From “Latin” to the Vernacular: Latin-Romance Hybridity, Scribal Competence, and Social Transformation in Medieval Castile

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Abstract:
This study presents an alternative interpretation of language represented in Latin-Romance hybrid documents of early-thirteenth-century Castile based on analysis of local legal documents produced by Nicholaus Martini, a scribe of the city of Burgos. Most scholars have attributed hybrid practices primarily to some kind of scribal ignorance of “Latin” norms. In contrast, we highlight evidence of scribal competence by focusing on the production of a single, typical scribe, arguing that he (and peers) worked within a monolingual culture characterized by spectroglossia. The patterns of switching, mixing, and blending of registers in Nicholaus’s texts cannot be accounted for primarily as a result of incompetence. Rather, they develop as conventions in response to larger sociocultural changes (e.g., urbanization, laicization) and a number of social and cultural factors that favored representation of “Latin,” representation of “Romance,” and representation of a hybrid register. In so doing, we also argue against an overemphasis on ease of comprehension as a factor shaping the design and reception of written texts and oral performances of them. The study suggests that this type of hybrid document corresponds to a period that set the stage for subsequent development of practices and conceptions that differentiated sharply between Latin and Romance(s) as separate languages.

The use of Latin and local vernaculars in written texts of medieval Europe has long drawn the attention of historians. The relations between them were diverse, with Latin (or whatever language registers were held to constitute “Latin”) being “inherited” in some places (in what we now refer to as Romance-speaking zones) and imported in others (where Celtic, Germanic, and Slavic speech predominated). Whatever the relation between “Latin” and the vernacular, eventual shift to predominant use of vernaculars would occur everywhere. This shift, however, was far from uniform with regard to time, location, genre, and other textual and institutional manifestations.[1]

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[1] See Colin C. Smith, “The Vernacular,” in *The New Cambridge Medieval History*, vol. 5, *c. 1198–c. 1300*, ed. David Abulafia (Cambridge, UK, 1999), 71–83. We note too that the process was not limited

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Consequently, the history of the shift from Latin to the vernacular is in reality a set of diverse local shifts that need to be accounted for in relation to both broad processes of change and local contextual factors. This diversity was also true within Romance-speaking areas, where the shift from writing in "Latin" to writing in "Romance," as well as the development of a conceptual distinction between them, came about in different ways in different times and places.

Within Romance-speaking areas, the high to late Middle Ages saw ever more diverse types of written documents gradually shift from being prepared in "Latin" to being prepared in transparent representations of Romance vernaculars.[2] With regard to Castile, scholars have often commented on the apparent lateness of use of local Romance in literary texts (compared with both northern and southern France) and local legal documents (compared with southern France),[3] but they have also drawn attention to the remarkably rapid (and, in this sense, early) regularization of the use of Castilian Romance in local and royal legal documents. Royal use of Romance had its first glimmerings (e.g., the 1206 Treaty of Cabreros) under Alfonso VIII of Castile (1158–1214) and Alfonso IX of León (1188–1230), developed greatly under King Fernando III of Castile and León (1217–52), and was consolidated under his son, Alfonso X (1252–84).[4] This early regularization of Castilian has been linked to diverse political factors. For instance, it has been observed that Fernando III had a practical need for easily produced and comprehended documents as he and his chancery moved about and waged war in southern frontier zones (particularly from the 1230s).[5] However, Alfonsine regularization and naming of Castilian (as *lenguaje castellano*) was

to the medieval period, and continued in places and genres even into the nineteenth and twentieth centuries. See Peter Burke, "'Heu Domine, Adsunt Turcae': A Sketch for a Social History of Post-Medieval Latin," in *The Art of Conversation* (Ithaca, NY, 1993), 34–65.

[2] For a useful overview, see Barbara Frank-Job and Maria Selig, "Early Evidence and Sources," in *The Oxford Guide to the Romance Languages*, ed. Adam Ledgeway and Martin Maiden (Oxford, 2016), 24–34.

[3] Frank-Job and Selig, "Early Evidence and Sources," make a distinction between very early texts (mostly eighth–eleventh centuries) with insertions of "Romance" into otherwise "Latin" texts (often oaths, testimonies, or marginal glosses) and later early texts in continuous "Romance." In northern and southern France, from the time of Charlemagne, "cultural memory" texts (or what we refer to loosely as "literary" texts) included songs, sermons, and (by the twelfth century) transcriptions of epic poetry and plays. In southern France, local legal documents in continuous Romance began with eleventh-century oaths of fealty. There and elsewhere, notes to longer "Latin" documents and lists of inventories and expenses can also be found.

[4] During the 1230s, 34 percent of Fernandine chancery documents are written in nearly or fully continuous Romance, and nearly double this amount in the years between 1241 and 1252. See Pilar Ostos Salcedo, "Cancillería castellana y lengua vernácula: Su proceso de consolidación," *Espacio, Tiempo y Forma*, Serie III, *Historia Medieval* 17 (2004): 471–83, at 479. Some of these still retain introductory and concluding formulaic parts in Latin. Under Alfonso, all chancery documents dealing with internal affairs are prepared in Castilian Romance. The shift in the royal chancery was paralleled by a shift to continuous Romance in local legal documents as well.

[5] See Pedro Sánchez-Prieto Borja, "Sobre la configuración de la llamada *ortografía alfonsí*," in *Actas del III Congreso Internacional de Historia de la Lengua Española: Salamanca, 22–27 de noviembre de 1993*, ed. A. Alonso González et al., 2 vols. (Madrid, 1996), 1:913–22; Manuel Ariza Viguera, "Fernando III y el castellano alfonsí," in *Estudios de lingüística y filología españolas: Homenaje a Germán Colón* (Madrid, 1998), 71–84; and Ray Harris-Northall, "Official Use of the Vernacular in the Thirteenth Century: Medieval Spanish Language Policy?," in *Advances in Hispanic Linguistics: Papers from the 2nd Hispanic Linguistics Symposium*, ed. Javier Gutiérrez-Rexach and Fernando Martínez-Gil, 2 vols. (Somerville, MA, 1999), 1:152–65.

also clearly motivated by the wish to give voice to royal authority in the language of the king himself and of (the majority of) his people within a protonational state, and in so doing to further distinguish royal from ecclesiastical authority and its insistence on use of Latin.[6]

Nevertheless, this early regularization of use of Castilian Romance in royal documents did not spring ex nihilo: it was built on (and would further) prior and contemporary shifts in understandings and practices at the local level. Transparent evidence for such shifts can be found from the late twelfth and early thirteenth centuries in occasional documents prepared in (nearly) continuous Romance, but in our view, the shift from "Latin" to the vernacular in medieval Castile developed gradually in local legal texts characterized by a particular sort of Latin-Romance linguistic hybridity.[7]

Latin-Romance hybrid texts combine representations of language that modern observers tend to identify as "Latin," "Romance," or mixes of both. Such hybrid texts are well known to have occurred across Romance-speaking regions during the Middle Ages, but their characteristics are not necessarily the same in each time and place. For instance, in central northern Iberia hybrid texts appeared in ninth- and tenth-century León, in a register that Spanish historian and philologist Ramón Menéndez Pidal famously labeled "Leonese Vulgar Latin."[8] However, in Castile a Latin-Romance hybridity with different characteristics (see below) became common in local legal documents from the late twelfth century, and remained in regular use up to the 1230s. From that time, local legal documents (as well as royal documents) began to be prepared in continuous Romance, or at times in continuous (reformed Medieval) Latin, but no longer in apparent mixtures of both.

How and why were such texts produced? How was their linguistic hybridity linked to other sociocultural changes? How were they understood and how should we understand them today, particularly with respect to the transition to vernacular writing? Scholars have interpreted Latin-Romance hybrid texts of Castile in diverse ways, but most have tended to assume that the hybrid form of these texts is largely attributable to some kind of scribal incompetence (this is sometimes evidenced by use of the label "corrupted Latin" to describe the language employed in them).We adopt a different perspective, and in this study we argue that hybrid texts can best be accounted

[6] See Manuel González Jiménez, "El reino de Castilla durante el siglo XIII," in *Historia de la lengua española*, ed. Rafael Cano Aguilar (Barcelona, 2004), 357–79; the second chapter of David Rojinsky, *Companion to Empire: A Genealogy of the Written Word in Spain and New Spain, c. 550–1550*, Foro Hispánico 37 (Amsterdam, 2010), 59–91; and the discussion of "vernacular jurisdiction" in Jesús R. Velasco, *Dead Voice: Law, Philosophy, and Fiction in the Iberian Middle Ages* (Philadelphia, 2020), 53–79.

[7] The feudal contract for the castle of Alcozar has been dated to 1154–56 and may constitute a case of exceptionally early use of continuous Romance in Castile. However, the dating of the document is not absolutely certain. See Ángel Canellas, "Un documento soriano romanceado: Infeudación del castillo de Alcozar hacia 1156," in *Homenaje a Francisco Yndurain* (Zaragoza, 1972), 107–27, and Timoteo Riaño and María Carmen Gutiérrez, "Documentos de los siglos XII y XIII del archivo de la Catedral de Burgo de Osma," in *Archivo de filología aragonesa* 18–19 (1976), 217–82, at 228–31.

[8] Ramón Menéndez Pidal, *Orígenes del español: Estado lingüístico de la Península Ibérica hasta el siglo XI*, 3rd ed. (Madrid, 1950), 454–60. For a discussion of characteristics of Leonese Vulgar Latin texts that contrasts usefully with our analysis of later Castilian Latin-Romance hybrid texts, see Carmen Pensado, "How was Leonese Vulgar Latin read?" in *Latin and the Romance Languages in the Early Middle Ages*, ed. Roger Wright (London, 1991), 190–204.

for by situating both the texts and the scribes who produced them within broad and local linguistic, economic, social, and cultural contexts. More specifically, we argue that the scribes who produced such texts showed substantial linguistic and communicative competence with respect to the contexts in which they worked, and that their work paved the way for subsequent full transition to Romance in Castile.

In making these arguments (and for reasons to be explained below), we will focus on the hybrid usage of a single, representative scribe of the northern Castilian city of Burgos: Nicholaus Martini. This scribe produced local legal documents that mixed "Latin" and "Romance" in both conventional and innovative ways during the early decades of the thirteenth century that immediately preceded the more or less complete regularization of Romance vernacular writing as fully distinct from Latin. Crucially for our purposes, Nicholaus's documents demonstrate an ability to use and choose among different registers, including continuous reformed "Latin," continuous "Romance," and a partly conventionalized Latin-Romance hybrid register that was typical of Castilian scribes in the late twelfth and early thirteenth centuries. By analyzing this scribe's representation of "Romance" and "Latin" (understood as registers) in a range of local legal texts, we aim to show that the hybridity of his texts was not primarily influenced by ignorance of "Latin" (or even "Romance") norms, but rather by apparently effective communicative efforts to balance competing needs and demands within the social and cultural contexts in which he worked.[9]

In what follows, we first describe briefly, in section 1, the corpus on which we base our analyses and interpretations. We then explore the linguistic and sociocultural contexts in which Nicholaus worked. In section 2, we review a range of perspectives of language historians who have studied the status of hybrid documents, the question of scribal competence, and the relation of these to the development of the conceptual distinction between "Latin" and "Romance," which must be understood as inextricably bound to the process of shift to continuous vernacular writing within Romance-speaking regions. In section 3, we situate Nicholaus and his textual production within broad and local sociocultural contexts and changes, relating these to the discussions of language historians while also highlighting aspects and processes that have not generally been of primary concern to language historians. Following this, section 4 provides a detailed analysis of the general patterns of representation of "Latin" and "Romance" found in Nicholaus's texts. Section 5 evaluates the nature and level of his linguistic and communicative competence, and provides an account of key social and cultural factors that influenced (and were influenced by) his linguistic choices. Section 6 turns to the problem of comprehensibility, focusing on the ritualistic reading aloud of legal documents and the (changing) indexical values of "Latin" and "Romance."

1. Corpus

This study is based on analysis of transcriptions of fifty-three manuscript documents produced and signed by Nicholaus Martini between the years 1211 and 1228.

[9] We place quotes around "Latin" and "Romance" when we believe it necessary to highlight our use of these terms as convenient, modern labels for the idealized high and low registers of written language used in the Burgos community.

When possible, we refer to paleographic transcriptions that have been prepared for inclusion in the online Corpus Histórico del Español Norteño (CORHEN).[10] These include documents from the following archives: Monastery of Santa María de las Huelgas of Burgos (six documents), Cathedral of Burgos (forty-two documents), Archivo Municipal de Burgos (two documents), Archivo Histórico Nacional of Spain (three documents, two of which come from the collection of the Monastery of Nuestra Señora de Bujedo de Juarros, located some twenty-five kilometers to the southeast of Burgos, and one from Santa María de Aguilar de Campoo, located in Palencia, about eighty kilometers to the northwest). We also refer to transcriptions that have been published previously in collections of documents belonging to the Cathedral of Burgos, the Monastery of Las Huelgas, and the Monastery of Santa María de Aguilar de Campoo.[11]

Although only fourteen of the transcriptions are based on original parchments, the general consistency in the handwriting and its development over time suggest that the original parchments were written by Nicholaus Martini himself. (Fig. 1) For this reason, we privilege evidence from these originals, particularly those prepared for CORHEN (note, however, that some of these remain unpublished). All thirty-nine of the transcriptions from the Cathedral of Burgos included in José Manuel Garrido Garrido are based on copies included in volume 70 of a cartulary prepared in the mid-thirteenth century.[12] Despite having been copied at a time when use of continuous Latin or Romance had become the norm, the cartulary versions of Nicholaus's documents follow the same patterns of variation as found in the originals, and we therefore consider them valuable sources of supporting evidence for the patterns found in the smaller number of original documents.

Nicholaus's documents belong to two main genres: property transfers (fifty-one documents) and *remembranzas* (two documents). The property transfers may be further subdivided into *compraventas* [deeds of sale], property exchanges, and donations/bequests, but they all share similar representations of language. The two *remembranzas*

[10] Corpus Histórico del Español Norteño (CORHEN), coord. María Jesús Torrens-Álvarez http://corhen.es (last accessed 5 May 2021). This corpus consists of private (not ecclesiastical or royal) documents written in the area of Castile between the tenth and late thirteenth centuries. It offers both paleographic and critical editions of each document. Each paleographic edition presents all the graphic representations of each manuscript in order to facilitate research on orthographic and phonetic-phonological features. Each critical edition removes many of these details, in order to facilitate reading of each document and research on syntactic, lexical, and discursive features.

[11] When referring to specific published documents, we indicate the source collection using the initials of the editors (along with the numerical identification used for that document in the relevant collection): GG = José Manuel Garrido Garrido, ed., *Documentación de la Catedral de Burgos*, vol. 2 *(1184–1222)*, Fuentes Medievales Castellano-Leonesas 14 (Burgos, 1983); LG = José Manuel Lizoain Garrido, ed., *Documentación del Monasterio de Las Huelgas de Burgos*, vol. 1 *(1116–1230)*, Fuentes Medievales Castellano-Leonesas 30 (Burgos, 1985); and RD = José Luis Rodríguez de Diego, ed., *Colección diplomática de Santa María de Aguilar de Campoo (852–1230)* (Salamanca, 2004). For documents already available on CORHEN (all originals), we indicate CORHEN and the relevant identification number. We also indicate the archive and catalogue number for all CORHEN documents, whether already published online or still being prepared for online publication. We use the following abbreviations to identify archives: ACB = Archivo de la Catedral de Burgos; AHN = Madrid, Archivo Histórico Nacional; AMB = Archivo Municipal de Burgos; and AMHB = Archivo del Monasterio de Las Huelgas de Burgos. When a document appears in more than one collection of transcriptions, we indicate all sources.

