4. Layout and Decoration

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A MEDIEVAL MANUSCRIPT PAGE is like a blueprint, for the arrangement of its text(s) and its descriptive components define the manner in which it is to be used. Each type of text – Bibles, romances, Missals or legal textbooks – has an individual visual profile, designed by scholars and scribes to best serve the specific needs of its readers. Books of Hours, for example, used for private devotions, are mostly found in very small formats, with one short column of text per page, like the Grey-Fitzpayn Hours reproduced in Figure 12; choir books, on the other hand, are generally huge volumes with large script and wide staves with musical notation, made to be read and sung from at a certain distance. The visual profile is thus created by the physical and spatial organization of portions of the text – called layout – and by graphic elements used to define and clarify textual distinctions – here encompassed by the term articulation. The page layout not only identifies the type of text but informs the reader how it is to be read, whether directly from top to bottom, or through a more leisurely analysis, incorporating commentary passages.
Though many scholars have studied the development of canon and Roman law texts along with their discursive and exegetical commentaries, few descriptions have been made of the actual physical appearance of the medieval legal page, the configurations in which texts are placed and the graphic elements that articulate them. The literary peculiarities of books of law and their textual divisions and subdivisions call for a visual ordinatio quite different from liturgical or biblical manuscripts. Moreover, these divisions can be doubled in the same manuscript if the main text is accompanied by a gloss, which most often surrounds it and utilizes a parallel system of verbal/textual signposts, as seen in Figure 13.

The legal manuscript developed its distinctive 'look' from expediency. From the twelfth century on, resulting from the escalating study of law and a growing body of legal commentary, members of the book trade—scribes, rubricators and illuminators—were obliged to create new graphic arrangements for legal literature. The earliest legal texts were written in one column, but a two-column format was adopted in the twelfth century that made
the text easier to read and was space efficient (long lines in large books are hard to read without increasing script size and for long books like the *Codex or Digest*, two columns can generally hold more text per page). Furthermore, after scholarly commentaries had been created, meant to be read in conjunction with the text, the physical dimensions of lawbooks had to expand to accommodate these glosses in the surrounding margins. Thus, while earlier texts of Roman and canon law can be found in fairly compact, easily handled volumes such as Sidney Sussex MS 101 (Cat. No. 1), measuring 315 x 204 mm, by mid-twelfth century, as the story goes, wealthy students’ would hire servants to haul their thick and cumbersome volumes to and from classes, exemplified by the more massive Fitzwilliam MS 183 (Cat. No. 6), at 480 x 300 mm.

*Layout and Its Functions*

For all glossed legal texts the basic layout was the same; that is, the main text was arranged in two columns and positioned upwards and slightly off centre of the white space of the page, leaving a larger space at lower and outside margins to accommodate the surrounding gloss in the manner called *textus inclusus* (Fig. 13). Space was left free in the margins outside the gloss for further commentary or annotation by scholars, as well as for written instructions to scribes, decorators and illuminators. Scribes could also manipulate this physical arrangement to fulfil the specific aesthetic requirements of patrons and institutions. A special feature of legal manuscripts produced in Bologna is the care taken by
scribes to maintain symmetry and uniform spacing. While the number of lines in text and in commentary might vary from recto to verso, Bolognese scribes made a great effort to produce a mirror-image layout with an equal number of written lines at every double page opening, as can be seen in Figure 13. This was a particularly complicated feat in glossed texts. The early legal texts with few or no glosses could be ruled and written in a consistent number of lines per page from beginning to end, like Corpus Christi MS 10 (Cat. No. 3) with double columns of fifty-five lines throughout, as seen in Figure 14, but once the *glossa ordinaria* was established for each text, new configurations had to be created.

Certain passages in legal texts were considered so important that they fostered a great deal of commentary, while others could be ignored or were only slightly or partially annotated. Thus in writing the gloss the scribe faced a formidable challenge; how to fit commentary to text in such a way that it matched up with its corresponding text passages, and in addition, for Bologna, maintaining a mirror effect at each opening. How could symmetrical openings be preserved in the case of two successive passages, one highly glossed and the other accorded only a few notes? How did the scribe determine his page-to-page format?

The main text was written first, and so the text scribe had the initial responsibility of establishing the working format for each manuscript, ruling his blank vellum quires as he received each *pecia* from the stationer and leaving appropriate spaces for the work of others: rubricators, penwork decorators, illuminators — and the gloss scribe. He (or she) was also responsible for keeping track of the density of the gloss for the passage he was writing, calculating how much space it would occupy, and making the appropriate adjustments in his writing of the text. In practice, the text scribe was not always so diligent, and in innumerable manuscripts the gloss is often several pages behind its corresponding text. Gloss scribes would have to resort to various strategies for controlling layout, regulating as necessary the number of lines per page, width of columns and margins, size and height of script, distance between lines, space between words, number and severity of abbreviations. The variation in width of gloss columns may be easily observed in the Fitzwilliam Museum’s Marlay Cutting It. 3–11 single leaves (Cat. No. 5), all from the same original manuscript, each representing an individual solution by the scribe to the job of matching gloss to text on a given folio. The measurements range from two very narrow columns in gloss to text on a given folio. There were other possible expedients for matching gloss to text on an ongoing basis. First of all, scribes could have access to pre-defined models, such as finished glossed manuscripts, of every text they would likely be commissioned to write. Individual and independent scribes would hardly have owned examples of all the glossed texts for personal consultation, so a collection of this type would be an essential resource for a book stationer’s shop. Some scribes must have had other guidelines beyond practical experience or an actual glossed manuscript, perhaps written instructions alerting the scribe to tricky sections, or describing particular strategies or ruling patterns for a specific text. Additionally, an experienced professional could oversee the ruling and writing of a manuscript to be glossed, and might leave instructions for step-by-step ruling. As we have seen, however, in
Bologna most scribes copying texts for the university worked at home, and were more likely to rely on their own ingenuity, or perhaps spend some time at a stationer’s studying the equivalent gloss text before sitting down to establish the correct number of lines for a sequence of text folios.

Some unique or visually arresting textual arrangements in the gloss, probably due in part to a scribe’s desire to show off his technical virtuosity, may also represent his solutions in adjusting a small amount of gloss around a portion of text for which the text scribe has provided too much available space. Along with widening and narrowing the columns, scribes would stretch out the gloss text into unconventional formats, such as geometrical shapes or letters of the alphabet. The reader may have been struck by the pleasing patterns the repetition or alternation of doctored columns made on the page or across an opening, but these special effects had a functional origin.

Another space-filling activity by the gloss scribe was a ploy to simulate the achievement of a symmetrical opening, when in fact there was not enough text left to reach the bottom of the last column. This was the repetitive writing of nonsense words and syllables, or even
the name and siglum of the glossator, in the last one or two lines of the lower right-hand gloss column on the recto, so it would end evenly with the other three columns. The scribe who glossed the Fitzwilliam’s MS McClean 136 *Decretales* (Cat. No. 14) used this device to disguise an error in calculation. On folio 257v, the end of a major text division, he tried to divide the remaining gloss into equal portions for this page, but overestimated the space he had available in the right-hand column, ending it three lines longer than what he had already written on the left. In the interests of symmetry he therefore added a nearly spaced line of gibberish to his shorter left-hand column, lining it up with the right. He used the same device at the end of fol. 187v (Fig. 15).

Additional factors that would affect the number of lines/text to be written at each opening would be the amount and dimensions of graphic and decorative devices, or the varying proportions of text to blank space on the page. The lavishly decorated, though incomplete, Fitzwilliam MS 262 *Decretum Gratian* of Northern origin (Cat. No. 8) has, exceptionally, two-column miniatures for each of its six surviving frontispieces (out of a possible forty), no doubt requested specially by the manuscript’s patron. In comparison, the Fitzwilliam’s
roughly contemporary Bolognese Decretum Gratiani (MS 183, Cat. No. 6) was given a large
two-column miniature for its initial frontispiece, but the remaining thirty-eight are one-
column in width. We may analyse the different conventions followed and solutions pro-
vided by the two different scribes who planned and designed the layout for the two open-
Figure 16 and 17. While each miniature occupies roughly half the space allowed for the central text, the dimensions and proportions of this centre block are different in each manuscript. The Bolognese miniature is wide and squat, with a short
amount of text placed beneath; ample space separates text from gloss (Fig. 16). The gloss
scribe had a relatively small amount of gloss to match with the text, so he stretched it out
in very narrow columns around the miniature and its text. The Northern miniature in con-
trast is narrower and vertically longer, and the scribe placed a greater amount of the open-
ing text beneath it than in the Bolognese manuscript. For this greater amount of text, there
was a proportional increase of corresponding gloss, which now needed wider columns to
accommodate it. Layout and the proportions of text to miniature may deviate from manu-
script to manuscript, and improbable though it may seem, we find that each text scribe
created a unique format for each manuscript he was commissioned to write.

