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JEAN FAURE, *Lectura super Institutionibus*; WILLIAM DURAND the Elder, *Speculum iudiciale* (A Mirror of Procedure), fragment

In Latin, decorated manuscript on paper and parchment

Southern France (Toulouse?), c. 1350-1400

ii (modern paper) + 137 + ii (modern paper) folios on paper and parchment (mostly paper, occasional leaves on parchment without any pattern), watermarks, first text (ff. 1-3v), branch with three leaves (unidentified), second text (ff. 4-137v): deux clefs en sautoir, similar to Briquet 3847, Toulouse 1366, modern foliation in pencil, 1-137, the first text (ff. 1-3v) is a fragment, the second text (ff. 4-137v) lacks at least the first leaf and an unknown number of leaves at the end, the quires are very irregular with paper and parchment leaves (collation i<sup>3</sup> ii<sup>8</sup> [-1, lacking one leaf after f. 3, with loss of text] iii<sup>8</sup> iv<sup>12</sup> v<sup>3</sup> vi<sup>14</sup> vii<sup>12</sup> viii<sup>14</sup> ix<sup>12</sup> x-xi<sup>14</sup> xii<sup>12</sup> xiii-xiv<sup>10</sup> xv<sup>4</sup>), alphanumerical signatures a-o (lacking "b" and "i"; fifth quire probably "e" although no signatures visible; the last two quires without signatures), no catchwords, ruled in lead point, (justification 290 x 192 mm.), both texts written by the same scribe in two columns in black ink in southern Hybrida, ff. 1-3v: 52 lines, paragraph marks in red, 2-line initials in red, one 8-line initial in blue with red penwork ornamentation, ff. 4-137v: c. 64 lines, rubrics in red, paragraph marks alternating in red and blue, 4-line initials alternating in red with purple penwork ornamentation and in blue with red penwork ornamentation, water stains in the upper margins of some leaves, other minor stains and small tears, in overall excellent condition. In a very fine nineteenth-century binding of brown calf over wooden boards, front and back covers blind-tooled in a panel design of four frames made with a roll, with motifs imitating late fifteenth-century Florentine illuminated borders including a double-headed eagle and profile heads à l'antique in medallions, vases, between the second and third frame an inscription reads "JUSTINIANO / INSTITUCIONES / CODICE / DEL SIGLO XV," small individual stamps of a flower and a cross between frames, spine with five raised bands, blind-tooled with a fleuron, title in gilt "JUSTINIANO / INSTITUCIONES," fore-edge painted red, modern restoration using the existing leather on the covers and spine expertly done, kept in a modern cream-colored buckram case with a title label on the spine "Codice Justiniano S. XV," in excellent condition. Dimensions 390 x 282 mm.

This impressively large volume on Roman law includes a fragment of the very popular *Speculum iudicale* by William Durand joined by the extensive commentary on the *Institutes* by the fourteenth-century French juriconsult, Jean Faure. Our manuscript is an early witness to Faure's text, which lacks a modern critical edition and survives in perhaps ten manuscripts. The codex retains evidence of active use by law students or practicing lawyers, including marginal annotations, numerous manicules (pointing hands), and subject notes bracketed by curious dog and deer heads. Commentaries on the *Institutes* are now uncommon on the market; the origin of this text, as well as this manuscript, in Southern France is of particular interest.

## PROVENANCE

1. The manuscript was made in the second half of the fourteenth century in southern France, as suggested by the watermark on the paper, the style of the script, and the style of the decoration (including the purple ink of the penwork decoration). Furthermore, both texts included in this manuscript are by authors from southern France, where the earliest copies and most manuscripts of these texts undoubtedly originated, in the milieu of the law faculties of Montpellier and Toulouse. Faure is from Angoumois, and Durand,

who was born near Béziers, was bishop of Mende (in Occitania between Montpellier, Toulouse and Angoumois). Moreover, our manuscript was made with paper that has a similar watermark to one that has been localized in Toulouse in 1366 (Briquet 3847; see Online Resources).

2. Marginal notes, manicules, and subject headings (bracketed by dog and deer heads) are evidence of active use by students or practicing lawyers.
3. Private Collection, Spain.

## TEXT

ff. 1-3v, incipit, "//pileus de hoc tractat in principis et rubrica prima ... Sed illud intellic//" [beginning and ending imperfectly];

William Durand, *Speculum judiciale*, fragment from part 4 (the running titles read "pars" "4" and "De libello"); three leaves from the fourth part of William Durand's *Speculum judiciale*, composed between 1273 and 1276 and revised between 1287 and 1291. It is known in 130 manuscripts and the author's autograph version is conserved in Paris, Bibliothèque nationale de France, MS lat. 4255 (Colli, 2002, Gy, 1992 and Bertram, 1992; for a digitized copy of the autograph manuscript, see Online Resources), and was printed in Basel in 1574 under the title "*Speculum iuris*"; re-printed in two volumes in Aalen in 1975 (see "Literature").

William Durand (c. 1230/2-1296) (Guillelmus Durandus or Durantis) was born in Provence and trained as a canon lawyer in Bologna, and later in life became bishop of Mende. He wrote a number of legal texts, most importantly, the *Speculum judiciale* found (now in part) in our manuscript, a treatise in four books which became the standard manual of Roman-canonical procedure during the later Middle Ages. One author summarizes the work's impact: "The intelligence and clarity of the *Speculum judiciale* made it an indispensable reference for many generations of both scholars and practitioners and earned Durand the nickname The Speculator" ("The Medieval Law School," Online Resources). He is also known for his liturgical writings, including his revision of the Pontifical and *Rationale divinatorum officiorum* a detailed account of the liturgy and its symbolic meaning.

ff. 4-137v, [begins imperfectly (lacking at least one leaf in the beginning)], incipit "//ecclesiasticus Judicari si <one word illegible> non repugnet ... persecutorie quedem penales".

