

The Identification of Harvard Law School Ms 189*

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Mr. Jenkins considers Harvard Law School Ms 189, the “chain manuscript,” describing its contents and deciphering the provenance of what long has been labeled simply “a fifteenth-century collection of canon law texts.” An appendix provides a detailed description of the manuscript.

¶1 There is, oddly, no record of Harvard Law School Ms 189. We find no acquisition date, no accession number, no description or cataloging of any kind, nothing in fact but the familiarity of its well-known moniker, the “chain manuscript.” Displayed in exhibits for its scriptorium’s chain and contemporary alum-tawed pig binding, Ms 189 has for decades been labeled simply a “15c. collection of canon law texts.” At first glance the book gives us little more than this description; there are no obvious marks of provenance, the first seven folios are missing, and pencilled lines on its front pastedown have been erased. The book is long, 340 paper folios, in several hands, and has few immediately recognizable breaks in its Latin text. Nevertheless, covering the entire folio of its front pastedown is an inscription which reads:

This volume contains the reworking of the *Correctorium Additionum* of Nicolas de Lyra by Paulus Burgensis, compiled by Matthias Döring, as is especially suggested by the words placed at the beginning of the prologue, *modestiam antiquam*, etc. Matthias himself is still alive today, the feast day of Saint Martin, 1461, and is a professor of sacred theology and a man of great learning, who has also written on the so-called miraculous blood of Welsennac, in opposition to many scholars and even certain universities. This work is found at the end of a volume entitled *Diversi Tractatus Beati Thome*, which is deposited and chained in this library. Matthias is presently the Franciscan Provincial of Magdeburg as well, in which order he is also professed. In the prologue of this present compilation he calls his work “a correction of the ‘corruption’ of the annotations of Lyra by Burgensis.” But because Matthias himself often confesses in this compilation that he is not a Jew nor versed in the Hebrew tongue as was Burgensis, the reader should consider wisely whose position is the better. For they seem to differ widely since Burgensis relies more on Jewish interpreters and ancient scholars, and Matthias on those Catholic and more contemporary. This is apparent throughout the individual books of the Bible where he corrects Burgensis as he sees fit.¹

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1. In hoc volumine continetur reformatio correctorii additionum Lire sive ipsius Burgensis [compilatam a] Mathia Doring prout hoc in primis litteris dictionum licet in principio prologi positurum innuitur scilicet modestiam antiquam etc. Ipse Mathias hodie in hoc anno 1461 die Sancti Martini superest in

¶12 After the inscription on its front pastedown, the scribe proceeds to list the books of the Bible as a table of contents, supplying the folio numbers at which Döring begins each book's commentary. Following this table, he adds, "The rest of this volume, for the most part, is made up of various works on canon law, as will be apparent." Here he provides another table of contents, twenty-nine entries with folio numbers, but mentions only four authors. The manuscript is completely foliated to folio 338, but the scribe's entries break off at the contents of folio 315, at the very bottom of the pastedown. His description probably continued on the following, now lost, cover folio of the manuscript itself.

Description of Ms 189

Book One: The Correctorium

¶13 The inscription identifies clearly the manuscript's first work: the *Correctorium corruptorii Burgensis* of Matthias Döring (d. 1469). A Franciscan theologian of some renown, Döring was commissioned by his order to write in defense of Nicolas de Lyra, a fellow Franciscan who had authored in 1320 a series of additions to the *glossa ordinaria* of the Bible which were widely copied and found their way into the early printed editions of the glossed Bible. In 1429 these additions, the *Postilla Lyre*, had come under the criticism of a Spanish Jewish convert, now a bishop as well, Pablo de Sancta Maria (Paulus Burgensis). In his *Additiones Lyre Burgensis* attempted to improve and expand on the comments of Lyra, often correcting errors due to the Franciscan's unfamiliarity with Hebrew. The Franciscans rushed to the defense of both Lyra and their pride, and in most likely 1441 Döring's *Correctorium* appeared. His work gained enough credibility to find its way to print as an appendix to several editions of the Bible in the late fifteenth and early sixteenth centuries.² But the work also drew contemporary criticism for its uncritical bias and for implying that the once Jewish

hac vita mortali professor sacre theologie et vir magne scientie qui etiam scripsit in materia de cruore vocato sacro in Welsennact contra plures alios doctores et etiam contra quasdam universitates. Cuius scriptum habetur in fine voluminis intitulati Diversi tractatus Beati Thome in hac liberaria depositi et concahenati. Et ipse Mathias hodie constitutus est provincialis Magdurgensis ordinis fratrorum minorum cuius et ipse professor est. Et in prologo huius ipsius compilationis nominat hos opus suum correctorium corruptorii scilicet additionum Lire seu Burgensis. Sed quia ipse Mathias pluries in hac [] compilatione fatetur se non fore Hebreum nec in lingua Hebrayca eruditum prout tamen Burgensis erat, ideo fidelis lector attente considerare habet ferioem utriusque positionem. Et videntur maxime in hoc desentire quia Burgensis plus innitur Hebreiis expositoribus et doctoribus antiquis, Mathias vero doctoribus catholicis et modernioribus. Patet hoc pene per singulos libros Bible ubi corrigit Burgensem quod sibi videtur.

2. Nuremberg 1481, 1483; Basel 1501, 1506; Lyon 1590.

Burgensis was not a real Christian.³ The *Correctorium* is today rare in manuscript, with a complete copy found only in Berlin.⁴ Our copy is near complete, missing the first six of 118 folios, its initial capitals, chapter headings, and underlining rubricated throughout. As was common practice, the text was copied concurrently by two scribes, each working from a separate half, and the attempt of the first scribe to complete the copying of his half within the quickly shrinking margin of his final folio can be seen on the verso of folio 75.

A Manuscript in Parts

¶14 The next five folios are blank save for the ruling of their columns. At folio 124 is the manuscript's first significant break. Not only does the hand change, but the paper is different as well. As expected, the paper of the *Correctorium* dates to ca. 1450, the three identifiable watermarks of the subsequent 220 folios from 1366 to 1381.⁵ The main text of these subsequent folios is in the same hand in two columns with ample margins. The examination of the paper gatherings reveals that this seemingly continuous second half is actually itself in two parts. The first part is made up of a single folio followed by nine signed gatherings of twelve folios each, followed by another single folio (the eighth gathering has two extra folios, and the fourth and fifth gatherings are bound out of order in the rear). The second part is of similar construction: a single preliminary folio is followed by eight signed gatherings of twelve, followed again by a final single folio (six folios have been added to the fifth gathering). We can, in fact, see these three sections with a closer look at the textblock itself. The manuscript was originally then three separate books: the *Correctorium* of ca. 1450, and two similar though separate

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3. See PAUL ALBERT, MATTHIAS DÖRING: EIN DEUTSCHER MINORIT DES 15. JAHRHUNDERTS 17–23 (Stuttgart, Süddeutsche Verlagsbuchhandlung, 1892). Albert includes the following statement made by Johannes Schlippacher in his *Reprehensorium in replicatorem Mathiam Doring contra dominum Paulum Episcopum Burgensem* of 1477: “Et quanquam homo peritus sit sive fuerit et in sacris literis exercitatus, tamen discrecionem minime in suis replicis tenuit et confusibiliter loquens de ipso nunquam nomine pontificalis dignitatis eum commemorans, sed semper Burgensem quasi mancipium rusticanum, magistrum vero Nicolaum de Lira ubique defensat, veluti nunquam erraverit, quod magis est divinum quam humanum. . . . Dicit quandoque eum judaisare, quasi nondum fuerit verus Christianus, qui fideliter quandoque detegit errores Judeorum in duobus voluminibus contentos Dalmuticis et singulariter Super Zachariam.” [Translation: “And although he (Döring) is or was a learned man and trained in the Scriptures, he did not maintain discretion in his replies and addressed him (Burgensis) confusedly, never referring to him with the title of his pontifical office but always as Burgensis, as if he were a peasant farmer. But he everywhere defends Nicholas de Lyra as a teacher, as if he never made a mistake, which is more divine than human. . . . He says elsewhere that Burgensis speaks as a Jew, as if he were not a true Christian, a man who once faithfully uncovered the errors of the Jews contained in the two [Dalmuticis?] books and especially in Zacharias.”] *Id.* at 20–22.
 4. Berlin Ms. theol. F. 84. See VALETIN ROSE, 2 VERZEICHNISS DER LATEINISCHEN HANDSCHRIFTEN DER KÖNIGLICHEN BIBLIOTHEK ZU BERLIN 481–82 (1901).
 5. See C.M. BRIQUET, LES FILIGRANES (1968). The watermarks from the *Correctorium* are 5547, 14539, and 15875 (ca. 1447–1458); from the subsequent folios, 3847, 7341, and 12441(2) (ca. 1366–1381).

books from the second half of the 14th century, each retaining their front and back single folio covers.

