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[Canon Law]. Compilation of excerpts from various commentaries and glosses on Canon Law (Decretals, Liber Sextus and Clementines)
In Latin, decorated manuscript on paper
Northern Italy, Milan? c. 1540-1550

451 ff. + [III] blank leaves, preceded and followed by one paper flyleaf, complete (collation i-xi² xi⁶, xii-xxi¹², xxiii¹⁰, xxiv-xxxi¹², xxxii⁸, xxxiii-xxxviii¹², xxxix¹¹ [12-1, with last folio of quire likely blank]), on paper (watermarks close to Briquet, "Serpent:" no. 13672 and 13673, Milan, 1545-1550), written in a cursive bookhand in brown ink, on up to 33 lines per page (justification 130 x 80 mm.), ruled in pale brown ink, catchwords, small painted capitals in red throughout, larger 2-line high initials in red marking the beginning of each chapter, elements of an illuminated border decoration cut out from a 13th or 14th century manuscript and pasted in on f. 1 as decoration for opening folio (blue and pink baguette with white tracery terminating with colored foliate motifs), rubrics in red, first words of chapters in a larger rounded gothic script, manicule and "notae" pointing to specific passages of interest in text, some contemporary marginal annotations, some in pale red ink, contemporary or near-contemporary foliation. Bound in an imitation binding of blind-tooled light brown calf over pasteboard, back sewn on 2 raised thongs, with blind-tooled decorations in compartments and on raised bands, covers with multiples frames traced with blind filets, ornamental and fleuron tools in intermediary and central compartments (Good general condition, strips of paper in margins cut out in some folios, never affecting text, a bit of worming to final leaves). Dimensions 200 x 140 mm.

Canonists had to navigate a large corpus of commentaries and glosses, and a compilation, such as the present one, of quotes and excerpts from the classic texts of Canon Law would have constituted a practical legal *vademecum*. Existing in large numbers, these types of compilations are rarely catalogued. Nor are they adequately studied in spite of the interest they hold for the assimilation and teaching of Canon Law, as well as the often sophisticated systems of reference they employ.

PROVENANCE

1. Script and watermarks suggest the present manuscript was copied in Italy, around the middle of the 16th century.
2. Notes in the margin reveal an early reader's interest in matters relating to the mendicant orders (see ff. 254, 378).

TEXT

Typically the present manuscript presents the first words that begin each chapter of the Decretals of Gregory IX (Books III-V), the Liber Sextus (Books III-V), and the Clementines (Books III-V) in a larger rounded gothic script, followed by excerpts of commentaries and glosses copied one after the other and distinguished from one and another by a small painted initials in red.

ff. 1-126v, Excerpts and quotes from commentaries on Book III of Gregory IX, Decretals; opening rubric, *Rubrica prima de vita et honestate clericorum. In expeditione in pius elici presente .ix. conclusiones ut infra patebit*; incipit, "Continuatio triplex ponitur hic ad librum precedente vide in flo[rentine][paragraph] 1"; rubric, *De vita et honestate clericorum*; incipit, "Ut layci [Decretalium, III, tit. I, cap. 1 (X, 3. 1. 1); Friedberg (1881), col. 449] Layci prope altare vel in choro dum officia divina..."; explicit, "Super Specula [Decretalium, III, tit. L, cap. 1 (X. 3. 50. 1); Friedberg (1881), col. 660] [...] Finis conclusioni 3ⁱⁱ [tertii] libri decretalium";

The first quote is an excerpt from Nicholas de Tudeschis, *Lectura super tertio libro Decretalium*: "Ut laici--Laici prope altare vel in choro dum officia celebrantur morare non debent..."

ff. 127-127v, blank;

ff. 128-165v, Excerpts and quotes from commentaries on Book IV of Gregory IX, Decretals, rubric, *De sponsalibus. Rubrica*; incipit, "Matrimonium consensu contrahitur nec invalidatur..."; incipit, "De francia [Decretalium, IV, tit. 1, cap. 1; Friedberg, col. 661]. Matrimonium consensu contrahitur nec invalidatur si consuetudo patrie non servetur..."; explicit, "Cum secundum [Decretalium, IV, tit. XXI, cap. 5 (X. 4. 21. 5); Friedberg, col. 732] Finis quarti ad laudem dei amen";

The first quote is an excerpt from Nicholas de Tudeschis, *Lectura super IV libro Decretalium*: "De Francia--Matrimonium consensu contrahitur nec invalidatur si consuetudo patrie non servetur..."

ff. 165v-279, Excerpts and quotes from commentaries on Book V of Gregory IX, Decretals, rubric, *De accusationibus et inquisitionibus rubrica*; incipit, "Si legitimus [Decretalium, V, tit. I, cap. 1 (X. 5. 1. 1); Friedberg, col. 733]. De persona accusationis primus in iudicio..."; explicit, "[...] In his [Decretalium, V, tit. XXI, cap. 5 (X. 5. 21. 5); Friedberg, col. 915]. Proverba statuo et precipuo... [...] Verbum statuo vel precipuo necessitatem importat";

The first quote is an excerpt from Nicholas de Tudeschis, *Lectura super V libro Decretalium*: "Si legitimus--Hec dicit in summa. De persona accusatoris primus querendum est in iudicio vel aliter et sic. Ad petitionem..."

