

# **Regesta decretalium et extravagantes. The Use of Papal Decretals around 1200**

Von

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Summary: In my paper I will not classify decretal collections on the basis of the letters they include. However, I want to look at the totality of form and content of manuscripts, codicological and paleographical aspects as well as the typology of decretals. My thesis is that they were used in different types of transfer and that the production and spread of decretals happened mainly in the Paris Basin. My article will be presented in the following sections: 1. Introduction; 2. Deconstructibility of Decretals and Extravagants; 3. Materiality and Use of Decretal Collections; 4. Paratexts or “Layout on Page Margins”; 5. Pre-Gratian Decretals; 6. Paris Basin – Use of decretals in Schools; 7. Conclusion

## 1. Introduction<sup>1)</sup>

The development of twelfth-century decretal collections is already familiar to historians of canon law – and ever since Walther Holtzmann’s index cards were made available online, research concerning this topic has picked up speed again<sup>2)</sup>. I am striving to continue this tradition with my project “Reges-

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<sup>2)</sup> Gisela Drossbach, Decretals and Papal Lawmaking, in: John Wei/Anders Winroth (eds.), *The Cambridge History of Medieval Canon Law*, Cambridge/UK 2021, 208–229; Peter Landau, Die Entstehung der systematischen Dekretalensammlungen und die europäische Kanonistik des 12. Jahrhunderts, in: ZRG KA 65 (1979) 120–148 = reprint in: *idem*, *Kanones und Dekretalen*, Beiträge zur Geschichte der Quellen des kanonischen Rechts, Goldbach 1997, Nr. 9; Stanley Chodorow/Charles Duggan (eds.), *Decretales ineditae saeculi XII*, Città del Vaticano 1982; Charles Duggan, *Twelfth-Century Decretal Collections*

ta decretalium”. It will consist of comprehensive and uniformly structured register entries for each of the approximately 1.150 known decretals from the second half of the 12<sup>th</sup> century. In order to complete the print version of the *Regesta decretalium*, the recently discovered *extravagantes*, i.e., the decretals preserved – also – outside of decretal collections, must be incorporated. This information system seeks to improve our understanding of papal law-making in the 12<sup>th</sup> and early 13<sup>th</sup> centuries.

The question of making law, however, will not actually be addressed in my paper, as legal history is not in fact the object of this investigation<sup>3</sup>). I would rather like to raise questions regarding the materiality as well as the actual use of decretal collections, and thus about the transfer of the decretals or extravagants. When I say materiality, I mean the physical manuscripts and not the historical development of substance of law or procedural law; with materiality I mean the totality of form and content of manuscripts, codicological and paleographical aspects as well as the typology of texts. Materiality is part of the basic configuration of the animate and inanimate environments. It both enables and limits social practices, and symbolizes status and belonging<sup>4</sup>). It is produced, used, exchanged, collected, interpreted and reinterpreted, de-fragmented and deconstructed. In this way, decretals and decretal collections contribute to the growing interest in the study of material culture.

## 2. Deconstructability of Decretals and Extravagants

Traditionally, papal decretals (*epistolae decretales*) are papal letters clarifying questions of canon law with the claim of universal validity. Formally, they are based on the rescript technique borrowed from classical antiquity.

and their Importance in English History, London 1963; Walther Holtzmann's Index Cards: [https://www.kuttner-institute.jura.uni-muenchen.de/holtzmann\\_formular.htm](https://www.kuttner-institute.jura.uni-muenchen.de/holtzmann_formular.htm) (16.01.2023) [WH].

<sup>3</sup>) About law-making in decretals see for example Anne J. Duggan, Making Law or Not? The Function of Papal Decretals in the Twelfth Century, in: Peter Erdő/Anselm Szuromi (eds.), Proceedings of the Thirteenth International Congress of Medieval Canon Law, Esztergom 3–8 August 2008, Città del Vaticano 2010, 23–56; Charles Duggan, Decretals and the creation of ‘New Law’ in the twelfth century, Aldershot 1998; Lotte Kéry, Dekretalenrecht zwischen Zentrale und Peripherie, in: Jochen Johrendt/Harald Müller (eds.), Römisches Zentrum und kirchliche Peripherie, Das universale Papsttum als Bezugspunkt der Kirchen von den Reformpäpsten bis zu Innozenz III., Berlin 2008, 19–45.

<sup>4</sup>) Definitions of ‘materiality’ you can find in Andrea von Hülsen-Esch, Materie – Material – Materialität: disziplinäre Annäherungen, Düsseldorf 2016; Andrea von Hülsen-Esch, Materialität und Produktion – Standortbestimmungen, Düsseldorf 2016; Stefanie Samida/Andréa Belliger (eds.), Handbuch Materielle Kultur, Bedeutungen, Konzepte, Disziplinen, Stuttgart 2014; Christian Domenig, Geschichte in Bewegung, Das Mittelalter jenseits der Politik, Stuttgart 2022, 93–109.

In this context, the type known as ‘consultative decretal’ contains responses to several different requests from the same sender<sup>5</sup>). But are all papal letters contained in decretal collections actually decretals in the conventional sense? Some texts have no legal content, others are not based on the rescript technique, and it is also possible that decretals may be forged such as the decretal “Presentium auctoritate”. According to this decretal, Alexander III (1159–1181) (allegedly) allowed the philologist, teacher, and cleric Johannes de Garlandia (ca. 1195–after 1272) to acquire ecclesiastical benefices and forbade to repel him, although he was married<sup>6</sup>).

Decretal collections may also include other types of papal letters, such as confirmations of possession<sup>7</sup>), papal letters of theological content, or even the election announcement of Alexander III of 1159<sup>8</sup>). Besides, papal mandates are only snapshots of a more extensive procedural process where the final outcome is missing, as in the decretal of “Quanto personam”, January 1179. In this particular decretal, Alexander III orders Archbishop Roger of York that the abbot and monks of Fountains Abbey must surrender the farm

<sup>5</sup>) See as an example for a consultative decretal (Konsultationsdekretale) the decretal of Alexander III. “Sicut dignum” (JL 12180. WH 929) from January 1172 to bishop Bartholomew of Exeter; see Landau, Rechtsfortbildung im Dekretalenrecht: Typen und Funktionen der Dekretalen des 12. Jahrhunderts, ZRK KA 86 (2000) 86–13, 86 ; Gérald Fransen, Décrétales et collections de décrétales, Turnhout 1972, 15; Knut W. Nörr, Päpstliche Dekretalen und römisch-kanonischer Zivilprozess, in: Walter Wilhelm (ed.), Studien zur europäischen Rechtsgeschichte, Frankfurt a. M. 1972, 53–65, 53. The decretal “Laudabilem” (JL 17649. 1191–1193) of Celestine III to the bishop of Accon contains eight responses to different requests, see Anne J. Duggan, *Manu sollicitudinis: Celestine III and Canon Law*, in: John Doran/Damian J. Smith (eds.), *Pope Celestine III, 1191–1198, Diplomat and pastor*, Aldershot 2018, 189–236, *ibid.* 223–231 edition of the text with translation in English. To this decretal see also the regest and wonderful commentary of Ulrich Schmidt (Bearb.) in J.F. Böhmer (ed.), *Regesta Imperii, Papstregesten [Reg. Imp.] IV,4,4,5: Cölestin III.*, Köln 2018, 384–386 Nr. 720.

<sup>6</sup>) WH 738. JL–. Only the *Collectio Brugensis* contains a complete text of this alleged decretal, see Walther Holtzmann, Über die vatikanische Handschrift der *Collectio Brugensis* (Ottob. lat. 3027), in: *Collectanea Vaticana Anselmi M. Card. Albareda a Bibliotheca Apostolica edita*, Città del Vaticano 1962, 391–414, 399 no. 22.3. Holtzmann thinks this forgery is a “Studentenulk” (joke of students).

<sup>7</sup>) See for example the decretal of Alexander III “Si Stephanum” (JL 13993. WH 917) from April 1179 to bishop Gilbert of London.

<sup>8</sup>) *Collectio Cantabrigensis*, ed. Emil Friedberg, *Canones-Sammlungen zwischen Gratian und Bernhard von Pavia*, Leipzig 1897 = reprints Vallendar 1956, *Città del Vaticano* 1973, 10 Nr. 1; Julius Pflugk-Harttung (ed.), *Acta pontificum romanorum inedita* 2, Graz 1958, 364–366 Nr. 41; Peter Landau, Die ersten französischen Dekretalensammlungen [unpublished paper of a congress of the *Gallia Pontificia* in Paris 2007 in the possession of the author]: The text is “rechtstechnisch auch nicht [...] eine Dekretale, so daß die fehlende Rezeption in den Dekretalensammlungen durchaus verständlich ist. Andererseits ist die hervorsteckende Betonung dieses Dokuments am Anfang der *Collectio Cantabrigensis* durchaus sinnvoll für eine Sammlung, die die Rechtssätze des Papstes zum Hauptinhalt hat.”

which they unlawfully possessed and appear before the judge delegate<sup>9</sup>). But the pope's *sententia* is lacking. And then there are those extravagants that do not appear in decretal collections at all, but were discovered elsewhere by Stephan Kuttner and Charles Duggan and inserted as "a-cards" into the Holtzmann card index. For example, WH 332a is preserved in Paris, BnF, lat. 15001, fol. 238 r/v as an appendix to the *Abbreviatio decretalium* "Quoniam egestas" and contains Alexander III's answer to Bishop Robert of Hereford's inquiry regarding clerics that are leading a public unchaste life<sup>10</sup>). With that in mind, we can see that even the definition of what decretals and extravagants be at all is a fragile one that can easily be deconstructed.

### 3. Materiality and Use of Decretal Collections

Decretal collections also vary in their materiality. Here, as an example, the English *Collectio Dunelmensis prima* of the end of the 12<sup>th</sup> century (ca. 1180?), preserved in Durham, Dean and Chapter Library C.III.1, fol. 1–18<sup>11</sup>), is interspersed with varied materiality and varied canonical material as follows:

Fol. 1v–5v: excerpts from the *Decretum* of Burchard of Worms followed by a chapter from the Council of Seligenstadt, but by a hand different from Burchard's for the same synode.

Fol. 6ra–7vb: pre-Gratian and pre-Alexandrian texts.

Fol. 8ra–10vb: decretals.

Fol. 11ra–12vb: canons of the Third Lateran Council, and an *Arbor consanguinitatis*, by the same hand as the preceding decretals. Here we can see a change in the layout in fol. 11v: The *arbor consanguinitatis* diagram in red and black occupies two-thirds of the page, the other third consists of gloss layers and *annotationes*.

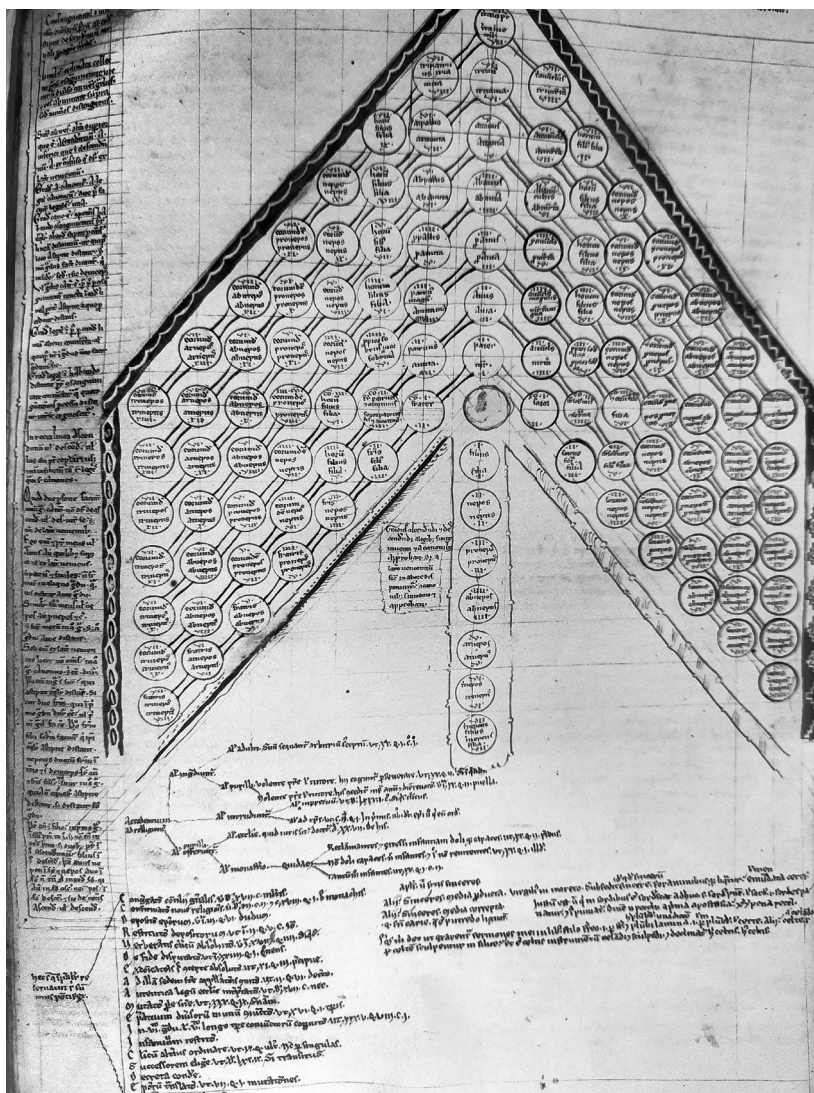
Fol. 13ra–14ra: a summary of Gratian's *Decretum* in the same hand. The layout changes from the beginning into triple columns.

<sup>9</sup>) WH 776. This decretal is only passed on in the *Collectio Fontanensis* and edited by Walther Holtzmann, *Papsturkunden in England*, 3: Oxford, Cambridge, kleinere Bibliotheken und Archive und Nachträge aus London, Göttingen 1952, 330–331 no. 194.

<sup>10</sup>) WH 332a is now edited by Chodorow/C. Duggan (as in nt. 2) 104–105 no. 60.

<sup>11</sup>) Charles Duggan, *A Durham Canonical Manuscript of the late Twelfth Century*, in: *Studies in Church History* 2 (1965) 179–85; idem, *Twelfth-Century Decretal Collections* (as in nt. 2) 78–79. Walther Holtzmann/Christopher R. Cheney/Mary G. Cheney (eds.), *Studies in the collections of twelfth-century decretals*, Città del Vaticano 1979, 75–99. I thank very much Dr. Richard Gameston for his conversation in Durham, Dean and Chapter Library, June 2019 and for his email 04.07.2019 with his preliminary draft description of C.III.1 for his catalogue of the Durham manuscripts.