¶15 The main works of the manuscript's second and third books are as follows:

125ra - 133va	Galvanus de Bononia, <i>Casus, qui iudicis arbitrio relinquuntur</i> .
133va - 151va	Galvanus de Bononia, <i>Contrarietates glossarum juris canonici</i> .
151va - 154ra	Galvanus de Bononia, <i>De differentiis legum et canonum</i> .
154rb - 158rb	Giovanni d'Andrea, <i>Summa de sponsalibus et matrimonio</i> .
158va - 159vb	<Incertus auctor, <i>Casus episcopales et papiles</i> >
161ra - 208vb	Giovanni da Legnano, <i>Commentarius in Decretales. Super IV libro</i> .
211ra - 212rb	Paulus de Liazariis, <i>Divisio decreti</i> .
212rb - 233vb	Johannes de S. Georgio, < <i>Casus summarii decretorum non bene statuti</i> >
238ra - 244vb	Joannes Calderinus, <i>De cohabitatione clericorum et mulierum</i> (Vestra, X 3.2.7)
245ra - 276ra	Giovanni da Legnano, <i>Commentarius in Decretales</i> (excerpts)
276va - 285ra	Wilhelm Horborch, <i>Repetitio decretalis</i> (Debitores, X 2.24.6)
285ra - 306va	<Incertus auctor, <i>Repetitiones decretales</i> >
306vb - 332va	<Incertus auctor>, <i>Distinctiones decretalium</i> .
332vb	Paulus Ungarus, <i>Summa de poenitentia</i> .

Book Two

¶16 The author of the first three works is named in the second sentence of the first, *Ego Galvanus decretorum doctor Bononie natus*, Galvanus de Bononia (fl. 1361–1390).⁶ Lecturing on the Decretals in Padua in 1365, Galvanus accepted a call to Hungary in 1371 to the new university at Pécs. He was the first scholar of renown to teach in Hungary and received the then enormous sum of 600 gold florins as his salary. His stay, however, was brief, and in 1374 we find him teaching in his native Bologna, in 1379 again at Padua, and finally back to Bologna in 1384. The manuscript here contains his three chief extant works, all complete, of which only one, the *De differentiis legum et canonum*, found its way to print in two incunable editions and in the *Tractatus universi juris*.⁷

¶17 Immediately following the works of Galvanus is the *Summa de sponsalibus et matrimonio* of Giovanni d'Andrea (d. 1348), identified both in the table of contents of the front pastedown and the title rubric of the text itself. Arguably the most renowned of the fourteenth-century canonists,⁸ d'Andrea spent his entire teaching career in Bologna, beginning in 1302 and lasting until his death from the plague. The *Summa de sponsalibus*, a concise commentary on the canon law of marriage, is perhaps his most famous of many works, found in numerous manuscripts and incunable editions. The copy is complete and rubricated throughout.

6. See J.F. VON SCHULTE, 2 DIE GESCHICHTE DER QUELLEN UND LITERATUR DES CANONISCHEN RECHT 286–89 (1956).

7. Hain 7452, 15601, and 1 TRACTATUS UNIVERSI JURIS 189 (1584).

8. See SCHULTE, *supra* note 6, at 205–29.

¶18 Next is the *Casus episcopales et papales*, a short work listing penitential cases in which absolution is remitted to a bishop or the pope. In at least three instances⁹ the work has appeared prefixed to the *Quaestiunculae* of Stephanus de Rudnicz (ca. 1300–1365) and for this reason it is mistakenly identified as part of that work.¹⁰ Whether Rudnicz is the author of the *Casus* is unknown. In a single manuscript at Prague the work is described as *collecti per Arnestum primum archiepiscopum Pragensem, Arnost z Pardubic* (d. 1364).¹¹ Rudnicz was his vicar general *in spiritualibus* from 1346 to 1358 and a faculty member of the university of Prague, most likely from its inception in 1348. His *Quaestiunculae*, a practical manual of the internal forum, is the most commonly extant of the works of this faculty, found in over twenty manuscripts throughout central and northern Europe.¹²

¶19 These cases are followed by three columns of text in two different hands, containing five prayers and a brief passage commenting on the remission of venial sins. The main text resumes on the following folio (161). The location of this break in the main text, the final folio of the second book's third gathering, would suggest that these first three gatherings were written separately and were only later stitched together with the others of this book. The fact that the book's fourth and fifth gatherings were bound out of order, behind gatherings six through nine, also suggests that these two groups of gatherings were originally separate. As we shall see, the first folios of the sixth and fourth gatherings begin with new works of the main text. This is hardly surprising since the manuscript book is made up of individual bifolia, at first stitched loosely together as gatherings, then often undone in copying, restitched and later sewn together with other gatherings as the text or portability dictated.

¶10 The contents of this second group of gatherings (six through nine) is a single work, identified in the table of contents and confirmed by the text's *incipit* and colophon, the *Commentarius in Decretales, super IV libro* of Giovanni da Legnano (d. 1383).¹³ Like Giovanni d'Andrea before him, Legnano taught his entire career at Bologna and fell victim to the plague. His pupils included the leading canonists of the next generation, Francesco de Zabarella and Johannes de Imola. Best known for his treatment of the law of war, he was a prolific author

9. Leipzig UB 934, Wien SchottenK. 265, Praha KNM XIV F 5.

10. Rostislav Zeleny notes that in the introduction to his edition of the *Quaestiunculae*, "A. Hübel is mistaken when he states that the text begins already on fol. 157r (Wien SchottenK. 265). As in other cases, here also the *Quaestiunculae* follow after a list of reserved cases." Rostislav Zeleny, *The Quaestiunculae of Stephan of Roudice*, 38 APOLLINARIS 108, 113 (1965).

11. Praha Kap. D 6.

12. See SCHULTE, *supra* note 6, at 431; PAVEL SPUNAR, 1 REPERTORIUM AUCTORUM BOHEMORUM PROTECTUM IDEARUM POST UNIVERSITATEM PRAGENSEM CONDITAM ILLUSTRANS 151–52 (1985).

13. See SCHULTE, *supra* note 6, at 257–61; EGIDIO GIANAZZA, LA VITA E LE OPERE DI GIOVANNI DA LEGNANO (SEC. XIV) 104–09 (1973).

and wrote on a wide range of subjects, including astrology, philosophy, and theology. The complete copy of his commentary on book four, the decretals on marriage, is perhaps the most interesting of the manuscript's contents since the text is heavily glossed and corrected by a different hand.

¶11 The first work of the final group of gatherings of the manuscript's second book is a short description of the contents of the Decretum, the *Divisio decreti* by Paulus de Liazariis (d. 1356).¹⁴ Another of the famed canonists of Bologna, Liazariis was a pupil of Giovanni d'Andrea and the teacher of Giovanni da Legnano. The copy of the *Divisio*, though complete, ends abruptly in midcolumn. With no break in the text another work begins, identified only by a marginal note, the *Casus summarii decretorum non bene statuti compilati per doctorem eximium dominum Johannem de Sancto Georgio*. Johannes (d. ca. 1378) taught at both Bologna and Padua and was married to the daughter of Giovanni d'Andrea. The scribe of the front pastedown completely misses this work, which runs for some 20 folios, and Schulte makes no mention of it in his biobibliography.

Book Three

¶12 Both the colophon of the text and the table of contents identify the first work of the manuscript's third and final book, the *De cohabitatione clericorum et mulierum* of Joannes Calderinus (d. 1365).¹⁵ Calderinus was both the pupil and adopted son of Giovanni d'Andrea. He taught at Bologna from 1330 to 1359, was a colleague of Jacobus Buttrigarius and Paulus de Liazariis, and participated actively in the civic politics of his day. Calderinus wrote widely in canon law and exercised significant influence throughout the fourteenth and fifteenth centuries. Many of his treatises and *repetitiones* are extant.

¶13 Three excerpts from Giovanni da Legnano's *Commentarius in Decretales* follow, identified by a final colophon, *Expliciunt dictorum excerpta domini Johannis de Lignano doctorum egregissimi*.

