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GRATIEN, *Decretum*, with BARTOLOMEO DA BRESCIA (d. 1258), *Glossa ordinaria*
In Latin, illuminated manuscript on parchment
France, likely Paris, or perhaps Toulouse or Montpellier, c. 1300-1325

30 ff., fragmentary and misbound (collation: i¹, ii⁹ (10-1), iii-iv¹⁰), on parchment, written in a round textura, with the gloss written in a slightly tighter and smaller script, copied in brown ink, text layout in four columns with two central text columns and surrounded by two columns of gloss, parchment ruled in brown ink over original plummet ruling (justification, central text: 270 x 165 mm, surrounding gloss: 345 x 245 mm), a few vertical catchwords, rubrics in red, paragraph marks in alternating blue and red, Roman numerals equivalent to the current book placed as running headings in upper margin and announcing change of distinction in side margins, chapter initials throughout in alternating red or blue with purple or red filigree, small 3-line high initial in surrounding gloss (f. 1v) painted blue with white tracery on a pink ground with human head in infill, larger 2-line high initial painted in pink highlighted with white tracery on a blue ground with colored vine-leaves in infill (opening *Pars secunda*, *Causa II*), lemmata in the gloss are underlined in brown ink with some underlined in red ink, numerous near-contemporary annotations and notes in the margins, with some interlinear annotations. Covered in modern limp vellum (first folio stained and creased due to water damage). Dimensions 450 x 285 mm.

Substantial fragment of a once grand copy of Gratian's *Decretum*, offering the traditional core text and its surrounding gloss as well as numerous contemporary or near-contemporary marginal and interlinear annotations. The importance of the present copy lies not only in its extensive annotation but in its preservation of small *pecia* marks in the margins of ff. 20 and 30.

PROVENANCE

Script and layout, as well as decorative elements, suggest a northern European origin for this manuscript, Paris or perhaps southern France (Toulouse or Montpellier?), where many legal books were copied for use in the faculties of canon and civil law. It is difficult to pinpoint such a manuscript's exact place of production. In the present case, the lack of tie marks and the underlining of *lemmata* confirm an origin north of the Alps (see L'Engle and Gibbs, 2001, p. 44). L'Engle stresses how manuscripts are often produced in different places, or by foreign scribes and illuminators in Italy, or outside of the Italian peninsula: "Countless manuscripts in international collections present a mixed assortment of written and decorative elements whose pedigree often cannot be precisely determined . . ." (L'Engle and Gibbs, 2001, p. 44). The clear presence of *pecia* marks suggests Paris, for there is little evidence of *pecia* in southern French centers.

TEXT

The present fragment of Gratian's *Decretum* is misbound, opening with a single folio containing fragments of the Pars secunda (Part two), preceding the more substantial excerpts from Pars prima (Part one). Gratian's text is here surrounded by the *glossa ordinaria* by Bartolomeo da Brescia.

ff. 1-1v, Gratianus, *Decretum*, Pars Secunda, Causa I, questio 7, chap. 22-27, beginning chap. 22 [no rubric], incipit, "Si quis episcopus sive alicuius episcopo presbiter..." (robbed of preceding leaves); followed by, rubric to chap. 23, *Quando in ecclesia aliqua sint tolleranda*, incipit, "Etsi illa nonnumquam sinenda sunt..."; ending with chap. 27, rubric, *De eodem*; incipit, "Patet symoniacos veluti primos et precipuos hereticos..." [Friedberg, 1879, col. 435-438]; rubric, *Explicit causa prima et pars prima incipit secunda pars*;

f. 1v, Gratianus, *Decretum*, Pars Secunda, Causa II, questio 1, chap. 1-7, with questio 1: "Quidam episcopus de lapsu carnis inepitur a layco..."; beginning chap. 1, rubric, *Dampnari non valet nisi aut convictus aut sponte confessus*; incipit, "Nos in quemquam sententiam ferre non possumus..."; ending chap. 7, "Imprimis requirendum est..."; explicit, "[...] suo modis refor[metur] [...]" (chap. 7 interrupted, robbed of the following leaves) [Friedberg, 1879, col. 438-440];

ff. 2-30v, Gratianus, *Decretum*, Prima Pars, Distinctiones 2-37, beginning with end of dist. 2, chap. 5, "[...] [Pa]uli dicta sunt fuerunt enim quidam prudentes..." (lacks beginning); rubric to dist. 2, chap. 6, *Unde dicuntur tribunitie aliae quae sunt tribunicie leges vel consulares rubrica*; incipit, "Quedam est leges dicuntur ab hiis..."; ending with dist. 37, chap. 11, "[...] Si quando cogimur secularium litterarum recordari et aliqua ex hiis discere quae olim obmisimus non nostrae [...]" (lacks ending) [Friedberg, 1879, col. 4-139].

