

## DOMINICUS DE SANCTO GEMINIANO, *Super distinctionibus decretorum*

[Commentary on the first part of the Decree of Gratian]

In Latin, decorated manuscript on paper

Northern Italy (Ferrara?), dated 1460

270 ff., preceded and followed by one modern flyleaf, complete, 27 quinions (collation: A-Z<sup>10</sup>, &<sup>10</sup>, ζ<sup>20</sup>, ϑ<sup>10</sup>, . | .<sup>10</sup>), on paper (various watermarks close to (1) Briquet no. 4879, "Couronne à cinq fleurons," Ferrara, 1458; (2) no perfect match, rendered difficult because on common nature of the watermark, of the type Briquet, nos. 11709-11713, Northern Italian paper; (3) Briquet, close to no. 2649, "Basilic," although again not a perfect match, Ferrara, 1472), written in a very abbreviated minuscule influenced by humanistic script, in dark brown ink, text on two columns, ruled in blind (justification 265 x 65 mm.), first opening initial (f. 1) in red, blue, pink and green on a liquid gold ground, with a few colored acanthus leaves, and extending hairline stems decorated with liquid gold disks and colored flowers, blue initials with red penwork and red initials with violet penwork on five or six lines, blue and red paragraph marks, some guide letters (e. g. f. 187v), inversion of f. 122 and f. 129, with n2 placed at n9, and n9 placed at n2, wide margins with some annotations (some perhaps near-contemporary and mostly 16<sup>th</sup> century), see extensive marginalia on ff. 139v-140 in a humanistic cursive, manucula on ff. 11v, 61v (et passim), headings in brown in upper margins supplied slightly later. Late 19<sup>th</sup>-century binding, reusing previous elements from the 16<sup>th</sup> and 18<sup>th</sup> centuries, modern restorations (modern head- and tail-bands in sheepskin, modern red and yellow head- and tail-band, pastedowns and first flyleaves of 19<sup>e</sup> c. marbled paper), binding designed in imitation of a ledger or stationary binding, brown calf, gold-stamped on the front cover with ornamental tools and rolls, also a tool of a Virgin and Child (18<sup>th</sup> c.?), blind-stamped to a saltire motif (16<sup>th</sup> c.) on the back cover, laced leather overbands (Good general condition, acidity of ink at times causing very slight losses to paper and some words). Dimensions 430 x 295 mm.

This imposing manuscript contains a hitherto unrecorded and dated copy of Domenico da San Gimignano's Commentary on the first part of Gratian's Decree, one of apparently only four known copies. It was written by an unrecorded scribe, Odmettino di Jacopo di Bologna. Although the text was published in the post-incunabular period, it has not yet received a modern critical edition, nor is there a census of the extant manuscripts, and the text would greatly benefit from renewed scholarly study.

### PROVENANCE

1. Copied and decorated in Northern Italy, as suggested by watermarks and script. There is a dated colophon with the name of the scribe that reads: "Et hic est finis distinctionum que scripte sunt per me Odmetinii Jacobi Bononye. Anno a Nativitate Domini 14600 [sic, for 1460] die mensis Marci. Qui scripsit scribat semper, cum Domino vivat, pro pena scriptori tradetur merces argenti" [Hereby are finished the distinctions copied by Odmettino di Jacopo di Bologna, in the year of Our Lord 1460, in the month of March...]. The scribe Odmettino di Jacopo di Bologna is not recorded in Bénédictins du Bouveret, *Colophons de manuscrits occidentaux*.
2. Ernesto Pagnoni, his bookplate pasted on the front pastedown: "Ernesti Pagnoni – Mediolanensis." Ernesto Pagnoni was an Italian collector established in Vaprio d'Adda,