¶14 The table of contents lists four more separate *repetitiones decretales*, the first three anonymous and the fourth part of a larger whole, the so-called *Distinctiones decretalium*. Between the second and third entry we find in the text another *repetitio* which the scribe of the table of contents missed. Wilhelm Horborch of Hamburg is the author of the first of these, his *repetitio* on *Debitores* (X 2.24.6), found in manuscript at Prague, Wroclaw, and Hamburg.¹⁶ It is known from these copies that the lecture was held in August 1372 at Prague, where Wilhelm had been the *lector ordinarius decretalium* since 1369. He studied at Bologna under Giovanni da Legnano in 1367 and was in Rome in 1376 as an auditor of the *Rota Romana*. Though this *repetitio* is the only surviving work of his

14. See SCHULTE, *supra* note 6, at 246–47.

15. See *id.* at 247–53.

16. Praha Kap. E 76, Wroclaw UB II Q 17, Hamburg Staats- und UB Jur. 2321.

activity in Prague, many of his decisions from the papal court are extant.¹⁷ It is unclear whether the three *repetitiones* that follow in the manuscript are also his. In the second of these, on the recto of folio 292, we read: . . . *secundum Johannem Calderinum dominus et pater meus (sic) in tractatu ecclesiastico in questione quam disputavit Bononie tempore interdicti*. . . Gaspar Calderinus is immediately suspected, the son of Joannes, who himself taught canon law at Bologna and whose extant works are for the most part consilia and *repetitiones* in manuscripts throughout Europe. However, *pater* should not be understood in too familial a sense: in a decision of the *Rota Romana*, Horborch himself refers to his teacher Legnano as *dominus et pater meus subtilissimus*.¹⁸ While Joannes Calderinus finished teaching at Bologna in 1359 and was dead in 1365, it is not impossible that Horborch knew him well enough to address him as *pater*. Horborch spent his youth at the papal court in Avignon and received his baccalaureate in canon law there in 1361, a year Calderinus himself was present at the court representing his city. It is also possible that the scribe is copying these *repetitiones* from a compiled collection of Horborch's lectures. It was common practice that shortly after the delivery of a *repetitio* a scholar was required to make available a written text of his lecture, and these texts were often later compiled and bound together.¹⁹

¶15 Regardless of the authorship of these three lectures, the author of the work identified in its colophon as the *Distinctiones decretalium* remains unknown. There is another copy at Krakow in a manuscript book of Bohemian provenance.²⁰ While the scribe of the table of contents on the front pastedown calls the first of these distinctions a *repetitio decretalis*, these chapters are not in fact *repetitiones*, full lectures on specific passages of canon law, but rather *distinctiones*, brief clarifications of the distinctions necessary to interpret these passages.

¶16 The final work of the manuscript's third book is an incomplete copy of the *Summa de poenitentia*, often ascribed to Paulus Ungarus but to a variety of others as well. In his detailed analysis of the many manuscripts of this text throughout Europe, Heinrich Weisweiler has shown that the work originated in the thirteenth century (after the Lateran council of 1215), first in a "long" form full of references to the Decretum, prefixed with a table of contents and appended with a discussion on virtue and vice, and then soon after in a "short" form, a practical reworking without references, table of contents, or appendix. Our copy is the table

17. See Rostislav Zelený & Jaroslav Kadlec, *Ucitelé Právnické Fakulty a Právnické Univerzity Pražské v Dobé Predhusitské (1349–419)*, 18 ACTA UNIVERSITATIS CAROLINAE 72–75 (1978); Ivo Pfaff, *Zur Geschichte des Kanonisten Wilhelm Horborch und seiner Werke*, 13 ZEITSCHRIFT DER SAVIGNY-STIFTUNG FÜR RECHTSGESCHICHTE, KANONISTISCHE ABTEILUNG 513–18 (1924); SCHULTE, *supra* note 6, at 69.

18. See Zelený & Kadlec, *supra* note 17, at 73; Pfaff, *supra* note 17, at 516.

19. See MANLIO BELLOMO, THE COMMON LEGAL PAST OF EUROPE 1000–1800, at 137–43 (1995).

20. Krakow Lat. 457, MARIA KOWALCZYK ET AL., 3 CATALOGUS CODICUM MANUSCRIPTORUM MEDII Aevi LATINORUM QUI IN BIBLIOTHECA JAGELLONICA CRACOVIAE ASSERVANTUR 18 (1984).

of contents of the “long” form and the first two paragraphs of its text. These original two forms are either anonymous or ascribed to a Paulus Sancti Nicolai, though Weisweiler is reluctant to assume he is the Paulus Ungarus who taught at Bologna in the early thirteenth century, became a Dominican in 1221, and was sent by his order as a missionary to Hungary.²¹ The copies ascribed to Berengar de Fredoli (d. 1323) are a still later reworking of the original text, as are those ascribed to a Magister Wilhelmus. Schulte’s conjecture that Paulus Sancti Nicolai was a German cleric from Passau writing in the fourteenth century seems unlikely.²²

¶17 The contents identified and described above, the two-columned main text of the manuscript’s second and third books, are all by the same hand. There are other hands as well. The extensive gloss and corrections found throughout the commentary on the fourth book of the decretals by Giovanni da Legnano has already been mentioned. This gloss hand also appears in other parts of the manuscript, in margins and on the single folio covers. A third hand supplies marginal headings throughout the first three gatherings of the second book and much of the third book as well, even rubricating these in Giovanni d’Andrea’s *Summa de sponsalibus*. A fourth hand supplies prayers (one in German), sermons, and theological comments on the final empty folios of the second book’s three subsections. Finally, three other hands contribute respectively a short sermon and an account of expenses on folio 124, the front cover folio of the second book, and the already mentioned brief passage on the remission of venial sins on folio 160, this same book’s back cover folio.

Provenance of Ms 189

¶18 The inscription of the front pastedown, the dating of the paper, and the identification of the manuscript’s contents set the question of its provenance in two periods, the first corresponding to the collection of canon law treatises in two books dated by its paper to the last quarter of the fourteenth century, and the second, to the date of the inscription on the front pastedown, 1461, and the copying of the *Correctorium* some ten years earlier. Two corroborating references indicate the provenance of this second period. The first is the name of one of the manuscript’s owners found in a faint line above the front pastedown inscription: *Pertinet ad Johannem de Veib plebanum in ES & M*. The second is a short colophon to the *Casus episcopales et papales* on the verso of folio 159, “Whoever wishes to hear confessions around the accustomed feast days in the blessed church of Pozsony (*ecclesia Poseniensi*) ought to know the above written cases word for word.”²³

21. Heinrich Weisweiler, *Handschriftliches zur Summa de penitentia des magister Paulus von Sankt Nikolaus*, 5 SCHOLASTIK 248, 258–59 (1930).

22. SCHULTE *supra* note 6, at 531–32.

23. *Quicumque in sancta ecclesia Poseniensi circa festa consweta confessiones fidelium Christi audire voluerint supra scriptas casus scire de verbo ad verbum intelligere debent.*

Johannes de Vép and Pozsony

¶19 Pozsony (Pressburg, today Bratislava, Slovakia), located on the western edge of medieval Hungary, twenty-five miles east of Vienna, was a city of Germans, Hungarians, and Slavs, and Hungary's link on the Danube to the rest of Europe. Its church, the *ecclesia Posoniensis*, was subject to the archbishop of Esztergom and governed by a local chapter (*capitulum*) under the leadership of a provost (*praepositus*).²⁴ In excerpts from the archival records and library holdings of the chapter at Pozsony published by Theodor Ortway, a Johannes de Vép is mentioned four times. In 1462 he entered into possession a piece of land on behalf of the chapter, a *socius et concanonicus*. In 1470 he is listed as *Joannes Han de Vép alias Ispar, custos et plebanus*. On the first folio of a choirbook dated 1487 in the chapter library, an inscription tells us that the book was commissioned by *Johannes Han de Wep alias Ispar*, who was once a *canonicus et plebanus* in the church of St. Martin. And finally, in 1500, his death is simply noted.²⁵ From these few details, we can see that Johannes was from Vép (*Ispar*), a village fifty miles south of Pozsony; that he was a canon of some learning and perhaps had legal training; that he was at one time the chapter's *custos*, the official responsible for its treasury, accounts, and facility; that he was a parish priest (*plebanus*) in the church of St. Martin, which was also known as the *ecclesia Salvatoris et Martini* as we see in the abbreviation from the inscription; and that he owned and deposited at least one book in the chapter library.