The recognition that each manuscript has an individual design can be helpful to the
scholar in identifying leaves or fragments that have been detached from their original con-
texts and may appear on the market, or languish in private, museum and library collec-
tions. In fact, sister leaves and fragments for two leaves in the Fitzwilliam Museum have
recently been located by verifying identical configurations of layout, script and scribal
notations and elements of decoration. MS 331 (Cat. No. 20) and its sister leaf in the
National Gallery of Art, Washington, D.C. (Fig. 18), are frontispieces to Books IV and V
extracted from a fourteenth-century manuscript of canon law commentary (Johannes
Andreae, Novella in Decretales, Books III–V). Both leaves are written on recto and verso in
two neat columns of seventy-four lines each. A striking comparison can be made between
MS 331 and Pierpont Morgan Library’s MS M.747, a fifty-folio fragment of the same text
accompanied by the same author’s Novella in Sextum, also written in columns of seventy-
four lines, and lacking all its frontispieces but with sixty-nine historiated initials executed
by Nicolo. The leaves and the manuscript have comparable dimensions: Morgan MS
M.747 measures 470 x 290 mm; Fitzwilliam MS 331 is 445 x 280 mm; Washington MS
B–22225 is 445 x 273 mm; the smaller dimensions of the single leaves are consonant with
being trimmed after excision, perhaps for framing and display. Another point in common,
present throughout the Morgan manuscript and very fortuitously on both leaves, is a
passage placed in the margins alongside the appropriate text (Fig. 19). This sigillum can
be seen in Figure 19, and also in the right-hand margin of Figure 18, just below mid text.
In addition, the text is articulated with two-line penwork initials set into the text, execut-
ed alternately in red and blue ink and ornamented with filigree penwork in a contrasting
colour, blue with red, red with purple. As can be verified in the initial P in Figure 18 and
the initial I in Figure 19, the filigree is executed in an idiosyncratic design peculiar to its
A. LAYOUT AND DECORATION

craftsmen: it forms a square ground around each initial, which, however, is allowed to rise slightly at the upper left corner, and/or sometimes dip to a greater length at the lower left corner. These analogous physical elements in the three manuscript fragments taken together demonstrate almost without a doubt that they originally belonged together, and verification that the text on the verso of each single leaf is continued without a break on a recto in the Morgan manuscript, has completed the proof.

The linking of the Cordwainers' Guild leaf in the Fitzwilliam, MS McLean 201 f.15, with three other leaves from the original Matricola located in separate collections (see Cat. No. 21), was effected in the same manner. It was verified that each leaf was ruled for 34 lines of text and carried its original foliation in red ink at the upper right-hand corner. While the opening leaf was more richly illuminated the decoration of all leaves followed the same basic format, which for the section leaves (including McLean 201 f.15) was identical, and all illumination was executed by Niccolo da Bologna, working in a consistent style. Although few guild registers survive intact, a small number can be found with sixteen or more leaves. The number xx on the McLean leaf stipulates the minimum number of leaves in the original document, and some of the others perhaps wait discovery. It will profit manuscript scholars to be attentive to the many facets of format and graphic detail that distinguish individual manuscripts, which can also serve to identify missing parts. The following section will describe some of these components.

Articulation System

The pages of medieval manuscripts of canon and Roman law are excellent illustrations of the visible devices created to organize the sequence and interrelationship of text passages, according to the new scholastic methods developed in the twelfth century. While formal iconographic programmes only emerged around the middle of the thirteenth century, already in the twelfth century scribes had a wide range of graphic devices with which to make textual distinctions: type and size of script, colour, position, marks and symbols; and organizational tools such as running titles, indices and alphabetical tables. These graphic conventions seem to have had universal appeal and acceptance throughout Western Europe within particular time periods (with slight regional variations), and the fact that visual distinctions were sought implies a strong need on the part of scholars for rapid textual identification, particularly of sources and authors. The rubric 'ex concilio africana' directly above the miniature for Book I in the Fitzwilliam Museum's MS McLean 136 Decretalet (Fig. 20) designates the Church council from which the following material was derived. In Justinian's Digest, organized as a series of extracts from the works of eminent Roman lawyers, thirteenth- and early fourteenth-century scribes placed an abbreviated version of the author's name directly before his words, so each section was differentiated by a large coloured initial, red or blue, followed by a small capital letter in the opposite colour for the first word of the passage. This is illustrated on folio 57v of the Durham Digestum novum (Ms C.1.3, Fig. 21), where the large decorated P directly after the rubric 'de confessis'
identifies Paulus, and subsequent initials distinguish extracts by different jurists in the same column: Ulpianus; Paulus; Idem [Paulus again]; Ulpianus; Idem. Somewhere in the 1330s this convention was reversed, and the larger initials were now used to introduce the first word of an extract, while the small capitals distinguished its author.

Hierarchies

It is sometimes hard to draw a line between the articulation and decoration of a manuscript, especially in deluxe productions, where even the smallest textual divisions may be elaborately defined. Practically speaking, articulating devices are those essential to distinguishing textual hierarchies, independent of their decorative content. They function under the simple principle that the larger and more complex the indicator, the larger or more important is the textual division. Late twelfth- and early thirteenth-century manuscripts (like Sidney Sussex MS 101, Cat. No. 1) were very simply articulated: as shown in the reproductions from this manuscript, major text divisions were introduced by large coloured initials, often inhabited with animal or human figures, and occasionally accompanied by an allegorical or symbolic figure. Simple coloured initials placed in the left-hand margins identified the start of secondary divisions, and one-line capitals headed sentences within them. Red and blue were the most commonly used colours, and each colour would be used to decorate its opposite, sometimes with elaborate penwork flourishes, although violet was introduced and subsequently became the preferred colour for decorating red letters towards the end of the thirteenth century. Early glosses were added in layers in the margins surrounding the text, and were distinguished from each other by different shades of ink, by sigla and sometimes with a touch of colour.

Articulation became more elaborate in the thirteenth century, both in response to scholars’ needs and the willingness of wealthy readers to pay for the beautification of their manuscripts. Incipits were distinguished by rubrics; large filigree or illuminated initials introduced books and titles; and red and blue penwork initials and capital letters of graded sizes headed smaller divisions: questions, decisions, decrees, cases, paragraphs and sentences. The smallest coloured unit was the paragraph marker or paraph, designed to head sentences within paragraphs; in addition, the first letter of a sentence could be touched with yellow wash.

Distinction of Genre: Canon and Roman Law

For Italian manuscripts, particularly Bolognese, it appears that the fact that canon and Roman law were treated as two separate disciplines in the universities created a need to make their texts visually separate as well. Around mid-thirteenth century a simple and effective mechanism was devised to quickly distinguish a glossed canon law text from one on civil law: a colour-coding system based on the red and blue penwork initials. Civil law texts, with few exceptions, were assigned blue initials decorated or flourished in red in the
text proper at secondary levels; one-line red capitals begin the subsequent sentences. The Durham Digestum novum (MS C.I.3) and Codex (MS C.I.6, Cat. No. 12) illustrate this practice; the look of the Codex is even more striking, due to the innumerable Is that punctuate the text like exclamation points, followed by their bright red one-line capitals (Fig. 22). In the gloss, the corresponding two-line initials alternate red and blue, decorated in the contrasting colours, and paragraph markers also alternate red and blue.4 Canon law texts on the other hand, as exemplified by the Fitzwilliam Museum’s Marlay 1t, single leaves (Cat. No. 5), were given alternating two-line red and blue initials in both text and gloss, as well as capitals and paragraph marks of alternating colours (Fig. 23). Thus, although basic layouts were the same, the visual distinction between canon and civil law texts produced in Bologna was immediately apparent: it hinged on a factor as simple as the use of alternating or single-colour initials in a given space.
The preceding conventions only hold true for Italy, however, for it can be seen that different customs were followed in other geographical regions. Little research has been conducted or statistics formulated on these variations in secondary manuscript decoration, although they can provide valuable clues for identifying manuscripts produced or decorated in a particular place, or executed by a foreign scribe or craftsman working far from his native land. The Fitzwilliam’s McClean Decretales (Cat. No. 14) for example, had its penwork decoration been executed in Italy, would have been articulated with alternating red and blue initials in text and gloss as befitting a canon law text. Instead, the two- and three-line blue initials placed in the margins alongside the central text alert us that a different tradition is in force. A combination of other details – the double address to the universities of Paris and Bologna, the presence of two illuminators of non-Italian origin and the placing of a number of the rubrics into triangular spaces left for this purpose at the right-hand side of the column – point to Northern practices. A number of scholars have commented on the presence of these all-blue initials for the main text in manuscripts written by English scribes working outside their native lands, and their common use in English fourteenth-century manuscripts. The English scribe Thomas of Wymondswold, who was based in Paris, is also thought to have executed the blue penwork initials flourished in red in the Decretum Gratiani he copied, signed and dated 1314 (Paris, BNF MS Lat. 3893). Taking this into consideration, the Gonville and Caius Digestum vetus (MS 8/8, Cat. No. 17), considered by M. R. James to have been written in Italy and illuminated in France or England, deserves deeper analysis. Written in quires of 12, a distinctly non-Italian feature, it has all blue penwork initials in the text – the correct articulation for civil law manuscripts in Italy – but also correct for English examples in general. More attention needs to be given to these levels of decoration, long-considered minor and even insignificant, for they can be important aids in the analysis of manuscript production.

