

*BARBARA BOMBI*

*Codicological and Canonistic  
Examination  
of the Decretal manuscripts  
Oxford, Bodl. Lat. theol. b.4 and  
Durham, Cathedral Library C.I.9*

This paper focuses on the production of *Liber Extra* manuscripts, examining two significant examples: Oxford, Bodleian MS Lat. theol. b.4 (Fig. 116-120 and also Internet: see Indice n. 3) and Durham, Cathedral Library C.I.9 (Fig. 31-32). Both manuscripts were copied in the 13<sup>th</sup> century and are richly decorated in Italian and, in the case of C.I.9, Anglo-French styles. In particular I shall concentrate on the codicology of these manuscripts and I shall address the following questions:

1) What does the codicological examination of the manuscripts tell us about the circumstances of their compilation (especially place and date)?

2) To what extent do canonistic texts, commentaries and additions copied in the manuscripts allow us to place and date them?

3) How far can the codicological analysis of the manuscripts inform us about the circumstances of their decoration?

### **1) *MS Oxford, Bodl. MS Lat. theol. b.4***

This manuscript is the third earliest known copy of the *Liber Extra* and dates from 1241. As Martin Bertram highlighted, the first dated *Liber Extra* manuscript, which is now in Florence at the Biblioteca Nazionale Pal. 157, dates from 1235 and it was probably written in southern Italy by a certain *Gualterius*; the second earliest dated manuscript was compiled by a Lombard notary in 1239 and is now preserved in Florence at the Biblioteca Laurenziana III sin. 9.<sup>1</sup>

---

I am most grateful to Dr. Giovanna Murano and Dr. Martin Bertram for their comments on this paper.

<sup>1</sup> M. BERTRAM, *Die Dekretalen Gregors IX: Kompilation oder Kodifikation?*, in: C. LONGO OP (cur.), *Magister Raimundus. Atti del Convegno per il IV Centenario della*

The manuscript measures 426x257 mm and is formed of 216 folios, organized in 23 quires: 18 quires are *quinterni*; 4 *quaterni*; while the last quire of book II is formed of two bifolios and coincides with the end of the first part of the *Liber Extra*, providing early evidence of the separation of the *Liber Extra* in two parts. The division between the first part (book I/II) and the second part of the *Liber Extra* (book III-V) is highlighted at folios 100rb and 100v, which are blank, whereas the beginnings of books II, IV and V follow over without any break. Catchwords are present at the end of all the quires, but in the final quires of part I and II.<sup>2</sup>

The main text of the *Liber Extra* is written in Italian *textualis*, datable to the first half of the 13<sup>th</sup> century. Fol. 1ra opens without any inscription and *Rex pacificus* is generically addressed to *dilectis filiis doctoribus et scholaribus universis*. The *explicit* of the *Liber Extra* text at fol. 216vb refers to the owner of the manuscript: *Expliciunt decretales domini Bertrandi in prima parte et in secunda*.

Our manuscript also represents the second earliest known manuscript where the *Liber Extra* text comes with the Ordinary Gloss of Bernard of Parma, which was written by 1239.<sup>3</sup> The *explicit* of the gloss at fol. 216vb recites: *Finito libro referamus gratiam atque laudem Domino Ihesu Christo. Ego Leonardus de Gropis <civis add. Kuttner-Smalley> Mutine <civis?>*

---

Canonizzazione di San Raimondo de Penyafort (1601-2001), Roma 2000, p. 74-76; M. BERTRAM, Dekorierte Handschriften der Dekretalen Gregors IX. (*Liber Extra*) aus der Sicht der Text- und Handschriftenforschung, Marburger Jahrbuch für Kunstwissenschaft 35 (2008), p. 33.

<sup>2</sup> See Appendix 1.

<sup>3</sup> BERTRAM, Dekorierte Handschriften (see n. 1), p. 33, note 27.

*apparatu*<*m*; Kuttner: *apparatus*; little hole on the top of the last letter> *in hac compilatione decretalium fideliter scripsi. In Christi nomine die <mer>curii <12 July 1241 was a Friday, not a Wednesday> xii intrante iulio in millesimo ccxli indictione xiiii<!> domino Frederico imperatore Romanorum.*<sup>4</sup>

The gloss was hence written by *Leonardus de Gropis* and finished by 12 July 1241, which we should consider as *terminus ante quem* for the compilation of the manuscript.<sup>5</sup> Leonard's hand is different from that of the main text, in small *textualis* and brown ink, while the gloss is not decorated. Frank Soetermeer has identified *Leonardus de Gruppis* as a notary public from Modena, active between 1241 and 1269, when he was in Bologna. On 3 June 1269 he signed a contract in Bologna to copy in nine months the *Infortiatum* along with the *Tres partes*, while on 15 March his son Paolo, a notary public as well, copied the *Digestum vetus*.<sup>6</sup>

As the evidence stands, the manuscript may have been written either in Modena or Bologna. The reference to Frederick II in Leonard's date may suggest that the manuscript was glossed in lands under the control of the Empire. From 1226 Modena, Cremona, Parma supported the imperial

---

<sup>4</sup> S. KUTTNER, B. SMALLEY, The 'Glossa Ordinaria' to the Gregorian Decretals, *English Historical Review* 60 (1945), p. 97-103; BERTRAM, *Dekorierte Handschriften* (see n. 1), p. 33-34

<sup>5</sup> KUTTNER, SMALLEY, The *Glossa Ordinaria*, p. 99.