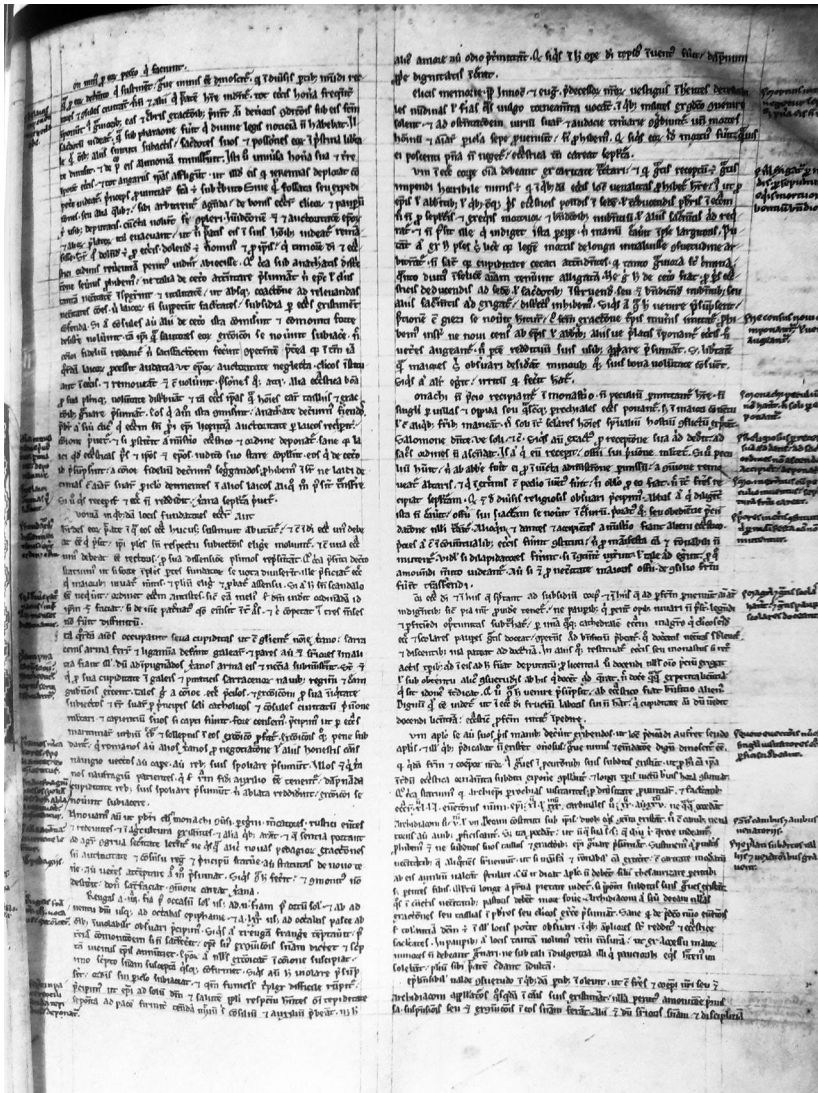


Picture 1: Collectio Dunelmensis prima. Durham, Dean and Chapter Library, C.III.1, fol. 11v

Fols. 14rb–14va: canons of the Council of Tours (1163) in triple columns.

Fols. 14va–18ra: Alexander’s III decretals, with the layout on fol. 15r reverting to double columns.

fol. 18ra: Lucius’ III decretals.



Picture 2: Collectio Dunelmensis prima. Durham, Dean and Chapter Library, C.III.1, fol. 12r

There was a dispute between Kuttner and Holtzmann<sup>12</sup>: Kuttner considers only the papal decretals that fall into the conventional category, which is why he counted three collections, namely *Collectio Dunelmensis prima*, *secunda* and *tertia*. Holtzmann sees fols. 5–18 as a single collection com-

<sup>12</sup> Holtzmann/Cheny/Cheny (as in nt. 11) 75–76.

prising almost all pre-Gratian and pre-Alexandrian texts, council texts and decretals of Alexander III, and he omits only the *Decretum-Abbreviatio* as well as the Burchard texts and the Council of Seligenstadt. The problem thereof is that also other decretal collections contain the Burchard texts as well as provisions of the Council of Seligenstadt, such as the *Collectiones Bambergensis, Parisiensis secunda, Francofurtana, and Compilatio prima*<sup>13</sup>). The real question therefore is not to ask for conventional parts, but: How are the individual texts used? The actual materiality of these texts provides information – whether they are placed systematically within a collection or homogeneously separated. From the point of view of the consistency of decretals, the *Collectio Dunelmensis* is not a collection of decretals, **but it contains, besides various other texts, only an accumulation of extravagants**. If one contrasts the *Collectio Dunelmensis* with the *Decretum Gratiani*, then the following might be a feasible approach: “The *Decretum* is curious as a law book. [...], it is not a compendium of statutes. It contains very little that looks like legislation [...]. It included snippets of patristic writings, papal letters, and synodal pronouncements taken from all the corners of Christendom over the previous 1.000 years. These snippets number over 3,800 in all”<sup>14</sup>). In contrast to the *Decretum Gratiani*, the *Dunelmensis* focuses on legal texts, even if of different genres. The question thus is whether the *Dunelmensis* serves as a prime model for systematic decretal collections – **or the reverse**.

Another example of the different materiality of decretal collections is the Viennese manuscript of the *Collectio Appendix concilii Lateranensis* of the Österreichische Nationalbibliothek (Austrian National Library) ms. 2172, fol. 2r–52v, a systematically assembled decretal collection. Its provenance was in the Lower Rhine, probably Utrecht, in the 13<sup>th</sup> century. Notations show that it was subsequently located at the Old University of Vienna, founded in 1365, in the faculty of arts<sup>15</sup>). The author of the library catalog, Julius Hermann, considered the collection to be *decretales ex collectione Grego-*

<sup>13</sup>) Friedberg, *Canones-Sammlungen* (as in nt. 8) 201; Friedberg, *Quinque compilationes antiquae necnon collection canonum Lipsiensis*, Leipzig 1882, XXVII; Peter Landau/Gisela Drossbach (eds.), *Die Collectio Francofurtana: Eine französische Decretalensammlung, Analyse beruhend auf Vorarbeiten von Walther Holtzmann †, Città del Vaticano 2007, Register 436 (Seligenstadense), 438–440 (Burchardi Decretum)*.

<sup>14</sup>) Karl Shoemaker, *Medieval Canon Law*, in: Markus D. Dubber/Christopher Tomlins, *The Oxford Handbook of Legal History*, Oxford 2018, e-book without pagenumbers.

<sup>15</sup>) Julius Hermann, *Die romanischen Handschriften des Abendlandes mit Ausnahme der deutschen Handschriften*, Leipzig 1927, 61; [http://bilder.manuscripta-mediaevalia.de/hs//katalogseiten/HSK0773\\_b0061\\_jpg.htm](http://bilder.manuscripta-mediaevalia.de/hs//katalogseiten/HSK0773_b0061_jpg.htm) (07.01.2023).



l'acceptiones denegantur p'sentidane  
q' legi fia t' n' obstatte manentem sub  
re calumpnie cogat. Hic n' l'ond' ep'o

**A**d aures n'ras no' n'as  
p'uenit q' quiddo archidiaconi  
re m'p'ato s' p'sentidane. ecclesie t' q'unt  
de p' m'it'antur in ecclesiu' sic t' ecclesiu'  
t' ex p'oc'om'is sic filio' n'c' alia' s'p' . vi  
carior' m'it'are n' d'ent' . Solem' n'ra  
q' p' n'ra officio debito in n'ratum d'cl'it  
de q' s' n'ra admen' m'it'antur' . ando  
r'ate ap' t' am' m'it'andem ut n'  
d' archidiaconi p' p'rohib'ndem tuam  
ip'is n' sc'iam m'it'antur' t' m'it'antur'  
sine mandato r' auctoritate tua aliq'  
in ecclesiu' in quib' p'nt' ip'os p'mo m'it'  
t'are noscunt' aut' alia' s'p' t' m'it'ant'  
e' id' sit canonice m'it'ant' . s' m'it'ant' q'  
rum lib'um t' sit nulli' s'at' . l' ap' cel' ob  
stare m'it'ant' s' p'nt' m'it'ant' . q'  
t'ant' m'it'ant' ab ecclesiu' rem' n'c' s'  
cl'ent' arch' .

**C**um sciat' sic ab'urdum r' a' s' p' p'  
rum m'it'ant' m'it'ant' . ut arch' d'  
m'it'ant' . q' d'cl'it' s' d'cl'it' curam  
annu' p' m'it'ant' egre m'it'ant' s' p'  
s' m'it'ant' ep'i t' n' s' cur' annu' p'  
ment' q' n' s' op'entur' alie p'nt' d'  
m'it'ant' u' deb'et' s' p'nt' m'it'ant' t' n'  
p'nt' . r' q' r' cur' m'it'ant' u' p'nt' m'it'ant'  
cl'ent' . n' ut n'ent' de octo s' n' n'ent'  
na r' mandato ep'i tu' eam annu' p'  
m'it'ant' p'nt' . l' t' p' e' on' ep'o .

**A**d aures  
n'ras p'uenit q' q'dam archidiaconus  
in tua se m'it'ant' q' in suis archidia  
conatib' uacant' auctoritate q' n' d' n'  
t' m'it'ant' . sic ip'is ecclesiu' d'cl'it'  
n' erubescant' . Ar'ent' d'ent' n'at' ab  
sonum . r' omni' r'om' s' n'um' t' n'at' p'

si p'nt' excessum n' uolent' inco  
rectum relinquire . n' q' si qui archi  
diacon' t' in ep'atu' tuo qui rati s'  
occupant' ecclesiu' t' d'ent' occupat'  
rati ip'is ad eal' d'nt' d'nt' d' . oc' . r' ap'  
cel' ecclesiu' d'nt' d'nt' . r' eal' t'  
ecclesiu' p' ydone' r' honest' d'nt' .  
s' p'nt' arch' d' p'nt' p'nt' d'nt'  
b'nt' curat' am' d'nt' d'nt' . l' d'  
cant' arch' ep'o .

**A**d si qui p'nt' ep'i sic accepit' p'nt'  
ecclesiu' p'nt' ecclesiu' d'nt' . r'  
p'nt' d'nt' . ob'nt' archidiacon' s'  
lib'at' p'nt' . r' m'it'ant' . r' in hac p'nt'  
r' d'nt' ep'e d'nt' . r' m'it'ant' m'  
ch' d'nt' t' p'nt' s' p'nt' m'it'ant'  
ut si r'nt' t' s' p'nt' ep'i s' p'nt' ap' r'nt'  
con' r'nt' . r' d'nt' t' r' p'nt' d'nt' . p'nt'  
archidiacon' . s' . p'nt' d'nt' . qual'  
p'nt' m'it'ant' s'nt' archidiaconat' d'  
b'nt' p'nt' d'nt' . r' n' d'nt'  
r'nt' m'it'ant' p'nt' . r' p'nt' . d'  
b'nt' arch' ep'o .

**P**refatus de archidiacono s' q' t' n'ra  
re colofana ecclesia arch' d'nt'  
s'nt' in u'nt' ecclesiu' r'nt' . p'nt' d'nt'  
t' n' q'nt' in arch' ep'atu' t'nt' ecclesiu'  
collige p' p'nt' p'nt' m'it'ant' tuam r'olo  
sam r' r' d'nt' . r' t' n' p'nt' . r' eo am'  
p'nt' m'it'ant' . s' . r' s'nt' d'nt' . r' s' d'nt'  
s'nt' t' n' s'nt' alio quem mal'at' ar'  
ch' . ap' cel' d'nt' t' p'nt' m'it'ant' . l' d'  
p'nt' . cant' arch' .

**C**um r'one  
p'nt' t' n' d'nt' . r' p'nt' d'nt'  
legat' d'nt' ad m'it'ant' ecclesiu' t' n'  
p'nt' d'nt' . deb'et' p'nt' d'nt' . r' que e'  
n'nt' s'nt' s'nt' d'nt' s'nt' p'nt' d'nt'  
cua cur' d'nt' . r' d'nt' d'nt' . r' d'nt'  
s'nt' o'nt' . r' p'nt' d'nt' . r' p'nt' d'nt'  
d'nt' d'nt' . r' t' p'nt' d'nt' . r' d'nt'

Picture 3: Collectio Appendix concilii Lateranensis. Wien, Österreichische Nationalbibliothek, cod. 2172, fol. 36r

immol' & cens' & expugnant' s'p' p' h'ri  
 p' d'at' p'one' n' s'c'ndant' & p'agna' ad  
 s'c' loca' p'f'ic'ndant' tam' e'nd' p' r'e  
 de'nd' & p'agna' m'c'p' d'ek'lar' d'e  
 q' ad' tam' s'c' p'una' o'f' p'ol'nd' o'f' p'f'  
 fa'ctant' n' s'up'ant' p'f'ic'nd' m'c'p' ex  
 o'f' q' m'c' s'up'ic'at' ex' m'opia' p' a' s'o  
 ub' o'm'n'ium' collecta' fac'c' mon'ent' q'  
 o'f' n' de' fa'ctant' a' d'o' s' collant' i' n' s'c'a  
 s'c'a' s'e' collecta' s'c'ant' e'it' q' i' n' s'c'a' p'ol'  
 ut' annuatim' ~ u' p'ram' i' n' u'nd'c' p'ne  
 & s' i' s'c' d' b' r'e' ap' d'e' p' ~ p' i' n' p' r' i' n' d' u' l' i'  
 g' o' n' s' i' u' e' x' p' l' e' r' e' n' t' i' s' u' r' ~ e' i' t' m' o' r' g' r' a'  
 s' p' r' e' q' e' a' l' i' u' s' s' a' n' s' s' e' p' u' l' t' i' c' e' d' i' s' t' i' c' t' i' a' n'  
 n' e' g' e' r' e' e' u' m' a' u' t' s' i' t' p' r' i' p' t' i' s' q' a' d' c' o' l'  
 lectam' d' e' s' t' i' n' a' t' i' s' s' u' s' t' i' p' e' n' d' a' c' u' r' a'  
 r' a' m' e' n' t' e' s' s' y' n' d' i' c' a' t' u' r' u' t' a' d' i' e' r' u' n'  
 t' i' s' f' o' r' e' i' o' c' u' l' l' e' i' n' t' e' d' o' s' t' r' u' i' n' i' o' c' u' n' d' o'  
 e' o'f' a' d' u' e' n' t' u' p' r' i' p' t' i' s' h' o' n' e' s' t' e' ~ e' o'f' m' i' s' e'  
 r' e' n' d' e' r' i' a' s' e' n' t' i' n' a' n' i' o' a' p' r' i' a' n' t' e' e' c' c' l' e' s' i' e'  
 e' r' e' c' t' i' s' s' i' e' c' o' m' m' u' n' i' c' a' t' i' o' n' i' s' a' n' n' u' a' m' i' s' t' a'  
 r' a' c' e' l' e' b' r' e' n' t' u' r' q' u' e' d' e' n' e' r' o' m' m' u' n' i'  
 c' a' n' t' e' s' e' d' m' i' s' e' r' e' s' s' i' s' s' e' p' u' l' t' i' c' e' t' r' a' d' i' d' e'  
 & e' r' o' m' m' u' n' i' c' a' t' i' o' n' i' s' e' x' a' d' u' e' n' t' u' r' e' x' e' l' e'  
 s' i' s' s' e' n' t' i' a' c' e' p' t' e' n' d' a' ~ a' n' t' s' t' a' n' t' i' a' s' u' n' t'  
 u' b' m' a' n' ~ p' r' o' p' r' i' u' m' u' r' p' o'f' p' a' r' o' c' h' i' a' l'  
 f' a' c' i' a' n' t' i' n' r' e' s' t' i' g' a' b' i' l' i' t' e' o' b' d' e' r' u' a' r' y' p' o' m'  
 u' a' i' d' v' e' n' ~ s' i' s' a' r' c' h' e' p' i' s' e' p' i' s' ~ o' e' n' t'  
 a' d' q' u' o'f' l' i' t' e' s' i' t' e' p' u' e' n' i' u' r' .