Special Signs

Special sigla were invented by glossators and text scholars to signal abbreviations, repetition of expressions or themes or other points regarding the interpretation or discussion of texts. One particularly interesting system of notation was invented around 1140, consisting of Greek letters, signs of the zodiac or other distinguishing marks in red ink, complemented by the placement of one or more dots at specific locations around them. They proliferate in the pages of the Sidney Sussex Decretum Gratiani (Cat. No. 1), located in the margins alongside particular text passages (Figs 24, 25). Their function was to note where key expressions or ideas were repeated throughout the text, linking these incidents with the same sign and indicating where the others were located; a dot to the right meant that a similar passage would be found further on in the text; one to the left signalled a preceding passage; dots on both sides told the reader he must look in both directions.

Graphic devices were also used to link gloss passages with the corresponding text they interpreted or discussed, similar to the tie-marks defined by Christopher De Hamel. The
earliest system utilized pairs of sigla composed of combinations of dots with horizontal or vertical curving dashes, as can be seen in an early thirteenth-century *Digestum vetus* bifolium recovered from a binding (Fig. 26). Upon finding a particular sigulum beside a line of text, the reader would search for its mate in the gloss, or vice versa. For scribes, it must have been a chore to keep track of the combinations of dots and dashes utilized from one page to the other, and they soon switched to letters of the alphabet to perform the same function, clearly visible in the *Decretum Gratiani* single leaves (Cat. No. 5), exemplified in Figure 23. The letters had the advantage of following each other in an established order, and if the alphabet was exhausted on a given page, it would simply be repeated. This alphabetical keying, characteristic to Italian manuscripts, was effected during the writing of the gloss, and it can be observed in many Bolognese-produced manuscripts (see Cat. Nos 5, 6, 11, 12, 13) that scribes usually neglected to add the matching letter of the alphabet to the appropriate spot in the text. One may conjecture that this omission was not prejudicial to the reader. Another device for matching gloss to text, practised by French and English scribes, was the underlining in the text, often in red, of *lemmata* – key words or
titles – and their repetition in the gloss, exemplified in the Fitzwilliam’s Decretales single leaf for Book V (MS McClean 201.f.12, see Cat. No. 4 and Fig. 56).

Scholars themselves were not only aware of the functions of graphic devices, but composed their commentaries envisioning their use. The renowned Bolognese canonist Johannes Andreae (d. 1548), in one of the chatty passages he sprinkled throughout his commentaries, discusses the three different types of glosses he will furnish for each chapter of his commentary to the Decretales, called the Novella, and describes the different forms of paragraph marks by which he will distinguish them. They may be seen in the Fitzwilliam’s MS 331 (Cat. No. 26), the frontispiece to Book V of this text. An ordinary paragraph marker is a simple rounded C-like form, one line in height, used to separate the sentences in a passage of text. In the lower right-hand column of MS 331 (Fig. 27) and in the right-hand differentiating devices created by Johannes Andreae: to the rounded side of the simple marker are appended one, two or three spikes (he called them teeth, ‘dentes’), each corresponding to an individual kind of gloss: casus summarii, divisio, literalis prosecutio.
**Special Layouts**

The addition of so many new and different texts to the repertoire of scribes and artists as a result of burgeoning legal studies at the various Studios may have made specialization an attractive enterprise. Just as particular skills were called into play for copying a glossed text, the execution of tables and diagrams too required special knowledge and experience. The most common diagrams associated with legal manuscripts are the Trees of Consanguinity and Affinity (illustrated in Chapter 3, Fig. 10, and Cat. Nos 1, 2, 8)\(^2\) and the lesser known Tree of Actions (*Arbor actionum*) (Fig. 28). They are composed of circles inscribed with titles and concepts, and arranged within geometrical configurations, interconnected by various graphic devices, and in the case of the *Arbor actionum*, additionally

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**Fig. 28**
furnished with an esoteric system of alphabet letters surmounted by a coded arrangement of dots - more fully described and explained in the catalogue entry for this manuscript (Cat. No. 10). Occasionally one encounters diagrams so poorly executed that it is probable the scribe had little idea of their function or significance, or had had insufficient practice with constructing them. The majority, however, are neatly drawn and inscribed, very likely by specialists who generated them by the dozens.

The Trees of Affinity and Consanguinity were placed in canon law texts to accompany Church rules governing marriage and to define the eligibility of marriage partners. The diagrams on Consanguinity, like those found in Sidney Sussex 101 (Fig. 29) and Fitzwilliam MS 262 were usually organized into an arrow-like format and superimposed onto the body of a standing, frontal, male figure, thought by some to represent Adam, the First Man. Jonathan Alexander points out that twelfth-century examples present the male figure in an almost subservient posture, ‘uncrowned and sometimes almost impaled on the tree, as if an unwilling victim of these constraints’, contrasting with the thirteenth-
fourteenth-century versions illustrated in this catalogue, where he is visually more assertive, upright and crowned.¹² Within the circles are named the blood relatives with whom marriage was prohibited. The Affinity diagrams, in contrast, usually headed by the figures of a betrothed or married couple, listed the relatives by marriage who could not fulfill the role of second spouse upon the death of the first (Fig. 30). These Trees can be found in early copies of the Decretum Gratiani, but their use was phased out in this text after successive decreetal collections (Decretales, Liber sextus, Constitutiones Clementinae) modified or updated the canons of marriage. Thereafter the Trees were transferred to the later texts as a visual complement to Book IV, on Betrothal and Marriage. Walter Cahn speculates that the notion of putting together a diagram with a figure originated in Italy, at least as early as the eleventh century, since the combination can be found in early Italian manuscripts of Burchardus of Worma’s Collectio canonom composita between 1007 and 1015. He suggests the standing, frontal figure originates with the author portraits in Italian Bibles of the eleventh and twelfth centuries.¹³

Most fourteenth-century versions of the Trees, unlike the examples in this catalogue, are accompanied by a descriptive Summa or treatise, often written around them as a frame. It can be observed that these diagrams were almost always executed independently – usually as a separate bifolium or single leaf – for insertion at the appropriate textual location, as they are often preceded and/or followed by blank pages. We also find manuscripts furnished with Trees executed at a different time or location than the text and its general decoration, such as the Vatican Library’s Vat. lat. 1390, a Decretales written and illuminated in Bologna around 1280–90, in distinctly Bolognese style, whose Trees were designed and illuminated by a fourteenth-century Northern, most probably French, artist. Perhaps they were created and inserted at the same time a later scribe Johannes de Clugny of Autun wrote and signed many of its additones.

**Book Divisions**

In late twelfth- and early thirteenth-century codices, the opening to book divisions, or causae in the case of the Decretum Gratiani, could be prefaced by a variety of decorative elements. Purely calligraphic decoration was used in simple or inexpensive commissions, such as the arrangement of coloured display capitals on folio 3 of Sidney Sussex MS 104 (Fig. 31). In this early Decretum Gratiani the words represented correspond to the section’s first line of text: *In prima parte*. Here an indented space was left blank at the left side of the left-hand column for the long unexecuted initial I; to its left alternating red and blue display letters spell out the rest of the text. The decoration continues at the *bur-de-page*, where the lower extremity of a large red and blue initial I sprouts a beaked head, which spews out a small coloured spray that soon narrows to a single horizontal line and then once more bursts into multiple filaments, embellished with organic motifs. In contrast, the decoration of the Corpus Christi Decretum (MS 10, Cat. No. 3) was far more costly, its major divisions and causae introduced by elegantly painted foliate or historiated initials set into
coloured frames (Fig. 14), occupying the width of a column and accompanied by display capitals to complete the opening word or words of the text.

Though penwork decoration and articulation still represented an inexpensive solution for textual differentiations throughout the thirteenth and fourteenth centuries, from around mid-thirteenth century, most book divisions were designed to open with a painted miniature, followed directly below by a painted initial, usually three to eight lines in height, to initiate the text. Depending on the size of the commission, the scribe could plan for larger or smaller painted elements, leaving blank spaces for the illuminator’s work. In numerous manuscripts some or all of the planned decoration was never completed, for reasons that can only be conjectured. For the Gonville and Caius Digestum vetus (MS 8/8, Cat. No. 17), only the miniatures and painted initials for the Prologue and Book I were executed, and the latter miniature has been excised. The manuscript was possibly commissioned by a student who, after text and gloss had been written and rubricated, may have found himself with insufficient funds to pay for its complete decoration.
For most of the thirteenth century legal miniatures were laid out in a one-column format, and were generally slightly higher than they were wide. A rectangular field, painted in tones of blue and often ornamented with white tracery designs, or in more costly commissions laid with gold leaf, served as background for an iconographical composition. Architectural elements were essential as framing devices and for delimitation of spaces within compositions. In the last quarter of the thirteenth century, exemplified by the Durham Parvum Volumen (Durham MS C.1.4; see Cat. No. 11 and Figures 32, 37, 45, 63, 64) and the Fitzwilliam McClean Decretales (MS McClean 136, Cat. No. 14), round or pointed arches at the upper border of the miniature segmented the background into two or three compartments, these further separated into bays by thin vertical bands simulating columns, topped with capitals constructed of small balls sandwiched between thin blocks. In several of the Fitzwilliam Marlay I. cuttings (Cat. No. 5, particularly Pls 5b and 5e) the Bolognese artists have followed the Byzantinizing tradition of projecting the upper segments at different levels, imitating rooftops and draping swags of cloth in the antique manner across the entire architectural stretch, allowing them to dip between dissimilar heights, and to fall gracefully down the upper sides of the miniature. Within the miniature, figures are grouped in structured compositions and confined within their spaces. After 1300 compositions began to become more fluid, and though architectural constructions still mark spatial boundaries, figures assume more credible positions in the picture plane.