<sup>6</sup> F. SOETERMEER, A propos d'une famille de copistes. Quelques remarques sur la librairie à Bologna aux XIII<sup>e</sup> et XIV<sup>e</sup> siècles, *Studi Medievali* III 30 (1989), p. 425-478, at p. 434 note 38; repr. in : ID., *Livres et juristes au Moyen Âge*, Goldbach 1999, p. 95\*-148\*, at p. 104\*; see also G. MURANO, *Copisti a Bologna (1265-1270)*, *Textes et Études du Moyen Âge* 37, Turnhout 2006, p. 30f., 149 no. 178.

party and Bologna joined the Second Lombard League, but by April 1241 the imperial party controlled both Bologna and Modena. Hence Leonard's dating does not shed new light on the place where the manuscript was completed. Similarly, the indiction should be 10 and not 14, as the scribe points out, although this is a common mistake.

The most notable codicological features of the manuscript are a number of cuts in the margin of the parchment. Many of these cuts have been carefully stitched, possibly after the gloss had been copied.<sup>7</sup>

These cuts are of three kinds:

○ Horizontal cuts that neither affect the main text nor the gloss, which was indeed carefully written around the cuts. This is the case for a majority of folios in the manuscript.<sup>8</sup>

○ Horizontal cuts made after the gloss was copied and which do not affect the gloss (for instance fol. 2, 205, 198-203).<sup>9</sup>

○ Horizontal cuts made after the gloss was copied and which affect the gloss (for instance fol. 10, 24, 76, 79, 105, 132, 193, 198, 199, 200, 201, 202, 203).<sup>10</sup>

Horizontal cuts that neither affect the text of main text nor the gloss, referred to as **A** in Appendix 1, are especially interesting, as they contribute to the understanding of the stages of compilation of the manuscript.<sup>11</sup>

- Generally, the position of these cuts changes when a new quire begins, as happens at fol. 38-39,

<sup>7</sup> See Appendix 1, Table.

<sup>8</sup> These cuts are called **A** in Appendix 1, Table.

<sup>9</sup> These cuts are called **B** in Appendix 1, Table.

<sup>10</sup> These cuts are called **C** in Appendix 1, Table.

<sup>11</sup> See the pictures no. 1-6; Appendix 1.

58-59, 96-97. A few exceptions are however found, for instance at fol. 168-169.

- In some cases, these cuts appear in the same position in consecutive folios, for instance at fol. 34-35 and 141-145.

- Similarly, there is no rule on the part of the quire where the cuts appear, as they indistinctly occur in both sections of the quire.

When was the parchment of our manuscript cut? In other words, was the parchment already cut, when the main text and the gloss were copied in the manuscript? Although these cuts are very deep, they are almost always sparing both the main text and the gloss, which was indeed carefully written around the cuts. Two possible answers can be given to these questions:

1) On the one hand, we can argue that the main text and the gloss were copied despite the quality of the parchment was poor and already affected by deep cuts. If the scribe of the main text and *Leonardus de Gropis* worked on the manuscript at the same time, they had to rule the folios and write the gloss around the cuts, which were then stitched. Likewise, one could suggest that the parchment was chosen despite its cuts as the original intention was to copy only the legal text. This is an early copy, dating only seven years after the *Liber Extra* was issued in 1234 and only two years after the first dated copy with the gloss of Bernard of Parma is known to have been written (1239).<sup>12</sup>

2) On the other hand, if *Leonardus de Gropis* worked on the manuscript after the scribe of the

---

<sup>12</sup> Firenze, Bibl. Laurenziana S. Croce III.sin.9. See BERTRAM, *Dekorierete Handschriften* (see n. 1), p. 33, note 27 and p. 60.

main text had copied the text and after the parchment had been damaged by the cuts, we can assume that it was considered too costly to dispose of the quires and the cuts were stitched so that the gloss could be copied.

So far, to my knowledge the only other *Liber Extra* manuscript with comparable horizontal cuts is Oxford, New College 205, which was compiled in Italy in the second half of the 13<sup>th</sup> century and is known to contain an early version of the *Apparatus (Lectura) decretalium* of Hostiensis, dated between 1254 and 1265. Although the number of cuts in the New College manuscript is far smaller than that in the Bodleian manuscript, some of the cuts in the parchment of this manuscript are as deep as those in the latter. Similarly, it is worth noting that the cuts in the New College manuscript never affect the legal text, as indeed they do in the Bodleian one.<sup>13</sup>

My last point concerns the extent to which these cuts spoil the decoration of our manuscript. Pächt and Alexander argue that the manuscript represents a fine example of Bolognese style in Modena and they do not deal directly with this issue. Accordingly, Robert Gibbs points out that the manuscript stands as an example of the “Second Bolognese style”, but he does not focus on the cuts in the margins of the manuscript.<sup>14</sup>

---

<sup>13</sup> See Oxford, New College MS 205, fol. 25, 31, 40, 185, 199, 215, 216, 218, 220, 239.

