

The Beginning of Roman Law Jurisprudence and Teaching in the Twelfth Century: The *Authenticae*

There has been vigorous debate in recent years about when and where jurists began to teach Roman law. That debate is the larger context in which this essay should be read¹. Here I will attempt to provide evidence for one aspect of the jurists' work at the dawn of the

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¹ Anders Winroth has argued that the teaching of Roman law in Bologna began in the 1130's, *The Making of Gratian's Decretum* (Cambridge Studies in Medieval Life and Thought 49; Cambridge: Cambridge University Press, 2000) 173; I have written several essays discussing the appearance of Roman law in secular and ecclesiastical legal texts of the first half of the twelfth century and have concluded that the teaching of Roman law must have begun in the early twelfth century or even before. See K. Pennington, 'The Birth of the Ius commune: King Roger II's Legislation', *Rivista Internazionale di Diritto Comune* 17 (2006) 23-60; idem, 'The Practical Use of Roman Law in the Early Twelfth-Century', *Handlung und Wissenschaft: Die Epistemologie der Praktischen Wissenschaften im 12. und 13. Jahrhundert*, edd. Matthias Lutz-Bachmann and Alexander Fidora (Wissenskultur und Gesellschaftlicher Wandel 29; Berlin: Akademie Verlag 2008) 11-31; idem, 'The "Big Bang": Roman Law in the Early Twelfth-Century', *Rivista Internazionale di Diritto Comune* 18 (2007) 43-70; idem, 'Roman Law at the Papal Curia in the Early Twelfth Century', *Canon Law, Religion, and Politics: Liber Amicorum Robert Somerville*, edited by Uta-Renate Blumenthal, Anders Winroth, and Peter Landau (Washington, DC: The Catholic University of America Press, 2012) 233-252. Charles Radding has maintained that the teaching of Roman law began in Lombardy in the eleventh century, most recently Charles M. Radding, and Antonio Ciaralli, *The Corpus iuris civilis in the Middle Ages: Manuscripts and Transmission from the Sixth Century to the Juristic Revival* (Brill's Studies in Intellectual History 147; Leiden-Boston: Brill, 2007) 183-184 and his first foray, Charles M. Radding, *The Origins of Medieval Jurisprudence: Pavia and Bologna, 850-1150* (New Haven-London: Yale University Press, 1988) 156-157. Most scholars have not accepted Radding's thesis; for a balanced and even-handed discussion of the evidence, see Hermann Lange, *Römisches Recht im Mittelalter*, 1: *Die Glossatoren* (München: C.H. Beck'sche Verlagsbuchhandlung, 1997) 23-34, whose discussion, I believe, would not be much changed by the arguments in Radding's and Ciaralli's latest book.

school of law in Bologna, the addition of *authenticae* to the margins of Justinian's *Codex*. *Authenticae* were also added to the *Institutes*, but those additions will not be considered here. These marginal additions have been only little studied until recently. Frederick A. Biener wrote about them in depth for the first time at the beginning of the nineteenth century². Almost a century later Giovanni Battista Palmieri published a transcription of the *authenticae* that he found in the margins of six manuscripts and in a collection of *authenticae* in a Montecassino manuscript³. If Palmieri had written an essay on the basis of his work, he could have made the following points: 1. the *authenticae* were added to the margins of the *Codex* in stages; 2. although some of the *authenticae* summarize passages from Justinian's *Novellae* fairly accurately, others bear only a loose relationship to the *Novellae*. 3. although the Bolognese tradition attributed the *authenticae* to Irnerius, the manuscripts contain *authenticae* with the sigla of a number of twelfth-century jurists. 4. there were many more *authenticae* in the twelfth- and thirteenth-century manuscripts than contained in the late medieval and early modern printings. Palmieri might have concluded that many of the twelfth-century *authenticae* were rejected by later jurists because of their sometimes dubious origins.

The *authenticae* circulated primarily in the margins of *Codex* manuscripts, but they also circulated as small collections that were appended to copies of the *Codex* or that circulated separately⁴. My

² Friedrich A. Biener, *Historia authenticarum Codici R. P. et Institutionibus Iustiniana A. insertarum* (2 vols. Leipzig: Dürr, 1807).

³ Giovanni Battista Palmieri (Johanne Baptista Palmerio), *Authenticarum collectio antiqua*, in *Scripta anectoda glossatorum vel glossatorum aetate composita* (Bibliotheca iuridica medii aevi 3; Bologna: In aedibus successorum Monti, 1901; reprinted Torino, Bottega d'Erasmus, 1962) 68-95.

⁴ E.g. Vat. lat. 1427, fol. 1r-2r, Vat. lat. 11598, fol. 2ra-3vb. Adam Vetulani and Waclaw Uruszczak have written about a collection of *authenticae* in a Krakow manuscript, 'Collectio Authenticarum', *Revue de droit canonique* 30 (1980) 364-381; most recently Franck Roumy has edited a collection of *authenticae* in Paris, Bibliothèque nationale de France (=BNF) lat. 3922 A, fol. 209ra-210ra in 'Une collection inédite d'authenticae fabriquée en Normandie à la fin du XII^e siècle', *Novellae constitutiones: L'ultima legislazione di Giustiniano tra Oriente e Occidente, da Triboniano a Savigny: Atti del Convegno Internazionale, Teramo, 30-31 ottobre 2009*, ed. Luca Loschiavo, Giovanna Mancini, Cristina Vano (Università Degli Studi Di Teramo, Collana della Facoltà di Giurisprudenza 20; Napoli, Edizioni Scientifiche Italiane, 2011) 155-204. Walter Holtzmann and, later, Christopher and Mary Cheney examined this collection, but they did not realize what the texts were, see *Studies in the Collections of Twelfth-Century Decretals from papers of the late Walter Holzmann*, edd. C.R. and Mary G.

exploration of the manuscripts is far from complete but already provides evidence that the *authenticae* were added to manuscripts from ca. 1100-1125 on⁵. When manuscripts that predate ca. 1100 have *authenticae* they are added by hands that are later than the hand(s) of the text and are, for the most part, clearly not the product of the same scriptorium as the main text of the *Codex*. That is, the text of the *Codex* and the *authenticae* were not produced at more or less the same time in these manuscripts. Berlin, Staatsbibliothek, Preußischer Kulturbesitz lat. 272 is an example of such an early text with *authenticae* added by a later hand. Since this manuscript omits many *authenticae* of the later tradition, it and others like it may be a guide to the very earliest stage of the *authenticae* tradition. A manuscript like Berlin, Stuttgart, Württembergische Landesbibliothek jur. lat. fol 71 also provides good evidence that the *authenticae* were first added around 1100. The earliest glosses date to the first quarter of the twelfth century. The *Authenticae* are added in several different hands. Whether Irnerius was the author, or more accurately, the crafter of the first *authenticae*, is a question to which we will probably never have a conclusive answer⁶.