[12] Garrido Garrido, ed., *Documentación de la Catedral de Burgos*, vol. 2 *(1184–1222)*.

(both originals) are reports about a *pesquisa* or judicial inquiry to ascertain the facts relating to past ownership, limits, and/or features of pieces of property. They differ strikingly from the property transfers with regard to their legal and communicative function, and in their representation of language.

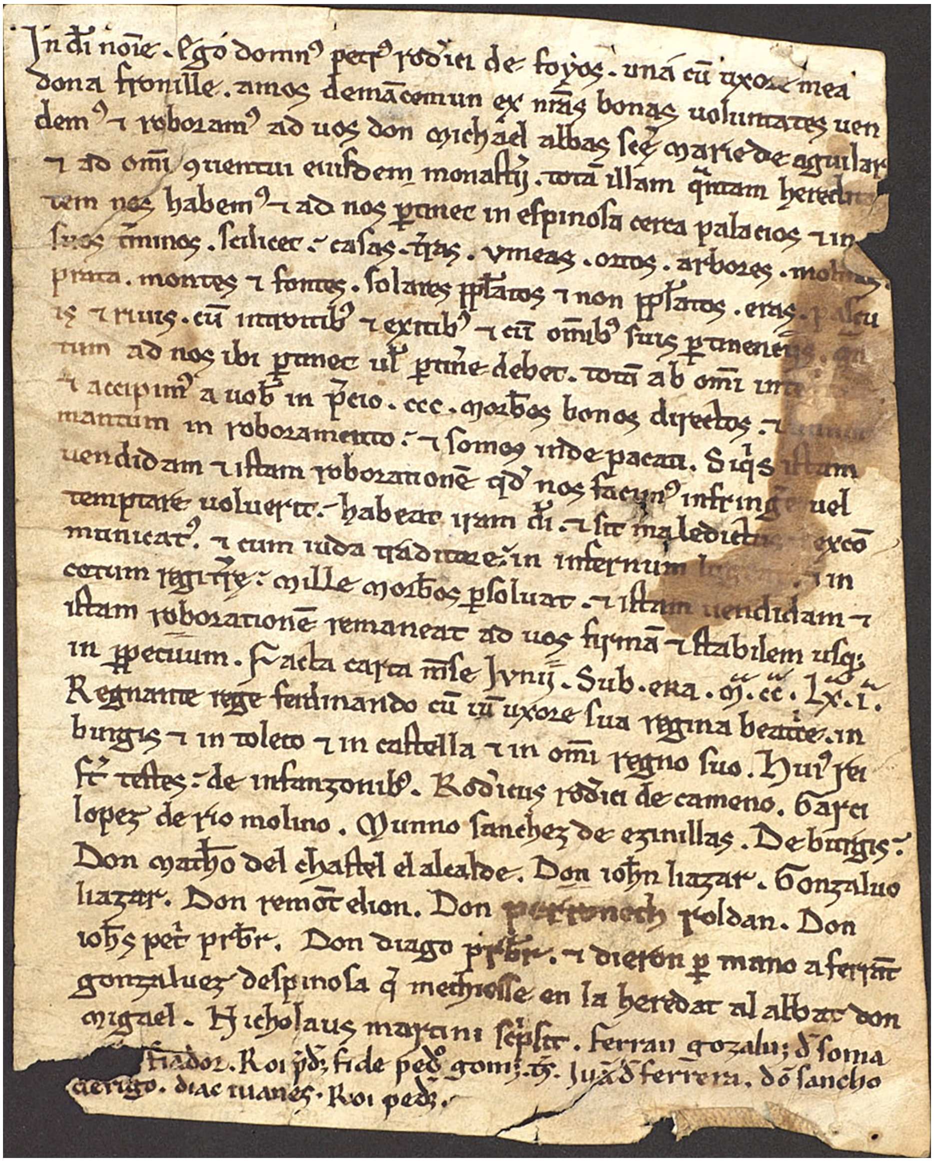

Fig. 1. Deed of sale in which Pedro Ruiz de Hoyos and his wife, Fronilde, sell their property in Espinosa to Abbot Miguel and the Convent of Santa María la Real de Aguilar de Campoo for 300 maravedíes and a mantle, 1223, Spain. Madrid, Archivo Histórico Nacional, Clero Secular Regular, car. 1654, no. 4. Photo: Ministero de Cultura y Deporte, Madrid.

2. "Latin," "Romance," and the Question of Scribal Competence

Since the publication of Roger Wright's *Late Latin and Early Romance in Spain and Carolingian France*,[13] which aimed to challenge traditional views that Wright associated with Ramón Menéndez Pidal,[14] much ink has been spilled by language historians in the ongoing debate about the medieval development of the conceptual distinction between Latin and Romance (understood as different *languages*), and the place of Latin-Romance hybrid texts within this development. That debate, which continues without resolution, has addressed a number of key questions: where, when, how, and why the conceptual distinction developed, with particular attention to how this process related to contemporary scribal practices (for instance, did changing scribal practices reflect changing conceptions of language, or did changing scribal practices contribute to shaping new conceptions of language, or was the development of conceptions and practices a mutually contingent process?). While it is impossible to review here the full range of responses by language historians to these and other questions, it is important to place our own discussion of scribal production and competence in relation to this long-standing debate. For this reason we compare the perspectives of three scholars whose approaches serve to illustrate the diversity of scholarly perspectives: Ramón Menéndez Pidal, Roger Wright, and Alberto Montaner Frutos.[15]

Menéndez Pidal (and especially scholars who have followed his approach more or less closely) tended to regard orthographic, grammatical, and lexical representations that we now view as "Latin" or "Romance" as indications of an early understanding of Latin and Romance as distinct languages, with Latin as the intended goal of writing and Romance as the fallback option and source of interference.[16] This traditional perspective identified scribes' ignorance of the norms of Latin as a major factor contributing to their representations of vernacular forms. In this view, hybrid scribal practices are seen as arising from a kind of mixing between norms of two preexisting, clearly conceived languages: the traditional norms of written Latin, prestigious but difficult to learn and reproduce, and the naturally acquired, more easily reproduced norms of Romance vernacular. Latin-Romance hybridity in written texts is thus understood to be primarily the result of reliance on Romance vernacular in texts that were intended—but failed—to be written in prestigious Latin. The eventual change in writing practices, with clear differentiation between Latin and Romance, was then catalyzed by the eleventh-century Gregorian reforms, which promoted teaching

[13] Roger Wright, *Late Latin and Early Romance in Spain and Carolingian France*, ARCA Classical and Medieval Texts, Papers, and Monographs 8 (Liverpool, 1982). For a concise and recent overview, see Roger Wright, "Latin and Romance in the Medieval Period: A Sociophilological Approach," in *The Oxford Guide to the Romance Languages*, ed. Adam Ledgeway and Martin Maiden (Oxford, 2016), 14–23.

[14] Menéndez Pidal, *Orígenes del español*.

[15] A range of perspectives can be found in the chapters by Varvaro, Banniard, Wright, and Kabatek in *The Cambridge History of the Romance Languages*, vol. 2, *Contexts*, ed. Martin Maiden, John Charles Smith, and Adam Ledgeway (Cambridge, UK, 2013).

[16] See, for instance, Manuel Ariza, *La lengua del siglo XII (dialectos centrales)* (Madrid, 2009), 10–11. Varvaro also defends an early conceptual distinction between Latin and Romance. See Alberto Varvaro, "Latin and the Making of the Romance Languages," in *The Cambridge History of the Romance Languages*, vol. 2, *Contexts*, ed. Maiden, Smith, and Ledgeway, 6–56.

and use of a reformed Medieval Latin that was more clearly distinct from Romance than was pre-reform "Late Latin."

In contrast, Wright (and scholars following his approach) has argued that a conceptual distinction between Latin and Romance as different languages was not established and extended until the thirteenth century in Castile.[17] There was, rather, a single language with a complex stylistic continuum. This language was written as closely as possible in accordance with traditional norms of Latin orthography and morphology, but it was generally dominated by the lexicosemantics and word order of "Romance" vernacular.[18] The highest registers of this continuum were found in the language represented in classical, patristic, and liturgical "Latin" texts which respected, more or less closely, the prescriptive norms of *grammatica*. On the more vernacular or low end of the stylistic continuum can be found registers represented in Late Latin texts[19] and Latin-Romance hybrid legal documents.[20] The Late Latin texts are seen as employing a learned and conservative (less phonographic and more logographic) "Latin" or Latinate script, including morphological features such as inflectional suffixes, to represent the vernacular. Wright has repeatedly insisted that these Late Latin texts are really "Romance in disguise."[21] He has also emphasized the need for comprehensibility of legal documents when read aloud, and therefore provides hypothetical phonetic transcriptions for how apparently "Latin" lexical items in such texts could be read aloud as easily understood vernacular (e.g., *ipsas* as [ˈe.sas]).[22] Latin-Romance hybrid texts are understood to use the conservative "Latin" script to represent the vernacular, but they combine it with greater use of an innovative, highly phonographic script that more transparently represents that same vernacular (and comes to be called Romance).

Wright (at least in earlier work) has seen the practice of "disguising Romance" as continuing to the early thirteenth century in Castile.[23] However, as the Carolingian

[17] Wright sees the conceptual distinction as having occurred somewhat earlier in Catalonia and regions north of the Pyrenees that had formed part of the Carolingian Empire.

[18] See, for instance, Robert Blake, "Syntactic Aspects of Latinate Texts of the Early Middle Ages," in *Latin and the Romance Languages in the Early Middle Ages*, ed. Wright, 219–32; Omar Velázquez-Mendoza, "La España altomedieval y su continuo sociolingüístico: ¿Sociedad diglósica o monolingüe?," in *Bulletin of Hispanic Studies* 90/6 (2013): 627–48; and Omar Velázquez-Mendoza, "Oralidad, latinización textual y convivencia de variantes ortográficas en iberorromance," in *Bulletin of Spanish Studies* 93/5 (2016): 739–65.

[19] Roger Wright, *A Sociophilological Study of Late Latin*, Utrecht Studies in Medieval Literacy 10 (Turnhout, 2002), 246–47.

[20] Wright, *Late Latin and Early Romance*. The registers we now call "Late Latin" and "reformed Medieval Latin" are both, according to Wright, inventions of the Carolingian Reform promoted by Alcuin of York in the decades preceding the year 800, which recommended avoidance of the former and use of the latter.

[21] Wright, *A Sociophilological Study of Late Latin*, 310, and Wright, "Latin and Romance in the Medieval Period," 16–17.

[22] Roger Wright, "Romance, latín, y otra vez romance en la Península Ibérica en el siglo XII," in *Modelos latinos en la Castilla medieval*, ed. Mónica Castillo Lluch and Marta López Izquierdo, Medievalia Hispanica 14 (Madrid, 2010), 25–41.

[23] It is not clear to us if Wright (for instance in Wright, "Latin and Romance in the Medieval Period") now sees "Latin" or Latinate texts with "Romance" phonographic passages as a combination of "disguised Romance" and "transparent Romance," or if the insertion of items in phonographic script necessarily indicates a contrast with traditional script. See our discussion below regarding reading aloud of hybrid texts.

and later Gregorian reforms spread the idea of one-to-one correspondence between letter and sound, "Latin" orthographic forms were increasingly read aloud in ways that reflected their written forms, making them sharply distinct from "Romance" vernacular and less useful for representing the vernacular. It is this new practice of phonographic reading, which begins to spread in central and western Iberia from around the time of the Council of Burgos (1080) and the advent of the Gregorian Reforms, that promotes increasing use of a phonographic script to represent "Romance" vernacular. Thus, in contrast to Menéndez Pidal, the change in practices is understood as leading to the conceptual distinction between Latin and Romance as different *languages* (along with the distinction between different Romance languages).[24] Only with the advent of the thirteenth-century protonational political initiatives of Fernando III and Alfonso X does this distinction take firm hold in Castile-León.[25]

Despite salient differences, Menéndez Pidal and Wright share key assumptions. Both locate the origins of the innovative orthographic representation of vernacular forms in immediate practical needs (e.g., representation of place names). Both emphasize the agency of scribes in inventing (as the phonographic principle spread) the new, highly phonographic writing system for general representation of the vernacular. Most important for our purposes is that both highlight the role of scribal incompetence (whether as ignorance of a language or of an orthographic system) in Latin-Romance hybrid textual production. For instance, Wright has claimed that "works of semi-Latinate appearance . . . are written by those who do not know Latin."[26] In this regard, he claims that "even in the twelfth century most notaries [*sic*] were still not learning another separate language to write in, but instead were still trying (when they wrote) to make their language respectable by adding a 'veneer' on top, applied via a few provisional rules and tricks of the profession."[27]

Nonetheless, in Latin-Romance hybrid legal texts of the twelfth and early thirteenth centuries, there are patterns of representation of "Latin" and "Romance" that cannot be easily or fully accounted for by either the traditional model or Wright's model (see below). Montaner Frutos offers a compromise between the two models which aims to overcome their limitations.[28] Montaner argues that we should, like Wright, see Castile in the period before the mid-thirteenth century as culturally monolingual and sociolinguistically complex (with respect to "Latin" and "Romance"). Unlike

[24] Wright, "Latin and Romance in the Medieval Period," 16, attributes the traditionalist view specifically to French latinist Michel Banniard, *Viva voce: Communication écrite et communication orale du IVe au IXe siècle en Occident latin*, Collection des Études Augustiniennes Moyen-Âge et Temps Modernes 25 (Paris, 1992).

[25] See Roger Wright, "The Prehistory of Written Spanish and the Thirteenth-century National Zeitgeist," in *A Political History of Spanish: The Making of a Language*, ed. José del Valle (Cambridge, UK, 2013), 31–43, and Rojinsky, *Companion to Empire*, 59–92.

[26] Wright, *Late Latin and Early Romance*, 244. Wright makes this claim as part of his argument that medieval scribes were not "incompetent bilinguals" but rather "competent monolinguals." Nevertheless, suggestions of scribal incompetence can be found in many of his analyses (see below).

[27] Roger Wright, " 'Latin' and 'Ladino' (in the Eleventh and Twelfth Centuries)," in *Early Ibero-Romance: Twenty-one Studies on Language and Texts from the Iberian Peninsula between the Roman Empire and the Thirteenth Century* (Newark, DE, 1994), 265–76, at 270.

[28] Alberto Montaner Frutos, "El continuo diastrático de la espectroglosia latinorromance ibérica medieval," in *e-Spania: Revue interdisciplinaire d'études hispanique médiévales et modernes* 13 (2012): n.p., https://journals.openedition.org/e-spania/21093.