<sup>14</sup> O. PÄCHT, J. J. G. ALEXANDER, *Illuminated manuscripts in the Bodleian Library, Oxford II: Italian School*, Oxford 1970, p. 7-8 no. 73 (pictures of the illuminations of book II, III, IV); R. GIBBS, *The development of the Illustration of Legal Manuscripts by Bolognese Illuminators between 1241 and 1298*,

The cuts never affect either the five illuminations at the beginning of each book, as they are well within the section of the writing area ruled to accommodate the *Liber Extra* text, while the gloss is not illuminated. Similarly, the cuts do not generally touch either the pen-flourished initials or the pen-work flourishing the *lemmata* keying the main text to the gloss. However, a few exceptions occur, for instance at fol. 88v, 96v, 108v, 121v, 157va, 169va, whereas in the same folios the gloss is written around the cuts without being touched by them.<sup>15</sup>

To what extent was the decorator concerned with the cuts? Were the initials flourished before or after the cuts were stitched together? Robert Gibbs stated that the manuscript was finished by 1241 and it “has rubrication and illumination added subsequently but early on, and probably all for its original owner”. In Gibbs’s opinion “the scribe either designed the manuscript himself or took an important and precocious role in this process”.<sup>16</sup>

Although no certain answer is available, two possibilities still stand open:

1) The scribe, who was commissioned to copy the *Liber Extra* by *Bertrandus*, outlined the layout of the folios including the five illuminations before 1241, while *Leonardus de Gropis* copied the gloss in 1241 after the cuts had heavily damaged the parchment. *Leonardus de Gropis* therefore dealt with the cuts in the margins, which partly affected the work of the artist/scribe designing the pen-flourished initials of

---

in: V. COLLI, *Juristische Buchproduktion im Mittelalter, Studien zur europäischen Rechtsgeschichte* 155, Frankfurt am Main 2002, p. 194-199, 216f.

<sup>15</sup> See the pictures no. 1, 3a, 3b, 4, 6.

<sup>16</sup> GIBBS, *The development* (see n. 14), p. 195, 197, 217.



the main text. These were therefore added after the gloss had been copied, as Robert Gibbs also argues.

2) The scribe of the main text and *Leonardus* worked on the manuscript at the same time in 1241 and dealt as well as they could with the cuts, already present in the parchment, stitching them together in order to allow the gloss to be copied and the *Liber Extra* to be decorated with pen-flourished initials. Similarly, the decorator dealt with the poor quality of the parchment as well as he could.

### **2) Durham, Cathedral Library MS C.I.9**

The manuscript measures 475x290 mm and is formed of 350 folios, organized in 36 quires: 26 quires are *quinterni*; 2 are *quaterni*; 3 are *sexterni*; and 5 quires are irregular, four of these (quires 1, 16, 33, 36) mark the beginning or the end of different texts in the manuscript. Catchwords are present at the end of most of the quires. The latter are decorated: with figurines representing animals and grotesques (quires 1-7 and 17-18); with pen-work (quires 32-35), or not decorated at all (quires 8-15 and 19-30). The end of the first part of the *Liber Extra* is marked at the end of book II by blank space at the bottom of fol. 157rv and book III begins at fol. 158r; books II, IV and V follow the previous ones without interruption.<sup>17</sup>

The manuscript includes seven canonistic texts: the *Liber Extra* with the ordinary gloss of Bernard of Parma (fol. 3v-305r); the *Novellae* of Innocent IV accompanied by the *Apparatus* of Bernardus Compostellanus iunior (fol. 306r-320v); the *Novissimae* of Gregory X accompanied by the *Apparatus* of Garsias Hispanus (fol. 321ra-329vb); the *Constitutiones* of Urban IV, Alexander IV, Nicholas III (with gloss) and Clement IV (fol.

---

<sup>17</sup> See Appendix 2.

329vb-350r).<sup>18</sup> The manuscript is written in *littera bononiensis* by one scribe, who also copied the gloss.<sup>19</sup> The handwriting can be dated to the last quarter of the 13<sup>th</sup> century. Furthermore, the paleographical evidence matches the contents of the manuscript. The *Constitutiones* of Nicholas III, issued on 23 March 1280, are the latest text copied into the manuscript, hence they have to be considered as *terminus post quem* for its compilation.<sup>20</sup>

As for the *terminus ante quem* for the compilation of the manuscript, some of the canonistic allegations to the gloss can be of some help. As Martin Bertram has recently shown, between fol. 8va and 86va notes in cursive hand cite a certain *Lamb(ertus)* in addition