There were vigorous debates in among early modern scholars about Irnerius' authorship⁷. Odofredus is often quoted in the secondary literature as having credited authorship of the *authenticae* to Irnerius. Odofredus is well known to legal historians as being amiable and garrulous, but unreliable as a source. However, the tradition of Irnerius'

Cheney (Monumenta iuris canonici, Series B: Corpus collectionum, 3. Città del Vaticano: Biblioteca Apostolica Vaticano, 1979) 138.

⁵ Radding and Ciaralli, *Corpus iuris civilis* 157 point to Berlin, Staatsbibliothek, MS lat. 272 and 273 as having been written between 1080 and 1120. They do not pay any attention to the *authenticae* in their survey of *Codex* manuscripts.

⁶ For a general discussion see Lange, *Römisches Recht* 74-76. For a discussion of the *authenticae* in connection with Vacarius, see F. de Zulueta, *The Liber pauperum of Vacarius* (Selden Society 44; London: 1927) lii-lxvii. Now see Tammo Wallinga, 'Authenticum and authenticae – What's in a name? References to Justinian's novels in medieval manuscripts', *Tijdschrift voor Rechtsgeschiedenis* 77 (2009) 43-59 and Wallinga, 'The "Authenticae" of Irnerius And Their Tradition', *Novellae constitutiones* 141-154 and Franck Roumy, 'Une Collection inédite d'*authenticae*' 157.

⁷ A particularly interesting example is Cornelis van Bijnkershoek (Cornelius van Bynkershoek) (1673-1743), who wrote a tract defending the authorship of Irnerius and also argued that other twelfth-century jurists were responsible for them, see 'De auctore auctoribusve authenticarum (quas vocant) Diatriba', *Opera minora* (2nd ed. Lugduni Batavorum [Leiden]: Apud Joannem van Kerkhem, 1744) 181-220, Bynkershoek appended a series of epistolary debates about his tract.

having inserted the *authenticae* extends back to the twelfth century. One of the earliest jurists to attribute the *authenticae* to “Irnerius or someone else” was the canonist Huguccio in his commentary on Gratian’s *Decretum* at a point where the Father of Canon Law had included five *authenticae* in his collection⁸. If, as is likely, Huguccio were a student in the 1160’s, he might have learned this fact from teachers who had known Irnerius. Huguccio may have heard a Bolognese oral tradition, or he may have noted when he read the *Codex* that some of the *authenticae* were signed with Irnerius’ sigla, “y.”⁹.

Modern scholars have accepted Irnerius’ authorship¹⁰. Friedrich Karl von Savigny and Enrico Besta used the commentaries of the jurists to decide which of the *authenticae* Irnerius had written¹¹. Besta thought that 40 *authenticae* could be safely ascribed to Irnerius on the evidence provided by Azo, Accursius and Odofredus in their glosses and commentaries¹². The obvious problem with that approach is that these jurists were far removed from the first quarter of the twelfth century. Vetulani and Uruszczak believe that *authenticae* might be attributed to Irnerius; they provided a good reason for making that conjecture. Gratian included ca. 30 *authenticae* in his *Decretum* before 1140¹³. “If not Irnerius who?” one might ask¹⁴. In any case Vetulani’s and Uruszczak’s surmise is based on better evidence than the conjectures of the later jurists.

Another aspect of the problem is a very early gloss at the beginning of the *Codex* that the jurists attributed to Irnerius because the manuscripts carried his sigla “y.” In it, Irnerius seems to question the authenticity of the *Authenticum*. If Irnerius did not believe that the

⁸ D.54 c.20, s.v. *episcopalis dignitas*. See Wolfgang P. Müller, *Huguccio: The Life, Works, and Thought of a Twelfth-Century Jurist* (Studies in Medieval and Early Modern Canon Law 3; Washington, D.C.: 1994) 133 n. 41, 186-187. *Authenticae* were added to the margins of *Decretum* manuscripts in the 1130’s; see Pennington, ‘Big Bang’ 63-64.

⁹ e.g. Palmieri, *Authenticarum collectio* 74, 81.

¹⁰ Lange, *Römisches Recht* 75-76.

¹¹ Friedrich Carl von Savigny, *Geschichte des römischen Rechts im Mittelalter* (7 vols. 2nd, ed. Heidelberg: J. C. B. Mohr, 1834-1851, reprinted Bad Homburg: Hermann Gentner, 1961) 4.42-62 and Enrico Besta, *L’opera d’Irnerio (contributo alla storia del diritto italiano)*, 1: *La vita, gli scritti, il metodo* (2 vols. Torino: Ermanno Loescher, 1896) 1.111-139.

¹² Besta, *L’opera d’Irnerio* 129-133.

¹³ See José Miguel Viejo-Ximénez, ‘Las *Novellae* de la tradición canonica occidental y del decreto de Graciano’, *Novellae constitutiones* (note 4) 206-277; at 275-277 he lists the *authenticae* in Gratian.

¹⁴ Vetulani and Uruszczak, ‘Collectio’ 365; in fact Gratian included 26 *authenticae*, not 14.

Authenticum was authentic, why did he use so many extracts from it to up-date the *Codex*? The medieval jurists who read Irnerius' gloss asked themselves the same question. Odofredus, as usual, had a firm answer: Irnerius changed his mind¹⁵. Luca Loschiavo has thoroughly examined both versions of Irnerius' gloss and concluded that Irnerius' point was simply that the *Authenticum* was not an official codification because it lacked a statute of promulgation and that Irnerius drew attention to the stylistic fact that the Latin translation of many of the laws was not elegant¹⁶.

At this point in my research, I can say is that the tradition of adding *authenticae* began in the very early twelfth century and that other jurists composed a large number of *authenticae* during the twelfth century that they entered the margins of many manuscripts¹⁷. In the thirteenth century, this rush of creativity slowed considerably. The jurists began to reject *authenticae* they considered to be dubious. They pointed out that the *authenticae* sometimes had little connection or a dubious connection with the *Novellae* from which they purported to be derived. The jurists also decided that some *authenticae* were so "inauthentic" that they were false or misleading¹⁸. I will give a notable example of a "false" *authentica* below. Their questions about the authenticity of some of the *authenticae* are highlighted by many later short comments in the manuscripts that noted certain *authenticae* should not be read in the lecture halls¹⁹. Eventually, by the time the *Codex* was printed in the fifteenth century, ca. 220 *authenticae* were a part of the text, but ca. 150 *authenticae* were dropped from the tradition.