In legal manuscripts the most complex layouts were reserved for major text divisions, usually two for each text, the second generally representing the manuscript’s midpoint. Further distinction could be made by initiating these sections on a recto, and by preceding them with a blank page or folio. Around the end of the thirteenth century artists began to utilize two-column miniatures for the most important frontispieces, which allowed them more space to create dramatic and narrative compositions. The Fitzwilliam’s MS 262 Decretum Gutiiani (Cat. No. 8) is unprecedented in having a two-column, multi-level miniature for each of its six surviving frontispieces, with the likelihood that the missing thirty-three or four would also have been this size. This represented not only a tremendous cost to the manuscript’s patron, but a challenge for both the scribe and the illuminator: the former to plan and devise the format; the latter to create and execute so many complex compositions for themes previously expressed in single scenes. The placement and function of human figures in legal miniatures will be discussed more fully in the chapter devoted to iconography.
Notes

1 See Bocoleère, 'Neer et Blanc', pp. 216-20, and also the important essay on 'readability' in Bergeron and Ormrod, 'La lumière', pp. 521-44.

2 Suermondt observes that this irregular shaping was practised by non-Franciscan scribes, chiefly Southern French. See Suermondt, 'L'originalité en peinture', p. 220.

3 I differentiate between the words initial and capital as follows: by initial I refer to an ink or printed letter that signals a major change in textual hierarchy, opening a division and located either at the extreme left-hand side of the column or in the left-hand margin. I use capital to indicate the first letter of the first word of a sentence or phrase – usually one line in size and either executed in coloured ink or in brown ink touched with wash – located within the text.

4 Within the category of Roman law, those various texts bound together in the Petrus Valentinus – the Institutiones, the Tractatus, the Historiae et Notitiae and the Libri feudorum – are distinguished one from another by similar means.

5 See particularly Rouse and Rouse, 'Wyrmwood', p. 64, with regard to this Paris Decretum Gratiani. Adelaide Bennett in her description of Walters Art

6 Gallery MS 134, written in August 1991, asserts that initials only in blue flourished with red penwork are characteristic of English work, originating most probably in Oxford in the second quarter of the thirteenth century and becoming widespread by the beginning of the fourteenth.

7 James, Cairns, 1, p. 8.


9 Kuttner, 'Johannes Andreæ', pp. 605-06.

10 The most complete description and analysis of the Trees of Consanguinity and Affinity is found in Schadet.

11 For the 'Tree of Actions', see most recently Erra, with full bibliography on previous literature.

12 Alexander, Medieval Illumination, p. 16.

13 Cahn, 'Fragments', p. 55.
5. Legal Iconography

Susan L’Engle

WHY ILLUSTRATE A LEGAL TEXT? Most people today, art historians included, find it logical to encounter pictures in a Bible, a volume of Dante or even a medical encyclopaedia: the first two tell stories, and the latter must deal with anatomical characteristics and perhaps surgical techniques that need to be visually described. But the field of jurisprudence is generally considered to be a repository of abstract ideological concepts and endless regulations, and laymen and legal professionals alike find it hard to conceive of a body of illustrations in textbooks for the study of law. What could be pictured? And, furthermore, if one could conjure up a series of images to represent laws, their enactment and enforcement and punishments for their infringement, what would be the point? What would they contribute to the practice of law?

Medieval illuminators probably asked themselves the same kind of questions. We can surmise that after the study of law was revived, and courses in canon and Roman law attracted students by the thousands, scholars or professors with money to spend were just as eager to possess elaborately decorated legal texts as clergy and laymen were their Bibles, Missals, Choir Books, and Books of Hours. The pictorial compositions placed in books dealing with religious narratives or rituals for private and communal devotions often functioned as place-markers, to identify a specific reading for a particular time of the year or hour of the day. Additionally, they could depict important events in religious history, and also evoke for the reader the essence of doctrinal passages. Legal manuscripts were handed over to the same artists who decorated biblical and liturgical books, craftsmen whose livelihood depended on the number of jobs that came their way. Those who accepted commissions in the new field of law, having no experience with its literature and hardly a notion of what it encompassed, faced the difficult task of illustrating unfamiliar texts with no established iconographic tradition. For the first collections of written law, therefore, artists very ingeniously borrowed and adapted compositions and motifs from religious, secular and antique sources, until they were aided by legal specialists to devise more text-specific scenes. We can often recognize an earlier context in thirteenth- and fourteenth-century legal compositions – particularly scenes of betrothal and the celebration of marriage – deriving from the depiction of Biblical events like the Marriage of the Virgin, or the Wedding at Cana. The figure of Christ enthroned in Judgement – this composition itself originating from representations of emperors and other rulers in antiquity – was an ideal model for the authority figure presiding over legal proceedings that is the basis of most juridical scenes, exemplified by the crowned and enthroned Justinian flanked by lawyers, with a note-taking scribe at his feet, in the Durham Volumes (Cat. No. 11, Fig. 32).

Simple pictorial compositions for legal manuscripts were in use as early as the 1240s, and standard iconographic cycles had been devised by the last quarter of the thirteenth century. Illustrators did not provide a very profound or extensive visualization of the text:
while multiple topics may be covered and discussed in individual books, miniatures and historiated initials rarely refer to more than the first few titles or cases, and most often only to the opening phrase. This implies that the creators of the early illustration cycles were not experts in law, but rather in illustration, that they were literate but did not read beyond the initial paragraphs to seek inspiration for a composition. And much depended on the opening phrase: if it were very abstract or did not contain verbs of action to evoke a narrative situation, artists would supply a generic 'judicial' or 'discussion' scene applicable to any juridical context, such as the miniature placed at Book II of the Fitzwilliam Museum’s McClean Decretales (Fig. 33). Here tonsured figures flank a civil judge, their static poses and formal gestures suggesting no more than a consultation on general legal issues.

The main task fulfilled by legal illustration was a visual representation of the rulings and decisions by civil and ecclesiastic courts of law, described and interpreted by the written words on the manuscript page. A starting point for artists was an emblematic image found in all media throughout the history of art – a figure of authority, standing or seated, usually in a frontal position. In biblical and liturgical manuscripts it is used to depict Christ or God the Father, Old Testament prophets and kings, Christian saints and other holy figures; in legal manuscripts this individual represents the codifiers and purveyors of the law, emperors, kings and popes, and their associates – bishops, priests and monks; judges, jurists and lawyers. In all contexts these figures hold or display objects – scrolls, books, swords, staffs and orbs – symbolic of their identity, rank or power. Just as the written word itself signified authority, a human figure placed at the beginning of a text served to confirm or authenticate this newly copied version of the text and the ideas it contained. We may guess that the richly dressed figures who accompany the Trees of Actions in the Fitzwilliam’s MS McClean 139 (Cat. No. 10, Fig. 28) certify the importance of these tables by their regal presence and by the physical act of touching the frames.

Early thirteenth-century artists placed single, standing figures as personifications of law and justice at the openings of juridical texts. Invested with either sceptre and crown or tiara and crozier, they are further distinguished by formal, iconic qualities: rigidity of posture, total or nearly total frontality and a limited range of hand positions. An example is the simple sanguine-coloured drawing of the Emperor Justinian at the opening of a commentary on the Institutions at the Morgan Library (Fig. 34). Heading the declaration ‘Habentur est in hoc opere’, this figure evokes the presence of the Emperor in his capacity as promulgator of the text while graphically standing in for the letter I. When miniatures were created to head book divisions around the middle of the thirteenth century, the single authority figure was joined by secondary characters in secular or ecclesiastic dress, plaintiffs, defendants, lawyers, counsellors and judges, actors in the elaborate ceremonial of law. Legal rituals were now enacted within a scenario formulated for each particular case, framed by coloured bands or architectural devices and set against coloured or gold leaf backgrounds.

The legal miniature is essentially a mini-stage, and artists sometimes used very complex devices to construct their sets. Bolognese artists in particular deployed physical elements
with great enthusiasm, varying the size and shape of living and working spaces, furniture, clothing style and fabric types. An excellent example is the large opening frontispiece to the Fitzwilliam’s Bolognese Decretum Gratiani (MS 183, Cat. No 6, Fig. 35), where the B 18 Master with his customary verve tucked a great many figures wearing a variety of garments in, on and around a precarious-looking arrangement of benches and stalls, grouped around a central platform topped by a throne. Thirteenth-century scenes are flatter and more linear but can often be just as intricate, as demonstrated by the marriage ceremony in the Fitzwilliam’s McClean 136 (Cat. No 14, Fig. 36), where the Jonathan Alexander Master managed to fit in a kneeling bride and groom, the officiating cleric, acolytes and attending clergy and a sizeable wedding party, each group apportioned its own space.
As noted above, essential to most legal scenarios is a standing or enthroned figure, representing authority - secular, ecclesiastic, or divine. In manuscripts of canon law the authority figure is most often a pope or a bishop, although representations of Christ or God the Father can also be included to convey supreme authority, divine intercession or the authorization of a text, particularly with regard to Church doctrine. In Roman law the figure often represents the Emperor Justinian, considered the father of civil law. Regardless of the particular text or type of law, this authority figure is generally situated at centre or to one side of the miniature, occupying some type of formal seat, or throne, whose rich detail underscores the occupant’s importance and level of authority. In three of the Fitzwilliam’s Italian Marlay Cuttings (Cat. No. 5; nos It. 6, It. 8, It. 10), a pope presides from his comfortable perch on a throne, feet resting on another plump cushion; the cardinal in Fitzwilliam MS 331 (Cat. No. 20), splendid in his fur-lined cappa, is enthroned beneath an elaborately carved baldachin, flanked by standing and kneeling figures, with a table of scribes recording proceedings at his feet.