Wright, he argues that Castile (along with most of Iberia) was characterized by spectroglossia, a kind of diglossia with idealized "high" and "low" poles or registers, but without strictly defined functional differentiation.[29] According to Montaner, most language users of the time would have been able to recognize a high register with an identifiable repertoire of co-occurring features that we would now label as "Latin"; they would also have been able to distinguish a low register with an equally identifiable repertoire of co-occurring features, which literate members of the community often labeled *vulgaris* and we now label "Romance" or as a particular Romance language. This diglossia, however, was realized (at least in writing) on a spectroglossic continuum, with diverse kinds of switching and mixing of the repertoires of lexical, grammatical, and phonological-orthographic features of the high and low registers. Despite the existence of idealized high and low registers, scribes could switch between registers and even mix or blend them in novel ways, some idiosyncratic and others conventionalized in new hybrid registers.[30]

Montaner's model is indeed an advance on earlier conceptions, but it shares two potentially problematic aspects with them. First, and despite its recognition of the possibility of diverse types of hybrid register, it devotes relatively little attention to the importance of local contexts of production and reception in shaping particular hybrid registers. Second, it continues to assume that local scribes most often resorted to phonographic representations of the vernacular—generally presumed to be easier to learn and use—when their imperfect command of high-prestige "Latin" norms was not up to the task.[31] At first glance, this assumption seems unproblematic, given the widespread decline of Latin literacy and command of *grammatica* and/or traditional Latin orthography during the Middle Ages (or at least its restriction to much smaller

[29] Roger Wright (e.g., "Complex Monolingualism in Early Romance," in *Early Ibero-Romance*, 1–11), has argued that the sociolinguistic situation of medieval Romance-speaking Europe was one of "complex monolingualism," at least before the ninth century in France and the thirteenth century in most of Iberia. Adopting Joshua Fishman's view of diglossia (functional societal distinction between two different *languages*), he argues that diglossia did not exist until the conceptual distinction between Latin and Romance had spread in Iberia. Montaner, on the other hand, adopts Charles Ferguson's original definition of diglossia (functional societal distinction between two registers or varieties of a single language), which Ferguson had exemplified by reference to modern Greek Katharevousa and Dimotiki, as well as to the situation of the Arabic-speaking world, with its conceptual contrasts between Classical Arabic and local vernaculars. Indeed, Montaner explicitly models his view of medieval Romance on that of the modern Arabic world, where scholars have distinguished between diglossia as cultural model and the complex hybridity of actual language use, sometimes labeled spectroglossia (see, for instance, O. H. Myung-Keun, "A Study on Arabic Diglossia: Historical Background and Spectroglossia," *Annals of Japan Association for Middle East Studies* 12 (1997): 313–28). Diaglossia is a similar concept; see Gijsbert Rutten, "Historicizing Diaglossia," *Journal of Sociolinguistics* 20/1 (2016): 6–30.

[30] Throughout this study, we rely on the notion of register presented in Asif Agha, *Language and Social Relations*, Studies in the Social and Cultural Foundations of Language 24 (Cambridge, UK, 2007), 147–48. Agha defines a register broadly as a cultural model of behavior, used by a certain population, that evaluates a "repertoire (or set of repertoires) as appropriate to specific types of conduct (such as the conduct of a given practice), to classifications of persons whose conduct it is, and, hence, to performable roles (personae, identities) and relationships among them." Repertoires overlap and intersect, so boundaries between registers can be fuzzy. If used regularly enough, mixing of repertoires may lead to the constitution of a new register. Registers are associated with social practices of every kind and labeled in diverse ways (e.g., "legal language," "slang," "Andalusian dialect," "Spanish," "Latin") or may receive no label at all.

[31] Montaner Frutos, in "El continuo diastrático," calls attention to numerous errors of interference (see paragraphs 65–67) and hypercorrection (see paragraphs 53–54).

elites), particularly in central and western Iberia. Despite this, patterns of representation in the documents that we analyze suggest that Nicholaus Martini and his peers were competent writers who were able to make rhetorically effective, context-sensitive choices regarding representation of "Latin" and "Romance" in the documents they prepared.

This study, therefore, focuses on Nicholaus Martini not only because the documents he produced are completely typical of the scribal community in which he worked, but also and principally because scribal competence can be determined only by studying the production of individual scribes.[32] There has been, however, little study of the individuals who produced Latin-Romance hybrid texts or of the local contexts in which they worked.[33] Most scholars have analyzed a) single texts or b) mixed corpora of texts taken from multiple places, periods, and/or scribes; neither of these approaches allows us to gauge the competence and motivations of individual scribes (or of their clients and audiences), and both make it easier to attribute "imperfect" use of "Latin" to some kind of scribal ignorance. Of course, a problem for the study of single scribes is that in most medieval documents scribes do not identify themselves. Fortuitously, though probably not coincidentally (see below), from the late twelfth and early thirteenth centuries, local scribes in Castile do begin to identify themselves with great regularity, at the very time that they are producing relatively large numbers of Latin-Romance hybrid texts.

3. Nicholaus Martini: Contexts and Texts

Who was Nicholaus Martini? We can say with relative certainty only that he was an autonomous, lay scribe (see below), who carried out his work in the city of Burgos. Between 1211 and 1228 he produced a relatively large number of (surviving) locally oriented private documents, which are thoroughly typical of documents produced by his contemporaries within the Burgos community of scribes. Most of these documents are Latin-Romance hybrid texts that fall within the broad genre of property transfers (sales, exchanges, donations/bequests), but there are also two *remembranzas*, or inquest reports, that show precocious use of nearly continuous Romance (see below). All are subscribed *Nicholaus Martini scripsit* (with occasional use of the orthographic variant *Nicolaus*) and all have survived in the archives of ecclesiastical institutions, though some were prepared for lay individuals, others for individuals who belonged

[32] María Jesús Torrens-Álvarez, "¿Tradiciones de escritura o normas gráficas individuales en la Castilla de comienzos del siglo XIII?," in *Temas, problemas y métodos para la edición y estudio de documentos hispánicos antiguos*, ed. Juan Pedro Sánchez Méndez, Mariela de La Torre, and Viorica Codita (Valencia, 2015), 156–71.

[33] See María Jesús Torrens-Álvarez, "Variedades en contacto en la documentación notarial medieval: Latín, romance e hibridismo latinorromance," in *Lenguas en contacto, ayer y hoy: Traducción y variación desde una perspectiva filológica*, ed. Santiago del Rey Quesada, Florencio del Barrio de la Rosa, and Jaime González Gómez, Studien zur Romanischen Sprachwissenschaft und Interkulterellen Kommunikation 131 (Berlin, 2018), 69–95. Even for later texts produced primarily in continuous Romance, there have been few such studies. See, however, Donald N. Tuten, "La producción lingüística de un escribano alfonsí: ¿Evidencia de acomodación?," in *Actas del IX Congreso Internacional de Historia de la Lengua Española (Cádiz, 2012)*, ed. José María García Martín et al., 2 vols. (Madrid, 2015), 2:1911–27, for an analysis of the individual style of a later Alfonsine scribe, Álvar García de Frómista.

to an ecclesiastical institution, and others for institutions themselves (the cathedral chapter or monasteries). Though we know little of Nicholaus's personal biography, the work of social and cultural historians allows us to reconstruct many of the features of general and local contexts in which Nicholaus and his peers lived and worked. In the following, we begin our discussion with broad economic, social, cultural, and political processes, and then focus in on Burgos itself.

Historian Jacques Le Goff is known for having argued that, during the twelfth and thirteenth centuries, western European society and culture underwent a broad set of changes that he described as a general reorientation from a primary focus on religiosity and concern with the afterlife, dominated by the doctrine of *contemptus mundi*, to a more balanced concern with things of both this world and of the next.[34] Le Goff attributed this shift in values (at least in part) to a set of interlocking social and economic processes: robust demographic growth after the year 1000; urbanization; development of local, regional, and long-distance commerce; the rise of a monetary economy; and with these the rise of a bourgeoisie. These processes contributed in turn to laicization (or incipient secularization), which involved development of lay authorities and practices with concomitant tendencies toward restriction of ecclesiastical authority to the religious domain. Laicization also manifested in the appearance of urban and cathedral schools, a rise in numeracy and literacy (particularly among merchants), and a rise in lay writing focused on earthly concerns. Ultimately, "double investment" in spiritual and secular aspects of life contributed to the formation of an incipient notion of the individual.[35]

Le Goff recognized that these changes did not occur in the same way, or at the same time or rate, in all areas of western Europe, and he paid little attention to developments in Iberia. With this in mind, the social historian Teófilo Ruiz has studied whether and how the processes originally identified by Le Goff relate to developments in the city of Burgos and the region of northern Castile. As we will see below, he and other historians of this region have found abundant evidence of relevant changes, which in Castile appear to begin in the late twelfth and early thirteenth centuries.[36] However, Ruiz differs from Le Goff in some respects. First, although Le Goff mentions in passing the shift to the vernacular (tying it to increases in lay literacy),[37] Ruiz argues that shift to the vernacular in local legal documents (first in property transfers, then

[34] Jacques Le Goff, "Du ciel sur la terre: La mutation des valeurs du XIIe au XIIIe siècle dans l'Occident chrétien," in *Héros du Moyen Âge: Le saint et le roi* (Paris, 2004), 1263–82.

[35] Le Goff emphasized that from around 1200 people began to show increasing concern for making a "double investment" in life on earth and life in the hereafter. This led, on the one hand, to positive (if guilt-laden) evaluations of productivity and profit, and, on the other, to increasing efforts to use wealth to bargain for shorter stays in Purgatory. Importantly, this newly popular notion emphasized individual judgment—and the possibility of limiting it—over a collective judgment that could not be altered. This "double investment" had numerous other effects, including, within the textual domain, eventual recuperation of the genre of the will, which allowed testators to divide their material wealth, dedicating parts to family inheritance and other parts to finance masses for their souls (or those of family members) and other pious works that would lessen their days in Purgatory. Although these measures aimed to improve life in the hereafter, they also contributed to lengthening memory of the deceased in this world, and in so doing promoted a more noticeable role for the individual.

[36] Teófilo F. Ruiz, *From Heaven to Earth: The Reordering of Castilian Society, 1150–1350* (Princeton, 2004).

[37] Le Goff, "Du ciel sur la terre," 1267.

more dramatically in wills) played a key, even causal, role in the general shift in values and practices in northern Castile.[38] Second, Ruiz emphasizes that, as urban elites shifted their focus to life in this world, and aimed to accumulate wealth that could be passed on to their descendants (and used to invest in the afterlife as well), they also formed primogeniture-favoring lineages that worked together to colonize institutional and cathedral offices, and to acquire and pass on urban and rural properties. Third, Ruiz shows how property transactions and (later) wills revealed new conceptions of material property and a growing concern with delimiting boundaries and itemizing features of properties. He argues too that increasing concern with boundary definitions extended to non-material aspects of culture, including, for instance, the differentiation of the genres of donation and will, or more generally the differentiation between lay and ecclesiastical authority (to which we might add the conceptual distinction between Romance and Latin; see conclusion). As we examine the context of Burgos, as well as the texts produced by Nicholaus Martini, the relevance of LeGoff's and Ruiz's observations will become evident.

From the end of the eleventh century, Burgos began to gain importance in the north of Castile. Several factors contributed to its rise. Demographic growth certainly supported this development, but Burgos's secure and strategic placement—far from the frontier with al-Andalus (especially after the taking of Toledo in 1085), but near to La Rioja, Aragon, and Navarra to the east, and León to the west—made it a habitual residence of the Castilian kings, who at times converted the city into a quasi-capital and who also supported the development of religious institutions in the city (see below). Moreover, it lay at a crossroads between north-south and east-west trade routes, and it served as a stopping point for pilgrims on the Camino de Santiago. In the late twelfth and early thirteenth centuries it came to attract a large number of new residents, including persons from reconquered territories to the south and *francos* from beyond the Pyrenees, among them merchants, clerics, and monks. These connections and arrivals contributed to the growth of increasingly varied commercial and artisanal activity, and to the rise of a monetary economy. Traditional agricultural activity also prospered. This included the cultivation of vineyards and gardens within the city walls as well as the commercialization of rural properties that were gradually being acquired by urban elites.[39] The burgeoning real estate market was favored (at least in part) by the rise of the new bourgeoisie, who from the late twelfth century actively engaged in sales, exchanges, and accumulation of properties within and beyond the

[38] Ruiz, *From Heaven to Earth*, 30, states, "my aim is to see how the transition from Latin to Castilian . . . stimulated the transformation of values and worked as a catalyst for the reordering of Castilian society." Nonetheless, he then asks if the shift in language was itself a consequence of a new *mentalité*, or if the shift in language and *mentalité* were not concomitant phenomena, "each feeding the other" (32). He rejects these two latter possibilities, but later he argues that we "are not forced to accept a single causal relationship between event and cultural shift" (153) and that the "shift in values . . . gave the Castilian language its first steps along the road" to its later status as a language of empire. We argue that shift in values and shift in language use and representation are concomitant phenomena.

[39] Here we draw on two studies which remain indispensable for an understanding of medieval Burgos's social, economic, urban, and institutional development: Carlos Estepa, "Primera parte: De fines del siglo IX a principios del siglo XIII," in *Burgos en la Edad Media*, ed. Carlos Estepa, Teófilo F. Ruiz, Juan A. Bonachía, and Hilario Casado (Burgos, 1984), 23–97, and Teófilo F. Ruiz, "Segunda parte: El siglo XIII y primera mitad del siglo XIV," in *Burgos en la Edad Media*, ed. Estepa, Ruiz, Bonachía, and Casado, 99–212.

city. In so doing, they helped to create the need for the kinds of documents prepared by Nicholaus Martini and his peers. Moreover, as Ruiz highlights, the lay acquirers of property increasingly sought to form easily accessible and—ideally—contiguous estates, partly because these better-defined properties were seen as more easily administered and therefore more profitable, and partly because contiguous estates were to some degree symbolic of unified lineages. The mercantile elite was not alone in participating in transfer and accumulation of properties, for they were joined by other members of the new "middling sorts": well-to-do farmers, lower nobility (*infançones* [hidalgos] and *cavalleros* [knights]), and clerics and scribes who were themselves often drawn from the incipient bourgeoisie.[40]

The development of Burgos coincided with changes in religious and other domains that would have a large impact on writing practices, textual production, and (eventually) of conceptions of language (see below). As is well known, until the end of the eleventh century, writing was limited to rural monasteries, which possessed great jurisdictional authority in their regions but remained relatively isolated from urban centers (such as they were) due to their distance and their local agricultural economies.[41] Nevertheless, during the first third of the eleventh century King Sancho the Great of Pamplona (and later of Castile and other kingdoms) sponsored the arrival of Cluniac monks and the rapid, albeit late, spread of the Benedictine order within his domains. This opening of Hispania to the rest of Europe led to the adoption of the Benedictine rule by most monastic centers and the gradual introduction of the Roman liturgy. The Roman rite definitively replaced the older Visigothic rite after the Council of Burgos in 1080, which had been called by Sancho's grandson Alfonso VI in order to please Pope Gregory VII. Although this event may have had little ecclesiastical importance,[42] paleographers have assigned it great significance, since the general adoption of the Roman liturgy and the Gregorian reforms led to the entry of new books from France and with them the arrival of Carolingian script, which within only a few decades replaced the older Visigothic script. Of course, as we have discussed above, the Gregorian reforms also brought new ideas about the relation between written and spoken language, particularly a reinforced notion of linguistic correction based on *grammatica* and the spread of the phonographic principle.

[40] Ruiz, *From Heaven to Earth*, 3.

[41] Such monasteries included a number of large abbeys that were founded in the tenth century (and which tended to absorb smaller institutions) under the patronage of kings of León or counts of Castile. Among these we find—relatively near to Burgos—the major monastic centers of San Pedro de Cardeña, San Pedro de Arlanza, and San Sebastián de Silos (later Santo Domingo), all of which supported scribes as well as renowned copyists of codices in their scriptoria. See José Antonio Fernández Flórez, "Escribir en los monasterios altomedievales del Occidente peninsular (siglos VIII–XII)," in *Lugares de escritura: El monasterio*, ed. Ramón Baldaquí Escandell (Alicante, 2016), 17–68. Others to the north of Burgos included Santa María de Valpuesta and San Salvador de Oña, this last founded at the beginning of the eleventh century, and in neighboring La Rioja, San Millán de la Cogolla, which by the end of the eleventh century had incorporated fifty-five monasteries and twenty-nine churches within the present-day province of Burgos. See G. Martínez Díez, *Monasterios e iglesias burgalesas dependientes de San Millán de la Cogolla*, Colección Academos 11 (Burgos, 2007), and Fernández Flórez, "Escribir en los monasterios altomedievales," 41.

