THE UNIVERSITIES OF THE MIDDLE AGES.

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INTRODUCTION.

THE UNIVERSITIES have exercised a great influence on the condition of Europe ever since the twelfth century, and amidst all changes of condition this influence has remained essentially the same.

Wherever a true life has been manifested in them, they have, all alike, presupposed or endeavored to develop a certain intellectual independence among their students. It was their task, therefore, to communicate the best and most valuable knowledge of every age, and herein consists the peculiar charm and dignity always connected with the position of university teacher. Such a charm and dignity does not connect itself with the mere mechanical transfer of knowledge already acquired; but he who with restless spirit assimilates to himself whatever he studies, and under the stimulus of the spirit of the school and its pupils, feels impelled to communicate it in its renewed shape, holds a position like that of an original author, more limited, indeed, but with more vivacity and original force, inspired by direct and personal communication with those whom he addresses. This point in the character of the universities is of so fundamental a nature, that their strength and success must inevitably be destroyed where the liberty and independence of this intercourse between pupil and teacher is weakened or destroyed.

In this main feature the Universities of the Middle Ages resemble those of the present era, but in many other respects they differ widely. Above all, they occupied a more important position among the then accessible means of culture than is assumed by those of our own day, which encounter competition on the one side in the higher schools, and on the other in the enormous multitude of books now every where diffused.

One consequence of this was that the period of study at that time was much more extended than now, so that many students, by their mature age, their social rank, office and dignities, obtained a respectability which was reflected over the whole class, to which nothing analogous can now be found. Moreover the spirit of that period favored the formation of new and almost independent guilds, so that it was natural that the universities should form such associations, and that the cities in which they were established should permit this without jealousy. But the great superiority of the ancient universities over those of our own day lies in the manner of their formation. For it would be a great error to consider the Universities of the Middle Ages as educational *institutions*, in the sense by us attached to the word, that is, as establishments

* History of Roman Law in the Middle Ages, (*Geschichte des Römischen Rechts im Mittelalter*) vol. III, p. 152 to 419.

founded by a prince or a city for the particular benefit of natives, although foreigners might be allowed to share their advantages. Such was not the case, but whenever a person inspired with a strong desire to teach had once gathered around him a number of studious youth, a succession of teachers easily followed, the number of hearers increased, and thus a permanent school grew up, wholly from internal necessity. Great must have been the reputation and influence of such a school when but few existed in Europe, and oral instruction was the only possible mode of acquiring extended knowledge.

What a deep sense of responsibility must have been manifest in teachers, what earnestness and zeal in students who had perhaps crossed Europe to pass a not inconsiderable portion of life at the school of Paris or Bologna. Public appointments and salaries were not then given to teachers; it was only when the fire of their zeal burned low, that these means of maintenance became necessary, and princes voluntarily founded and provided for whole universities. But the schools so summoned into being could not be compared with those previously developed out of imperative internal need, though even these carried within them the germs of decay. Their peculiar success resulted in part from accidental, personal, and temporary conditions. A few teachers of great reputation could render a school famous, but it might rapidly decay in the unskillful hands of their immediate successors. For the universities stood wholly without external support, based on themselves, unconnected with a pervading national culture and without the indispensable foundation of preparatory schools. But more lasting than their original prosperity has been the intellectual impulse imparted by them to Europe, and lawyers should never forget that modern scientific jurisprudence is based on the foundation laid by the Bologna school.

Nearly at the same time, three universities enjoyed great reputation: Paris in theology and philosophy, Bologna in Roman law, and Salerno in medicine. But the school at Salerno, however probable the great age assigned to it may be, has no place in this present inquiry, not only because no detailed information in regard to its early condition is extant, but especially because it remained without influence on the development of the other schools; for of the medical schools formed at a later period, it can be proved that they were in preference organized after the models of the schools of theology and jurisprudence, near which they grew up.

The two others, Paris and Bologna, are not only without doubt the two earliest schools attaining a general European renown, but they have served as models for numerous universities of a later date. There is a remarkable contrast in their constitutions, dating from their beginning. In Paris the corporation consisted of all the professors, who possessed all the power and authority, while the students, as only the subjects of the little state, are nowhere particularly mentioned. In Bologna the students formed the corporation, and elected the officers from their own body, and to the authority of these the professors were subjected.

The universities which were afterwards established imitated these two fundamental forms, so that Bologna became the model for a great part of Italy, Spain, and France, ([1]) and Paris for England and Germany. To explain this remarkable contrast, two causes should be equally assigned. First, the republican spirit in Bologna, which was easily communicated to the students; and secondly, the different nature of the branches of learning for whose cultivation

the two schools were established, Bologna being originally a school for jurisprudence and Paris for theology. That Paris was a theological school very naturally led to a greater subjection of the students, the more since they had always been under strict discipline in the convents and cathedral foundations.

The law of imitation alone sufficiently explains how forms once established were transferred, even to those schools and to those branches of study in which these two original conditions did not exist. That just these two universities, Paris and Bologna, were taken as models for those of later date, and that many other arbitrarily chosen systems did not rise by their side, is entirely explained by the great age and reputation of these schools. Still it would be very wrong to infer a complete and permanent resemblance; on the contrary these organizations have, in addition, assumed forms peculiar to every nation: thus, for instance, the universities in Germany, especially since the Reformation, have assumed a much more comprehensive character.

UNIVERSITIES OF ITALY.

I. BOLOGNA.

Celebrated as the university of Bologna is, no attempt to describe its history has been made, except in the defective work of Formagliari, ([2].) Much useful material is scattered through "Ghirardacci's History of the City," and in the "Annals" by Savioli, as well as in Sarti's biographies of celebrated professors. The best information on the constitution of this school is found in the ancient statutes of the university of jurisprudence, now to be described in full. The edition of 1561 consists of three parts: the original statutes, in four books, (p. 1 to 73;) the amendments, (p. 74 to 90,) and a number of new laws, (p. 91 to 110.)

First of all, the date of the statutes must be established. The present collection is very modern, dating from the year 1432, in which old and new statutes are mixed. It must have been made from an older compilation, the period of which can, however, be determined. For the statutes prohibit "godfatherships" between members of the university and the citizens of Bologna, but they except from this prohibition John Andreä and his descendants; which reference to this eminent person (as living) points to the first part of the 14th century. Some of its older and more recent parts can be distinguished from each other, as the original author chose the first words of his chapters so that they fell in alphabetical order; so that certain deviations indicate a later revision. But even that could be evidence only of the time when the statutes were reduced to writing in the present shape, but not of the time when they first prevailed, for undoubtedly they were handed down from a more remote time, and the most and most important parts of the statute date certainly from the year when the university received its first definite organization. This is probable for the following reasons: First, the distinct reference to existing statutes in a decree of Pope Innocent IV, from the year 1253; also an ordinance of Pope Honorius III, of 1224, making it almost certain that the university had already made its statutes; next, the catalogue of the books in the circulating library, which is added to the statutes, contains works nearly all of the 12th and 13th century, very few from the first part of the 14th century, and none,

for instance, of Bartolus and Baldus. The university of the *artistæ* (*i. e.* those not students of jurisprudence) had its statutes, which in many points are similar to those of the jurists, but indicate by their language a much later origin.

According to a very old tradition the university of Bologna is said to have been founded by king Theodosius II, in the year 433. In the archives of the city are two completely different charters, which have been frequently copied; but a more awkward forgery can hardly be imagined, both in point of matter and manner. For in the one the name of the country appears as Lombardia; in the other the ambassadors of King Louis of France and King Philip of England are mentioned as present: under both are signatures taken from a *Placitum* of Charlemagne. In addition to this it is not probable that Theodosius, who was Emperor of the East, should have made such a foundation in Italy: not to mention that a well-known constitution of Justinian directly contradicts the earlier existence of a school of jurisprudence (*Const. Omnem*, § 7.) Against such strong evidences of falsity any further inquiry appears superfluous, and no thoughtful historians have ever entertained a doubt on this subject. Notwithstanding these facts, Bologna has ascribed great value to such evidences of its antiquity as these, and has even based on them its claims in disputes with neighboring cities about its frontier; nor have there been wanting patriotic defenders of their genuineness. But the time and occasion for invention can be pretty clearly determined. Azo claims for Bologna the right to a school of jurisprudence because that city, as well as Constantinople, was founded by an emperor, namely by Theodosius. Similar is the expression of Accursius and Odofredus; though they, in addition, mention St. Ambrose on this occasion, by which the whole affair is referred to Theodosius I. All these authors, then, up to the middle of the 13th century, knew nothing of a charter or the foundation of a university; they only refer to the foundation of the city by the emperor, and deduce therefrom its right to have a university. Even Bartolus knows nothing of these documents, but deduces the establishment of the university partly also from the foundation of the city by Theodosius, and partly because it was customary, or from a pretended foundation by king Lothar, which, however, he does not put forth as veritable. But, soon after the middle of the 13th century, we find the first traces of those documents, which must have been drawn up from those passages of the glossators, with an alteration of their true intent. Ambrose indeed is again connected herewith, ([3]) and that the year 433 is still assigned and that so the younger Theodosius is designated as the founder, (though in his reign Ambrose was no longer living,) are to be imputed to the ignorance of the writer.

In fact, the date of the commencement of the university can not now be definitely fixed, because it did not originate in a voluntary foundation. For when, by the reputation of a teacher, and the thirst after knowledge on the part of the students, a school of jurisprudence was formed here, it was a long time before an incorporation and a particular constitution were thought of. A *privilegium* of the emperor gave power of jurisdiction to the teachers, and when the number of students increased more and more, the latter commenced to form a university, the constitution of which, as it appears, developed rapidly and was soon recognized.

The first historical fact we meet is the *privilegium* granted by Frederic I, in November, 1158, at the Diet of Roncaglia. Though Bologna is not named in

the edict, there can be no doubt that it refers especially to this city; for a *privilegium* is granted to those who undertake journeys in the interests of learning, and the professors of jurisprudence are favorably mentioned therein. If, then, it is considered that it was granted, not by the emperor, but by the king of Lombardy, it will be seen that there is no city but Bologna to which it could apply, though undoubtedly it was for the benefit of all future schools of jurisprudence in Lombardy. Moreover, outside of the kingdom of Lombardy there was no city to which it could be applied. The school at Paris attracted many strangers by its reputation; but it was not a school of jurisprudence, and besides, Frederic, neither as emperor nor as king of Lombardy, could grant a *privilegium* to Paris. In Germany there existed no school of any repute at that time, and finally the great favor in which the celebrated professors of Bologna were held by the emperor, leaves no doubt that the *privilegium* was intended expressly for them. ([4])

The contents were of a two-fold character: First, it gave especial protection to foreign students, who had to overcome so many difficulties to satisfy their desire for learning; they were to be permitted to travel every where undisturbed; any molestation of them was forbidden on pain of severe punishment, and in particular no one was to be held responsible for the crimes or debts of his countrymen. Secondly, students, when indicted, were to have special judicial privileges. The words are these: "*Hujus rei optione data scholaribus, eos coram domino vel magistro suo, vel ipsius civitatis episcopo, quibus hanc jurisdictionem dedimus, conveniat.*" The meaning of these words can not be misunderstood, and all later doubts have arisen from the mistaken endeavor to find the condition resulting from the changes of subsequent times in this decree. The accused had the choice of being judged by his teacher ([5]) or by the bishop. Dominus was the peculiar designation given to teachers of the new school of jurisprudence, distinguishing them from the teachers of liberal arts every where to be found; and only to explain this new expression by one more generally known, was added *vel magistro suo.* ([6]). It is not difficult to see what gave cause to this provision. Justinian had prescribed for the school of jurisprudence at Berytus, that the supervision over the copyists and a certain disciplinary superintendence over the scholars were to be exercised by the president of the province, the bishop, and the professors of jurisprudence. To this was added the decree of Frederic I, which changed a limited supervision into a general jurisdiction, and passed by in silence the presidium of Bologna, for the magistrates of this city are not named; it was directly against them that the privilege was directed, and if in some cases the students did not desire to avail themselves of this privilege, it followed of course that they could obtain their right before an ordinary judge. Nor did the edict mention the rector of the university: either because there was at that time no university and no rector, or because such an essential right of jurisdiction had not yet been conferred upon him.

All subsequent history shows that this decree was carried out, and it is quite incorrect to doubt this, as many do, because the authority of the emperor over the Lombardic cities was afterwards so much diminished; for the subject of this edict formed no part of the great dispute between the emperor and the cities, and the four professors, for whose benefit the privilege had been given, enjoyed no less authority and favor in Bologna than with the emperor.

About the end of the 12th century (the time of Azo) the students committed great acts of violence, and the professors were not powerful enough to exercise the criminal jurisdiction which king Frederic had given them. Such was the condition of things at the time of Accursius; but soon after, about the middle of the 13th century, they resumed their previous criminal jurisdiction. After this time the right of professors and of the bishops is spoken of in the commentaries to the *Auth. Habita*, but seems not to have been longer in exercise. This may be ascribed to the continually increasing number of the professors and the diminished personal authority of some among them, and also to the fact that the power of the university and its rector became more firmly established.

Rectors are first mentioned at the time of John Bassianus, about the end of the 12th century; who, with his scholar Azo, disputed the right of students to elect rectors; the same opinion is found in Accursius, but only as taken from Azo. But Odofredus, who also maintains this opinion, mentions expressly the contrary constitution of Bologna. Very definite historical data agree with this. As early as 1214, the city of Bologna sought to make the rectorate more dependent, or to abolish it altogether; this resulted in great disturbances, which threatened the breaking up of the entire school. The pope took the part of the students, and after a few years all was quiet again, without the rectorship having been abolished. From this it appears clear that the university at that time had the settled right to elect its own rectors, with power of jurisdiction; which appears still more from a writing of the pope of the year 1224. Honorius III reproaches the city for not suffering the rectorate and for having banished the rector-elect; even the professors had given their advice in favor of this measure, having forgotten their obligation of submission to the decisions of the rector. This language could not have been used unless the jurisdiction of rectors, even over the professors, had long before been decided by custom and tradition.

From this time the students had four judges: the magistracy of the city, the rector, the bishop, and the professors. The two latter were based on the privilege of the emperor; the two first were, by jurists, derived from the common law; the rector from a passage in the code which enjoins upon those following a trade or vocation, under no pretext to withdraw from the judge set over such profession. Consequently of these four judicial powers only the first was to be looked upon as legal, deriving his authority out of the general constitution; the second was special, founded on the peculiar relation of corporation; the two latter were privileged. The relation of these various judges will appear from what follows.

The Bologna school of jurisprudence was several times threatened with total extinction. In the repeated difficulties with the city the students would march out of the town, bound by a solemn oath not to return; and if a compromise was to be effected, a papal dispensation from that oath must first be obtained. Generally on such occasions, the privileges of the university were reaffirmed and often enlarged. In other cases, a quarrel between the pope and the city, and the ban placed over the latter, obliged the students to leave; and then the city often planned and furthered the removal of the university. King Frederic II, in 1226, during the war against Bologna, dissolved the school of jurisprudence, which seems to have been not at all affected thereby, and he formally recalled that ordinance in the following year.

Originally the only school in Bologna was the school of jurisprudence, and in

connection with it alone a university could be formed. However, it did not assume the form of one university, but several were formed, differing according to the nationality of the students, and as far as direct information can be obtained, there were two, the Cismontane and the Ultramontane. (7) Subsequently eminent teachers of medicine and the liberal arts appeared, and their pupils, too, sought to form a university and to choose their own rector. As late as 1295 this innovation was disputed by the jurists and interdicted by the city, so that they had to connect themselves with the university of jurisprudence. But a few years later we find them already in possession again of a few rectors, and in 1316 their right was formally recognized in a compromise between the university of jurisprudence and the city. The students called themselves *philosophi et medici* or *physici;* also by the common name of *artistæ.*

Finally a school of theology, founded by pope Innocent VI, was added in the second half of the 14th century; it was placed under the bishop, and organized in imitation of the school at Paris, so that it was a *universitas magistrorum*, not *scholarium.* As, however, by this arrangement the students of theology in the theological university had no civil privileges of their own, they were considered individually as belonging to the *artistæ.*

From this time Bologna had four universities, two of jurisprudence, the one of medicine and philosophy, and the theological, the first two having no connection with the others, forming a unit, and therefore frequently designated as one university.

The constitution of these universities was principally based on their statutes. Amendments and additions could be made only every twenty years, for which purpose eight *statuarii* were elected from the scholars, and the approval of the entire university was not required. Meanwhile, strict forms were prescribed for all changes. (8) As early as 1253 the pope approved the then existing statutes; in 1544 a similar confirmation was made, and this new approval of the pope, who was then also the temporary ruler of the state, resulted in making these laws, originally intended for the members of the university only, obligatory upon all. Pope Pius IV also gave a new confirmation, and similar renewals may have occurred frequently afterwards.

In describing the condition of the law-school at the time of complete development, it should be regarded from two points: as corporation and as school. In regard to the first should be considered its members, how they were classified, what officers administered the affairs of the corporation, and what were their outward relations. The members of the university were of various classes, some having full citizenship, others more limited privileges, and still others were looked upon merely as protected. Only the foreign scholars (*advenæ, forenses,*) (9) possessed full citizenship, among whom civil and canonical members were never distinguished, except in a few rare cases. They were admitted by being matriculated, for which they paid 12 soldi. They were annually required to make an oath of obedience to the rector and the statutes. Their assembly, convened by the rector, was the university proper, in which votes were taken by black and white beans, and every member was bound to appear at least three times in the year, in order to retain his citizenship.

Scholars from Bologna had no vote in the assembly and were not eligible to the offices. This distinction arose from the early *privilegium* of Frederic I, which thus favored foreign scholars, because they stood in need of such pro-

tection. A yet stronger reason was the condition of dependence in which natives necessarily stood to their own city, and in this manner their relation to the university remained long in doubt. For the latter looked upon them as dependents, who ought to take the oath of obedience, belong to both universities, and be under the jurisdiction of both rectors. This the city refused, and threatened those who should take that obligation with fine and banishment. By the papal confirmation of the university statutes, this dispute seems to have been decided in favor of the law-school.

The teachers or professors stood likewise in the relations of individual subordination. They also were required to swear obedience to the rector and to the statutes at their promotion, as well as annually thereafter. They were within the jurisdiction of the rector, and could not only be fined, but could even be excluded, in which case they were no longer allowed to teach, unless they were reinstalled. For a journey they had to request the rector's permission, and if their absence was to extend beyond a week, the consent of the university. In the assembly of the university, they, as a rule, had no vote, except those who had before occupied the position of rector. So too no doctor could fill an office in the university, for instance that of a *consiliarius*, even though he did not wear the costume of a doctor, and lived in other respects as a student. In all other respects they had the same rights and duties as the scholars. All this, though distinctly affirmed in the statutes, might have been considered a claim of the university never actually insisted upon, did not the writers of the 14th century expressly testify to the actual dependence of the professors upon the university and its rectors. It seems that the city also recognized this claim against the professors and *doctores legentes*, for the statutes of the city sought to free from the authority of the university the *doctores non legentes* only, to which the university however did not yield. During solemn processions frequent disputes on rank took place between the *consiliarii*, as representatives of the university, and the doctors. A decree of the legate of 1570, and a resolution of the university from the year 1584, give precedence to the *consiliarii*, even when the doctors appear as *collegium* and in their robes of office. As merely living under patronage (*suppositi universitati*) belonged to the university, if they had taken the oath of allegiance, the mechanics who worked especially for the school, as the copyists and book-binders; also the servants of students: all owed obedience to the rector and the statutes. Moreover some merchants of the city were annually elected, who had the privilege of pawnbroking for the scholars, and they, as well as the book-loaners, swore allegiance to the rector.