**D**ilecti filii nri hie hospitat' ur' r'ul'  
 nulla n' o' s' o' n' e' m' o' n' s' t' r' a' n' t' q' u' o' e' i'  
 de' m' a' l' e' f' i' c' i' o' s' u' s' s' u' s' u' i' t' e' a' e' t' h' i' b' e' u'  
 m' i' s' t' i' s' ~ p' u' l' e' g' i' a' e' o'f' m' i' s' e' r' e' p' r' e' m' p' t' a' n'  
 t' e' e' i' p' o'f' e' t' e' m' o' f' i' a' m' q' u' e' r' e' i' n' u' r' i' p' a' r'  
 o' c' h' i' a' l' i' u' r' ~ a' f' f' o' i' p' s' e' d' e' p' e' l' u' e' a' l' i' q' u' e' n'  
 p' r' u' n' t' u' r' . Q' u' i' s' q' u' e' e' s' s' m' i' s' t' i' s' ~ h' i' s' t' a'  
 n' s' ~ p' u' l' e' g' i' a' s' a' r' o' ~ p' o' n' p' r' i' n' u' n' t' i' q'  
 u' r' n' r' i' p' i' s' i' t' a' n' g' u' i' u' o' b' i' u' s' i' s' t' i' t' u' e' s' t'  
 u' p' a' r' i' t' i' m' ~ q' u' i' s' a' c' t' u' r' i' b' i' s' q' u' i' s' a' d' e' o'  
 r' o' ~ n' o' s' e' n' t' i' s' i' n' d' u' t' r' a' s' i' m' i' l' e' n' u' l' l' a' p' r' i' s'  
 m' o' l' e' s' t' i' a' f' a' c' i' a' n' t' i' n' e' a' s' ~ h' i' c' i' e' r' ~ d' e' n' e'  
 g' a' r' e' a' l' i' q' u' e' n' a' r' e' m' p' r' e' n' t' . E' i' u' i' d' e' v' s'  
 i' v' i' t' a' r' e' r' a' h' a' d' e' c' r' o' p' o' r' u' m' a' p' p' r' e' p'  
 e' t' o' s' e' n' t' i' s' q' u' o'f' s' o' c' e' l' l' a' n' s' p' u' l' e' g' i' a' s'  
 m' u' n' d' e' n' t' e' m' i' s' ~ e' t' u' r' ~ s' e' p' u' l' t' i' c' e' a' r' t' e' n' t' i' s'

obuare' m' i' n' i' m' e' t' u' n' c' a' n' t' i' s' d' e' e' p' i' s' t' a' r'  
 e' p' i' s' t' o' l' i' s' e' c' c' l' e' s' i' e' p' l' a' n' t' i' s' p' a' n' t' i' s' s' h' i' m' a'  
 a' n' q' u' i' a' p' r' e' c' e' s' s' i' o' n' i' s' u' r' i' p' i' .

**S**ANCTI ~ i' n' i' p' o'f' s' o' u' a' r' e'  
 ~ a' c' a' r' o' n' i' a' s' u' a' i' n' t' e' d' e' c' e' n' t' u' m' s' i' c' o' e' r'  
 u' b' p' i' e' n' ~ a' n' ~ i' n' u' n' q' u' a' m' p' a' c' o'f' s' i' s' p' o'f'  
 p' r' e' a' t' ~ h' e' r' o' s' o' l' u' m' a' n' i' ~ a' u' e' o'f' s' i' u' a' i' n' t'  
 d' i' c' e' ~ s' e' r' u' a' r' e' ~ n' u' l' l' a' n' t' i' p' s' u' m' a' n' t' i' s'  
 ~ n' o' s' i' n' s' c' i' u' s' u' r' ~ d' e' q' u' i' s' e' o'f' t' r' i' n' u' a' r' e'  
 s' u' r' r' e' c' e' p' t' i' s' f' o' r' e' e' t' a' d' q' u' e' m' e' r'  
 a' d' u' n' i' u' s' o' f' f' i' c' i' u' s' s' u' r' ~ p' h' o' m' i' n' u' m' q'  
 m' o' u' o' r' g' a' n' e' t' i' s' e' c' c' l' e' s' i' a' s' i' s' t' i' t' u' t' i' a' u' d' e'  
 n' e' g' e' r' e' ~ h' u' m' a' n' i' t' e' r' e' d' e' a' i' r' ~ a' n' a' r' t' i' a'  
 n' i' s' i' n' e' t' o' s' s' u' r' i' m' o' d' e' r' e' ~ s' e' n' t' i' s' u' r'

**P**eruenit ad nos ex nra  
 m' u' l' t' a' i' n' s' i' n' u' a' t' i' o' n' e' ~ r' e' ~ e' t' ~ p' r' e' t' e' c' e' p' t'  
 q' u' o'f' o' c' c' o' n' e' ~ p' u' l' e' g' i' a' s' a' b' a' p' ~ s' e' d' e' u' o'f'  
 i' n' d' u' t' i' s' u' s' e' n' t' i' m' i' n' a' n' o' s' h' e' r' e' q' u' e' n' t'  
 e' p' i' s' t' o' l' i' s' s' u' i' s' i' n' s' t' a' n' t' i' s' ~ i' n' t' e' d' a' t' e' s' a' p' r' e'  
 t' e' r' a' n' n' u' a' o' f' f' i' a' c' e' l' e' b' r' a' n' t' . A' d' d' e' r' a' d' h'  
 q' u' o'f' o' c' o' p' a' d' e' s' t' i' n' e' t' o' r' u' s' i' q' u' i' i' n' h' u' m' a' n' a'  
 a' c' t' u' e' n' t' u' r' ~ d' i' n' e' x' i' o' m' i' s' i' d' e' o' c' c' l' e' n' t' u' r' ~ d' e'  
 e' m' i' t' t' u' ~ s' a' n' t' i' s' t' e' p' t' e' ~ q' u' i' s' q' u' i' d' e' o'f' u' o'f'  
 a' l' i' q' u' e' n' u' s' u' r' a' r' e' ~ q' u' i' t' u' s' i' n' d' u' t' u' l' i' e' p'  
 p' u' l' e' g' i' a' s' i' n' e' a' n' t' i' ~ a' m' i' t' t' e' ~ q' u' i' n' u' l' l' a' s' i' b' i'  
 a' b' i' n' t' ~ p' o' m' ~ q' u' i' s' r' e' u' o'c' e' p' u' l' e' g' i' a' s' o'f'  
 u' e' n' t' ~ e' t' m' e' r' a' l' i' s' i' n' s' u' l' t' i' s' i' n' a' b' i' s' s' i' m' p' l' i'  
 m' i' n' i' m' e' u' d' e' a' m' u' s' ~ n' i' s' s' e' n' t' i' s' ~ a' n' o' n'  
 e' e' s' t' i' n' t' e' d' i' c' t' i' s' d' i' u' n' a' p' i' s' t' a' n' t' i' o' n' i' s' e' t'  
 l' e' b' r' e' ~ s' e' c' t' i' p' e' r' o' q' u' i' d' e' e' t' ~ q' u' i' a' r' d' e' n' t'  
 s' e' n' t' u' o'f' a' p' i' s' t' i' p' o' n' e' i' n' t' a' a' r' t' i' a' u' t' d' i' s' t' i'  
 a' p' e' t' e' n' t' a' d' t' e' r' o' e' p' i' s' .

**Q**uoniam rei litigiose s'p' r'om'one' a' s' e' d' e'  
 ~ a' p' ~ i' p' e' r' u' i' t' ~ n' u' m' i' u' d' e' r' e' d' e' c' a' p' o' g'  
 n' o' s' e' r' ~ e' t' a' d' e' b' r' o' s' i' n' e' t' i' m' u' a' r' e' ~ E' i' s' i'  
 r' e' m' t' e' p' a' c' i' f' i' c' e' p' o' s' s' i' d' e' b' a' t' ~ i' n' s' i' m' o' d'  
 u' t' o' p' r' i' u' m' ~ n' i' t' ~ t' u' o'f' a' n' t' ~ l' i' c' e' n' t' i' u' d' i'  
 c' i' d' e' q' u' e' r' e' p' e' a' s' u' b' o' c' a' s' i' n' m' a' n' d' a' r' o'  
 r' o' p' o' n' ~ d' e' c' i' t' e' a' u' r' e' a' m' d' i' s' t' i' n' u' i' t' ~ s'  
 e' r' o' t' e' p' i' s' .

**V**enient ad nos w' lance' p' s' i' m' p' l' i' c' i'  
 u' b' a' l' t' e' r' o' n' e' m' o' n' s' t' r' a' n' t' ~ q' u' i' d' o' n' o'  
 s' u' a' i' n' i' t' e' r' e' a' c' c' e' p' t' ~ d' e' q' u' i' s' i' n' t' i' a'  
 h' a' b' u' i' t' ~ e' t' s' i' d' e' o' c' a' s' i' s' p' u' b' l' i' c' i' t' u' r' ~ q' u' i'  
 d' i' c' e' r' ~ i' n' y' u' o'f' ~ i' n' t' i' a' ~ e' t' i' n' c' u' r' a' r' e'

49v

Picture 4: Collectio Appendix concilii Lateranensis. Wien, Österreichische Nationalbibliothek, cod. 2172, fol. 49v

*rii IX* (decretals of Gregory IX), i.e. the Liber Extra. This assumption led to a late dating by Herman who considers fol. 2–69 to be “kleine englische (?) Büchermaiuskel” (Italian parchment, written in southern England). I think, however, that the layout consisting of blue-red alternating historicizing initials at the beginning of each new decretal, especially downwards in Fleuroneé often extending over more than 7 lines, points rather to Northern France, not Southern England<sup>16</sup>! We are dealing with a systematic collection, but there are no divisions by books, and titles also rarely appear<sup>17</sup>).

Recently, Juliane Trede found a fragment of the *Collectio Appendix concilii Lateranensis* in Cologne, HASTK Best. 7050E (Fragmente E: Rechtswissenschaft), 62, which she considers to date back to 13<sup>th</sup> century France, as stated in Cologne’s manuscript catalogue<sup>18</sup>). The script is in Textualis and is rubricated by another hand, with alternating red and blue initials, each with Fleuronnée in the other color. It is thus very close to the Vienna manuscript.

However, other copies of the *Collectio Appendix concilii Lateranensis* show that it was used intensively.

At the end of the 12<sup>th</sup> cent. development, some even more beautiful manuscripts were produced. The *Collectio Claustro-neoburgensis* has a Carolingian-Gothic mixed script. The first third of the codex dates to the 13<sup>th</sup> century, copied by the Augustinians themselves in their convent of Klosterneuburg<sup>19</sup>).

<sup>16</sup>) “The formative role of the Appendix Concilii Lateranensis in the development of twelfth-century decretal collections is already familiar to historians of canon law. This important collection begins in its vulgate edition with the canons of the Lateran Council of 1179, followed by forty-nine titles, which, with the exception of the final two, are systematic in technical style. The collection as preserved in the editio princeps, based by B. Laurens on a manuscript now lost, was built up in a series of successive stages, the basic work being completed within the limits c. 1181–5, and the final form including material as late as 1188–90. But the concluding title in this editio princeps, or vulgate edition, is not discovered in any of the surviving Appendix manuscripts, and has been shown by Holtzmann to depend on an excerpt from the lost register of Alexander III”, Charles Duggan, *Decretal Collections: from Gratian’s Decretum to the Compilations Antiquae, The Making of the New Case Law*, in: Kenneth Pennington/Winfried Hartmann (eds.), *The history of medieval canon law in the classical period, 1140–1234: From Gratian to the decretals of pope Gregory IX*, Washington, D.C. 2008, 246–292, esp. 277–280; Peter Landau, *Studien zur Appendix und den Glossen in frühen systematischen Dekretalsammlungen*, in: *Bulletin of Medieval Canon Law* 9 (1979) 1–21 = reprint in: idem, *Kanones und Dekretalen* (as in nt. 2) Nr. 10.

<sup>17</sup>) The image shows slight local corrections: “Ebrardo” in “Eberardus II.”, which is also not quite right. Correct is: *Adrianus papa* (pope Hadrian IV) *Ebrardo Salzeburgensi [archi]episcopo*, answers to archbishop Eberhard (I) of Salzburg (WH 344, JL 10445).

<sup>18</sup>) Juliane Trede (ed.), *Die juristischen Handschriften des Stadtarchivs Köln*, Köln 2005, 169–170; [http://bilder.manuscripta-mediaevalia.de/hs//katalogseiten/HSK0556\\_b169\\_jpg.htm](http://bilder.manuscripta-mediaevalia.de/hs//katalogseiten/HSK0556_b169_jpg.htm) (08.01.2023).

<sup>19</sup>) The *Collectio Claustro-neoburgensis* is preserved in Klosterneuburg, Stiftsbibliothek, ms. 19, fol. 36r–87v; cf. the analysis with some editions of the text in



fol. 5  
*acta bona dñi. mors.*  
 Gisbertus Molanus fan. 95 *Canibery*  
 Decanus *Gravenensis.*

A uicariis quoq. ru. d. ut in celijs  
 colantare pmetant. erigere nō  
 formidant. et alia agunt que ea  
 nomī obuant institutis. de ra  
 dice cupiditatis et auaricie pōnt  
 uidentur. Et q̄ sollicitudinē nre icū  
 bre pastoralis diligentia pūdere. ye ab  
 ecclesiasticis p̄sons tue pūcere aliqd  
 agatur q̄ rēp̄sionem subiacet. ut  
 ecclesiasticam honestatē deruget  
 s̄r. r. p. a. s. m. q̄. archid. p̄dici ep̄atus  
 ex parte tua districte imibeas. ne  
 peccabilibz corrigendis. aut criminibz  
 puniendis. a cleris ut laicis penam p̄  
 curiam nec p̄ excommunicatione ignis uel  
 aque. dēn. amplius erigere audeant  
 ut alia que dēn. sunt quolibet m̄ coer  
 cere. Si autē ec̄. p̄hibitionē tuam a usq̄  
 tenerrario uenire p̄sumpserint eos q̄  
 occasione et ap. ec̄. ecclesiastica districte  
 p̄cellat. r̄ sententiā ip̄am usq̄ ad dig  
 nam satisfactionē faciat inuolabz  
 tē obseruari. *I. de iug. ep̄.*

*Q*um sit romana ec̄. cui licet in me  
 ritā p̄sident mat̄ ecclesiar̄ omnium  
 et magistrā. cognō et debito iustitiz  
 regimini p̄t nob̄ dñs dederit res  
 ponde d̄ultationibz singulor̄. ut du  
 die q̄onel ap̄lice sedis p̄udentia pen  
 tul enodentur. Quicquid autē fiat  
 ip̄e tue firmitati reseruibz. utrum p̄  
 consuetudine ecclesiar̄ quicq̄ p̄t p̄uina  
 cione h̄re debeat. r̄ nos. tue. r. p̄.  
 q̄ n̄ p̄t̄r̄ cōsuetudine potest debeat  
 p̄t̄ p̄uinationē erigē. s̄. p̄uinationē  
 moderatam cū ap̄licis dicat. Nemo co  
 gatur suis stipendijs militare. erigē  
 potest. dem in cō. c. q̄ incipit. la. q̄  
 de auaricie.