Irnerius' and the jurists' purpose and goals for adding *authenticae* are not hard to see. The *Codex* contained Roman imperial legislation. They wished to incorporate some of the up-dates Justinian made, and they also wished to bring these laws into concordance with twelfth-

¹⁵ Savigny, *Geschichte* 3.490-504 at 493 where he prints Odofredus' gloss to the constitution *Cordi*.

¹⁶ His argument is much more complicated than those two points, but these conclusions are important for this essay, see Luca Loschiavo, 'La riscoperta dell'*Authenticum* e la prima esegesi dei glossatori', *Novellae constitutiones* (complete citation above in note 4) 111-139 at 128-136.

¹⁷ Lange, *Römisches Recht* 76, is incorrect to write that "Neue Authentiken scheinen indessen nach Irnerius nur spärlich geschaffen worden zu sein."

¹⁸ Besta, *L'opera d'Irnerio* 138-139, gives some examples.

¹⁹ e.g. "Hec autentica non legitur," Paris, BNF lat. 8940, fol. 4rb, Paris, BNF lat. 4523, fol. 151v or "vacat," Paris, BNF lat. 4534, fol. 7vb, Paris, BNF lat. 4527, fol. 171v or "hec autentica falsa est," Paris, BNF lat. 4536, fol. 163va, or that a famous jurist has declared that the text is not legitimate: "Set B<ulgarus>. dicit non esse authenticam," Wien, ÖNB, lat. 2267, fol. 171r. See also, Pennington, "Big Bang" 68 with nn. 97-98.

century societal norms. For the historian of medieval law in the twelfth and thirteenth centuries, these latter changes are the most interesting.

In order to understand fully the formation of the *authenticae* it is necessary to describe how they were added to the margins of *Codex* manuscripts. When the *authenticae* were copied in the scriptoria at approximately the same time as the main text, they are provided with “frames” or “boxes” that surrounded the text. These frames could be quite elaborate in manuscripts that were produced in Italian scriptoria and would often have intricate red and blue pen drawings that eventually surround the entire text of the *authentica*. The text of the *authentica* would begin with two capital letters, CN, usually one letter in blue and the other in red. The letters stood for “Constitutio nova”²⁰. This notation would be followed by a rubric in red that purported to give the place in the *Authenticum* from which the text was taken. Sometimes the rubrics are inaccurate or missing completely, especially for those texts that had little or no relationship to Justinian’s legislation. To make the job of the readers more difficult, the texts were usually placed in the margins of the manuscripts with no indication to which laws they should be connected. There also does not seem to have been an established order in which the *authenticae* should be copied²¹. I have examined the sequence in which the *authenticae* were placed in over twenty twelfth-century manuscripts. The results have been that there does not seem to have been any established arrangement that the scribes followed. Eventually the jurists decided to which constitution in the *Codex* each *authentica* should be attached²². Nevertheless, in the early evolution of the *authenticae* readers must have had some difficulty deciding which *authenticae* were meant to augment which constitutions. Irnerius and the other jurists

²⁰ This abbreviation has confused more than one legal historian. Emil Friedberg interpreted it as “Codex novus;” see his apparatus to C.2 q.6 c.41, n. 520; the *correctores Romani* were also confused; see their comment to C.10 q.2 c.3.

²¹ The varying order of the *authenticae* in the Montecassino and Paris manuscripts enregistered by Roumy demonstrate the confusion that the jurists must have dealt with when they looked at these texts; see Roumy’s list of *authenticae*, ‘Collection inédite’ 195-204.

²² The the Paris collection edited by Roumy, instructions are given for each text to which constitution it should be connected. Berlin, Staatsbibliothek, Preußischer Kulturbesitz lat. 408 (ca. 1200 A.D.) has the standard siglae that indicate to which constitution or section of a constitution an *authentica* should be attached. Most of the twelfth-century manuscripts I have seen do not have siglae but sometimes attempt to position the *authentica* close to the the intended constitution.

most likely intended to use the excerpts from the *novellae* to “up-date” Justinian’s *Codex*²³.

Later jurists complained about the disconnects they discovered between *authenticae* and the texts to which they were now attached. This is not surprising if one understands how haphazardly they were incorporated into the margins of the *Codex* during the twelfth century²⁴. The insertion of the *authenticae* into the main text of the *Codex*, the format adopted by all the early printed editions, appears to have happened only in the late Middle Ages. Of the many manuscripts that I have examined, I have found only one manuscript in which the *authenticae* have been placed between the texts of the laws as they uniformly appear in the printed editions²⁵.

The *authenticae* were purported to be summaries of, or excerpts from, Justinian’s *Novellae* and, when they were indeed taken from the *Novellae*, they derived their authority from these imperial laws. Irnerius did not use a collection of Justinian’s *Novellae*. Rather he knew the *Novellae* in the collection known as the *Authenticum*. The history of the transmission of the *Novellae* in the form of the *Authenticum* is obscure and very difficult to trace²⁶. Its evolution has not yet been explained because there is no manuscript evidence. Theories range from the *Authenticum*’s being a collection compiled for the lands that Justinian’s generals reconquered in the West to its being a product of the eleventh century²⁷. The only sure piece of evidence we have about the *Novellae* is

²³ Emanuele Conte, *Diritto comune: Storia e storiografia di un sistema dinamico* (Bologna 2009) 77-82 at 81-82.

²⁴ Accursius to Cod. 3.11.2 s.v. *Quod fieri*: “hec authentica non bene aptatur (var. apertatur) ad legem codicis prout Ir<nerius> eam posuit, nam innuit secundum eum quod rescriptum non teneat nisi prestita satisfatione, quod falsum est”.

²⁵ Munich, Staatsbibliothek Clm 3501. The manuscript was written ca. 1400 and the *authenticae* are inserted into the text but not in the same order as in the incunabula editions. I have not yet examined enough incunabula editions to know whether they printed the *authenticae* in a standard format. Cf. Wallinga, ‘Authenticum and authenticae’ 148.