near Milan. He was active at the beginning of the twentieth century (at least between 1908 and 1930), but his dates of birth and death are unknown. No name sale could be identified, although part of his collection appears to be sold in his lifetime in Amsterdam by the famous art dealer R. W. P. de Vries on the 2<sup>nd</sup>-3<sup>rd</sup> of December 1908 (see *Monatshefte für Kunstwissenschaft*, vol. I, fasc. 2, 1908, pp. 957 and 1067). His bookplate, often printed in color, was designed by Sigmund Lipinsky in 1912 and was named "Architettura" (Angelo Lipinsky, "Sigmund Lipinsky und sein graphisches Werk," in *Maso Finiguerra*, vol. 5, 1940, pp. 153 and 164). Amongst other manuscripts once part of Ernesto Pagnoni's collection, in institutional holdings, see New Haven, Yale University, Beinecke library, Marston MS 235. *Lectura super libros sententiarum*, by Alfonso de Vargas y Toledo; Philadelphia, University of Pennsylvania, MS Codex 717. [Ascetic miscellany], between 1470 and 1499 [Sold by Le Medicea, Firenze, 1957]. Many manuscripts owned by Pagnoni have modern bindings, often reusing elements from the 17<sup>th</sup>-18<sup>th</sup> centuries, several of them signed by C. Glingler, bookbinder in Rome.

3. There is an early stamp, partly effaced. This appears to be: "Bibliothecae S. Bartholomei" topped by a fleur-de-lis, unidentified, but also found in a printed book in Harvard: Cambridge (Massachusetts), Harvard University, Law School, Special Collections, Ab G772 480 H7882, Decree of Gratian with commentary by Bartolomeo da Brescia, edited by Ghisbertus de Stoutenburch, Venice: Adam de Rottweil, after 1480. Stamp: "Bibliothecae S. Bartholomei," partly trimmed away (see Harvard University Library, *A Catalogue of the Fifteenth-Century Printed Books...*, t. II, *Books printed in Germany, German-speaking Switzerland and Austria-Hungary*, Binghamton, 1991, p.178).

4. There are initials penned in brown ink in the lower margin of f. 1, unidentified, that read: "D. L. Z" (?).

5. Authorship and title are penned in an 18<sup>th</sup>-century hand (?) in the upper portion of the margin of f. 1: "Geminianus (San). Super distinctionibus decretorum.

6. Private European Collection.

## TEXT

ff. 1-3, Dominicus de Sancto Geminiano, *Super distinctionibus decretorum*, Prologue, incipit, "Venerendi [sic, for *Reverendi*] patres et domini mi [sic, for *mei*] prestantissimi pro hujus mei principio occurrit michi illud quod scribitur..." ; explicit, " [...] ...nec faciunt nominacionem de illis quorum dicta refferunt ymo, quod pejus est, dicta aliorum sibi attribuunt etc." ;

ff. 3-270, Dominicus de Sancto Geminiano, *Super distinctionibus decretorum*, Text, "[lemma:] *Humanum genus*. Sic incipit prima distinction que dividitur secundum Johannem de Deo in duas partes... - ... [lemma:] *Hactenus*. Iste est § in [quo] claudit precedencia et prelibet ad consequenciam etc.").

Domenico da San Gimignano was born in San Gimignano, near Florence, probably in 1375. We have very little knowledge of his academic background and career. He studied with Antonio da Butrio and probably Pietro d'Ancharano in Bologna. He participated in the Council of Pisa (1409) in which he opted for the deposition of Popes Benedict XIII and Gregory XII, then taught law in Bologna, where Domenico Capranica was probably his student. C. Ridolfi gives

many other details about his career. He was awarded a doctorate in Canon Law in 1402 and was vicar general of the bishop of Modena in 1407, vicar of the archbishop of Bologna, and lecturer in Canon Law in 1412. He was made auditor of the Apostolic Camera (according to Ridolfi, in 1420 by Martin V) and as such participated to the Council of Basel. He died in Tivoli in 1424, although some other authors formerly thought he died in Bologna in 1436 (see Raoul Naz (dir.), *Dictionnaire de droit canonique*, Paris, t. IV, 1949, col. 1410). Among his most important works, there are a Commentary of the sixth book of the Decretals (*Lectura super sextum decretalium*), another of the Decree of Gratian (*Commentaria in decretum*), *Repetitiones*, *Consilia sive response*, *Summulae et divisiones decretalium*, and a *Repertorium alphabeticum de significationibus verborum*. He has been described as "one of the best canonists" (Bertrandus Kurtscheid, O. F. M., Felix Antonius Wilches, O. F. M., *Historia juris canonici*, t. I, *Historia fontium et scientiae juris canonici*, Rome, 1943, p. 266).

The text is structured, like the first part of the Decree of Gratian, into a hundred and one *distinctiones*. Each part starts with a *lemma*, which is the first word of the original *distinctio*, then follows the commentary. In the margins, a near-contemporary annotator pointed out the beginning of each part and copied this note above the text as a running title.