*Q*um autē collectas denaror̄ h̄. p.  
 p̄ archidiaconatus uos feceris in colle  
 ctione faciendā p̄dictas p̄uechial gra  
 uare nullatenus p̄sumatis. alit̄ siue ma  
 gis quam p̄decessor̄ temp̄ se recorda  
 cionis eugenii et in noscenti romanor̄  
 p̄. fecisse noscuntur. Et si temeritate  
 qualibet a temp̄taueritis. id q̄ uide  
 amini h̄re auferetur a uobis. *I. de ede. c.*

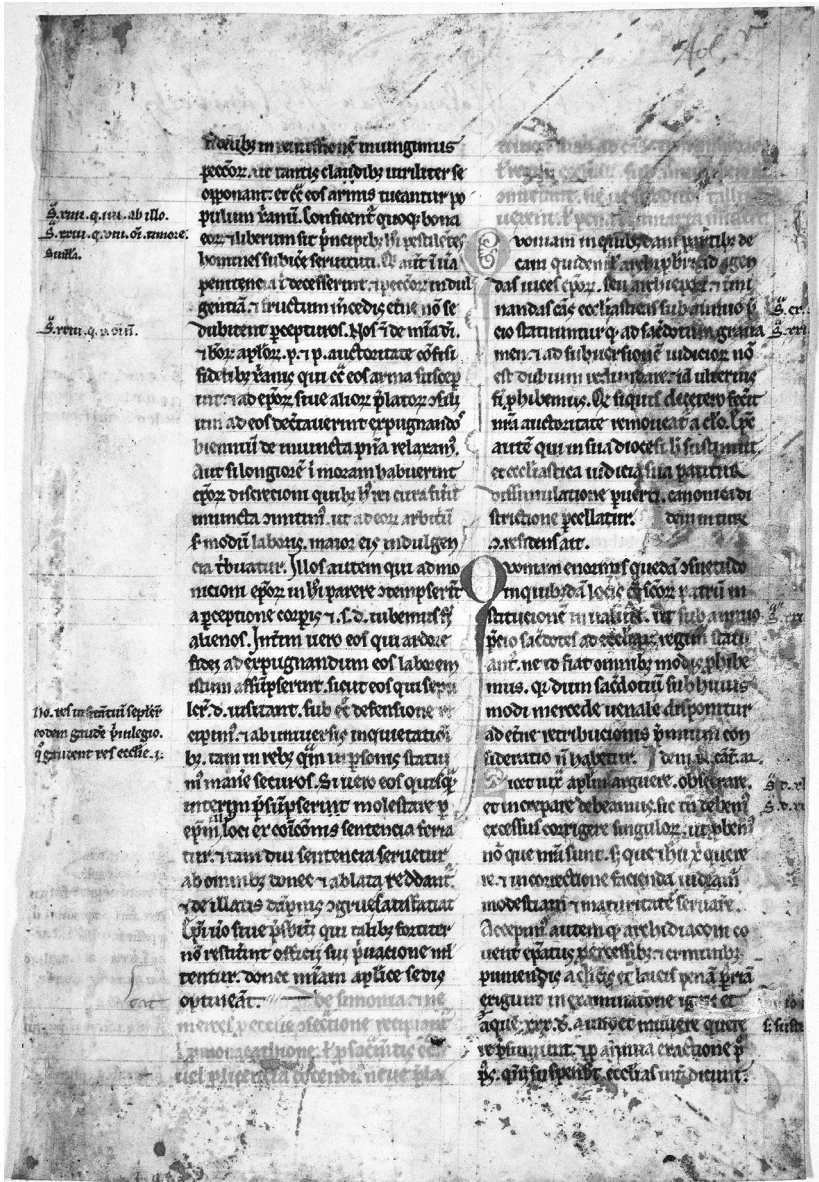
*S*ichomiti et p̄sentū auctoritate  
 inuulgim. ut cum ecclesias ip̄a iust  
 itatoris. s̄dm q̄ canonē p̄cipuunt  
 iustitatoris officii exerceatis. nec eccles  
 iustitaciones nra grauetis. ut eas ma  
 gis inuitu infirmacionis. r̄ correcti  
 onis q̄m affectu amestacionis uide  
 amini iustitare. *de celi. ep̄.*

*P*ruerunt ad audientiam nram uide  
 si uerum est in nra plurimū. et  
 aduersū uos de iure mouem. q̄ i p̄  
 breuol qui sunt in nra iurisdictione  
 distanti singul̄ annis. q̄ in suis mer  
 cemarior̄ talliam faciatis. quibz in  
 ad uoluntatē nram p̄m soluerunt  
 diuitiū officii m̄dicitis. nos in iustit  
 et in honeste tractatis in tantū q̄  
 ip̄os laici despicibiles reddidistis.  
 Iteo uisū uerū sunt graui de beq̄ uisō  
 ne puniri. cum eor̄ē p̄bros. q̄ si uisō  
 r̄ h̄z lingua r̄ s̄na caritate fouere de  
 beatis. dis. ḡ. uis. p. a. s. p. m. q̄ in p̄dō  
 p̄bros h̄. tallias et indebitas exactiones  
 exercere nullatenus p̄sumatis. nec eos de  
 cetero irrationabiliter grauetis. uel in hone  
 ste contractetis. aut sine iudicio capli  
 sui suspende p̄sumatis. ut eor̄ ecclesias  
 m̄tālo subiciatis. nec eor̄ alique duas  
 matrices ecclesiar̄ quaz unam sibi iust  
 itate indebitis tenere p̄mittatis. nec an  
 sine eor̄. uis. excoicari p̄sumatis. sc̄nā  
 p̄certo q̄ si h̄ rimozel de uob̄ iterū

*cat.*  
*S. r. q. i. re. l. i. placet.*  
*r. q. u. re. l. i. re. h. i. ma*  
*node. no. m. i. t. e. s. a. n. t.*  
*cat.*  
*L.*  
*S. d. eccl. d. m.*  
*S. r. q. i. re. l. i. ap̄le.*  
*S. d. eccl. i. no. p̄t. i. h̄. p̄. s.*  
*de. an. i. p̄. ap̄. d. n. i. i.*  
*q̄. p̄. s. i. h̄. p̄. s. i. t. e. s. t. o. r.*  
*an. s. d. r. u. q̄. d. i. s. t. i. t. u. t. i. o.*  
*S. d. q. u. no. m. i. q̄. u. p̄. b. r.*  
*S. d. h̄. r. s. o. u.*  
*S. r. q. i. h̄. q̄. u. p̄. p̄. s. i. t.*  
*S. r. q. i. re. l. i. re. l. i. p̄. p̄. s. i. t.*

E62

Picture 5: Collectio Appendix concilii Lateranensis, HASTk Best. 7050E 62 (Vorderseite)



Picture 6: Collectio Appendix concilii Lateranensis, HASTk Best. 7050E 62 (Rückseite)

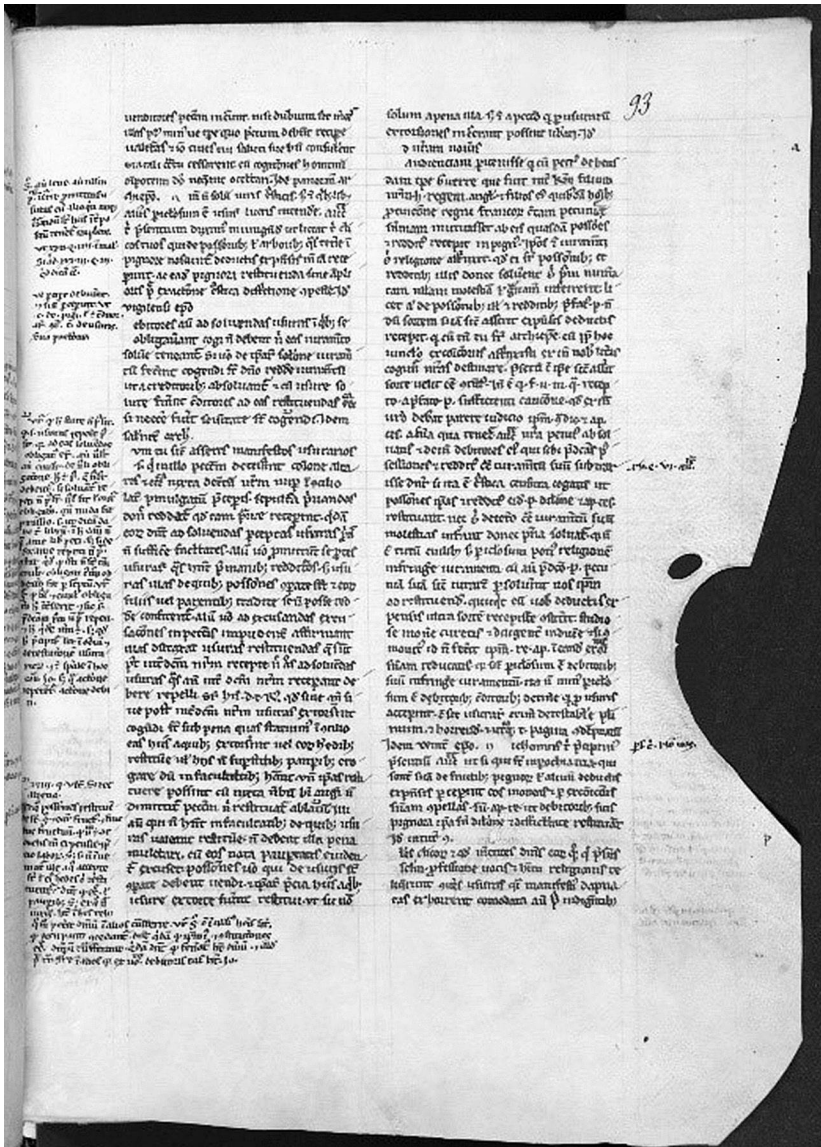
§. xiii. q. iiii. ab illo.  
 §. xiiii. q. v. de. of. r. mo. e.  
 Anst.  
 §. xviii. q. i. d. o. n.

110. ut in hanc septem  
 eodem quod privilegio.  
 q. g. u. u. e. r. e. f. e. c. c. l. e. s. i.

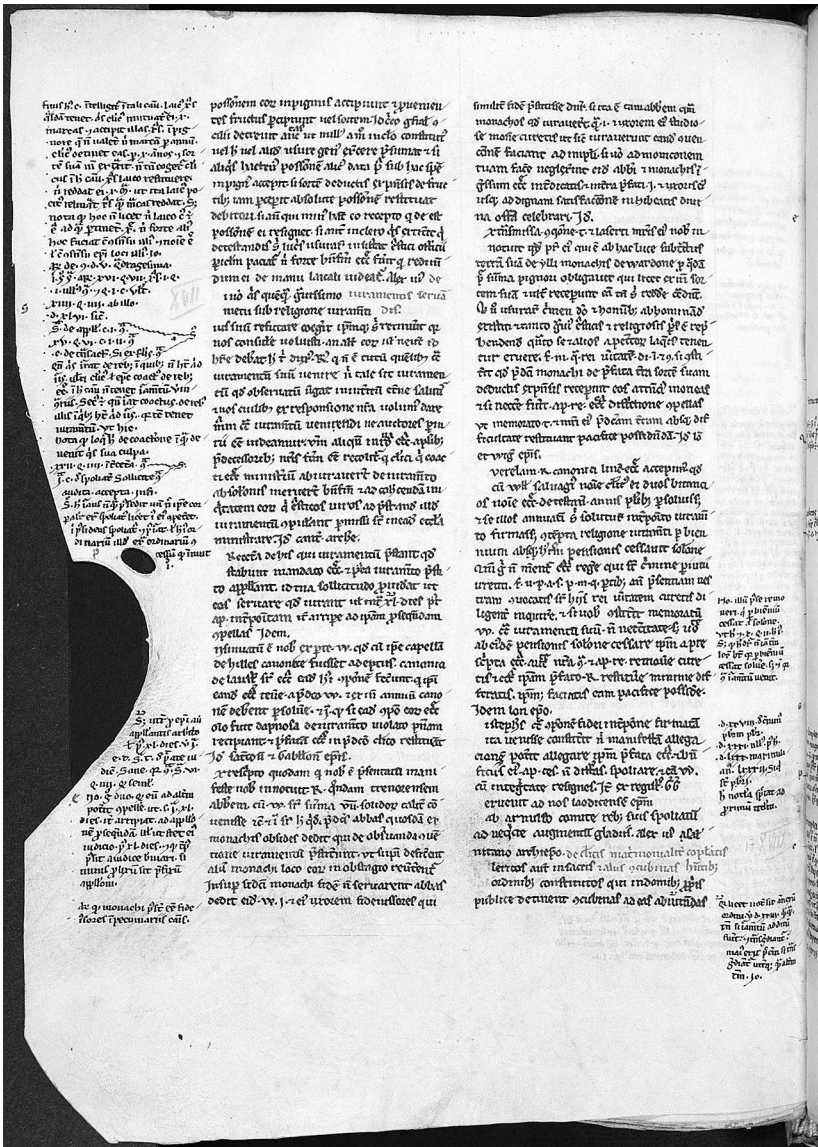
... in ... in ...  
 peccoz. ut tantis claudis ut littere se  
 opponant. et et eos armis uicantur po  
 pulum tamul. Confiat quoq. bona  
 cor. u. liberum sic pncipely. h. p. u. l. e. t. e. s.  
 homines subice feruata. Et aut i. l. a.  
 penitene. a. i. de. c. e. s. s. e. r. m. t. i. p. e. c. c. o. z. i. n. d. u. l.  
 gentia. r. i. n. d. u. c. t. u. m. i. n. c. e. d. i. s. e. t. u. s. n. o. s. e.  
 dubitent peccatos. h. o. s. i. d. e. m. i. a. d. i.  
 r. i. b. o. z. a. p. t. o. z. p. r. i. p. a. u. c. t. o. r. i. t. a. t. e. c. o. s. s. i.  
 f. i. d. e. h. y. r. a. n. n. e. q. u. i. e. e. o. s. a. r. m. a. i. n. t. e. c. e. p.  
 t. u. r. i. a. d. e. p. o. z. s. i. u. e. a. l. i. o. z. p. l. a. t. o. z. o. s. i. l.  
 i. n. a. d. e. o. s. d. e. c. l. a. u. e. r. u. n. t. e. p. u. g. n. a. n. d. o.  
 b. i. e. n. n. i. d. e. m. u. n. d. i. c. t. a. p. n. a. r. e. l. a. x. a. n. d.  
 a. u. t. s. i. l. o. n. g. i. t. o. z. e. i. m. o. z. a. m. h. a. b. u. e. r. u. n. t.  
 e. p. o. z. d. i. s. c. r. e. t. i. o. n. i. q. u. i. b. y. h. r. e. n. a. r. t. a. s. i. t.  
 m. u. n. d. i. c. t. a. m. i. n. t. u. r. u. t. a. d. e. o. z. a. r. b. i. t. r. i.  
 s. m. o. d. i. l. a. b. o. r. i. s. m. a. i. o. z. e. i. s. i. n. d. u. l. g. e. n.  
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 d. a. s. i. n. c. e. l. e. p. o. z. s. e. n. a. r. b. i. c. e. p. e. r. i. t. i. n. t.  
 m. a. n. d. a. t. i. s. e. c. c. l. i. a. s. t. i. c. a. s. u. b. o. m. n. i. s. s. i. c. e. r.  
 c. i. o. s. t. a. n. t. i. n. t. u. r. q. u. a. d. s. e. d. o. r. i. a. m. g. e. n. t. i. a.  
 m. e. n. r. a. d. s. u. b. i. n. d. u. c. t. i. o. n. e. i. u. d. i. c. a. z. n. o.  
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 s. i. p. h. u. b. e. m. u. s. d. e. s. i. q. u. i. l. d. e. c. r. e. t. o. f. e. c. i. t.  
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 s. t. r. i. c. t. i. o. n. e. p. e. l. l. a. t. u. r. d. o. m. i. n. u. s.  
 a. n. t. e. n. t. a. r. e.  
 v. n. m. i. n. e. n. o. m. i. n. i. s. q. u. e. d. a. s. i. n. t. e. n. d. o.  
 i. n. q. u. i. b. d. a. l. o. c. i. s. e. t. b. o. z. p. a. r. t. i. i. n.  
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 m. o. d. e. s. t. i. a. m. r. a. m. u. r. i. t. a. t. e. f. e. r. u. a. r. e.  
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 a. q. u. e. u. r. s. a. u. t. o. r. e. m. i. n. u. e. r. e. q. u. e. r.  
 u. e. p. u. n. i. a. t. u. r. i. p. a. n. n. u. a. c. r. e. a. t. i. o. n. e. p.  
 h. e. q. u. i. s. i. n. s. u. b. i. t. e. c. c. l. i. a. m. d. i. c. i. t. u. r.





Picture 7: Collectio Appendix concilii Lateranensis Lipsiensis, Universitätsbibliothek Leipzig, Ms 1242, fol. 93r



Picture 8: Collectio Appendix concilii Lateranensis Lipsiensis, Universitätsbibliothek Leipzig, Ms 1242, fol. 93v



si ille numer' canonicoz ubi e qui e con  
 fessur ad eos honore debitoz gratias  
 e cognoscas nulli eade' s'pou. s'ntur p  
 sumas. Et quando bullo canonicoz de q'  
 bonitas s'ntitas p'onas r'conortas de  
 no p'ia tm uoluntate si cu' assensu ou' sic  
 tu r'cessore tu facit officiu' studas  
 ordinar. r'p'deato aut bnt. tibi mo's oib'  
 phibem neq' macula tua p'moie at'apas.  
 si cu' consuet' s'ntitatis cont'que' fedat.  
 qd' si tu at'epares grauit' pp' b' uolui te  
 moueremur.