²⁶ Lange, *Römisches Recht* 80-85. Most recently, Luca Loschiavo, ‘La Riforma gregoriana e la riemersione dell’Authenticum: Un’ipotesi in cerca di conferma’, *Rivista Internazionale di Diritto Comune* 19 (2008) 137-151. Wallinga, ‘Authenticum and authenticae’ 43-59 and his essay ‘Riscoperta dell’Authenticum’ 111-114.

²⁷ Lange, *Römisches Recht* 82-83 for a balanced summary of the literature. As Loschiavo has given an up-dated discussion of the *Authenticum*’s origin and has emphasized the paucity of evidence, see “Riscoperta dell’Authenticum” 114; when he has finished his current project on the *Authenticum*, we may know more.

that they circulated widely in the West in an abbreviated text whose Latin was clear and simple. This collection was called the *Epitome Iuliani* after its putative author. Twenty manuscripts of the work are still extant²⁸. For our purposes, one of the most puzzling aspects of this story is that, when Irnerius began to place summaries of the *Novellae* in the margins of the *Codex*, he did not use the translations that he undoubtedly knew from the *Epitome Iuliani*. Instead he seems to have relied on the Latin text of the *Authenticum* for the basis of his summaries. Perhaps, his doubts about the *Authenticum* were even more profound when confronted with an abbreviation of it.

With that introduction to the various problems surrounding our knowledge of the *authenticae* I will spend the rest of this essay concentrating on the question, how did the twelfth-century jurists create these marginal additions to the *Codex* and what these texts can tell us about the teaching of law? I begin with an *authentica* dealing with the marriage of a slave to a free person. This *authentica* dealt with the issue of the marriage of slaves to free persons and can be found in the margins of early twelfth-century manuscripts in two forms:

Ad hec qui suam ancillam credenti tradit in matrimonium tamquam liberam aut sciens eam duci taceat, ex studio dominium amittit eaque ad ingenuitatem rapitur.²⁹

Ad hec qui suam ancillam credenti tradit in matrimonium tamquam liberam aut sciens eam duci taceat, ex studio dominium amittit eaque ad ingenuitatem rapitur. Idem dicitur de servo.³⁰

Inexplicitly, Radding and Ciaralli, *Corpus iuris civilis* do not discuss the *Novellae* or the *Authenticum*.

²⁸ Piero Fiorelli reprinted Gustav Hänel's critical edition and provided a useful concordance; *Iuliani Epitome latina Novellarum Iustiniani secondo l'edizione di Gustavo Hänel e col glossario d'Antonio Agustín* (Legum Iustiniani imperatoris vocabularium; Firenze: Università degli Studi di Firenze, Dipartimento di Teoria e Storia del Diritto, 1996); cf. . Gustav Hänel, ed. *Iuliani epitome latina Novellarum Iustiniani: Ad XX librorum manuscriptorum et principalium editionum fidem recognovit, prolegomenis, adnotatione, addendis quibus compendia epitomes a Boherio, Sennetoniis fratribus, Pesnoto edita, tabulae synopticae capitulorum omissorum et translatorum continentur* (Lipsiae: prostat apud Hinrichsium, 1873).

²⁹ There are minor variants in the manuscripts: München, Bayerische Staatsbibliothek 3880, fol. 181v, München, Bayerische Staatsbibliothek 28178, fol. 166v, Paris, BNF lat. 4532, fol. 163v, Paris, BNF lat. 4521B and Vatican, Biblioteca Apostolica lat. 11599 omit the *authenticae*. The collection of *authenticae* edited by Roumy from Paris, BNF 3922A, 'Collection inédit' 193, omits the phrase "Idem dicitur de servo." This may be an indication that although the manuscript dates to the late twelfth century, the collection of *authenticae* were put together much earlier.

The text is a summary of *Authenticum* 4.1 = *Novella* 22.11 in which Justinian made two points: if a master gave his servant girl in marriage as a free person, the marriage is valid and the girl became a free person. If the master did not give the servant girl away but knew of the wedding, the wedding was valid and the girl was free just as if the master had consented from the beginning³¹. The addition of “*Idem dicitur de servo*” is clearly a later addition to the text, probably had its origins in a gloss to the *authentica*. Since there was, as far as we can tell, little distinction between an “*ancilla*” and a “*servus*” in the sources, the jurists expanded the *authentica* to include slaves, both male and female.

The jurists had further thoughts about the question. In *Novella* 22 Justinian had forbidden foreign “*adscripticii*” to marry a free woman whether the master knew and approved or not³². In some manuscripts a jurist appended a short passage after “*Idem dicitur de servo*” on “*adscripticii*”. “A male ‘*adscripticius*’, indeed, may not marry a free woman” appears in a Munich manuscript³³. A Paris manuscript added that it is immaterial whether the master consents or not³⁴. If Irnerius were the author of the original *authenticae* the addition of the phrase “*Idem dicitur de servo*” evolved early in the tradition. An unknown jurist added the *authentica* with the phrase “*Idem dicitur de servo*” to the margin of a very early version of Gratian’s *Decretum* contained in Sankt Gallen, Stiftsbibliothek 673 before ca. 1140. The *authentica* was added to

³⁰ Again, there are minor variants in the manuscripts: München, Bayerische Staatsbibliothek 22, fol. 154v, München, Bayerische Staatsbibliothek 3884, fol. 143v, Paris, BNF 4517, fol. 127v, Paris, BNF 4519, fol. 162vb, Paris, BNF 4523, fol. 139v, Paris, BNF 4526, fol. 239v, Paris, BNF 4527, fol. 156va, Paris, BNF 4528, fol. 84ra, Paris, BNF 4534, fol. 155ra, Paris, BNF 4536, fol. 148va, Paris, BNF 8940, fol. 136va, Paris, BNF 16910, fol. 154v, Vatican, Biblioteca Apostolica 1427, fol. 103r, Wien, Österreichische Nationalbibliothek lat. 2267, fol. 157r

³¹ *Novella* 22 was placed in *Collatio* 4.1 of the *Authenticum*.

³² *Novella* 22.17 (*Authen.* 4.1): “*Ascripticio autem alieno nubere liberam non licet neque ignorante neque sciente neque consentiente possessore*”. “*Adscripticii*” were persons who were bound personally bound to their master’s land. The term is taken from Roman law and was used in King Roger II’s legislation (ca. 1140) and in the *Constitutions of Melfi*, see Pennington, ‘The Birth of the *Ius commune*: King Roger II’s Legislation’ 46. See also Emanuele Conte, *Servi medievali: Dinamiche del diritto comune* (*Ius nostrum*, Pubblicati dall’Istituto di Storia del Diritto Italiano dell’Università di Roma “La Sapienza”, 21; Roma 1996) 37-65.