The scholars, as above stated, forming the two universities, were called *Citramontani* and *Ultramontani*. The first consisted of seventeen "nations," the other of eighteen, though their number and names were frequently changed, according as more or less scholars arrived from a country. The distinction was based upon the birthplace of the student himself, not upon the place of residence or birthplace of his father, or his temporary home. Those of the German nation had greater privileges than the others; for instance, they took the oath of loyalty to their own procurators instead of the rectors of the university. Bologna did not constitute a nation of its own nor did it belong to any other, but belonged to both universities in common. Beside these little corporations, there were colleges, *i. e.* associations of poor scholars, who were maintained by foundations and who lived together under superintendence; but these colleges,

which were so prominent in Paris, never attained much importance in Italian universities, and exercised no influence on their constitution.

Among the officers of the universities the rectors occupied the first place. For a long time two rectors were elected, one for each university; this was the case not only in the oldest period, but is spoken of as late as 1402 and 1423. Afterwards both universities had but one rector, which arrangement appears as early as 1514, and after 1552 was the permanent rule. The qualifications for the rectorate were as follows: he must be a "scholar" (*clericus*,) unmarried, not a monk (*nullius religionis appareat*,) twenty-five years of age, of sufficient property, and was also required to have studied law, at his own expense, for at least five years. Under "scholar" this law undoubtedly included also the professor, who, as a rule, enjoyed all the privileges of a scholar. A licentiate, and, in 1423, a professor, are mentioned as rectors. "*Clericus*" may perhaps here designate a student or *literatus*, not a priest; at least the right to bear arms, given in the same statute, does not apply to the priesthood. Besides, the school of Bologna had risen without any clerical coöperation, and the analogy of the Paris university, which from the first had a far more clerical character than that at Bologna, but yet did not require its rector to be a priest, furnishes further evidence of this.

A new election for rector took place annually. The last rector, the members of the council, and a number of additional electors, appointed by the entire university, were the voters, and the rector had to be chosen from certain nations, for which purpose their order of succession had been generally fixed.

Great care was taken to secure to the rector a brilliant rank. He took precedence of not only the archdeacon of Bologna, but, with the exception of the bishop of Bologna, of all bishops and archbishops, even of the cardinals who were students, and this rank was recognized in papal decrees. At first they had no special honorary title; but later additions to the statutes, from the end of the 15th century, confer the title of *magnificus*. A brief from pope Pius IV from the year 1563 gives to each retired rector the right to demand a position in the States of the Church or the Romagna, and threatens the governors of these provinces, who fail to fulfill this law, with a fine of 1,000 ducats.

Under the jurisdiction of the rectors were all the members of the university, and only as far as their relation to this was doubtful, as with the Bolognese, could the jurisdiction of the rectors be disputed. German students alone were exempt. But this civil jurisdiction was indisputable, if both parties were scholars or doctors, or where only the accused was a member of the university, and the plaintiff, of his own free will, made complaint to the rector, for the members of the universities could not refuse to try the case without infringing upon the statutes they had sworn to maintain; but if the foreign plaintiff would not make complaint before the rector, the case was doubtful. The university maintained that the rector even then had jurisdiction, and demanded from the magistracy of the city a solemn oath to keep in force the statutes of the university. But the city would not agree to this, and obliged its officers to execute the judgments of the rector only when both parties belonged to the university, as that jurisdiction, being based on the statutes exclusively, could have no binding power on the citizens, and the judges of the city, who would not respect the jurisdiction of the university, could only be threatened with exclusion from the latter. This dispute was undecided until papal decrees con-

firmed the statutes unconditionally and declared them obligatory upon all. From this time final appeal was made to the papal governor, while previously an application could be made only to the councils of the nations, and from their decision an appeal to a court, consisting of the other rector and four counselors, had been permitted. A brief of pope Pius IV, from the year 1563, seems to extend the jurisdiction of the rector on all matters in which a student was a party, no matter whether as defendant or plaintiff, yet it is possible that here only the previous condition of things was confirmed, and a general expression was for this purpose made use of.

The criminal jurisdiction of rectors was subjected to similar doubts and disputes. In minor offenses, especially those against the university, no scruples were raised, and they involved a fine or expulsion from the university. Fines ([10]) were formerly equally divided by the two rectors and universities, afterwards by the one rector and *syndicus* of the university. Expulsion (*privatio*) took away the privilege of hearing lectures, of obtaining degrees, and of exercising the profession of teacher. Those under patronage, as for instance librarians and copyists, were punished by being cut off from all business relations and contracts with the members of the university, without the latter being liable to punishment. In order to be able to expel foreigners also, as for instance citizens and magistrates of Bologna, the excluded individual could obtain no right against a scholar, and the exclusion extended even to his descendants, and every city which gave an office to him was also, with all its citizens, placed under the same prohibition. However, it was not difficult to get relief from the judgment, and a fine was then substituted. More disputes arose in criminal cases, as in these the public peace of the city was deeply concerned. For this reason the jurisdiction of the professors, which rested on imperial privilege, could not always be maintained; and much less could the city be expected to respect the jurisdiction of the rectors. In some cases this was remedied by special deliberations, as *e. g.* in the year 1302, by a large mixed court. The statutes conferred upon the rectors a jurisdiction even in criminal cases without limitation, and threatened the expulsion of all members of the university who withdrew themselves from this jurisdiction. The question was finally legally settled by a papal bull, in the year 1544, providing that the jurisdiction of rectors should exist only when the criminal as well as the injured person belonged to the university, cases of capital crimes being excepted.

Thus the four judges, which the old constitution appointed for the scholars, occupied the following relations towards each other: if both parties were scholars, none could withdraw from the rector's jurisdiction; if only the defendant was a student, and the foreign plaintiff made complaint to the rector, the accused was obliged to submit to it; but if the other complained to the city judge, the accused had a right to acquiesce or demand a court of professors or bishops (which the statutes expressly permitted,) but the cause in this case could not be brought before the rector. This was afterwards changed, however, by the papal approval of the statutes of the university. Beside the rectors, the university possessed the following officers:

a. The *councilors*, *i. e.* representatives of the nations, generally one to each nation, but for some nations, two, who formed the rector's council or senate, and settled many affairs with him alone. The German nation was represented

by two councilors, who had the title of procurators, and exercised jurisdiction within their nation, to the exclusion of the rector and city courts.

b. The *syndicus*, who represented both universities at foreign courts. He was elected annually from the scholars, and was under the jurisdiction, not of the rector, but of the entire university, and received a salary of 12 liras, and later one-third of all forfeits and fines.

c. The *notary*, elected annually from the notaries of the city for both universities. He received certain fees and a salary of 40 liras.

d. The *massarius*, or treasurer of both universities, elected annually from the bankers of the city.

e. Two *bidelli* (beadles,) one for each university, elected every year.

The outward relations of the university to the city of Bologna show unmistakably that great value was attached to the preservation and prosperity of the school. This is indicated by privileges and liberties given to teachers and students; the former, if citizens of the city, were free from military service, and later from duties and taxes also; foreign teachers and scholars were treated as citizens of Bologna; and the city paid damages for robbery and assault, unless they could capture the evil-doers. Special laws provided for the amusement of the students. Thus a law from the year 1521 imposed on the Jews the annual payment of 104½ liras to the jurists, of 70 liras to the *artistæ*, with which sums a carnival-supper was provided for the students. According to ancient custom, the students, after the first snow had fallen, used to collect money from the doctors and other notables, and this matter was regulated with special care in the latter part of the 16th century by law. These collections were to be taken only by those selected by the university for the purpose, and only after the legate or vice-legate had made declaration that snow had really fallen. The money was not to be used for drinking and entertainments, but was to be deposited in a safe place, and expended to honor eminent professors with a painting or a statue in the university precincts. As frequent disputes resulted, the law determined that only one such monument should be erected annually.

Gambling was interdicted under a fine of 5 liras. Jealous watchfulness was exercised to prevent other large schools from prospering at the expense of Bologna. Every teacher was put under oath; by severe penalties it was sought to prevent any loss. Death and the confiscation of all property was the penalty on citizens who should persuade any scholars to study elsewhere; also on the native and salaried foreign professors (if the first were over fifty years of age, the latter within the term of their engagement,) in case they removed to another university. The general interests of the university in this regard were identical with that of the city, and no objection was made to these measures; yet the statutes defined expressly what should be done, if by a quarrel with the city the suspension of the university became necessary. The hiring of lodgings gave early cause of quarrel and of legal enactments. Four assessors of taxes were elected annually, two from the city, two from the students, who fixed the rent of rooms, and the proprietors were forbidden to ask more than this tax, as well as the professors and students to increase their rent. No scholar was permitted to drive out another, and every one had a right to remain for three years in the rooms he had rented. The proprietor who did not submit to this taxation was punished by interdiction of his house, and no student could rent from him; the same punishment was inflicted when a citizen made a false accusation

against a scholar, and was extended to the owners of neighboring houses, whenever a scholar was injured or robbed. That foreign students might not lose time in looking for lodgings, the notary of the university always kept a complete list of all apartments for rent. Students were not permitted to stand godfather in any family of the city and its surroundings, without the permission of the rector: at first only J. Andreä and his descendants were exempted from this limitation; but later the male descendants of any doctor of Bologna. For the maintenance of its rights, the university received from time to time special papal conservators, which custom, however, appears not to have been permanent. In 1310 the archbishop of Ravenna, and the bishops of Ferrara and of Parma, were appointed; in 1322 and 1326, the bishop of Bologna.

In considering the university as a school, two subjects are to be discussed: the personnel, *i. e.* the doctors and teachers, and their duties, consisting in lectures, repetitions, and disputations. The various opinions as to the origin of the title of doctor, have generally overlooked the fact that in a short time, even in the same institution, its meaning has very much changed. At the foundation of the law-school of Bologna, *doctor*, *magister*, or *dominus*, was, no doubt, the name by which Irnerius and his immediate successors were designated; an office or a dignity acquired it could not mean, because such did not then exist. Irnerius himself, in old documents, is named *index*, or *causidicus;* by contemporary historians also *magister*, but nowhere *doctor*. The more modern Walfredus is called *doctor*, *magister*, and *index*. After the school had existed for some time, and attained a solid foundation by having several eminent teachers at one time, viz., about the middle of the 12th century, the dignity of doctor appears to have been assumed only when bestowed by special act, which circumstance may be attributed to the fact that by the privilege granted by king Frederic I, the professors of the law-school had a sort of juridical authority. The title, as far as may be inferred from later times, was given the doctors when, after an examination, they found the candidate worthy to enter their ranks. This admission, called promotion, gave an unlimited right to teach, in connection with jurisdiction by each teacher over his scholars, and also the right to participate in the giving of degrees, *i. e.* a place in the faculty of promotion. Yet at that time the right of teaching was not exclusively reserved to the doctors, for in the 12th century teachers appear without that title. At the end of the 12th century, doctors of canonic law (*Decretorum*) were created, but they did not enjoy equal privileges until some time afterwards. During the 13th century, *doctores medicinæ* (or *fisicæ,*) *grammaticæ*, *logicæ*, *philosophiæ et aliarum artium*, and even *notariæ*, were created. Professors of law were sometimes also styled *magister* and *magisterium*, but they considered the title of doctor as their own, while other teachers were to be styled *magistri* only.

In later times, for selfish reasons, the participation in the privileges of doctors was more and more limited, and this may have been the principal cause of the rapid and permanent inner decay of the school. The highest professorships were to be filled from native families, and this regulation was adopted as a statute, though the university opposed it without success. It also became a custom to adopt only native Bolognese into the faculty of promotion, so that among the Bolognese this reception and the promotion were inseparably connected. A narrowness similar to that shown here by the native-born towards foreigners, manifested itself, to great harm to the schools, among the members

of the faculty towards their fellow-citizens, since they took an oath not to promote any other Bolognese but their own sons, brothers, and nephews, by which they intended to make the dignity of doctor hereditary in their own families. But the interest of the city identified itself with that of the university of the students in acting against the faculty, and thus, in 1295, the faculty obtained consent to the promotion of six Bolognese only under condition that they were not relatives of members of the faculty. The dispute became much more warm in 1299, when Vianesius Pascipoverus, a Bolognese, not belonging to the family of any of the faculty, sought promotion. The faculty declined on account of the above-mentioned oath; but the city, called upon by the rector, forced them to consent, under menace of a fine of 100 liras. The same dispute was renewed when, in 1304, several Bolognese sought promotion, at which time the city again threatened the faculty with a fine of 1,000 liras, and every member with a fine of 300 liras. The faculty submitted, and after this time no similar case occurred; but a way was found by which the faculty, in the main, obtained its object, by separating the membership of the faculty from the dignity of doctor, and by limiting the faculty to a certain number of members, who were to be specially elected. By these events, relations became more strictly defined, and we must now treat of them in detail; first of the doctors, and, while treating of them, of the narrow circle formed by the faculty of promotion, then of the teachers of the law-school.

The degree of doctor was given in either Roman or canon law, or in both; in the former more often in older times. Of the canonist six years of study were required; of the civilist, eight years; a lecture or repetition delivered by him was counted as one year's study, and if he had attended lectures on canon law during three or four years, one or two years less were required. He was obliged to testify on oath as to this period of study. After this the candidate selected a doctor, who presented him to the archdeacon; he could also elect two persons to present him; three, however, not without the consent of the rector.

The examination of candidates was two-fold: the *examen* (*privata examinatio*) and the *conventus* (*publica examinatio*;) each examination conferring a special rank.

Before the examination, two texts (*puncta assignata*) were given to the candidate, both from the Roman, or both from the canon law, or one from the Roman, the other from the canon law, according as he intended to be promoted in one or both faculties. On the invitation of the archdeacon, the examination was held on the same day, when the candidate read his composition on the texts. The presiding doctor, as it appears, examined him alone; the other doctors could offer suggestions and questions on the written treatises, and had to declare, under oath, that no understanding existed between them and the candidate. The doctors were instructed to treat the candidate kindly, as if an own son, under penalty of one year's suspension. Immediately after the examination the doctors took a vote, and if the candidate was declared worthy, he received the title of licentiate.

The *conventus*, or public examination, which conferred the degree of doctor, took place in the cathedral church, whither they went in solemn procession. There the licentiate delivered a lecture on law, over which the students, not the doctors, held a dispute with him. Then followed an address of the archdeacon

(or the doctor, who represented him,) in which the new doctor was formally proclaimed. Finally he was presented with the insignia of office, the book, the ring, and the doctor's hat, and a place on the platform was assigned him, after which the procession left the church. It was permitted to confer the degree in private, and afterwards to repeat the ceremony publicly. Generally examination and *conventus* immediately succeeded each other, and were both parts of the same act. At least, in older documents, where the doctorial degree of the parties and of the witnesses is not easily forgotten, the licentiates are not accustomed to be mentioned, and even in the statutes almost no regard is paid to the condition of licentiate, as will be shown hereafter. It is therefore but accidental, when in a few cases the title of licentiate seems to be at all permanent and more than merely initiatory to the degree of doctor. In the case of Cinus, whose private examination can not have been held later than 1304, because he was presented by L. de Ramponibus, who died in that year; the *conventus* was not held until 1314, as is seen by his diploma as doctor, which still exists, and he must consequently have been a licentiate for ten years. The oldest diploma of Bologna known is the one of Cinus; for that of Bartolus dates from the year 1334.

In the ceremony, several solemn obligations were taken in the general oath of doctor, although the solemn oath of the present day, connected with the duties of that dignity, was not then common. The candidate subscribed to three oaths before the rector: firstly, that he had been a student for the time required; secondly (before the examination,) that he had paid no money but what the law prescribed; thirdly (before the convention,) that he would not act in opposition to the university and the students, and if he should remain in Bologna, would obey the rector and statutes. At the end of the convention the new doctor took oath before the collegium of doctors, that he would not in any way oppose the faculty, or the members thereof. More important than all these obligations was that requiring the new doctor to promise on oath not to teach outside of Bologna—by which it was designed to preserve the school to Bologna exclusively. According to forms still existing, this oath was not made before the promotion, but at the installment into a professorship; nor before the doctors, but before the city magistracy, and consequently it was not demanded of strangers, who had no intention of teaching in Bologna. At first, Pallius and his colleagues, who were already in office, were required to promise under oath that they would not lecture outside of Bologna for two years. Soon afterwards that general obligation was introduced as a permanent form before entering on the duties of teaching. Of this the following cases are known: In 1189, Lotharius Cremonensis; in 1198, Bandinus and Johanninus; in 1213, Guido Boncambii; Jacobus Baldwini; Oddo Landriano; Beneintendi; Pontius Catellanius; in 1216, Guizardinus; in 1220, Lambertinus Azonis Gardini; Bonifacius Bonconsilius; in 1221, Benedictus de Benevento.

In later years the oath was expressly prescribed in the statutes of the city (of 1259,) with this modification, that it should be administered before the end of the solemn ceremony, but obligatory on those only who intended to become teachers in Bologna. The papal decrees, which permitted the doctors of Bologna to teach in any place, had no regard to this oath; but were intended only to cause the degrees conferred in Bologna, which in itself had not this obligation, to be recognized every where. In 1312, at the request of the scholars, who paid the city for it, the oath was entirely and forever abolished.

The very considerable expenses of a degree consisted partly in fees, partly in incidentals. The fees for the examination were fixed at 60 liras, those for the convention at 80 liras. Of these the presiding doctor or doctors received 24 liras; every other doctor in the examination 2 liras, and in the convention 1 lira; the archdeacon, for each of both acts, $12\frac{1}{2}$ liras, and he or his vicar in each solemnity 3 or $3\frac{1}{2}$ liras, for which he had to deliver an address. Severe laws prohibited the remission of these charges, except in specified cases to which degrees had been gratuitously allowed. A church-council in the beginning of the 12th century prohibited teaching for money; but this order had regard to cathedral schools only, not to universities. But the decrees of pope Innocent IV, about the middle of the 13th century, addressed to the university of Bologna and to the bishop of Modena, refer directly to the conferring of degrees, for which no payment should be taken. These decrees may be explained by undue and illegal payments having been exacted, perhaps also secret presents, or bribery: though it is possible that, like many similar laws of the middle ages, they forbid all payments, although, notwithstanding, they were unhesitatingly offered and accepted. This is illustrated by the example of Frank Accursius, who obtained (in 1292) absolution, as well as for other sins, for payments he and his father had accepted for degrees. A more considerable expense than the fees was that attending the display in the procession before and after the degree was conferred, when, according to custom, clothes were given to many persons. Thus Vianesius, in 1299, when the degree was refused to him, had spent already more than 500 liras for scarlet cloth, furs, etc., and in 1311 the pope ordered that a special oath should be taken by every doctor, not to devote more than 500 liras towards the display at the time of his promotion.