**I**n excep'ionib' sic omis papa alexand' in  
 g'ralib' suis l'ris p'cepit. n' e' m'cedend'  
 m' enormis quedi' p'uctudo s'p'de locis  
 e' s'ou' p'ari' ob'ntat' m'ualut. v. sub  
 annuo p'no sac'dotes ad eccl'ia' regim'nt  
 stantur. ne id fiat. mo's oib' phibem'.

**Q**u' r'ia' sac'doti sub hui' modo uenale dis  
 ponit. ad e'ne retribut'ois p'mu' s'ida  
 no no habetur. p'om.

**N**on satis uolunt' auaritia imple' redar  
 guntur. si ab'bis qui clero s'ntur uident.  
 r'p'p'at' cont'p'ro sclo religio'oy nom' p'  
 s'ntur. regula mo's oib' no' cauetur.  
 phibem' q' ne ab'bis q'ad' uolunt' m'f'ire  
 uoluit. aliq' pecunia regim'nt. ne ue' p'ort'  
 ut capellane' s'nt' monachoz. au' cl'icoy  
 annua distinetioe uicant'. neq' ab' u' cu'  
 regim'nt' u'nu' com'itat'. p' cur' com'sso'ialli  
 p'au' erigatur. h' aut' simoniaci e' s'ou' p'a  
 trui au'c'it'as manifeste' declarat. ut q' p'  
 b' p'p'it' at'ep'are. t' q' dedit q' p'  
 cepit. scilicet simonie portionem no' dubitet  
 habituri. p'p'altura q' e' m'aris. r'ola sic  
 p'p'it' nulla cuiq' p'ri' eratio m'cedat.  
 neq' sub obtentu' alia' s'nt' uic'is reu'  
 s'ui aliquid tuetur. q' datur' m'as ep'is  
 no' m'uit' peccata. si auget.

**Q**uia q'bedi' ep'it'is decem quidi' ul' arch'ep'i.  
 ad agendis uices ep'oy seu arch'ep'it' cono'  
 r'uenend'as eccl'ias sub annuo p'no sta  
 tuunt. q' ad sac'dotes g'raui' r' s'ub'it'one  
 iudicioris no' e' dubiu' redid'ne. id u'lt'ius  
 s'ci' u'nt'ic'us p'ibem' qd' si s'ci'it'. renouet  
 aclo. C'p's quoq' qui hoc m'f'it' u'ic'is s'nt'  
 uic'it'. q' d' s'nt' u'ic'is sua p'ari' d'issim'  
 latioe p'ri' canonice' distinetioe placat'. p'.

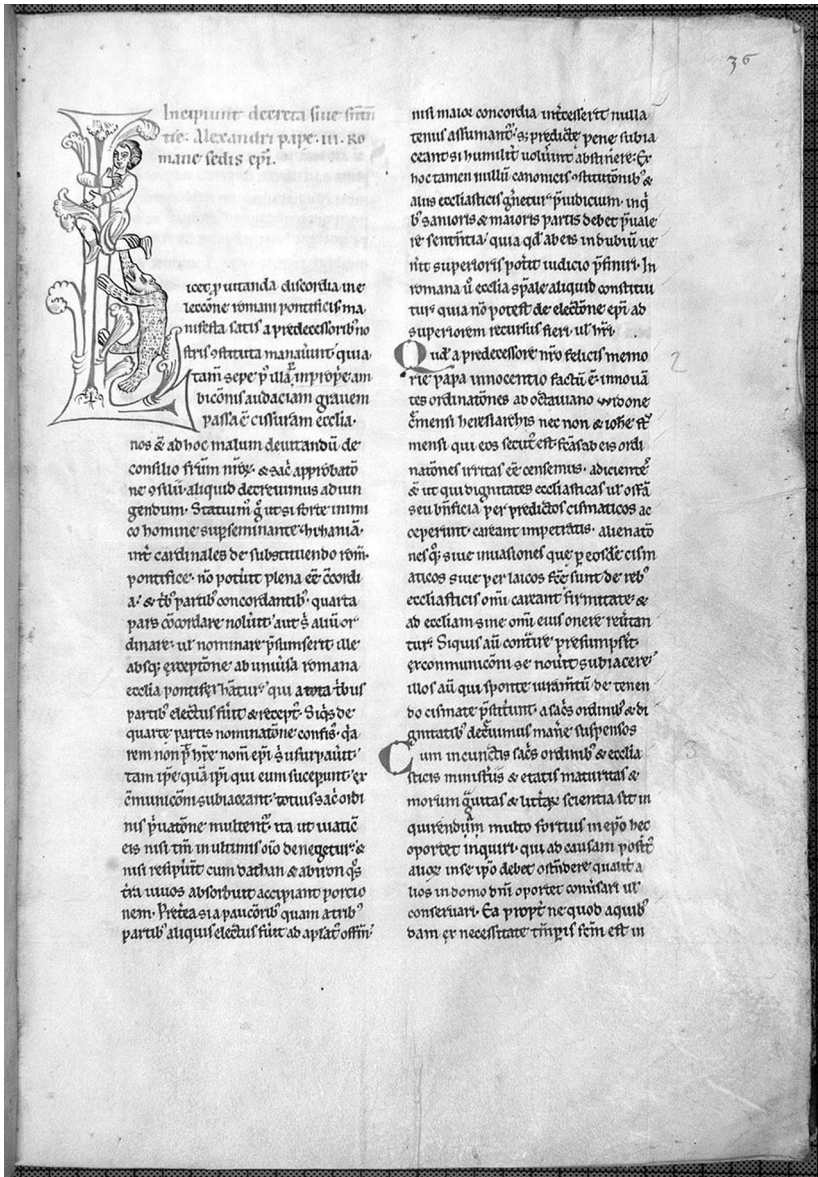
**N**os magnope amqui hostis m'uda in

infirma m'ebri eccl'e s'p'p'ant. Laborat' si  
 no' m'um'ntur ad d'nd'ab'la e' r'ec'os  
 quoq' utitur s'up'pl'm'ne' u'ic'ne' s'p'm'nt'  
 e' se e' clare. O'lt'ro. si quis u'ic'ne' s'p'm'  
 e' se rap'at' ut p'iosus al'is m'ebri eccl'e.  
 sua s'nt' calliditate detrac'ti. si n'm'y e'.  
 qd' se in ang'lin' lucis more solas m'f'ig'is.  
 sub obtentu' langu'it'iu' s'nt' s'nt'ic'is  
 r'ib' eccl'ias r'eg'p'ea' s'ic' d'us p'ra'c'io.  
 r'eg'lar' s'p'oi. ad leg'nd'as lege' r'ec'os  
 s'nt'ic'is pon'om'ias. de cl'au'is s'nt' ed'u'  
 cat' au' ne sub'oc'as'ioe s'nt'ic' s'nt'ic'is u'ri  
 m'ne'ois r'ur'us u'ic'io'ib' m'ol'ant'.  
 r'um'io'ib' r'ec'os u'ic' d'et'it'. et q' se al'is  
 p'uant' m'ec'io'ib' p'uid' de p'ri'os'ob'li  
 assensu' s'nt'ic' ut nullas s'io' p' u'ic' u'  
 r'eg'io'is. p' facti' in aliquo loco religio' p'  
 f'essio'ne' ad p'f'ic'ia' m'and'at'. s'nt' r'eg'es  
 g'nd'as p'm'at' erit. S'nt' g'nd'at' r'ab'la  
 u'lt'ri' s'nt' m'f'it' duoz m'f'it' s'nt'ia' no' red'  
 erit. sic' e' com'm'icat' ab' oib' cauet'. r'um'la  
 cu' s'p'at'om'iu' p'ari' u'oluit. audiat' s'nt'  
 aut' m'ch'oro. caplo m'f'it'. r'ec'is al'is s'nt'  
 s'emp' erit. n' ex m'ia' forte ap'lic' s'nt'io.  
 au' s'p' p'm'ois am'itat'. p'ol'at' m' p'a  
 duano ep'o.

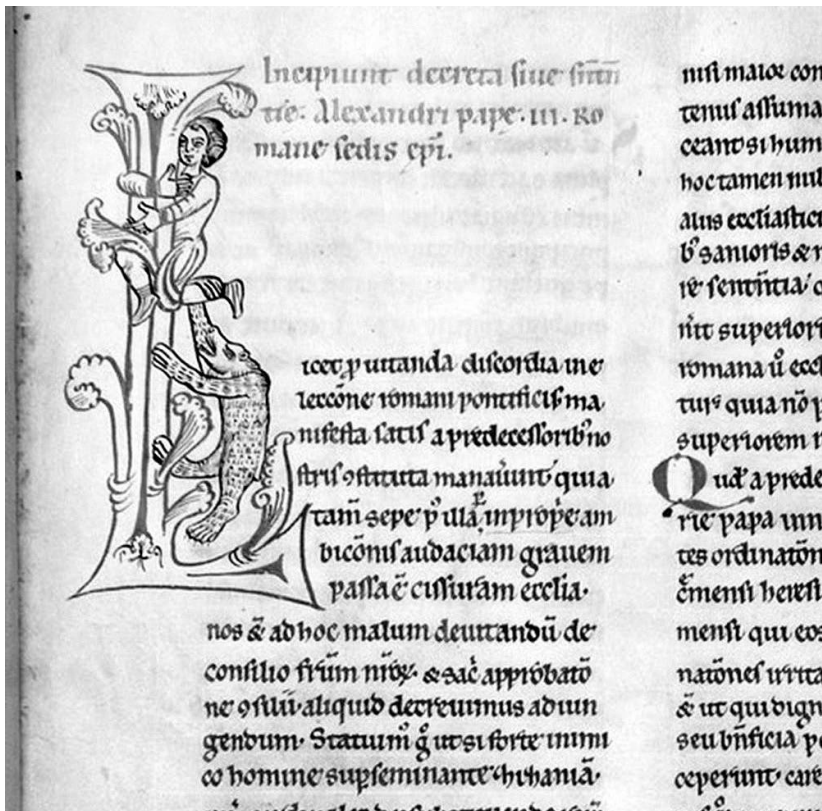
**Q**u' quide' nobis tua s'nt'as r'ef'nt'ant. et  
 p'p'ie u'elant'. qd' q' p'at'ro'cl'ant' tuus s'  
 r'ent' m' s'nt' u' nobile' cu'ia' e' r'ec'at' u'ic'io'  
 ca' p'lene' r' con'f'ert'ant' p'f'it'io' u'ic'io' s'nt'  
 m'f'it'. r'um'la no' p' multos d'os' dona' r'm'  
 n'ia' u'ri' s'ed' m'ore' r'ec' p'p'ie s'nt'ic'is  
 cis. p'ri' r'iq' p'm' u'ic'io' s'nt' p'p'ie  
 f'uit'. t'and' m'ortuo' s'nt' ego' u'ri' s'nt' s'  
 r'esp'ons'at' p'm'it'. q' ab'os' cog'ita' s'nt'  
 m'at' a' s'nt'ic'at'. C'umq' s'nt'ic'is r'ia' e' p'  
 bl'ac' phib'it' s'nt' cu' illor'. ul' al'ic'is s'co  
 p'ular'et' s'p' s'nt'ic'is m'is r'us al'is u'ic'  
 no' formidant'. Demu' cu' u'ic'io' u'ri' r'  
 o' u'ic'io' s'nt'ic'is. m'ul't'ic' p'cep'is' o' u'ic'io' ad  
 m'ia' m'at'ris r'ed'it'. i'p'i' ad m'ia' m'at'ris  
 r'ia' appellat'. u'ic' q' m' s'nt'ic'is m'at'ris  
 m'amb' r'ec'os r'orm'it'at' al'ic'  
 r'ec'os r'ad' mod' r'ad' r'orm'at' r'ec'os m'is  
 r'ec'os. s'nt'ic'is r'ue' p'p'ie s'nt'ic'is m'at'ris  
 d'amus. q' u'ic'is s'nt'ic'is e' ut s'nt'ic'is e' c'um' r'at'  
 p'f'it'at' m'ul't'ic' ne m'and'at' tu' co'p'p'at'  
 e' u'ic'io' r'ad' m'at'ris m'at'ris appellat' r'  
 r'ec'os r'ec'os e' s'nt'ic'is r'ec'os r'ec'os r'ec'os



Picture 9: Collectio Ambrosiana. Milano, Archivio di Sant' Ambrogio, M 54, fol. 311r



Picture 10: Collectio Claustroneoburgensis. Stiftsbibliothek Klosterneuburg, Cod. 19, fol. 36r



Picture 11: *Collectio Claustroneoburgensis*. Stiftsbibliothek Klosterneuburg, Cod. 19, fol. 36r

Other beautiful examples are the *Collectio Ambrosiana*<sup>20</sup>) or the *Collectio Alcobacensis*<sup>21</sup>) or the *Collectio Florianensis* which was commissioned by the Augustinian canons of St. Florian in Austria<sup>22</sup>). The common feature of these beautiful book manuscripts is: They stand on their own, they don't

Ferdinand Schoensteiner, *Die Collectio Claustroneoburgensis – eine neu entdeckte Kanonsammlung*, in: *Jahrbuch des Stifts Klosterneuburg* 2 (1909) 1–154; Alois Haidinger (ed.), *Katalog der Handschriften des Augustiner Chorherrenstiftes Klosterneuburg*, 1: Cod. 1–100, Katalogbd., Wien 1983, 45.

<sup>20</sup>) *Collectio Ambrosiana*: Milan, Archivio Capitolare di Sant' Ambrogio, ms. 54, fol. 307v–320r; analysis: Holtzmann/Cheney/Cheney (as in nt. 11) 35–42.

<sup>21</sup>) *Collectio Alcobacensis prima*: Lisboa, Biblioteca Nacional de Portugal, codigo Alcob. 144 (314), fol. 1v–39v (from the Cistercians of Alcobaca), <http://purl.pt/26867> (13.01.2023); analysis: Holtzmann/Cheney/Cheney (as in nt. 11) 8–25.

<sup>22</sup>) *Collectio Florianensis*: St. Florian, Stiftsbibliothek, ms. III.5, fol. 173r–183r; analysis: Holtzmann/Cheney/Cheney (as in nt. 11) 43–63.



have appendices or prefaces like councils or extravagants. This material evidences the successes of canonists in consolidating their text base, but they were not yet laying the groundwork for an increasing professionalization of their discipline.

#### 4. Paratexts or “Layout on Page Margins”<sup>23)</sup>

However many canonists were in fact working on an increasing professionalization of their discipline. This is demonstrated in manuscripts with paratexts or – as Gero R. Dolezalek says – manuscripts with ‘layout on page margins’. Such manuscripts do not intend to have an ornamental function but aim at being of rich functional use such as the *Collectio Cheltenhamensis* does. It is an interesting object of use and not – as often assumed – a primitive collection. This can be seen from the fact that the compiler knew systematic collections and used them as a model, since the collection contains reunited decretals from systematic collections of dissected decretals, and was unmistakably marked by the rubricators.

I would like to show how the paratextual apparatus of medieval manuscripts inscribes and expresses relations between the producers and consumers of canonical knowledge in this important period of intellectual history<sup>24)</sup>. The paratextual features – annotations, commentaries, corrections, glosses, images, prologues, rubrics, and titles – are common to manuscripts from different branches of medieval knowledge, we find them from the beginning of the decretalistic discipline. Research reveals how these visual expressions, that organize and compile thought on the written page, are consciously applied, negotiated, or resisted by authors, scribes, artists, patrons, and readers. According to Dolezalek, legal study texts are immediately recognizable based on the “standardized layout on paper margins”<sup>25)</sup>.