[42] Teófilo F. Ruiz, "Burgos y el Concilio de 1080," *Boletín de la Institución Fernán González* 59 (1980): 73–83.

During the twelfth and thirteenth centuries, these centralizing changes emanating from Rome were followed by other important changes favoring (and reflecting) urbanization and new writing practices: a general shift of the center of ecclesiastical activity from rural monastic centers to urban ones, and from monasteries to cathedrals. In Castile, these shifts were clearly tied to royal initiatives. Burgos, in particular, saw an increase in royal favor already in the late eleventh century. For instance, in 1091 Alfonso VI founded the Benedictine monastery of San Juan, to which he granted important donations and privileges and which he placed under the leadership of a *franco* from Auvergne (Lesmes, who was later canonized and made patron saint of the city).[43] Alfonso also allowed Bishop Jimeno to transfer (with subsequent approval from the pope in 1095) the historical episcopal seat of Oca from the nearby village of Gamonal to Burgos proper. The conversion of Burgos into an episcopal seat would also contribute greatly to Burgos's demographic, economic, and cultural growth.

It is from this time precisely that cathedrals began to take ecclesiastical and cultural precedence over monasteries. This change too was supported by the crown, since it needed the secular clergy to help consolidate royal authority and to transform the previously voluntary tithe into an obligatory fiscal responsibility.[44] In these circumstances, well-endowed episcopal institutions came to impose their jurisdiction over that of the monasteries during the twelfth century (though not without conflict).[45] At the same time, cultural and educational activity was displaced from the rural setting typical of most Benedictine monasteries to an urban one.

Initially, the structure and organization of the episcopal seats differed little from those of monasteries, since the canons and the bishop lived in community and shared property and incomes.[46] Both types of institutions had a library, a writing office (for preparation of charters) and a scriptorium, and, at least in the most important cathedrals, a school. However, by the late twelfth century all dioceses had moved away from monastery-like communal life. This change had diverse consequences that favored an increase in autonomy, as well as a kind of laicization, for canons could then leave the chapter, study and train in other places, receive individual prebends that they themselves administered, and accumulate personal property, including houses and land, that they could manage and bequeath like laypeople. Indeed, cathedral canons and other church officials were increasingly drawn from the urban middling sorts and they aimed to accumulate property in the same way as (and often in collaboration with) their lay relatives. As with merchants and others of the "middling sorts," clerics' accumulation and transfers of property necessitated the production of large numbers of authorizing documents. In addition, the cathedral as an institution was actively involved in this process of property exchange and accumulation. This is evidenced by the abundant documentation of the cathedral archive in which are housed numerous property

[43] Teófilo F. Ruiz, "Burgos y el Concilio de 1080," 72.

[44] Juan José García González, "Iglesia y religiosidad en Burgos en la Plena Edad Media," *Cuadernos burgaleses de historia medieval* 6 (1995): 7–79, at 73–75.

[45] A salient example is the struggle between the Cathedral of Burgos and the Monastery of San Salvador de Oña, which maintained its autonomy and direct dependency on Rome until 1217.

[46] See, for example, Luis Javier Fortún Pérez de Ciriza, "Tiempos de convivencia y cooperación entre monjes y obispos en el siglo XI: De los obispos-abades a los canónigos-monjes," in *Monjes y obispos en la España del románico: Entre la convivencia y el conflicto*, ed. José Ángel García de Cortázar and Ramón Teja Casuso (Aguilar de Campoo, 2013), 42–83.

transfers of houses and plots of land purchased, sold, exchanged, or donated by individual canons, the cathedral as an institution, other ecclesiastical institutions, and lay inhabitants of Burgos and surrounding rural zones.

At the same time that the cathedral was rising to prominence, other ecclesiastical institutions were founded in Burgos and its close surroundings. These included several monastic institutions dedicated to the sheltering of pilgrims, such as the monastery and hospital of San Juan, the so-called Hospital del Emperador, and the Hospital del Rey, founded by Alfonso VIII in 1195. Most important among them, however, was the nearby monastery of Cistercian nuns Santa María la Real de Las Huelgas, founded by Alfonso VIII and Queen Leonor in 1187 and intended to serve as a royal mausoleum. These institutions also engaged actively in property transactions and kept careful records of their activities.[47]

As we will see in our discussion of the documents of Nicholaus Martini, it is evident that this scribe lent his services freely to the institutions and individuals that requested them. We find, for instance, that documents prepared by him are conserved not only in the collections of institutions of Burgos (the cathedral and the monasteries of Las Huelgas and San Juan), but also in Bujedo de Juarros and the more distant Aguilar de Campoo, as indicated above, although all of them appear to have been prepared in Burgos itself. This is, in our view, a clear sign that Nicholaus (along with his peers) was not a monk or cleric, but rather an early kind of lay writing professional who had received basic instruction (though we do not know where or how) and worked without fixed association to any religious institution.

Before commenting further on the professional status of Nicholaus Martini, we need to pause and comment on the interesting thesis of Francisco J. Hernández.[48] According to Hernández, the writing of texts in continuous Castilian Romance was promoted by the new monastic orders which had arrived from Occitania (southern France). These orders would have included the Cistercians (e.g., at Las Huelgas de Burgos), who played a role in the spread of Marianism and Gothic art in the Peninsula; the Premonstratensians (e.g., at Aguilar de Campoo); and military orders. The Occitan monks associated with these orders, already familiar with the use of written Occitan Romance in their home monasteries, would, in this account, be the first to write in consistent Castilian Romance, doing so in order to facilitate the understanding of local participants when effecting economic transactions. What matters most in Hernández's view is not the individual scribe, but rather the institution that commissioned the documents. While we agree that *francos* of Occitan origin, including monks,

[47] Of relevance too is the arrival of the mendicant orders to the cities of Castile and León: the Dominicans (from 1224) and the Franciscans (from 1230). These orders quickly established a forceful presence, and their preaching of a renewed spirituality (in the vernacular) led to new models of lay religiosity, including (eventually) the formation of lay pious associations, particularly in the fourteenth century. See F. Javier Peña Pérez, "Expansión de las órdenes conventuales en León y Castilla: Franciscanos y dominicos en el siglo XIII," in *III Semana de Estudios Medievales: Nájera, 3 al 7 de agosto de 1992*, ed. José Ignacio de la Iglesia Duarte (Nájera, 1993), 179–98.

[48] Francisco J. Hernández, "The Jews and the Origins of Romance Script in Castile: A New Paradigm," *Medieval Encounters* 15 (2009): 259–306, and Francisco J. Hernández, "Huellas de Occitania en la invención del español escrito: Siete imágenes probatorias," in *Los modelos anglo-normandos en la cultura letrada en Castilla (siglos XII–XIV)*, ed. Amaia Arizaleta and Francisco Bautista, Collection Méridiennes Études Médiévales Ibériques 16 (Toulouse, 2018), 67–102.

may have played a role in the gradual development, demand, and acceptance of writing in Castilian Romance, there is little or no evidence in our corpus that the first use of continuous Romance was tied to ecclesiastical institutions rather than individual lay scribes. As we have indicated above, Nicholaus Martini (who by 1216 had already written a document in nearly continuous Romance) prepared documents for a variety of institutions and lay individuals. Nor does our evidence indicate that preparation of a text in continuous Romance or in Latin-Romance hybrid register depended on the institution or the individual commissioning the document. More generally, as we argue below, the pressure to use the vernacular responds to lay rather than ecclesiastical interests and therefore forms part of the larger process of laicization.

The rise of lay, autonomous scribes such as Nicholaus marks a first step in a series of changes that led eventually to the *notario* or *escribano público* mandated by Alfonso X from the 1250s.[49] It has been a practically unanimous view among scholars of medieval Castile that in the late twelfth and early thirteenth centuries religious scribes were replaced gradually but directly by *escribanos de concejo*, laymen named by a town council to prepare official documents for it, who regularly identified themselves in those documents but whose services were frequently sought by civil and ecclesiastical members of each community. This is the figure that was made fully regular and official only with the creation of Alfonso's *notario* or *escribano público*. However, another class of "prenotarial" scribes appeared even before the *escribanos de concejo*: the little-recognized autonomous lay scribes. According to Bono, these scribes, whom he characterizes as "communal," "non-official," and "free" professionals, had become common in the cities of Castile by 1200, where they were responsible for drawing up legal documents relating to the property transactions of local individuals.[50] Such scribes, among whom we include Nicholaus and his peers, lacked the official position that later *escribanos de concejo* would enjoy (though they sometimes received a *portiello*, a simple administrative position designated on an annual basis that left the scribe free to work for others). These lay autonomous scribes probably formed a loose community of practice which influenced numerous conventions of document production, but they also enjoyed ample room for individual style and innovation.

Although there exists a rough chronological succession of the four types of scribe (religious, autonomous, *escribano de concejo*, *escribano público*), no sudden substitution of one by another occurred. There was, rather, a slow transition, with different timing and manifestations in different areas of central and western Iberia, that led to the overlapping and co-existence of different types (with some individual scribes changing status during their careers).[51] For instance, at the time that autonomous lay scribes

[49] A detailed analysis of the regulations of Alfonso X (as well as later regulations of Isabel and Fernando) can be found in Pilar Ostos Salcedo, "El documento notarial castellano en la Edad Media," in *Sit liber gratus, quem servulus est operatus: Studi in onore di Alessandro Pratesi per il suo 90° compleanno*, ed. Paolo Cherubini and Giovanna Nicolaj, 2 vols., Littera Antiqua 19 (Vatican City, 2012), 1:517–34.

[50] José Bono, *Historia del Derecho notarial español, 1. Edad Media. 2. Literatura e instituciones* (2 vols. in 1), Ars Notariae Hispanica 1 (Madrid, 1979), 2:109–10.

[51] For instance, in some cities under episcopal rule, there were ecclesiastical scribes that began to work for the town council who were able to combine this activity with their work for the diocese, as was the case in Valladolid (Castile) and Lugo (Galicia) in the last quarter of the twelfth century. Even so, by the 1190s there had occurred a clear separation of scribes working for the council and scribes

like Nicholaus appeared, religious scribes still carried out analogous kinds of text preparation in episcopal curia and in monasteries, and they would continue to be responsible for the preparation of ecclesiastical documents in Medieval Latin. Still, by the end of the thirteenth century the Alfonsine *notarios/escribanos públicos* were firmly established, since all participants in property transactions, whether ecclesiastical institutions or lay individuals, were by then legally obliged to have their documentation prepared by them. This century-long transition appears to have been favored by the growing local (and heavily lay or "laicized") demand for valid documentation of property transactions that was guaranteed by civil and, ultimately, royal authority.

What is most relevant here for our understanding of Nicholaus and his peers is that their lay status and institutional autonomy allowed and perhaps even obliged them to respond with relative flexibility to local needs and demands in a time of social and cultural transition, including the desire of individuals and religious institutions participating in property transactions to have a hand in the writing of the documents relating to those transactions. Ruiz too has argued that the shift to continuous vernacular writing in this type of document was favored by—and had the effect of empowering—the middling sorts as they sought to articulate and defend their economic (and spiritual) interests through a language that was their own, in documents whose legal validity would not be questioned.[52]

Importantly for our purposes, Ruiz places the beginning of the process of cultural shift in the late twelfth and early thirteenth centuries: many of its most salient manifestations arose only later. For instance, his detailed study of wills (with multiple recipients and detailed restrictions on use of funds received by institutions) is dependent on the appearance of a genre of documents which was clearly distinct from simple donations/bequests (to single institutions) and which in Castile appear (or at least are preserved) only from the 1230s onward. Among the documents prepared by Nicholaus, we find no wills, but we do find some evidence in the property transfers and *remembranzas* of early stages of the shift in values toward earthly concerns.[53]

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working for the bishop. Moreover, from around 1180 some scribes in northwest Iberia begin to identify themselves as *notarios de concejo* and from 1200 scribes in numerous communities began to identify themselves as *escribanos públicos*. See Miguel Calleja Puerta, "Institución notarial y transferencias culturales en los reinos de Castilla y León antes de 1250," in *Escritura, notariado y espacio urbano en la Corona de Castilla y Portugal (siglos XII–XVII)*, ed. Miguel Calleja Puerta and María Luisa Domínguez Guerrero (Gijón, 2018), 15–32. In contrast, scribes in Burgos do not begin to identify themselves as *escribanos de concejo* until the 1240s. Some of these, as we might expect, came from the group of autonomous lay scribes, as was the case of Martinus Petri, who from the late 1220s to May of 1242 simply subscribes his name followed by *scripsit*, while in December of that year he begins to identify himself as "escrivano del concejo de Burgos." At the same time, we see in his work a gradual abandonment of Latin-Romance hybridity in favor of continuous Romance. See Torrens-Álvarez, "Variedades en contacto en la documentación notarial medieval," 85–87.

[52] Ruiz, *From Heaven to Earth*, 30.

[53] The oldest surviving will from Burgos is dated 1243 (AMHB, legajo 26, no. 1048-A). It is written in continuous Romance and in it, doña Mayor Ordóñez, feeling ill, asks to be received into the community of Las Huelgas and to be buried in the monastery, and specifies the inheritances and monetary amounts that she will leave to the monastery, her nephew, and various individuals and confraternities. Among documents prepared by Nicholaus, there are donations to single ecclesiastical institutions, with the traditional purpose of redeeming the soul of the donor ("dono et concedo pro anima mea," GG 496, dated 1216; see discussion of the corpus), and some include slightly more detailed instructions to perform specific rituals in return for the gift: "cantet missam de defunctis cotidie in ecclesiam Sancte

Specifically, we find features in content and form that reveal the impact of (and in some respects contribute to) processes of urbanization, monetarization, and laicization, along with an increase in concern to accumulate, delimit, and control property.

As we have indicated, Nicholaus's surviving textual production includes a majority of documents that effect, confirm, and record property transfers. The parties in these transactions are usually local inhabitants of Burgos or the surrounding region who participate as private individuals (whether or not they are attached to a religious institution) or as representatives of religious institutions themselves.[54] Participants in the property market desired preparation and preservation of written documentation that would not only ensure that the transactions agreed to took place as stipulated (and which could otherwise have been handled through oral agreements) but also serve as a guarantee of their lasting legal status as proof of those transactions. Within these documents, then, we find evidence of precise monetary valuations, increasing concern for definitions of boundaries, and an intense focus on authorization and authentication of transactions.

As one might expect, all of the property transfers indicate that the properties to be sold or exchanged had been valued in monetary terms, so that purchase prices in *morabetinos* [maravedíes] are clearly written out. Even exchanges include some transfer of money in order to make up for almost inevitable differences in monetary value assigned to real properties. The concern for definition of property boundaries is not so highly developed nor so consistently expressed as in later property transfers or wills analyzed by Ruiz, but we do find some detailed efforts to delineate properties by specifying neighboring properties (often referred to as *adlatanei* [adjoining] and followed by their owners' names), by naming the kind of property (*casa* [house], *corral* [pen], or *ferrein* [fodder grain field]) and/or by referring to a delimiting *carrera* [road]. The concern with boundary definitions also manifests in the numerous documents prepared by Nicholaus that involve transfers of *pasadas de tierra* [rights of way or easements] guaranteeing access though others' property to public roads within the city of Burgos. Such transfers became frequent in Burgos during the late twelfth and early thirteenth centuries, as a rising concern for defining boundaries—and the consequent need to specify any right to cross them—came into conflict with the fact that rapid, chaotic development had left many houses and parcels without direct access to public roads.[55]

Marie Burgensis." Another donation to the cathedral also requires specific rituals and payments: "pro anima mea . . . duos annales in quolibet anno et duas memorias et unum anniversarium" as well as payment of three morabetinos (from the income generated by the property) to the relevant clerics on the day of the anniversary (GG 506, dated 1217, pp. 326–27). Some property transactions also include specifications of this sort. One exchange-sale (GG 514, dated 1218, pp. 337–38) includes specifications that income from the houses exchanged should pay for an *anniuersarium* and *memoriam* for don Pere Lambert, his wife, and his daughter.

