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Summae on Raymond de Pennafort's Summa de Casibus in the Bayerische Staatsbibliothek, Munich

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Lastly, a further, rather general parallel is found in the commentary associated with Bernard Silvester on *Aeneid* I-VI. In the *accessus* to this commentary, *integumentum* is explained in some detail. The term is given the same range of meaning as in the *Super Thebaiden* and the same lines of the *Ars Poetica* are cited in support of its method.²¹ The *Thebaid* commentary, in fact, refers so briefly to this definition that one is tempted to assume that it was a later, hasty redaction of it, and that the work is, in a sense, a set of 'lecture notes.'

To turn briefly to the second part of the *accessus*, the literary figure illustrating allegory, the above argument appears to be confirmed. The author states that the *sensus litteralis* is like the shell of a nut in which the *sensus mysticus* is the fruit.²² This division was of course a commonplace in later medieval commentaries. The 'renaissance' of classical studies in the twelfth century borrowed from theology the idea that a text—literary or even scientific—might have many levels of meaning. The threefold (or fourfold) plan of scriptural exegesis however was normally simplified by commentators on secular texts. For instance, William of Conches distinguishes between the literal and allegorical senses in his brilliant commentary on Plato's *Timaeus*.²³ The above-cited commentary on the *De nuptiis* does the same.

In conclusion, while too much weight should not be placed on the evidence, it would be reasonable to suppose that *Super Thebaiden* was not written in the sixth century but in the twelfth. Based upon the *accessus*, the period 1120-1180 might be proposed as limiting dates. The author also seems to have drawn heavily on the kind of literary theory being practised in commentaries on the classics in the Loire valley, in Paris, and, above all, in Chartres.

Pontifical Institute of Mediaeval Studies

BRIAN STOCK

SUMMAE ON RAYMOND DE PENNAFORT'S 'SUMMA DE CASIBUS' IN THE BAYERISCHE STAATSBIBLIOTHEK, MUNICH*

Since Schulte first examined the various *summae casuum* and *summae confessorum*,¹ a number of studies by Dietterle, Teetaert, Michaud-Quantin and

²¹ *Commentum Bernardi Silvestris super sex libros Eneidos Virgilii*, ed. W. Riedel (Greifswald 1924) 3ff. The Cambridge commentary on Martianus Capella does not cite Horace, but the same idea is expressed in the section on *sermo* and *ratio*, fol. 1^{va}-1^{vb}.

²² Ed. Helm, p. 180: 'In nuce enim duo sunt, testa et nucleus, sic in carminibus poeticis duo, sensus litteralis et mysticus. Latet nucleus sub testa; latet sub sensu litterali mistica intelligentia.' The comparison, of course, is derived from the physical sense of *tegumentum* and consciously moves towards its non-physical sense as 'allegory.'

²³ Guillaume de Conches, *Glosae super Platonem*, ed. E. Jeaneau (Paris 1965).

* I would like to take this opportunity to thank the Alexander von Humboldt Stiftung for assistance while completing this study, and Professors S. Kuttner and J. John for their comments.

¹ J. F. von Schulte, *Geschichte der Quellen und Literatur des canonischen Rechts* II (Stuttgart 1877) 408-56.

others have appeared to chart this region of canonical literary history.² However, there are a number of anonymous *summae* in the Munich Staatsbibliothek which throw some light on the early development of this literary form.

The most interesting of these works are two hitherto unknown *summae* which were written on the first recension of Raymond's *Summa de casibus*.³ This immediate flurry of literary activity attests to the swift acceptance of Raymond's *Summa* as the major work in penitential literature (an acceptance that is reminiscent, I might add, of the reception of Gratian's *Decretum*). These *summae* were adaptations and summaries of Raymond's *Summa*. They evidently were intended to give the friars a basic knowledge of legal problems involved in confessional work, without demanding of them the knowledge of canon law which they would have needed to study Raymond's *Summa* at first hand. Not everyone, however, was content to use Raymond's *Summa* as a basis for further discussion of the problems in the *forum poenitentiae*. Shortly after Raymond had finished his *Summa* in its final version (c. 1234), an anonymous author wrote 'Quia non pigris' (below, section III), which was not nearly as successful as Raymond's.

