII, and a conservative pro-Catholic voice in Reformation England. It is tempting to think that Nykke would have used the present codex in King’s Bench cases under Henry VII and perhaps also in his own defense in 1534 when he was incarcerated in Marshalsea prison by Henry VIII.

The first writ in this collection was issued in the fifth year of the reign of Henry IV (circa 1405) and the last writ in the thirty-eighth year of the reign of Henry VI (1422-1461), providing a *terminus post quem* for this codex. In the early sixteenth century the contents list, alphabetical index at the front, and eight new sections were added, evidently for Bishop Nykke. Further additions at the end of the book include the oath of the master of chancery, in French (f. II), the oath sworn by Richard II at his coronation (f. 410), a short Middle English tract opening, “All writtez of Couenaunt...” (f. IIv), and perhaps most interestingly in a book used by a defender of English Catholicism, an oath promising loyalty to “the kyng our sovrein lord” (f. 404) [TM 745]

DESCRIPTION: XXIV + 410 ff. (less 32 ff. because of erratic foliation), apparently complete, copied in a number of skilled English legal hands in up to 38 long lines, pen initials, contemporary tooled brown leather (with stamps used in the Caxton bindery: see J. B. Oldham, *English Blind-Stamped Bindings*, 1952, p. 27 and pl. xxi) (small scuffs and losses, spine cracked but thongs intact). Dimensions 268 x 180 mm.

LITERATURE: Emden, A. B., *Biographical Register of the University of Oxford to AD. 1500*, II, 1958, p. 1382; Maitland, F. W., “The History of the Register of Original Writs,” in *Collected Papers of F. W. Maitland*, Cambridge, 1911 (repr. Buffalo, 1981).



Hamburgisches Stadtrecht von 1497 [Hamburg Code of Municipal Law];
Langer Rezess [Long Ordinance] (1529); Hermann Röver, List of Councilors
 from the year 1190 to 1670

In German (Middle Low-German) and Latin, illuminated manuscript on paper
 Northern Germany, Lower Saxony, 1570-1573 with additions until 1670

From the Middle Ages onwards, the city of Hamburg enjoyed a position of considerable autonomy, and as of the fifteenth century it was governed by a Senate, composed of co-opted members elected for life. The laws and rights of the Hanseatic city of Hamburg were consigned and recorded in a number of acts and documents: privileges, codes of municipal law, fundamental ordinances concerning a wide range of subjects, promulgated between 1410 and 1712; and judgments pronounced. Taken together, these texts are a witness to how a community uses laws and legislation while renegotiating its social contract and relation with the ever-powerful local Senate, and also an important document for the history and language of Hamburg at the end of the sixteenth century.

This codex contains three separate yet closely related texts, all pertaining to Hamburg Municipal Law: these are the Code of Municipal Law for the City of Hamburg, redacted in 1497, a copy of the Long Ordinance of 1529 and a List of City Councilors composed by Hermann Röver in 1543, and here copied with important continuations until 1670. There are some fifty copies known of the Code of Municipal Law for Hamburg. The Long Ordinance copied here presents notable differences with the published edition; it is a central ordinance that structured the municipal institutions of the Hanseatic City and coordinated the relations between the burgesses in the four parishes of the city, the three representative councils, and the ever-powerful Senate (*Rat*). The present manuscript was obviously a deluxe copy, carefully copied and bound, and with illustrations, which is rather unusual in this type of codex. These include the very original allegory of Responsibility and the trees of consanguinity and affinity. [TM 294]

DESCRIPTION: 371 folios, apparently missing only f. 313, watermarks dated 1560-1570, copied in a number of different hands and scripts, pen initials, 4 miniatures or diagrams in colored wash, contemporary blind-stamped pigskin dated 1570, stamps from the workshop of Caspar Kraft the Elder, active in Wittemberg from 1563 to 1571 (good overall some rubbing to binding, some waterstains not hindering legibility). Dimensions 306 x 200 mm.

LITERATURE: Lappenberg, J. M., *Die ältesten Stadt- Schiff- und Landrechte Hamburgs*, Hamburg, 1845, pp. 165-320 (repr. Aalen, 1966); Lünig, J. C., *Das Teutsche Reichs-Archiv...*, Leipzig, Lankisch, 1713-1722, vol. IX, 1714, pp. 965-988; Binder, B., *Illustriertes Recht: Die Miniaturen des Hamburger Stadtrechts von 1497*, Hamburg, 1988.



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