[54] Given that all of these documents survive in ecclesiastical archives, it is not surprising that most of them include at least one participant who represented or at least was related to such an institution.

[55] After the mid-thirteenth century, need for *pasadas* would be rendered unnecessary by the new commonsense understanding that all properties should have guaranteed access to public roads. See Luis Martínez García, "La concentración de la propiedad urbana burgalesa mediante la concesión de 'pasadas de tierra,' 1150–1250," in *La ciudad de Burgos: Actas del Congreso de Historia de Burgos. MC aniversario de la fundación de la ciudad 884–1984* (León, 1985), 85–95, and Ruiz, *From Heaven to Earth*, 77–79.

The documents of Nicholaus and his peers show, as one might expect, great concern with authorization and authentication: guarantees that the transaction took place as stipulated and that both the transaction and the document recording it would have lasting legal validity. Religious signs of authority are certainly retained, but with indications of adaptation to lay concerns. For instance, use of traditional authorizing religious formulae remained regular and salient in these texts, but they were often shorter than in earlier texts (e.g., the invocation is reduced to only *In dei nomine*). Some other means of guaranteeing the validity of the documents and transactions may also be interpreted as indications of laicization. For instance, many documents name an individual *fiador de riedra*, a lay trustee or surety who would ensure that the contract was fulfilled according to the local law or *fuero*.[56] More important is that in most Burgos documents of this period, scribes regularly identify themselves, as in the formula *Nicholaus Martini scripsit*.[57] Although religious scribes had identified themselves for centuries, they did so irregularly (for it was generally considered unnecessary when the scribe who prepared a particular document could be assumed to belong to the monastery that had had it prepared). In the cities, however, autonomous lay scribes worked for numerous institutions. Since only the scribes, and not a larger institution, could be counted on to attest to the validity of each document, there arose a practical need for scribes to identify themselves in the documents they prepared. This change in practices may therefore also be seen as both contributing to and reflecting laicization and, with it, a rise in prominence of the individual, as argued by Le Goff.[58] In the case of Nicholaus Martini, the responsibility of the scribe as individual is further emphasized by his use of the patronymic or surname Martini (probably Martínez in the vernacular), which served in this case to distinguish him from a peer who identified himself solely as Nicholaus (and whose production preceded and overlapped with that of Nicholaus Martini).[59] Eventually, as we have seen, the role of the named scribe as guarantor of truth and legal validity (and primary bulwark against forgery and falsification) was backed up by the authority of the town council (for the *escribano de concejo*) and still later by the monarchy itself (for the *notario/escribano público*), which required all scribes to identify themselves in the documents that they prepared. Scribal self-identification therefore constitutes another feature of these documents that points to their early or transitional position within the larger shift in values and practices.

[56] Joseph F. O'Callaghan, *Alfonso X, the Justinian of His Age: Law and Justice in Thirteenth-Century Castile* (Ithaca, NY, 2019), 188.

[57] Although use of the formula "X scripsit" predominates in these documents, scribes do sometimes employ other verb forms, such as *notauit, tinxit, pinxit*. A few documents do not include such a formula or identify the scribe in any way.

[58] Velasco, *Dead Voice*, 37, also points out that "over time, the notarial idea of authentica persona became an individual rather than a collective source of authority or authenticity."

[59] The texts of Nicholaus (for whom we have documents produced from 1201 to 1226) and Nicholaus Martini show a number of stylistic differences. For instance, Nicholaus often uses the formulaic sequence *dupplez uel meliorez* in the sanction, but Nicholaus Martini never uses this form, preferring *dupplatam uel melioratam*. While Nicholaus Martini always identifies himself with the closing formula *Nicholaus Martini scripsit*, Nicholaus uses a number of variants of this formula: *Nic(h)olaus scripsit* (particularly later in his career), *Nicholaus notavit* (CORHEN1027, dated 1201), *Nicolaus tinxit* (CORHEN1050, 1207), *Nicholaus qui uere scripsit* (GG 450, dated 1213, pp. 259–60) and the surprising (and humorous?) *Nicholaus imperator scripsit* (GG 422, dated 1209, p. 220).

4. Patterns of Representation of "Latin" and "Romance"

The most salient feature of the documents prepared by Nicholaus Martini is their linguistic hybridity, and this should be no surprise, for Nicholaus worked during a period in which the production of hybrid Latin-Romance texts had already become the norm for those locally oriented genres of text that he and his peers produced. As Lapesa pointed out some time ago, the mixing of "latín y romance" was current in local legal documents in the late twelfth and early thirteenth centuries, and had been used earlier in *fueros* (local law codes, such as the 1202 *Fuero de Madrid*) and *cartas puebla* (municipal charters granting privileges to inhabitants).[60] The documents produced by Nicholaus Martini are almost all characterized by some degree or type of Latin-Romance hybridity, which we analyze below in terms of three different registers ("Latin," "Romance," and "Latin-Romance"), use of which varies across texts and genres. As we have indicated, however, many scholars view such texts as "Latin" or "corrupted Latin" and therefore tend to see the switch from Latin to Romance as a rapid and sudden event. Still, as a number of language historians have argued, a sudden shift to the vernacular would not have been possible without a) preexisting orthographic techniques for representing the vernacular and b) a new conceptual boundary between Latin and Romance. Much more likely was a gradual development and shift in both practices and conceptions of language and writing, which can be found in the hybrid texts of Nicholaus Martini and his peers. That said, the hybridity of these texts is best accounted for by anchoring them in the initial phases of the larger process of change in values and practices identified by Le Goff and Ruiz (see below).

All of Nicholaus's texts are written in a legal register dominated by use of formulae and by a diverse mix of representations of "Latin" and "Romance." We analyze these patterns of hybridity in terms of prototypical code-switching and code-mixing as defined by Peter Auer (understanding "code" as equivalent to "register" as used by Asif Agha).[61] Although this approach has been developed primarily in and for studies of hybridity in speech, it is also useful for analysis of written texts. According to Auer, code-switching is defined as selection of one or another code (language, variety, or register in the traditional sense), most often at the level of the sentence, text section, or full text, that is interpretable as fulfilling a discursive function. Code-switching can be alternational (with preference for one language at a time) or insertional (with use of single, small items from a second code within a dominant, matrix code). Code-mixing, on the other hand, refers to use of different codes, most often at the level of phrase, word, and morpheme, with no discursive function specific for each change, though the overall pattern of code-mixing is socially functional (and has been described as a "code-mixing style"). Code-mixing too may be alternational or insertional. Auer

[60] Rafael Lapesa, "El Fuero de Madrid," in *Estudios de historia lingüística española* (Madrid, 1985), 157–66. For a more recent review, see María Jesús Torrens-Álvarez, "El hibridismo latinorromance de fueros y documentos de finales del siglo XII y comienzos del XIII," in *"Quan sabias e quam maestras": Disquisiciones de lengua española*, ed. Diana Esteba Ramos et al. (Málaga, 2019), 101–12.

[61] Peter Auer, "From Codeswitching via Language Mixing to Fused Lects: Toward a Dynamic Typology of Bilingual Speech," in *International Journal of Bilingualism* 3/4 (1999): 309–32; Peter Auer, "Code-switching/mixing," in *The SAGE Handbook of Sociolinguistics*, ed. Ruth Wodak, Barbara Johnstone, and Paul Kerswill (London, 2010), 460–78; and Agha, *Language and Social Relations*, 147–48.

also emphasizes that convergence between codes is frequent among individuals and communities that regularly make alternating use of two or more codes; consequently, the codes used by "bilinguals" often do not match exactly the codes used by "monolinguals." In the following, we will argue that convergence between "Latin" and "Romance" codes/registers (as represented in the texts of Nicholaus Martini) leads to instances of "code-blending," in which clear distinctions between two codes are difficult or impossible to make, and/or some forms are bivalent (i.e., identifiable as belonging to either code or to both codes at the same time).

In our corpus, overall patterns of variation are tightly linked to textual genre. The two *cartas de remembranza* show a historically innovative pattern characterized primarily by alternational code-switching, with dominant representation of continuous "Romance" in the body of the text (where the variable information is reported). The following extract demonstrates the consistency of the "Romance" written by Nicholaus already in 1216:

> que demandaua el comde don |[4] ferrando al prior don Rem*on*t & a todo so *con*uiento. que dizie que la compraran de ben |[5] fetria; & noles auie a ualer. & disso el p*ri*or don Remont & todo so *con*uiento. que compraran |[6] la heredat de las q*ui*ntanillas & de so t*er*mino; de don Malrich gomez. & dizie el comde don |[7] ferrando. que si don malrich gomez uendiera la heredat al p*ri*or don Giralt de s*anct*i ioh*ann*is |[8] & a so *con*uiento; q*ue* nola ouiera tenuda anno & dia q*ua*ndo la uendiera. & que por esso noles |[9] auje a ualer
>
> [which count *don* Fernando/Ferdinand demanded of prior *don* Raimundo/Raymond and all his convent, which he said that they had purchased it from a lord; and that [the purchase] should not be valid for them. And the prior *don* Raimundo said, along with all his convent, that they had purchased the estate/property of Las Quintanillas and its area from *don* Malrich Gómez. And count *don* Fernando said that if *don* Malrich Gómez had sold the property to prior *don* Giralt of San Juan and to his convent, that [Gómez] had not had it a year and a day when he had sold it, and that for that reason [the purchase] should not be valid for them][62]

In the *remembranzas*, representation of "Latin" was concentrated only in the most routine elements of the opening and closing of the text, such as the initial *invocatio* and *notificatio* ("Jn d*e*i no*min*e. Notum sit om*n*ib*us* hominib*us* tam p*re*sentib*us* q*ua*m fut*ur*is. q*u*od"), the date, and the introduction of witnesses at the end ("Facta carta m*en*se Jvlij. Sub. eRa. M^{a}.cc^{a}.L^{a}.iiij^{a}. Hui*us* rei s*un*t testes q*ui* uid*er*unt & audier*unt*"). On the other hand, the fifty-one property transfers reflect a conventionalized use of "Latin" and "Romance" found in many twelfth- and early-thirteenth-century Castilian legal documents: code-switching in the overall text, but not so much between "Latin" and "Romance" as between "Latin" and a hybrid Latin-Romance register that is itself characterized by code-mixing and convergence.

Nicholaus does not appear to have produced any texts in fully continuous "Latin," nor was it likely that he would have been called on to do so, since such texts were typical only of high-level communications within the church or the government. Identifiably "Latin" high-register forms and sequences (which also show evidence of blending; see below) dominate in the most routine passages, which tend to cluster near the

[62] AMB, C1-7-17-6, dated 1216. In this and following extracts, italics indicate reconstructions of forms abbreviated in source documents.

beginning and end of each charter, but which can be found throughout. In these sections, "Latin" serves as the matrix code/register into which "Romance" forms are inserted. This is apparent in the following extract:

> **Jn d*e*i nomine. Notum sit om*n*ib*us* hominib*us* tam p*re*sentib*us* q*ua*m fu**|[2]**turis. q*uo*d ego domn*us* fernand*us*** gonçaluez **d*omi*n*us*** del hospital del |[3] emp*er*ador. **cum *con*sensu & uoluntate de domn*us* Mauriti*us* burgensis** |[4]**ep*iscopu*s. bona uoluntate dono & *con*cedo uob*is* domn*us* Joh*anne*s d*omi*nici diaco** |[5] **no. filio de d*omi*nicus** pasqual. & **fr*atr*i u*est*ro domn*us* d*omi*nicus. & vxor eius** |[6]**d*omi*na** eluira ferrandez. **& om*n*i gen*er*atio u*est*ra. illo** solar **ad pop*u*landu*m*** |[7] **q*uo*d est in uico s*anct*i steph*an*i**

> [In the name of God. May it be known to all men both present and to come that I, *don* Fernando González, master of the Hospital of the Emperor, with the consent and will of *don* Mauricio, bishop of Burgos, with good will do donate and grant to you, *don* Juan Domínguez, deacon, son of Domingo Pascual, and your brother *don* Domingo, and his wife *doña* Elvira Fernández and all your descendants, that plot of land to be settled which is in the neighborhood of San Esteban][63]

We recognize that there was probably a ceiling on Nicholaus's level of productive linguistic competence in the high written register(s) that we label "Latin," but he clearly demonstrates adequate competence for the type of text he has to produce, as we discuss below.

Conversely, mixing of "Romance" vernacular forms with "Latin" forms occurs most frequently in the *dispositio* (the more variable body of the document, which describes the properties in question as well as other details of the transaction) and the final list of witnesses. This is evident in the continuation of the preceding extract:

> **q*uo*d p*er*tinet ad ill*u*d hospitali** del emp*er*ador |[8] **q*uo*d est ad latus** del solar de **d*omi*nicus** teissedor. & las casas de ioh*a*n de |[9] la sob*ri*na. & **desup*er* illo** solar de **petr*us*** gilib*er*t

> [which belongs to the Hospital of the Emperor which is beside the plot of Domingo [the] weaver, and the houses of Juan de la Sobrina, and above the plot of Pedro Gilberto]

The following extract shows similar mixing:

> **Et ista** es la hereditat que uos uendemos. **scilicet; quatuor** pares de casas |[6] **qui s*un*t in** uillalual. **cu*m*** suos corrales & suos muradares

> [And this is the property that we are selling, namely, four pairs of houses which are in Villalval, with their pens and their middens][64]

Convergence or "blending" is also manifested in mixing that is so pervasive that neat distinctions between "Latin" and "Romance" become more difficult to make, as in the following semi-formulaic listing of property features:

> de casas. t*e*rras. vineas. ortos. arbores. p*ra*ta. |[4] molinos. eras. muradares. sollares pop*u*latos & no*n* pop*u*latos

[63] ACB, vol. 5, p. 1, fol. 59, dated 1217. For immediate purposes of exposition, we indicate in boldface identifiable "Latin" forms, but, as we argue below, a clear distinction between "Latin" and "Romance" forms is often not possible, and some of those forms we identify as "Latin" are and were open to alternative interpretations.

[64] AMHB, legajo 35, no. 1562, dated 1221.

[of houses, lands, vineyards, orchards, trees, meadows, mills, threshing floors, middens, inhabited and uninhabited plots][65]

Here a number of words are difficult to classify and to evaluate. *Prata* is identifiable as a plural accusative, but *casas* (with its vernacular meaning) can be identified as a "Latin" accusative, a "Romance" form, or both at the same time. The form *vineas* can be identified as a "Latin" plural accusative, a "Latin" word borrowed into "Romance" and inflected with a "Romance" plural morpheme, or both at once. The abbreviated form *tras* can be understood as "Latin" *terras*, "Romance" *tierras*, or both. Furthermore, if forms such as *prata*, *vineas*, and *montes* are identified as "Latin" accusatives, modern scholars (or medieval reformists) may then evaluate them as failed, "incorrect" attempts to approximate the Classical (or reformed Medieval) Latin norm, in which prepositions *de* and *cum* should be followed by ablative case. Forms such as *ista/istam* look like "Latin," but are used with their "Romance" semantic function. In our analysis, we view such cases as instances of convergence/blending and we hold both code-mixing and code-blending (i.e., either with or without transparently distinguishable "Latin" and "Romance" forms) to be constitutive of the repertoire of the Latin-Romance hybrid register found in the documents of Nicholaus Martini (and his peers). However, our larger concern is not with how we as modern scholars can or should analyze such forms, but rather with how contemporary inhabitants of Burgos and Castile might have evaluated such representations. We return to these issues below.