Legal proceedings in juridical scenes are accompanied by postures and gestures often interpreted as indicating query or response, discussion, controversy, assent or negotiation. In the Fitzwilliam’s McClean 136 ‘discission’ miniature (Fig. 33), the secular judge at centre points upwards and gestures to the left, flanked by groups of serious-looking tonsured clergy, also pointing and gesturing. Many scholars have tried to read complex dialogues and distinguish nuances of inflection in these fluttering exchanges of hand positions. It becomes evident, however, after analysing a body of thirteenth- and fourteenth-century manuscripts, that these gestures rarely signify a specific ruling or have intrinsic meanings as such, but function more as signals that court is in session, so to speak. As Bernard Hibbits has pointed out, ‘Legal gesture is a physical and corporeal sign which can indicate that a legal change or relation is being effected . . . historically [serving] as a sort of semiotic shorthand . . .’ Hands and fingers point at or point out figures, objects, animals or written material in book or scroll. They serve as directional devices, to guide the viewer in his comprehension and assessment of a composition and its areas of action. The few gestures that are situation-specific are connected with rituals or with the fulfilment of tasks, such as those used in ceremonies like the celebration of the mass, consecration of an altar or the uniting of man and wife; the clasping of a vassal’s hands in acceptance of fealty – or counting gestures, used in business transactions.

Although civil and canon law were taught as separate university courses, they shared many legal topics, and illuminators would use the same compositions for textbooks of the two laws. Often the only distinguishing factors between civil and canon law miniatures on a common subject are the protagonists’ clothing, headgear and attributes. The emblematic Justinian may be crowned as an emperor and dressed in Roman robes or military garb, and much of the time is metamorphosed into a medieval doctor of law or a jurist. His various symbols of authority include a sceptre or globe and a wand, flowering staff or, most often, an upright sword; in his guise as the figure of Justice he will suspend a set of scales as well. In court scenes he may hold an open or closed book or extend a scroll, and is
usually surrounded by secular professional figures: jurists, magistrates, lawyers, scribes and notaries. Flanked by lawyers in the miniature for Book IV of the Durham Institutiones (Fig. 37), the crowned Justinian holds a wand-like sceptre as he sentences a thief brought before him by officers of the law. In the composition for the Durham Codex, Book III, On Judgements (Fig. 38), the Emperor’s right hand now clasps the hilt of a thick upright sword; he raises his left hand, forefinger pointing upwards, to rule on the case presented by.
the two secular judges who gesticulate before him. Here his right leg is crossed over the
left, a formal, ceremonial posture for authority figures associated with Northern artistic
traditions and revealing the illuminator’s Transalpine roots; in Italian versions rulers
generally have both feet firmly planted on the ground.

In the ecclesiastical sphere, hierarchical rank is distinguished by characteristic liturgical
clothing. Popes, bishops, and cardinals wear the hats and robes pertinent to their office, and
sometimes full ceremonial costume. Clerics and monks may be tonsured, and their dress
often refers to specific religious orders. These religious figures interact with liturgical
objects and equipment, as vividly depicted in the large miniature for De consecratione in
Fitzwilliam MS 262 (Fig. 39): here celebrants elevate the Host and cover chalices at the
altar; canons and deacons carry processional crosses and monstrances and wave fans or
censers; acolytes carry tapers and ring bells.

**Legal Themes**

Further to the general aspects described above, illuminators placed their civil and clerical
protagonists in appropriate settings, to express a range of legal themes. The most complex
and artistically elaborate compositions were reserved for major text divisions, particularly
the first, and it is for this reason that *so* many medieval manuscripts have been robbed of
their opening frontispieces, like the Durham Decretales (MS C.1.9). Often associated with
a prologue or some sort of prefatory material, introductory miniatures in canon and civil
law manuscripts perform a variety of functions: they may honour the author or sponsor of
the text, establish the text’s authority and transmit a general idea of law and justice. The
first objective is accomplished with what is called a presentation miniature, exemplified by
the Prologue composition in the Fitzwilliam’s Decretales (Fig. 40) where the kneeling fig-
ure of the text’s compiler, the Dominican Raymond of Peñafor (garbed mistakenly as a
Franciscan friar), presents his completed book to the standing Pope Gregory IX, who com-
missioned the work. The sponsoring figure, in receiving and accepting the offered vol-
umes, symbolically authenticates and authorizes the written law. It is this composition that
John Northover describes for the opening of a book in the inventory of the Corpus Christi
College goods, a Decretales, bound together with a Liber sextus:

Decimus quintus est magnus liber decretalium cum libro sexto cuius prima littera textus capitatis est G, supra quam sedet papa uno sacerdoti genuflexentem coram co et inter manus librum tenente, altero sacerdote stante a dorso genu-
flectentis

(The fifteenth is a large decretals book with the liber sextus whose first text letter is a capital G above which sits a pope [with] a genuflexing cleric in his presence [before him] [who has] a book between his hands, with another priest
The simple miniature with only three protagonists indicates that it was probably a thirteenth-century manuscript, since compositions became more spatially complex and were given supplementary figures in the fourteenth century, as can be verified in the Master of 1328’s multi-layered, multi-scene rendition in Figure 52. It is telling that this visual interpretation merited a written commentary by John Northwode, proof that the presence of illustrative material in legal manuscripts was not only familiar to him but that he easily recognized the iconography.

A similar presentation ceremony takes place in the Durham Codex (Fig. 41), and here a secular lawyer offers a stack of books to Justinian, who is dressed as a medieval judge. The textual source of this composition for civil law is found in the Prologue to the Digestum tetus, which relates how Justinian commanded his lawyers and jurists to sift through and extract the essential points of law from hundreds of legal texts, subsequently rearranged into the fifty books of the Digest, the four of the Institutes and the twelve of the Codex. Most illustrations, like the Durham miniature, picture Justinian receiving into his hands
the end result of the lawyers’ labour, by this act certifying its authenticity and approving its use. The most ambitious and narrative illustration of this passage is found in the Turin Digestum vetus (Turin, Bibl. Nazionale Universitaria, MS E.I.1, fol. 1), a multi-scene narrative sequence executed in the 1330s by an extraordinarily talented Bolognese illuminator, the Master of 1328, which describes the entire process of research, analysis and reconstruction by the Roman lawyers.

A variation on this theme is offered in the Prologue miniature to the Gonville and Caius Codex (Fig. 42), a composition most often found in the Decretum Gratiani. Here the enthroned Justinian, crowned as Emperor but garbed as a secular lawyer, enacts a variation of the Division or Distribution of Powers, an allegorical ritual in which legislative authority is granted to both secular and ecclesiastic entities, who will share it in harmony. Symbolized by two books, or a book and a sword, in the Decretum these powers are handed over to representatives of Church and State. In this Codex, Justinian hands a book to a kneeling secular figure at left, accompanied by a standing lawyer with black pileus; the kneeling soldier at right, mailed like his standing companion, receives an upright sword. The composition evokes the opening words of the second Codex prologue: ‘The maintenance of the integrity of the government depends upon two things, namely, the force of arms and the observance of the laws’. While here it is implied that the source of power is a secular ruler, even the earliest canon law versions make it clear that earthly rulers, secular and ecclesiastic, are subordinated to the divine authority, Christ. Twelfth-century opening compositions for the Decretum Gratiani depict a pope and a crowned sovereign in positions of equality, standing or enthroned side by side in a single space, or occupying the upper and lower tiers of the initial H of the opening phrase, ‘Humani genus’. In thirteenth- and fourteenth-century miniatures, chiefly Italian, the figure of Christ or God the Father is added to the composition, sometimes portrayed in the act of personally handing over the temporal and spiritual powers to their earthly representatives or presiding over the distribution effected by heavenly delegates—winged angels. This motif was elaborately pictured by the Bolognese Master of 1328 (Fig. 53) in an allegorical composition for Book I of the Decretales, discussed further on.