In this history of degrees, the function of the archdeacon has been mentioned. Many modern historians, accustomed to the practice in the German universities, have taken for granted that academical degrees were, from the beginning, given by imperial or papal authority; this is without any foundation. In Bologna the emperors never claimed such right, and even the popes did not interfere at first; the degrees were conferred by the doctors, independently of any outside power. But in the year 1219, pope Honorius III directed a decree to Gratia, archdeacon of the cathedral of Bologna, saying that, "unworthy persons having frequently received degrees at Bologna, none shall be conferred in future except with consent of the archdeacon, after an examination." Though this decree was addressed to Gratia personally, every archdeacon of Bologna has since then exercised the same right. The cause of this was not the assumption that it was the right of the pope to confer degrees, but care to prevent a repetition of abuses. That this superintendence was given to the archdeacon, may have resulted from his being already the inspector of the cathedral school, and also from the personal importance of Gratia, who had for many years been professor of canon law in Bologna; and his personal reputation explains, also, why no mention is made of any contradiction on the part of the other doctors. The example of Paris may have had some influence; as there the cathedral chancelor was also always superintendent of the cathedral school, and the university being principally developed from this, the right of inspection by the chancelor was from the beginning transferred to the university. This would explain also how the title of chancelor (*cancellarius*) was by other universities afterwards given to every one who exercised a similar supervision,

though this title was suitable in Paris alone. Even in Bologna the archdeacon was named chancelor, and he exercised this office in all the faculties except that of theology, in which, from the first, the bishop had the superintendence over the degrees. From this time the pope looked upon the archdeacon as the head of the school, and directed his communications to him. But his share in conferring degrees has often been misunderstood, it being said that the archdeacon examined the candidates and gave the degrees, and that before this time no regular degrees had been given. This is against the clear testimony of history. The doctors examined and conferred degrees long before the archdeacon had any part in it, also after the pope had ordered him to participate. The archdeacon neither examined nor gave degrees; he was merely present to see that the doctors observed the regulations, and when satisfied of this, he gave his consent. Only one example exists, of opposition on the part of the doctors to the right of the archdeacon, namely, in 1270, when the doctors permitted acts of violence against the bishop and archdeacon, even in church; but they soon enough saw their error, and voluntarily and wholly submitted to the decree of the bishop. The archdeacon, besides the chancelorship, might hold also a salaried professorship, and, by special dispensation, he could be a member of the faculty conferring degrees.

It can not be precisely determined when this system arose, but it undoubtedly was fully established by the middle of the 13th century. In modern times it has been considerably changed. The prior of the faculty held an examination in his office; then followed the examination before the faculty, and immediately afterwards the degree was given and the insignia presented. The public convention, which before could be exceptionally postponed and afterwards held, was now abolished. Strangers paid 32 scudi for the two-fold dignity (*in utroque jure*,) 21 for either alone; the Bolognese paid 157 scudi for the two-fold degree, or 59 for that in canon law; 80 for that in civil law. Licentiates were created doctors with less solemnity by the chancelor for two-thirds of these fees; *baccalaurii*, who formerly did not receive degrees, by the faculty alone, without the chancelor. These modifications may have been made after the middle of the 16th century, as at that time an edition of the statutes was printed, in which the old form was found entire.

The privileges of doctors were as follows: First, they could teach without restraint, not only in Bologna, but, according to papal decrees, at other law-schools; if the doctors made use of this privilege, they were called *legentes*, otherwise *non-legentes;* the *legentes* having at the same time the jurisdiction granted by Frederic I. Secondly, they alone had the right to give the degree to others; not as in the oldest times, when every doctor, at least if he was Bolognese, had this power, but the degree of doctor (exclusive of that of licentiate) was a necessary condition to this right. The privilege itself depended on the admission into the collegium or faculty, the constitution of which is now to be described.

There were five collegia or faculties at Bologna, which should be distinguished from the universities, and do not correspond to the latter, either in number or organization. There were two faculties of law, the canon and civil, (without distinction of Ultramontanes and Citramontanes, as generally only Bolognese were found in them,) one of medicine, one of philosophy, and one of theology. The oldest and most renowned of all were the two faculties of law, which alone

are to be described here. They are as old as the distinct association of doctors for conferring promotions in common, and as this association was formed gradually, it is impossible to fix a definite, distinct beginning. It remains even doubtful whether at first all the jurists formed but one collegium, or whether that of civil law existed before that of canon law. It is certain, from the well developed form of the promotions and the disputes between the doctors and the city and scholars, that the faculty of the doctors of jurisprudence existed as early as the 13th century, but was, from these very disputes, compactly organized in the beginning of the 14th century. The faculties based their constitution mainly on statutes of the year 1397, which were not essentially changed afterwards, but contained references to statutes of earlier date. By the constitution of the law faculties, members were required to be natives of Bologna and descendants of a Bolognese family, and to have obtained the degree of doctor. But even where these qualifications existed, each faculty was at liberty to admit or reject a candidate. The faculty of canon law must consist of twelve, that of civil law of sixteen regular members; moreover each college could have three *supernumerarii*, and an indefinite number of *extraordinarii*, who must be selected from the nearest relatives of the *ordinarii*, and who took part in the promotions, while the *supernumerarii* are excluded therefrom. At the head of all stood the prior, who was changed among the canonists semi-annually, among the civilists every two months.

All the faculties had one building in common, near the cathedral, in which they held their assemblies. The two faculties of law especially obtained, in later years, particular privileges, entirely foreign to their original character, as of bestowing the dignity of knighthood, for which a foreigner paid 50, a Bolognese 100 scudi. The law faculties also gave opinions on questions of law to parties; though this must have happened rarely, because it was very expensive and accompanied with much ceremony; the opinion could not cost less than 100 ducats, exclusive of office fees, which also amounted to 30 scudi at least. Entirely different from these faculties was the *Collegium Doctorum Advocatorum et Judicum;* undoubtedly connected with the ancient colleges of the *Scabini* and *Judices*, and consequently much older than that of the doctors. Neither does it appear that it was ever united with them. Their true relation seems to have been the following: The oldest teachers of the law-school came, no doubt, from the *Collegium Judicum*, since they most frequently bear this name or one of equal meaning (*Causidici.*) When they began to form a special class under the appellation of doctor, they were so highly honored that they without doubt entered the *Collegium Judicum*, whenever they so desired. And when afterwards the dignity of doctor lost, with its rarity, also its high respectability, it may have become customary for several members of the *Collegium Judicum*, and after a while for all of them, to adopt the degree of doctor, so that they otherwise bore the title of *Doctores Advocati et Judices*, though in this title the first of the three names had no relation to their faculty.

The position of teacher in the law-school could also be filled by scholars. All doctors had an unlimited right to teach, but it is not probable that the same right belonged to licentiates, as wherever the classes of teachers are given, only doctors and bachelors are mentioned, the latter including mainly the scholars. From this, one might infer that licentiates had no special privilege of teaching, but were included among the scholars, which would confirm the opinion that

licentiates, in the olden time, held no permanent position, as such, but only a temporary one, leading to the degree of doctor. Scholars were allowed to lecture by permission of the rector, and the faculty of the doctors had no influence in regard to it. The rector generally had to give this permission, if the scholar who desired to lecture on one subject or treatise had studied five years, or he who wished to lecture on an entire work had studied six years, to which the scholar testified under oath; yet the rector could dispense with these conditions. For this permission the scholar paid to the university 5, 10, or 20 soldi, according as he purposed to lecture on a single subject or treatise, or on a small work (as the *Institutes* or *Novellæ*) or on a larger work. If such a scholar had lectured upon a whole book of canon or civil law, (not merely one article or chapter,) or had held a formal *repetitio* on one or the other passage of either law, he was named bachelor, and enjoyed certain privileges, which are to be described hereafter. ([11]) From this it follows that bachelors were not nominated by the faculty, and that the baccalaureate was not an academic degree, nor a public introduction to the profession of teaching. Lectures by scholars were customary as early as the time of Accursius.

A public introduction to the office of teacher occurs at an early date in Bologna, which subject again is connected with the salaries, the origin of which should be traced. As early as 1279 the scholars made a contract with Guido de Suzaria, according to which he should read the *Digestum Novum* for one year and receive 300 liras.* This was rather a fee than a salary, yet it appears to have been the origin of salaries. In the year following, a similar contract was concluded with Garsias, who undertook to read the *Decretum* for 150 liras; but he was paid by the city, upon request of the scholars, and thereby it had more the nature of a salary, though only a temporary measure. In the year 1289, permanent arrangements of this kind were made. Two professorships with fixed salaries were created, to be filled annually: an *Ordinaria* on the *Decretum*, with a salary of 150 liras, and an *Extraordinaria* on the *Infortiatum* and *Novum*, with 100 liras: the first was obtained by Altigradus de Lendinaria, the other by Dinus. These salaries were intended to bind the teachers more firmly to the city of Bologna, and to the university; since the most eminent, by their outside engagements in the city, were often withdrawn from their official duties. This explains, also, why strangers, and Bolognese only occasionally, filled these positions, because the city would not permit such strict obligations to lecture to be laid on its citizens. Nor were the salaried teachers the most eminent, but were rather behind the others in rank and reputation. It was a matter of indifference to the city who filled these offices, and the selection was left to the scholars. The contract entered into lasted one year, and it could only be by mere accident that the same teacher was elected for successive years. Most of those who were thus elected held the diploma of doctors, though this qualification was not always demanded.

In the year 1295 an *Extraordinaria Decreti*, and in 1315 an *Extraordinaria* on the *Volumen*, was added, the first with a salary of 50 liras, and the latter with 100 liras. The salaried positions, amounting in all to 400 liras, were for a long time limited to these four. About the middle of the 14th century very essential changes were made; as early as 1360 the salaries had been increased;

* A lira was then worth a little more than a dollar in gold.

in 1364, five legists and one canonist were appointed, whose total salaries amounted to 706 liras, 5 soldi. In the year 1381 the number of salaried jurists had increased to 23, among whom John de Lignano received 620 liras, another 470, several 350, and so decreasing to 100 liras. The united salaries of all jurists amounted to 5,125 liras, in addition to which 21 *artistæ* received 2,860 liras. In 1384 we find among the salaried teachers 19 jurists and 23 *artistæ*, not the same persons as those who were drawing salaries three years before. Thus a great portion of the teachers received salaries, and finally it became a general rule. This changed the relation of teachers throughout, and they were now considered public officers. The arrangements originally made for one year may have, little by little, become permanent. The election of teachers by the scholars must have become less frequent and at last probably disappeared altogether. In 1420, among 21 teachers of law, it is remarked of only one, that he was elected by the university. As an offset for this loss of privilege on the part of the scholars might be regarded another, which they retained up to modern times, namely:

Besides the salaries paid to doctors, scholars also were paid. Six distinct professorships were established, which were filled annually by election: 1. *Ordinaria in Decretis*; 2. *Extraordinaria in Decretis*; 3. *Sexti et Clementinarum*; 4. *Infortiati et Novi pro diebus continuis*; 5. *Voluminis*; 6. *Infortiati et Novi pro diebus festivis*. No doctors, licentiates, or Bolognese, could be candidates for those positions. From the applicants the professors were chosen by a board of 76 electors, and great care was taken to maintain the balance between Ultramontanes and Citramontanes. The salary of each was 100 liras. As, however, this election sometimes created disturbances, the order was modified thus: All could apply who had studied four years in their own faculty, and five in both faculties together, and held a repetition or disputation. Among these candidates the lot decided. At a later period the university presented twelve candidates, from whom the teachers were chosen by lot. Finally, the distribution of branches was changed, so that these four legists and two decretists were established. The beginning of this singular arrangement is uncertain. As early as the year 1338, something similar appears. The city was then under ban; the university was removed to a small town near by, and one doctor and six scholars were selected to give the lectures; but it is not stated whether this was permanent or whether salaries were paid. In all probability the said six positions were given to the scholars in place of their ancient right of electing the salaried doctors, under which supposition the practice must have been instituted about the middle of the 14th century. Two facts favor this view: first, that of the six professorships, the two principal ones in each faculty (the two of the *Decretum*, together with the *Infort. et Novum* and *Volumen*) correspond exactly with the four former professorships for doctors. Second, the remarkable title of the eldest statute on this subject: "*De doctoribus ad lecturas universitatis eligendis et scolaribus*," while according to this statute all doctors and licentiates were entirely excluded. This date of the origin of the change becomes very probable by a decree of 1417, which confirms the whole arrangement as something old and long existing. These salaries continued into the 18th century. Whoever enjoyed them must become doctor at the end of the year, but paid no fees for the degree. If he did not obtain the promotion, the members of the faculty divided the salary among themselves, and for this pur-

pose all salaries of scholars were controlled by the faculty. Besides these six salaries, every rector had a right to a salaried position as teacher, which also yielded 100 liras.

This history of the salaries in Bologna shows that they had no great influence on the existence and prosperity of the law-school, as they were attached for a long time to a few positions only, and were always, as far as this information goes, very small, while eminent men of learning could not fail to find other opportunities for accumulating great wealth. It would be an error to consider these salaries as, from the difference in the value of moneys, only apparently small. This view is not only without justification any where else, but is contradicted in Bologna by comparing them with other prices of the time, which are not at all out of proportion with the present. At an early time the salaries of the law-school were paid out of certain duties, which afterwards were left to the administration of the university.

It remains to treat of the duties of professors of the law-school, which consisted in lectures, repetitions, and disputations.

As to lectures, their exterior and formal character will be first discussed, while their special scientific contents will be inquired into hereafter. The statutes contain the following regulations: The regular course continued one year. The lectures on the *Decretum* commenced October 19th, and all other lectures on the following day. Before the course was opened, high-mass was held; also an address given either by a scholar or by one of the classical professors. Holidays were expressly mentioned, when no lectures should be delivered. Of these there were about ninety, including the two weeks' vacation at Easter and eleven days at Christmas. No lectures were held on Thursday of any week in which there were no holidays. ([15]) Any doctor who missed his lecture on other days was fined two liras. The long vacation commenced on the 7th of September, (*in vigilia b. Mariæ de mense Septembris*—the day before the birth of Mary.) No regular lectures could be held during these days, but it was permitted to read a single tract or law. Lectures were given both before and after noon. The morning lectures began when at daybreak the bell of the cathedral sounded for prayer, or even earlier if wished, and closed at 9 o'clock. The teacher who commenced too late was fined 20 soldi, and every scholar who remained in the hall after the close of the lesson, 10 soldi. Afternoon lectures commenced according to their subject or the season of the year, and were to last from 1½ to 2 hours. Lectures were given orally, as it was forbidden to bring manuscripts or have them read (by others.) But an oral discourse did not mean an extempore one in contrast to a dictation, in which a uniform custom has hardly ever existed any where.

The lecture-halls (*scholæ*) were in the houses of the doctors during the entire 13th century, and from contracts made at the time, it appears that the use of halls was rented out to other teachers. With a great number of hearers the use of a public building undoubtedly became necessary, as is mentioned by Albericus. In the 14th century, public halls were erected, and their use was afterwards always presupposed in the statutes. The doctors had an unlimited right to these halls; the bachelors could lecture in them twice every week, only during afternoon hours, if no salaried doctor claimed it for himself at that same time. ([16])

The doctors in the more important positions had their own attendants, (*bidel-*

len,) who, partly from the promotions, partly from the hearers, received special fees. The memory of a beadle of Azo, by the name of Gallopressus, was preserved on account of his strange name and his deformity; he acquired property to the amount of 2,000 liras.

In regard to lecture-fees, (*collectæ*,) no satisfactory information can be found. There were no general regulations, but a special contract was always made, and the teacher generally charged one of the scholars to make it for him. Sometimes a total sum was fixed, for which all the hearers in common were responsible. Thus Odofredus received for one lecture 400 liras, from which one of the hearers retained for himself and his brother 36 liras; also in 1279, Guido de Suzaria received an honorary of 300 liras for reading the *Digestum Novum*. In other cases the fee was fixed for each hearer. Thus in the year 1294 Cabrinus Seregnanus read on the *Institutiones;* and Petrus Boaterius leased him a hall, on the condition that every scholar living in the house of Boaterius should not pay more than 8 soldi, as fee. We find a similar stipulation in the year 1295, for a *collegium* of logic, in which it is stated that the fee will probably be 30 soldi, but may be more than 40. In 1248 a student of Grammas made a contract, in which he promised for board, lodging, and instruction, 23 liras per year. In a manuscript of the Pandects at Stuttgard, a student, Nardus de Clusio, who, judging from the date of his teachers, Rainerius and Jacopus de Belvisio, must have studied at Bologna between 1324 and 1335, noted the following expenses: 1 florin for the salary of my doctor, 10 soldi for being received into citizenship and into the *collegium*, 50 soldi for a repetition. These single cases, however, give little light on the subject. But it may be presumed that the fees were considerable, from the great wealth collected by many of the teachers. As salaries seem to have resulted from these fees, it is possible that in earlier times at least, no extra fees were received for lectures delivered in an engagement at fixed salary.

These revenues of the doctors from their hearers were not always acquired with entire honesty. Thus, for instance, it was customary to loan the scholars money and then take higher fees, while new teachers employed these means only to obtain hearers and reputation, in reality feeing their audience. Therefore, in 1233, Boniface Bonconsilius bequeathed 100 liras to the poor, for the many wrongs he had committed on his hearers, by which he meant especially this sort of usury. Some contracts between the doctors are remarkable. Thus Ægidius, in 1279, not being able to read the *Decretum* on account of sickness, let his hall to Garsias for one-half of the fees; this was not only for the use of the hall, but for the hearers also, who, on his recommendation, went to Garsias. Still more remarkable is an agreement between two philosophers of the year 1295; one was to read logic for three years and give one-fourth of the fees to the other; the latter, to read philosophy for the same period in the hall of the logician, and to give him one-third of the fees, if they amounted to 30 soldi or less per scholar, and also one-third of any surplus beyond 40 soldi. It was not uncommon to recruit hearers, by persuasion or pecuniary advantages offered, though this was prohibited under a fine of 10 liras, with the exception of reading scholars, who in the beginning of their lectures were at liberty to request the attendance of hearers. All fees were ordinarily for doctors only; reading scholars could accept fees only by permission of the whole university.

In addition to this collection for fees, two other collections were raised, for

the attendants or beadles, and for the use of the hall. The collection for beadles was two-fold: the first, levied by the beadle of the university in all the lecture-halls, 4 soldi from each scholar; the second, collected by the beadle of each teacher from the hearers, which amounted to 2 liras from the students in the foremost seats, (nobility,) and 4 soldi from the others. The last collection, for the use of the hall, was levied when the hall was in a private house; for this purpose the reading scholars were allowed to take 5 soldi from each hearer. The relation of teacher and scholar was not partial and temporary, as in modern times; every scholar adhered exclusively or almost exclusively to one professor, whom, in a more definite sense than is the case with us, he could call his own teacher. This more intimate personal relation is presupposed in the *privilegium* granted by Frederic I, which places each scholar under the jurisdiction of his teacher; also in the before-mentioned contract, by which one teacher transfers his scholars to another.

At an early time a distinction was made between ordinary and extraordinary lectures, but the meaning of these expressions is much disputed. According to some the former were held in public, the latter in private houses; according to others the former only were paid lectures; but both views are wrong, the first because this distinction appears as early as the 13th century, at a time when no public halls existed, while in the statutes, which generally take for granted the use of public halls, that distinction is observed. The second is erroneous, because paid lectures are mentioned, and on the other hand, scholars who gave extraordinary lectures could not take fees. The first view has no support, and the second but very little, in a passage of Odofredus, in which the latter says that he would give the ordinary lectures next year, as he did always, but no extraordinary lectures, because the scholars paid so little. He could not have spoken thus, if the ordinary lectures were gratis; but it is possible that the fees for these were more secured and defined, or that Odofredus, on account of insufficient remuneration, had no desire to give extraordinary lectures, while he could not withdraw from the ordinary lectures, without dissolving his connection with the school, and withdrawing from the faculty.

In connection with the lectures, two other distinctions are made: that of ordinary and extraordinary books, and of ordinary and extraordinary teachers. Some connection undoubtedly existed between these related terms, the only question being what was the nature of that connection. The basis of all seems to be the distinction of ordinary and extraordinary books. Ordinary books, in Roman law, were the *Digestum vetus* and the *Codex;* in canon law, the *Decretum* and the *Decretales*—all other books were extraordinary. All lectures on extraordinary books were extraordinary; those on ordinary books might be ordinary or extraordinary, which depended only on their being read in the morning or in the afternoon, so in this point of view the morning hours might be considered ordinary, the afternoon hours extraordinary.

