

Statuta civitatis papiae (Statutes of the City of Pavia); [ANONYMOUS], *Confessio ordinata per Bernardinus de Senis* [Form of Confession ordered by Bernard of Siena]

In Italian, decorated manuscript on paper

Northern Italy (Pavia), 1440-1460

i (paper) + 74 + *i* (paper) folios on paper, watermark, flower with eight petals, similar to Piccard Online, No. 126711, Pavia 1447, and 126721, Pavia, 1438, modern foliation 2-75 in pencil bottom inside margin counting the missing first leaf as 1 (cited), modern pagination top outer corner recto (that is every other page is numbered), beginning on f. 5 (ff. 5-7 = pp. xiii-xviii, ff. 8-75 = pp. 1-136), if this pagination is correct, lacking two leaves, pp. i-iv, certainly lacking one folio and parts of three leaves in the first quire and three leaves at the end, at least one with text (collation ¹⁸ [-1, half of 2 and 3, and most of 4] ii-vii¹⁰ viii¹⁰ [-8, with loss of text, and -9 and 10, possibly cancelled]), horizontal catchwords middle lower margins, leaf and quire signatures with a letter indicating the quire and Roman numerals the leaf (some trimmed), horizontal rules in pale yellowish brown ink, single full-length vertical bounding lines in lead (justification 232 x 152 mm.), written in a careful, very attractive gothico-antiqua script in thirty-nine long lines, red rubrics and paragraph marks, majuscules stroked with red, four- to two-line red initials, some stains use and damp, wear to outer edges of the opening and closing leaves, small hole near the middle of the leaves as if a very thin sharp object was poked through them (no loss of text), overall in very good condition. Bound in nineteenth- or early twentieth-century dark brown leather over wooden boards, tooled in blind with double fillets intersecting on the diagonal, compartments filled with very small rosettes and floral stamps, spine with three raised bands, red edges, spine rubbed and worn, but in good condition. Dimensions 323 x 230 mm.

Local urban statutes are understudied, and they offer a very rich historical source. From the twelfth-century, and sometimes earlier, many Italian cities issued law codes in the form of *statuti*. This handsome folio-size manuscript from the important northern Italian city of Pavia exists as the only copy known to us of the 1393 statutes. It almost certainly pre-dates the first printed edition. Here the legal texts are followed by a text on the sacrament of confession; crime and punishment, sin and penance, they form a very medieval pair.

PROVENANCE

1. Written, almost certainly in Pavia itself given the local nature of this text, in the middle decades of the fifteenth century, c. 1440-1460, as indicated by the evidence of the text, script, and watermark.

Pavia, a town in Northern Italy about thirty miles south of Milan, was an important urban center from late Roman times, and continuing throughout the Middle Ages (in the sixth century it was the capital of the Ostrogothic kingdom, and in the seventh century a capital for the Lombards as well.) In 1164 Pavia became a self-governing commune (Frederick I confirmed the independence and liberties of the Lombard cities at the Peace of Constance in 1183). The popular government established by the Augustinian preacher, Jacopo Bussolari (1356-1359), was suppressed by Galeazzo II Visconti (c. 1320-1378) in 1359, and from that time on Pavia belonged to the Duchy of Milan, although Pavia continued as a self-governing commune. Under the Visconti Pavia became an intellectual and artistic center; the University of Pavia was founded in 1361.

An early reader, possibly contemporary with the manuscript, added marginal notes in the opening section of the manuscript, and later in the criminal statutes (e.g. ff. 5-7v, 47v).

2. Verso of last folio 'B' in purple ink, circled.

3. Private European collection.

TEXT

ff. 2-4v [lacking f. 1, and now beginning imperfectly], incipit, "xxxviii. Qualiter victus victori condempnari debeat in expensis, ... [f. 3], lxxxiii, De successionibus ab Intestato ..., [on the fragment of f. 4 that remains, the last entry visible is numbered cxvi, no text remains];

List of chapters for the civil statutes, beginning imperfectly with ch. 39, and ending imperfectly in chapter 93; parts of ff. 2-3, and all but a tiny fragment of f. 4 are also missing, so many entries are lacking.