Additional dimensions to this iconography appear in two Fitzwilliam Decretum manuscripts, MSS 262 and 183, where both miniatures are given a two-column format. In the first and earlier of the two, dated around 1300 and attributed alternately to English and French illuminators (Fig. 43), the artist presents in six compartments God’s creation of the human race (summarized by the extraction of Eve from Adam’s side), the introduction of Adam and Eve into the Garden of Eden, the Fall and the Expulsion from Eden. This narrative sequence sets a Christian allegory to interpret Gratian’s opening phrase to the Decretum: ‘Humani genus duobus regitur, naturali et moribus’ (The human race is ruled by two things, namely, natural law [divine ordinance] and custom [human ordinance])—emphasizing the higher authority of the divine. Use of this Biblical story to open the Decretum seems to have been popular among Northern illuminators in the early fourteenth century, although most summarized it with the single scene of the Creation of Eve.6
In the 1330’s the Bolognese B 18 Master utilized for MS 183 (Fig. 35) the image of Christ as Teacher, portraying the young Christ during his discussion of the law among the Doctors in the Temple. His role as source of the law and its highest authority is emphasized by his physical position in the miniature, enthroned at centre on a pedestal above the other protagonists. The popularity of this flexible motif is confirmed by its continued use in Bologna by contemporary and later generations of artists, to illustrate a variety of texts. The B 18 Master virtually duplicated the Fitzwilliam configuration to open a Decreta neges in Lucca (Bibl. Capitolare, MS 236, fol. 1). The Master of 1328, who may well be credited with the first use of this composition in a legal context, employed it as the opening miniature for two copies of a Liber sextus; and for a Decretum Gratiani in Spain as preface to the section De poenitentia (Madrid, BN, MS Vitr. 21.2, fol. 263); the Master of 1346 placed it in a Decretum at Causa II (Vatican City, BAV, MS Urb. lat. 161, fol. 107); and as late as 1378 Niccolo da Bologna adopted it for the headpiece of a commentary on Roman law.

Another device used to expressing the importance and authority of the text was to depict and Caius Digestum vetus (Fig. 44). Here the master, a doctor of law, presides at left, lecturing from the open book on the stand before him, while a seated group of five coiffed students accompany his words in their own volume, venturing a question or a comment from time to time.

Although the Institutiones is usually found in the larger context of the Parvum Volumen, its opening miniature – as, indeed, the beginning illustration to each separate Volumen section of the Prologue, as Robert Branner first noted, focusing on the phrase, ‘Imperatorium maiestatem non solum armis decoratum, sed etiam legibus aportet esse armatum’ (Imperial
Majesty should not only be graced with arms but also armed with laws”). Most artists provided visual reference to both arms and the law, utilizing the formulaic presentation of books to Justinian for the latter, and alluding to the former with military figures and their trappings. A typical composition is found in Durham’s MS C.I.4 (Fig. 45 and Pl. 11a), depicting Justinian frontally enthroned at centre, flanked on the left by a group of mailed and armed warriors, and on the right by lawyers and jurists, spatially giving equal weight to arms and the law.

Canon Law Themes

Papal decrees and the decisions of Church councils provided directives that regulated clerical life and the performance of ecclesiastical duties, and established the jurisdiction of canonical courts over clerical crimes and offences, as well as control over a variety of lay behaviours. Gratian’s Decretum, in whose largest text division are found detailed discussions of the legal and religious questions raised in thirty-six separate cases, furnished illuminators with the widest range of possible compositions, although some topics were more suggestive of visual interpretation than others. Themes may be identified by particular iconographical features, such as a moneybag in illustrations to Causa I, which deals with simony. In this case Gratian takes up the question of a father’s dispensing funds to ensure his son’s admission into a monastery, and the later supplementary paternal contributions to further his rise in the ecclesiastical hierarchy. This practice is strongly denounced in canon law, and miniatures most often depict the father in the inappropriate act of offering a bribe to a bishop or monk as he presents his young son. The bribe is sometimes sym-
bolized by an precious object, such as the golden vessel offered in the historiated initial Q in Corpus Christi MS 10 (Fig. 46), but in most manuscripts the father holds up a heavy sack or fringed purse, as in the Fitzwilliam’s MS 183 (Fig. 47). Simony is also treated in Book V, Title 3 of the Decretales and the Liber sextus, with a discussion of the penalties incurred by clerics accused or convicted of this crime; Niccolò da Bologna’s illustration for this title in the Morgan Library’s M.7471 pictures a furtive-looking, red-hatted cardinal clutching a weighty sack against his chest (Fig. 48).

In cases dealing with Church ceremony, clerical authority, regulations of Church property or the responsibilities of parishioners, artists would juxtapose architectural elements with liturgical furnishings to establish a churchly setting. A spare but effective composition is found in the early Corpus Christi Decretum (Fig. 49), in the initial A[hbas] that opens exterior is evoked by the tower and rectangular structure in the upper section; an interior which hangs a votive lamp directly above the seated figures of tonsured priests and hooded monks. In the Fitzwilliam’s Marlay It. 5 leaf for Causa XIII (Cat. No. 5c) that discusses
preside behind draped altars, while a procession of church members enters bearing goods as their oblations. We have already seen the very elaborate four-part miniature in Fitzwilliam MS 262 illustrating the section De consecracione, which deals with the physical and symbolic functions of a church building (Fig. 39). In the first compartment two bishops are shown consecrating the newly completed building with holy water sprinkled by aspergilla; the second and fourth picture the church interior and two phases in the ritual of the mass; in the third compartment a figure enters a similar but incomplete or partially ruined edifice, perhaps seeking sanctuary.

Some of the most dramatic illustrations were made for cases concerning marriage and the sexual debt owed to each other by husband and wife. The illuminator of the Fitzwilliam MS 262 Decretum Gratiani provides perhaps the most explicit extant medieval representations of sexual activity in his compositions for Causae XXXIII and XXXVI. The first case describes a husband who has become temporarily impotent, his wife’s denunciation of this situation in a Church court, her subsequent adultery with and marriage to another man and, finally (upon the first husband’s recovering his potency), the wife’s forced separation from the second (and illegal) husband and her return to the first. This is pictured in sequence on folio 86v (Fig. 50), where in the upper right compartment
the adulterous coitus takes place in a tangle of clothing and limbs. The vigorous activity exposes the woman's elegantly shod feet, her slim legs clad in garnered stockings and a glimpse of bare knees; her enfolding arms betray her willing submission to the figure above her. The second case, pictured on folio 137, involves the question of whether and how, under Church law, the sacrament of marriage may be granted to a couple who have already had sexual relations. The Fitzwilliam artist here illustrates a familiar situation, today called 'date rape', where a young man invites a young woman to dine without her parents' knowledge, plies her with drink and then takes advantage of her inebriation to violate her sexually (Fig. 51). Once again the artist presents the story in a narrative cycle: the first episode, where the young woman is accompanied by her father, perhaps depicts the young couple's covert agreement to a tryst; the second pictures the seduction at the feast; and in the lower left-hand compartment we see the young woman's rape. In this scene domination and aggression are conveyed by various details: the woman’s entirely bare legs, stockings removed and her dress being roughly pushed up by her attacker to expose her pudenda, while she fruitlessly tries to push him away with her left hand; the young man’s rampant position with penis exposed, and his right hand extended to chuck the woman’s chin, in a long-recognized gesture of male possession.15

The Decretum – divided into two major sections, the latter subdivided into thirty-six Causae, with two additional treatises on penitence and liturgy – could incorporate as many as thirty-nine or forty miniatures. The Decretales, however, more modestly conceived in Bernard of Pavia’s five-book format and occasionally supplemented by the more newly published decretales (Novellae) of Innocent IV (1243–54) or Gregory X (1271–76), were rarely given more than a total of six or seven miniatures. Around mid-thirteenth century, specific compositions were created to preface each book, drawing on visual themes suggested by the words in the first title. As we have seen in Chapter 1, most manuscripts of the Decretales open with a short prologue, comprising Pope Gregory’s address to the university community followed by the text of the bull Rex pacificus, representing the legitimation of this particular collection and its official transmission for use in universities and in Church courts. In Italian manuscripts the space assigned the prologue is normally a page, written in two columns, Book I then beginning on the following page. In late thirteenth- to mid-fourteenth-century Bolognese examples this arrangement was often carried out very grandly over a double-page opening with facing miniatures, very likely having been the case in the Durham Decretales (MS C.1.9, Cat. No. 13), where both the Prologue miniature on folio 1v and all but a stub of folio 2 – with a remnant of vescroll signalling a probable miniature for Book I – have unfortunately been excised. From the style of the surviving fragments of decoration, the work seems to have been executed by the true Bolognese artist, and could have provided an early example of the double page Italian tradition. The fourteenth-century version is represented by one of the Master of 1328's most striking creations: two single leaves at the Morgan Library, datable to the early 1330s (Figs 52, 53). These facing two-column miniatures with their subsidiary marginal vignettes, once the opening to what must have been an abundantly illuminated Decretales, not only
make strong ideological statements but also testify to a very happy collaboration of scribe with illuminator. It is to the credit of the scribe or scribes, that text and gloss are laid out, ruled and written symmetrically and cleanly, leaving equally clean and symmetrical spaces on each page for the illuminator to carry out his work. The Master of 1328 indulged himself by filling in his arena completely, up to the edge of the inner gloss margins, even appropriating the space usually left blank (Fig. 52) between the end of the Prologue and the *incipit* of Book 1, in the right-hand text column.