---

<sup>18</sup> M. BERTRAM, Die Dekretalen Gregors IX. (see n. 1), p. 79f.; ID., Dekorierte Handschriften (see n. 1), p. 33f. On the *Novellae* of Innocent IV, the *Novissimae* of Gregory X and the *constitutiones* of Urban IV, Alexander IV and Nicholas III see also ID., Die Konstitutionen Alexanders IV. (1255/56) und Clemens' IV. (1265/67). Eine neue Form päpstlicher Gesetzgebung, in: Zeitschrift der Savigny-Stiftung für Rechtsgeschichte Kan. Abt. 88 (2002), p. 70-109, at p. 94f.; ID., Die Dekretalensammlung Papst Nikolaus' III. (1280), *ibid.* 90 (2004), pp. 60-76. For the *Apparatus* of Bernardus Compostellanus iunior see P.-J. KESSLER, Untersuchungen über die Novellen-Gesetzgebung Papst Innozenz' IV. II. Teil, *ibid.* 32 (1943), p. 300-383, at p. 316-354. On the *Apparatus* of Garsias Hispanus to the *Constitutiones Novissimae* of Gregory X and the constitution *Cupientes* of Nicholas III see J. F. VON SCHULTE, Die Geschichte der Quellen und Literatur des canonischen Rechts II, Stuttgart 1877, repr. Graz 1956, p. 161f.

<sup>19</sup> See below, n. 25.

<sup>20</sup> BERTRAM, Die Dekretalensammlung Papst Nikolaus' III (see n. 18), p. 60.

to the gloss.<sup>21</sup> Although *Lambertus* is not listed by J. F. von Schulte, the name is likely to be Italian. The allegations on these additions date them either before or after 1298. The allegation at fol. 61rb refers to *Quia pontificali*, the constitution of Alexander IV dated 24 March 1256, included in the *Liber Sextus* (1.14.2) in 1298. Since the citation of this constitution of Alexander IV does not refer to it as being included in *Sextus*, the allegation could possibly be dated before 1298. However, another allegation at fol. 13va refers to the constitution *Pia* as being in the *Liber Sextus* and therefore has to be post-dated after 1298.<sup>22</sup> Along with *Lambertus* another canonist *Tha(ddeus)* is often mentioned in the additions (e.g. at fol. 83rb). Schulte lists two canonists from Padua between the end of the 13<sup>th</sup> and the beginning of the 14<sup>th</sup> centuries with this name: 1) *Thaddeus de Pocaterra*, *doctor decretorum* in Padua between 1288 and 1295; 2) *Thaddeus de Anguissola*, professor of canon law in Padua between 1307 and 1309.<sup>23</sup> On the basis of the evidence provided by the allegations, the *terminus ante quem* for the compilation of the manuscript should be late 13<sup>th</sup>

---

<sup>21</sup> BERTRAM, *Dekorierte Handschriften* (see n. 1), p. 37, n. 77.

<sup>22</sup> Durham C.I.9 fol. 61rb, at X 1.29.11: *lege hic consti<tutionem> Alexandrinam que incipit Quia pontificali et cet<era>*. For the issues concerning the reception of the *Liber Sextus* see T. SCHMIDT, *Die Rezeption des Liber Sextus und der Extravaganten Papst Bonifaz<sup>e</sup> VIII.*, in: M. BERTRAM (ed.), *Stagnation oder Fortbildung? Aspekte des allgemeinen Kirchenrechts im 14. und 15. Jahrhundert*, Bibliothek des Deutschen Historischen Instituts in Rom 108, Tübingen 2005, p. 58f.

<sup>23</sup> SCHULTE, *Die Geschichte der Quellen* (see n. 18), p. 175, n. 19-20.

century, possibly around 1298, the date of the publication of the *Liber Sextus*.

The additions also suggest where the manuscript was compiled. Since references to *Lambertus* and *Thaddeus*'s opinions on the gloss are consistently mentioned in C.I.9 and both *Lambertus* and *Thaddeus* are probably Italians (indeed the latter probably taught in Padua in the late 13<sup>th</sup> century), we can argue that the manuscript was still in northern Italy at that time.

Paleographical and codicological evidence supports this assumption:<sup>24</sup>

- In the bottom right corner of the first folio of quires 8-13 and 30 there is evidence of annotations reciting *Symon*, *Symon f.* or *Symon T.* Accordingly, at fol. 114r and 124r the name *Symon* is either followed or preceded by *a.*, which may stand for *apparatus*, possibly indicating that *Symon* was also responsible for copying the gloss. Furthermore, this point seems supported by palaeographical evidence, as these annotations occur in both parts of the *Liber Extra*, confirming the suggestion that the text was copied by one scribe.<sup>25</sup>

- Quires 1-8 record *pecia*-marks referring to the gloss.<sup>26</sup>

- Similarly, along the bottom margin of the first folio of quire 23 at fol. 217r it is noted that the decretals belong to *magister Thomaxinus: decretales magistri Thomaxini ei(us)dem*.

- Furthermore, along the bottom margin of the last folios of quires 1-13, 23, 32, 34 and 35 several

---

<sup>24</sup> See Appendix 2.