Overall, then, Nicholaus Martini engages in code-switching among a high "Latin" register, a low "Romance" register, and a hybrid Latin-Romance register, the repertoire of which is characterized by code-mixing and code-blending. Despite his use of this third, hybrid register, we argue that the scribe's choices were framed within an idealized, diglossic conception of the different values and functions of "Latin" and "Romance."

5. Factors Influencing Scribal Choice

In this section we examine a range of factors that may account for the patterns of code-switching, -mixing, and -blending (or convergence) we have just outlined. We first address the possible role of scribal incompetence in Nicholaus Martini's use of "Latin." We then shift to a focus on Nicholaus Martini's communicative and linguistic competence, arguing that his textual production and choices regarding the representation of "Latin" and "Romance" reflect his understanding of genre conventions, which were in turn influenced by the sociocultural values attributed by community members to "Latin," "Romance," or their mixture, particularly through strategic ambivalence and *variatio*.

5.1. Scribal Incompetence and Competence

When explaining the appearance of code-switching, -mixing, and convergence found in many medieval documents, scholars have tended to attribute both inconsistent and "incorrect" use of Latin to scribal ignorance. With regard to inconsistent or only partial

[65] Ibid.

use of Latin, scribes are seen to have produced Latin forms and constructions when they could, but to have "fallen back" on representation of vernacular forms when they did not have sufficient competence in the use of traditional, more logographic Latin script (according to Wright) or of Latin as a distinct language (according to the more widely shared "traditional" perspective).

This latter view is akin to some popular views of contemporary code-switching and code-mixing by US Spanish-English bilinguals, which hold such behavior to be a kind of "crutching." According to Ana Celia Zentella, the patterns of switching and mixing used by Spanish-English bilinguals in the US, sometimes referred to as "Spanglish," are popularly disparaged as a sign of linguistic, communicative, and cultural incompetence.[66] In this view, code-switchers use their dominant or native language (Spanish) as a "crutch" when they cannot express a message in their second language (English). In the bilingual communities studied by Zentella and others, such crutching does occur, but it is most often a minor phenomenon and does not account for most of the variation in code use that is observed. Indeed, scholars have found that most cases of alternation between codes are functional in communicative terms (going beyond compensation for gaps in lexical or grammatical knowledge) and depend on relatively balanced bilingual competence in the specific registers in which it occurs. Discursive functions include the very general (as in Auer's code-mixing), serving to index hybrid ethnolinguistic identities, and the very specific (as in Auer's code-switching), serving to mark emphasis, clarify meaning, quote, or indicate other changes of footing/stance. A clear example, which combines both the general function and a specific function, is found in the reply Zentella received when she asked a young Nuyorican girl what languages she and her friends spoke: "Hablamos los dos. We speak both."[67]

We do not want to claim that the particular factors that animate switching/mixing in contemporary US Latinx communities are relevant to the medieval hybrid documents under study here, but we do want to point out that the written texts produced by Nicholaus Martini (and other scribes of his and preceding generations) are too easily misunderstood—like Spanglish—as merely the result of a kind of crutching. In fact, Nicholaus does not always switch to Romance because of lack of knowledge of "Latin" (or of traditional "Latin" orthographic conventions, as Wright would have it). There are, for instance, numerous lexical items that Nicholaus frequently represents in forms identifiable, then and now, as either "Latin" or "Romance" (though forms such as the demonstrative *ista* are used with their vernacular function). Examples include numerous graphic-phonetic variants (*ista/esta, uinea/uinna*, *dom(i)nus-dom(i)na/don-dona*, *comes/comde*, *pac(c)ati/pagados*) as well as lexical variants (*totu/todo/omni, alia/otra*, *frater/ermano, soror/ermana*, *uico/barrio*).

[66] Ana Celia Zentella, *Growing Up Bilingual: Puerto Rican Children in New York* (Oxford, 1997).

[67] Zentella's conclusions serve as a foundation for recent work on translanguaging, which foregrounds the ability of speakers and writers to make strategic and integrated use of a range of semiotic resources from multiple registers (including "languages") in order to mediate complex social, cultural, and cognitive activities. Translanguaging as a practice is commonly accepted in culturally monolingual contexts but highly constrained in culturally bilingual and multilingual contexts. Thus, translanguaging presents a perspective on language hybridity that is consonant with our view of Nicholaus Martini as a competent user of "Latin" and "Romance" registers in a culturally monolingual context. See Ricardo Otheguy, Ofelia García, and Wallis Reid, "Clarifying Translanguaging and Deconstructing Named Languages: A Perspective from Linguistics," *Applied Linguistics Review* 6/3 (2015): 281–307.

Variation between such "Latin" and "Romance" forms occurs in other lexical items, not only across documents but also within single documents. For instance, the representation of names often varies in the lists of witnesses: *Petrus/Peidro; Iohannes/Joan*. The name of Alfonso Díaz de Rojas appears in three different forms—one identifiably "Romance," the other two progressively more identifiable as "Latin"—in a single document from the Cathedral of Burgos dated 1216: *Alfonso Diaz de Roias; pro anima domni Alfonso Didaci de Roias; domnus Aldefonsus Didaci de Roias*.[68] Examples of this sort abound in the work of Nicholaus Martini and other scribes in the twelfth and early thirteenth centuries.

We also find examples (all taken from original parchments) of Nicholaus's knowledge of "Latin" and "Romance" grammatical equivalents; sometimes these are found within a single document, at other times in different documents. For instance, the Latin genitive *canonicus sancte Marie burgensis ecclesie* in the *intitulatio* of one document gives way to the prepositional possessive in the *dispositio*: *adlatus de vinea de zuch cheuathiel. & Vinea de dominicus arnalt. & uinea qui fuit de iohannes coco. & terra de dona dominga de fresno*.[69] Other examples of grammatical equivalents include the use of Latin ablative following *cum*, its non-use (i.e., apparent use of vernacular) following *con*, as well as intermediate options with code-mixing within the phrase itself: *cum introitibus & exitibus // cum intrada & exida*.[70] Similarly, the Latin dative construction contrasts with the use of a "Romance" prepositional phrase marking indirect object: *dono & concedo uobis*[71] // *uendo ad uos*.[72] It is evident that for a number of representations and constructions, Nicholaus was capable of choosing between "Romance" or "Latin" forms.

Modern scholars also judge scribes who produced hybrid texts as incompetent because the "Latin" they represent is often "incorrect," at least when judged by the norms of Classical or reformed Medieval Latin. However, it is also possible that the superordinate "Latin" register itself was understood (at least in the late twelfth and early thirteenth centuries) as composed of repertoires of registers that were mixed in actual written use. If so, then the identifiable repertoire of "Latin" was rather broad, including forms and constructions of Classical/reformed Latin as well as of the pre-reform high register often labeled "Late Latin," some of whose norms were less distant from the vernacular.[73] Nicholaus Martini was certainly familiar with norms of reformed Latin. For instance, he uses many verbs in correctly conjugated forms appropriate to the co-text: *comparaui, detis, est, habeo, habemus, faciatis, facio, facimus, pertinet, sit, sunt, uoluerit*, etc. He also makes accurate use of case marking in the nominative (*Ego domnus dominicus*), the accusative (*facimus cambium, habeat iram*), the dative (*uendo & roboro uobis . . . & omni conuentui*), the genitive (*in uico sancti stephani*), the ablative without preposition (*facta carta mense augusti*; *bona uoluntate*), and the ablative with preposition (*cum consensu & uoluntate*).

[68] GG 496, dated 1216, pp. 314–15.

[69] ACB, vol. 5, p. 1, fol. 29, dated 1228.

[70] Both phrases appear in AMHB, legajo 35, no. 1612-E, dated 1215. Document GG 434 (dated 1211, copied in a cartulary of the mid-thirteenth century) also includes the fully vernacular "con entrada & con exida."

[71] ACB, vol. 5, p. 1, fol. 59, dated 1217.

[72] AHN, Clero Secular Regular, carpeta 170, no. 2, dated 1224.

[73] Torrens-Álvarez, "Variedades en contacto en la documentación notarial medieval."

However, we also find identifiably "Latin" forms and constructions that depart from Classical/reformed norms. For instance, the formula *ex mea bona uoluntate* would not have required the preposition in Classical Latin, and the plural equivalent form *ex nostras bonas uoluntates* can be understood as replacing the ablative with accusative forms. Rather than using the genitive, Nicholaus often marks the possessive with the preposition *de* + ablative (*unam passatam de terra, hereditate de filiis de*), and he sometimes uses both (*toda la tierra de sancti martini*). He often uses accusative forms after the preposition *cum* (*cum . . . montes & fontes*). Reformed Latin and Late Latin alternate in the variants of the formula *sum de eis/illis paccatus* or *sum inde/de inde paccatus* (see below).[74] Indeed, many of these are well-documented features of Late Latin.[75] Nicholaus Martini's use of these variants indicates his familiarity with a range of "Latin" registers and the existence—at least in the genre of property transfers and within this scribal community of practice—of a broad repertoire of forms and constructions identifiable by contemporaries as "Latin."

Convergence phenomena also contribute to modern judgments of incorrectness caused by interference. There are numerous examples of word forms and constructions that are—and were—progressively less easily distinguished as "Latin" or "Romance." In some instances, this is transparently the result of borrowing with morphological adaptation of forms from one register into the other. For instance, "Romance" forms are borrowed and inflected with "Latin" morphemes: *solar > de solaribus, infançon > de infançonibus, heredar > heredarent, merino > merinus, uendida > uendidam, Fernando > Fernandus*. As we have already seen, some forms can be identified as "Latin" plural accusatives or just as easily as "Latin" forms borrowed into "Romance" and inflected with the "Romance" plural morpheme: *uineas, molinos, nostras bonas uoluntates*. There are a number of lexical items that share the same form in "Latin" and "Romance": *de*, *nos*, *tio/thio*, *quando*, *anno*, *uendo*. Abbreviated word forms often lend themselves to identification as either "Latin" or "Romance"; *nra* can be realized as *nostra* or *nuestra*, *tra* as either *terra* or *tierra*.

Code-blending such as this further contributes to the modern perception that these texts are essentially "Romance" with only a "veneer of Latinity." It may be interpreted as evidence of scribal ignorance when judged by the standards of Classical/reformed Latin, but it may not have been evaluated in this way by contemporary producers and recipients of hybrid documents. An alternative view is that such convergent forms were created and made conventional because they were strategically bivalent: identifiable as belonging to two codes/registers at the same time.[76] Use of bivalent forms could have served, like code-mixing and code-switching more generally, as a strategy of neutrality that helped to balance competing needs. We return to this issue below.

[74] Wright, *A Sociophilological Study of Late Latin*, 246–48, associates use of *illis* (as in *de illis*) and *inde* with Late Latin, and use of *eis* and *de inde* with reformed Medieval Latin.

[75] Mariano Bassols de Climent, *Sintaxis latina*, 2 vols., Enciclopedia Clásica 3 (Madrid, 1956). For further discussion, see Torrens-Álvarez, "Variedades en contacto." She, following Javier Elvira, suggests that some "incorrect" forms identifiable as "Latin" may reflect an earlier two-case system, some aspects of which had survived in scribal practice. See also Javier Elvira, "Observaciones sobre la hipótesis de una declinación bicasual en la última etapa del latín en Hispania," in *Latín vulgar y tardío: Homenaje a Veikko Väänänen (1905–1997)*, ed. Benjamín García-Hernández, Bibliotheca Latina 2 (Madrid, 2000), 31–43.

[76] Kathryn A. Woolard and E. Nicholas Genovese, "Strategic Bivalency in Latin and Spanish in Early Modern Spain," *Language in Society* 36 (2007): 487–509.

It seems, then, that Nicholaus Martini was able to choose to produce and represent an identifiable "Latin" register, a "Romance" register, and a hybrid "Latin-Romance" register. Moreover, his contemporaries appeared to have seen him as a competent user of these registers. This is attested to by the frequency with which individuals and institutions sought his services (and those of his peers who prepared similar sorts of documents). We conclude, then, that factors other than scribal incompetence must have played a larger role in shaping Nicholaus Martini's use and representation of different registers in his textual production. We review these factors in the following sections.

5.2. Genre Conventions

Nicholaus Martini's two textual genres, *remembranzas* and property transfers, constituted different types of legal document and communicative act, with different expectations about their purposes and the roles of participants in them. The most striking pattern of variation is the contrast between representation of "Latin" in the most routine sections of all the documents, the representation of continuous "Romance" in the body of the *remembranzas*, and the representation of a Latin-Romance hybrid register in the body of the property transfers. The regularity of the patterns of register choice and representation used by Nicholaus (as well as other contemporary Burgos scribes whose documents we have examined) strongly suggests that in these documents Nicholaus was following established genre conventions. In the following subsections, we identify key factors that favored use of "Romance," use of "Latin," and hybrid use of both, in the emergence, maintenance, and eventual alteration of these genre conventions.

Factors Favoring Use of "Romance"

As many scholars have pointed out, the extremely limited (albeit increasing) access to literacy in reformed Medieval Latin in this period suggests that documents prepared in continuous reformed "Latin" would have been comprehensible to only a very privileged few, most often members of the church. Consequently, any text that more transparently reflected or represented the vernacular would be more easily understood in written form, and perhaps more important, serve as a better guide or script during reading aloud of any document, when some level of comprehension by an audience, including the parties and witnesses to a transaction, was needed or desired (see below). Use of "Romance" vernacular forms had long been favored in the case of names of local places (and secondarily of persons). This occurred when representation of conventional names used in spoken language would ensure precision or clarity of reference, and was most likely when no tradition of representation in "Latin" existed, as was the case for the majority of place names. More generally, "Romance" was favored in the description or enumeration of features or concerns that were particular and variable to each transaction, which tend to be found in the *dispositio* of the texts, as seen in this extract:

> **Vnde s*un*t adlatanei** de los tres pares de las casas. **scilicet;** |[7] casas & corral. & muradar de dona Maria nuestra ermana. & solar del monesterio de onna. & la ferrein de don Gonçaluo aluarez. **& in antea**; la carrera. **Et** de las otras casas **sunt adlatanei**; casas & era & muradar del monesterio de onna. & de don Gonçaluo aluarez. & la carrera

[Where are adjoining to the three pairs of houses, namely: houses, and pen, and midden of *doña* María, our sister, and plot of the monastery of Oña, and the fodder grain field of *don* Gonzalo Álvarez, and in front, the road. And to the other houses are adjoining: houses, and threshing floor and midden of the monastery of Oña, and of *don* Gonzalo Álvarez, and the road][77]

Such use of "Romance," even within the hybrid register, benefited and empowered participants in the transactions (frequently members of the "middling sorts" who could participate in property transfers and accumulation), as it allowed them direct comprehension and supervision of key content in the moments of public presentation and confirmation of documents. Given that use of "Romance" favored a kind of supervisory authority for lay participants, it is reasonable to infer that such persons promoted its use.