To give an example the manuscript of the *Cheltenhamensis* contains an extensive layer of glosses, namely three apparatuses also with *extravagantes*, and the glossators are probably the three scribes of the main text<sup>26)</sup>. Scribe A wrote the addressees of every single decretal in the top and bottom margins

<sup>23)</sup> With credit to Gero R. Dolezalek; see his *Raumgestaltung auf Blatt-rändern juristischer Studientexte im 12. Jahrhundert*, in: Stephan Müller/Lieselotte Saurma-Jeltsch/Peter Strohschneider (eds.), *Codex und Raum*, Wiesbaden 2009, 185–194.

<sup>24)</sup> About paratext see Rosalind Brown-Grant/Patrizia Carmassi/Gisela Drossbach/Yolanda Ventura (eds.), *Inscribing Knowledge in the Medieval Book: The Power of Paratext*, Proceedings of the Congress in Orléans “Le Studium”, Institut of Advanced Studies, June 2016, Kalamazoo 2019.

<sup>25)</sup> Dolezalek, *Raumgestaltung* (as in nt. 23) 187 on legal study.

<sup>26)</sup> *Collectio Cheltenhamensis*, London, British Library, Egerton 2819, fol. 11–102; Gisela Drossbach, *Die Collectio Cheltenhamensis: eine englische Decretalen-*

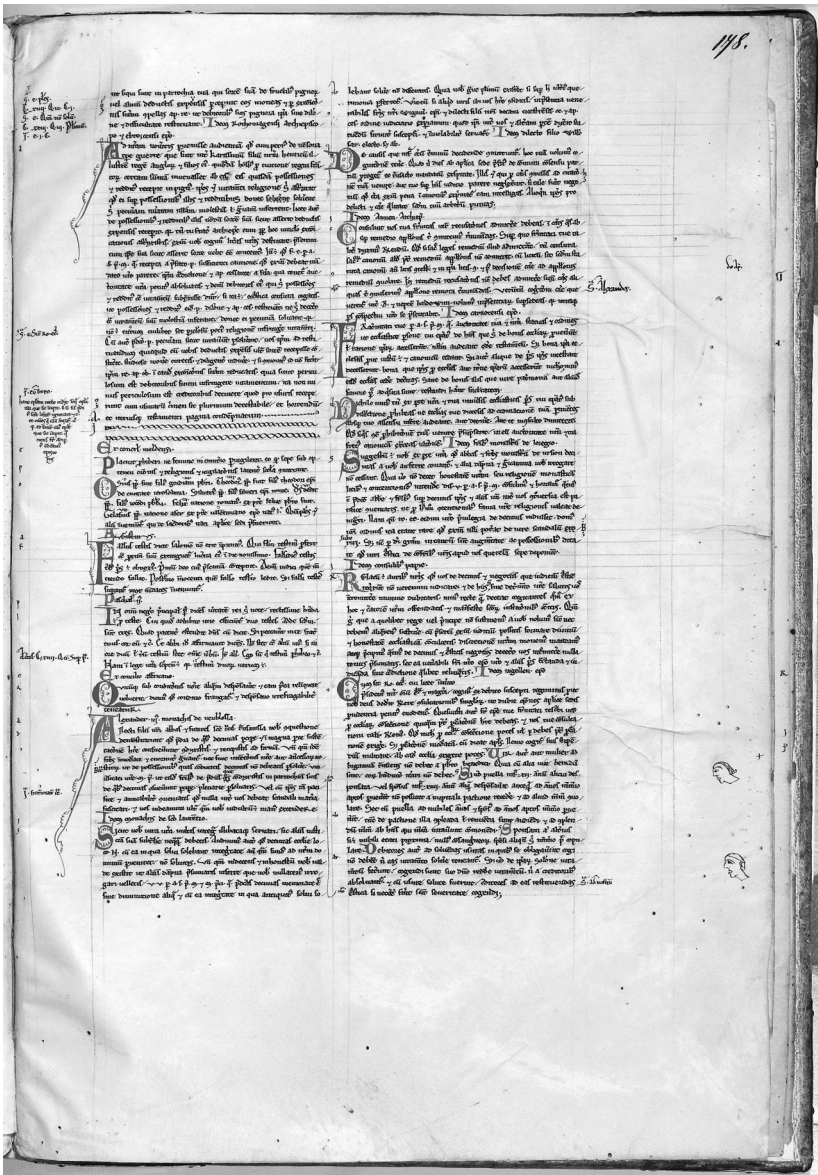
with his personal, formally non bound script. Scribe A wrote also the *allegationes* to the Decretum Gratiani. Scribe B wrote explanations and annotations to the text, for instance the gloss of fol. 83va (Chelt. 16.8): *Confirmatio ergo minor est quam diffinitiva sententia. Item apparet ex hoc, quod aliud est privilegium aliud confirmatio.*

But one of his most important tasks was to equip the text with *notabilia* for the readers by extracting only some words out of the comprehensive decretal text and by adapting them grammatically, for instance on fol. 20ra (Chelt. 2.16) *examinatio ignis et aque* and *personas non suspendere*. Or on fol. 65ra (Chelt. 11.12) is written in the text: *Ceterum quod causam super crimine non consuevimus alii committere, nisi [...]*, and the *notabile* is: *Causam criminis non committi aliis*. Scribe B also wrote *notabiles*, for instance on fol. 68rb. Other *additiones* show a very good knowledge of decretalist writings and decretals, when he indicates other law texts as the formal source (sometimes only by their sigla).

Scribe C was responsible for some extensive explanations of the text (*explanatio*) as fol. 21va (Chelt. 3.1): *Haec causa [...] non esset deneganda: baptismum, confessionem et timore mortis communionem. Licet ecclesie cessare debeant ecclesiastico officio*. However, his comment lacked the note redirecting the reader to the text reference<sup>27</sup>). A particularly interesting gloss found in the apparatus is the marginal gloss to fol. 93rb *supra in marg.:* *De casu huius decretalis multi dubitant. Potest tamen sic poni. Quidam laici decimas possidebant, ut moris est in Gallia*. This intern guidance text note ‘as it is usual in France’ makes believe that the scribe was not French, but he may as well be a person who knew France very well, or a person from France adding ‘as it is often widespread in our region’. Furthermore scribe C wrote the cross-references with *supra*-abbreviations such as *Supra de appellationibus [...]*, and he made a lot of corrections in the text. For example, he wrote in full words what were shortened words of the decretal text, so that they would be faster legible. He gave help for reading the text by adding individual letters or signs above every word. So he enabled the reader to comprehend the much shortened text much faster; for example he wrote two “a” above *nqqm* signifyng *nequaquam*. He also corrected some passages in the text to optimize its high quality. Obviously scribe C

sammlung, Analyse beruhend auf Vorarbeiten von Walther Holtzmann †, Città del Vaticano 2014 [Chelt.]; for the next explanations see the Einführung *ibid.* 11–15.

<sup>27</sup>) About techniques to link the main text to text references and respective glosses on the margin see Gero R. Doležalék, Glosses and the Juridical Genre Apparatus glossarum in the Middle Ages, in: Rivista Internazionale di Diritto Comune 32 (2021) 9–54, esp. 42–43.



Picture 12: Collectio Florianensis. St. Florian, Stiftsbibliothek, ms. III.5, fol. 178r



compared his manuscript with other manuscripts of decretal collections and so he was able to correct a lot of things. He also made one or another *rasura*, for example on fol. 56va line 32.

Another example consists of the so-called Phi-Glosses. Bamberg was the place of origin of the Phi-Glosses, a commentary on the so-called *Collectio Casselana*, a decretal collection originally compiled in Italy later copies of which were preserved in Kassel and Bamberg (MS can. 18). The Phi-Glosses are named by their discoverer after the puzzling *siglum Phi*. According to Peter Landau, who edited and published the Phi-Glosses in 2006, this glossator was “vielleicht der erste deutsche dekretalistische Kanonist” (perhaps the first German decretalist canonist)<sup>28</sup>).

Rubrics are also a type of paratext. They have the function to summarize the legal content of a decretal in the headline. But there are only a few decretal collections with a rubric above the text of the decretal. One of these is the *Collectio Claudiana*<sup>29</sup>). The Canterbury Collection offers a visual-triangular representation of some sort of *additiones*<sup>30</sup>) and also the *Collectio Florianensis*:

Another type of paratext is offered in the *Codex Universitäts- und Landesbibliothek Sachsen-Anhalt, Halle (Saale), Ye 2 80*. It contains the *Breviarium Extravagantium* of Bernard of Pavia, the so-called *Compilatio prima* (fol. 1ra to 78vb). On its bottom margin is Bernard of Pavia’s *Summa super decretalibus* as a gloss and in its margin was written the *apparatus* or commentary of Ricardus Anglicus on *Compilatio prima*. Fol. 1ra contains a colored initial<sup>31</sup>).

Also images can be paratexts, as for example the “I” of the first word in the *Collectio Claustroneoburgensis: Incipiunt decreta sive sententie Alexandri pape III. Romane sedis episcopi*. It shows, on fol. 36ra, a historicizing initial with a human figurine climbing up the letter shaft, pursued by a bear<sup>32</sup>).

<sup>28</sup>) Peter Landau, *Die Phi-Glossen der Collectio Cassellana*, in: Wolfgang P. Müller/Mary Sommar (eds.), *Medieval church law and the origins of the Western legal tradition: a tribute to Kenneth Pennington*, Città del Vaticano 2006, 159–169, 169.

<sup>29</sup>) *Collectio Claudiana*: London, British Library, Cotton Claudius A.iv, fol. 189–196; C. Duggan, *Twelfth-Century Decretal Collections* (as in nt. 2) 85–95 and *tableau IV*; short description: Holtzmann/Cheney/Cheney (as in nt. 11) 132–134; analysis: Gisela Drossbach, *Fünf englische Decretalensammlungen* (in process).

<sup>30</sup>) *Collectio Cantuariensis prima*: London, British Library, Royal 10 B IV, fol. 42v–57v; analysis of the *prima*, *secunda* and *tertia Collectio Cantuariensis*: C. Duggan, *Twelfth-century Decretal Collections* (as in nt. 2) 162–171.

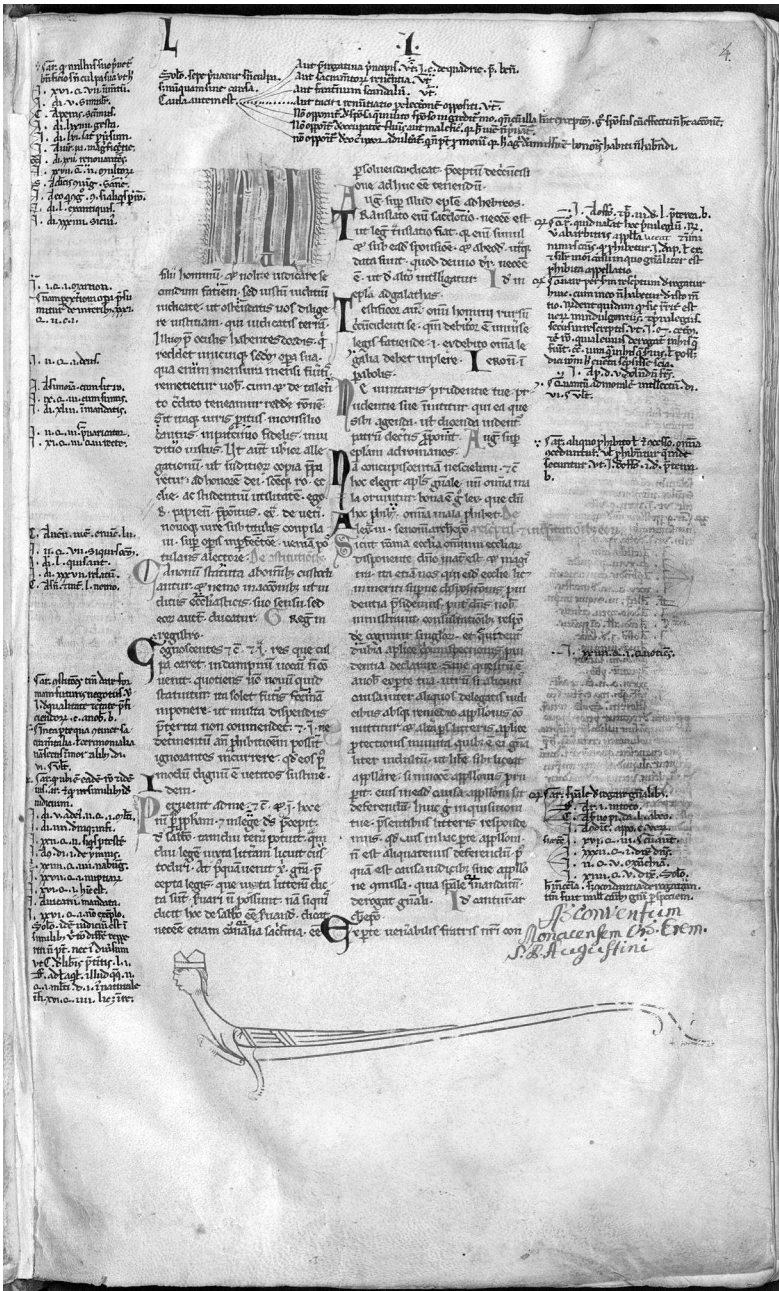
<sup>31</sup>) Gisela Drossbach, *Bologna – München – Halberstadt: Die Collectio Halensis – ein Werk des Johannes Teutonicus?* (Halle, ULB, Ye 2<sup>o</sup> 80), in: Patrizia Carmassi/Gisela Drossbach (eds.), *Rechtshandschriften des deutschen Mittelalters, Produktionsorte und Importwege*, Wiesbaden 2015, 189–208.

<sup>32</sup>) See the image above.



Picture 13: Collectio Halensis. Universitäts- und Landesbibliothek Sachsen-Anhalt, Halle (Saale), Ye 2 80, fol. 1r





Picture 14: Compilatio prima. Bayerische Staatsbibliothek München, Clm 8302, fol. 4r.

The *Collectio prima Monacensis* shows a type of bird<sup>33</sup>). The Augustinians of Sankt Florian in Upper-Austria have a manuscript of Italian provenance, the *Collectio Florianensis*, Stiftsbibliothek, ms. III.5, containing a *Decretum Gratiani* and a decretal collection, with a wonderfully coloured miniature at the beginning (fol. 2r)<sup>34</sup>).

The *Decretum Gratiani* annexes and prefaces are also paratexts: The decretal appendix at Holy-Cross (Heiligenkreuz in Lower Austria) is an attachment to the *Decretum Gratiani* which is stored at the monastery Heiligenkreuz, Stiftsbibliothek, Cod. 44, fol. 298ra to 300vb. Rudolf Weigand, after investigation, judged it to be mostly identical with the manuscripts of the decretal appendix in Paris, BnF, lat. 14316 (Saint-Victor), fol. 286rb–288ra, and Beaune, Bibliothèque municipale Gaspard Monge, ms. 5, fol. 319rb–322ra<sup>35</sup>). These three decretal appendices depend paleographically on the *Decretum* to which they were added through binding the volume, they may even have been written by the very writers of the *Decretum*. During his investigation, Weigand paid no attention to the fact that the *Decretum* in the Beaune manuscript is preceded also by Decretals. Beaune fol. 3ra/b begins with:

– Honorius II writes to the council of all cardinals to all bishops (beginning is missing) (JL 7401. 1125)

– Eugen. III. Ardicio Romanae ecclesiae subdiaconus et magister Omnibonus [ms: Romano Omnibono] (JL 9654. August 1151/52);

– Gregor VII ex registro Gregorii VII quod per vim et illicite introductum est nulla firmitate subsistit (JL 5153/5154. 1080).