³³ München, Bayerische Staatsbibliothek 22, fol. 154v: “*Ascripticio vero nubere liberam mulierem non licet*.”

³⁴ Paris, BNF 4519, fol. 162vb: “*Aliud est de seruo ascripticio cum non conceditur libera inducere uxorem siue sciente siue contradicente domino*”. Wien, Österreichische Nationalbibliothek lat. 2267, fol. 157r has the added later note to the *authenticae* on “*ascripticio*”.

Gratian's Causa 29 in which Gratian had discussed the case of a male slave marrying a free and noble woman. In his analysis of the case, Gratian had not broached the subject of the slave's master's rights³⁵.

This addition in the Sankt Gallen manuscript provides evidence for two quite different points: First, the jurists began to tweak Irnerius' texts as soon as they began to circulate, and second, that the text of the Sankt Gallen manuscript is not an abbreviation. The addition of four different *authenticae* to its margins meant that it must have been used for teaching in a center where Roman law was also taught and that the norms of Roman law were being used to explicate canonical problems. In such a school, jurists would not have been using abbreviations to teach canon law to their students. Abbreviations were used in provincial schools on the periphery not in major centers³⁶.

Later jurists were not content to leave the *authenticae* in the hands of their twelfth-century colleagues. In the case of "Ad hec qui ancillam suam" they expanded the text by drawing upon other sections of *Novella* 22:

[Nov. 22.11] aut. Ad hoc (*var.* hec) qui ancillam suam credenti tradidit in matrimonium tamquam liberam, sive confecerit dotalia instrumenta sive non, aut sciens eam duci taceat ex studio, dominium eius amittit eaque ad ingenuitatem rapitur. Idem dicitur de servo. § [Nov. 22.10] Si uero nec domini voluntas nec taciturnitas studiosa interueniant et quis credit libere se iungi persone, illa uero famula existere, declaretur ipso iure matrimonium non tenet. § [Nov. 22.17] Ascriptiticio autem alieno nubere liberam non licet, ignorante uel sciente uel consciente est domino; immo datur licentia domino pro se uel per presidem abstrahere ascriptitium suum et plagis mediocribus eum castigare.

This text is found in the later manuscripts and in all of the printed editions of the *Codex*³⁷. It is significant that this enlarged *authentica* that became the standard text of the *Codex* by the age of printing did not reflect the some of the jurists' discussions. Azo permitted an adscripticius

³⁵ John T. Noonan noted Gratian's incomplete analysis in his essay 'The Catholic Law School - A.D. 1150', *The Catholic University Law Review* 47 (1998) 1189-1205; I have not found any canonist citing the Roman law text until Johannes Teutonicus' *Ordinary Gloss* to C.29 q.2 c.4 s.v. *faciat*.

³⁶ I have made the second point before in Pennington, "The "Big Bang"" 66-67. Viejo-Ximenez has discussed one of the *authentica* added to the Sankt Gallen manuscript: '*Novellae*' 267-268.

³⁷ E.g. München, Bayerische Staatsbibliothek 14010, fol. 169v; printed editions: (Nürnberg: 1488), fol. 295r-295v and (Venice: 1496), fol. 228r

to marry a free woman but noted that he would remain in his servile status³⁸. Roldandus de Lucca agreed with Azo³⁹.

This *authentica*, “Ad haec qui ancillam”, is a good example of the twelfth- and thirteenth-century jurists’ work and of their attitude towards these additions to Justinian’s *Codex*. They looked upon the *Novellae* in the *Authenticum* as a quarry in which to excavate norms they considered important for contemporary society. The rubrics make it clear that the text’s authority was derived from Justinian’s legislation. With that said, the *authenticae* were prime examples of *textes vivantes*. I have found that some *authenticae*, like this one, had rich textual histories; others had much more stable and less interesting lives. The jurists, however, did not feel limited by Irnerius’ work nor by the texts they found in the *Authenticum*. Their approach to their work was not limited by subservience to past authority.

This generalization is supported by the most interesting *authenticae* added to the *Codex*. These *authenticae* are sometimes completely detached from the text of the *Novellae* in the *Authenticum*. A significant number of jurists in the twelfth century added texts to the *Codex* and labelled them C.N. Many of these additions did not have rubrics that indicated their source in the *Authenticum* for the simple reason that they were not taken from the *Authenticum*. The jurists who crafted these texts were the most distinguished of their age. Perhaps their prestige accounts for the widespread acceptance of their texts. If the siglae in the manuscripts are to be believed, the manuscripts and Palmieri’s list of *authenticae* provide evidence that Bulgarus, Albertus, Jacobus, Johannes Bassianus, Pilius, Henricus de Baila added *authenticae*. As we will see, later jurists knew of their predecessors’ work and commented on it, sometimes disapprovingly. These jurists were not pleased with many of the additions to the margins of the *Codex* and became skeptical of their value. In part, I believe, because of this criticism, the early printed

³⁸ Emanuele Conte has edited Azo’s tract on “De agricolis” that was added to his *Summa Codicis* in *Servi medievali* 259-275. Azo wrote at p. 273: “Item ascriptitii sciente et tacente domino matrimonium contrahunt nec conditione liberantur, ut infra l. ult. (Cod. 11.48.24); servi vero sciente et tacente domino liberi efficiuntur, ut in auth. de nuptiis § Si uero (Nov. 22 = Auth. coll. 4.1)”.

³⁹ Conte, in eodem, also edited Rolandus’ tract, pp. 282-308 at 301: “Set nec per omnia comparatur ascriptitius seruo; nam eo solo dominium ammitto, si me sciente liberam ducat uxorem, ut in aut. de nuptis § Si vero ab initio (Auth. coll. 4.1=Nov. 22.11). Secus in ascripticio, ut eius non decrescat condicio, ut C. eodem l. ult. (Cod. 11.48.24)”.

editions of the *Codex* winnowed the *authenticae* down to ca. 220⁴⁰. How that happened is not clear. Much more research must be done.

Two *authenticae* added to the margins opposite Cod. 1.2.16 are good illustrations of the method that the jurists used. One is provided with a rubric; the other with an indication of authorship, Johannes Bassianus⁴¹.