Hence an ordinary lecture was one read on an ordinary book in an hour of the morning, and these were specially reserved as a privilege of doctors from native families. From this the names of ordinary and extraordinary teachers are explained. Ordinary teachers were those entitled to give ordinary lectures, though they may have given, alone or in connection with the ordinary, extraordinary lectures. Extraordinary teachers were those who could give none other than extraordinary lectures. Originally this distinction was identical

with that between doctors and bachelors; but since the ordinary lectures were limited to Bolognese, three classes were distinguished: ordinary reading doctors, extraordinary reading doctors, and bachelors. The latter could give only the extraordinary lectures, except the paid ordinary lecture on the *Decretum*, which anomaly is explained from the position having been first filled by a doctor and afterwards by a scholar. At the foundation of the distinction between ordinary and extraordinary lectures, there was an opinion that ordinary books were more important and necessary than others, and hence the first and best hours of labor should be devoted to them. To this, undoubtedly, was attached the advantage, that as chief lectures they were more numerously attended, as all scholars without exception heard the ordinary lectures, while many selected arbitrarily from those called extraordinary, which were even declared by Odofredus not to be necessary. At the same time the ordinary lectures were more remunerative than others, and from these real advantages we understand that selfishness of the Bolognese, so fatal to the school, who put themselves in sole possession of these positions. The reason that these books were distinguished from others as ordinary, is found in the nature of the canon law, since the *Decretum* and *Decretales* were its most essential parts. However, in the Roman law the reasons are only accidental, as will be shown hereafter. All these contrasting and technical expressions had different meanings in different places, as the organization of the Padua school will show. Still there are traces of their original meaning at a date hardly to be expected, as, for instance, in a plan of studies of the 16th century, for Pisa, the ordinary books are subjects of lectures of ordinary professors only, who interpreted them during the hours of the morning.

Besides lectures, regular disputations and repetitions were held. A repetition consisted in the complete interpretation of a text, enumerating and criticising all doubts and objections. The text had to be taken from the subject of the lecture, the course then being delivered by the reader, and must have previously been read and explained in that course. Disputations could only be held by doctors and by such scholars as applied for a salaried position. All bachelors were required to be present, and all scholars could dispute. The subject of the disputation was a single question on law, (*quæstio*,) similar to theses appended to inaugural dissertations of our day; only these questions had a more practical character, and were either original or taken from the practice of the courts. These disputations are older than the school of Bologna, since they served in the ancient grammar schools as means of training for future practice of law. Repetitions and discussions were partly required, partly voluntary. All salaried doctors, in their succession, from the youngest to the oldest, were obliged to conduct them. Repetitions were held from the beginning of the scholastic year until Shrovetide; disputations from that time until Easter. Every week one such exercise was required, upon the day when no lectures were given, and only high holidays were excepted. The rector exercised a superintendence over the strict execution of these rules, and if there were not sufficient salaried doctors in number to fill up all the allotted time, the rector could select any doctor to hold the repetition or disputation. The text of the repetition, as well as the question of the disputation, was publicly announced several days before, and within a month the entire arrangement had to be written down and handed to the beadle of the university.

II. PADUA.

The university of Padua had for a long time salaried historians. Of these was Facciolati, and (since 1786) Colle, b. 1744, d. 1815. He had been a novice of the Jesuits; then became historiograper of the university, and, under the foreign domination, state-counselor in Milan. After his death, Giuseppe Vedova obtained the manuscripts of his work and published it. It is the best and most complete existing history of this university, only very prolix, especially the three last volumes, which contain principally biographies of professors.

The law-school of Padua originated about the year 1222, through the emigration of teachers and scholars from Bologna, in consequence of one of the disputes before described. Such emigrations took place frequently, and it was mere chance that from this a flourishing school arose. It is however quite erroneous that, as some assert, the quarrel between Frederic II and the city of Bologna led to the removal by the emperor of the law-school to Padua. No contemporaneous document confirms it, and there was no reason for preferring Padua. It would have been much more natural to have attempted a removal of the school to Naples, where Frederic II made great efforts, in later years, to establish a brilliant school. The oldest definite information in regard to the constitution of the scholars, which has remained unknown to the proper historians of the university, is in a document of the year 1228. At that time the scholars had four rectors, under each of whom they were placed, according to their nations. In that year it was proposed to remove the school from Padua to Vercelli, but it is not known with what result. The statutes of the city from the year 1259 recognize the right of the scholars to elect rectors and to enact statutes. In 1260 the university, under Gosaldus, a Spaniard, as rector, created the earliest known statutes. In the following year there were two rectors, a Cisalpine and a Transalpine.

Scholars and teachers of the liberal arts are spoken of as early as 1262, but for a long time the *artistæ* formed no university of their own, but belonged to the law university. In 1360 they obtained, by the judgment of an umpire, their own rector, dependent, however, upon the jurists. Their rector took oath upon the statutes of the jurists; appeal from him could be taken to the rectors of the law university, which also drew some revenues from the *artistæ*. From this time there were in Padua three rectors, two of the law university, (for the Cisalpines and the Transalpines,) and one for the *artistæ*. A new umpire's decree, in the year 1399, freed the *artistæ* from this subordination, except the right of appeal; for this the ruler of Padua, Franciscus de Cararia, presented to the jurists a house, 500 ducats in value, which since then has remained the university building. In the university of the *artistæ*, the students of medicine were most numerous, at least it appears from their statutes that their rector was required to be a physician. A school of theology was added by the pope in 1363, the doctors of which formed a college of their own, but its scholars belonged to the university of the *artistæ*. Afterwards the jurists had frequently but one rector, if there were no suitable candidates for both offices: in 1473 this was made the law, so that even the statutes no longer speak of two universities of the jurists, but only of one. Still later, on account of the expenses, the office of rector was abolished altogether; first a vice-rector took the place, then a syndicus, who was also named pro-rector, and sometimes a pro-syndicus,

who was the representative of the German nation. Finally, in 1738, the office and its authority were taken from the scholars, and vested in the professors, so that the curatores annually elected a professor as syndicus and pro-rector of the jurists, and one also for the *artistæ*.

As regards the statutes more particularly, a printed preface describes many modifications, and gives their dates; moreover, in the first edition are found distinct traces of revision in the year 1466. Changes seem to have been more radical than in Bologna, so that the original form can be scarcely recognized. New editions deviate very much from the first. In the second edition the order was changed, portions were omitted, among others the very numerous original documents contained in the first, but this edition has remained for the most part unchanged, later amendments being merely added. Notwithstanding these many modifications, it is evident that the statutes of Bologna were the basis; for they often agree word for word, though more frequently in the first than in subsequent editions; the verbal arrangement indeed is often quite the same, while by minute changes in the expression quite another sense is given.

From this history of the law-school of Padua it is evident that in general the constitution of Bologna was adopted, and that all essential changes belong to a later period. This relation of the two schools should not be lost sight of in the description which follows.

Here also we must consider the corporation and the school. Members of the corporation were all the scholars, all the teachers, and all the officers of the university and those under its protection. Scholars must be matriculated, for which generally one and a half liras, and by the nobility, six liras were paid. Those students who were natives of Venice, or of the city of Padua and its dependencies, though they were subject to the university, could take no part in its acts or administration. Likewise the lecturing doctors or teachers had no active membership, but owed obedience to the rector and the university. They were under the jurisdiction of the rector, could by him be excluded, and could be reinstated only by the entire university, on payment of five liras; and they were obliged to swear an oath of allegiance every year. The two universities were the same as in Bologna, Cisalpine and Transalpine; but after 1473 they were regarded as one. Both together numbered 22 nations, among which the Germans had two votes, the first rank, and great privileges. *Collegia*, as in Bologna, were not of great importance.

Among the officers of the university was, first, the rector, afterwards syndicus and pro-rector, as mentioned before. The qualification for the rectorate resembled that of Bologna, only that the age of 22, instead of 25 years, was required. In later years the procurator was taken from the nobility, and his social position, as in Bologna, was very high.

The jurisdiction of the rector or pro-rector extended over the scholars, exclusive of the teachers and those under the patronage of the university. He could try civil cases only when both parties belonged to the university; if one was a native of Padua, only when the other party was a foreign scholar. An appeal from the judgment of the rector, if the case involved more than a ducat, was made to the *consiliarii;* afterwards, when the amount was over 10 liras, to the *podesta*. In criminal cases the jurisdiction took cognizance only of infractions of the laws of the university, and of small offenses against scholars. Punishment consisted in fines and exclusion (*privatio.*) Crimes proper belonged to

the jurisdiction of the city. The Germans were not subject to the rector, but to their own *consiliarius*, whose jurisdiction extended also to cases in which the opponent did not belong to the university. The rector of the *artistæ* had similar jurisdiction, but, according to the statutes, it was more extended, including criminal punishments short of death or maiming.

Besides the rector the following officers are named: the *consiliarii* of the nations; the *syndicus*, who became also pro-rector after 1639, and whose representative, in case of his absence, was the *consiliarius* of the Germans; a notary, who received 17 ducats annually; a beadle of the university, who was at the same time its steward (*massarius*,) and six beadles for the service of the professors in the lecturing halls. The beadle of the university levied annually two collections, each of one ducat, from every scholar on the first seats, of 8 soldi from all others. Every other beadle levied three annual collections, of one ducat and 8 soldi respectively, in the hall which he superintended.

The scholars were guaranteed equal rights with the citizens of Padua. In regard to renting of rooms, the laws were similar to those of Bologna. All subjects of Venice must have studied in Padua, if they applied for any state office. The scholars held annual public games, for which the teachers had to contribute 100 ducats. The superintendence over the school was exercised by three Venetian senators, as curators of the university.

At to the school itself, we will first consider the promotions. Every student of civil law was required to have studied Roman law for six years, but three or four years given to canon law counted as two or three in Roman law; likewise every student of canon law must have studied for six years, five years' study of Roman law being equivalent to two years of canon law. He was further required to hold a repetition or discussion, or thirty lectures, before he could present himself for the degree of doctor. The examinations, as described in the statutes, were almost exactly like those in Bologna, and consisted of two parts, the examination proper and the solemnities (*conventus*) in church. By the examination they became licentiates, by the convention, doctor. The examination at Bologna was recognized in Padua, and the committee conferring degrees consisted, in 1614, of four members; in 1630, of six. The oldest diplomas known are dated 1379 and 1397. The right, which in Bologna was possessed by the archdeacon, was given to the bishop of Padua by voluntary act of the doctors, and he is styled in documents *cancellarius*, though this name did not exactly belong to his office; in 1263, pope Urban IV confirmed what he called this "long possessed" right of the bishop. The fees for degrees were formerly very high, but became considerably reduced in the year 1460. In the statutes of 1550 they amount, for a simple degree, to over 200 liras, of which 130 came to the doctors, and 25 to the bishop. The doctors in both branches of law paid double. In the later editions, those after the second, the taxes for the degree are fixed at 150 liras in the Roman law and at 180 liras in both laws; of these, each of the six giving the degree received in both cases 2 ducats, and the bishop, in the first case, 18 liras, 12 soldi; in the second case, 27 liras, 18 soldi. The colleges of doctors, *i. e.* the faculties of promotion, were similar to the Bolognese; but from the oldest date they had in Padua only four faculties, the jurists forming but one. The faculty of law was less limited than that of Bologna, since the number of its members was gradually increased from 12 to 30; and after 1382 their number was not limited. The faculties were

called *collegia pontificia*, no doubt, because their right of promotion was erroneously ascribed to a papal edict in which the office of chancellor was recognized in the bishop. The faculty of law was the *Collegium Judicum*. At the beginning of the 17th century, two new faculties of degrees were added, one for *artistæ* in 1616, one for the jurists in 1635. Both gave degrees, not by pontifical authority, but in the name of the republic (*Collegia Veneta.*) They consisted of professors only, while the old faculties were composed of professors and doctors. The true origin of this change was this: In the year 1565, pope Paul IV ordained that every one who desired promotion in any faculty should first profess the Catholic faith. This decree caused great excitement in Padua, especially among the German students. The bishop held strictly to the decree, and the government, though it favored the foreign students, dared not openly disobey the court of Rome. In some cases they had promotions conferred through the podesta, in others through the palatin, in order to escape being connected with the bishop. Finally they resolved upon the decisive measure above referred to, by which all difficulties were forever settled, and all promotions by palatines were forbidden.

The custom of engaging and remunerating teachers appears to have existed in Padua at an earlier date and more generally than in Bologna, which had developed more by itself, and therefore did not need outside help. In 1267 they made their own statutes on the election of professors, since here, as at Bologna, it was taken for granted that the right of election belonged to the university, as having certainly the deepest interest in the ability of its teachers. No very early information as to the salaries of professors is given; but their number must have been large, since for every new need they established a new nominal professorship, letting the older ones remain. About the end of the 16th century, some nominal chairs were abolished, and from that time to the present the condition of the law professors seems to have remained without any essential alterations. The principal positions were filled by two, a first and second professor, (*concurrentes,*) to which a third was in some cases afterwards added; these positions were conferred by the city of Padua, on natives of the city only. Upon this was based the organization of the body of law professors, which, as before stated, took place in the 16th century, and which formed essentially the foundation of the earlier constitution. These numbered, in all, 20 professors, exclusive of 4 third class or Paduan positions. The principal among these were a morning and evening professorship of Roman law, each filled by three teachers; the same of canon law; the remaining 8 professorships being those of criminal and feudal law, the *Institutes*, etc.

From the oldest time all positions were filled by annual, sometimes biennial, elections by the scholars. In the year 1443 the right to vote was taken from them, but afterwards recovered to a limited extent, and lost again, and finally in 1560, after which the government of Venice filled the chairs, with the exception of that of the third professorship, which remained to the city of Padua. This change was not as important as would appear; for the former privilege of the scholars was naturally limited to the control of the very moderate salaries which, according to the old constitution, were attached to the nominal positions. With these no eminent teacher would be satisfied, and every important engagement made necessary special negotiations and large appropriations from the public funds, by which the control of the more essential positions could not fail to come into the hands of the government.

The qualification for a professorship was determined in this manner: The highest positions required the actual possession of the degree of doctor in both branches of law; for positions of the second class it was sufficient if the candidate possessed one of the degrees or was near promotion; the lower positions could be filled by scholars. All Venetians, nobility and citizens, were excluded from all professorships, while the Paduans had the exclusive right to the unimportant third class positions, and in respect to more important positions, they were limited only so far that only one of the *concurrentes* could be a person born in the city.

Very early, substitutes were nominated, in case a professor was prevented from lecturing, and this became a regular custom, which, however, in later years quite disappeared. Remunerations were of various kinds. The right of scholars to elect referred only to a number of positions commanding very small salaries, which were fixed in the constitution and connected with certain positions. The lowest amounted to 10 florins, the highest to 51, afterwards to 61. Often the teachers elected were satisfied with the honor of their position, and claimed no salary. However, very large salaries existed even at an early day, which were separately determined by contract, and in this point Padua had the advantage over Bologna. As early as 1273, Cervottus, son of Accursius, was engaged at a salary of 500 liras. In 1310, Jacopinus de Ruffinis accepted a position with 400 liras. In 1314, Raynerius Arisendus received 600 ducats. During the 15th century, many salaries rose as high as 800 to 1,000 ducats. Decius, who received 600 florins, removed to a position with 2,000 florins in Pavia. Throughout the 16th century, salaries frequently amounted to 1,000 florins. For the year 1598 the salaries are classified: from the lowest of 20 florins, the legal remuneration of the three Paduan professors, to the highest of 1,680 florins, that of Pancirolus. Moreover, the rector held a position as teacher with 50, afterwards 100 ducats, which was really paid for the expenses of the rectorate, a paid professorship only in name.

Certain taxes were early designated for the maintenance of the university, but soon had to be increased by large contributions from the state treasury. In 1696 the expenditure of the school amounted to from 70,000 to 80,000 liras; in 1651 to about 20,000 florins.

No definite information on the form of lectures in the early centuries can be obtained. During the 16th century, dictating had become so general, that scholars frequently engaged others to write for them, and did not go to the lectures themselves. Afterwards this was entirely avoided, and the professors took no manuscripts to the lecture-hall, but delivered their discourses from memory.

The course of lectures was formerly like that at Bologna. Lectures commenced on the 19th of October; but the statutes show that the close of the course was much earlier; the oldest statutes do not mention the date, but later statutes fix it on July 22d. Holidays were precisely defined. At a later period, lectures were read only from November to the beginning of May, and this university-year was divided into two quarterly courses. The hours were at first arranged like those in Bologna; two hours for a lecture in the morning, one hour and a half in the afternoon. Afterwards lectures were limited to one and even to three quarters of an hour, while the jurists took five lectures, the others six per day. The selection of seats was very minutely regulated, espe-

cially as to who, as *prælatus*, should have the privilege of the first two benches. All professors were forbidden (about 1280) to accept fees; but the statutes are silent on this subject.

Padua had ordinary and extraordinary lectures and professorships, but these distinctions, though borrowed from Bologna, were more arbitrarily applied, and showed the order of precedence, the old signification being forgotten.

Repetitions and disputations were similar to those of Bologna, only we find here the following peculiar and very interesting regulation for the disputations. The statutes required the *concurrentes* to dispute together one hour daily, from the opening of the course to Easter, and to hear also the questions of scholars. This custom, originating among the *artistæ*, was adopted by the jurists and by them regulated by law in 1474. In the course of time this custom was limited to the period before December 20th, allowing hindrances to be plead as an excuse for not attending, and finally ceased altogether.

III. PISA.

Very early, and especially in the 13th century, persons are named as teachers of law in Pisa. Statutes of the city from the 12th century are distinguished by their use of Roman law; and they show even some traces of a university of scholars. Add to this the letter of a friar from Marseilles, (apparently written about the year 1213,) who intended to study Roman law in a monastery at Pisa, yet without distinctly speaking of a school! A document of the 14th century mentions the existence of a law-school in Pisa, but not as a "*generale studium.*" The city granted the first considerable sums for salaries in the year 1336, and called eminent law professors. Pope Clement VI issued a decree by which he established, in 1344, a *generale studium* of all sciences in Pisa, which seems to prove that no university had existed there before. The archbishop received the right to confer degrees, but even then the condition of the school was far from being permanent. Want of money sometimes caused a discontinuance of the salaried professorships, and when reëstablished, new professors were often called. After the city came under the government of Florence, it suffered severe oppression for a long time, and of a school at this time we can hardly speak. But in 1472 the government of Florence founded a new *studium generale*, and transplanted the school of Florence, a few branches excepted, to Pisa, and appropriated 6,000 florins annually for salaries. In the following year the statutes of the Florentine university of 1387 were introduced at Pisa, but replaced by new statutes in 1478. These statutes, the oldest of this school which exist in print, appear at first glance to be general; but they do not include the faculty of theology, as this formed a separate corporation and had special statutes (from the year 1475.) New statutes were again enacted in 1543, leaving the main constitution of the university unchanged, and have been maintained to the present time. In 1744 the university of scholars was abolished; the rectors and *consiliarii* discontinued; a professor, as pro-rector, was to preside over the university, the position being given to the one who had been longest in service, no votes being taken.

The fundamental principles of the constitution, as contained in the statutes of 1478, which undoubtedly originated at an earlier date, are in general similar to the constitutions of Bologna and Padua. The scholars constituted the university, except in the faculty of theology, where the university, from the begin-

ning, was composed of the teachers alone. The jurists and *artistæ* were, it seems, never separated; but the Cisalpines and the Transalpines formed two universities, for in 1340 mention is made of a Citramontane rector. The statutes of 1478 speak of but one rector, who was elected alternately from the Cisalpines and the Transalpines. Pisans and Florentines could neither vote nor be elected, so that here also the university proper consisted of foreign scholars. The rector had civil and criminal jurisdiction, except in cases of murder and theft. After 1473, he received a salary of 40 florins, which was increased to 60 and then 100.