This work of Domenico da San Gimignano figures prominently in the libraries of some very important dignitaries of the Roman Curia, among others the cardinal Juan de Mella and Guillaume d'Estouteville (see Anna Esposito Aliano, "Testamento e inventari per la ricostruzione della biblioteca del cardinale Guglielmo d'Estouteville," in *Scrittura, biblioteche e stampa a Roma nel Quattrocento, aspetti e problem: atti del seminario, 1-2 giugno 1979*, Vatican, 1980, p. 335). The *Commentaria in decretum* are first published in 1504 (*Splendidissimi ac veridici juris pontificii doctoris Dominici de Sancto Geminiano commentaria propria diligentissime castigate in decretum*, Venice, Luca Antonio Giunta, 1504), then in 1578 with annotations by Giovanni de Grassi (*Super decretorum volumine commentaria*, Venice, Apud Juntas, 1578). His texts were still considered relevant throughout the sixteenth century. The work is apparently not listed in *Initia Operum iuris canonici medii aevi*, a shortlist of works, arranged by their incipit words by Giovanna Murano, Florence (see link belows).

There is no reliable census of the extant manuscripts of this text, but they appear to be exceedingly rare. Three are located in Italian and German libraries: the Vatican Library: Vat. Lat. 2261 (S.G. Kuttner, Reinhardt Elze, dir., *A Catalogue of Canon and Law Manuscripts in the Vatican library*, Vatican, 1986, t. I, p. 292) and Vat. Lat. 2559 (S. G. Kuttner, R. Elze, dir., *A Catalogue...*, t. II, p. 131), the latter belonging to Guillaume d'Estouteville), and in the Thüringer Universitäts- und Landesbibliothek, Jena (Ms G. B. f. 22, see Bettina Klein-Ilbeck, Joachim Ott, *Die Handschriften der Thüringen Universitäts- und Landesbibliothek Jena*, t. II, *Die Mittelalterlichen lateinischen Handschriften der Signaturreihen ausserhalb der Electoralis-Gruppe*, Wiesbaden, 2009, p. 190). Some other manuscripts probably exist (although the number of printed editions is significant), but consultation of the Schoenberg Database reveals no manuscripts at auction in the last centuries.

## LITERATURE

Buchberger, Michael, Josef Höfer, and Karl Rahner, eds. *Lexikon für Theologie und Kirche*, t. III, *Colet bis Faistenberger*, Freiburg, Verlag Herder, 1959, col. 321.

Kurtscheid, Bertrandus (O. F. M.) and Felix Antonius Wilches (O. F. M.). *Historia juris canonici*, t. I, *Historia fontium et scientiae juris canonici*, Rome, Officium libri catholici, 1943, pp. 265-266.

*Lexikon des Mittelalters*, t. III, *Codex Wintoniensis bis Erziehungs- und Bildungswesen*, Munich-Zurich, Artemis-Verl., 1986, col. 1191.

Naz, Raoul, ed. *Dictionnaire de droit canonique*, Paris, Letouzey et Ané, t. IV (1949), col. 1410.

Ridolfi, Carlo. "Il diploma di dottorato di D. di Bartolo da S. G.," in *Miscellanea storica della Valdelsa*, vol. II, 1894, pp. 33-38.

Schulte, Johann Friedrich von. *Die Geschichte der Quellen und Literatur des canonischen Rechts von Gratian bis auf die Gegenwart*, t. II, *Von Papst Gregor IX bis zum Concil von Trient*, Stuttgart, E. Enke, 1877, pp. 294-295.

Sorbelli, Albano, *Storia della università di Bologna*, Bologna, N. Zanelli, 1940, p. 243.

### ONLINE RESOURCES

Quagliani, Diego, "Domenico da San Gimignano" in *Dizionario biografico degli Italiani*  
[http://www.treccani.it/enciclopedia/domenico-da-san-gimignano\\_%28Dizionario-Biografico%29/](http://www.treccani.it/enciclopedia/domenico-da-san-gimignano_%28Dizionario-Biografico%29/)

Giovanna Murano, *Initia Operum iuris canonici medii aevi*: A shortlist of works, arranged by their incipit words  
<http://www.uni-leipzig.de/%7Ejurarom/manuscr/murano/initican.htm>

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