In aut. de alien. <et> emphyteosi (Nov. 120=Coll. 9.3)

Item nullo modo aliquis hereticorum rem immobilem a quolibet venerabili loco recipiat. Quod si fecerit, quidquid pro hac causa dederit amittat; et rector qui alienavit, omni gubernatione remotus, in monasterium mittatur et per annum sacra communione privetur.

Although the rubric alleges that the text is a summary of *Novella* 120, there is no section of that long statute corresponds to the text of the *authentica*. The illegal alienation of ecclesiastical property was a constant refrain in the texts, but I have not found a source for this *authentica*⁴².

The second *authentica* also establishes norms for alienation of church property:

Si archiepiscopus vendit, exigitur presentia duorum episcoporum ex his qui sub eo sunt constituti. Jo. b.

The source for the norm of having two bishops consent to the alienation of ecclesiastical property cannot be found in Roman law but in Gratian's *Decretum*⁴³. The *authentica* is signed with the sigla of Johannes Bassianus. Johannes taught and wrote after ca. 1140 and would have known and used Gratian. His sigla appears on a significant number of *authenticae* in the manuscripts.

These two texts illustrate how the jurists introduced their ideas and their norms into medieval jurisprudence. When they wished to establish a norm, they did not hesitate to use sources outside the Roman law tradition. The twelfth-century *Codex* manuscripts are filled with glosses referring to Gratian's *Decretum* (as early manuscripts of Gratian are littered with references to Roman law). In Stuttgart, Württembergische Landesbibliothek jur. lat. fol 71 (First half of the twelfth century), there

⁴⁰ The early editions of the *Codex* would have to be examined in order to gain some understanding of how stable the textual tradition was in the second half of the fifteenth century.

⁴¹ Both are in München, Bayerische Staatsbibliothek 22, fol. 5rb.

⁴² See the title "De rebus ecclesiae alienandis vel non" in the *Compilationes antiquae* and the *Decretales Gregorii noni*.

⁴³ C.10 q.2 c.1 (Council of Agde, 506 A.D.)

is a layer of glosses with references to Gratian's *Decretum*. These must date to shortly after the appearance of the *Decretum*, because the form of citation is unusual⁴⁴. In any case, canon law, through the vehicle of Gratian, began to penetrate the margins of Roman law manuscripts very early, just as Roman law, beginning with Gratian, began its inexorable entrance into canon law.

As I have already noted, Gratian placed a large number (30) of *authenticae* in his *Decretum*. Jose Miguel Viejo-Ximenez has examined all the *authenticae* in Gratian and explored their textual complexities⁴⁵. Gratian put almost all of his texts from the *Authenticum*, *Epitome Juliani*, and the *authenticae* in the last, vulgate version of his *Decretum*. Until we have a better text for the *authenticae* added to the margins of the *Codex* it will be impossible to know exactly which tradition Gratian used. Viejo-Ximenez has thoroughly shown the relationship among the five *authenticae* that formed a "mosaic" Gratian cobbled together in D.54 c.20, where he treated the issue of when and how clerical orders bestowed freedom on a person. The issue was similar to the legal issue of marriage conferring freedom on an unfree person discussed above. Gratian used a series of *authenticae* attached to Cod. 1.3.34(33), which are present in almost all the earliest manuscripts, to resolve the question. Since Viejo-Ximenez compared Gratian's texts only to Munich, Staatsbibliothek lat. 22 (a very interesting manuscript nonetheless), he was not able to determine which textual tradition Gratian might have used⁴⁶. Without a thorough study of all the *authenticae* that Gratian placed in his *Decretum*, the most we can say for now is that the Father of

⁴⁴ E.g. fol. 13r: Cod. 1.7.3.2 s.v. *pristinum*: "Nam et hoc idem euenit in symoniaco, qui etsi penitens fuerit, non tamen in clericali communione recipitur, ut $\text{\textcircled{D}}$ c.i.q.1.cap. Ventum est. (C.1 q.1 c.18). $\text{\textcircled{070}}$ $\text{\textcircled{D}}$ di. xii. Nos consuetudine." There are a number of glosses in the manuscript with the unknown sigla of $\text{\textcircled{070}}$." Another gloss of this jurist is on fol. 24vb. As with all his other other glosses, he cites only the *Decretum*. "Poli siquidem iure istud similiter precipitur cum 'in uno quoque iudicio quattuor diuersi offitii personas necessarium sic esse quorum neuter alterius abuti debet offitio; iudex, scilicet electus quem equitate uti oportet. Accusatores idonei qui intentione utantur ad causam fundandam seu amplificandam; defensores idonei qui ex tenuatione minuant causam. Testes legitimi qui ueritate sua causam eluminare procurent, ut $\text{\textcircled{D}}$ ca. iiii. q.iiii. cap. Nullus (C.4 q.4 c.1) $\text{\textcircled{070}}$."

⁴⁵ Viejo-Ximenez, 'Novellae' 243-269.

⁴⁶ Ibid. 264-268. E.g. the short version of the *authentica* "Sed dignitas episcopalis" (Auth. to Cod. 1.3.34 [33] Auth. 6.9 = Nov. 81.9) that Gratian put into D.54 c.20 can be found in Roumy's Paris BNF lat. 3922A, n. 23 (p.188) but also in Stuttgart, Württembergische Landesbibliothek jur. lat. fol 71, fol. 8va and Vat. lat. 1427, fol. 1va. Id est Gratian did not shorten the text but took what he found in the margins of the *Codex* manuscript he used.

Canon Law knew them, considered them to be legitimate sources of law, and was not reluctant to add them to the canonistic tradition.

The most interesting *authenticae* are those that have no connection with the text of the *Authenticum* because they reveal the jurists most direct contemporary concerns. In the thirteenth century Accursius had observed that Jacobus had inserted a “false *authentica*” into the *Codex*⁴⁷. The *authentica* to which Accursius referred stated that if a defendant had confessed to a debt or “any other thing” outside the courtroom to neighbors, his confession was considered to be as valid as if the confession were made in court or to a magistrate. As we will see, however, the text had a number of variant versions in the manuscripts. In the Stuttgart manuscript, which is an early text, but whose *authenticae* were added slightly later, the *authentica* is added to the margin with various notations⁴⁸:

<rubric> CN in authen. de testibus § *Et licet coll. vii.*

Si debitor confessus fuerit debito uel de aliis rebus coram uicinis, pro eodem habetur hoc ac si coram iudice uel apud magistratum confessus fuisset. b<ulgarus?> non.

