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PIERRE and GUILLAUME DE MAUCREUX, *Ordonnances de plaidoyer de bouche et par escript* (Ordonances governing legal pleas made orally and in writing)

In French and Latin, decorated manuscript on parchment

Paris, c. 1330-1340

38 folios on parchment, original foliation in Roman numerals in brown ink in the middle of the upper margin, i-xxxvii (beginning after the contents list, on modern f. 3), modern foliation in pencil, 1-38, lacking c. 12 leaves (collation i^s ii^s [-7, lacking one leaf after f. 14, with loss of text] iii-iv^s v^s [-8, lacking one leaf after f. 38, with loss of text], lacking the final quire), horizontal catchwords, ruled in lead point and on some leaves in brown ink, prickings outer margins (justification c. 178 x 97 mm.), written in brown ink in gothic cursive script in single column on 29 lines, rubrics in red, chapters numbered in Roman numerals in red (discontinued after "xvi"), occasional phrases and words (especially those in Latin) underlined in red, paragraph marks (pieds-de-mouche) alternating in red and blue, 2- to 3-line initials alternating in red and blue with pen-flourishing in brown and red extending to the margins, one large 24-line puzzle initial with pen-flourishing in red and brown (f. 1), water stains in the upper margins of ff. 1-4, the lower corner of the first quire dog-eared, stains and signs of use, but in overall good condition. ORIGINAL BINDING of limp parchment, stained and with worm holes and tears. Dimensions c. 291 x 212 mm.

A significant discovery, this imposing manuscript is one of only two copies of a legal treatise for the Parlement de Paris, and it is close in date to the composition of the original text. The only other extant manuscript (in the BnF in Paris), the basis of a published transcription, dates well over a century later. Still in its original binding, written in a sophisticated chancery script with generous margins, and decorated with large colored filigree initials, the manuscript is an important early source for the study of the French Parlement and the development of French legal practice.

PROVENANCE

1. This manuscript's date soon after the text was written. The sophisticated style of the chancery script is Parisian and indicates a date around 1330-1340; it can be compared to the chancery script in the *Registre du Trésor des chartes* for years 1337-1340, Paris, Archives nationales, JJ 071 (Online Resources).

Penwork decoration is unusual in this kind of legal manuscript and indicates the high status of the book. The initials are accomplished work, but as is common in chancery manuscripts, their decoration does not reflect the Parisian book-market, especially in the choice of brown ink for the penwork in the first initial.

2. The manuscript was in the Low Countries in the fifteenth century, or at least in the hands of a Dutch speaking person (probably a lawyer), as suggested by the title added in Dutch in the fifteenth century on the lower cover of the book: "Exstrait van eene Deels vanden Rechten ghetrocken vute loix ende ghetranslateirt vanden latine In fra[n]coit".

TEXT

ff. 1-38v, [prologue], incipit, "Pour refraindre les malfaiteurs ou ceulx qui usurpent le droit d'autrui establirent li ancien paines. Si doit on entendre que paines en cas de doubte doivent estre entendues en la mains aspre partie ... Moult y a de diverses manieres de paines, selonc les meffais, mais aus (aux) costumes vous tenes. Prestation certaine comme cens qui en deffaut ne doit que petite amende, l'incertaine comme terrage la grosse"; ff. 1v-2v, [contents list], incipit, "*Intitulation. I. La division des drois qui contient coustume. Us et stile. la division des choses. ii. Choses corporeles et incorporeles. iii. Obligations. ii. Actions ... lxxx. d'appel et supploy. lxxxi. de cas particuliers. lxxxii. de recevoir en foy. lxxxiii. Et un albein. Sancti spiritus adsit nobis gracia. Commun stile de pladoier en court laye*"; f. 3, [rubric, f. 2v], *Commun stile de pladoier en court laye*, incipit, "Justice est volence ferme et perdurable qui rent a chascun sa droiture, et sens de droit, et cognoissance des choses divines et des humaines, et science de droit et de tort. Les commandemens de droit sont honnestement vivre ... Si non puet protester que temps ne cuerre contre luy, non contrestant temps comme plus prochain contre ce mains."

Pierre de Maucreaux (d. 1340) and Guillaume de Maucreux, *Ordonnances de plaidoyer de bouche et par escript*. The text was edited by Pillet (2006) from what was then the only known manuscript, Paris, Bibliothèque nationale de France, MS fr. 19832, ff. 1-39. Our manuscript ends imperfectly in the chapter "deffense de Retrait." The original foliation, as indicated in the contents list shows that the manuscript had originally at least 47 foliated leaves, in addition to the two un-foliated leaves in the beginning; the number was probably a regular 50 leaves (a quire of 10 leaves, or two quires of 8 and 2 leaves, lacking at the end).