¶20 That we would find ourselves in Pozsony is hardly surprising since we have already met with references to Central Europe in the survey of the manuscript's contents: the renown of Galvanus of Bologna throughout Hungary; the *Casus episcopales et papales* often prefixed to the *Quaestiunculae* of Stephanus de Rudnicz of Prague; the *Summa de poenitentia* of Paulus Ungarus; the *repetitio* of Wilhelm Horborch at Prague; the only other complete copy of the *Distinctiones decretalium* found in Krakow in a bound manuscript of Bohemian provenance. Even the manuscript's binding of alum-tawed pig suggests Central Europe, and two of the watermarks of the paper of its second and third books, though of northern Italian origin, were found as far north as Wroclaw in 1375.²⁶

¶21 These two references are themselves strengthened by a short passage of account found on the verso of folio 124, the front cover folio of the manuscript's second book. The account, in a different hand, undated and anonymous, contains

24. For a political history of the collegiate chapter at Pozsony and an examination of the relationships between the archbishop of Esztergom, the local chapter, and the provost, see CAROLUS RIMELY, *CAPITULUM INSIGNIS ECCLESIAE COLLEGIATAE POSONIENSIS* (Posonii, Typis Caroli Angermayer, 1880).

25. THEODOR ORTVAY, 3 *GESCHICHTE DER STADT PRESSBURG* 290, 293, 301 (1903). The choirbook commissioned by Vép was an ornate copy, decorated with illuminated capitals and gold gilt. See NÁNDOR KNAUZ, *A POZSONYI KÁPTALANNAK KÉZIRATAI* 9 (Esztergomban, Nyomatt Horák egyed Betüivel, 1870).

26. Briquet 3847, 7341.

fifteen entries listing expenses paid for various supplies and labor. The work being done is fairly extensive: for seven days, two or three carpenters and several laborers have been hired, and sand, cement, lumber, and hardware paid for. The fourth entry of this account, a total amount for several supplies, has been crossed out; the entry immediately beneath this correction is dated the same day and lists the same supplies, but here the accountant, in addition to their total, assigns separate amounts to each supply. In the entry which he crossed out, the total amount is *mediam libram 21 dn.*; in the itemized entry below it, he notes this same amount as *5 solidos 21 dn.* for items totaling *171 dn.* The units of account, used throughout medieval Europe, are standard Latin for pound (*libra*), shilling (*solidi*), and penny (*denarii*). Comparing the corrected entry with the one above it makes clear that at the time of the account, ten *solidi* were equal to one *libra*, and one *solidus* to thirty *denarii*. At the bottom of the account, the accountant notes the total of all fifteen entries as *2 lib. 7 dn.*, or *607 denarii*, roughly the total in adding the individual amounts.²⁷ We must be careful in drawing conclusions from these relative currencies: in late medieval Europe money of account is not necessarily money of exchange. But in Bavaria and Austria the “long” shilling of thirty pfennige was standard, and from the mid-thirteenth until the mid-fifteenth century, the pfennig of Vienna and the Hungarian gold ducat were the standard coins of exchange in both Austria and western Hungary.²⁸ The rate of 300 *denarii* to the *libra* seen in the account (assuming this rate reflects pfennig to the ducat) was reached between 1466 and 1470, near the end of the pfennig of Vienna’s long devaluation.²⁹ In records from Pozsony itself, we see that in 1439 the long standard rate of six shillings to the ducat had risen to seven, and in 1454 to eight.³⁰ If the “long” shilling remained constant, the ducat had to be reckoned as ten shillings by 1466.

¶122 In 1467 Pozsony became the home of Hungary’s only university at the time, the *Academia Istropolitana*.³¹ At the urging (and ultimately expense) of the archbishop of Esztergom, Johannes Vitéz, King Matthias Corvinus obtained papal permission in May 1465 to establish a university in a location he deemed worthy. Pozsony was chosen, and the new university thrived for several years until the arrest of Vitéz for his involvement in a plot against the king in 1471. Its subsequent history is one of decline, and by 1492 it was gone. The university was closely associated with the chapter, and Georg Schonberg, the provost of Pozsony, was

27. One entry is ambiguous, noting the amount to be simply *tantum*. The previous entry totals *31 dn.* for two laborers and their provisions. If we consider the *tantum* entry to be “as much as” or “only [as above];” the total of the entire account would be *596 dn.* Needless to say, errors of arithmetic were common in the Middle Ages.

28. See AUGUST LOEHR, *ÖSTERREICHISCHE GELDGESCHICHTE* 30–35 (1946).

29. See PETER SPUFFORD, *HANDBOOK OF MEDIEVAL EXCHANGE* 271 (1986).

30. See THEODOR ORTVAY, *2 GESCHICHTE DER STADT PRESSBURG* abteilung 2, at 495 (1903).

31. See ASTRIK L. GABRIEL, *THE MEDIEVAL UNIVERSITIES OF PÉCS AND POZSONY* 38–48 (1969).

formally appointed its vice-chancellor in 1469.³² The school's single building, a house donated by the king, was itself immediately adjacent to those of the chapter and renovated for its new purpose at the expense of the town in August 1467.³³ It is possible that the construction detailed in the account is related to these renovations. The entries of the account are separately dated by day of the week, and five of the seven days are concurrent, beginning with the *die inventione sacrae crucis*, which falls on May 3. The next day is the *tertia feria post festum Philippi et Jacobi*, or May 4, as we would expect. Three days follow, the last on a Saturday.³⁴ May 7 was a Saturday in 1468, and it is certainly possible that some work on the university's new facility was still necessary during the spring following its original renovation. That an account of this kind would be found in a book owned by Johannes de Vép is hardly surprising; as noted above, we know that in 1470 he was the chapter's *custos*, the official responsible for its treasury, accounts, and facility.

¶23 The coincidence of the relative currencies and dates of the account with the period and activity of the founding of the university at Pozsony, together with the name of its owner and the reference to the *ecclesia Posoniensis* of the colophon to the *Casus episcopales et papales*, suggest that the manuscript was at Pozsony in 1468, and more than likely there in 1461, the date of the inscription on the front pastedown. The *liberaria* noted in the inscription where the manuscript had been deposited and chained could well be the chapter library, which was extensive and possessed several manuscript books from this period outfitted with chains.³⁵

Considering the Evidence in Books Two and Three

¶24 The scribe who mentions the *ecclesia Posoniensis* in the colophon to the *Casus episcopales et papales* is the copyist of the main texts of the manuscript's second and third books. While we do not know his identity, we are able to connect him to the glossator of Giovanni da Legnano's commentary on book four of the Decretals (ll. 161-208). As previously mentioned, this text is heavily glossed and corrected by another hand. In the upper margin of the recto of folio 165, the glossator notes that the gloss of the text here copied can be found in the "back" (*retro*) under the

32. See JANOS TÖRÖK, 2 MAGYARORSZÁG PRIMÁSA 78 (Pest, Laufer és Stolpnál 1859). Vitéz himself served as the university's chancellor.

33. See JENŐ ÁBEL, EGYETEMEINK A KÖZÉPKORBAN 82–83 (Budapest, Tud. Akadémia Könyvkiadó-Hivatala, 1881). The account of these renovations is still extant: five carpenters and various laborers worked for two weeks on the renovation. We again see the "long" shilling (thirty *denarii* to the *solidus*).

34. The first of these three days is the *quarta feria [post festum Philippi et Jacobi]*, Thursday, May 5. The next entry is dated *sexta feria*, i.e., Friday, where we also could have expected *quinta feria [post festum Philippi et Jacobi]*. The entry that follows is clearly *Sabbato*.

35. See KNAUZ, *supra* note 25, at 17, 111, 115, 146–47, 191. The inventory does not, however, include the manuscript nor the *Diversi tractatus Beate Thome* mentioned in the front pastedown inscription.

sign “8.” However, we do not find this gloss on folio 208, the final folio of the text itself, but on the bifolium of folios 204–205, the sign “8” in the upper margin of folio 204, the entire bifolium covered in annotation. Given the structure of a gathering of six bifolia, the “back” is not necessarily the final folio, but more likely the inner bifolium, which is precisely what folios 204–205 are. Again, we must keep in mind that the manuscript book begins with the purchase of individual gatherings of paper, their bifolia stitched loosely together and often undone in copying. The position of this extended gloss of text from gathering six—the inner bifolia of gathering nine—suggests that the glossator was working at about the same time the scribe was copying the text itself. In other words, before the scribe could finish the copying of the complete text, the glossator began to annotate its first gathering but realized his gloss of the *capitula* beginning on folio 165 would overrun the margins; he then asked his scribe to remove a folio from the gathering he was copying and to hold it aside for his extended annotations. When the text and annotations were complete, the bifolium gloss was returned to the text and attached to its “back,” as the inner bifolium of the text’s last gathering. Further support of this hypothesis is found in the fact that the paper of this glossed bifolium carries the same watermark as the remaining bifolia of its gathering.