Fol. 3rb below and 3v:

– Nikolaus Maniacutius' (Maniacoria) († ca. 1145) composed chronology of popes.

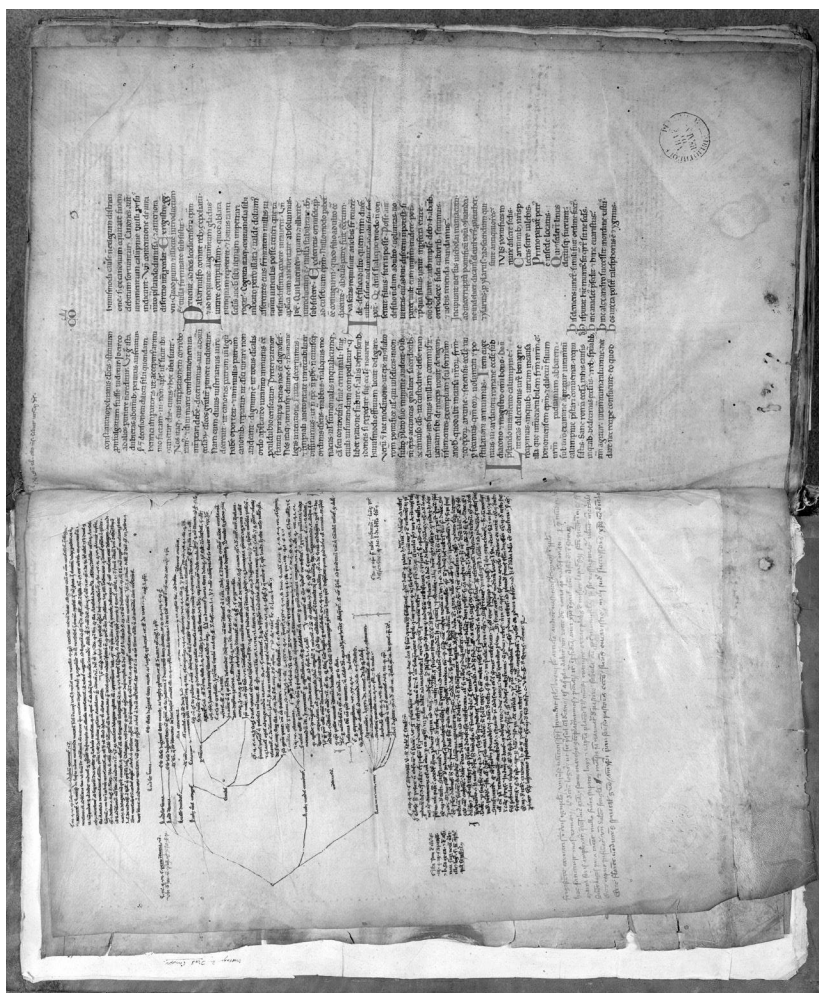
On fol. 4ra starts the *Decretum Gratiani*. But the *folia* of the decretals and the papal list of Nikolaus Maniacutius form one unit, while the *Decretum Gratiani* and the decretal appendix make up another quire<sup>36</sup>). In many De-

<sup>33</sup>) Munich, Bayerische Staatsbibliothek, Clm 8302, fol. 4r; description: Ulrike Bauer-Eberhard [2011], <http://www.manuscripta-mediaevalia.de/?xdbcidn!%22obj%2031796623%22&dmode=doc#|4> (02.02.2023): "4<sup>r</sup> autonome Zeichnung in blauer Tinte am Fuß der Seite: Mischwesen aus Vogelleib, Löwenpranken und menschlichem Kopf (mit Mitra) im Profil nach links"; Drossbach, Bologna – München – Halberstadt (as in nt. 31).

<sup>34</sup>) *Collectio Florianensis* (as in nt. 22)

<sup>35</sup>) Rudolf Weigand, Die Dekretanhänge in den Handschriften Heiligenkreuz 44, Pommersfelden 142 und München 28175, in: *Bulletin of Medieval Canon Law* 13 (1983) 1–25; for the Beaune manuscript: <https://bvmc.irht.cnrs.fr/iiif/23044/canvas/canvas-2161756/view> (06.01.2023).

<sup>36</sup>) For this observation I thank ass. Prof. Dr. Marie-Thérèse Champagne, University of West Florida. Her current publication project "A Christian Hebraist in Twelfth-Century Rome: The Life and Work of Nikolaus Maniacutius" is the result



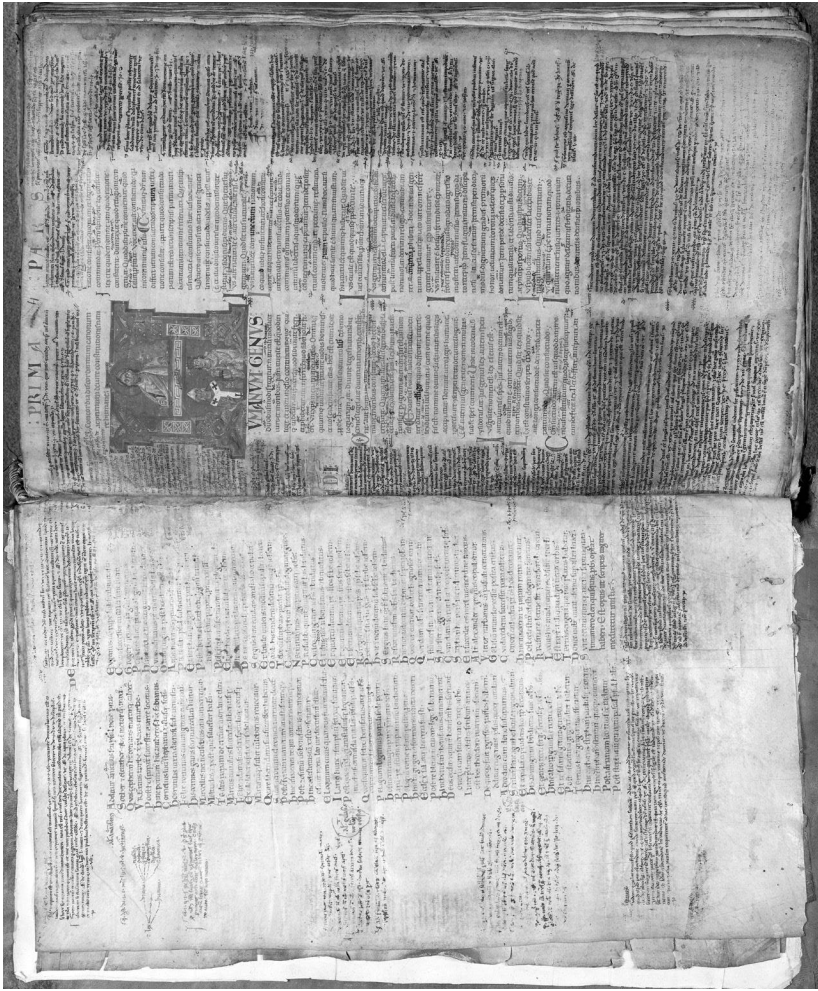
Picture 15: Beaune, Bibliothèque municipale Gaspard Monge, ms. 5, fol. 2v–3r

cretum manuscripts we have so-called decretal appendices which are usually by a different hand. That means that they were bound together at a later occasion<sup>37</sup>). So this collection of extravagants is independent or perhaps

of 10 years of ongoing research. She is preparing an edition of Nicolaus Maniacutius' chronology of popes; cf. Marie-Thérèse Champagne, *Both Text and Sub-Text: the Circulation and Preservation of Two Manuscripts of Nicolaus Maniacutius in Twelfth-Century Europe*, in: *Textual Cultures: Text, Context, an Interpretation* 6.1 (2011) 26–47.

<sup>37</sup>) See for example the Munich decretal appendix *Dekretanhang Monacense*:





Picture 16: Beune, Bibliothèque municipale Gaspard Monge, ms. 5, fol. 3v–4r

even stood in another context, but they are definitely not sole appendices. In this context we can primarily find pre-Gratian or pre-Alexandrian decretals or *extravagantes*. This, in fact, brings us to another topic, namely the inclusion of the pre-Gratian and pre-Alexandrian decretals in the *Regesta decretalium*.

Munich, Bayerische Staatsbibliothek, Clm 28175, fol. 2ra–2vc; analysis: Weigand, *Dekretanhänge* (as in nt. 33) 17–19.

## 5. Pre-Gratian Decretals

Further research into this topic is necessary since the use of decretal collections turns out to not be limited to the decretals of Alexander III and his successors, but they included pre-Gratian and pre-Alexandrian decretals as well as decretals of Innocent III (1198–1216) to the same extent. Despite that, these *extravagantes* are in fact indispensable for a complete recording of decretals in the print version. And indeed: There was a very multifaceted discussion on the definition of ‘*décrétales*’ and especially of ‘*décrétales avant la lettre*’ led by many well-known names like Gérard Fransen, Knut Wolfgang Nörr, Othmar Hageneder, Klaus Herbers, and many others<sup>38</sup>). There are also some good preparatory works such as Martin Brett’s who has compiled the new decretals of Urban II and Paschalis II<sup>39</sup>). I left out, in my research, the *Compilatio prima*, because there is an abundance of extravagants of Gregory VII in it. I was still able to compile a total of about 100 ‘*décrétales avant la lettre*’.

When speaking of decretals in a narrow sense, on the other hand, it can be said that they were passed down primarily because of their legal content, which has survived in the form of regulations, which consisted eventually of no more than a few sentences. I was able to show this in early examples, such as in the letters of Leo III and Leo IX. In the High Middle Ages, the provisions became more complex, and constitutions were also of interest. It is possibly not a coincidence that both great papal letters concerning the *pallium*, namely of Gregory the Great and Paschalis II, were taken up by the compilers of the decretal collections. In general, the decrees of Paschalis II seem to have been of great interest in terms of their thematic range, their historically significant precedents, and procedural law in the first quarter of the 11<sup>th</sup> century. It is with the decretals of Urban II around 1090 that texts with the typical rescript technique occur more often. Early case-study decretals stem from Innocent II around 1140, the first consultation decretal from Eugene III was composed in the same way.

Leo IX’s decretal to the archbishop Eadsige of Canterbury from 1049/50 serves here as an example for transmission and transport<sup>40</sup>). The text states

<sup>38</sup>) Fransen, *Décrétales*; Nörr, *Päpstliche Dekretalen* (both as in nt. 5); Othmar Hageneder, *Papstregister und Dekretalenrecht*, in: Peter Classen (eds.), *Recht und Schrift im Mittelalter*, Sigmaringen 1977, 319–347; Klaus Herbers, *Papstbriefe und Papsturkunden, Abgrenzungen und Überschneidungen im früheren Mittelalter*, in: Andrea Stieldorf (ed.), *Die Urkunde, Text – Bild – Objekt*, Berlin 2019, 125–140.

<sup>39</sup>) Martin Brett, *Some new letters of the Popes Urban II and Paschal II*, in: *Journal of Ecclesiastical History* 58 (2007) 75–96.

<sup>40</sup>) WH 539; JL 13912. Böhmer, *Reg. Imp. III,5,2: Salisches Haus 1024–*

that a fallen priest who, in this case, was found guilty of manslaughter, may be reinstated to his office after an appropriate penance which was set to be 12 years. The text also includes a quotation from Pseudo-Calixt I via Burchard of Worms<sup>41</sup>). The decretal has survived exclusively in English and French decretal collections, which name either no one or Alexander III as the issuer, but Aronstam and then also Kuttner were able to identify them<sup>42</sup>). In general, the ways of transmission or transport of the decretals are manifold. They may have been taken from the papal registers in Rome, commissioned by bishops and archbishops, taken by them when they moved to another (arch)episcopal seat, as for example William Whitehand who took decretals from Sens to Reims<sup>43</sup>). One imagines that scribes and jurists were wandering with their documents<sup>44</sup>). Aside from that, the circulation of texts and books within the houses of a religious community certainly also played a major role, such as that of the Cistercians<sup>45</sup>). Places of exchange and acquisition were also the synods and councils. The Bishop of Tortosa brought the *Collectio Dertusensis prima* along with him from Rome to his city of residence, and the Bishop of Vic took the *Collectio Bambergensis* from the 3<sup>rd</sup>

1125, Abt. 5: Papstregesten 1024–1058, Lfg. 2: 1046–1058, Köln 2011, Nr. 510, bearb. von Karl A. Frech, online: [http://www.regesta-imperii.de/id/1049-00-00\\_88\\_0\\_3\\_5\\_2\\_182\\_510](http://www.regesta-imperii.de/id/1049-00-00_88_0_3_5_2_182_510) (20.01.2023).

<sup>41</sup>) *The fons materialis* is Pseudo-Calixtus I, ep. 2 c. 20, ed. Paul Hinschius, *Decretales Pseudo-Isidorianae et Capitula Angilramni*, Leipzig 1863, 142; Charles Duggan, *St Thomas of Canterbury and aspects of the Becket dispute in the decretal collections*, in: Coloman E. Viola (ed.), *Medievalia Christiana XI<sup>e</sup>–XIII<sup>e</sup> siècles, Hommage à Raymonde Foreville*, Paris 1989, 87–135 = reprint in: C. Duggan, *Decretals and the creation of “New Law”* (as in nt. 3) 95 Nr. 2.

<sup>42</sup>) Robin Aronstam, *Pope Leo IX and England: An Unknown Letter*, in: *Speculum* 49 (1974) 537–541; Stephan Kuttner, *The decretal Presbiterum (JL 13912) – A letter of Leo IX*, in: *Bulletin of Medieval Canon Law* 5 (1975) 133–135 = reprint in: Stephan Kuttner, *Medieval Councils, Decretals and Collections of Canon Law*, London 1980, Nr. 6. In addition, this decretal of Leo IX can be found in Oxford, Bodleian Library (Ms. Barlow 37, fol. 13 r/v), ca. 1200, as an appendix to the penitential letters of Wulfstan; in Durham, Dean and Chapter Library, ms. C.III.1, fol. 63v to D. 50 c.37, around the year 1200; also in the *Decretum Gratiani and Liber poenitentialis* of Hugh of Flamborough c. 20, ed. Francis Firth, *A critical ed. with introd. and notes*, Toronto 1971, 117 lines 39–40.

<sup>43</sup>) Franck Roumy, *Une collection inédite d’authenticae, Composée en Normandie à la fin du XII<sup>e</sup> siècle*, in: Luca Loschiavo/Giovanna Mancini/Cristina Vano (eds.), *Novellae constitutiones, L’ultima legislazione di Giustiniano tra Oriente e Occidente*, da Tribonio a Savigny, *Atti del Convegno Internazionale*, Teramo 30–31 ottobre 2009, Rom 2011, 155–205, esp. 163–172.

<sup>44</sup>) Linda Fowler-Magerl, *The Collection and Transmission of Canon Law along the Northern Section of the Via Francigena in the Eleventh and Twelfth Centuries*, in: Bruce Brasington (ed.), *Bishops, Texts, and the Use of Canon Law around 1100: Essays in Honor of Martin Brett*, Aldershot 2008, 129–140.

<sup>45</sup>) Peter Landau, *Zisterzienserbibliotheken und kanonisches Recht*, in: Tom Graber/Martina Schattkowsky (eds.), *Die Zisterzienser und ihre Bibliotheken*, Leipzig 2008, 291–307.



Lateran Council in Rome back home<sup>46</sup>). Also the Archbishop of Trondheim, who had studied at Saint-Victor in Paris, took along a number of papal letters addressed to him when he was sent to exile in England<sup>47</sup>). And perhaps it was the exile of Alexander III in Sens that initiated in him the idea of collecting and compiling<sup>48</sup>). The rapid transfer of single decretals that emerged at that time on the market can be attested as well in schools. The juridical manuscripts traveled from place to place and from country to country, and thus the users changed. These manuscripts were working tools used daily not only in studies but also in legal practice – and each work was used by a changing multitude of people in a multitude of different places. But where did this begin?