<sup>25</sup> See n. 19.

<sup>26</sup> See picture no. 7: Durham C.I.9, fol. 22va. See also G. MURANO, *Opere diffuse per exemplar e pecia*, *Textes et Études du Moyen Âge* 29, Turnhout 2005, p. 358, no. 295.

notes, mainly by *Thomaxinus*, refer to the correction of the gloss, which was amended with new *pecie*. For instance at quire 5 in the margin of fol. 45rb and f. 47va there are references to *pecia xxi* and *xxiii*, while in the note at fol. 53v it is pointed out that *pecia xxii* is lost. The last note concerning the work of *Thomaxinus* as corrector of the text and gloss occurs at fol. 344v in quire 32 and concerns the *Constitutiones* of Alexander IV, confirming the suggestion that later canonistic texts were copied in the manuscript along with the *Liber Extra* in the late 13<sup>th</sup> century.

- Finally, two notes by two different hands along the bottom margin of fol. 113v evidence that *Thomaxinus de Strata sancti Vitalis* gave quire 11 to the stationer as a pledge (*pignus*) for borrowing the *pecie* of the gloss of the *Decretum* before C.I.9 was finished and bound. Later on *Cambius quondam Luce de comitatu* gave the same quire as a pledge to a stationer as well.<sup>27</sup>

Such evidence suggests the following conclusions:

1) The codicological examination of the manuscript supports the paleographical evidence that all the quires including the *Liber Extra* along with its gloss were written at the same time in the same place along with the *Novellae* of Innocent IV, the *Novissimae* of Gregory X, and the *Constitutiones* of Alexander IV, Nicholas III and Clement IV.

---

<sup>27</sup> F. SOETEMEER, *Utrumque ius in peciis*. Aspetti della produzione libraria a Bologna fra Due e Trecento, *Orbis Academicus*. Saggi e documenti di storia delle università raccolti da Domenico Maffei 7, Milano 1997, p. 281-293. Soetemeer gives evidence (p. 287f.) of how the same quire of Firenze, Bibl. Laurenziana, Plut. VI sin. I, was given as a pledge to the stationer by three different students.

2) *Symon*, whose name is always written in the bottom margin of the first folio of the quire, probably copied the text and the gloss, while *Thomaxinus de Strata sancti Vitalis* was responsible for correcting it, borrowing the *pecie* from the stationer. However, later on at least one of the quires (quire 11) must have been in the hands of *Cambius quondam Luce de comitatu*, who used it as a pledge as well. Finally, the note at fol. 217r suggests that the *Decretales* belonged to *Thomaxinus*. Two possible explanations for such annotations can be logically suggested. On the one hand, one can argue that *Thomaxinus* gave as a pledge one of his quires that was then passed to *Cambius* and finally recovered by *Thomaxinus*, who declared himself owner of the *Decretales* at fol. 217r. On the other hand, one can suggest that *Thomaxinus* gave as a pledge one of his quires borrowing the *pecie* of the gloss to the *Decretum* that he needed, possibly to finish another work commissioned from him. He finally recovered his quire, as the note at fol. 217r indicates, while *Cambius* acquired at least quire 11 at a later stage and he pledged it as well as in order to borrow new *pecie*.

3) Although there is no clear hint which one of these explanations is more likely, it is quite clear that *Thomaxinus* and *Cambius*'s activities ought to have taken place where stationers and *pecie* were available. Since the canonistic allegations evidence that the manuscript was still in northern Italy after its completion at the end of the 13<sup>th</sup> century, one should assume that *Symon*, *Thomaxinus* and *Cambius* worked either in Bologna or Padua.

A final question, concerning the identification of the scribe and the corrector of C.I.9, needs to be answered:

- Giovanna Murano lists *Symon Thomaxini de Testacalvaria*, a notary public from Modena, active between 1269 and 1277, who was engaged by *Henricus de Bagator*, a student in Bologna and proctor of Thomas, archdeacon of Norwich, to copy the *Liber Extra* and its gloss in 1277.<sup>28</sup> If this identification is correct, *Symon* referred to in C.I.9 as both *Symon f(ilius)* and *Symon T(homaxini)* would be the son of *Thomaxinus de Testacalvaria*.<sup>29</sup> Similarly, it is indicative that *Symon Thomaxini de Testacalvaria* was working for English clients, as Giovanna Murano has pointed out.