¶125 That a scholar or student would be working this closely with a scribe is hardly surprising. It is probably safe to assume that the collection of canon law texts found in the manuscript’s second and third books is the result of scholarly activity at a medieval university. The production and sale of textbooks was a fundamental concern of these universities, and they attempted to control it as best they could. In most cases, a *stationarius* was appointed to maintain the supply, regulate the sale, and ensure the accuracy of copied texts. University statutes strongly prohibited any activity that might increase the scarcity of books and set strict limits on the trade’s profitability. Students and scholars alike were expected to acquire their own texts and generally hired professional copyists to produce them. Many texts were copied from authorized *pecia*, separate gatherings of text certified as accurate, that were rented at prices set by the university. Multiple copies were sometimes produced by transcription from oral dictation, but this practice was uncommon, as were lending libraries. For the most part, professional copyists hired by individual scholars produced individual copies on demand.³⁶

¶126 In the statutes of 1395 from the University of Padua another peculiarity of the relationship between scribe and scholar is found: scribes were often servants (*famuli*).³⁷ It is not hard to imagine that scholars of wealth coming from abroad to

36. See FRIEDRICH KARL VON SAVIGNY, 3 GESCHICHTE DES RÖMISCHEN RECHTS IN MITTELALTER 575–608, 643–54 (Heidelberg, J.C.B. Mohr, 1834–1851) (2. Ausg.).

37. STATUTI E ORDINAMENTI DELLA UNIVERSITÀ DI PAVIA DALL’ANNO 1361 ALL’ANNO 1859, at 55–56 (1925). The statutes of 1395 of the *universitas juristarum* include four chapters regarding *scriptores*. Scribes were bound by the statutes of the university, “*sive sunt famuli scolarium sive non.*”

study at a university would arrive accompanied by domestics. Nor is it hard to imagine that one of these servants would be a scribe. The likelihood that the scribe and glossator worked closely together has already been noted; the wide margins maintained throughout the main text suggest a patron of means as well.³⁸ Moreover, both the scribe and glossator consistently render the diphthongs *ua* and *ue* as *wa* and *we* (*conswetudo*, *lingwa*, *distingwe*). Entries throughout Diefenbach's *Glossarium Latino-Germanicum Mediae et Infimae Aetatis* prove that such an orthographic peculiarity was common to German speakers, due more than likely to the predominance in copying of an auditory rather than visual memory (though a German scribe saw *lingua*, he heard and wrote *lingwa*).³⁹ This shared practice suggests that the scribe and glossator were of the same linguistic provenance and perhaps German speakers. If the glossator was studying abroad, it is not impossible that he hired a copyist of a similar dialect upon his arrival, but it is also possible that he brought his scribe with him from home.

¶127 If the glossator is a German-speaking student from Pozsony, when and where is he studying? Three annotations help us date his activity, though they do little to fix his location. In the upper left margin of the verso of folio 235, the back cover folio of the manuscript's second book, the glossator notes next to a passage in his own hand on papal indulgences that on September 10, 1394, Bartholomeus de Fantelli, *utriusque iuris doctor* and lecturing on the Decretum at Padua, participated in a public *quaestio* on this issue. On the very next folio, the front cover folio of the manuscript's third book, he notes the four *conclusiones* on the decretal chapter, *Debitores* (X 2.24.6) of *dominus* Schawr on Sunday *Judica* (March 19) 1396, and beneath these the four *conclusiones* of *dominus* Franciscus on the chapter *Cum in iure* (X 1.6.33). Bartholomeus de Fantelli was licensed at Padua in 1386, a *doctor utriusque iuris* in 1392, and still active in that city in 1399.⁴⁰ *Dominus* Schawr is undoubtedly Leonhard Schawer of the University of Vienna, its rector in 1394 and a *doctor decretorum* trained at Bologna.⁴¹ *Dominus* Franciscus is more than likely Francesco Zabarella of Padua for two reasons. First, according to both Cappelli and Bryson, the abbreviation *Fra.* is attributed in

38. See WILLIAM HAMILTON BRYSON, *DICTIONARY OF SIGLA AND ABBREVIATIONS TO AND IN LAW BOOKS BEFORE 1607*, at 27 (1975) ("At other times a wealthy student might have a copy of a text with blank margins in which he made notes or glosses during the academic lectures.")

39. LORENZ DIEFENBACH, *GLOSSARIUM LATINO-GERMANICUM MEDIAE ET INFIMAE AETATIS* (Francofurti ad Moenum, sumptibus Joseph Baer Bibliopolae, 1857); See also H.J. CHAYTOR, *FROM SCRIPT TO PRINT* 16–21 (1950) ("To this cause may be attributed some of the inconsistencies in the orthography of scribes, which were not necessarily due to mere carelessness; if a scribe was copying a text composed in a dialect not native to himself, he was likely to substitute his own auditory memory of the text for his visual impression of it, and to write *er* instead of *ar*, *el* for *al* and the like." CHAYTOR, *supra*, at 19.)

40. See ANDREA GLORIA, *1 MONUMENTI DELLA UNIVERSITA DI PADOVA* 243 (Padova, Tipografia del Seminario, 1888).

41. See PAUL UIBLEIN, *ACTA FACULTATIS ARTIUM UNIVERSITATIS VINDOBONENSIS 1385–1416*, at 544 (1968).

the late fourteenth century only to Zabarella.⁴² Second, the four conclusions listed by the glossator agree in general with Zabarella's *lectura* on this chapter found in print in his *Commentaria in V. Libros Decretalium*.⁴³ A student of Giovanni da Legnano at Bologna, Zabarella taught at Padua from 1391 until 1410. He was also the bishop of Florence, in 1411 a cardinal, and, at his death in 1417, he was rumored to be on the brink of the papacy itself.⁴⁴

¶128 If the glossator was active in the 1390s, was he in fact studying at Padua or Vienna? The notes on Schawer and Francesco make no reference to place, and Fantelli, who apparently needs an introduction, is said to be lecturing at Padua, not necessarily participating in a *quaestio* there. Both are certainly possibilities, and Vienna, only twenty-five miles west of Pozsony, was the only university in Europe that maintained a *natio hungarica*, although its law faculty was of little renown. Nor can Bologna be ruled out, the most celebrated of all law schools, where for already a century Hungarians had attended and led, and where not only Galvanus but all the confirmed authors of the manuscript's texts had studied or taught. Moreover, a university at Prague was founded in 1348 and by the 1370s it was flourishing as a center of canon law instruction. There was also a university at Cracow (1364), though there is no evidence that anyone from Pozsony studied there during this period.⁴⁵ Hungary's own university at Pécs (1367) was short-lived and gone by the 1390s.

¶129 Although the dates of the annotations suggest little about their location, several points are perhaps of interest. In addition to their ordinary morning lectures, members of canon law faculties were required both to participate in *quaestiones*, public disputations on general topics of law, and to hold *repetitiones*, public lectures on specific passages. These mandatory scholarly activities were held regularly, *ordinarie*, during prescribed periods and on set days. However, scholars were also encouraged to engage in these activities *extraordinarie*, generally on any day not specifically prohibited, and visiting scholars often lectured in this sense. The date of Fantelli's *quaestio*, September 10, 1394, falls within the summer vacation period observed at Padua and Bologna (September 7 to October 15), when ordinary lecturing was prohibited, but after the period observed at Prague and Vienna (July 13 to August 16–25). At Padua *quaestiones ordinariae* were held on Saturdays; Fantelli's *quaestio* falls on a Thursday, throughout Europe a day off from ordinary lecturing but a day common for extraordinary activity. Schawer's *repetitio*, on the other hand, is given on a Sunday, when ordinary lectures were generally prohibited but extraordinary lectures, while discouraged, were allowed on demand. If Fantelli is a guest at

42. ADRIANO CAPPELLI, *LEXICON ABBREVIATURARUM* 143 (1928); BRYSON, *supra* note 38, at 70.

43. FRANCESCO ZABARELLA, *1 COMMENTARIA IN V LIBROS DECRETALIIUM* 164 (Venice, Simon de Luere, 1502).

44. See SCHULTE, *supra* note 6, at 283–85; *Medieval Canonists: A Biobibliographical Listing* (visited Oct. 15, 1998) <www.maxwell.syr.edu/maxpages/faculty/penningk/1298c-g.htm>.