Ease of comprehension and clarity of reference were of central importance in nearly the entire text of the *remembranzas*. These documents, in nearly continuous "Romance," were essentially reports that summarized oral testimony (or at times simply previously unwritten common knowledge), provided by local inhabitants and other knowledgeable persons, which had to do with important legal disputes between institutions. In Nicholaus's two *remembranzas*, the witnesses attest to the history of ownership and the status and limits of particular pieces of property. The fundamental reporting function of these documents is manifest in the emphasis placed on what particular individuals had to say (*disso el prior, dizie el comde*). Unsurprisingly, the reporting function could also cue switches to continuous "Romance" within the property transfers. For instance, in one of these, a secondary and unusual explanatory comment is included between the date and the list of witnesses, and it appears in almost continuous Romance:

& fallaron p*or* derecho los alcaldes. que por que non auien dias de uender ista t*er*ra sup*ra*sc*ri*pta entre andres & Maria; que ualiesse la uenta. por que la uendien por quita debda que deissara p*or* quitar so padre.

[and the judges found by right that since there were no days to sell this above-named land between Andrés and María, that the sale should be valid, because they sold it to eliminate debt that their father had left to be paid.][78]

Another factor, *vox viva*, may have played a role in the preference for continuous "Romance" in Nicholaus's *remembranzas*. Since *remembranzas* were generally prepared as sources of information or evidence to be consulted by authorities and participants involved in various kinds of legal dispute, it was very important that their contents reflect as closely as possible the oral testimony given. Early use of "Romance" may have enhanced such documents' value as evidence in juridical proceedings by echoing *vox viva* within *vox mortua*. According to Velasco, *vox viva* and *vox mortua* were juridical terms and concepts that highlighted the attributes of different sorts of proof. *Vox viva*, or living voice, was associated with oral witnessing, confessions, and testimonies, and was characterized by its instantaneity, its sound, and the bodily presence of the speaker. Despite its ephemeral nature, only *vox viva* could produce the truth. *Vox mortua*, on the other hand, was associated with written legal instruments. It had

[77] AMHB, legajo 35, no. 1562, dated 1221.
[78] ACB, vol. 49, fol. 46, dated 1221.

the great advantage of preserving memory, but it erased the living presence of speakers and reduced their words to marks on a "dead animal skin" that could easily be corrupted, falsified, and forged (and therefore were in great need of abundant signs of authorization and authentication).[79] In the case of Nicholaus's *remembranzas*, novel use of continuous "Romance" may have enhanced their acceptance as valid evidence (and thereby their communicative function) by underscoring the closeness of the written form (*vox mortua*) to the original—and more immediately credible—oral testimony (*vox viva*).[80] Importantly, this early shift to continuous "Romance" was eased by the fact that *remembranzas* did not have binding legal effects and therefore had far less need for signs of lasting legal authority associated with "Latin."

Factors Favoring Use of "Latin"

The weight of discursive tradition certainly favored the representation of high-register "Latin" in legal documents (and secondarily of the hybrid "Latin-Romance" register; see below). The forms and constructions of "Latin" appear to have been taught across generations of scribes, evidently permitting the maintenance of more vernacular-influenced norms of Late Latin alongside the norms of reformed Medieval Latin. For centuries, writing had essentially been in "Latin," and the continuing use of "Latin" in local written documents was supported by its long-standing sociocultural value, for the forms and constructions of whatever was perceived as "Latin" had come to index not only tradition and continuity but also authority and power. These indexical values derived from and depended on past use of "Latin" in local documents and in those emanating from the royal chancery, but such use had been closely tied to and dependent on use and representation of "Latin" by the Roman Catholic Church: in classical and Christian patristic texts (evident at least to the literate elite), in the liturgy, and in increasingly consistent use of reformed Medieval Latin in written communications within the transpolitical but centralizing Catholic Church.[81] These uses and associated indexical values favored continued use of "Latin" in property transfers of the late twelfth and early thirteenth centuries. Participants in these transactions wanted legally binding documents that would not only enact but also guarantee into the future a lasting change in ownership and/or rights and obligations (and for this reason many were

[79] Velasco, *Dead Voice*, 1–43. Velasco also points to deep anxieties associated with both *vox viva* and *vox mortua*. On the one hand, there was the residual fear of losing the living voice as a juridical resource, because living voice is linked to biological life. On the other hand, there was a fear that dead voice might actually be unable to convey the content of the living voice, even while it claims to preserve it. These anxieties may have contributed to the great concern with the indexing of authority that we find in the texts of Nicholaus Martini and his peers.

[80] The influence of the value attributed to *vox viva* may also be seen in other early representations of "Romance," such as the eleventh-century oaths of fealty in southern France. For instance, in documents 3 (c. 1053) and 4 (c. 1078) of Clovis Brunel, *Les plus anciennes chartes en langue provençale: Recueil des pièces originales antérieures au XIIIe siècle* (Paris, 1926), pp. 5–6 and 6–7, the actual oaths spoken appear in "Romance" while the rest of each text appears in "Latin."

[81] As we have observed, use of Medieval Latin was fomented through the Gregorian reforms, and it would be reinforced by the Fourth Lateran Council in 1215, which presented Medieval Latin as the secure, stable common denominator of Christendom. Latin was seen to co-exist with vernaculars, which were regarded as necessary tools of evangelization but also as possible vehicles of heresy, as for instance in southern France (see Velasco, *Dead Voice*, 57–58). Of course, these actions by the church also helped to reinforce the association of "Latin" with the church at a time when written representation of "Romance" was on the rise.

preserved in originals or copies on parchment). Unsurprisingly, and despite the advantages they received from use of "Romance," lay participants also desired the continued use of identifiably "Latin" forms (and formulae; see above) that for centuries had served as implicit guarantors of continuity and authority backed by the power of the church.

If we view "Latin" and "Romance" as satisfying somewhat complementary demands, the internal composition of the documents also becomes easier to understand. "Romance" enhanced ease of comprehension, clarity of reference, and the immediate supervisory authority of the participants (along with, perhaps, the immediate credibility of testimony reported in *remembranzas*). "Latin" clearly indexed continuity and traditional authority, particularly ecclesiastical authority, which served to ensure lasting and unquestioned ownership and rights. Importantly, both sets of demands were held not by different groups but rather by a group increasingly dominated by lay concerns: the members of the urban "middling sorts" who participated in property transactions and accumulation. Representation of "Latin" is found most consistently in the most formulaic parts of the property transfers, which serve as the authorizing frame of each transaction and do not require ease of comprehension or clarity of reference to local particulars or to spoken language (see below).

Factors Favoring Latin-Romance Hybridity

If patterns of preference for—or switching to—"Latin" or "Romance" can be (partly) explained as results of the general and pervasive tension between factors favoring "Romance" on the one hand and "Latin" on the other, so can patterns of mixing and blending. Indeed, as in the case of "Spanglish," many particular mixes and blends are best accounted for as manifestations of the use of communicative strategies of neutrality or strategic ambivalence, which, as Auer explains, allow simultaneous accomplishment of different ends or tasks through avoidance of the conflict that categorical choices would entail.[82] This is especially the case within the *dispositio* of the property transfers, since this section lays out the specific details of each transaction, and these required both lasting authorization (indexed through use of "Latin") and some degree of comprehensibility that would allow participants to confirm and supervise particulars (though use of "Romance"). Within the Latin-Romance hybrid register, specific manifestations of neutrality include not only pervasive register mixing but also use of bivalent and convergent forms.

Neutrality, however, was not the only factor that favored mixing and blending: *variatio* also seems to have a played a role. *Variatio* is a rhetorical device that writers have been trained to use since antiquity. In contrast to *repetitio* (a fundamental device of much standardized language, including legal registers), it aims to increase the aesthetic appeal of planned texts by avoiding excessive repetition of similar forms in similar contexts (of course, this aesthetic device can be used to create a particular style or to index particular sociocultural values; see below). It remains current today, as when writers vary lexical choice to avoid overrepetition of a single word or phrase. A number of scholars have pointed out that in the medieval period writers of even the most prosaic and formulaic texts—such as those produced by Nicholaus Martini—could

[82] Auer, "From Codeswitching via Language Mixing to Fused Lects," 320.

engage in *variatio* by taking advantage of existing sociolinguistic variation.[83] This often led to variation in forms that in later periods would become much more or completely standardized, and therefore not amenable for use in *variatio*. Much of the mixing in Nicholaus's texts appears to occur as a result of his application of this rhetorical device. *Variatio* could be achieved by varied means:

- selection between "Latin" and "Romance": *frater* vs. *ermano*, *Petrus* vs. *Peidro-Pere*
- selection from among "Latin," hybrid "Latin-Romance," and "Romance": *cum introitibus & exitibus* vs. *cum intradas & exidas* vs. *con entrada & con exida*
- selection from within "Romance": *uenta* vs. *uendida*
- selection from within "Latin": *bona uoluntate* vs. *ex mea bona uoluntate*

Nevertheless, *variatio* is most evident when it draws on contrasts between "Latin" and "Romance" forms and constructions. Its most dramatic manifestation can be found in variants of some formulae, such as the frequently used guarantee of satisfaction with the transaction: *et sum/sumus de illis/inde paccatus/a/i* [I/we am/are satisfied by them/by it]:

et so de illis paccata[84]
et so de illis pagado[85]
et sum de illis paccatus[86]
et so inde pacatus[87]
et sumus dellos paccati[88]
et sumus de eis paccati[89]
et somos inde pacati[90]
et somos de illis paccati[91]

In these rather surprising examples of "intraformulaic" code-mixing, we see combinations of what we can consider different registers within "Latin" (forms and constructions associated with Late Latin as well as reformed Medieval Latin), "Romance," and the Latin-Romance hybrid register that we have described: *sum* vs. *so*, *sumus* vs. *somos*, *paccatus* vs. *pagado*, *de eis* vs. *de illis* vs. *dellos*. Significantly, such use of *variatio*

[83] Margherita Morreale, "Trascendencia de la *variatio* para el estudio de la grafía, fonética, morfología y sintaxis de un texto medieval, ejemplificada en el ms. Esc. I-1-6," *Annali della Facoltà di Lettere e Filosofia dell'Università di Padova* 2 (1977): 249–61; Jesús Moreno Bernal, "Les conditions de l'apocope dans les anciens textes castillans," in *Le passage à l'écrit des langues romanes*, ed. Maria Selig, Barbara Frank, and Jörg Hartmann, Script Oralia 46 (Tübingen, 1993), 193–206; María Jesús Torrens-Álvarez, "Algunas consideraciones sobre el *repetitio* y la *variatio* gráficas en la Edad Media," in *Ex admiratione et amicitia: Homenaje a Ramón Santiago*, ed. Inmaculada Delgado Cobos and Alicia Puigvert Ocal, 2 vols. (Madrid, 2007), 2:1113–24; and Pedro Sánchez-Prieto Borja, "La variación lingüística en los documentos de la Catedral de Toledo (siglos XII y XIII)," in *Lenguas, reinos y dialectos en la Edad Media ibérica: La construcción de la identidad. Homenaje a Juan Ramón Lodares*, ed. Javier Elvira et al. (Madrid, 2008), 233–56.

[84] GG 454, pp. 264–65, and GG 460, pp. 271–72, dated 1213.

[85] GG 474, dated 1214, p. 288.

[86] GG 479, dated 1214, pp. 293–94.

[87] LG124, dated 1215, pp. 194–95; LG133, dated 1217, pp. 203–4; and AHN, Clero Secular Regular, carpeta 170, no. 2, dated 1224.

[88] GG 456, dated 1213, pp. 266–68.

[89] GG 497, dated 1216, p. 316.

[90] RD 347, pp. 387–88, and AHN, Clero Secular Regular, carpeta 1654, no. 4, dated 1223.

[91] GG 467, dated 1214, pp. 279–80.

seems to serve as a demonstration of competence by the individual scribe. Indeed, the variation in the selection and interweaving of different forms is so great that one senses an almost ludic quality, also typical of (modern) spoken code-mixing.[92]

Despite this apparent playfulness, the varied hybrid representations of this formula highlight once again the fundamental tension between different notions of indexical value. On the one hand, the representation of (parts of) the formula as "Latin" enhanced its durable, institutional validity, as in the case of religious formulae that appeared consistently in "Latin." On the other hand, the use of "Romance" to represent (parts of) this non-religious formula, which actually expressed words that were (or originally had been) said aloud by participants (often laypeople or clerics in lay roles), was likely favored because of a still close association of "Romance" with *vox viva*. In the long run, this type of intimate, creative mixing would open the door to a shift in the indexical value of durable authority from "Latin" to "Romance." We turn to this and related phenomena in the following section.

6. Comprehensibility, Authorizing Ritual, and Shifting Indexicalities

As we have observed repeatedly, the property transfers of Nicholaus Martini reveal an overriding concern on the part of participants with authorization of the immediate transaction and with authentication of the lasting truth and legal validity of each document. As part of the process of authorization and authentication, written legal documents needed to be "seen" and/or "heard" by authorities, participants, and witnesses, as indicated in the common formula: "Huius rei sunt testes qui uiderunt & audierunt . . ." ["Witnesses of this thing, who saw and heard [it] are . . ."] Perhaps not every text was actually read aloud, but many of them certainly were, and therefore the written form of each text had to function as a script for an oral performance, which itself required interpretation of the forms of the written text as "Latin," "Romance," or both. How, then, were the hybrid texts of Nicholaus Martini read aloud? Were they intended to be easily comprehensible? What were the goals and consequences of such oral performances?

For language historians who support early development of the conceptual distinction between Latin and Romance as languages, and see written forms as reflecting this distinction, reading aloud would, presumably, require distinct articulations of such forms as *comes* and *comde*, *Petrus* and *Peidro/Pere*, though this is a question for which they have shown little interest. In contrast, Roger Wright has argued forcefully and repeatedly that the "Latin" or Latinate parts of Late Latin and Latin-Romance hybrid texts were read aloud as "Romance" vernacular.[93] This is evident in his well-known

[92] Studies of spoken code-mixing report that speakers often play artfully with two languages and intermediate forms in acts of performance. See Auer, "Code-switching/mixing," 465.

[93] See, for instance, Wright, "The Prehistory of Written Spanish"; Wright, *Late Latin and Early Romance*; and Wright, *A Sociophilological Study of Late Latin*, 242. In more recent works, Wright has argued that early-thirteenth-century texts written in continuous Medieval Latin (e.g., ecclesiastical and royal chancery documents) or continuous Romance (e.g., the exceptional 1206 Treaty of Cabreros) were articulated phonographically (so that *ipsas* would be articulated [ipsas], and *esas* [esas]). This might suggest that representations of "Latin" and "Romance" in the contemporary hybrid texts were also read phonographically; however, Wright does not then address how older-style hybrid documents such as the property

analysis of a local Burgos legal document dated 1207.[94] For this text, Wright argues that Latinizing representations were intended only to provide a Latinate veneer and were read aloud as "Romance" (e.g., the letter *o* in *corpo* and *morte* was read aloud with diphthongal articulations as [ˈkweɾpo] and [ˈmweɾte] typical of medieval Castilian and modern Spanish).[95] Wright (along with others) has argued that reading such documents aloud as "Romance" was necessary because involved parties and witnesses were expected to read/hear and to understand each text, though he acknowledges that some formulaic and routine passages might be excepted from this.[96]

While we also recognize that comprehensibility played an important role in shaping key aspects of the form of hybrid documents, we have doubts about conceptions of this comprehensibility as a necessity or requirement. As we have argued, "need" for comprehensibility (or rejection of it) was tied to claims to different types of authority or indexical value. Ease of comprehension empowered (and therefore was probably sought by) those who were the primary participants in the property transactions, since it allowed them direct access to—and the ability to verify or question—key particulars contained in each document.