In Dante's *Paradiso*, "Gratian is the only lawyer authoritatively known to be in Paradise" (Winroth, 2002, p. 1). Until recently, it was generally accepted that Gratian was a Camaldolese monk who taught canon law at the monastery of Saints Felix and Nabor in Bologna. However, an important article showed convincingly that the received account of Gratian's biography is largely a myth constructed by scholars over the centuries (see Noonan, 1979, pp. 145-172). Practically nothing is known about Gratian other than his authorship of the *Decretum*. In this work, he systematically brought together canonical decisions and traditions excerpted from a wide range of patristic and ecclesiastical authorities. His aim was not only to collect all the relevant material but also to reconcile inconsistencies and contradictions: this intention is reflected in the formal title he gave to his composition, *Concordia discordantium canonum*. The work was compiled in two recensions between 1139 and 1158, with the second amplified version containing excerpts from Roman law (see Winroth, 2002). The great success of this text as a classroom tool is attested by the large number of surviving manuscripts. During the Middle Ages, canon law regulated not only the activities of the church but also areas that would today be regarded as thoroughly secular such as business, warfare, and marriage. The work was incorporated into the *Corpus iuris canonici* and thus had a continued validity in Catholic ecclesiastical courts until 1917.

Although Gratian's *Decretum* is published in Friedberg's monumental edition (Leipzig, 1879), most scholars and students of canon law now stress the shortcomings of this edition, in dire need of renewal and philological accuracy, largely due to the manuscripts retained at the time by Friedberg.

Indeed, the manuscript transmission of the *Decretum* is infinitely better known today, especially thanks to the work undertaken by R. Weigand. In order to study the glosses pre-dating the *glossa ordinaria* of 1215, Weigand examined and studied practically every extant *Decretum* manuscript (more than 150) from the twelfth and first half of the thirteenth century.

The gloss of the *Decretum* of Gratian was the work of John Zimeke, called the Teutonic (Joannes Simeca Teutonicus), between 1211 and 1215. He profited by the notes of his predecessors as well as those which he had made himself. This work, remodeled and completed by Bartholomeo of Brescia (Bartholomæus Brixiensis) in 1245 or 1246, became the "ordinary gloss" of the *Decretum*.

Although the present manuscript is fragmentary, it remains of interest to students of medieval law for a number of reasons. Firstly, the margins contain a number of contemporary annotations, likely apposed by students of canon law or decretists. These merit transcription and explanation to further our understanding of reading practices and commentaries of Gratian's *Decretum* and might provide information on when and where this manuscript was originally used and read. Secondly, the present manuscript offers numerous codicological particularities typical of glossed legal manuscripts such as the complex and inventive page layout, the importance of symmetry with space-filling ploys when there was not enough text to reach the bottom of the column such as the repetitive writing of nonsense words and syllables (for. ex. ff. 3, 4, 7, bottom righthand column).

Of singular importance are what appears to be *pecia* marks [see circled "v. p." (upper lefthand column, f. 20); circled "vii. pe." (upper lefthand column, f. 30)]. The *pecia* or piece system of gatherings was dispensed by stationers to scribes: professional scribes or students were allowed to rent a copied exemplar, *pecia* by *pecia*, and in some cases scribes annotated the *pecia* numbers in margins. Hence the present manuscript offers a good witness of the physical appearance, organization, and production of the medieval legal page (see the still-classic study by Destrez, 1935).

LITERATURE

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Winroth, A. *The Making of Gratian's Decretum*, Cambridge, 2002.

ONLINE RESOURCES

Gratian, *Decretum*—Full Text

Law Library Microform Consortium (non-profit library cooperative that makes available the world's largest collection of legal literature and government documents in microform).

<http://mdz.bib-bvb.de/digbib/gratian/text//>

History of Medieval Canon Law

<http://faculty.cua.edu/Pennington/Canon%20Law/ShortHistoryCanonLaw.htm>

London, British Library, Arundel MS 485 (illustration of a *pecia* mark)

<http://www.bl.uk/catalogues/illuminatedmanuscripts/ILLUMIN.ASP?Size=mid&IllID=6603>