Jean Faure, *Lectura super Institutionibus* (Commentary of Justinian's *Institutiones*). The commentary, as found in our manuscript, which is incomplete at the beginning and end, annotates the four books of Justinian's *Institutiones* from the prologue through Book IV, chapter VI, "De Actionibus." As a commentary, the text includes short lemmata from Justinian, followed by Faure's detailed discussion of the meaning of each passage, sometimes following the Gloss, but at other times introducing his own interpretations. The first full paragraph starting on f. 4, column a, line 11, "Si autem ignorant. Dyn. dicit quod in delictis ligant si quis faciat rem alias de se prohibitam, alias non ...," is Faure's commentary to the passage in the prologue (*præmium*) of the *Institutes* that begins "Omnes vero populi" (J. Faure, *Institutes*, Lyon, 1578, p. 12, col. 2 as cited by Weidenfeld, 2004, p. 179; for Justinian, see Online Resources). In the same column,

followed by a blue paragraph mark, begins Faure's commentary to the next passage from the prologue "Cumque hoc Deo." The commentary on "De Actionibus" (book IV, chapter 6) begins on f. 107 with the word "Superest." This last commentary section appears to continue until the end of the volume; there are no other initials or divisions to the text indicating the beginning of commentary sections discussing the remaining chapters VII-VIII. At least nine manuscripts known, including Paris, BNF, MS lat. 4442; Mazarine MS 1412; Douai, BM, MS 573; Amiens, BM, MS 350; Saint-Omer, BM, MS 481; and Tours, BM, 461 (Boulet, 1945). In addition, Faure's Commentary was printed in Venice in 1488 and 1582, in Paris in 1545, and in Lyon in 1513, 1523, 1543, 1546, 1593 and 1594 (cf. Leridon, 1865, p. 18).

Jean Faure (Johannes Faber, d. 1340) was born in Roussines in Angoumois and studied law in Montpellier, the center for legal studies at the time (on Faure, see Leridon, 1865). After becoming doctor in law, he taught at the University of Montpellier. He wrote his Commentary on the *Institutes* around 1328, in the first years of the reign of Philip VI of France. After that he appears to have exercised the profession of a lawyer in Angoulême and gained an excellent reputation as a jurisconsult, before he died in that town in 1340. At the Law Faculty in Montpellier Faure had become familiar with several other commentaries, and the citations in his Commentary to Jacob de Ravanis, Pierre de Belleperche, and Guillaume Durand's *Speculum juris* (also copied into our manuscript) show that he had access to copies of these works.

Justinian's *Institutes* was a manual that was essential for the study of Roman Law in the Middle Ages. It is part of the *Corpus juris civilis* ("Body of Civil Law"), a compilation of ancient Roman law issued from 529 to 534 by order of the emperor Justinian I. The work was issued in three parts: the *Codex*, the *Digest* and the *Institutes*. The *Codex* compiled all of the extant imperial enactments from the time of Hadrian, the *Digest* is an encyclopedia composed of mostly brief extracts from the writings of Roman jurists, and the *Institutes*. Later Justinian issued the *Novellae*, containing laws passed after 534.

The *Institutes* was intended as a sort of legal textbook for law schools and included extracts from the *Codex* and the *Digest*. The prologue is addressed to "the youth desirous of studying the law." In the medieval and Renaissance law school, the *Institutes* would have been the first text studied, and was the subject of numerous commentaries. The text has remained a resource for legal scholars over the centuries by presenting a more accessible, rationally ordered, and concise summary of the main concepts of Roman Law than the much larger and more comprehensive *Digest*; it was cited by the New York Supreme Court in a property law case as recently as 1805 (Online Resources, "The Medieval Law School").

## LITERATURE

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Available online (pp. 1-18),

[http://andre.j.balout.free.fr/charente\(16\)\\_pdf/roussines\\_j\\_faure01.pdf](http://andre.j.balout.free.fr/charente(16)_pdf/roussines_j_faure01.pdf)

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## ONLINE RESOURCES

Briquet Online

<https://briquet-online.at/>

Guillaume Durand, *Speculum iudiciale*, Paris, BNF, MS Latin 4255

<https://gallica.bnf.fr/ark:/12148/btv1b10038882k>

Ioannis Fabri Commentaria super Institutis. solennis et pene diuina iuris vtriusq[ue] doctoris ac interpretis profundissimi Ioannis Fabri Gallici lectura super quatuor libros Institutionu[m] Iustinianarum: multorum doctorum

<https://lib.ugent.be/en/catalog/rug01:000991482>

Jean Faure, *Lectura super Institutionibus*, Amiens, Bibliothèque Louis Aragon, MS 350

[https://bvmm.irht.cnrs.fr/consult/consult.php?REPRODUCTION\\_ID=18678](https://bvmm.irht.cnrs.fr/consult/consult.php?REPRODUCTION_ID=18678)

Jean Faure, *Lectura super Institutionibus*, Saint-Omer, Bibliothèque municipale, MS 481  
<https://bvmm.irht.cnrs.fr/mirador/index.php?manifest=https://bvmm.irht.cnrs.fr/iiif/18936/manifest>

Justinian, *Institutiones*  
<https://www.thelatinlibrary.com/justinian.html>

"The Medieval Law School," The Robbins Collection, Berkeley Law  
<https://www.law.berkeley.edu/research/the-robbins-collection/exhibitions/medieval-law-school/>

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