§ *Set si creditor confessus fuerit se recepisse creditum stetur confessioni.*

The italicized texts were added by three different later hands. The rubric alleged that the *authentica* was derived from Nov. 90.2 (=Authen. 7.2). The citation – made more precise by a later hand – is accurate, but the connection is dubious.⁴⁹ The passage in the *Authenticum* does not deal with confessions out of court nor those made before magistrates. The notation at the end of the *authentica* in a different hand may mean that Bulgarus did not agree. The last gloss, in yet another hand, at the end seems to limit the text to financial civil suits.

⁴⁷ Accursius, *Glossa ordinaria* to Cod. 7.59.1 s.v. *soluere*: “Item pro se <Iacobus Antiquus> inducebat quandam falsam authenticam quam hic habebat”.

⁴⁸ Stuttgart, Württembergische Landesbibliothek jur. 71, fol. 146va. The same text with minor variations can be found in München, Bayerische Staatsbibliothek 3884, fol. 156r, München, Bayerische Staatsbibliothek 28178, fol. 182v, Paris, BNF lat. 4527, fol. 171v, Paris, BNF lat. 4536, fol. 163va, Wien, Österreichische Nationalbibliothek 2267, fol. 171rb.

⁴⁹ Nov. 90.2: “Et iterum adductus est aliquis alius similis calumnianti, et praesentibus testibus ad hoc et coram tabulario deposuit apud semetipsum debita esse; et is quidem qui mercede hoc egit decessit, alius autem exactus est debitum quod ab alio quodam tamquam ab eo scilicet confessum, Deo huiusmodi omnino non indulgente occultari”.

In a Munich manuscript ca. 1200 the text is tweaked and the incipit is changed⁵⁰:

Istam authenticam apposuit yarenius de suo, nec est in corpore, et est falsa; Magister A<l>d<r<i>cus?> non legitur (sic).

aut. Si confessus fuerit debitor de debito uel de re aliqua, quis confessus fuerit apud uicinos uel v. amicis interuenientibus, pro eodem habetur ac si coram iudice uel apud magistratum confessus fuisset super l. Confessos (Cod. 7.59.1).

A much later scribe attributed the text to Irnerius and stated it is false. Another later hand noted that Albericus? or Aldricus? did not read the text in his class. The hands of both additional glosses is late thirteenth century. The text is similar to that in the Stuttgart manuscript but stipulates that the confession can be made to neighbors or to five friends who have intervened in the dispute. The jurist(s) must have imagined that friends and family would want to insert themselves into the dispute. Their assumption clearly reflected commonly held ideas about conflict resolution in the twelfth century.

The norm that a confession could be validated by five friends had a wide circulation and originated in the middle of the twelfth century. Vacarius included the *authentica* in his *Liber pauperum*. He adopted the same text as in the Munich manuscript⁵¹. At about the same time Wilhelmus de Cabriano (ca. 1150) observed in his *Casus Codicis* that a person is not prejudiced by his confession outside the courtroom unless, again as in the Munich manuscript, five witnesses were summoned to hear the creditor's confession. The difference in the texts is interesting. Wilhelmus assumed the witnesses would be summoned rather than intervening on their own accord. He also thought that if a debtor made a confession, then the confession was valid as if it had been made in court⁵²:

Qui confitetur alias in iudicio, alias extra iudicium. Si extra iudicium non preiudicat sibi confessio sua, ut ff. de interrogato. act. l. ult., nisi ut

⁵⁰ München, Bayerische Staatsbibliothek 14010, fol. 185v; the text of the manuscript and the *authenticae* were written at the same time. The Ordinary Gloss was added much later. With minor variations this text is also found in Paris, BNF lat. 4523, fol. 151v and Paris, BNF lat. 4532, fol. 178va.

⁵¹ *The Liber Pauperum of Vacarius*, edited by F. de Zulueta (Selden Society 44; London: Selden Society, 1927) cxxxvii and 237-238.

⁵² *The Casus Codicis of Wilhelmus de Cabriano*, edited by Tammo Wallinga (Studien zur europäischen Rechtsgeschichte, 182; Frankfurt am Main: Vittorio Klostermann, 2005) 549.

in auth. habetur de creditore qui ante v. testes ad hoc rogatos se debitum suscepisse fuerit, uel econtrario debitor fuerit confessus mutuam suscepisse pecuniam, ubi preiudicat confessio atque si in iudicio esset facta.

In an early Viennese *Codex* manuscript, a rubric that was contemporary with the text of “Si debitor” stated that the *authentica* could be found in the *Authenticum* under the title “De testibus” according to Jacobus, but that “Bulgarus said that it was not an *authentica*,” confirming the cryptic gloss in the Stuttgart manuscript⁵³. Since there are no siglae attached to the *authentica* in any of the 20 manuscripts in which I have it, Accursius’ claim that Jacobus added it to the *Codex* is certainly wrong. He may have seen a manuscript like the Viennese in which Jacobus suggested where a related text in the *Authenticum* might be found. Since Bulgarus had weighed in on the text’s authenticity and since Jacobus was much younger than Bulgarus, “Si debitor” must have been added to the *Codex* in the first half of the twelfth century. I doubt, however, that Irnerius wrote it.

We have already seen that the *authenticae* were important texts in the canonical tradition. They also influenced secular Italian law.⁵⁴ The Pisans issued statutes in the middle of the twelfth century in which they borrowed the norm contained in “Si debitor.”⁵⁵ The glossed text of the statutes is preserved in New Haven, Yale University Beineke Library 415 and reads⁵⁶:

<rubric> *De confessioni (confessis^o) extra placitum.*

Confessio extra placitum ita demum valeat cum quis coram duobus testibus, interrogatus ab adversario suo, de aliqua re [quacumque

⁵³ Wien, Österreichische Nationalbibliothek 2267, fol. 171rb: “Infra aut. de testibus. Ja. Set B. dicit non esse authenticam”.

⁵⁴ I have already discussed this briefly in ‘The Big Bang’ 67-69. One might assume that the *authentica* reflected commonly held opinions in twelfth-century Italian courts and that these opinions shaped the *authentica* rather than viceversa. It is possible. I think, however, that the wording of the Pisan statute is influenced by “Si debitor.”