The text begins with definitions of juridical terms and concepts, ff. 3-13, including "La division des drois qui contient coustume," "Us et stile," "Obligations," "heritages," "la maniere de faire veue," "Procureur," "Arbitres," "Commencement de proces et l'ordre des barres," "Proces de propriété contenant contremans," "Office d'avocat". It then presents the different types of pleas, ff. 13-25v, "*Ci commence le traitie des demandes et premierement de demande de chatel*," including "demande de chatel," "demande de murtre," "demande d'injures," "demande de juge en cas civile," "condicio indebiti et sine causa". These are followed by explanations of defenses and ways of responding, ff. 25v-38v, "*Ci apres s'en sievent les deffences de chascune demande devant escripte*," including "deffence de murtre et d'autres crimes," "deffence d'efforcier de femme," "deffence de denontiation," "deffence de succession."

As the contents list indicates, the work concludes with definitions and methods of procedure, including "heritage aliené," "plait entamé," "Repreuve de tesmoins," "Examination," "d'appel et supploy," "de Recevoir en foy," "Et un albein." Our manuscript is lacking this final section, and the last two cases of defense of the previous section, indicated in the contents list: "deffense ypotheque" and "deffense de chose baillie ou nom d'autrui". The manuscript ends imperfectly in the chapter "deffense de Retrait." Paris, MS fr. 19832 (ed. Pillet, 2006) includes at the end of its final section four procedures (beginning with "comment on fait don muteil") that are not included in the contents list of our manuscript. This suggests that either our manuscript is based on an earlier version of the text by the Maucreux brothers, or that these cases are additions that were not included by the Maucreux in their original text.

This treatise on legal procedures at the Parlement of Paris was written by the famous lawyer, Pierre de Maucreux, and his lesser-known brother, Guillaume de Maucreux, around 1330

(Pillet, 2006, p. 178; Aubert, 1915, p. 521, suggests 1330-1332). Pierre de Maucreux was ennobled by Charles IV of France in 1326 and attained considerable notoriety during his career, defending such important clients as Robert d'Artois, the *échevins* of Reims, and the *capitouls* of Toulouse (Aubert, 1890, pp. 486-487). He died probably between April 12 and November 12, 1340, when he disappears from the lists of lawyers at the Parlement. The work was first identified by Mr. de Rozière in 1875 in Paris, BnF, MS Français 19832, which, until the discovery of our manuscript, was the only known copy of the work (cf. *Bulletin...* 1875, p. 38). That manuscript was completed on May 10, 1473 in Commercy (Meuse) for Giovanni Fagotelle, the butler of Nicola Pietravalle di Monforte (1415-1478), Comte de Campobasso, a Neapolitan condottiere from the French Montfort family, who worked successively for Charles the Bold, Duke of Burgundy, and René II, Duke of Lorraine. F. Aubert observes that the copy in Paris includes clumsy mistakes typical of a foreign scribe not familiar with the legal language in France (Aubert, 1890, p. 487).

Our manuscript represents an important discovery, as it provides the text as it was close to its origin, that may even have been copied directly from the original manuscript. Its text differs from the edited copy in its orthography but also in its contents, especially, but not exclusively, in the names of the persons and details given in the examples included. For instance, in the "demande d'action ypotheque," "Nicholas de la Sale environ X ans" is "Charlot" in the edited copy (f. 20, cf. Pillet 2006, p. 200).

The Parlement of Paris was the supreme court of France from its origin in the thirteenth century until 1789, when it was suspended during the French revolution. In contrast with the English Parlement, it became primarily a judicial body, albeit one with some important political power. This treatise by the Maucreux brothers was destined for young lawyers, explaining how to plead in lay courts, and was meant to be accessible to people in many provinces and courts. They cite both Roman and Canon law sources, but also draw to a very large extent on customary law (Aubert, 1915, p. 521). Jacques d'Ableiges (c. 1350-1402) used this work as a source for the well-known *Grand Coutumier de France* (Aubert, 1890, p. 488).

LITERATURE

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Shennan, J. *The Parlement of Paris*, 2nd ed., Phoenix Mill, 1998.

ONLINE RESOURCES

Registre du Trésor des chartes, années 1337-1340, Paris, Archives nationales, JJ 071
<https://bvmm.irht.cnrs.fr/iiif/23655/canvas/canvas-2286665/view>

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