

Reti Medievali

# *Honos alit artes*

Studi per il settantesimo compleanno  
di Mario Ascheri

IL CAMMINO DELLE IDEE  
DAL MEDIOEVO ALL'ANTICO REGIME  
Diritto e cultura nell'esperienza europea

a cura di

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**19/III**

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## A Zealously Annotated *Liber extra*: Vich, Archivo Capitular, ms 144

by Susan L'Engle

Vich, Archivo Capitular, ms 144 is a manuscript with an extraordinary history of scholarly consultation. It contains the *Liber extra*, accompanied by the *Decretals* of Innocent IV, both glossed, and the added un glossed *Decretals* of Gregory X. There is no concrete provenance for this manuscript, although Gudiol mentions a document held in the chapter archive recording that its Archdeacon, Bernat de Mur, had studied in Bologna and purchased «unes decretals en lletra antiga»<sup>1</sup>. De Mur went to study in Bologna in 1238, was appointed bishop of Vich in 1244, and died in Barcelona in 1264, considerably before the execution of Vich 144. Coll i Rosell conjectures that the manuscript entered the collection of the Cathedral Chapter of Vic in the fifteenth century, since it is not recorded in the inventory of 1368, and only appears in the inventory of 1435<sup>2</sup>. Nevertheless, between the thirteenth and the fifteenth centuries, a host of readers – students, professors, perhaps canon lawyers – filled its pages with class notes, personal comments, *notabilia*, definitions, corrections, and additions, in a variety of book and cursive hands, testifying to its use, if not ownership, over two hundred years. When I first looked at the microfilm I thought that it was the busiest manuscript I had ever seen, so densely is it annotated. As Giuseppe Speciale notes, this visual evidence evokes the memory of the *lectura*, but also of the students themselves<sup>3</sup>. In this paper I will explore what readers' graphic additions to Vich 144 can tell us about teaching, study, and focal points of canon law, along the centuries of the manuscript's use.

<sup>1</sup> J. Gudiol, *Catàleg dels llibres manuscrits anteriors al segle XVIII del Museu Episcopal de Vich*, in «Butlletí de la Biblioteca de Catalunya», vols. 6, 7, and 8 (1925-32), pp. 153-54 at 154.

<sup>2</sup> G. Coll i Rosell, *La penetración de los manuscritos iluminados flamencos en Cataluña durante la primera mitad del siglo XIV. Análisis concreto de un codice conservado en el archivo episcopal de Vic*, in *Flanders in a European Perspective: Manuscript Illumination around 1400 in Flanders and Abroad*, Proceedings of the International Colloquium, Leuven, 7-10 September 1993, Leuven 1995, pp. 457-71 at 464.

<sup>3</sup> G. Speciale, *La memoria del diritto comune. Sulle tracce d'uso del codex di Giustiniano (secoli XII-XV)*, Roma 1994, p. 116.

*Description and codicology*

There is scant published literature on Vich 144<sup>4</sup>, and my visual information comes from study of a black and white microfilm and colored scans of miniatures and decorative details. Nevertheless, this has been enough to establish some basic codicological facts. Written on 318 parchment leaves, the manuscript is generally foliated at the upper right hand margin of the recto on every ten folios, and additionally on every page with a miniature. It was ruled in lead for text and gloss, and measures a very large 460×270 mm. Its ample proportions accommodate the transcription of the main text in two columns of forty-four lines, later surrounded by the *glossa ordinaria* that occupies a variable marginal space, depending on the amount corresponding to each particular text location. Notwithstanding these variations, the gloss scribe usually maintained a mirror format for verso and recto at each opening, a practice common to manuscripts produced in Bologna or Padua, and in fact, the *Liber extra* is addressed to Bologna. It appears that text and gloss were written in Italy (or at least by scribes following Italian traditions), because in both the Tironian *et* is uncrossed. However, the gloss is not keyed to the text by either sigla or letters of the alphabet, but *lemmata* in the gloss were underlined in brown ink, according to northern European conventions. The manuscript is decorated with a topical miniature at the opening of each book, historiated initials, marginal figures and grotesques, as well as vegetal extensions of acanthus vines and leaves that frame areas of the text and travel up and down columns. Painting style, colors, and ornamental details date part of the illumination to Bologna or Padua in the last decades of the thirteenth century, probably around 1280. By this time production of manuscripts of canon and Roman law in Bologna had long been generally under the control and supervision of the university, a system in which scribes copied text and gloss from official *pecia* furnished by university stationers. One could expect to find *pecia* marks in the manuscript margins, but I have so far been unable to locate any in the microfilm<sup>5</sup>.