45. See THEODOR ORTVAY, *2 GESCHICHTE DER STADT PRESSBURG* abteilung 4, at 349 (1903).

Prague or Vienna, he is participating in a *quaestio extraordinaria* on a day we would expect; if Schawer is at Vienna, he is lecturing on a day we would not.

¶30 While these annotations do not in themselves establish a location, they do provide dates that are consistent with the names mentioned, as well as later than the dating of the manuscript's paper and the scholarly activity of the authors of the texts themselves. Besides these dates, the attempt to establish the provenance of these two books still rests on the single reference to Pozsony found in the colophon to the *Casus episcopales et papales*. If the scribe who wrote it was from Pozsony, who was the student glossator?

Who Was the Glossator?

¶31 From the archival records at the chapter of Pozsony excerpted by Ortway, several canons in the 1390s are referred to as *magistri* though there is no indication that any of them attended a university.⁴⁶ One canon does, however, stand out, and the few details of his biography correspond loosely with the circumstances of the manuscript: Laurentius Zábó, the provost of the chapter at Pozsony from 1381 to 1401.⁴⁷ In 1383 he was in Prague as a student of canon law and upon entering paid the sum expected of students of wealth and dignity.⁴⁸ The circumstances in the manuscript that would suggest both Prague and the privilege of the glossator have already been noted. With the exception of Galvanus, all the authors are well represented in manuscripts at Prague. Stephanus de Rudnicz and Wilhelm Horborch had taught at the university, and their works that we find in the manuscript both originated there. The entire main text of the manuscript's second and third books could have been copied at Prague, and one of the watermarks of its paper was even found there in a manuscript dated 1382.⁴⁹ Moreover, in a copy found in Leipzig of the *Casus episcopales et papales*, the text begins with a short passage identical to the colophon we find in the manuscript, with the single exception that instead of *in sancta ecclesia Posoniensi*, we read *in ecclesia Pragensi*.⁵⁰

¶32 The collection of texts we find in the manuscript's second and third books reflects both the practical interests of the chapter's provost as well as the opportunity to gather authorities to address them. The works of these two books are not extended and complete commentaries but short and elementary treatises, selected excerpts, lectures on topics of immediate interest, and manuals of the internal

46. ORTVAY, *supra* note 25, at 238–40.

47. See RIMELY, *supra* note 24, at 227, 324–27.

48. See ALBUM SEU MATRICULA FACULTATIS JURIDICAE UNIVERSITATIS PRAGENSIS AB ANNO CHRISTI 1372 USQUE AD ANNUM 1418, at 37–38 (Prague, typis Joan. Spurny, 1834). Students paid fees based on their means; some were even exempt as *pauperes*. Zábó paid *1 flor. et 1 gr.* (gross = *solidus*), or twenty-one gross (twenty gross = one florin); the normal fee was fourteen gross.

49. Briquet 12441.

50. Leipzig UB 487. The passage reads: *Nota quicumque in ecclesia Pragensi vel alibi circa festa consweta confessiones Christi fidelium audire voluerint infra scriptos casus scire et de verbo ad verbum intelligere debent.*

forum. Charged with the *cura animarum* of both the people and their priests, Laurentius Zábó would have taken care to return from the university with texts addressing the real concerns of his office: marriage, usury, interdiction, excommunication, the conduct of priests, and the distinctions of penance.⁵¹ The additional gloss on the marriage decretals is meticulous and learned but often simply a comparison of Legnano's gloss with that of Hostiensis (d. 1271), the leading commentator on the decretals during the previous century. The provost read Legnano closely, and in his position few legal issues were of greater interest than marriage.

¶133 If the manuscript's final two books are the textbooks of Laurentius Zábó, copied by his scribe in 1383 at the university of Prague, how do we explain the annotations in his hand dated some ten years later? Zábó held the office of provost until his death in 1401 and his tenure was not without legal controversy. It is not hard to imagine that he continued his studies or attended lectures as opportunity arose, perhaps in combination with the official business of the chapter, during visits to Padua, Vienna, or Prague. He enrolled at Prague during his tenure and was most likely in attendance there for at least a year; perhaps he returned for a time even though we find no record of a degree completed. It is not known whether Fantelli, Schawer, or Zabarella ever traveled north to Prague as guest lecturers, but Fantelli's *quaestio* does fall on a probable day, and there is at least one known instance at Prague of a Sunday *repetitio* like Schawer's.⁵²

Speculating on the History of Ms 189

¶134 How Johannes de Vép came to possess these treatises is unknown. Nevertheless, it is interesting to note that in two books in the chapter library, a copy each of the Decretum and the Decretals, are inscriptions dated the same day, November 18, 1461, which tell us that Georg Schonberg, the provost of the chapter, had used these books in his study of canon law.⁵³ The inscription from the

51. These textbooks would not be the only works commissioned by Laurentius Zábó. In a copy dated 1385 from the chapter library of the *Summa casuum conscientiae* of Bartholmaeus Pisanus, an inscription states that quam summam dominus Laurentius Ecclesie S. Salvatoris Pisoniensis sibi scribere fecit Iohannem Reinensem. Perhaps Johannes Reinensis is the scribe of the manuscript as well. See SCHULTE, *supra* note 6, at 448 (providing biographical information about Pisanus); KNAUZ, *supra* note 25, at 118 (describing the chapter library's copy of the *Summa casuum conscientiae*).

52. See JIRÍ KEJR, *DEJINY PRAZSKÉ PRÁVNICKÉ UNIVERZITY 57* (1995). Hermannus de Insula lectured *in scolis ordinariis universitatis studii Pragensis die dominica, que in Dei Reminiscere consuevit decantari anno 1384* (March 6). He does not appear to have been a guest lecturer. He enrolled at Prague in 1383 as a *doctor decretorum*; in October 1384 he is at the University of Vienna.

53. See KNAUZ, *supra* note 25, at 15, 17. The inscription from the Decretals (Ms. no. 13) reads: Salve. Iste liber est ecclesiae Poson., quem Georgius prepositus cum scitu capituli tum in universitate, tum extra universitatem pro usu suo tenuit et recepit in octava s. Martini anno domini etc. 61. The inscription from the Decretum (Ms. no. 14) reads: Salve. Item in octava s. Martini anno etc. Ixi ego Georgius prepositus Poson. vacui studio sacri juris pontificii. The word universitas does not necessarily mean "school"; it often meant "community" as well.

front pastedown of Ms 189 is dated only a week earlier, the feast day of St. Martin, November 11. The tenure of Schonberg was also litigious, and it is hardly surprising that he would familiarize himself with the technicalities of law. We find no record of his enrollment at a university and suspect that his study was independent. A canon of the chapter, Vép would have been aware of his provost's activities and perhaps deposited his textbooks in the chapter library so that he could use them. Moreover, on the recto of folio 237, the front cover folio of the manuscript's third book, we read at the very top a single and barely legible line: *Assit principio sancta [Maria] meo . . . secundum statutum ecclesie Pragensis et forma iuris canonici. . .* The line is by the same hand that was identified above as the manuscript's fourth, the copyist of the prayers, sermons, and theological comments on the final empty folios of the second book's three subsections. If this hand is Vép's, copying texts obviously of interest to a parish priest, and he himself attended the university at Prague sometime before 1461, it is plausible that he now made available for the general use of the chapter, and specifically for the use of its provost, Georg Schonberg, the texts he himself had used at Prague. To be properly secured in the chapter's library, the books were bound, outfitted with a chain, and their contents and owner inscribed by the chapter's librarian. Presumably, Vép's copy of the *Correctorium* was bound with these texts in order to warrant the expense of the binding.

¶135 The subsequent history of Harvard Law School Ms 189 is unknown. On the back pastedown is a price, *6 fl. 4 lb. 10 di.*, which is presumably the amount for which Vép bought or sold the book. Pencilled lines on the front pastedown have been erased. On this same folio, in pencil, is the notation "325 Lell," and on the spine, also in pencil, the number "31." Unfortunately, the significance of these marks is unknown. The first seven folios have been torn out, and a once glued label on the front pastedown has been removed. Whether a conscious attempt to suppress the manuscript's provenance was once made can only be conjectured.