ff. 5-8, incipit, "de aliis residentibus in una ex ciuitatibus ...; Qui commissarius ipsam commissionem omnibus iuris remediis statim acceptare ...; ... Et si altera partui non comparuent ad dandum confidentes ... locum habere statuimus";

General statutes concerning government, now beginning imperfectly.

ff. 8-43v, *De ordine mittendi in possessionem tedialem actorem in contumaciam rei. Rubrica*, incipit, "Item statuimus et ordinauimus quod si qua persona ..."; ... 161. *De Immunitatibus forensium, Rubrica*, incipit, "Item statuimus quod quicumque uero ciuis ciuitatis papie ... datis et gabellis dum taxat exceptis," *Deo Gratias Amen* [Ends top f. 43v; remainder blank];

Civil statutes, numbered 1-161; a great variety of topics are discussed – many concern business transactions, problems concerning debt, dowries, property of widows, and other matters of family law, transactions dealing with animals, the conduct of notaries (including a statute on correcting errors made by notaries), water rights, and many others.

ff. 44-46v, *Incipiunt Rubricae statutorum criminalium ciuitatis et comunis papie. Primo. Quod dominus portans papie eiusque iudex malleficiorum ...*;

Chapter list of criminal statutes, 1-85.

ff. 46v-69, incipit, "In primis christe nomine invocato. Tociusque celestis curie triumphantis. Ut maleficia ...; [f. 47], *De pena tractantis facientis uel procurantis publice uel occulte contra honorem et bonum et pacificum statam Magnificorum dominorum nostrum d. domini Galeazam vice comitis ...*; ... lxxxv. *Quod substantia statute non possint nec debeant interpretari sed intelligi ut littera sonat*, incipit, "Item statuimus quod aliquid statutum ... habeantur et teneantur," *Deo Gratias Amen*; [Ends mid f. 69; remainder blank];

Criminal statutes, numbered 1-85, beginning with procedures, and then listing penalties for numerous offences including, for example, murder, sodomy, "knowing a nun carnally," theft, creating false documents by notaries and others.

ff. 69v-70, *Decretum pro investituris rerum ecclesiarum. Quod nulla persona audeat recipere inuestituram ab aliqua ecclesia monasterio uel pro loco ultra Nouenium, rubrica*, incipit, "Dux mediolani etc. Papie uirtutum

que comes ad pisarum ...in dictum alui fieret," Deo Gratias Amen [ends top f. 70; remainder blank].

Canon law text concerning ecclesiastical investiture.

Statuta civitatis papiae (Statutes of the City of Pavia). The 1393 Statutes of Pavia were printed in Pavia by Antonius de Carcano in 1484 (ISTC 00721400; GW M4379), and again in 1505, and 1549 (Chelazzi, 1943-, and Online Resources). They mention Galeazzo Visconti II, who died in 1378. We have not yet identified any other manuscript copy, although further research is needed. Two manuscripts of earlier thirteenth-century statutes were studied by Sorriga, 1922.

The text in this manuscript, which predates the 1484 printed edition, appears to be related to the 1393 statutes, but with numerous differences. Compared with 1505 edition, there are clear similarities in general structure and indeed some exact verbal parallels. The first section, "*de regimine potestate*" in the printed editions is quite different than the selection here; the civil and criminal statutes seem closer to the printed edition (similar in the number of entries and at times the actual wording, but again, with differences). The last section, the canon law Decretals, which is quite extensive in the printed editions, is here reduced to a single entry. The Confessional which follows the statutes in our manuscript (see below) is not found in the printed editions.

ff. 70v-75v, *Confessio ordinate per dominum fratrum bernardini de senis ordinis fratrum minorum*, etc., incipit, "Primo quilibet peccatorum vel peccatrix volens se proponere ad confessionem elligat sibi confessorem bonum et litteratum ... Tres theologales sunt fides spes et caritatis. Prima si fidem bonam ... et alia precepta ecclesie"//

An organized guide to confession addressed to the person who wishes to confess (rather than to the priest administering the sacrament), beginning with a short introduction on how to confess, and then proceeding systematically through the ways someone could sin: first, in your thoughts, speech, and what you have done and what you have failed to do in terms of the seven mortal sins, the ten commandments, the seven works of temporal mercy, and the seven virtues. The text ends imperfectly; after listing the three theological virtues (faith, hope, and charity), only faith is discussed.