- However, the identification with *Symon Thomaxini de Testacalvaria* does not explain why in C.I.9 the corrector is referred to as either *Thomaxinus* or *Thomaxinus de Strata Sancti Vitalis*, which surely hints at a scribe from Bologna rather than Modena. The *matricula* of the notaries of Bologna dating 1283 lists only one *Thomax quondam Melioris de Curionibus*

---

<sup>28</sup> MURANO, Copisti a Bologna (see n. 6), p. 28, 167f. no. 254: *Magister Simon filius domini Thomaxini Testacalvaria, presente patre suo predicto et consentiente, promisit domini Henrico de Bagator procuratorio nomine pro domino Thomaxio archidiacono Norvicensi scribere totam secundam partem decretarium(!) super apparatu magistri Bernardi de tali littera ut fecit in primo quinterno secunde partis, precio quinquaginta sold. Mut. quolibet quaterno, de quo precio recepit viginti lib. Mut. etc. Scripto manu domini Venturini qd. domini Ugonis de Parma notarii.* See also T. SANDONNINI, Di un codice del XIV secolo e dell'antico Studio modenese, Rassegna per la storia dell'Università di Modena e della cultura superiore modenese I, Appendice all'Annuario della R. Università di Modena per l'a.a. 1928-1929, Modena 1929, at p. 125f. Similarly, on 27 March 1277 *Thomaxinus* commissioned *Petrus Felicis* to copy the apparatus to the *Decretals*: MURANO, Copisti a Bologna (see n. 6), p. 28 and n. 87; SANDONNINI, Di un codice, p. 126.

<sup>29</sup> Durham C.I.9 fol. 74r, 114r.

(*de capella Sancti Vitalis de quarterio porte Sancti Petri*) and this should be considered as another possibility. In such a case, *Symon* would not be the son of *Thomaxinus* and it is impossible to identify him in the *matricula* without further details about his origins.<sup>30</sup> Similarly, I could not identify *Cambius quondam Luce de comitatu* neither in the *matricula* of Bologna nor in other edited sources.

Arguably, the codicological evidence supports Martin Bertram's recent argument that Durham, C.I.9 was written and corrected in northern Italy, probably at Bologna or Padua, in the late 13<sup>th</sup> century, where it still was for one or two decades after its compilation, as the allegations to the gloss also show.<sup>31</sup> My last point should therefore concern the circumstances in which C.I.9 was decorated.

Whereas at fol. 3v the illumination of book I and the addressee of *Rex pacificus* have been removed, as well as the illuminations at the beginning of book III and V, the illuminations at the beginning of books II and IV survive. Robert Gibbs has attributed the latter to an Anglo-French artist, while he considers the decorated initials between fols. 3 and 321 the

---

<sup>30</sup> R. FERRARA, V. VALENTINI, *Liber sive matricula notariorum Communis Bononie (1219-1299)*, Roma 1980, p. 520.

<sup>31</sup> BERTRAM, *Dekorierete Handschriften* (see n. 1), p. 37f. Bertram convincingly disagrees with Susan L'Engle and Robert Gibbs, who have argued for the work of Italian scribes either in England or in Paris, taking as a benchmark the example of William of Bologna, who wrote another *Liber Extra* manuscript now Durham, Cathedral Library, C.I.10: S. L'ENGLE, R. GIBBS, *Illuminating the Law. Legal Manuscripts in Cambridge Collections*, London-Turnhout 2001, p. 45 (L'ENGLE), 182-191 cat. no. 13 (GIBBS).



work of two Bolognese artists and their workshops.<sup>32</sup> Finally, Alexander and Gibbs have attributed to the Jonathan Alexander Master the decoration between fol. 321 and 350.<sup>33</sup>

On the one hand, Alexander maintained that the decoration was begun in Italy and completed in England when the manuscript was still unbound. Indeed, he argued that C.I.9 is an example of Italian artistic models in England, comparing it to the Luttrell Psalter; he dates the Italian illumination of C.I.9 before 1300, while the English decoration is dated c. 1310-1320.<sup>34</sup> On the other hand, Robert Gibbs and Susan L'Engle have argued that C.I.9 was written by a wandering Italian scribe and decorated by some Italian and Anglo-French artists moving around France and England.<sup>35</sup> However the latter argument of a wandering Italian scribe has been recently rejected by Martin Bertram on the basis of codicological and canonistic evidence.<sup>36</sup>

By and large, in C.I.9 the decoration frames the text and it was added after the text and the gloss were copied and corrected.<sup>37</sup> However, at fol. 109va and 110rab the gloss is written around the sophisticated grotesque elaborated from the initials

<sup>32</sup> GIBBS, in: *Illuminating the Law* (see n. 31), p. 187 with Pl. 13g.

<sup>33</sup> J. J. G. ALEXANDER, *An English Illuminator's Work in some Fourteenth-Century Italian Law Books at Durham*, in: *Medieval Art and Architecture at Durham Cathedral*, The British Archaeological Association: Conference Transactions for the Year 1977, London 1980, pp. 149-152; GIBBS, *Cat. No. 13*, p. 190f.

<sup>34</sup> ALEXANDER, p. 150.

<sup>35</sup> GIBBS, in: *Illuminating the Law* (see n. 31), p. 164 note 9.

<sup>36</sup> BERTRAM, *Dekorierter Handschriften* (see n. 1), p. 37f.

<sup>37</sup> See picture no. 8: Durham, C.I.9 fol. 60r.

of two titles of the *Liber Extra* and framing their text.<sup>38</sup> Likewise, at fol. 349v the gloss surrounds the decoration framing the main text.<sup>39</sup> We therefore ought to assume that the decorated initials and the grotesque at 109va, 110rab and 349v were added at some point after the text of the *Liber Extra* and the *Constitutiones* of Clement IV were copied, but before the gloss had been reproduced.