f. 279v, blank;

ff. 280-370, Excerpts and quotes from commentaries on Books III to V of the Liber Sextus, rubric, *De testamentis*; incipit, "Si pater [Liber Sextus, III, tit. XI, cap. 1 (VI. 3. 11. 1); Friedberg, col. 1044]. In fideo commissariis substitutionibus locum..."; explicit, "[...] Sicut [Liber Sextus, V, tit. XII, cap. 4 (VI. 5. 12. 4); Friedberg, col. 1121] Finis [commentarium] (?) sexti libri decretali deo gratias et pie ipsius matri."

ff. 370bis, blank;

ff. 371-451, Excerpts and quotes from commentaries on Books III to V of the Clementines, rubric, *De testamentis*; incipit, "*Religiosis* [Clem., III, tit. VI, cap. 1; Friedberg, col. 1161]. *Ordinarius loci rationem exigit...*"; explicit, "[...] *Sepe contingit* [Clem., V, tit. XI, cap. 2; Friedberg, col. 1200][...] et non ut igitur videtur 3^a no[ta] 19."

f. IIIv, Thematic table, copied by a contemporary 16th century hand.

From the time of its composition in the thirteenth century, the five books of Decretals of Pope Gregory IX (1227-1241) became the fundamental text of canon law, which governed many aspects of secular as well as clerical life. This was what Gregory intended when he ordered his confessor, Raymond of Peñaforte (died 1275), to organize into one authoritative text the existing five compilations of canon law with their subsequent additions, including his own. In 1234, Gregory sent the newly completed work to the universities of Paris and Bologna, and before 1263 a *Glossa ordinaria* to the Decretals was composed by Bernard of Parma. Pope Boniface VIII ordered three canonists to compile the next collection of papal decretals, known as the "*Liber Sextus*" completed in 1298. Other collections of decretals followed shortly afterwards, including the "*Clementinae*" (named after Pope Clement VII) and the "*Extravagantes Johannis XXII*" (named after Pope John XXII).

The present manuscript appears to be a compilation of excerpts taken from commentaries and glosses by different canonists on the Decretals of Gregory IX, Books III-V, the *Liber Sextus* of Boniface VIII, Books III-V and the *Clementinae* of Clement VII, Books III to V. In a very orderly and systematic fashion, the compiler has lined a choice of quotes and excerpts from a number of canonists, fabricating a useful compendium of commentaries, easily transportable and abridged for facilitated use and reference. Amongst the canonists retained by the (still, but not for long?) anonymous compiler, one notes the preeminence of Nicholaus de Tudeschis (Panormitanus), with excerpts from his commentaries *Lectura super III Decretalium*; *Lectura super IV libro Decretalium*; *Lectura super V libro Decretalium*. But Panormitanus is by no means the only commentator favored. There are also numerous references to "in flo[rentine]...." This is likely Paulus Florentinus, author of a *Breviarium tot[i]us iuris canonici* (Memmingen, Albrecht Kunne, 1486; Goff P -180). Of course there are also references to Henry of Segusio called Hostiensis (1200-1271), Johannes Andreas (1270- 1348), Johannes de Lignano (died in 1383), Franciscus de Zabarellis (1360-1417), notably his commentary on the Clementines, etc. It would be impossible to list here all the authors, but it is interesting to signal the reference system in place, sometimes giving precise chapter numbers for easier retrieval and identification. This is not systematic, but enough to be signaled.

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LITERATURE

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Condorelli, O., ed. *Niccolò Tedeschi (Abbas Panormitanus) e i suoi Commentaria in decretales*, a cura di Orazio Condorelli, Rome, 2000.

Fransen, G. *Les décrétales et les collections de décrétales* [Typologie des sources du Moyen Age occidental, 2], Turnhout, Brepols, 1972.

Friedberg, E., ed. *Corpus Iuris Canonici Editio Lipsiensis... Pars secunda. Decretalium Collectiones. Decretales Gregorii P. IX., Liber Sextus Decretalium Bonifacii P. VIII., Clementis P. V. Constitutiones...*, Leipzig, Ex officina Bernhardi Tauchnitz, 1881.

Gaudemet, J. *Les sources du droit canonique, VIIIe-XXe siècle*, Paris, Cerf, 1993.

Kuttner, S. *A Catalogue of Canon and Roman Law Manuscripts in the Vatican Library*, 2 vols., Rome, Biblioteca apostolica Vaticana, 1986.

Schulte, J. F. von. *Die Geschichte der Quellen und Literatur des canonischen Rechts*, vols. 1 and 2, Stuttgart 1875-1877.

Tedeschi, N. *Abbatis Panormitani [N. Tedeschi] Commentaria... in I. [-V.] Decretalium librum, quamplurium jurisconsultorum qui probe hucusque aliquid iis addidisse apparuerunt [et nunc demum Alexandri de Nevo] adnotationibus illustrata...* Venice, Juntas, 1591-1592, 9 volumes.

ONLINE RESOURCES

Text for Gregory's Decretals

<http://www.thelatinlibrary.com/gregory.html>

Murano, G. *Initia operum iuris canonici medii aevi*

<http://www.uni-leipzig.de/~jurarom/manuscr/dat/initican.htm>

On Nicholas de Tudeschis

http://www.bautz.de/bbkl/n/nicolaus_d_t.shtml

<http://faculty.cua.edu/Pennington/Canon%20Law/PANORMITANUS.html>