At the head of the school was the archbishop as chancellor. The law-faculty conferring degrees consisted of the professors and some doctors appointed by the chancellor. The fee for promotion in both departments of law amounted to 37½ florins, the single fee to 25. The faculty could give no opinions in law at a less charge than 25 florins. The statutes prescribe daily disputations after the lectures, by the professors, which has been continued to modern times. Annually four salaried positions were given to the scholars; two to jurists, two to *artistæ* and students of medicine: the first with 30, the others with 20 florins.

IV. VICENZA.

In the year 1204, a number of teachers and scholars removed from Bologna to Vicenza. This new school never prospered, and was broken up in 1209; still it has a place in the history of university constitutions. Old documents prove the existence of several rectors, as in most universities, and a document of the year 1205 mentions four rectors—one Englishman, one Provençale, one German, and one Cremonese. Thus (if a permanent arrangement) the constitution divided the university of the Transalpines (as it existed in other cities) into three distinct universities, under three rectors; an arrangement which was carried out still further in the school of Vercelli.

V. VERCELLI.

The school of Vercelli also was without influence on learning, and is important only for the light it sheds on the oldest constitution of universities and the history of Padua. In the year 1228, deputies of the city of Vercelli came to Padua and concluded a contract with the authorities of the university, valid for eight years, to establish a school in Vercelli. The city promised to furnish 500 first class lodgings, the amount of rent to be fixed by a mixed commission, not to exceed in any case 19 liras; also 10,000 liras as an advance for needy students, on which interest should be paid at 2 denares for the two first years, and 3 denares per lira for the next six years, ($\frac{5}{6}$ and $\frac{5}{4}$ per cent.) The capital was to be paid out in Venice, and was undoubtedly destined to relieve the scholars of their debts in Padua. Above all the city engaged to make appropriation for fourteen salaried positions: one professor of theology, three of civil law, four of canon law, two of medicine, two of dialectics, and two grammarians. The salaries were to be regulated by a commission of two scholars and two citizens, the positions to be filled by the annual election of four rectors: in consideration of this, citizens and subjects of the city should pay no fees. The scholars promised on their part to transplant, if possible, the entire school to Vercelli, or at least a sufficient number of scholars to fill the 500 lodgings.

About the constitution, these remarkable documents give the following information:

Four rectors were elected for the new school when the professorships were assigned: for the French, the Italians, the Germans, and the Provençals. This number and division of nations agrees with that at Vicenza; nor was this organization invented for Vercelli, but had been introduced from Padua. On the part of the scholars of Padua, three corporations or *rectoriæ* appear, the one represented by their rector, two by procurators: 1. French, English, and Normans; 2. Italians; 3. Provençals, Spaniards, and Catalonians. From this it is clear that the above-named universities existed early in Padua, but that the contract was made with only three of them, not with the Germans. From this argument it becomes very probable that the four universities formed the old type of the organization of scholars in Italy, certainly in Bologna, the model for the other schools; so that about the middle of the 13th century the three Transalpine *rectoriæ* were every where united into one university. As in Paris also the division was into four nations, one might be led to believe that Italy had imitated the former; but this is contradicted by the complete difference in the division and organization of these nations, and the number only could have been thus copied.

The jurisdiction of Vercelli subjected the scholars to the rector in civil cases, and to the city magistrate in criminal cases. The jurisdiction of the rector is not represented as a new privilege, but as an old right of the scholars, and the criminal jurisdiction of the city as an exception to this privilege: an expression which can only mean that the rectors in Padua possessed at that time complete jurisdiction.

It is not known whether this contract was actually carried out. There are, in the 13th century, some traces of the existence of a school in Vercelli; but it can never have attained any great and permanent success.

VI. AREZZO.

In the beginning of the 13th century, a law-school existed in Arezzo, at which the celebrated Roffredus of Benevent taught (1215.) Statutes of this school, from the middle of this century, exist—the oldest in print of any university. These statutes were drawn up by all the teachers in 1255, and they elected one of their number rector (Martinus de Fano.) Brief as these statutes are, they leave many things obscure, especially in regard to the repetitors, who, as in many modern universities, seem to occupy a position between teachers and students, and in others are never mentioned. The most distinct regulations are these: No one could read *ordinarie* in grammar, dialectics, and medicine, unless he had acquired the degree of doctor. Doubtless this prevailed as a matter of course among the jurists. No teacher should allow the scholars of another teacher to attend his lectures more than four times; the scholars of another teacher being those who had heard that teacher during a week. Any one who slighted this rule was fined 10 soldi for instruction, 3 for use of hall, and 5 soldi for the rector. Every teacher made three collections: one for rent of hall, one for his fees, and one for the beadle. If this document is taken as the statutes of the university, they deviate from all others in this, that the authority seems vested in the teachers exclusively. But this is not probable, and to judge from the contents, they appear to be the regulations for the college

of doctors, whose president is accidentally named rector, while the name of prior is commonly used in other places. This accepted, there can be no doubt that the usual university of scholars, with rectors and jurisdiction, existed here also.

In the year 1356, Charles V gave to the school of Arezzo the privileges of a *studium generale*. In the decree it is said that this privilege had been given before by the emperor, but had been lost during the civil wars. From a doctor's diploma of 1373 it appears that the bishop was chancellor of the school, and based his right to this office on a grant from the pope, but of this no direct evidence exists. Frederic III renewed (1456) the privileges of the school and gave the right of promotions, not to the bishop, but to the city, which exercised it through its gonfalonier, as is shown by several diplomas of doctors from that time.

VII. FERRARA.

In this city a school was in existence as early as the 13th century. There is no reason to believe that it was established by Frederic II, in 1241; but the statutes of the city after the year 1264 guarantee exemption from military service to the teachers, as did also Bologna. In 1391, pope Boniface IX gave to this school the privilege of *studium generale*, and appointed the bishop chancellor. Here also is found the common constitution of the scholars. The jurists and *artistæ* formed separate universities, each governed by rectors, who were elected from the scholars. All the statutes of the *artistæ* of the 15th century have been preserved; but not those of the jurists. The statutes of 1613, which have remained in force to modern times, relate more to the system of instruction than to the constitution, and prescribe sixteen professors of law, namely: one ordinary for civil law, two for canon law, two for the Institutes, one for Bartolus, one for criminal law, and six extraordinary, for occasions of pomp. All information of a more remote date in regard to teacherships and salaries is, as usual, very imperfect. In 1450 there were 9 jurists and 13 *artistæ* among the professors; the former receiving from 22 to 225 liras, the latter from 4 to 150 liras. In 1473, 23 jurists are mentioned, with salaries of 25 to 600 liras, and 29 *artistæ*, with salaries of 23 to 800 liras. There were also some positions with higher salaries; thus Carolus Ruini was paid, in 1509, a salary of 2,000 liras; in 1602, Turaminus, and in 1607, Fachineus, 1,000 scudi each.

VIII. ROME.

It is not generally known that Rome also possessed a university with the ordinary constitution. Pope Innocent IV established a law-school about the middle of the 13th century, and the scholars received all privileges usually connected with the *studium generale*, especially the right, if they possessed clerical benefices, to enjoy their income during their stay at the school of Rome. More detailed information is found in the statutes of the city, which are remarkable and rare. A special chapter treats on the law-school, and refers to a subjoined bull of pope Eugenius IV, in the year 1431, which confers the *studium generale* and other privileges. Annexed. ([17])

Foreign scholars had a privilege of jurisdiction in all cases, civil or criminal, (murder excepted,) and could be tried, as they chose, either by their teacher or the cardinal vicar, or by the rector of the university. The rector was elected by the doctors and scholars.

This school attained its highest success in the year 1514, of which Marini (*Lettera dell' Ab. Gaet. Marini*) has published a catalogue (of teachers.) The privileges of the scholars were then again confirmed. Cardinal Camerlingo was chancellor of the school, and four eminent Romans constituted a board of supervision. It numbered 88 professors, (among them 31 jurists,) and 13 other teachers; a number which was never again reached; 14,000 florins were expended upon salaries.

School of the City.

The learned work of Renazzi, (*Storia dell' universita degli studi, Roma, 4 vols.*, 1803 *to* 1806,) with many original documents, completes and corrects our information on the ancient history of this school. A school (*schola palatina*) was, in very remote time, always attached to the court of the popes. It was this school that Innocent IV enlarged, provided with professors of law, and to which he gave the privilege of *studium generale*, together with the right of conferring degrees, and it followed the papal court every where outside of Rome, especially to Avignon, and was in active operation throughout the 15th century. It is probable that Leo X united it with the school of the city, and thus discontinued its separate existence. The school of the city was founded in 1303 by Boniface VIII, and declared a *studium generale*. The doctors and scholars of this school elected a rector, who exercised jurisdiction. But the right of giving degrees was not possessed until John XXV added it in 1318. In the 14th century the school declined. The statutes of the city in the year 1370, (in manuscript,) order its reëstablishment, and that three teachers, each with a salary of 200 florins, should be engaged. However, after a second decline, Eugenius IV, in 1431, reörganized it, and to this reörganization must be referred those statutes of the city above mentioned, in regard to the constitution of the university. In 1458 the university was deprived of the privilege of electing a rector, and the papal government resumed this right. The supervision over both schools, especially the right of conferring degrees, was vested in the camerlingo, (chamberlain,) and only during the absence of the pope from Rome. The supervision of the city school passed into the hands of the papal vicar. This school still continues, under the name of *Archigymnasium Romanum.*

IX. NAPLES.

The school of Naples differed from all Italian schools hitherto described, in its origin as well as its organization. It did not spring up of itself and by the natural demands of teachers and students already present, but was founded in accordance with the will of Frederic II, who loved knowledge and desired that his subjects should no longer visit foreign schools. So he resolved, in 1224, to open in Naples a school of all branches of learning, on an extensive plan, as to which the four letters of Petrus de Vineis give special information. Students were promised great liberties and conveniences; a mixed commission should fix the price of lodgings, and no rent higher than two ounces of gold should be charged. The best teachers in every branch were to be engaged. At the same time all subjects were strictly forbidden to visit foreign schools, or to teach or even study outside of the city of Naples, except in common schools. As Frederic never favored corporations, there is no trace here of a university of the scholars, nor of a rector; but the scholars had their own jurisdiction. They

were under a judge, appointed by the king expressly for the school; and in civil cases, scholars, whether plaintiffs or defendants, could choose between this judge, their teacher, and the archbishop. In criminal cases also this judge alone presided over the trial. The same privilege was given to professors, with the natural modification, that they could choose between the judge and archbishop only. The royal grand-chancellor exercised the highest authority over the university, so that promotions, engagement of teachers, and the order of lectures, were regulated by him. After the close of the 13th century, a rector appears, as assistant and representative of the chancellor, in his relation to the school, the rectorate being permanent and attached to a professorship. During the 15th century the supervision was taken away from the chancellor and vested in the rector; the control of promotions being left with the chancellor. In the statutes of 1610 the rector holds a totally different position; he was a student, elected for one year only, and his duty was to see that the lectures were regularly delivered.

Degrees were conferred directly by the king or the great-chancellor during the first two centuries; for each case the persons who were to examine and grant a degree to the candidate, were appointed at pleasure by him. The remarkable consequence was that not only was the promotion repeated at will, as will be seen from a remarkable example, but when a new grand-chancellor, whose rules were stricter, was appointed, he reëxamined all doctors and revoked the degrees given to many. As the university thus isolated itself more and more from all others, the natural result was that its degrees were nowhere recognized, while the king, to revenge himself or to maintain the right of his sovereignty, refused recognition to foreign doctors, and caused them to be reëxamined and promoted, when they desired to teach in Naples. For example, Jacobus de Belvisio had lectured as bachelor in Bologna for several years, when he asked an honorable position from Charles II, of Naples. He presented himself to the king at Aix, in Provence, in 1297, and was made a doctor by the great-chancellor, in the royal palace. Subsequently the examination was repeated and the degree again conferred in Naples by another great-chancellor. When afterwards he intended to lecture in his native city of Bologna, the degree, twice given, was not recognized, though the king himself interfered in his favor. It seemed without doubt that a new examination and promotion were necessary; but even this was refused for a long time, but was finally obtained after much trouble, making the third. Franciscus de Thelesia had been promoted by Guido de Suzaria and other doctors in Reggio; but when he appeared in Naples, the king did not recognize the degree, and ordered it to be again formally conferred. This uncommon system was abolished in 1428, by establishing in Naples a faculty of degrees, such as existed in all other universities, which should examine and confer degrees after certain rules, and upon which the grand-chancellor exercised only a general supervision. All the members of this faculty possessed a separate jurisdiction under the chancellor or the archbishop, according as they belonged to the clergy or laity.

The engagement of salaried professors was for a long time made by the high chancellor. By the statute of 1610, competition was introduced, *i. e.* an examination of all applicants by the faculty, and the filling the positions by election. This custom, French in its origin, had passed into Spain and was transplanted to Naples by the Spanish government.

With this peculiar organization, and the great efforts made by the government to elevate the school, it is remarkable that it has accomplished less than any other university in Italy. Its historian, Origlia, though acknowledging the inferiority of its present condition, tries to represent its first period as one of great prosperity, and goes so far as to call it the only true university at that time in Europe. But his work shows distinctly that the reputation and influence of this university were at all times very insignificant, and that even Frederic II could not overcome the effects of a defective organization.

X. PERUGIA.

A teacher of law and a few teachers of other branches came to Perugia in 1276, and the city made provision for the establishment and support of a school. A papal decree of 1307 recognized the *studium generale*, and another of the year 1318 conferred the right of giving degrees, the bishop of the city having the same power as the archdeacon of Bologna. Charles IV also gave a diploma to this university in 1355, running as if it were about to be established. Here also the university consisted of the scholars only, they electing the rector, who is first mentioned in 1322. The professors were elected, in part by the city authorities, and in part by the scholars. For a long time no native of the city could obtain a professorship, so that, when Bartolus obtained citizenship, an exception to the law had to be made in his favor. The course of lectures, as in Bologna, was for one year, beginning on the 19th of October. The endowment of the university amounted at first to 1,500 florins, afterward to 2,000, and still later to 2,500. In 1389, Antonio de Butrio was engaged with a salary of 300 florins; he competed for this position with Petrus de Ubaldis, which custom of competitions had been introduced here. The doctors, as elsewhere, formed a college, the oldest statutes of which, from the year 1407, are in print. A peculiar restriction was laid on scholars in Perugia; if they obtained the degree of doctor at any other school, it was declared void, and they became incapable of filling any office requiring this degree.

XI. OTHER UNIVERSITIES IN ITALY.

Besides the universities already named, other institutions existed in Italy during the 13th, 14th, and 15th centuries; mostly law-schools.

PIACENZA, it is mentioned, had a school in the 12th century, at which Rogerius and Placentinus taught, and this school obtained the papal privilege of *studium generale* as early as 1248.

MODENA is known as a school of the 12th century from the history of Rogerius, Placentinus, and especially of Pillius. The latter relates that he was called from Bologna, and that he received about 100 marks of silver (50 pounds weight.) This would seem incredible as a salary, and must mean capital. Such a loan would not be improbable nor without example. In 1260, Guido de Suzaria received the sum of 2,250 liras at Modena, also as capital, for which all citizens should have free tuition; a fine of 1,000 liras to be paid by the party breaking the contract. The school disappears at the beginning of the 14th century, though the statutes of 1328 prescribe salaries of 150 and 50 liras for a teacher of law and for a teacher of a notary's duties and of the institutes.

REGGIO gives proof of the existence of a school in the 12th century. It was very flourishing in the 13th century and had many eminent teachers. This school also was closed about the middle of the 14th century. A diploma of doctor, issued by this faculty in the year 1276, is preserved, which is the oldest

existing. The two examinations were like those of Bologna, but the professors appear only as examiners and as advisers, and the bishop, upon the recommendation of the professors, confers the degree.

PAVIA obtained a *privilegium* of Charles IV in 1361. As early as 1362, Galeaz Visconti forbade his subjects visiting schools outside of Pavia, in which he undoubtedly imitated the former action of Naples. Subsequently, great efforts were made to enlarge this school, as appears from a published catalogue, which contains the names of all teachers who filled the two superior positions; among these are celebrated names, and the salaries were equal to those of the wealthiest universities. Thus Baldus, in 1397, received 1,200 florins; Jason, in 1492, received 2,250 florins; Alciat, between 1536 and 1540, had 1,000 scudi, and between 1544 and 1550 received 7,500 liras as his salary.

TURIN was privileged by the pope in 1405; by imperial decree in 1412; there are no earlier indications of this school. There was there, as is common in Italy, a university of scholars, who elected their rector, the latter exercising jurisdiction. Criminal jurisdiction was reserved to the civil courts, but the rector had a seat in court. The organization of the faculty and the order of promotion was almost the same as that of Bologna and Padua. The bishop of Turin was chancellor.

NOTES.

(1.) This constitution seems to us very objectionable, but it must be remembered that the students of Bologna were widely different from those of our times.

(2.) It is very remarkable that almost all the other Universities in France followed rather the example of Bologna than of Paris, and moreover they were preëminently schools of law, bearing the name *universités des loix*. In similar manner the students at several South German universities were called, in the usual language, jurists, even though they belonged to the other faculties.

(3.) So uncritical was this work that it has not been suffered to appear in print.

(4.) After the charter of foundation, in the charter-book of the archives, is an admonitory letter from Ambrosius to the emperor. No doubt this was regarded as the cause and interpretation of the previous foundation.

(5.) This reason is so natural that it is hardly conceivable how other reasons, without historical proof, can be given; *e. g.* the emperor bestowed the *privilegium* out of jealousy towards Paris, and to keep the students in their own country.

(6.) This decision of course assumes that as a rule every student has attached himself to one single teacher. Cf. *Baldus ad Cod., Auth. Habita*, num. 75: "I ask what is to be said of the case of a student who attends various lectures, if the case is brought before one of his teachers, can he choose another? and I answer, if one is higher in rank, he ought to consider him as his judge, otherwise he can have his choice."

(7.) That explanation by which *dominus* is used for the jurists, and *magister* for the other professors, is without proof, and is improbable, as there was then no need to provide for any school but that of law. Decidedly erroneous is the opinion of some later writers who understand by *dominus* either the city magistracy or the rector.

(8.) It is, however, quite possible and not improbable that in the earliest times there were more than two universities.

(9.) In later times twenty years were demanded for entire alterations only, while single changes might be made every five years.

(10.) Under these names, as the proper members of the university, they appear in the statutes.

(11.) So, *e. g.*, the eight *statuarii* must be half *legistæ*, half *decretalistæ*.

(12.) Fines occur frequently in the statutes; they were, for instance, imposed for violations of the ordinances pertaining to dress.

(13.) Generally 20 *soldi*, if the expelled individual was a member of the university, but double for a foreigner. If doctor, he paid generally 20 liras, sometimes 100.

(14.) The decisive passage on this point is in the Stat. Bon. lib. 2, p. 40. The real meaning of the passage is this: Every one, who teaches without being a doctor, is *bachalarius*, with which agree the passages from the original documents, in which *doctores* and *bachalarii* are mentioned as comprising the whole staff of instructors. But since it might seem doubtful in what case and after what time a person was to be looked upon as really instructing, the statutes decided this more exactly. The etymology of the word is doubtful.

(15.) Thursday was, by old custom, set apart for attention to the person. It was considered the day for the bath. But if a church holiday occurred, the Thursday of the same week lost its privilege, to avoid omitting too many lectures.

(16.) If lectures were delivered upon the *Sextus*, the *Clementini*, or the *Volumen*, then more than two lectures the week were allowed; the university could dispense with this limitation.