Appendix Description of Harvard Law School Ms 189

General Description

Binding:

32 x 22 cm. Wood boards covered with alum-tawed pig; 5 bosses on each board; vellum label glued to top of outer top board; capital *H* in ink beneath and to the right of vellum label; chain with end ring attached to top of bottom board; 2 leather straps from bottom board missing clasps; vellum guards in each gathering.

Paper:

Book 1: Briquet 5547(-50) and 14539(-41), ll. 7-72; Briquet 15875 (15873?), ll. 69, 73-123. [ca.1447-1458]

Books 2 & 3: Briquet 3847, ll. 125-198, 211-235; Briquet 7341, l. 237; Briquet 12441-42, ll. 199-210, 238-338. [ca. 1366-1381]

Collation:

Book 1: *pi*1 [1-5]¹² [6]¹²(6₁₂+3) [7-10]¹² = 124 leaves. *pi*1, 1₁₋₆ missing.

Book 2: *pi*1 [1]¹² 2-3¹²; 6-7¹² 8¹⁴ 9¹²; 4¹² [5]¹² *chi*1 = 112 leaves.

Book 3: *pi*1 [1]¹² 2-4¹² 5¹⁸ [6-7]¹² 8¹² *chi*1 = 104 leaves. 8₈, 9 missing.

Foliation:

<[1], 1-6> 7-215, 215-220, 223-266, [1], 267, 267-297, 297-302, 304-332, <333-334> 335-338 leaves [i.e., 340]

Description of Book 1

1ra-6vb Missing.

7ra-118rb **Matthias Döring**, Correctorium corruptorii Burgensis.

Inc: (missing)

Exp: . . . ut contra huiusmodi postille corruptorem efficacius exurgant et finem inposuisse quesitis. Explicit. Deo gratias.

Change of hand at 76ra. Rubricated initials with running chapter headings and numbers at head of page. Rubricated capitals and underlining throughout the text.

118va-123vb Blank.

Description of Book 2

124r Assit principio sancta [Maria] meo . . . secundum statutum ecclesie Pragensis et forma iuris canonici . . .

124r–124v <**Incertus auctor**, sermon on John 19:25>

Inc: Stabat iusta crucem Jesu etc. Nota quod beata Maria stabat iuxta crucem . . .

Exp: . . . oscula devota pedibus beatorum.

124v <**Incertus auctor**, account of supplies and labor>

Inc: Item pro quinque asseribus . . .

125ra–133va **Galvanus de Bononia**, *Casus, qui iudicis arbitrio relinquuntur*.

Inc: <A>d communem utilitatem et maxime superiorum et iudicium infra scriptos casus . . .

Exp: . . . ut debilitas honor super verbo *honor* in Novella.

Col: Expliciunt casus arbitrarii.

Little marginal annotation. Marginal numeration.

133va–151va **Galvanus de Bononia**, *Contrarietates glossarum juris canonici*.

Inc: <G>losas autem ordinarias contrarias in jure cananico (sic) et earum solutiones . . .

Exp: . . . ipse Deus omnipotens qui ex ipso . . . in secula seculorum amen.

Some marginal annotation. Marginal numeration.

151va–154ra **Galvanus de Bononia**, *De differentiis legum et canonum*.

Pro: <D>ifferentias vero inter leges et canones quas elegi tempore repetitionis mee canonis non ita . . .

Inc: Prima secundum canones ante sententiam potest appellari . . .

Exp: . . . de donationibus inter videtur c. *per vestras literas* super glossa *per vestras literas*.

Some marginal annotation. Marginal numeration.

154rb–158rb **Giovanni d'Andrea**, *Summa de sponsalibus et matrimonio*.

Rub: Summa brevissima Jo. An. super quarto decretalium.

Inc: Christi nomine invocans ad honorem ipsius et reverendissimi patris mei domini Bononiensis archidiaconi qui divinam . . .

Exp: . . . ad secundam partem rubrice, et non ad propositum unde quid dicunt vide per te. Jo. An.

Col: Explicit summa domini Jo. An. super quarto libro decretalium. Deo gratias.

Rubricated. Marginal chapter headings. Little marginal annotation.

158va–159vb <**Incertus auctor**> *Casus episcopales et papales*.

Inc: Sciendum est breviter pro quibus culpis sive casibus ac penitentiis sit ad episcopum penitens remittendus . . .

Exp: . . . de quo plenius habetur in extravaganti Bonifacii qui incipit *excommunicavimus*.

Col: Quicumque in sancta ecclesia Poseniensi circa festa consweta confessionis

fideliū Christi audire voluerint supra scriptas casus scire de verbo ad verbum intelligere debent.

Marginal chapter headings and numeration.

159vb–160rb <**Incertus auctor**, prayer>

Inc: <D>omina mea sancta Maria perpetua virgo virginum mater summe benignitatis et misericordie . . .

Exp: . . . in hoc seculo concede per Christum dominum nostrum. Amen.

160va <**Incertus auctor**, 2 prayers>

1) **Pro:** Quicumque hanc orationem per 40 dies devote compleverit . . .

Inc/Exp: enedicat me imperialis maiestas, protegat me regalis divinitas . . . illuminet me virtus spiritus sancti. Amen.

2) **Pro:** Hanc orationem Benedictus papa confirmavit . . .

Inc/Exp: Dominus det vivis gratiam, defunctis misericordiam, ecclesiae pacem et nobis vitam eternam. Amen.

160va <**Incertus auctor**, prayer (German)>

Inc/Exp: Ich leg mich nider in gotes vrochten ich enphilch mich in den heyligen funfwort dy got selber sprach do seyn heyliger leychnam czu pluet und czu fleys wart alzo mol müs ich geseget seyn sam daz prot und der weyn ins pristerhant geseget und geweyt wirt. Amen. . . . deponit vel surgit vel . . . se commendit.

160va <**Incertus auctor**, prayer>

Inc: Omnipotens et misericors Deus ecce accede ad sacramentum corporis et sanguinis unigeniti filii tui . . .

Exp: . . . discedere valeam per dominum.

160vb <**Incertus auctor**, comments on the remission of venial sins>

Inc: Nota quod per ista delentur peccata venialia videlicet per benedicionem prelati devote susceptam . . .

Exp: . . . Johan Andre super verbo *benedicionem* in primo libro Sexti.

From contents list of front pastedown: Peccata venalia multis modis remittantur.

161ra–208vb **Giovanni da Legnano**, *Commentarius in Decretales. Super IV libro.*

Inc: <P>ostquam satis tractavimus ea que spectant ad clericos ad ea que spectant ad laycos . . .

Exp: . . . et communis est oppositio quod nullam incurrit infamiam.

Col: Expliciunt dicta super libro quarto decretalium domini Johannis de Lignano utriusque iuris doctoris.

Heavy marginal annotation; some interlinear. Marginal and interlinear corrections.

Annotations with learned citations (Hostiensis, Innocentius, Goffredus, Jacobus de Albenga, Bartholomeus Brixiensis, Franciscus Vercellensis; Digesta, Decretum, gloss). Bifolium gloss of X 4.1.12 - 2.12 (165ra) in the middle of last gathering (204ra–205vb).

208vb <**Incertus auctor**, 13 misconceptions regarding divine responsibility for sin>

Inc: Primus est quod satis erat possibile quod per voluntatem creatam Christus aliquid voluerit quod numquam sic debuit evenire . . .

Exp: . . . Item quod possit dici quod anima Christi unica verbo saltem per accidens potuit odire Deum vel usupare vel detestari.

209ra <**Incertus auctor**, sermon on 1 Corinthians 10:32>

Inc: Sine offensione estote. Prima ad Corinthios decimo capitulo iuxta finem. Reverendissimi patres et domini . . .

Exp: . . . necnon suorum subditorum gubernationem salutarem.

209ra–209rb <**Incertus auctor**, prayer>

Inc: Oratio mea vere est . . .

Exp: . . . qui manducat hunc panem [] vivet in eternum.

Col: Qui manducat carnem meam non tantum sacramentaliter sed etiam spiritualiter . . . qui est vita eterna.

209va–210va <**Incertus auctor**, sermon on 2 Corinthians 13:11>

Inc: Perfecti estote. Secunda ad Corinthios ultimo capitulo. Reverendi patres et domini, si mores . . .

Exp: . . . quod nobis concedat rex regum et dominus dominorum Deus et homo Jesus Christus super omnia benedictus in secula seculorum. Amen.