The latter point excludes the argument, suggested by Alexander and Gibbs, that the decoration was completed in England. Indeed, both fol. 109va and 110rab on which the artist ought to have worked before the gloss was copied, are in quire 11, which was written by *Symon* and corrected by *Thomaxinus*, who gave the same quire as a pledge to the stationer to borrow the *pecie* of the *apparatus* to the *Decretum*.<sup>40</sup> Similarly, quire 36, to which fol. 349 belongs, is written in the same hand as the previous quire, where we find a note of *Thomaxinus* at fol. 344v, who claims to have corrected both text and apparatus.<sup>41</sup> Since, as demonstrated above, both the texts and their apparatus in C.I.9 were copied and corrected in the late 13<sup>th</sup> century either in Bologna or Padua, and since at least in three folios the decoration is added before the *apparatus* was copied, we can conclude that the manuscript was also decorated in northern Italy, where the manuscript still was until the first two decades of the 14<sup>th</sup> century.

To sum up, the stages of compilation of C.I.9 should be reconsidered as follows:

---

<sup>38</sup> See picture no. 9-10: Durham, C.I.9 fol. 109va and 110rab.

<sup>39</sup> See picture no. 11: Durham, C.I.9 fol. 349v.

<sup>40</sup> See Appendix 2; above n. 27.

<sup>41</sup> See Appendix 2.

- *Symon* wrote the texts of the *Liber Extra* and the later constitutions in C.I.9.

- Decorated initials and grotesques were added before the gloss was copied by two artists at least in quires 11 and 36. These were an Italian artist, who worked on fol. 109r and 110v, and the Jonathan Alexander Master, who worked on fol. 349v.<sup>42</sup>

- The gloss was then copied in accordance with Murano's argument that in Bologna text and gloss were often copied at different stages, although in the case of C.I.9 the gloss was not copied by a different scribe, as palaeographical and codicological evidence seem to suggest.<sup>43</sup>

- the *Liber Extra* text, its gloss and the later constitutions were corrected by *Thomaxinus de Strata sancti Vitalis* who used a new set of *pecie*. If so, *Thomaxinus* worked in a place where the *pecie* were available, that is either Bologna or Padua. Arguably, the canonistic evidence supports this argument, as the allegations by *Lambertus* and *Thaddeus* still place the manuscript in Italy between the late 13<sup>th</sup> and the early 14<sup>th</sup> centuries.

- Finally, the decoration attributed to the *Decretals* master was completed, as fol. 60r evidences.<sup>44</sup> Accordingly, the illuminations at the beginning of each book were added – the only surviving two at books II and IV indicate the work of an Anglo-French artist. Finally, the gloss was decorated by the so-called Bolognese master.<sup>45</sup> Likewise, as Susan L'Engle pointed out, some initials

---

<sup>42</sup> ALEXANDER, *An English Illuminator's Work* (see n. 33), p. 150; GIBBS, in: *Illuminating the Law* (see n. 31), p. 190f.

<sup>43</sup> MURANO, *Copisti a Bologna* (see n. 6), p. 74.

<sup>44</sup> See picture no. 8: Durham C.I.9 fol. 60r.

<sup>45</sup> GIBBS, in: *Illuminating the Law* (see n. 31), p. 182-189, cat. no. 13.

of the chapters of the *Liber Extra* at fol. 227-236 and fol. 298-305 cover illuminated title initials and were probably the later work of the Anglo-French artist.<sup>46</sup>

The broader implication of my argument is that English and French artists, such as the Jonathan Alexander Master, worked in Bologna and Padua in the late 13<sup>th</sup> and early 14<sup>th</sup> centuries, where Durham, C.I.9 was written and partly illuminated.<sup>47</sup> To a certain extent this also challenges Murano's statement that "Bologna non ospita una comunità internazionale di copisti e miniatori".<sup>48</sup>

My final point concerns the circumstances in which C.I.9 arrived in Durham. An ownership note in the second fly-leaf of the manuscript, which is written in English cursive hand, possibly datable to the 14<sup>th</sup> century, refers to Henry, Richard and John *de Insula* as owners of the manuscript. The same note is present in other law books, now preserved in Durham Cathedral Library.<sup>49</sup>

---

<sup>46</sup> L'ENGLE, in: *Illuminating the Law*, p. 45. Only at this stage the manuscript was considered finished and probably bound. The latter point allows the suggested possibility that quire 11 was in the hands of *Cambius quondam Luce de comitatu*, who then pledged it to a stationer; see above p. 230f.

<sup>47</sup> This suggestion is rejected by L'ENGLE and GIBBS, in: *Illuminating the Law* (see n. 31), p. 45-47 (L'ENGLE) and p. 161 (GIBBS).

<sup>48</sup> MURANO, *Copisti a Bologna* (see n. 6), p. 37.