Although a portion of the illumination appears to have been executed in Bologna/Padua or by artists trained there, is likely that, after text and gloss were written and the decoration begun, a student took this manuscript out of Italy, perhaps to his home city, where the miniature for Book Three, as well as portions of secondary illumination were accomplished by several northern European hands, some of whom imitated the “Bolognese” style. These later artisans also added imitative elements to parts of the original pictorial campaign, mostly comprising supplementary marginal figures that stand on or near the travelling vine-

<sup>4</sup> The earliest description I have found is Gudiol, *Catàleg*. J. Dominguez Bordona, in *Manuscritos con pinturas; notas para un inventario de los conservados en col colecciones públicas y particulares de España*, Madrid 1933, reproduces a miniature on p. 76 and gives it a brief note on p. 77, though here its shelfmark is given as MS 153. I am grateful to Martin Bertram for informing me of Gaspar Coll i Rosell's lengthier account.

<sup>5</sup> In February 2014, I visited the Archive and examined the manuscript personally, and still could find no evidence of *pecia* marks.

scroll and augment the often humorous visual commentary<sup>6</sup>. An exception is the decoration on folio 1v, where the gloss has been closely shaped *around* the original lower vinescroll compositions to avoid obscuring them, thus leaving no space on the page for painted additions; evidence that the decoration of the codex had begun before the gloss was written in. In the early fourteenth century a last illuminator stepped in to provide the miniature on folio 209r for Book Four, On Betrothal and Marriage, executed in typical French style and iconography, depicting the formalization of a young couple's marital vows by an ecclesiastic, who clasps their hands and will join them to seal the ceremony<sup>7</sup>.

### *Mnemonic images*

But the subject of this paper is not the professional decoration commissioned by the manuscript's owners, but rather the profuse visual commentary by readers that testifies to its intensive pedagogical use over at least two centuries. I have addressed this practice in Roman law manuscripts in a recent publication<sup>8</sup>, and Vich 144 is excellent proof that it was utilized in the teaching and study of *utrumque ius*. Together with the written marginal and interlinear notes and comments in a variety of medieval hands that often occupy much of the free space on its pages, we find memorial marks and referential signs, used to call attention to concepts, laws, and juridical situations, and to designate precise lines of text that should be reviewed or memorized. Anyone who has examined medieval law books is familiar with these jottings, the equivalent of the highlighting and underlining used by students today: *nota benes*, pointing hands; connecting devices such as elongated profile heads, or varieties of straight and curved lines punctuated with repeated patterns<sup>9</sup>. Commonly ignored by manuscript cataloguers and legal historians, however, is the presence of more subjective indicators: rapid sketches, and often more complex drawings that evoke words or passages in the text, placed directly alongside them in the margins.

The use of images for this purpose appears to have been in force in Roman law texts from the late eleventh century, as represented by Vatican City, Biblioteca Apostolica Vaticana, ms Vat. lat. 1406, a *Digestum vetus*, on whose pages are found at least forty-six examples<sup>10</sup>. Two twelfth-century copies of the

<sup>6</sup> From the style of this added decoration, I would guess that it originated either in southern France or perhaps Catalonia, specific geographical areas in which "Bolognese" decoration was greatly admired and imitated.

<sup>7</sup> Italian versions of betrothal feature the offering of a ring by the groom to the bride, officiated by a secular official.

<sup>8</sup> S. L'Engle, *The Pro-active Reader: Learning to Learn the Law*, in *Medieval Manuscripts, Their Makers and Users: A Special Issue of Viator in Honor of Richard and Mary Rouse*, Turnhout 2011, pp. 51-75.

<sup>9</sup> See Figs. 1-2 in L'Engle, *The Pro-active Reader*, for some examples.