## 6. The Paris Basin – The Use of Decretals in Schools

In order to complete the *Regesta decretalium* and to incorporate my recently discovered *extravagantes*, that is the decretals preserved outside of decretal collections, I compiled a so-called *Corpus fontium extravagantium*, which is a corpus of works containing decretals. So, I assembled and evaluated sources such as Summae to the Decretum Gratiani, Glossaries, Ordines iudiciarii, Tractatus/tracts, penitential books, chronicals etc. of the late 12<sup>th</sup> and early 13<sup>th</sup> centuries.

So I would like to demonstrate how the pope's decretals were used in the schools of the Paris Basin area – a region that stretches out beyond Paris. It belongs actually to the two Archdioceses of Sens and Reims. That being said, the Paris Basin is not only the region of Paris which is part of the suffragan bishopric Sens but also includes Champagne and Normandy. Abigail Firey and Melodie Eichbauer are composing a wonderful digital Story map called “Legal Culture in the Paris Basin, 800–1250”<sup>49</sup>). It explains the development of law and justice in that time period. There is a visible gap between Decretum Gratiani and Pope Innocent III and 1250. I am convinced – it is my hypothesis – that the Paris Basin is of greater importance for the origin and

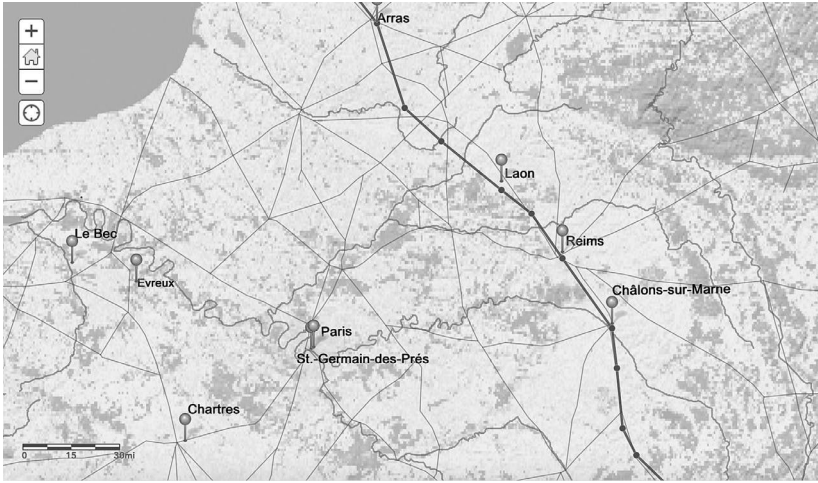
<sup>46</sup>) Stanley Chodorow, *The Collectio Dertusensis tertia and Tortosa Ms 269*, in: *Revista Española de derecho canónico* 39 (1983) 27–42, here 27f. with note 3.

<sup>47</sup>) Anne J. Duggan was able to prove this in her research *Eystein and the World of the Learned Law, With special reference to the Fragmentum Asloense*: Oslo, Riksarkivet, Latin fragment 152, 1–2, in: Tore Iversen (ed.), *Archbishop Eystein as Legislator, The European Connection*, Trondheim 2011, 23–51.

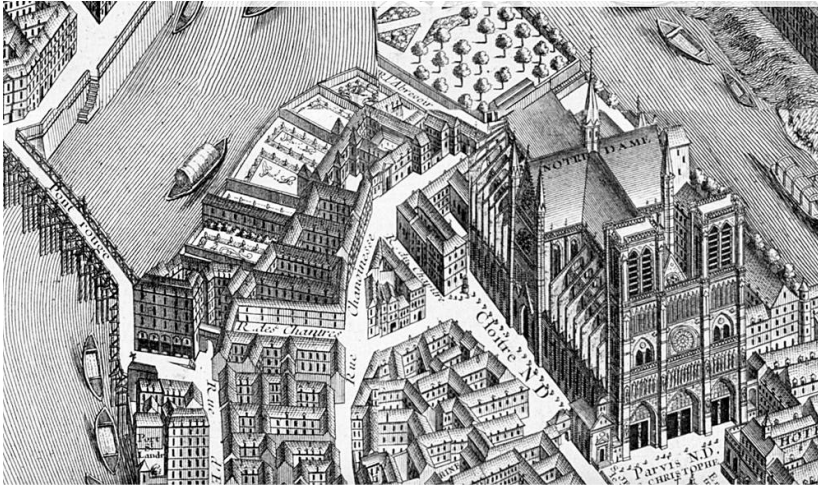
<sup>48</sup>) See also connection between the case of Thomas Becket and collections of decretal letters in: C. Duggan, *St Thomas of Canterbury* (as in nt. 39).

<sup>49</sup>) It is to appear shortly under [uky-edu.maps](https://uky-edu.maps.arcgis.com/apps/Cascade/index.html?appid=8616d3936c064c4abf2f70099d3225da): <https://uky-edu.maps.arcgis.com/apps/Cascade/index.html?appid=8616d3936c064c4abf2f70099d3225da>. I thank Prof. Dr. Abigail A. Firey, University of Kentucky, and Prof. Dr. Melodie Eichbauer, Florida Gulf Coast University, for a wonderful cooperation.

emergence of decretals. I will try to illustrate this with the so-called *summae* which are important commentaries on the Decretum Gratiani.



Picture 17: Via Francigena from “The Paris Basin in the larger context, ca. 1050–ca. 1130”<sup>50)</sup>



Picture 18: Image of L'Île de la cité from “The University and its Communities, ca. 1150–1300”<sup>51)</sup>

The most important *summae* are the *Summa Simonis* of Simon of Bisignano and the *Summa Lipsiensis* written by an anonymous author. The *Summa Simonis* was compiled in Northern France before March 1179, the historical-

<sup>50)</sup> *Ibid.*

<sup>51)</sup> *Ibid.*

critical edition was published by Pier Virgilio Aimone Braida<sup>52</sup>). Simon cited 90 decretals, many of them dissected, which led to a total of 190 quotes. In an article of 2017 Martin Bertram argued that Simon didn't go to Bologna after 1179. He argued that Simon should be identified with "Simon of Apulia", a prelate who was well known in England<sup>53</sup>).

A team of scholars assembled by Peter Landau and Waltraud Kozur has edited the *Summa Lipsiensis* in five books on 2.000 pages. In the last edition of 2018, Waltraud Kozur demonstrated that the *Summa* was not compiled in Oxford or Northern France, but in Paris. It has ca. 320 *allegationes* of dissected decretals<sup>54</sup>). This supports my idea of the decretals' origin!

Aside from that, the *Summa Tractatus magister* from Reims in 1182 includes ca. 36 decretals of Alexander III and two previous ones<sup>55</sup>).

For John Wei the *Collectio Brugensis*, which was produced in Reims, was the source for the decretals in the very short fragmentary decretist *Summa Reverentia sacrorum canonum*, which was probably also produced in Reims in 1182. The fragmentary *Summa* stops at C.1 q.7 § 6; Wei's edition of 2018 has just 333 pages and reveals about 150 citations of decretals<sup>56</sup>). In the beginning, the *Summa Coloniensis* was compiled circa 1168 in the North of France or Paris<sup>57</sup>). This *Summa* is very remarkable as it is important for the genesis of collecting decretals as a whole. Since the *Summa Coloniensis* has 16 decretals – amongst them three of Alexander III, 2 of Eugen III (1145–1153), 1 of Adrian IV (1154–1159) and ten pre-Gratian decretals. The reason why

<sup>52</sup>) Pier V. Aimone Braida (ed.), *Summa in Decretum Simons Bisinianensis*, Città del Vaticano 2014, XXXVI.

<sup>53</sup>) Martin Bertram, Simon of Apulia, *Randbemerkungen zu der Edition der Dekretsumme des Simon von Bisignano*, in: *Mittelalter, Interdisziplinäre Forschung und Rezeptionsgeschichte*, 18. Mai 2017 <https://mittelalter.hypothesen.org/10240> (12.01.2023). Simon of Apulia was Dean of York and later Bishop of Exeter before he died in 1223.

<sup>54</sup>) Waltraud Kozur/Peter Landau/Karin Miethaner-Vent/Rudolf Weigand † (eds.), *Summa Omnis qui iuste iudicat sive Lipsiensis 1–5*, Città del Vaticano 2007–2018.

<sup>55</sup>) Peter Landau, Die Dekretsumme 'Tractatus Magister' und die Dekretistik in Reims in der zweiten Hälfte des 12. Jahrhunderts, in: *ZRG KA 100* (2014) 132–152.

<sup>56</sup>) John C. Wei (ed.), *Summa Reverentia sacrorum canonum*, Città del Vaticano 2018; John C. Wei, The Extravagantes in the Decretist *Summa 'Reverentia sacrorum canonum'*, in: *Bulletin of Medieval Canon Law* 29 (2012) 169–182. For Peter Landau, Gérard Pucelle und die Dekretsumme *Reverentia sacrorum canonum*: Zur Kölner Kanonistik im 12. Jahrhundert, in: Bernard d'Alteroche/Florence Demoulin-Auzary/Olivier Descamps/Franck Roumy (eds.), *Mélanges en l'honneur d'Anne Lefebvre-Teillard*, Paris 2009, 623–638, the *Summa Reverentia sacrorum canonum* was probably produced in Cologne by Gérard Pucelle.

<sup>57</sup>) Gérard Fransen/Stephan Kuttner (eds.), *Summa Elegantius in iure diuino seu Coloniensis*, 4 vol. New York 1969–1990. For Landau, Gérard Pucelle (as in nt. 56) the *Summa Coloniensis* was produced in Cologne.

I am pointing this out is because it sheds light on a very important point: the simultaneity of events. That means that the decretal collections did not emerge before the Summae with decretals, but both came into being almost at the same time<sup>58</sup>!

Overlooking the early Summae: The Summa De antiquitate et tempore, preserved only in a manuscript in Göttingen from ca. 1170, is a French manuscript with provenance of Cologne<sup>59</sup>). It has no decretals, and also the Summa Parisiensis<sup>60</sup>) has no decretals. The Summa Monacensis was compiled in 1172 in Northern France or Paris and has just 3 pre-Gratian decretals<sup>61</sup>). So far it can be shown that decretals were cited neither at the law school of Bologna (Rufinus, Stefaphanus Tornacensis, Faventinus) nor at the law school of Cologne. But a huge number of decretals were cited in the Paris Basin and in Paris. This changed with Huguccio of Pisa. His Summa decretorum is from 1188–1190 and it is *opinio communis* that it was compiled in Bologna. As Wolfgang P. Müller shows, a complete edition would have 3.000 pages, but Müller's list included only 230 decretals<sup>62</sup>). Alanus Anglicus still compiled his Summa Induent Sancti until 1195 in Northern France<sup>63</sup>). After 1210, Alanus compiled a decretal collec-

<sup>58</sup>) In this context, a thesis is very noteworthy: Danica Summerin, Using the 'Old Law' in Twelfth-Century Decretal Collections, in: Christof Rolker (ed.), New Discourses in Medieval Canon Law Research, Challenging the Master Narrative, Leiden 2019, 145–169.

<sup>59</sup>) Göttingen, Universitätsbibliothek, ms. Iur. 159. I thank Prof. Dr. Tatsushi Genka, University of Tokyo, for letting me see his manuscript of his still unpublished edition of the Summa De antiquitate et tempore; Peter Landau, Die Kölner Kanonistik des 12. Jahrhunderts: ein Höhepunkt der europäischen Rechtswissenschaft, Badenweiler 2008. Idem, Die Dekretsumme Fecit Moses tabernaculum – ein weiteres Werk der Kölner Kanonistik, in: ZRG KA 96 (2010) 602–608, identified Godfrey (Gottfried) of St. Andrew (Andreas) in Cologne as the author.

<sup>60</sup>) The birthplace of the Summa Parisiensis is for Terence P. Maclaughlin C.S.B., The Summa Parisiensis on the Decretum Gratiani, Toronto 1952, in Paris, and in Sens for Peter Landau, Master Peter of Louveciennes and the Origins of the Parisian School of Canon Law around 1170, in: Joseph W. Goering/Stephan Dusil/Andreas Thier (eds.), Proceedings of the Fourteenth International Congress of Medieval Canon Law, Toronto 5–11 August 2012, Città del Vaticano 2016, 379–394.

<sup>61</sup>) Again, I thank Tatsushi Genka (as in nt. 59) who informed me about the decretals in the still unpublished Summa Monacensis; see instead Tatsushi Genka, Die Summa Monacensis und verwandte Werke, in: ZRG KA 107 (2021) 151–171; Winfried Stelzer, Die Summa Monacensis (Summa inperatorie maiestatis) und der Neustifter Probst Konrad von Albeck, in: Mitteilungen des Instituts für Österreichische Geschichtsforschung 88 (1980) 94–112. For Landau, Master Peter of Louveciennes (as in nt. 60) is Peter of Louveciennes the author of the Summa Monacensis, which he thinks was compiled in Paris.

<sup>62</sup>) Wolfgang P. Müller, Huguccio: The Life, Works, and Thought of a twelfth-century Jurist, Washington D.C. 1994, Appendix I: A Cumulative List of Extravagantes Cited in the Summa, 153–172.

<sup>63</sup>) Richard M. Fraher, Summa Induent Sancti, Città del Vaticano 1991.

tion in Bologna<sup>64</sup>). It would be possible for me to prove similar results concerning *Ordines Iudicarii* and *Quaestiones*. But I am only going to make a brief remark: Following Linda Fowler-Magerl's famous book, the first *ordines* like the English "Olim" did not include any decretals. In fact, it took a couple of years before some decretals were added to the *ordines* of the North of France<sup>65</sup>).

All in all, I am convinced that the production and spread of decretals happened mainly in the Paris Basin and not in England or Italy. We may wonder if a center of legitimating decretals will be revealed with ongoing research, e.g., a person like the Archbishop in Sens, or an institution like a monastery, maybe Saint-Victor in Paris. My search for answers leads me to compile early decretal collections that also contain pre-Gratian decretals and other texts – like those of Burchard and early councils. Meanwhile, the English decretal collections contain nothing but law or legal normativity. The *Regesta Decretalium*, and thus the overview of all decretal collections, raises further questions that should be pursued: To look at the materiality and thus the use of collections – we are just at the beginning. Paratexts or the description of margin comments could provide more information and direct the viewer to further extravagants. The inclusion of pre-Gratian and pre-Alexandrian decretals in the *Regesta Decretalium* shows their use in transfer. Decretal collections are a work in progress. Now I am apt to agree with Walter Ysebaert that it is impossible to classify collections on the basis of the letters they include<sup>66</sup>). I would like to close by quoting Bruce Brasington who said: "In an age of intellectual ferment no forum was more immediate and flexible than the letter collection"<sup>67</sup>).

<sup>64</sup>) Rudolf von Heckel, *Die Dekretalensammlungen des Gilbertus und Alanus nach den Weingartener Handschriften*, in: *ZRG KA* 29 (1940) 116–309, Alanus 1. version 120–124.

<sup>65</sup>) Linda Fowler-Magerl, *Ordo iudiciorum vel ordo iudiciarius* (= *Ius commune Sonderheft* 19), Frankfurt a. M. 1984, 73–80.

<sup>66</sup>) Walter Ysebaert, *Medieval Letters and Letter Collections as Historical Sources: Methodological Questions and Reflections and Research Perspectives* (6<sup>th</sup>–14<sup>th</sup> Centuries), *Studi Medievali* 50 (2009) 41–73, 72.

<sup>67</sup>) Bruce Brasington, *Some New Perspectives on the Letters of Ivo of Chartres*, *Manuscripta* 37 (1993) 168–178, 173.