Bernardino of Siena often preached on the theme of confession, and a number of works on the subject are attributed to him (Roest and van der Heijden, Online Resources). The text in our manuscript does not appear to be identical with these works, although further research is called for; moreover, note that the text here describes this form of confession as "ordered" by Bernardino; it does not say that he was the author. Since Bernardino is not referred to as Saint Bernardino, this seems very likely to be a response to his preaching during his lifetime.

Of enormous popularity and considerable controversy in his own day, Bernardino of Siena (1380-1444) is considered the "Apostle of Italy." His biographers recount that penitents flocked to confession "like ants", and that through his sermons Bernardino "cleansed all Italy from sins of every kind" He was an enormously popular and fiery preacher, attracting huge crowds who listened for hours in cities throughout Italy, followed by the famous "bonfires of the

vanities." Accused of heresy in 1423, he was cleared in 1427, and served as vicar-general of the Observant Franciscans from 1438-1442. He was canonized in 1450 shortly after his death.

One of the most characteristic features of medieval Italy is the importance of cities. In contrast with the rest of Europe, many parts of Italy can point to a continuing urban civilization from antiquity that continued throughout the Middle Ages. From the twelfth-century on, and occasionally earlier, many Italian cities, independent entities with their own government, issued laws in the form of *statuti*. These law codes, important of course to local historians, are also valuable to legal historians in the broader sense. Legal principles including checks and balances and the concept of a neutral, non-political judiciary, for example, were pioneered in local Italian statutes (Ascheri, 2001). In 2001, Ascheri noted, "[T]he sections of statutes relating to public law have every right to be treated as constitutional history, even if their wide dispersion, mutability and multiplicity make them difficult to study. Paradoxically, it is their very richness that is responsible for the comparative neglect they have suffered...." The study of the Italian *statuti* has blossomed since 2001; there was a major exhibition of Italian local statutes at the Yale Law Library in 2008, and there is extensive current research (for example, see the list of articles on Academia.edu, Online resources).

The largest modern repository of Italian *statuti* is in Rome, at the Biblioteca del Senato della Repubblica; the catalogue of their collection, which is available and searchable online is an essential resource (Chelazzi, 1943-, and Online Resources). The largest collection outside of Italy is found in the Yale Law Library (Online resources); another important collection is at the University of Illinois, Urbana-Champaign. Manuscripts of Italian statutes are rare on the market (the Schoenberg Database lists only three sales since 1967).

This manuscript represents a personalized copy of the 1393 statutes of Pavia that almost certainly predates the first printed edition of 1484. The only manuscript copy of these Statutes known to us, it is an important "new" source, and will reward further study.

LITERATURE

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Available in a searchable, online edition:

<http://notes9.senato.it/w3/Biblioteca/catalogoDegliStatutiMedievali.nsf/home?OpenPage>

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Widener, Mike. "Local Statutes, Global Connections," in *Lo Statuto di Montebuono in Sabina del 1437*, ed. Alda Spotti, Rom and Viella, 2011.

ONLINE RESOURCES

Piccard watermarks online

<https://www.piccard-online.de/einfueh.php?sprache=en>

ISTC: Incunabula Short Title Catalogue

<http://www.bl.uk/catalogues/istc/>

GW: Gesamt Katalog der Wiegendrucke

<http://www.gesamtkatalogderwiegendrucke.de/GWEN.xhtml>

Exhibition (2008) Yale Law School Library

<http://library.law.yale.edu/news/early-italian-statutes-links>

Manuscripts in the Italian Statutes Collection, Yale Law School Library

<http://digitalcommons.law.yale.edu/itsta/5/>

Otto Vervaart, "City Statutes and Legal Order in Medieval Italy," *Rechtsgeschiedenis Blog*

<https://rechtsgeschiedenis.wordpress.com/2011/12/28/city-statutes-and-legal-order-in-medieval-italy/>

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Academia.edu: articles on Italian Statutes

https://www.academia.edu/Documents/in/Statuti_Italiani

Bert Roest and Maarten van der Heijden, *Franciscan Authors: 13th-18th Century: A Catalogue in Progress*, "Bernardinus Senensis"

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