<sup>10</sup> Vat. lat. 1406 is described in St. Kuttner, R. Elze, *A Catalogue of Canon and Roman Law Manuscripts in the Vatican Library*, 2 vols., Vatican City 1986, 1987 (*Studi e Testi*, 322, 328), 1, pp. 200-201; see also Ch. Radding, *Vatican Latin 1406, Mommsen's Ms. S, and the Reception of the Digest in the Middle Ages*, in «Zeitschrift der Savigny-Stiftung für Rechtsgeschichte», Rom. Abt. 110

*Decretum Gratiani*: Cambridge, Sidney Sussex College, ms 101 and Barcelona, Archivo de la Corona de Aragon, ms Ripoll 78, have, respectively, *circa* seventy, and *circa* 120 drawings, executed by various hands<sup>11</sup>. Vich 144 is paralleled by a fourteenth-century *Liber extra* at Angers, Bibliothèque municipale, ms 378, some of whose drawings, most from the fifteenth century, can be seen online<sup>12</sup>. While so far I have found no eleventh- or twelfth-century pedagogical sources that recommend this practice in the study of law, it is certain that aspiring lawyers needed to memorize great portions of their textbooks. The thirteenth-century jurist Martino da Fano (fl. 1229-1272), writing on methods of study, advised students to memorize one or two laws daily and review them in the evening, recalling them by their opening words<sup>13</sup>. Around 1400 the famous jurist and eventual cardinal Francesco Zabarella (1360-1417) wrote a tract in which he recommended that students make notes or signs in the margins of their books as the professor explains difficult points during the lecture<sup>14</sup>. To me, the most compelling evidence for this didactic practice is a monographic essay written in 1453 by Juan Alfonso de Benavente, a canon lawyer at the University of Salamanca, who not only recommended pictorial annotation but also specified the type of images to use: «A student diligent in listening and learning should always have a pen ready, because when something unique or noteworthy appears in text or in the glosses or in the teaching of learned men, he may make there some sign of a head, or a hand, or a flower, so that because of that sign it may come to mind more quickly and be found more easily»<sup>15</sup>. From the evidence found in manuscripts produced and used along the preceding three hundred years, it is clear that students had been annotating their manuscripts in this manner for a long

(1993), pp. 501-551, and Ch.M. Radding, A. Ciaralli, *The Corpus Iuris Civilis in the Middle Ages: Manuscripts and Transmission from the Sixth Century to the Juristic Revival*, Leiden 2007. Radding, *Corpus Iuris Civilis*, closely analyzes the structure of Vat. lat. 1406 at pp. 200-202 and in the Appendix, pp. 215-222. Close in age to Vat. lat. 1406 is another *Digestum vetus*, Paris, Bibliothèque Nationale de France, MS lat. 4450, dated to the late eleventh/early twelfth century, measuring 345 x 215 mm and also written in a single column, of 50 lines: *ibid.*, pp. 205-207. For sheer number of drawings, a thirteenth-century *Digestum vetus* at Amiens, Bibliothèque municipale, ms 347, has, at last count, 529.

<sup>11</sup> A full description of Sidney Sussex 101 is found in S. L'Engle, R. Gibbs, *Illuminating the Law: Legal Manuscripts in Cambridge Collections*, Turnhout 2001, cat. no. 1, pp. 105-110; a brief description of Ripoll 78 is given in A. Winroth, *The Making of Gratian's Decretum*, Cambridge, Mass., 2000, pp. 26-28.

<sup>12</sup> Search under Angers at <[http://www.enluminures.culture.fr/documentation/enlumine/fr/rechguidee\\_00.htm](http://www.enluminures.culture.fr/documentation/enlumine/fr/rechguidee_00.htm)>.

<sup>13</sup> The essay is published in L. Frati, *L'Epistola De regimine et modo studendi di Martino da Fano*, in «Studi e memorie per la storia dell'Università di Bologna», 6 (1921), pp. 21-29.

<sup>14</sup> «Admonendus erit auditor ut in margine signum aliquod scriptorio stilo imprimat», see *Tractatus de modo docendi et discendi ius canonicum et civile*, introduction and critical edition published in Th.E. Morrissey, *The Art of Teaching and Learning Law: A Late Medieval Tract*, in «History of Universities», 8 (1989), pp. 27-74 at p. 55, lines 375-379.