(17.) *Statuta urb Rom.*, lib. 3., c. 90, to which the bull belongs as an addition. The capitel itself says that the old imperial school at Rome had been improved by Boniface VIII, that it then entirely died out during the unfavorable times, and was at last restored by Eugenius IV. There are also earlier traces of a law-school, as, *e. g.*, in a charter of 1277, entitled *Angelus Legum Scolaris*. Marini papiri, p. 38.

II. UNIVERSITIES OF FRANCE.

I. PARIS.

In Paris, as in Bologna, the historical accounts of the fame and prosperity of the university reach much farther back than the date of a definite constitution. As early as the 12th century, several very eminent teachers of theology and philosophy were connected with the cathedral school or with several convent schools, especially those of St. Genevieve and St. Victor. ([18])

The oldest genuine documents on the constitution of this school, (for there is one, really written in the middle of the 13th century, but falsely attributed to Boethius, referring to this school,) are two decrees of pope Alexander III. In the first, dating from 1180, he ordains that no person in France shall accept money for the permission to teach, *i. e.* for the degree. Previous to this order the chancellor received one mark of silver for conferring the degree. The other decree makes a personal exception to this rule in favor of Peter Comestor, chancellor at that time.

More important than the decrees is the *privilegium* of king Philip Augustus, in the year 1200, which many have been tempted to consider (though wrongly) the act of foundation of the university, or at least the beginning of a definite constitution. At that time several scholars had been killed in a riot, and an officer of the king was very much to blame. The king then made the following rules: If scholars (*i. e.* teachers or students) committed a crime (*forefactum*,) the provost of Paris could arrest them, but should deliver them forthwith to the clerical court for investigation and punishment; the rector, however, he could not arrest. When scholars were attacked, the citizens witnessing were not to go away, but to seize the disturbers and surrender them to the courts, and give evidence in the case. To a faithful observation of these orders the provost and other officers and citizens were bound by oath. After that time the provost of Paris was considered as belonging to the university and was called conservator of the royal privileges.

A concordat of the scholars, divided into the four nations, in 1206, over the election of the rector, has not been preserved, but its mere existence, which, from very old documents, is not to be doubted, proves the great antiquity of the division into nations. A decree of Innocent III, in the beginning of the 13th century, is less remarkable for its contents than for the first known use of the word "university."

The Paris school was in many points distinguished from all others. No other school maintained for so long a time its reputation and importance, nor exercised such influence on church and state. It called itself the eldest daughter of the king, and guarded its rank with jealous care; but often the noble sentiment of dignity degenerated into pride and arrogance. If, in any dispute with the civil power, the university could not maintain its rights, it employed, as an extreme means, the resolution to suspend all lectures and sermons by its members. This so excited the populace that they could be appeased only by yielding to the university. As late as 1588, deputies of the university took seats in the diet at Blois. What rendered them especially powerful, even dangerous, was their poverty. The university, the faculties, the nations, all were poor,

and even the colleges, though their expenses were great, could not be called wealthy. The university possessed no building, and its meetings were held in the convents of friendly orders. By this their existence and power became spiritual, and secured a permanent independence of the worldly power, which would have been lost in the possession of great wealth.

The constitution of the university seems not to have been based on complete statutes. A complete code was never enacted, but only an occasional statute, as the condition of things demanded.

In the year 1215 the university received statutes from the pontifical legate, cardinal Robert de Courzon, but these decide only a few points and give no idea of the then existing condition of the university. A statute of the *artistæ* of the year 1344 has been preserved, which exhorts the teachers to greater caution in their contradictions to the texts on which they based their lectures. There are remaining some minor statutes of the theologians, canonists, and *artistæ*, partly of the year 1370, which determine the days for lecturing and disputation, holidays, church festivals, etc. More extended were the statutes of cardinal de Estouteville in 1452; but these also were directed only against certain abuses. Of similar import was the reformation of the *artistæ* in the year 1534. Later statutes, indeed, which were published by the royal commissioners in 1598, and by De Thou in 1600, resemble the statutes of other universities: in fact, all are more or less limited to general good instructions, or are directed to doing away with existing abuses, and give no clue to the constitution of the university. Neither do they apply to the entire university, but are special statutes for the four different faculties.

From the constitution itself it is seen that the Paris university was, from the earliest time, a unit, and that no independent corporations were formed, as in Italy, by the distinction between the jurists and *artistæ*, or by nations. But this peculiarity is less distinctive than the other, which vested all authority in the teachers, without giving any to the scholars. The general assembly of the university consisted at first of all who possessed the degree of doctor or magister, and these titles were, for a considerable time, given only to the actual teachers of the university. But when it had become a common occurrence to acquire the degree without entering the profession of teaching, a modification was made, first by custom, then by law. As a rule, only actual teachers and professors (*magistri regentes*) had a seat and vote in the assembly; in extraordinary cases, however, other graduates could participate on special invitation, but no trace exists of any influence having ever been given to the scholars. Bulæus indeed considers that there was a larger general convention, including the scholars, but his reasons are not convincing. He can instance no one case where such a convention was held. ([19])

This constitution was the main basis of the greater power and influence of this university, which the Italian schools never could acquire, having no other object than to increase the freedom and often to add to the license of the scholar, and to attract distinguished teachers. The Paris university obtained more special importance by its connection with learned, and especially theological disputes; and though the judgment did not always proceed from the whole university, but from one faculty, yet the connection of the whole with its parts was so close that the latter could give to these decisions the weight of the whole university, and not seldom such decisions and interpretations of a single faculty were considered as the action of the whole university.

The divisions of the Paris school are not so easily understood as those of other universities. From the earliest period only four nations existed, and this number continued the same. These nations were the French, the English or Germans, the Picards, and the Normans, each having subordinate provinces. In the first nation there was, among others, a province of Bourges, which included also Spain, Italy, and the Orient. The second embraced, besides England and Germany, also Hungary, Poland, and the Northern kingdoms; it was first called English nation, but changed to German in 1430. The third nation included the Netherlands. To these nations belonged professors and scholars, according to their native country, without distinction of studies. About the middle of the 13th century, the university became involved in a long and severe dispute with the new mendicant friars, who, supported by the popes, demanded positions at the university, but were not admitted. This quarrel caused all the doctors of theology to separate from the university and form a special college; their example was followed by the canonists and doctors of medicine. Henceforth the university consisted of seven unequal parts, the three above-named faculties, and four nations. The faculties were conducted and represented by their deacons, the nations by their procurators. The four nations were in truth the old university, and went by that name. They remained in exclusive possession of the rectorate and jurisdiction; and the bachelors and scholars of theology, of canon law and medicine, remained with them, as the faculties consisted only of the doctors in these studies. In the course of time a complete change took place. The four nations together were considered as a fourth faculty (of *artistæ*) and gradually deprived of their former position, but even then they retained the rectorate. Every faculty had its own lecture-rooms, for the exclusive use of its teachers; also a church in common. So, for example, the canonists had the church of S. Jean de Lateran, where they not only attended divine service together, but held their meetings, and gave degrees.

The colleges demand special notice, as they were more numerous and more influential than those of Italy. Originally intended only for the support of poor scholars, who lived in them under special supervision, the number of teachers in them increased, and the colleges soon became not only foundations for the poor scholars, but pensionates for the wealthy, so that almost the entire body of students belonged to the colleges, and as early as the 15th century, those outside of the colleges were as exceptions, characterized by a special name (martinets.) The oldest and most reputed of these colleges, the Sorbonne, founded in 1250, has often been confounded with the faculty of theology, from which it was essentially distinct, though afterwards the same persons were members of both corporations.

The rector was always the head of the university, and this dignity, even after the new organization of the university, remained the exclusive possession of the four nations or the faculty of philosophy. The doctors of the three faculties could not become rectors, nor participate in their election; both privileges were reserved to the magisters and *artistæ*. Even if the rector, during his term of office, wanted to take the degree of doctor, he was required to resign the rectorate. At first he was elected by the procurators of the nations, but after 1280 by four electors appointed for this purpose. The electors must be thirty years of age, but for the rector this limitation was not prescribed. An election was held every four or six weeks in early times; but, after 1279, only once in

three months. The rector could not be a married man; but he was not required to belong to the clergy.

Besides the rector, two conservators were chosen as superior officers of the university. The provost of Paris was conservator of royal privileges and stood in close relation to the university. The last oath of this officer occurred in 1592; after which time the office declined and afforded no longer any protection to the university. On the contrary, the dignity of a conservator of pontifical privileges was rather an honorary, and rarely considered an actual office. In earlier years this dignity was arbitrarily and temporarily conferred on theologians; afterwards, however, it was limited to the three bishops of Meaux, Beauvais, and Senlis, one of whom was nominated by the university. After the close of the 16th century, this office also was abolished.

The jurisdiction over the university of Paris and its members seems very intricate, and the statements of eminent historians are unsatisfactory. As a whole the university was formerly under jurisdiction of the king in person; after the middle of the 15th century, under that of the parliament of Paris. The criminal jurisdiction over members was, by privilege about the year 1200, vested in the spiritual court (*i. e.* the *Officialat*) of Paris; but as early as the 15th century the university sought to free itself from it, and the increasing power of parliament soon absorbed this power. In regard to the ordinary civil jurisdiction, there is more doubt. Though the *privilegium* of Frederic I was given only for the university of Bologna, in the kingdom of Lombardy, it would not be surprising to find some application of it in Paris, since it appears that it was thought that, from internal reasons, the decisions therein were universally applicable. Distinct traces of a jurisdiction of teachers over their own scholars are found, though this may not have been exercised frequently nor continued very long. The principle, however, is expressed in a decree of pope Alexander III, not for the Paris university, but in reference to the cathedral school at Rheims, and is found more clearly expressed in the statutes of Paris of the year 1215. The bishop's court also had in all probability civil jurisdiction, and seems to have exercised it ordinarily; as is seen in the resemblance of the civil to the criminal jurisdiction of this court; also from a decree of pope Celestine III, of the year 1194, which indeed does not speak expressly of the Paris university, but is very probably to be referred to that. Some cases and trials are mentioned, in which the clerical court exercised such jurisdiction. But in 1340, civil jurisdiction was committed to the provost of Paris. At that time the king gave important privileges to the university, namely, that its members could appeal to the laws in Paris, as plaintiffs or defendants, without regard to the courts of their native country. Here at first only the local jurisdiction was meant, and the new extended right might also have been intrusted to the Paris *Officialat*, but since the king assigned to the provost the carrying out of the whole order, the whole civil jurisdiction passed over to him at the same time. This is the court of the *Chatelet*, which maintained itself after the provost no longer presided over it, and which yet continues.

Very different from this was the jurisdiction belonging to the university itself. This covered no criminal trials nor ordinary civil cases, but only matters relating to the school; *e. g.* the office of teacher, whether it caused disputes between teachers, or between teacher and scholars; offenses against the rector on the part of members of the university; the discipline of scholars: finally

disputes on questions of house-rent, books, writing materials, in which a member of the university appeared as prosecutor or defendant. This court had power to exclude teachers from the university. In regard to the discipline of scholars there was a great contrast between Paris and the Italian schools; for flagellation with a rod was a very common punishment, inflicted on the bare back of the culprit, in presence of the rector and the procurators. This punishment was taken for granted in the year 1200, and was still very common in the 15th century; it was applied to *bachalarien* as well as to scholars. In older times the university exercised this jurisdiction by special deputies, *i. e.* commissioners selected for each case; but as the disposition and management of all current affairs came to the rector and the procurators in 1275, it included also this jurisdiction; and as in all affairs the three deacons belonged to this commission, they likewise formed part of the court. In this form the jurisdiction is recognized by the statutes of the year 1600, and has so continued up to the latest times. Appeal could be taken from the rector to the university, from the university to the parliament, when the former had in vain attempted to maintain its dignity. The conservator of pontifical privileges had also a kind of jurisdiction, in criminal and civil cases, but only those in which clerical privileges had been impaired, and in such cases he was regarded as a permanent commissary of the pope, who otherwise would himself have rendered decisions.

Degrees were given in all cases with the approbation of the cathedral chancellor, or, in the philosophical department, of the chancellor of St. Genevieve, so that in this faculty the applicant could choose between the two. In older times this held good for all faculties. It has already been mentioned that in the 12th century the pope forbade the chancellor receiving fees for promotion, and permitted it again by personal dispensation, after which this point was always a subject of dispute. In regard to the fees and expenses of promotion, no complete information can be found. Formerly they cost 4½ *bursen*, and a *burse* generally amounted to the necessary expenses of a week, which varied very much, according to rank or wealth. In the statutes of 1452 this tax was continued, with this limitation, that a bachelor should not pay more than 7, a licentiate not above 12 gold *écus d'or*.

In regard to the learning required for promotion, the statute of the canonists contains the following provisions, from the year 1370: Those who had already obtained the degree of licentiate of Roman law were examined no further; all others, after having heard lectures on canon law for forty-eight months in the space of six years, and read lectures during forty months within five years, could become licentiates. If they had studied both systems of law, it was enough to lecture sixteen months within two years. The scholar was required to obtain a quarterly certificate from his teacher in regard to his attendance at the lectures, and the bachelor from the doctor under whom he read, or from the dean of the faculty. In early days, celibacy was required, not only of all theologians, who of course were of the clergy, but of all professors also, as the whole university was considered a clerical institution. In 1452, physicians were exempted from this rule; and afterward by the statutes of the year 1600, the canonists also; but for the *artistæ* it continued even to the most recent times. The faculty of the canonists consisted of six professors. Vacancies were filled by a general election among the remaining, after having examined all the candidates. In the year 1541, the jurists, three hundred in number, de-

manded the same privilege in filling professorships as the constitution granted to other universities, and they petitioned parliament, but without success.

With reference to the principal work of the university, the lectures, the subject of Roman law first presents itself. It should be recollected that in the early mediæval period the Roman clergy showed a great veneration for the Roman law and were governed by it, and knowledge of it was preserved and diffused chiefly by the clergy, but in the 12th century this study was no longer considered suited to their profession. Not that the Roman law itself was disapproved, or its pagan origin thought offensive; the cause lay in the entirely new direction taken in religious studies. Theology on the one hand, jurisprudence on the other, were enthusiastically cultivated; and many distinguished men devoted all their energies to one or the other science, gain in one being considered a loss in the other. Theology naturally appertained to the clergy, and if any of its members, from the universal taste of the age or temporary advantages, devoted themselves entirely to Roman law, they were loudly censured. Thus St. Bernhard, about the middle of the 12th century, complained that in the pontifical palace the law of Justinian was heard, but not the law of the Lord, and hence proceeded all that legislation, now to be described. This explains also how the canon law, as a beneficent medium between the conflicting interests, found a welcome reception.

Most of the legislation above referred to the clergy as a whole, or to some branches of the clerical service. The council at Rheims, in 1131, prohibited the friars from studying Roman law or medicine. Besides the reasons before stated, another was added, namely that they were obliged to leave their convents for a long period in order to pursue these studies. This prohibition was repeatedly renewed; in 1139, at the second council of the Lateran; in 1163, at Tours, and in 1180, in the decrees of pope Alexander III. It was further extended in 1219 by a decree of Honorius III, which we possess in three parts; the part with which we are concerned included all priests also in this prohibition. Another part of the same decretal assigns the above grounds, and commands that the number of theological professorships be increased. However, the law in this form could not be strictly enforced, and the parish priests were soon again exempted from its operation. Yet more important were the very frequent dispensations granted by the pope to certain schools, and by the decree of pope Innocent IV, the scholars of the Roman law-school might retain their foreign benefices. When, later, Bindus de Senis taught Roman law in Rome in 1285, Honorius IV permitted all the clergy to hear him, excepting only bishops, abbots and friars. A similar dispensation, and as it seems without any reserve, was granted to the school of Bologna in 1310, and reënacted in 1321 and 1419. So to the university of Pisa, in 1344. The dispensations generally passed beyond the prohibition, since they not only permitted the study, but allowed the clergy to draw their prebendary income while absent.

This law of Paris was based on similar considerations. The third article of the decree of pope Honorius III, in 1220, prohibited, for Paris and its vicinity, all lectures on Roman law, because it was never employed in the courts. The general character of this law shows that it was not limited to the clergy. Its cause is not doubtful. The university of Paris was mainly a theological school, and therefore it was logical to apply the same prohibition which had already, in another part of the document, been given to consecrated priests, and to those

scholars who were destined for the ministry. It is possible that two parties may have contributed to this result, who at any rate were much interested in its success, viz., the Parisian theologians and *artistæ*, to whom the students of Roman law could do a great deal of injury, and secondly, the other law-schools, especially that of Bologna, the influence of which in Rome was very considerable. In favor of this view is the circumstance that the execution of this law was carefully watched by both sides. Thus in the 16th century the Paris canonists desired to teach Roman law also, when the other faculties prevented it by resolutions, or through parliament. In 1572 the Paris canonists were tried before parliament, at the instance of several French law-schools, because they taught and gave degrees in Roman law, and parliament decided against the canonists. Neither can this law be considered an arrogant action on the part of the pope, for the Paris school was known as the chief controler of all instruction in theology, was therefore considered a clerical institution, and had been placed under the special care of the pope; and if the latter could, through his legate, in the 13th and 15th centuries, proclaim new statutes for the university without contradiction from the king, and with the express sanction of the university, no doubt could be raised against the legality of that provision. Not long after enacting this prohibition, Innocent IV sought to extend it over France, England, Scotland, Spain, and Hungary, with the approbation of their princes. The reasons for this new prohibition are not known; for in some of those countries it was unnecessary, and others, especially France and Spain, seem not to have been affected by it.

The real fate of the Roman law in the Paris university is not yet fully known. Theology and philosophy had always been the main studies, but in the 12th century the Roman law also was zealously cultivated. Giraldus Cambrensis, who studied in Paris about 1180, after which he became teacher, heard lectures on Roman law. Still more distinctly are lectures on the Pandects mentioned by another Englishman, Daniel Merlacus. A historian about the year 1200 gives a glowing picture of the condition of the school, in the description of which he expressly speaks of the Roman law. So that the prohibition of Honorius III was very important, because it not only prevented the future formation of a school of Roman law, but suppressed the existing one, and continued in force through several centuries; for though the canonists often endeavored to draw the Roman law into their sphere of studies, and though it was actually taught in some few cases, this instruction was not based upon a complete law-school, and no learned degrees could be conferred. In the year 1433 the university vainly opposed the establishment of the university of Caen, and offered to adopt the Roman law; which proves that the said prohibition was still observed. The vain attempts to introduce the Roman law in the 16th century have been referred to before. As, however, civil disturbances rendered traveling to other universities dangerous, parliament in 1568 permitted Roman law to be temporarily taught in Paris. In the year 1576 it gave this liberty to Cujacius, through personal esteem, and allowed him also to confer the degree of doctor of Roman law. Three years afterwards, the diet of Blois renewed the prohibition. Also in the statutes of 1600 it is clearly premised that the recognized subjects of study included no other law than canon law. Finally the old law was abolished by an edict in 1679, and the university obtained equal rights with any other in this respect.

What is incomprehensible in this exclusion of Roman law is that there con-

stantly existed a faculty of canonists, although canon law can never be understood without the Roman law. But the statute of the canonists of 1370 expressly orders that one shall have the power to obtain the degree and to lecture, without having studied Roman law; but this can only mean that it should not be necessary to go through a complete course at another university. Introductory lectures on Roman law were certainly delivered at Paris, and the law could have no reference to them, but only to extended courses upon the law-books themselves, that is, the connected course necessary for a degree.

Public lecture-rooms were very numerous and of different kinds; they belonged in part to the various faculties and were destined for the common use of members and in part for single *collegia*.

Fees are not mentioned, except in modern statutes of the *artistæ;* and were to be given voluntarily, consequently not by the poor, and should not exceed six gold dollars to each teacher annually.

NOTE.