More generally, however, an emphasis on a "need" for comprehensibility may reflect a modern, utilitarian conception of discourse,[97] in which a fundamental assumption about communication is that every participant in written and spoken interactions

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transfers might have been read aloud. In "Latin and Romance in the medieval period," he limits his argument to the "early Middle Ages" but does not specify chronological limits.

[94] Document 158, in Ramón Menéndez Pidal, ed., *Documentos lingüísticos de España, 1. Reino de Castilla*, Revista de Filología Española, Anejo 84 (Madrid, 1966), 208–9.

[95] Wright, *Late Latin and Early Romance*, 242, argues that the scribe (Estefanus) of doc. 158 is trying to reproduce in writing what has been said orally, in the most official manner possible, by making use of his (imperfect) command of scribal "tricks of the trade" that allow him to provide a Latinate veneer to what is an essentially Romance document. In support of this argument, Wright points to the scribe's use of *t* for /d/, *o* for /ue/ or *e* for /ie/, which, in effect, merely maintain Latin etymological spellings. However, he also attributes to Latinizing intent the use of silent initial *h-* in several forms, such as the pronoun *hio* [yo], the Latin of the formulae (e.g., *Notum sit homnibus hominibus*, where *h-* is added to *omnibus*), as well as the demonstrative *oc*, where the expected *h-* is omitted. However, scribal ignorance of "Latin" (or traditional orthography) does not account adequately for these phenomena. If the scribe had been intending to Latinize, he could simply have repeated use of *ego*, found at the beginning of the same document, rather than write *hio*; similarly, he could have used the common Latin form *ad* rather than add *h-* to the preposition *a*. In contrast, our analysis suggests that the scribe, rather than intending to Latinize, made use of *h-* for multiple purposes: in part to represent a Romance palatal, as in *hio* or *hienego*, in part as a manifestation of *variatio*, and in part perhaps as a manifestation of his personal style. In other cases, scribes used *h-* before the diphthong /ue/ (e.g., *hueuo*, now written *huevo*) as a means to avoid confusion with consonant-initial *ue-* (e.g., *uer*, now written *ver*).

[96] Wright, "Latin and Romance in the Medieval Period," 18, states: "Oral culture played a more prominent role then than now, almost all texts were intended to be read aloud, and were expected to be intelligible when so read." He emphasizes that "the phonetic forms of the words must have been sufficiently close to that of normal colloquial speech . . . for the uneducated listener to recognize what the words were." Wright does recognize, albeit parenthetically, lesser degrees of comprehensibility for Latinate parts of texts: "the morphology and the syntax used in the detailed sections of documents (as opposed to the legal formulaic cliches) were also largely intelligible, whether or not the listener used that morphology and syntax in their own speech" (18–19).

[97] Ron Scollon, Suzanne Wong Scollon, and Rodney H. Jones, *Intercultural Communication: A Discourse Approach*, 3rd ed., Language in Society 21 (Chichester, 2012), 139–47.

has the right and obligation of understanding and of making oneself understood. This assumption is based in turn on an essentially egalitarian view of social relationships and of communication, according to which all interlocutors have or should have equal communicative rights and responsibilities. Utilitarian discourse, however, is a modern development of little relevance to the societies and cultures of medieval Europe, in which hierarchy and social inequality were understood as part of the natural order of things (at least by elites). Consequently, it may be anachronistic to assume that legal documents had to be fully comprehensible when read aloud to participants.

This is demonstrated by the fact that guilds of notaries in some other parts of Europe (particularly Italy) were successful in maintaining use of medieval Latin well beyond the thirteenth century, but also, and more importantly, by Catholic ritual, which serves as a direct contemporary parallel to Castilian hybrid texts. During much of the medieval period, church ritual was conducted in registers that closely respected Latin *grammatica*. It is unlikely that most persons who attended mass and other Catholic rituals understood the exact meaning of much of the "Latin" that they heard. What they probably did understand, and needed to understand, was the cultural function of the use of "Latin," which served as an index of institutional authority and continuity. The church was not concerned that attendees be able to understand the language of the ritual, with the marked exception of the sermon or homily. As has often been pointed out, church councils, beginning with the Council of Tours in 813, insisted that the homily be made maximally comprehensible for laypeople by making use of local, vernacular language. In effect, a person attending mass in twelfth- and thirteenth-century Castile would hear much "Latin" in the most ritualistic and formulaic parts of the service (before and after the homily), and this use of language, opaque as it was, served to mark the sacred quality of the service. The sermon, which was variable in content (not unlike the *dispositio* of the property transfers), and intended to be directly relevant to the attendees, was given in language that, for the most part, was likely to be comprehensible to those listeners.

Similarly, much reading aloud may not have been intended primarily to ensure understanding. In the case of eleventh- and twelfth-century royal legal documents of León, Moore has argued that reading aloud was part of the sacralizing ritual that guaranteed the legitimacy of those documents.[98] A similar argument may be made of local hybrid documents of late-twelfth- and early-thirteenth-century Castile, which still required regular use of ecclesiastical formulae in "Latin" as signs of authority (e.g., *in Dei nomine* and *habeat iram Dei*, which always appear in "Latin"). Reading a document aloud included all parties and witnesses in a ritual that confirmed its lasting validity and helped to assuage the anxieties of participants who were aiming to secure lasting control of their property and their legacies. The ritual had authorization and authentication as primary goals, not comprehension of documentary content.[99]

[98] Liam Moore, "By Hand and by Voice: Performance of Royal Charters in Eleventh- and Twelfth-century León," *Journal of Medieval Iberian Studies* 5/1 (2013): 18–32.

[99] Wright has often argued that the participants and even witnesses in the transaction were already familiar with the details being agreed to, and that this prior knowledge would have increased listeners' comprehension of the oral performance. Still, one could also argue that this very knowledge reduced the need for comprehensibility during the ritual of reading aloud.

We are arguing, therefore, that the factors that made representation of "Latin," "Romance," or the hybrid Latin-Romance register socially valuable were equally relevant to written form and oral performance. Whatever was perceived as "Latin," whether more or less distant from the vernacular, could continue to index lasting authority and support the future probatory value of the documents themselves. Transparently recognizable "Romance" could enhance participants' engagement and immediate supervisory authority (and might have enhanced perceptions of testimonial value in some cases). Does this mean that every written "Latin" form was read aloud phonographically as "Latin" (albeit with vernacular phonemes) and every written "Romance" form was read aloud phonographically as "Romance"? This is very likely. Still, the interpretation of abbreviations and numbers may have opened up possibilities for variation during oral reading,[100] some forms may have been interpreted as logographic (e.g., *filio* in strings of "Romance" forms), and use of *variatio* may have favored unpredictable departures from the written script during oral performance. Be that as it may, it is unlikely that the texts produced by Nicholaus Martini were read aloud with only vernacular forms.[101]

Significantly, the very difficulty of determining if some forms were or even should appear or be pronounced as "Latin" or "Romance" facilitated a gradual change in the indexical value of "Romance" that would make it increasingly acceptable in official written documents. This is particularly evident in the intimate and varied commingling of "Latin" and "Romance" forms within some non-religious formulae (e.g., *sum/so paccatus/pagado*), where a kind of "contamination" of meaning allowed the "Romance" forms to acquire (some of) the indexical value of institutional authority previously associated only with "Latin." The same is true, however, of the many items that appeared in either "Latin" or "Romance" form, as well as blends and other bivalent forms. With regard to the shift from Latin (or "corrupted Latin") to the vernacular, Ruiz has commented that "Latin was not understood by most people and thus was useless in the transaction of business at the local level."[102] But it is important to remember that local elites, and even the monarchy, only came to see "Latin" as useless (or no longer sufficiently useful to merit the bother) once "Romance" had begun to acquire the indexical value of institutional authority traditionally accorded to "Latin."[103]

[100] Pedro Sánchez-Prieto Borja, "Fonética común y fonética de la lectura en la investigación sobre los textos castellanos medievales," in *Atti del XXI Congresso Internazionale di Linguistica e Filologia Romanza: Centro di studi filologici e linguistici siciliani, Università di Palermo, 18–24 settembre 1995*, ed. Giovanni Ruffino, 6 vols. (Tübingen, 1998), 1:455–70.

[101] Sánchez-Prieto Borja, "La variación lingüística en los documentos de la Catedral de Toledo," 238, presents a different type of argument that complements and reinforces our own. He claims that some written representations of "Latin" and "Romance" must have been articulated differently in order for the intended message to be communicated effectively if and when read aloud. For instance, he points to a metalinguistic comment included in a document from the cathedral of Toledo dated 1194: "saltus quos vulgaliter sotos appellamus." The phrase provides a "Romance" vernacular equivalent *sotos* for a "Latin" form *saltus*. If both *saltus* and *sotos* were read aloud with the same pronunciation, the phrase would fail to communicate the intended message: that there is a difference between the form of the lexeme in "Latin" and "Romance." The meaning of the phrase can only be conveyed by uttering the terms with equally phonographic realizations.

[102] Ruiz, *From Heaven to Earth*, 34.

[103] An early and dramatic manifestation of this change in indexical value was the unprecedented 1206 royal Treaty of Cabreros, composed entirely in continuous Romance. Wright has argued that this use

Conclusion

In this study we have presented an alternative interpretation of the language represented in Latin-Romance hybrid documents and of the historical significance of that language. We have focused on the textual production of Nicholaus Martini, an early-thirteenth-century Castilian scribe whose documents are typical of their time and place. Our focus on documents produced by an individual scribe has allowed us to evaluate his ability to use a variety of registers and to suggest motivations for—and implications of—his (and other scribes') choices.

The production of Nicholaus Martini shows patterns of representation that transparently reflected and reproduced contemporary spectroglossia in written documents and the reading aloud of such documents. We find representations of diverse registers in a continuum from "Latin" to "Romance," including an intermediate Latin-Romance hybrid register. The repertoire of the superordinate register of "Latin" included forms and constructions of both reformed Medieval Latin and Late Latin, as well as bivalent and borrowed "Romance" forms, while that of "Romance" included current vernacular forms as well as bivalent and borrowed "Latin" forms. The repertoire of the Latin-Romance hybrid register was characterized by a partly conventionalized mixing and blending of registers.

Significantly, the patterns of switching, mixing, and blending found in these texts cannot be accounted for exclusively or primarily as a result of scribal incompetence. Nor do they occur haphazardly. Rather, we find that autonomous, lay scribes (working in urban contexts on the preparation of private documentation) adopted and regularized mixed representations of both "Latin" and "Romance" as they adapted their textual production to local needs and demands within changing social and cultural contexts.

A fundamental change occurred first within religious institutions. From the late eleventh century, the Catholic Church increasingly promoted the use of reformed Medieval Latin as part of a larger process of centralization and imposition of the authority of Rome. This emphasis on *grammatica* helped to highlight differences in writing between high registers of "Latin" and low vernacular registers of "Romance," and its influence came to be felt in urban areas as the center of religious activity shifted—partly as a result of royal initiatives—from rural to urban monasteries and cathedral chapters.

During the twelfth and thirteenth centuries, broad, interrelated economic, social, and cultural changes would also come to impact on use and representation of written language. These changes included demographic growth, urbanization, the rise of extra-local commerce and monetarization, the appearance of an incipient bourgeoisie, a limited extension of literacy beyond religious institutions, and a general laicization of society (including some divisions and members of the church). In Burgos

of Romance was provoked by a particular combination of political and institutional concerns (and that there arose a reaction against this early use); see Roger Wright, *El Tratado de Cabreros (1206): Estudio sociofilológico de una reforma ortográfica*, Papers of the Medieval Hispanic Research Seminar 19 (London, 2000). Still, these immediate motives must be seen as combining with and building on the incipient transfer of indexical value of authority to "Romance" that hybrid texts fostered. In this regard, it is worth noting that hybrid texts can also be found among the chancery documents of Alfonso VIII.

and Castile, these changes fed a burgeoning market in transfers and accumulation of property, in which participated lay members of the urban "middling sorts," clerics as individuals in lay roles, as well as ecclesiastical institutions. These also favored the rise of a new class of lay, autonomous scribes who could document the transactions of both individuals and institutions and attest (as individuals) to the validity of the documentation.

Unsurprisingly, participants in these transactions were concerned to ensure that each transaction was carried out in the moment as stipulated, and that each document (which both effected and recorded each transaction) would continue to be recognized as authentic and valid in the future. In their quest to guarantee authorization and authentication, participants favored continuing use of "Latin," thanks to its long association with ecclesiastical and royal authority and thereby with long-term continuity. Consequently, representation of "Latin" (even though mixed with "Romance") remained prominent in those documents which were intended to effect lasting changes in rights and ownership: property sales, exchanges, and bequests.

In contrast, "Romance" was initially favored by participants in property transfers because it allowed them some degree of direct access and therefore direct supervisory authority over the particulars of contracts. In certain cases, "Romance" was possibly favored because it echoed in written language some of the immediate testimonial value or credibility accorded to *vox viva* or spoken language. It seems no accident that scribes were able to make innovative use of continuous "Romance" first in *remembranzas*, which served as reports of oral statements or testimony but had no lasting contractual effect, and therefore did not require much use of "Latin" as a sign of authority.

Intimate commingling of "Romance" and "Latin," often favored by strategies of neutrality and *variatio*, led to many cases of mixing and blending that came to constitute a Latin-Romance hybrid register, already conventionalized by the time of Nicholaus Martini. Our analysis also suggests that written patterns of representation and motivations for them were equally relevant to oral performance of written texts, and therefore it is most likely that "Latin" and "Romance" forms were read aloud equally phonographically. This suggests in turn that the texts were not always fully comprehensible to all readers and listeners, but that "Latin" forms and formulae were generally recognized as valuable indexes of lasting authority. Pervasive mixing and blending also had larger consequences, for they allowed and even encouraged members of the local communities to assign to "Romance" some of the indexical value of durable authority traditionally accorded to "Latin." Once this transfer of indexical value was under way, "Latin" became less and less necessary or valuable as a sign of lasting authority, so that in lay society and in the royal court and chancery, "Romance" could acquire enhanced value as an index of civil or royal authority in opposition to ecclesiastical authority.

The preparation by lay scribes of increasing numbers of texts in continuous "Romance" would in turn foster the notion that Romance and Latin were not merely different registers but separate languages, in some ways on a par with Arabic and Hebrew (and perhaps even Basque, though this last was rarely written and therefore may not have been conceivable as a *language*). The conceptual separation and naming of *romance* as distinct from *latín* is evidenced in documents of Fernando III. Only a little later, Alfonso X would confirm his father's selection of vernacular language for use in his chancery and scriptorium and name it *lenguaje castellano*, in apparent opposition to other varieties of Romance (including the Galician-Portuguese of which Alfonso made exceptional use in the *Cantigas de Santa María*). The demarcation of clear conceptual boundaries between Romance and Latin, and among different Romance languages, may thus be understood as yet another manifestation of the more general concern for boundary demarcation of the material and cultural world that, according to Ruiz, arose in the late twelfth and early thirteenth centuries in Castile. It may also be seen as both reflecting and contributing to the broader laicization of society pointed out by Le Goff.

Within Castile, then, the hybrid textual production of Nicholaus and his peers can be seen as corresponding to a stage in the development of conceptions and practices that preceded—and contributed to—full conceptual and practical distinction between Latin and Castilian Romance. Although we have focused this study on a particular scribe, time, and place, our findings and interpretations may be relevant to understanding other cases of medieval Latin-vernacular hybridity and shift to the vernacular, as well as the connections between these and larger social and cultural changes.

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