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Thomas Ernst van Bochove*

When Manuscripts Are Not Forgotten

* Department of Legal History, Faculty of Law, Groningen University, t.e.van.bochove@rug.nl

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Thomas Ernst van Bochove

When Manuscripts Are Not Forgotten*

In 2021, the University of the Italian city of Padua hosted a conference in the framework of a research project styled *For.Ma. – The Forgotten Manuscripts*. This research project resulted in the online accessibility of two important medieval witnesses of the legislation of the Byzantine Emperor Justinian (r. 527–565 CE). It concerns two manuscripts, both dating to the 12th century, namely Padova, Biblioteca Universitaria, cod. Lat. 688, transmitting the first nine books of the *Codex Justinianus*, and Padova, Biblioteca Universitaria, cod. Lat. 941, transmitting the *Digestum Vetus*. Both cod. Lat. 688 and cod. Lat. 941 have been digitised with absolutely stunning results. Ms. 688 can be consulted via the link https://phaidra.cab.unipd.it/o:445580, ms. 941 via https://phaidra.cab.unipd.it/o:429576.

Cod. Lat. 688, though known to Paul Krüger, was not used by him in establishing the text of the *Codex Justinianus*. The *Digestum Vetus* is the first part of the medieval Bolognese tripartite division of the Digest consisting of the *Digestum Vetus*, the *Infortiatum* and the *Digestum Novum*. Thus, cod. Lat. 941 transmits D. 1–24. This manuscript was indeed used by Theodor Mommsen in establishing his text of the Digest: he referred to ms. 941 by means of the siglum U (= codex bibliothecae uniuersitatis Patauinae n. 941 saec. XII). Apart from the text of C. 1–9 and that of D. 1–24, both manuscripts also contain elaborate apparatuses of Glosses.

The year 2024 saw the publication of a highly attractive – also because of the quire of beautiful illustrations – and inspiring volume, perfectly edited by Nicoletta Giovè Marchioli, Paola Lambrini and Mattia Milani under the title *Il Digesto, il Codice di Giustiniano e la loro tradizione manoscritta: I mss. 688 e 941 della Biblioteca Universitaria di Padova*. The volume, which essentially contains the proceedings of the conference referred to above, focusses on the two above-mentioned manuscripts, their content – also in relation to their place and time of origin – and their historical context, including the manuscript tradition of both the Justinian Code and the Digest.

After an excellent introductory contribution on the research project *For.Ma.* (Paola Lambrini, 9–19), there are sixteen other inspiring contributions, for instance on the tradition of the Digest and the early witnesses of the Vulgate, with ms. 941 as point of departure (Mattia Milani, 27–44); on Justinian and the compilation of the Digest (Lucio De Giovanni, 45–55); on the early circulation of the Digest, the Greek (Byzantine) testimonies and their significance for the criticism of the Latin text (Bernard Stolte, 57–67); on the transmission of the Digest between Late Antiquity and the Middle Ages (Antonio Ciarelli, 77–102); on pacts and contracts in the glosses contained in ms. 941 (Raffaele Volante, 115–130); on the Digest and the origins of the *Studium generale* in Padua (Alberto Zini, 183–233); on the Justinian Code and the outlines of the textual tradition (Salvatore Puliatti, 235–248); considerations with regard to the manuscript tradition of the Justinian Code (Carmen Tort-Martorell, 249–254); moments and images of the manuscript tradition of the Code of Justinian (Anna Maria Giomaro, 255–272), and on the decoration of Justinian law in the 12th century: the miniatures in the mss. 688 and 941. An elaborate and accurate overview of all contributions can be found online via https://www.viella.it/libro/9791254697313/Indice. Given the limited space for book reviews, I must sadly restrict myself to a concise notice of just one randomly chosen contribution in order to highlight the quality of the various contributions in the present volume.

* Nicoletta Giovè Marchioli, Paola Lambrini, Mattia Milani (a cura di), Il Digesto, il Codice di Giustiniano e la loro tradizione manoscritta: I mss. 688 e 941 della Biblioteca Universitaria di Padova (Scritture e libri del medioevo 26), Roma 2024, 381 p., ISBN 979-12-5469-731-3

I have selected the study written by Charles Radding, »The Place of the Digest in Eleventh-Century Legal Culture« (69–75). In this contribution Radding discusses the first explicit reference to the Digest (D. 4,6,26,4) in the 11th century, viz. in the *placitum* of Marturi (judicial assembly at Poggibonsi), which took place in 1076. In the view of Kantorowicz, this date and this document marked the rediscovery of the Digest, attributable to one man, and the emergence of Bologna as a centre of the study of law. Radding, however, does not take Marturi as the starting point for his investigation into the question of what happened with the Digest and the study thereof after 1076; rather, he looks into the question of what had made it at all possible to quote the Digest in Marturi. To this end, he examines 11th-century sources predating 1076, such as the commentary styled the *Walcausina*, datable to the 1060s and 1070s. This document leads Radding to the conclusion that by the 1070s the jurists (as a group) of Pavia – the capital of Lombardy – had developed a detailed understanding of how Roman law had evolved over time and worked in practice, all on the basis of the Justinianic works (71). Glosses in the *Walcausina* manuscripts mention the *actio pigneraticia* twice. Knowledge of this action was certainly derived from the Digest, as the *actio pigneraticia* is explicitly dealt with in D. 13,7, but hardly mentioned elsewhere in the Justinianic legislation. A diagram styled *Litigatorum* quotes D. 22,3,21. On the basis of these and other traces of the Digest in the glosses in the *Walcausina* manuscripts, Radding concludes that »the jurists in Pavia had been reading the Justinianic works […] systematically […], and thus were able to combine passages from two different contexts and two different works« (72). More evidence occurs in a copy of the *Liber Papiensis* (also known as the *Liber legis Langobardorum Papiensis*) kept in the Biblioteca Ambrosiana in Milan. It contains three loose sets of notes dating from the 1020s and provided with the title *Quaestiones ac Monita*. In these notes, the Institutes are cited explicitly, and the Code implicitly. The *Quaestiones ac Monita* also contain passages which appear to be inspired by the Digest (D. 16,3,1,18; D. 48,3,3). On the basis of passages like the above, and of other sound considerations, Radding concludes: »The citation of the Digest at Marturi was not the work of one man in a day; it was produced by the efforts of a group of legal professionals over perhaps half a century. Marturi is a turning point for us in that we have a document to point to. At the time, though, it was a normal day's work.« (75).

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