Fourteenth-century Prologue miniatures subtly convey ideas of hierarchy, legal jurisdiction, not the least through spatial distinctions. In Figure 52, the elevated Gregory presides at centre, while at right seated ecclesiastics occupy a lower tier of his platform. The secular figures at left, however, among them soldiers, jurists and lawyers, are placed at ground level, clearly given less importance. In a neutral zone below the throne, writing busily within their tiny compartments, scribes and notaries legitimize the activities above. Tacked into and around the initial G, representing the name of Gregory himself, a lecturing master and his attentive students symbolize the importance of the teaching and study of the law.

When Book 1 of the *Decretales* was given an illustration, it was usually treated allegorically, since the first title embodied Church doctrine: *De summis trinitate et fide catholica* (On the Exalted Trinity and the Catholic Faith). To represent the basic Catholic beliefs, thirteenth-century Bolognese miniatures portray the enthroned, blessing Christ, often flanked by the Virgin on his right and John the Baptist on his left. Around 1300 this began to be alternated with an elemental Trinity composition of the *Gnadenstuhl* type — which transformed the enthroned Christ into God the Father, whose outstretched hands supported the Crucified Christ, as the white Dove of the Holy Spirit hovered somewhere in between. The Master of 1328 used this Trinity in the right-hand miniature of the Morgan Library double page spread (Fig. 53) to continue his essay on hierarchy, presenting it in the guise of doctrine. In the right-hand miniature he placed the Trinity at the same level as Pope Gregory on the left, visually endowing the earthly representative equal status with the rulers of heaven. Gregory’s secular and ecclesiastical retinue is correlated with the holy figures that accompany the Trinity: the Virgin at left and John the Baptist at right, attended by kneeling angels; at the second level sit the haloed twelve apostles in two groups of six. In the foreground, we see the enactment by two angels of the symbolic Division of Secular and Ecclesiastical Powers, consigning a sword to a king and a book to a pope, who, like the Virgin, is on the right, or favoured side, of the Trinity. The lower marginal vignettes are then given over to an elaboration on the articles of Catholic faith. A warrior saint stands at centre, exemplifying the militant defence of Christianity. At left and right Gabriel and the Virgin portray the Annunciation, representing the conception of the Son of God for the salvation of humankind, and just above the rubric two monks in attitudes of prayer evoke the contemplative life. The artist did not leave it at that: on the verso of this leaf, what began in the Annunciation takes place in the flesh: the initial *figiuit*, converted into a small miniature, depicts the Nativity and the Annunciation to the Shepherds.
heralding the Saviour's birth. The fulfilment of God's promise of salvation is then enact-
ed in the large two-column miniature by the crucified Christ, who sacrificed his life to this
end. This complex visualization of Catholic doctrine, realized in the 1330s, testifies to the
Master of 1328's creativity and interpretative powers, along with his artistic skill.

Illuminators working in Northern traditions were more likely to forego a miniature for
Book I, opening it more simply with a rubric and a large penwork or painted initial F for
the opening phrase, ‘Firmiter credimus’, as indeed was done in MS McClean 136 (Fig. 40)
and in the much later Smithfield Decretals (London, BL MS Royal 10.E.IV) as well. A
Decretales at Hereford Cathedral Library, however, addressed like the McClean manuscript
to parsius bonumque, was given two large historiated initials for the Prologue and Book I
on the opening page, conveying the appropriate iconography with great economy of space
and detail (Fig. 54). Within the G[regorius] at top left column the seated Gregory receives
a book from the kneeling Raymond; in the F[irmiter] at lower right-hand column the illu-
minator placed a Trinity composition more common north of the Alps: God the Father
and Son face the viewer on side-by-side thrones, the upside-down Dove of the Holy Spirit
poised above, its head interposed directly between the other two. These fluctuations in
iconography and composition are often the only clues we have to identify regional trends and traditions.

Book II, On Judgements (Fig. 33), and Book V, On Clerical Crimes (Figs 55, 56), were usually given generic court scenes featuring an enthroned pope as judge and an offending ecclesiastic undergoing judgement. The miniatures for both in Fitzwilliam McClean 136 are virtually identical, although a secular judge presides for Book II, while at Book V (Fig. 55) a pope renders judgement over the flanking groups of sombre, black-robed clerics, one of whom conspicuously clutches a money purse and is probably guilty of simony or money lending at interest. In the single leaf (MS 201.f.12, Cat. No. 4) (Fig. 56) the pope is joined on the left by a kneeling secular judge, backed up by a group of laymen, who appears to be participating in the adjudication. For Book III, which distinguishes correct and improper clerical behaviour and describes ecclesiastical duties, illuminators pictured the clergy performing the rituals and procedures of the celebration of the mass, beautifully captured in the Fitzwilliam’s single leaf with a two-column Southern French miniature (Fig. 57). The miniature is segmented into two principal areas by a centre column, but three distinct groups of figures are defined. In the right-hand section the celebrant raises the Host before
the draped altar; acolytes kneel behind him holding lighted tapers. Directly left of centre, in what is meant to be the choir, standing clerics cluster around a tall bookstand, singing from an open choir book. Behind this group at left kneel the laity, separated in principle if not in fact from direct participation in the eucharistic ceremony. In the one-column McClean Decretales version (Fig. 58), the composition is highly truncated but also abounding with figures. The celebrating priest at right elevates the Host as customary, but at the centre a worried-looking deacon faces an invasion of the laity and tries to persuade them to return to their proper location in the nave. Infrequently depicted, this confrontation seems to be the artist’s deliberate emphasis on the need to segregate the secular from the ecclesiastical.

Marriage in Book IV was represented by differing iconographic components according to regional traditions. The simplest compositions picture a betrothal or marriage ceremony, usually symbolized by the giving of a ring or joining of the couple’s hands in front of witnesses, as takes place in the Durham Decretales (Fig. 59), presided over by an official figure, a secular judge or a cleric. The Jonathan Alexander Master created a splendid ver-
sion for the McClean Decretales (Fig. 36), which depicts the betrothed couple in an unusual kneeling position before the officiating priest, set off by the golden cloth of honour stretched behind them by an acolyte and a member of the wedding party. Book V of the Codex is also concerned with betrothal and marriage, albeit as a lay transaction, and in most Italian manuscripts this secular aspect was conveyed by the officiation of a civil judge. In the Northern tradition a cleric usually officiates, whether in civil or canon law manuscripts. In the Jonathan Alexander Master’s miniature for the Durham Codex (Fig. 60), a tonsured ecclesiastic supervises the ceremony in which the groom places a ring on the bride’s finger.

Questions of legacies and inheritance are also common to canon and Roman law. The most elementary civil discussions are found in Books II and III of the Institutiones, defining wills and those who are eligible to make them and describing legacies and those who are eligible to inherit, according to degrees of blood and family relationships and other legal conditions. Although the textual material spans two books, iconography is summarized in the miniature that prefaces Book III, where the basic visual components are a man dictating a will from his deathbed and a scribe annotating the bequests. The miniature for
this book in the Durham *Institutiones* (Durham C.I.4) has unfortunately been excised, but there are two canon law equivalents from the Fitzwilliam’s collection (see MS McClellan 201.f.11b, Cat. No. 9 and Marlay It. cutting 4, Cat. No. 5b), which depict recumbent clerics in the act of expressing their last wishes to a variety of bedside attendants. In the fourteenth century, compositions become more narrative, and the act of dying becomes an event. Other characters may crowd around the bed or occupy secondary spaces: lawyers and judges, the dying man’s wife, a grieving young heir, a doctor who examines a urine flask and a cleric to administer the last rites. Taken together, these genre details describe the hustle and bustle of different activities and rituals that accompany the ending of a life.

**Civil Law Themes**

More specific to civil law manuscripts are illustrations of criminal sentencing and punishment, usually with relationship to theft. These are most often found at the *Institutiones*, Book IV, concerning delictual obligations, and the *Codex*, Book VI, which involves the punishment due a fugitive slave whose flight is treated as theft, as expressed in the opening paragraph: ‘Servum fugitivum sui furtum facere’ (The runaway slave commits a theft of himself, causing prejudice and loss to his master). The thief/slave/criminal is easily identifiable by his dress and physical appearance and by the figures that accompany him, as we may discern in the miniature for *Institutiones*, Book IV in the Durham *Volumen* (Fig. 37). Usually short and stumpy in stature, he is often given crude features such as a huge protruding lip, pug nose and pop eyes. In contrast to the lawyers and jurists’ long robes, he is clothed in a short garment with bare legs and feet, occasionally lacking a limb, the sign of a recidivist. Thieves and other criminals are bound and taken into court for sentencing by lawyers or soldiers – or sometimes, as in Figure 37, by what appears to be a police squad, its members distinguished by their red caps – and ushered into the presence of Justinian, who is dressed as a judge or crowned as a ruler. Rather than entering with bound arms, here the thief is pictured carrying the objects he has stolen, probably to signal his being caught in the act. In Bolognese manuscripts, the two objects with which the thief is usually pictured are either a golden chalice or a book (infrequently both, as in the Durham miniature), each representing an object of commercial and social value. In the English tradition, it appears that other items could be used as well. Canon law manuscripts, specifically the *Decretales* and the *Liber sextus*, deal with the judgement and sentencing of crimes and offences in Books II (De judicis – On Judgements) and V (De accusationibus, inquisitionibus et denunciationibus – On Accusations, Inquisitions And Denunciations). In St John’s College, MS A.4, vol. 4 (Johannes Andreae’s gloss on the *Liber sextus*), the historiated initial at folio 61 for Book V (Fig. 61) pictures a bound criminal being brought before the judge, a sheet draped around his neck like a stole, its loose and hind legs trussed together under his chin, testimony to his attempted poaching of livestock.