<sup>15</sup> Juan Alfonso de Benavente, *Ars et doctrina studendi et docendi*, Edición crítica y studio por B. Alonso Rodríguez, Salamanca 1972, p. 88: «Signare in libro singularia et notabilia. Et dicitur ulterius "signa", quia studens in audiendo vel studendo semper debet habere calamum paratum, ut quotiescumque occurrerit aliquid singulare vel notabile in textu vel in glossis vel doctoribus faciat ibi aliquod signum capitis vel manus vel floris, ut citius propter illud signum as mentem occurrat et facilius inveniat». I am grateful to Fr. Kenneth Steinhauser for help with the translation of this passage.

time<sup>16</sup>. The simplest – particularly the pointing hands and other quick linear scribbles – must have been executed during the *lectura*, as the professor explicated difficult passages, or exhorted students to remember well specific cases, rulings, or procedures. More detailed images were probably made at their lodgings when students were reviewing material covered for the day or week.

### *Examples of student drawings*

There are hundreds of drawings in Vich 144, representing its continuous use by students over at least three centuries. Notably, a great proportion of this material is stylistically recognizable as having been executed by fifteenth-century hands, through the portrayal of contemporaneous details of costume, as well as by a greater verisimilitude in the rendering of human physiognomy. Bearing this in mind, it could be invaluable for legal historians to make a comparison of textual passages marked in the fifteenth century with those selected in previous epochs, for an assessment of topics and juridical decisions emphasized in university classes, in a designated geographical location, during specified periods of time.

Many of the drawings in canon law manuscripts depict members of the ecclesiastical hierarchy, either portrayed in bust or half-figure format, or simply alluded to with their headgear: bishops' mitres, papal tiaras, flat-brimmed cardinals' hats; monks' cowls and hoods. These representations often identify sections that discuss clerical appointments or duties: in Vich 144, on f. 30r, a profile blessing pontiff holding a key (symbolizing Peter, the first pope) connects the lines in a passage that defines the pope as God's representative on earth, who acts with divine authority (X 1.7.3); in the opposite column another pontiff with three-crowned tiara reiterates the popes' link with St. Peter and their God-granted authority God (X 1.7.4; «sine illius auctoritate solvi non potest, qui successor est Petri et Vicarius Jesu Christi»). On f. 40v the side-by-side sketches of a crown and mitre, linked by a cord, represent the differentiation between secular and sacred powers: X 1.15.1.§5, last sentence, «quia caput Pontificis chrismate confectatur, brachium vero Principis oleo delinitur: ut ostendatur, quanta sit differentia inter auctoritatem Pontificis, et Principis potestatem». Crowned heads alone represent secular rule or legislation; in Vich 144 we find one on f. 17v at X 1.6.20, *cum non habeat imperium par in parem*, and another on f. 74r, topping a long connector at X 1.53.4, alongside the words «quamvis autem secundum regulam juris civilis foeminae a publicis officiis».

Descriptions of, and rules governing the religious life are also evoked by objects used or actions performed in church rituals. In Vich 144 on f. 199r, the drawing of a jug pouring liquid into another vessel illustrates the directive that unconsecrated oil may be mixed with that already consecrated, resulting in a uniformly consecrated whole: X 3.40.3, «Secundum dictum dicit, quod oleum non consecratum potest commisceri oleo consecrato, et totum sit consecratum».

<sup>16</sup> For example, I have found this type of annotation in, so far, over 60 copies of the *Digestum vetus*.



Under Book 3, title 41, which discusses the celebration of mass, a marginal chalice represents elements to be present on the altar during this liturgical ritual (Vich 144, f. 203r, X 3.41.13, «In sacrificio altaris plus de vino quam de aqua ponendum est»). A baptismal font (Vich 144, f. 205r, X 3.43.3) lies alongside the words «quum baptismus sit fundamentum omnium sacramentorum». A similar passage on baptism in the Sidney Sussex *Decretum* on f. 66v (C. 1. q. 1 c. 99) was signaled with a drawing of the head and shoulders of a smiling, coiffed man protruding from a large, rounded font.