Prof. de Viriville in his History of Public Instruction in Europe gives the following list of the ancient French Universities with their dates and founders:

CHRONOLOGICAL LIST OF THE ANCIENT FRENCH UNIVERSITIES.

1100 to 1200—*Paris*—First legislator known, Philip Aug., King of France.
1180 (*about*)—*Montpellier*—First founder, William, Lord of Montpellier, confirmed by Pope Nicholas IV. in 1289.
1292—*Gray*—The Emperor Otho transferred to Dole in 1423. (See Dole.)
1223—*Toulouse*—Pope Gregory IX.
1246 to 1270—*Angers*—St. Louis, at the instigation of Chas. I., Count of Toulouse.
1303—*Avignon*—Boniface VII., Pope. Chas. II. of Sicily.
1305—*Orleans*—Clement V., Pope. Philip the Fair, of France.
1332—*Cahors*—Jean XXII., Pope.
1339—*Grenoble*—Humbert II., dauphin, transferred to Valencia by Louis XI. when dauphin in 1452.
1364—*Anjou*—Louis II., Duke d'Anjou.
1365—*Orange*—Raymond V., Prince of Orange.
1409—*Aix* (*Provence*)—Alexander V., Pope.
1423—*Dole* (*Franche-Comté*)—Philip-the-Good, Duke of Bourgoyne, joined to Besançon, by Louis XIV. in 1691.
1431—*Poitiers*—Pope Eugene IV., Charles VII. of France.
1436—*Caen*—Henry IV. of England, confirmed in 1450 by Charles VII.
1452—*Valence* (Dauphiny)—See 1339 *Grenoble.*
1460—*Nantes*—Pius II., Pope, François II., Duke of Bretagne.
1464—*Besançon*—Philip-the-Good, Duke of Bourgoyne. See 1423 Dole.
1469—*Bourges*—Louis XI. of France.
1472—*Bordeaux*—Louis XI. of France.
1548—*Rheims*—Henry II. of France.
1572—*Douay*—Philip II. King of Spain.
1572—*Pont-a-Mousson*—Charles II., Duke of Lorraine.
1722—*Pau-en-Béarn*—Louis XV. of France.
1769—*Nancy*— " "

To this list of the principal universities must be added the following, of a secondary rank:

Nimes—College, or University of Art, founded in 1539 by Francis I.

Rennes—University, or Society of Law, formed from a division of the University of Nantes, transferred to Rennes in 1734.

Saumur—Academy or Protestant University existing in 1664.

Strasburg—1 *Protestant University*, founded in 1538, enlarged in 1566, and endowed with four faculties in 1621. 2 *Catholic University*, established at Moisheim in 1618. and transferred to Strasburg in 1701.

II. MONTPELLIER.

According to the common tradition, pope Nicolas IV founded the university of Montpellier in 1289, and placed it under the supervision of the bishop of the diocese. This, however, can not be regarded as the origin either of the school or of its constitution as a university, nor of the right of the bishop. The oldest documentary evidence refers to the school of medicine. To the scholars of this faculty, William, Lord of Montpellier, promised in the year 1180 that he would grant to no one the exclusive right of teaching, but would allow liberty of instruction to all. New statutes were given to this faculty of medicine by a papal legate in 1220, which still exist. The qualification for teaching is made dependent on the examination and the approbation of the bishop of Maguelonne, who was to gather teachers about him.

King Louis IX, of France, gave to the bishop of Maguelonne, in 1230, the privilege of administering the oath to all licentiates and doctors of canon or Roman law, when they received their degree. Nothing is said of a superintendence over the promotion, but it shows clearly that a faculty of jurisprudence existed, and that degrees were conferred by it. In the year 1268, James I, of Arragonia, under whose rule Montpellier was at that time, appointed a professor of law. The bishop excommunicated this teacher and all who should hear him, because he alone could give license to teach, and defended his course, not upon preceding exercise of that right, but on the ground of his relation to other faculties, declaring that it was only accidental that this right had not been extended over the faculty of jurisprudence. Pope Clement IV wrote to the king in support of the bishop.

In 1242 the *artistæ* received statutes from the bishop, but this was with the consent of the university, the doctors as well as the scholars. These statutes recognize the right of the bishop to license teaching, and also incidentally mention the rector. These events were followed in 1289 by the bull of Nicolas IV, which declared that, as the city of Montpellier was distinguished and worthy of a school, it should in future have a university of canon and Roman law, of medicine and the liberal arts (all the faculties, theology excepted.) Promotions in every faculty were to be made by the bishop, after an examination, and the bishop should accept the aid and advice of the professors. A mere glance at this instrument would give the impression that the pope founded, in reality, a new school here, or at least gave to the bishop new rights over the same. But both are completely contradicted by the commencement of the bull, in which an already existing school, a university, is expressly implied. In fact, then, it could only have been the purpose of the pope to bring forward here the new views by which all universities were to be confirmed to the papacy, and to confirm himself in the possession of these rights. The only practical part of the bull is that it extended the authority of the bishop over the faculty of jurisprudence also, where it had been disputed; but in 1339 vexatious disputes broke out between the bishop and the rector of the law university. Cardinal Bertrand, archbishop of Embrun, (died 1355,) was instructed by the pope to act as mediator, and with six delegates of the university he drew up new statutes, which were proclaimed, July 20th, 1339, and have ever since remained the foundation of the constitution.

There was a school of theology here, at least as early as the middle of the

14th century, for in the year 1350 king John permitted the magisters, bachelors and scholars of the theological faculty in the university of Montpellier, to be preceded in procession by beadles with silver sceptres. Pope Martin V recognized this institution, which needed such a recognition most of all, as late as 1421, by uniting it to the university of the jurists. At the same time, statutes for the faculty of theology were enacted in the form of a contract between the university of jurists and the teachers of theology, in which the relations between the former and the new faculty were determined. The school of theology belonged to the four mendicant orders, and was named after them.

In this manner the organization of the school was established and was as follows: There were two universities, that of medicine, which formed a unit by itself, and that of law, which may be called the general university, as the *artistæ* and theologians formed no special university, but were included with the law-school. As this differs from the perfect constitution of Italian universities, and agrees with their oldest condition, it will need further proof. Only one rector, as the head of the entire university of Montpellier, is mentioned, who was the rector of the jurists, and was alternately designated by one or the other name. But quite decisive evidence is seen in the fact that the pope combined the faculty of theology, teachers, and scholars, with the law university, and subordinated them to its rector. Now this university had in general a constitution similar to the Italian, the scholars alone having the full right of citizenship, Considering these two circumstances, the preponderance of the jurists and that of the scholars, in which respect the constitution was quite unlike that of the Paris university, it becomes evident that the university of Montpellier was organized after the models of Italy, and this must have been at a time when, in Bologna and Padua, the *artistæ* did not constitute a separate university. It may be said of all ancient French universities, strange as it may seem, that they were not modeled after that at Paris, and with few exceptions, all had the title of "*universités de loix*," *i. e.* of law. The popes liberated the university of Montpellier at an early day from the legal restrictions in regard to the clergy, so that all ecclesiastics, even monks, could there study medicine and law.

The scholars of law thus formed the university proper, as the *artistæ* and theologians had been adopted into the corporation only, and the doctors of all branches, as in Italy, possessed only limited privileges, though they shared the duties of the scholars. The latter divided themselves into three nations: Provençales, Burgundians, and Catalonians.

The rector, as the head of the university, was elected for one year, alternately from one of these nations, and confirmed and sworn in by the bishop. He was required to be twenty-five years of age, and to belong to the clergy. Doctors were not qualified for this office. The rector preceded in rank all officers of the university and all doctors, and in the 16th century he was so honored that when he appeared in the street the scholars followed as retinue. The rector's council consisted of twelve members; one of them was the canon of the cathedral of Maguelonne; one an inhabitant of Montpellier; the ten others were taken from the provinces of the nations. Every councilor must be twenty-five years of age and belong to the clergy. The election of a rector was made by the councilors, not by the scholars, in which the constitution appears more aristocratic than that of Bologna. A relative majority was required and the retiring rector had the deciding vote in case of a tie.([21])

As sub-officers the statutes name a *generalis bidellus* (beadle) and as many ordinary beadles as there were ordinary doctors. Moreover, pope Martin V, in 1421, gave to the university three *conservatores*, the archbishop of Narbonne, the abbot of Aniane, and the provost of Maguelonne, with authority to appoint their alternates. Soon afterwards, pope Nicolas V connected this privilege with the university by giving the latter power to nominate the representatives of the conservators. Entirely different from this was the constitution of the university of medicine. One of the professors, with the title of medical chancellor, who filled the position during life, presided over it, and was elected by the bishop and three professors. Moreover, they had two conservators, the bishop and the governor of the city.

The jurisdiction was arranged as follows: The bishop exercised criminal jurisdiction in the law university. King John had, in 1350, given the civil jurisdiction to a royal officer (*judex parvi sigilli*;) but pope Martin V turned it over to the above-named conservators, *i. e.* their representative, and this order is recognized in a royal privilege of 1437. In the university of medicine, the bishop likewise had criminal jurisdiction; in civil cases its chancellor acted as judge, with appeal to the bishop. As in Paris, all had the privilege of trial in Montpellier, as defendants under all circumstances, as plaintiffs only when their opponent lived within six days' journey of this city.

The degree, in all faculties, depended on the approval of the bishop, who for this reason was named chancellor (*cancellarius*,) and must not be confused with the cancellarius of the medical school. The jurists held the examination before the solemn ceremony in the church. As a rule one could become bachelor after six years of study, and bachelors could apply for the degree of doctor after five years' additional study. The form of promotion was similar to that of Bologna, consisting in a private examination, to which all the doctors were invited, and the public examination in the church. In connection with the latter, the desk, book, cap, kiss and blessing are mentioned as insignia; at the same time the first solemn address upon some law was delivered by the new doctor, in the church (*solenne principium.*) The bull of 1289 had decreed that no money should be paid for degrees, and the statutes repeat this injunction, also prohibiting the customary doctors' dinner, and according to the well-known papal order, fixing a maximum of expenses for pomp. Every faculty of promotion had a chairman, called *prior* among the jurists, *dean* (*decanus*) among the others. But the jurists formed only one faculty, in which students of canon and civil law were united. Of salaries, those of the medical faculty only are mentioned. In 1490, two royal professorships were established, each with 250 livres, which, in 1564, was increased to 550 livres.

The statutes contain exact regulations pertaining to the lectures, which show a zealous supervision of instruction. Every one was entitled to lecture who had received the degree of doctor in Montpellier or at any other *studium generale*; also bachelors, and even scholars about the time of receiving the degree of bachelor. Four hours daily were fixed for the lectures: *prima matutina*, *tertiæ*, *nonæ*, and *vesperarum*, 7 and 10 A. M.; 3 and 5 P. M. The lectures on Roman law were thus distributed: the first was *hora doctoralis*, in which only the *doctores ordinarie legentes* could read. From year to year alternately they explained in this hour the *Codex* and the *Digestum vetus*. As, however, one year was no longer sufficient for an understanding of these books, the following plan was adopted. The regular teacher brought forward only fourteen books

of the *Digestum vetus*, Books 1 to 8, 12, 13, 19 to 22, with the exception of two titles of the 1st and one of the 21st, and the remainder by one or more specially elected doctors or bachelors during the *hora vesperarum*. The same order was followed in regard to the *Codex*. In the morning a part of the 1st and 7th books, and books 2, 3, 4, 6 entire, the rest in the evening. During the two hours between, the bachelors always read that ordinary book, which was not read by the ordinary teachers in that year, *i. e.* the *Digestum vetus* or the *Codex*. Moreover, the *Institutes*, and finally the *Infortiatum* and *Digestum Novum* occupied these hours. Owing to the great mass of material, the same difficulty occurred here, and each of these books was divided between two teachers. One half was called the *Ordinarium digesti novi*, although the whole was a *Liber Extraordinarius*, the other the *Extraordinarium* of the same; the first comprising books 1, 3, 4, 6, 7, 8, 12, the second the rest. So, too, the *Infortiatum* had its *Ordinarium*, to which belonged the title *solutio matrimonio*, and books 4 to 9 and 11; the rest was *Extraordinarium*. The evening hour was given to completing the ordinary lectures, also to the *tres libri*, the *authenticum*, and feudal law. No other lectures could be given at these hours. The beginning and end of the lectures were distinctly fixed in the statutes, though differing according to the various books used. Those over the *Digestum vetus* lasted from Oct. 19 to Sept. 29; over the *Codex*, from Oct. 19 to Aug. 31. Ordinary teachers, and those who completed the ordinary lectures in the evening hour, were required to read for fourteen days *secundum puncta*, assigned to them by the rector and counselors. No doctor was permitted to communicate in writing the contents of his lecture, except in those cases where controversies could not be fully treated in the remarks. Lectures were held every day, excepting on specified holidays, so Thursdays were not holidays. The doctors were also required to hold repetitions; bachelors were not allowed to; foreign doctors, while traveling through, could hold repetitions, and the natives were compelled to give them a chance. All doctors being entitled to lecture, an unlimited competition was opened.

As to fees, they were expressly recognized in the statutes (1220–1242) respecting the *artistæ* and students of medicine. The statutes of the jurists prescribed two collections for every ordinary lecture, one for the teacher and another for the hall, the first amounting to 10 sous, the latter to 5 sous, or whatever more might be voluntarily given. Nothing was paid for other lectures, except by special agreement, and then only 8 sous. The extraordinary evening lectures were free of charge, unless by special agreement. Every doctor had a beadle who superintended the hall and the books, and received 12 deniers from each hearer.

In regard to the loaning of manuscripts, the following was prescribed: The general beadle was obliged to keep on hand all the text and glossaries on canon and Roman law, the *Lectura Hostiensis*, the Commentary of Innocentius, Johann Andreä on "Sextus and the Clementines." Also whoever chose, especially the sub-beadles, were allowed to loan books, but if the latter contained falsifications or errors, they could be confiscated for the benefit of the university to be amended, and if they could not be amended they were burnt. The hire for books, if they were to be copied outside of Montpellier, amounted to two deniers, double the price in the city. If a manuscript already in existence was to be corrected from them, the rent was less.

In the statutes of the theological faculty, equal privileges of rank were pre-

scribed between the prior of the jurists and the dean of the theologians; between the doctors of law and the magisters of theology. The prior preceded in all solemnities of the jurists, and the dean in those of the theologians. In the third place the precedence was alternated from year to year. It was expressly decided that the theologians could pronounce from memory or read from manuscript. None of the mendicant friars, consequently no teacher of theolgy, could become counselor of the university.

In the faculty of medicine the remarkable arrangement existed that four bachelors should be annually elected to assist the scholars in their studies and to recommend the best text-books to the professors. Many other interesting glimpses at the customs of the 14th century can be found in the statutes, *e. g.* in the provisions concerning dress, play, arms, the prohibition against breaking into houses during carnival, to steal meat; and that against disturbing the lectures. Scholars belonging to the nobility, according to ancient custom, were equal in rank to the doctors, and preceded the licentiates. A regulation of the year 1424 described the style of living necessary for one who would be considered a nobleman.

The following is the original statute concerning the election of the rector and counsellors at the University of Montpellier:

The rector is always to be a clergyman, born in wedlock; he as well as the counsellors is to be a prudent and peaceful man, of mature age, of tried probity rather than of noble birth. About the middle of the month of January the rector calls together all the counsellors, and when they are assembled he informs them that the object of their meeting is to elect a new rector and new counsellors. After imposing an oath that they will vote for such rector and such counsellors, as they believe will be an honor and benefit to the University, and that till the rector and the new counsellors are publicly announced, they will not reveal their vote to any one; the rector takes the balot, first of those, from whose nation the rector and counsellors are to be elected this year, and then of the others; if there are two candidates for the rector's place, with an equal number of votes, the rector is authorized to choose the one whom he considers the most eligible, and if there are three or more, with an equal number of votes, the rector may elect whom he thinks best; if he cannot arrive at any decision on that day, then the second or third day. When the rector and the counsellors have been elected, their names are inscribed in a book kept for that purpose.

In other particulars the statutes and practices of this school are the same as those of Paris.

(18.) Bulæus throughout considers Charlemagne as the founder of the Paris university, and starts in its dates from him; but this opinion is without proof. For however much Charles was interested in the cause of schools, there is no evidence that he had any connection with this university.

(19.) His reasons appear to be: 1, an accidental remark in a manuscript of unknown time or origin, that students also had been convocated; 2, the very general formula *Universitas magistrorum et scholarium.* These prove nothing, because the students belonged, of course, to the university, whether they had any voice in its government or not. This explanation is confirmed by a document beginning with, *Rector et Universitas, magistrorum et scholarium,* and closing with *Dat. in Parisiis in nostra congregatione generali Magistrorum tam regentium quam non regenti m.* Moreover we sometimes have the formula running *Universitas Magistrorum.*

(20.) This filling the professorships by election, was in the latest times introduced again in the French universities.

(21.) P. Rebuffi complains of the indiscretion of many rectors, who on trifling pretexts went into the streets, and so disturbed the lectures. He himself had lost much time in following these processions. Finally this obligation was expressed in the oath of the students.

III. ORLEANS.

A school, in all probability a law-school, existed at Orleans at a very early day. The first distinct indication of this is found in the account of a violent fight between citizens and scholars in the year 1236, in which several foreign students, of noble families, were killed. A pontifical *privilegium* was granted by Clement V, in 1305, which states that the reputation of this school had been for a long time great in both branches of the law, especially in Roman law, and the pope was indebted to it for his education; he therefore recognized it publicly, giving to it the privilege of promotion and the *privilegia* of Toulouse (the same as of Paris.) The king confirmed this foundation in 1312, with a remarkable condition. It is strange that this school of Roman law originated so early in Orleans, in a portion of France in which the Roman law had no authority, and for this reason the king expressly declared that this confirmation of the law-school should make no change in the system of law there used. Thus only a law-school was established, which it has remained ever since. The addition of a faculty of theology and philosophy was impossible on account of the jealousy of the neighboring university of Paris.

The scholars were divided into ten nations, which, in 1538, were reduced to four, and at the head of each nation was a procurator. The assemblies of the university consisted of the professors and procurators of the nations. The German nation had special privileges, its members, without distinction, enjoying the privileges of nobility. They possessed a considerable library, and their affairs were conducted by twelve senators, half of whom were required to be Germans proper, the other half Netherlanders; also one-half Catholics, and the other Protestants. Among others, this nation had, as late as the 18th century, the singular right of free entrance to the theatre and to the first seats in the same.

A rector presided over the university, who at first was elected by the professors and procurators; afterwards by the professors and the procurator of the Germans. It is nowhere recorded whether scholars could obtain the office of rector, but in 1307 and 1320, doctors appear as rectors.

Two royal officers, as conservators of the university, the bailiff and provost, administered the civil jurisdiction. The members of the German nation, by special privilege, were subject to the bailiff. Criminal jurisdiction was first vested in the bishops, but after 1520 in the royal officers also. The jurisdiction of the rector related without contradiction only to matters of the school or of discipline.

Professors were appointed by election, after a competitive examination of candidates, in which the royal and city officers had an advisory voice. In 1512 there were among the ordinary professors five of civil and three of canon law; afterwards this number was reduced to five. Until the year 1583 they received no salary; afterwards 600 and 800 *écus* annually.

The promotions were under the supervision of the dean of the cathedral, whom pope Clement V had first appointed chancellor of the university. There are no more detailed accounts of the earlier period. At the beginning of the 17th century it was in great favor, on account of its cheapness, and many Germans obtained their degrees there.

IV. TOULOUSE, VALENCE, AND OTHER UNIVERSITIES IN FRANCE.

There are but few of the other French universities whose history and constitution are at all known.

Toulouse.