Punishments for civil crimes may also vary according to Northern and Southern traditions. In thirteenth- and fourteenth-century Italian miniatures artists favoured decapit-
tion and foot amputation—the latter by far the most common, usually performed by a team of executioners who divided the job: one positioned a hatchet-like blade on the victim’s leg, the other wielded a heavy mallet to pound on the blade and drive it through bone. Another alternative was hanging, this method was most popular in the North, stemming from a long visual tradition and perhaps initially modelled on representations of the suicide of Judas, portrayed in Gospel Books from at least the sixth century on.16 Below the opening Institutions miniature in the Durham Volumen (MS C.I.4, Fig. 45), a nude figure dangles from a stylized gallows, most probably exemplifying the enforcement of laws by the use of arms (that is to say, punishment). A similar hanged figure is found in the St Johns MS A.4 (Fig. 61), beside the rubric, illustrating the punishment for theft. Hanging was considered one of the most degrading forms of punishment since the human body was exposed to the ridicule and contempt of the populace for an extended period of time. In Northern illustrations this punishment can be given a very narrative interpretation, sometimes picturing the criminal at the gallows as he climbs up a ladder to the noose, followed by the executioner who will make sure the job is properly done. Bolognese illuminators in general seem to have preferred the more violent forms of execution, and when they depicted a hanging it was almost always in conjunction with decapitation and amputation.

Books VII of the Codex and XL of the Digestum novum are concerned with the act of freeing slaves, according to Roman practices, and the miniatures created for this subject depict the Roman ritual of manumission by a wand or staff,17 one of the symbolic objects often used as props in legal miniatures. In early medieval rites of vassalage, objects used for the investiture of vassals included swords, sceptres and staffs of command,18 all of
which are wielded in varying situations by the authority figures in manuscripts of canon and Roman law. The ritual is illustrated very simply in the Gonville and Caius Digestum novum (Fig. 62) where three witnesses look on as the authority figure taps a prostrate individual with his staff. In reproducing these historically conventional forms and customs, illuminators re-enacted and reaffirmed the past, and proclaimed its continuity in the present. Whether or not these gestures and actions were actually performed in their time, this is how such actions were imagined in the Middle Ages. Most compositions picture the crowned and enthroned Justinian who touches a rod to the shoulder of a figure who kneels before him, hands often placed together in a gesture of fealty. A similar secular ceremony takes place in the miniature for Book XII of the Codex in the Tres libri division of the Durham Volumen (Fig. 63). The first text passage after the opening Title, De dignitatibus (Concerning Dignities), awards the title of consul to an individual whose father and grandfather have held the same rank. The illuminator ingeniously represented this status-upgrading ceremony by depicting a lay professional kneeling in obeisance before the enthroned and crowned Justinian, the secular figure stretching his hand around to pluck off his own biretta and exchange it for the crown that Justinian is extending.

The small proportion of civil law manuscripts in the exhibition has made it expedient to devote most of this chapter to iconographical interpretations of canon law. One last civil theme, however, allows a dynamic and amusing conclusion to this section. The Durham
Volumen, at Codex, Book XI of the Tres libri (Fig. 64) is illustrated with a miniature described by Jonathan Alexander in 1980 as ‘a picture of a sailing ship which looks dangerously overloaded’. Here we see the crowned Justinian presiding at centre, accompanied at left by a group of lawyers, and apparently making a legal comment on the comportment of the indeed jam-packed vessel at right. The first five titles in the Tres libri, Book XI, and the first two in the Digestum vetus, Book XIV, are textual locations dealing with maritime travel: ships, shipping and ship owners, which gave artists an opportunity to display their talents at painting water and describing the effects of translucency, as well as placing into water a sailing vessel that seemed convincingly afloat. The composition is one of the earliest to be established in legal iconography, adapted from the long-existing Bible illustration to the book of Jonah, which generally portrays the body of Jonah being jettisoned from a sinking ship.

Illuminators used the same compositions and iconography for both maritime text locations, with no differentiation given for the slightly different focus presented in their opening extracts. The iconography pictures the transportation of cargo and passengers in maritime crafts, which may vary in size and model. Some are powered only by oars and resemble casks, tubs, canoes or cat claws; others have in addition masts, sails, rigging and crows’ nests. At times there is an allusion to shipwreck with the inclusion of objects bobbing in the water near the vessel.
Thirteenth-century miniatures for this subject are composed in two or three spaces, usually with Justinian enthroned at left, sometimes accompanied by other figures, as in the Durham miniature. The vessel may be rowed by a figure standing in the prow, or powered only by sails, or, as in the Durham version, displaying both methods of propulsion, although here, while the oars are visible beneath the waves, no one seems to be operating them. There is often a steersman or oarsman who appears to receive instructions from the gesturing Justinian as he prepares to depart from the harbour; in this case he is trying to steady the ship by clutching the column next to Justinian’s throne. One of the earliest text-specific compositions on a legal theme, the iconography of this miniature was maintained in fourteenth-century versions, which acquire more convincing spatial projection and a progressive elaboration of details: the ship is shown anchored in port, its sails usually furled, being loaded by figures who carry sacks and packages up a gangplank.

Although the number of manuscripts brought together in this exhibition is relatively small, the quantity and quality of their illuminations have permitted a fair sample of the immeasurably fertile and relatively unexplored field of legal iconography. It is the hope of the organizers and the host of scholars, legal, art historical and textual – who have contributed their time and expertise to the preparation and writing of this catalogue – that this exhibition will engender more interest in the medieval legal manuscript as an illustrated text, a historical artefact and as a repository of many palaeological, codicological and iconographical mysteries yet to be solved.

Notes

1 On varieties of legal gesture and their functions, see two important essays by Bernard Hibbits: Hibbits, ‘Coming to our Senses’; and Hibbits, ‘Making Motions’.
3 See James, Corpus, pp. 88-114.
4 The passage begins, ‘Omnen rei publicae nostrae sanctionem iam esse purgatam et compositionem tam in quattuor libros institutionem seu elementorum quam in quinque magistri digestorum seu pandectarum nec non in duodecim imperialis constitutionum quis amplius quam vos cognosce’. 
5 ‘Summa rei publicae tuitio de stirpe duarum rerum, armorum atque legum veniens inquire suam exinde maniens’. Translated by Samuel P. Scott in Scott, Law, XII, p. 4.
6 For these and all other Decretum compositions, see the rich comparative collection of reproductions from this text in Melikas.
7 Palaia, Bibl. Capitularis, MS A.2, fol. 1; New York, Pierpont Morgan Library, MS M.821, preserved as a single leaf.
8 Vatican City, BAV, MS Vat. lat. 2598, fol. 1, Bartolus de Saxoferrato, Lectura in primam Institutiones partem.
9 Branner, ‘Corpus’, p. 106.
10 Some illuminators, however, seem to have classified the opening to the Institutiones along with those for the Digestum vetus and the Codex, because a number of miniatures merely depict the presentation of books to Justinian, ignoring the ‘graced with arms’.
11 The mother manuscript from which Fitzwilliam MS 331 was excised.
12 See Wolfthal, ‘Rape Imagery’.
13 A similar composition was often given to the Codex at Book I, since its prefatory title began with the same words as the Decretales, immediately followed by a passage in which three Roman emperors exhorted the people under their rule to accept the Trinity as an article of faith: De summa trinitate et de fide catholica et ut nemo de ea publice contendere audeat (Concerning the most exalted Trinity and the Catholic faith, and providing that no one dare to publicly oppose them).
14 This scene appears to be more common to Northern iconography.
15 Discussed in the Decretum Gratiani at Capituli VII, VIII, XII and XVII and in the Infortiatum in Books XXVIII–XXXV, the Institutiones in Books II–III, and in Collaciones of the Authenticum.

16 See particularly, for the Infortiatum, Book XXX, Cesena, Bibl. Malatestiana, MS S.IV.2, fol. 111 and Paris, BNF, MS Latin 14340, fol. 111.

17 It is significant that illuminators used a book to exemplify a stolen good, especially in the context of the Bologna book trade, demonstrating the economic value of this commodity.

18 A well-known image of the hanging Judas is found in the sixth-century Rossano Gospels, where on fol. 8 it concludes the illustration of Christ’s trial before Pilate on this page. Illustrated in Weitzmann, pl. 30.

19 Scott notes that ‘Manumission by vindicta, or festica, a wand or staff, ordinarily took place before the Praetor but could be effected by any other magistrate legally authorized to grant it. The master brought the slave whom he wished to liberate, before the proper official . . . and after having stated the reason for his emancipation, gave utterance to the formula: ‘Hoc hominem liberum esse volo more quintum’, whereupon the magistrate placed the wand upon his head; he was then turned around either by the lictor or his master, and the latter, after having given him a box on the ear, sent him away’. Scott, Late, XIV, p. 113, no. 1.

20 On vassalage and performative rites, see Le Goff, pp. 237–87; and Hibbits, ‘Coming to our Senses’, pp. 910–34.

21 Burasch, p. 7.