The images of hands recommended by Benavente are present in Vich 144 in two incarnations: ubiquitous pointing hands, often with elaborate cuffs, that terminate in long index fingers, and more iconic examples, upright or horizontal, which bless with two fingers, or swear oaths on suitable objects, including crosses and books (probably representing the Bible or an equally sacred volume; see Vich 144, f. 69v at X 1.50.3, *iuramento*, or f. 77v at X 2.1.13, *iuramenti religione*). Other hands introduce symbols of liturgical ceremonies. On f. 30r at X 1.7.4 an upraised arm with elegantly draped sleeve, terminating in a hand, palm forward, connects the lines of a passage that discusses legitimate marriage between man and woman; a ring depicted on the forefinger is a token of official betrothal. On f. 40v, at X 1.15.1, *De sacra unctione*, a hand extended horizontally towards the text references a passage in § 4, «Manus episcopi inunguntur, ut ostendatur accipere potestatem benedicendi & consecrandi».

A number of drawings signal out clerical misbehavior. At X 3.50.7 under the general title *Ne clerici vel monachi secularibus negotiis se immisceant*, chapter 7 refers to *Monachi incorrigibiles de monasterio expelluntur*, and in Vich 144, f. 208v, a rough sketch depicts a shaggy-haired male figure sticking out his tongue and waving his hands («si non potest prescriptum monasterium in suo ordine reformari in illud inducas; ut labores impiorum iusti edant, et illi tandem rubore perfusi»); on f. 81r a morose-looking bishop holding a moneybag leans out of the gloss at X 2.2.17, «mandamus quatenus eisdem de pecunia ipsa cum iustis et moderatis expensis».

Misdeeds are sometimes exemplified by instruments of discipline: in the Sidney Sussex *Decretum* on f. 62v, a man with a whip symbolizes punishment for a *pastor symoniacus* at C. 1 q. 1 c. 28; in Angers 378, f. 173r; a large flail was drawn at X 3.1.13 alongside «puniantur secundum canonicas sanctiones, quas efficacius et districtius praecipimus observari»; on the same page, a hand thrusting a chalice into the margin at X 3.14 reprimands clerical drunkenness: «quum ebrietas et mentis inducat exsilium et libidinis provocet incentivum».

In both Roman and canon law manuscripts, an upright sword appears to be a universal symbol for fraud, malice, and wrongdoing; but also aggression, dispute, and power. Thus we find a fist clutching a large dagger directly below a drawing of a church within walls (Vich 144, f. 208v) at X 3.50.10 – both drawings referencing «ut sit fides catholica circumcincta muro inexpugnabili bellatorum, quibus resistere valeat ascendentibus ex adverso». Another upright sword on f. 40v at X 1.15.1.§5 once more alludes to the separation between Church and secular powers by differentiating how they are annointed, distinguishing the sec-

ular branch: «ut Princeps ex tunc non ungetur in capite, sed in brachio; sive humero, vel in armo, in quibus Principatus congrue designatur». Likewise, on f. 269v another upright sword is held in a hand reaching out of the column for X 5.31.18, at the very end: «Praelatorum & Clericorum manus temerarias constiterit extendisse, ad nostrum venire compellas praesentiam, pro meritis sententiam recepturos, invocato ad hoc (si opus fuerit) auxilio brachii saecularis». On f. 31r an armored soldier stands at the end of X 1.9.1, representing «prius solvere militiae cingulum, quam cedat victori adversitas praeliorum».

### *Summary and conclusions*

It is impossible to describe in detail the hundreds of drawings that annotate the pages of Vich 144. The subjects they draw attention to are wide ranging and diverse and point to concerns of Church policy, liturgical procedure, and clerical behavior, which were being questioned and debated on many fronts: in church courts and during councils, and among ecclesiastics, canon lawyers, and scholars of all kinds. With respect to the drawings, the disparity in their styles of execution speaks to the use of the manuscript by generations of students, and in varying geographical locations. In the over sixty *Digestum vetus* manuscripts I have studied, the same text locations are marked with drawings in multiple manuscripts, proof that the points raised were considered noteworthy by professors and students in various time periods and geographical locations. The handful of similarly annotated *Decretum* and *Liber extra* manuscripts I have examined suggest that an investigation should likewise be undertaken for a body of canon law manuscripts, which, on many levels could add to our knowledge of how the discipline was taught and studied, and reinforce our sense of the most compelling issues confronting the Church during the middle ages and early Renaissance.