From contents list of front pastedown: Sermo de dignitate sacerdotum.

210va–210vb **Incertus auctor**, comments on John>

1) **Inc:** Et sermonem quem audistis . . . (John 14:24)

2) **Inc:** Si quis diligit me . . . (John 14:23)

3) **Inc:** Deum nemo vidit umquam . . . (John 1:18)

210va–210vb <**Incertus auctor**, 2 short comments on divine providence and the bread of angels>

1) **Inc:** Providentia divina ordinavit quod . . .

2) **Inc:** Hic fides faciat. Panis angelorum est Christus . . .

211ra–212rb **Paulus de Liazariis**, *Divisio decreti*.

Inc: <Q>uoniam faciendi libros plures nullus est finis . . .

Exp: . . . quod ipse prestare dignetur qui est benedictus in secula seculorum. Amen.

Col: Explicit repertorium (sic) domini P. Leazaris.

212rb–233vb **Johannes de S. Georgio**, <Causa summarii decretorum non bene statuti>

Inc: *Human genus* bene statute rubrice usque ad c. *conswetudo* . . .

Exp: . . . non prodest corpori ieuniare si a viciis non abstinemus *ieiunium* rubrica usque ad finem distinctionis. [] nota in ultima glossa igitur non possit.

In margin (212rb): Infra scripti casus summarii decretorum quorum rubrice non bene statute compiliati per doctorem eximium dominum Jo. de Sancto Georgio.

234r Blank.

234va–235ra <**Incertus auctor**, 5 prayers> *De sancta Maria Magdalena; oratio pro compunctione; de sancto Benedicto; de sancto Bernhardo; oratio post communionem.*

Inc: Ave plena Magdalena quae Maria decoris . . .

Exp: . . . quia tu es Deus meus et Deus meus benedictus in seculo seculorum. Amen.

235v <**Incertus auctor**, comments on papal dispensation of indulgences>

Inc: Solet papa habet (sic) plenarium potestatem et potest facere indulgentias prout . . .

Marginal annotation: Item anno domini lxxxxiiii die x Septembris (Thursday) disputata fuit publice questio per dominum Bartholomeum de Fantelli utriusque iuris doctorem etiam legentem decretum Padue an occupatus . . .

236r <**Incertus auctor**, comments on Philippians>

Inc: Hoc enim sentite etc. id est humilitatem Christi habere . . . (Phil 2:5)

236r <**Incertus auctor**, comments on Gregory>

Inc: Gregorius in primo dyalogorum qualis eum quisque apud se latet . . .

236v <**Incertus auctor**, text from Philippians; comments on Hebrews>

1) **Inc:** Hoc enim sentite in vobis . . . (Phil. 2:5–11)

2) **Inc:** Est autem fides sperandarum substantia . . . (Heb. 11:1)

236v <**Incertus auctor**>

Inc: Proficiebat non secundum rem sed secundum manifestationem . . .

Text upside down.

Description of Book 3

237r <**Incertus auctor**, 5 short passages (3 listing the *conclusiones* of *repetitiones*)>

- 1) [?]
- 2) [?]
- 3) **Inc:** Conclusiones domini Schawr super c. *debitores* (X 2.24.6) . . .
Exp: . . . anno domini 1396 in Dominica iudica (March 19).
- 4) **Inc:** Conclusiones c. *dudum* de praesumptionibus (X 2.23.16)
- 5) **Inc:** Conclusiones c. *cum in iure* (X 1.6.33) domini Francisci . . .

237v Blank.

238ra–244vb **Joannes Calderinus**, De cohabitatione clericorum et mulierum. Vestra (X 3.2.7)

Inc: Dominus et pater meus sic summat, a clerico fornicario non notorio licite . . .

Exp: . . . cum heres de regularis licet cum similibus *de carbo poss. dan.* l. i.

Col: Commentata per dominum Johannem Calderinum est hec decretalis.

Very little marginal annotation.

245ra–276ra **Giovanni da Legnano**, *Commentarius in Decretales*. (excerpts)

1) *Cum tanto* (X 1.4.11) 245ra–253rb

Inc: Casus consuetudo non derogat iuri divino . . .

Exp: . . . et aliquis concors cum predictis institutis de iure naturali in principio. Et sic est finis.

2) *Quod in te* (X 5.38.11) 253rb–259rb

Inc: Nota quod sub verbo penitentiae includitur viaticum . . .

Exp: . . . quia confessores sunt eorum superiores eo quod [tympanum] dei gerunt.

3) (X 5.39–5.41) 259rb–276ra

Rub: Rubrica de sententia excommunicationis. *Super eo.*

Inc: Nunc adverte canonem *si quis swadente* xvii. q. iiii. habet duas regulas . . .

Exp: . . . dic quod qualitas culpe debet igitur ponderari.

Col: Expliciunt dictorum excerpta domini Johannis de Lignano doctorum egregisimi.

Little marginal annotation.

276va–285ra **Wilhelm Horborch**, *Repetitio decretalis* (*Debitores* X 2.24.6)

Inc: Reverendi patres et domini premissa invocatione divini nominis et numinis ac sancte et intemerate virginis dei genetricis Marie ad repetitionem si sit dici mereatur . . .

Exp: . . . datis Bytine 17 Septembris pon. Domini Urbani pape quinti anno sexto.

281rb: . . . et sic fuit determinatum per magnos viros in Romana curia ad petitionem consulum Hamburgensium quam determinationem vidi mihi missam per fratrem meum consulem ibidem.

285ra–289vb <**Incertus auctor** *Repetitio decretalis* (*De hys X 5.1.6*)>

Inc: In nomine patris et filii et spiritus sancti. In nomine domini. Amen. Reverendi patres et domini in cuius sancte trinitatis nomine et pro nostra modica institutione . . .

Exp: . . . remittit de materia ii. q. v. *mennam* et in Speculum ty. *de abolitione* [] nisi. Et sic est finis.

290ra–299va <**Incertus auctor** *Repetitio decretalis* (*Ad hec quoniam sub interdicto X 2.28.37*)>

Inc: Intelligo ab officio et sacris et ab homine prolato ut fortior sit dubitatio quia a sententia canonica non appellatur . . .

Exp: . . . cum hoc sit beneficium principis ergo latissime interpretandum *de dolo* capitulo *cum delecti* [] quia. Et sic est finis.

292ra: . . . secundum Johannem Calderinum dominus et pater meus in tractatu ecclesiastico in questione quam disputavit Bononie tempore interdicti . . .

299va–306va <**Incertus auctor** *Repetitio decretalis* (*Super spoliatione X 2.10.4*)>

Inc: Summatur sic per Jo. An. agens interdicto unum vi non reconvenitur nisi super alia spoliatione . . .

Exp: . . . habita cum eo et ibi nota per Jo. An. *de iudiciis* c. i. li. vi. etc. Et sic est finis.

306vb–332va <**Incertus auctor**> *Distinctiones decretalium*.

Inc: <F>irmiter credimus et simpliciter confitemur quod unus solus et verus est Deus eternus . . . Primo ex quo dicamus de articulis fidei . . .

Exp: . . . satis tamen ordo liberat clericum a patria potestate ut probetur liiii. di. c. *frequens*.

332vb **Paulus Ungarus**, *Summa de poenitentia*.

Inc: Quoniam circa confessiones animarum particula sunt et quandoque difficultates emergunt . . .

Exp: . . . habendo de delectione satisfactionem de opere. Sequitur (incomplete)

333–334 Missing.

335ra–336rb <**Incertus auctor**, florilegium patristicum>

Inc: Bernhardus heu quod dico quia sunt quidam sacerdotes qui lotis tamen manibus illotis . . .

Exp: . . . sed tamquam virus pessimus in foveam proicitur ne amplius videatur.

336va–336vb <**Incertus auctor**, theological comments>

Inc: Notandum autem est quod eorum quae in lege continetur alia sunt moralia alia mistica . . .

Exp: . . . alia exempla videri possunt in lectionibus quae dicuntur in sabato sancto prout ibi in sexta parte dicitur.

337vb–338vb <**Incertus auctor**, comments on Numbers>

1) **Inc:** Ore enim ad os loquor ei . . . (Num. 12:8)

2) **Inc:** Homo cum mortuus fuerit absque filio . . . (Num. 27:8)

3) **Inc:** Si quis virorum votum voverit domino . . . (Num. 30:3)

337va–338vb <**Incertus auctor**, several theological passages>