The university at TOULOUSE was founded by pontifical decree in 1233, for the purpose of suppressing the Albigenses. Count Raimund IV, of Toulouse, had protected them, but in his submission was obliged to give the sum of 4,000 silver marks, to be expended to found a new university, for the support of four teachers of theology, two of law, six *artistæ*, and two teachers of grammar. For a theologian, 50 marks yearly were assigned; for a decretist, 30; for one of the *artistæ*, 20; for a grammarian, 10. This bull therefore established a university for all the sciences, (none being specially named or excepted,) and it gave to the new institution all the privileges of Paris, especially the clerical jurisdiction in all cases where its members appeared as complainant or defendant. According to a pontifical decree of the year 1245, the chancelor of the cathedral was at the same time chancelor of the university. He was charged with a minute personal examination of the theological and law students, but over other degrees he had only that general supervision possessed at other universities. One might easily believe that the Roman law was purposely excluded, but this was not the case, there being no provision for that department simply because it was foreign to the direct aim of the foundation, though not at variance with it. Hence the original act of foundation included all sciences without exception, and the edict of 1245 clearly proves this. Such a university has always existed at Toulouse, and there is no trace of any later organization of it.

Valence.

The time and manner of the origin of the faculty of VALENCE is unknown. However, it had a free constitution of the scholars, which maintained itself up to very recent times. For Cujacius delivered two addresses in 1572 and 1573, on the installation of new rectors, and both rectors must have been students, for at the second installation it was stated that in the election the former customary consultation with the professors had been omitted, from which one may infer that great liberty was possessed by the students.

Bourges.

The BOURGES university was founded in 1464. It had five faculties and the dean of the cathedral acted as chancelor of the university. The bailiff's lieutenant, as royal conservator, held jurisdiction. The rectorate changed every three months, and probably there was also a free constitution of the students.

Lyons.

Distinct traces show that law-schools existed in the 13th century which afterwards disappeared altogether. Thus in 1290 a dispute arose between the archbishop and chapter of Lyons, as to who was authorized to license canonists and civilists, which presupposes the existence of a law-school. Likewise a German poet speaks of a number of legists in Vienne, which also points to a prosperous school of jurisprudence.

III. UNIVERSITIES IN SPAIN, PORTUGAL, AND ENGLAND.

SALAMANCA.

SALAMANCA was founded in the 13th century, and received its statutes in the year 1422, out of which was developed the following constitution. The rector, with eight *consiliarii*, all students, who could appoint their successors, administered the university. The doctors render the oath of obedience to the rector. The "*domscholaster*" is the proper judge of the school; but he swears obedience to the rector. A bachelor of law must have studied six years, and after five years more he could become licentiate. In filling a paid teachership, the doctor was chosen next in age of those holding the diploma, unless a great majority of the scholars objected, in which case the rector and council decided. This liberal constitution for the scholars is in harmony with the code of Alphonzo X, soon after 1250, in which the liberty of instruction was made a general principle of law. This constitution continued in Salamanca into the 17th century, for Retes speaks of a disputation which the rector held at that time under his presidency.

ALCALA.

ALCALA UNIVERSITY was established by cardinal Ximenes, in 1510, for the promotion of the study of theology and philosophy, for which reason it contained a faculty of canon, but not of civil law. The center of the university was the college of St. Ildefons, consisting of thirty-three prebendaries, who could be teachers or scholars, since for admission were required only poverty, the age of twenty, and the completion of the course of the preparatory colleges. These thirty-three members elected annually a rector and three councilors, who controlled the entire university. Salaried teachers were elected, not by the rector and council alone, but by all the students. It had wide reputation. When visited by Francis I, while a prisoner of Spain, he was welcomed by 11,000 students.

COIMBRA.

The COIMBRA UNIVERSITY, in Portugal, received statutes in 1309, from king Dionysius, with a constitution similar to those just mentioned.

OXFORD AND CAMBRIDGE.

The foundation of the two great ENGLISH UNIVERSITIES is uncertain; that of Oxford being about 1130, and that of Cambridge about 1257. Their constitution was formed after that of Paris, and concentrated all the power in the teachers, placing the students under strict subordination. However, these universities managed to secure a greater independence of the royal power than the school of Paris ever possessed.

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* According to Prof. de Viriville, the earliest Christian University in Spain was instituted in 1209, by Alfonzo VIII, king of Leon, at Palencia, from which it was transferred in 1239 by his grandson, Ferdinand, to Salamanca. Prior to this date, schools of the highest learning existed in Cordova, under the government of the Moors, to which Christian princes sent their sons. Salamanca had at one time twenty-four colleges, and in no country did the rector receive more public respect.

† In the original constitution of the Universities of Scotland, viz., of St. Andrew, by Papal Bull in 1413 by Benedict III, and the second erection of St. Mary's College in 1553; of Kings College, (Aberdeen,) in 1494, by the bull of Alexander VI; of Glasgow, ratified by Pope Nicholas V in 1451; the faculties of canon and civil law are expressly enumerated with those of theology and arts. In the original charter of Edinburgh, granted by King James VI, in 1582, law is not included, although law was taught at Edinburgh as early as 1592.

Remarks on the Universities.

Some general remarks on the nature of the superior schools of the Middle Ages and their titles will be offered in conclusion.

The Name.

The name *universitas* does not designate the school as such, but, in a true Roman sense, the corporation formed on founding the school. Who composed this corporation, who ruled over it and held office, depended on the particular constitution of each school. Hence in Bologna the name of *universitas scholarum* was in common use; while in Paris it was *universitas magistrorum*. Nobody then ever thought of the modern use of the word, having reference to a universality of studies and instruction. Such an idea was impossible at a time when many schools contained a *universitas juristarum*, and by the side of it a *universitas artistarum*.

The school, as such, was named *schola*, and after the 13th century, generally named *studium*. The honorary title of a superior school was *studium generale*. This expression has by many been considered as referring to a system of instruction upon all departments of learning, which again is wrong; first, because such generality was never considered the main object of any of these renowned schools, so that this name (*generale studium*) was sometimes limited to one faculty, or could be taken away from any single faculties without being any less *studium generale;* and again, because this name often designates one faculty. It was rather intended to indicate the general or broad nature of the highest schools, since in the first place they admitted both natives and foreign scholars from all parts of the earth, and secondly conferred a degree of doctor, which was universally acknowledged by all governments and other high-schools. The extent of each of these two depended necessarily upon the school's having, by a sufficient number of famous teachers, obtained the necessary respectability.

As regards the origin of these schools, this is intimately connected with the meaning of the title. Wherever a sufficient number of teachers congregated, who were able to establish their reputation, there the school actually existed, without needing any act of foundation by magistracy, pope, or emperor. With respect to public authorities, their coöperation may be thought to have been necessary in providing means to meet expenses, or in obtaining leave to teach, but they had at first no expenses to defray, since they paid no salaries, and it was not thought necessary to ask special permission, because the school brought honor and advantage to the city.

Authority of the Pope.

It has been often said that the pope, according to the original views of the Middle Ages, had the exclusive right of founding universities. In this, three points should be distinguished: the foundation of the school in general; the establishment of the office of chancellor, and the erection of a faculty of theology. Least of all for the foundation in general could such pontifical power or right be considered to exist. Paris, Bologna, and Padua never obtained any letter of foundation, and in those granted to Montpellier and Orleans, it is expressly stated that they were an acknowledgment for their long existence as schools of high reputation. Now, since the pope never contradicted their legal-

ity, it is evident that he never regarded the grant by himself as necessary to their full and legal existence. That in the course of time many pontifical decrees for the foundation of universities were issued, is accounted for in the following manner. When a new school grew up by the side of old and renowned faculties, it must have been, for a long time, doubtful whether it could actually claim the rank of university, and especially whether the degrees by it conferred would be universally respected. To the teachers of such a school, therefore, nothing could be more desirable than for the pope to declare it a *studium generale*, since such official acknowledgment was recognized in all countries belonging to the Roman Church. The pope, on his part, willingly availed himself of this means of extending his authority into distant countries. It is therefore an error to suppose, as Meinere does, that the pontifical approbation was necessary to establish a legal superior school, and that the foundation of one in Naples, by Frederic II, in 1224, was an infringement of papal rights; especially as the earliest (that of Toulouse) papal decree of foundation for any school bears date, 1223.

Office of Chancellor.

The establishment of the office of chancellor rests on much the same basis. The two Paris chancellors never asked or received the confirmation of the pope, and they did not need it, since the university had grown out of their foundation schools, which, according to the canon law, required a license from the clerical authorities. In Bologna the pope filled this position, not that legal promotion could proceed from him only, for he did not dispute the legality of former promotions, but because he considered the measure necessary to avoid abuses. In Padua the professors elected a chancellor, and the pope limited himself to his confirmation. Likewise in Montpellier there was a chancellor long before it became customary for the pope to give confirmation. In the decrees for the foundation, the pope always appointed the chancellor also; but clearly not with any other intention than for that purpose for which he had been originally requested to found the school, namely, to secure to the degrees conferred by that school a universal acknowledgment.

Faculty of Theology.

It was different, however, with faculties of theology, which, in Bologna and Padua for example, were first established and founded by the pope, while all the rest was independent of such a foundation. But here also the direct interference of the pope resulted from the nature of the matter, and indeed one might readily expect that, however free were the other branches of study, no other theological instruction whatever, but such as was approved by the pope, would be allowed. Nevertheless, not even in theology was the principle fully carried out, since the school of Paris never received any consent; and that of Montpellier existed long before the pope acknowledged its standing.

Authority of the Emperor.

Similar to the papal relation was the relation of the emperor to these schools. If he too granted the privilege of *studium generale*, it followed in the nature of things that the promotions of the faculty were universally honored and acknowledged, so that the confirmation of the emperor had the same effect as that of the pope, but neither of them was absolutely necessary. Another principle was afterwards adopted in the constitution of German universities; but we are now considering only the original conditions and customs outside of Germany.

LAW-LECTURES IN THE EARLY UNIVERSITIES.

THE GLOSSATORS AS TEACHERS.

In giving the history of the universities, attention was paid to the lectures only from their general and formal side. At present we must set forth the far more important relation in which they stood towards law. The inquiry must be directed to two objects; firstly towards the division of the subject among different lecturers, and the relation of single teachers and students thereto; secondly, towards the conduct of the courses by the teachers, and the habits of the students in regard to them. Great difficulties lie in the way of the whole investigation, owing to our imperfect information. Panzirolus' account is completely unreliable, since in it partly opinions prevalent in his time, partly isolated incidents taken from earlier writers, are woven into a whole, no regard being paid to the fact that different regulations prevailed at different times and places.

Very useful in this investigation are those oldest descriptions of the systems adopted, which remain, partly in the shape of monographs written for the purpose, partly in preface to other writings or lectures. I will cite these to serve as a guide to future investigations in my path.

In the first class comes the very small and too general notice of Martinus de Fano. Also the *Modus studendi in utroque jure* of J. Baptista Caccialupus Leverinas, and on the same subject, a book by J. J. Camis, published as early as 1476, and often since then.

In the second class, note especially the introduction to a Summary by Hergolinus, upon the Pandects, and the never-published introduction of Odofredus to his lectures upon the *Digestum vetus*.

In these books, *litera* denotes the text, *lectura* an oral interpretation; *legere* refers to the mode of interpretation.

The lectures themselves, at Bologna, and undoubtedly in other places, were restricted to the five parts of the *Corpus Juris*, so that, as a rule, five principal lectures were given, among which two might be "ordinary," the three others always "extraordinary." That all these lectures were really delivered can be at once shown in most cases, since lectures of Odofredus upon the three *Digests*, and upon the nine books of the *Codex*, yet remain, and are in print.

Similar lectures upon the *Volumen* as such no longer exist, but their existence can be conjectured from the gloss upon all its parts upon the summary of Johannes to the *Authenticum*, and from the printed lectures of Odofredus upon the three last books of the *Codex*. It becomes certain, however, from the fact that such lectures appear in the statutes of the university at Bologna in yet later times, when such an inconvenient junction of dissimilar subjects into one course would have been dispensed with, instead of being newly adopted. Along with this regular arrangement we find, however, many very early deviations from it. For example, in the 13th century occur separate lectures upon the Institutes, although they were also contained in the *Volumen*, and were by the statutes expressly connected with the common lectures upon the *Volumen*. At first each of these main courses of lectures lasted a complete term, which was one year in duration, while the disparity in the extent of subjects was obviated by beginning earlier and ending later, or by giving more lectures in a week.

In earlier times, a course occupied only one hour a day, and it is doubtful if, even in later times, a different arrangement was made. No teacher, however, limited himself to one subject, but took them up in order, which explains how students were able to connect themselves with single teachers, during their whole period of study. Nor was it unusual for one teacher to deliver several courses at once, during the same season. Complete information in regard to later changes in this arrangement is wanting. I will bring together here what I have ascertained upon the subject.

At Bologna the statutes contain the following provisions: Each of the three Digests and the *Codex* were read by two doctors at the same time. One read the first half, the other the second, and each occupied with his part that whole year's course, which had been originally assigned to the whole for one lecturer. Whence it follows that the time for the lectures was doubled, and, notwithstanding, in this system arrangements were made so that every scholar could hear the whole *Digestum vetus* in a year. The *Volumen* was, as in former days, to be explained by one person alone, and if possible, entirely. If any part of it remained, the teacher was to go over this part at the beginning of the next course. Similar provisions were made for the sources of the canon law. However, this whole arrangement can not have an earlier date than the second half of the fourteenth century, since it was necessary that salaried teachers should be provided for these places; the majority of salaries, however, begin to be paid at this time. Besides, it is evident that the exclusive relationship of students to a particular teacher was already completely abandoned.

The teacherships appointed for the students have no connection with this investigation, since they evidently were intended more for the profit and drilling of these students than as a material addition to the corps of instructors. A similar arrangement, for similar purposes, was entered into at Montpellier by the statutes of 1339. Here also was each Digest, and also the *Codex*, to be intrusted to two teachers at once in the same year. Here, however, it was not considered sufficient, as at Bologna, to simply divide each original work into a first and second volume, but a somewhat more elaborate mode of division was adopted, and the *Codex* was so divided into the *Ordinarium* and *Extraordinarium* that each of the two had particular books and even parts of books assigned to him. This elaborate arrangement, prevailing at Montpellier, appears to have been then adopted by other schools.

In regard to the arrangements at Padua in the second half of the 15th century, Caius gives the following information.

The complete course of instruction in Roman law lasted four years; one year for the *Institutes*, two years for the *Digestum vetus* and *Infortiatum*, two years for the *Codex* and *Digestum Novum*. The *Digestum vetus* was, for the whole two years, read in the morning, the *Infortiatum* in the afternoon, and the same regulation was observed for the *Codex* and the *Digestum Novum*. But the *Volumen* was no longer in use. In the statutes of Padua, and yet more in detail in the Fasti of Facciolati, are mentioned a great number of nominal professors, and it is not clear what lectures were really delivered and were considered as essential parts of a complete course of instruction in Roman law. Among others, appears a particular professorship for the *Authenticum*, one for *Tres Libri Codicis*, one for the book of feudal law. In the year 1544, besides the courses already existing, were also instituted especial courses upon Text,

Gloss, and Bartolus, for which five professorships were established, two in the morning, two in the evening, and one *Tertia*. The most important professorship, however, was that established in the year 1422, for the *Codex Gregorianus, Hermogenianus et Theodosianus*, which position is said to have never been filled after 1687. So much zeal for studies upon legal history is nowhere again encountered, even in later times, and is all the more remarkable as happening at that period. It is, however, not improbable that the whole story rests upon an erroneous basis.

It is instructive to see to what fatal excesses this extension of material led at last. Alciat complains that, in his day, only a few passages were explained every year, so that the greatest part of the study upon the sources was left to private diligence. In yet stronger terms does Panzirolus describe the abuses of his time; the lecturers had continually departed more and more from the text, and busied themselves with the glosses, and the trouble had gone so far that in the principal lectures only five parts of the *Corpus Juris* were treated of in the entire year, and even these no longer, since very important parts of the law were considered only as subjects for extraordinary lectures.

In Pisa, as early as the beginning of the 16th century, a curriculum was by law established, which was certainly based upon previous practice. By this, only a few titles from each part of the Digests were to be explained in a year. It is almost incredible that at Pisa and Sienna the same arrangement prevails to-day.

As to the particular courses attended by particular students, our information is, as might be expected, even more imperfect. As essential, were regarded only the lectures upon the regular books. Doubtless these books were studied by all without exception, the other books by many who made arbitrary selection among them; only those who were particularly earnest and zealous, hearing all. Petrarch, for instance, heard the whole *Corpus Juris*.

Connected with this is the time which a student was to devote to these studies. Rules were laid down only for such students as desired degrees, or at least wished to give lectures, and it was natural that for these cases a longer time than the usual period of study should be demanded.

At the time of Odofredus, the course appears to have been longer than five years. However, the statutes of Verona, in a manuscript of 1228, demand only three years of law study from those who were to become the magistrates of that city. Petrarch studied seven. In the 15th century, the full course of Roman law at Padua was already limited to four years. A regular succession in the lectures heard does not appear to have been thought necessary; they were rather so arranged as to be at once useful to beginners and advanced students. One cause of this was the constant connection between a student, during his whole course of study, and a single teacher, making it necessary for the latter to adapt his lectures to all classes of hearers.

As to the age at which the students commenced their studies, it can only be said that, in general, a riper age than in our times was expected, from which circumstance alone the then existing constitution of the universities is to be explained. This riper age was, moreover, demanded in the case of foreigners by the long and often dangerous journeys necessary to reach the universities; but the case may have been otherwise with natives. But even among the for-

eigners were, at an early period, some remarkable exceptions. Petrarch began at his fifteenth year, and in a strange city.

As a rule, the student limited himself to the lectures upon Roman law, or added lectures upon canon law only; to connect other studies with these was, at first, very unusual. Only the lectures upon the art of a notary may, exceptionally, have been attended by jurists also. The notaries formed, in all important cities, their own guilds, choosing their own officers, and being especially careful that new members should be qualified. Such a guild of notaries may have already existed at Bologna at a very early period. But here it happened, through imitation of the famous law-school in the same place, that they also took the form of such a school, had their own lectures, and gave the degree of doctor. As now their business stood in close connection with the jurists proper, their school may very readily have been looked upon as a part of the law-school; they even read the Institutes often, and it is probable that in the same manner, many jurists attended their lectures, which may have been regarded as a practical branch.

Let us now inquire into the mode of conducting a single lecture. The teacher was accustomed to give, at first, a summary of the whole chapter; in each passage he first read the text, according to his opinion of the correct form of it; to a complete exposition of the text belonged first its *casus;* then the explanation of apparent contradictions in other places; the general law principles therein involved; finally, real or fictitious cases to which it applied, which last, if they were to occupy too much time, were referred to the "repetitions." This was the general plan, which, however, was not strictly carried out in individual cases, as the printed lectures of Azo and Odofredus show, but was modified according to the demands of each particular case. Odofredus boasts of himself that he explained the whole, without omission, and the glosses, as well as the text. As to the delivery of the lectures, general rules can be given for those times no more than for ours. With many lectures, however, it is evident at a glance that they must have been delivered with perfect freedom; *e. g.* the lectures of Odofredus, in which the vivacity and familiarity, and at the same time the carelessness of oral delivery are not to be overlooked. Carefully polished lectures are common enough, but such polish was, as will be readily seen, not given to the whole course, but to the exposition of particular passages.

As to the students' occupation in the lecture-rooms, it appears that taking notes was just as general as at present, of which we have evidence in the frequent printing of the same. In this respect differing from the German customs, the students could interrupt and ask questions during the lectures, but this was not usual, though sometimes practiced in the morning, *i. e.* during the regular lectures. But at the present day, in Italy, a student will sometimes ask the lecturer if he has rightly understood some word.