<sup>49</sup> See Durham, Cath. C.I.4: *trium puerorum* namely *istud parvum volumen est trium puerorum de Insula scilicet Henrici, Ricardi ac Iohannis fratrum*; Durham, Cath. C.I.12: *Ista pars Summe Odofridi est trium puerorum de Insula, scilicet Henrici, Ricardi et Iohannis fratrum*. See N. R. KER, *Medieval Libraries of Great Britain. A List of Surviving Books*, London 1964, p. 69.

Giovanna Murano has recently argued that C.I.9 was taken to Durham by Robert *de Crican filius domini Alani Duelmensis diocesis*, who was in Italy in the early 1270s and took, in Murano's opinion, several law books from Italy to England. Robert, also known as Robert de Insula, was prior of Finchale in Durham diocese (1269-1272) and bishop of Durham (1274-1283).<sup>50</sup> Accordingly, Jonathan Alexander and Susan L'Engle observed that Henry and Richard de Lisle, who were relatives of Robert *de Crican*, studied canon law at Oxford and owned the manuscript.<sup>51</sup> Finally, Gibbs states that Robert, bishop of Durham, commissioned C.I.9 in Bologna between 1268 and 1270 and is to be held responsible for the association of the manuscript with Durham.<sup>52</sup>

However, unlike other canon law books, namely C.I.4 and C.I.6, C.I.9 is not listed in the early library catalogues of Durham Cathedral library dating from 1391, 1395 and 1416.<sup>53</sup> In his recent catalogue of Durham Cathedral Library, Richard Gameson has indeed argued that the De Lisle name is fairly common and there is no certain evidence of a connection of the De Lisle brothers with Durham. In Gameson's opinion the most plausible route for

---

<sup>50</sup> MURANO, *Copisti a Bologna* (see n. 6), p. 51f.; see also J. LE NEVE, D. E. GREENWAY (ed.), *Fasti Ecclesiae Anglicanae, 1066-1300*, vol. II: *Monastic Cathedrals*, London 1971, p. 32.

<sup>51</sup> ALEXANDER, *An English Illuminator's Work* (see n. 33), p. 151; GIBBS, in: *Illuminating the Law* (see n. 31), p. 161.

<sup>52</sup> See GIBBS's article in this volume, at p. 87f.

<sup>53</sup> C.I.9 cannot be identified with the item listed in: J. RAINE (ed.), *Catalogi veteres librorum ecclesie cathedralis Dunelmensis*, London 1838, p. 36: I. *Decretales Antiquae*, glo., cum *constitucionibus*; II fol. *comprobemur*. No mention of the manuscript is found in: H. D. HUGHES (ed.), *A History of Durham Cathedral Library*, Durham 1925, pp. 53-68.

some or all of the Italian volumes to have reached Durham was in stages: the manuscripts were first brought to Oxford and acquired there via Durham College, Oxford for the mother house, probably in the late 14<sup>th</sup> century.<sup>54</sup>

Gameson's suggestions support the argument mentioned above that C.I.9 was still in Italy in the early 14<sup>th</sup> century, where it was possibly used by a pupil of *Lambertus* and *Thaddeus* at Bologna or Padua. Indeed, the first piece of evidence that undoubtedly links C.I.9 to Durham is the addition to the gloss at fol. 74rb, written by William *de Daltona*, who was monk at Durham from 1420, studied at Durham College, Oxford in the 1420s and gave Durham Cathedral Library one of his manuscripts (B.IV.42).<sup>55</sup> Dobson points out that, although none of the Durham monks graduated in canon law in the Late Middle Ages, Dalton was one the Durham monks who specialized in legal procedure and became proctor of the monastery, official, and almoner. Indeed, on the fly-leaf at fol. IIr an English cursive hand, datable from the late 14<sup>th</sup> or early 15<sup>th</sup> century, copies in brown ink a formulary of *procuratorium ad impetrandum* addressed to the pope. Similarly, between 1434 and 1438 under Prior Wessington William Dalton became chancellor and was in charge for the management of the library and its acquisitions, enriching the cathedral collection with a number of manuscripts coming from Durham

---

<sup>54</sup> R. GAMESON, *Manuscript Treasures of Durham Cathedral*, Durham 2010, p. 111. See also B. DOBSON, *Durham Priory, 1400-1450*, Cambridge Studies in Medieval Life and Thought III vol. 6, Cambridge 1973, p. 374-379.

<sup>55</sup> DOBSON, *Durham Priory*, p. 346f., 352f., 361-363, 368. B.IV.42 is a collection of treatises and statutes about the Benedictine order.

College, Oxford. Accordingly, it is likely that another chancellor of Durham cathedral, Thomas Swalwell, added a list of chapters of the *Liber Extra* on fol. Iiv, evidencing the use and fruition of C.I.9 in the library during the 15<sup>th</sup> century.<sup>56</sup>

Once more, codicological and canonistic evidence help us to shed some light on a very obscure and complex case.

---

<sup>56</sup> Durham C.I.9 fol. Iiv: dark brown ink, 15<sup>th</sup> century English cursive hand; DOBSON, *Durham Priory* (see n. 55), p. 363.