⁵⁵ Paola Vignoli, *I costituti dell legge d dell'uso di Pisa (sec. XII): Edizione critica integrale del testo tradito del "Codice Yale" (ms Beinecke Library 415): Studio introduttivo e testo, con appendici* (Fonti per la Storia dell'Italia Medievale, Antiquitates 23. Roma: Istituto Storico Italiano per il Medio Evo, 2003) 191-192; Claudia Storti Storchi, *Intorno ai Costituti pisani della legge e dell'uso (secolo XII)* (Europa Mediterranea, Quaderni 11. Napoli: Liguori, 1998) 131 note 481.

⁵⁶ New Haven, Yale University Beinecke Library 415, fol. 29v, Pisa, *Constitutum usus*, Title 17.

qualitate uel re et ex quocumque contractu siue in scriptis siue sine scriptis^{post correctionem}] confessus fuerit.

A few folia earlier another statute that a later scribe has put “vacat” around the text repeated the same norm⁵⁷:

Sub iuramento si quis confessus fuerit etiam extra iudicium et probari poterit, ita pro iudicato habeatur, ut si aliter esse probare velit, non audiatur.

These Pisan statutes demonstrate that the *authentica* “Si debitor” or “Si confessus” had influence beyond the classroom. It and the other *authenticae* established norms for twelfth-century society. Norms, however, change. By the beginning of the thirteenth century, the jurists came to understand that in order to have a just and fair system of procedure, the courtroom must be the public forum in which all the elements of a trial were heard and in which all elements of procedure should be focused. Johannes Teutonicus rejected the *authentica* “Si debitor” in the early thirteenth century, and as we have seen, Accursius also rejected it in mid-century⁵⁸.

The preceding is a small sample of the evidence for the evolution of the *authenticae* in the twelfth century. What conclusions can one draw? First, the evidence seems to support Irnerius as being the first to draft summaries from the *Authenticum* and then adding them to the margins of the Justinian’s *Codex* and *Institutes*. It must have been an important part of his literary work and teaching. The strongest pieces of evidence for his labors are the siglae of Irnerius in the manuscripts, the Bolognese oral tradition, and Gratian’s use of them when he inserted them into his *Decretum* ca. 1140. For the question of when the teaching of Roman law began in Bologna, this evidence adds to a growing body that the law school in Bologna must have been in full flower during the first quarter of the twelfth century⁵⁹. Since we have no trace of Irnerius in the sources after 1125, the he must have finished with the core of the *authenticae* before then. I had hoped that I might be able to see which *authenticae* were first added to the manuscripts by examining the early twelfth-

⁵⁷ New Haven, Yale University Beinecke Library 415, fol. 26r, Pisa, *Constitutum usus*, Title 11: “De modo cognoscendi et iudicandi”.

⁵⁸ Johannes Teutonicus (ca. 1218 A.D.), *Apparatus in Compilationem tertiam* to 3 Comp. 2.10.1 s.v. *in iure*: “<confessus> coram suo iudice... nec est authentica que ponitur C. de confessis (Cod. 7.59)”. Ed. Pennington (*Monumenta iuris canonici*, Series A, 3; Vatican City, Biblioteca Apostolica Vaticana, 1981) 233. Accursius’ gloss is printed in n.42 above.

⁵⁹ See the essays cited in n. 1.

century *Codex* manuscripts. My hope has been thwarted by the fact that *authenticae* were added to all early the manuscripts by various hands in various stages. Until now I have not been able to see a clear pattern that would establish an Irnerian core of *authenticae*. Certainly, the 30 *authenticae* that Gratian incorporated into his *Decretum* could constitute an Irnerian core, but after that a list is difficult to construct on the basis of the manuscript evidence. As I have said before, I do not think that the later jurists can be used to establish authorship.

Second, of the ca. 370 *authenticae* that were added to the *Codex*, I believe that only a small percentage of those can be attributed to Irnerius. The jurists continued to add *authenticae* during the twelfth century. Only in the thirteenth century did they begin to turn a critical eye towards the work of their predecessors. The result was that over 150 were eventually eliminated from the vulgate *Codex* and a fecund era of creative jurisprudence came to an end. One last reflection: it has been often noted that medieval jurists' writings constituted a "extra-legislative" source of legal norms in the Middle Ages and in the Early Modern Era. The *authenticae* are a good example of their role in the shaping of jurisprudence whose source was not tied to legislative bodies or to courtrooms.

Summary: Bolognese tradition reported that the *authenticae* that were added to the margins of the Justinian's *Codex* and *Institutes* were composed by Irnerius. Modern scholarship has concluded that Irnerius' purpose was to up-date the contents of the *Codex* with material drawn from Justinian's later legislation that circulated in the *Authenticum*. This essay examines both these generalizations and concludes that Irnerius was probably responsible for a core set of the *Authenticae* but that many other jurists added excerpts from the *Authenticum* and also creatively composed texts that had little or no relationship to Justinian's legislation. Many of these texts never became a part of the vulgate *Codex* that was established in the thirteenth century. The essay also concludes that these texts circulated almost immediately outside Roman law manuscripts. Gratian drew upon a large number of *authenticae* and inserted them into his *Decretum*. *Authenticae* were also added to the margins of Gratian's *Decretum* in early manuscripts. This activity of the jurists provides a window into the teaching of law in the twelfth century.

Sommario: La tradizione bolognese affermava che le *autentiche* aggiunte ai margini del *Codex* e delle *Institutiones* di Giustiniano furono composte da Irnerio. La storiografia moderna ha concluso che lo scopo di Irnerio era quello di aggiornare i contenuti del *Codex* con materiale tratto dalla successiva legislazione di Giustiniano che circolava nell'*Authenticum*. Questo saggio esamina entrambe queste generalizzazioni e conclude che Irnerio fu probabilmente il responsabile di un nucleo di *authenticae*, ma che molti altri giuristi aggiunsero estratti dall'*Authenticum* e inoltre composero creativamente testi che non divennero mai parte della *vulgata* del *Codex* che si consolidò nel secolo XIII. Il saggio conclude anche che questi testi circolarono quasi immediatamente al di fuori dei manoscritti civilistici. Graziano fece ricorso a un

grande numero di *authenticae* e le inserì nel suo *Decretum*. *Authenticae* si trovano anche aggiunte ai margini del *Decretum* in alcuni manoscritti antichi. Questa attività dei giuristi offre una apertura sull'insegnamento del diritto nel secolo XII.

Key words: Justinian; *Codex*; *authenticae*; Irnerius; Johannes Bassianus; Gratian; Accursius.

Parole chiave: Giustiniano; *Codex*; *authenticae*; Irnerio; Giovanni Bassiano; Graziano; Accursio.