Raymond's *Summa* maintained its dominance throughout the Middle Ages. In the 1280s though, Johannes of Freiburg's *Summa confessorum*, which was very dependent on Raymond's work, usurped the primacy of Raymond's *Summa* to a certain extent.⁴ Although *summae* such as Burchard of Strassburg's popular work⁵ were still written after this (and a tradition of *summae* based on that of Johannes was begun),⁶ the works on Raymond's *Summa* in the fourteenth and

² J. Dietterle, 'Die Summae confessorum (sive de casibus conscientiae) von ihren Anfängen an bis zu Silvester Prierias,' *Zeitschrift für Kirchengeschichte* 24 (1903) 353-74, 520-48; 25 (1904) 248-72; 26 (1905) 59-81, 349-62; 27 (1906) 70-83, 166-88, 296-310, 431-42; 28 (1907) 401-31. A. Teetaert, 'Quelques *Summae de poenitentia* anonymes dans la Bibliothèque Nationale de Paris,' *Miscellanea Giovanni Mercati* II (Studi e Testi 122; Città del Vaticano 1946) 311-43. P. Michaud-Quantin, 'A Propos des premières *Summae confessorum*,' *Recherches de théologie ancienne et médiévale* 26 (1959) 264-306 and *Sommes de casuistique et manuels de confession au moyen âge (XII-XVI siècles)* (Louvain and Lille 1962). See also F. Firth, 'The "Poenitentiale" of Robert of Flamborough,' *Traditio* 16 (1960) 541-56 and the Addenda 17 (1961) 531-32. Kuttner, *Traditio* 19 (1963) 537-38.

³ On Raymond de Pennafort see Kuttner, *Repertorium der Kanonistik* (Città del Vaticano 1937) 438-52 and 'Zur Entstehungsgeschichte der Summa de casibus poenitentiae des hl. Raymond von Penyafort,' *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kan. Abt.* 39 (1953) 419-34. Michaud-Quantin, *Sommes de casuistique* 34-42. Raymond's *Summa* with the apparatus of Guillaume de Rennes was printed in a Rome 1603 edition.

⁴ Dietterle 25.255-68. Michaud-Quantin, *Sommes de casuistique* 43-53. I have used Johannes' *Summa* in the Lyons 1518 edition.

⁵ Michaud-Quantin lists a number of manuscripts of Burchard's *Summa*. To these may be added Clm 4595 fol. 42^r-199^r and Frankfurt Stadtbibl. Praed. 170 fol. 1^{ra}-140^r.

⁶ Guillaume de Cayeux's *Summa* is one of the best-known. See Dietterle 26.59-63. Michaud-Quantin lists four manuscripts. To these may be added Clm 585 fol. 2^{vb}-191^{va}. Since the incipit and explicit as given by Dietterle (the explicit is probably improperly transcribed) and Michaud-Quantin are inadequate to distinguish Guillaume's *Summa* from others of this type, I give the beginning and end from Clm 585. 'Incipit summula confessorum. (title *De symonia*) Quoniam inter ecclesiastica crimina, symoniaca heresis obtinet primum locum, ut patet infra q. ult. . . . Quid est symonia? Dic secundum Hostiensem in

fifteenth centuries were, in the style of the age, generally metrical and of little juridical value.⁷

The following *summae* were written on Raymond's *Summa de casibus* in the thirteenth and early fourteenth centuries. They all (except for 'Quia non pigris') followed the organization of Raymond's *Summa*. They have, therefore, the same titles that Raymond used (although the wording of the titles varies slightly) and the same divisions into three or four books. Although only further study can determine the value of these *summae*, it is clear that they rather soon degenerated into what seems to be purely didactical writing such as 'Quid sit symonia.' While the discussions in the earliest *summae* have historical and juridical importance, the later ones are often content to do what some of their titles explicitly state, i.e. merely to epitomize or abbreviate. Aside from the *summae* listed in Schulte, Michaud-Quantin and below, Teetaert has examined a work of this type. The Munich Staatsbibliothek also has a manuscript of this *summa*.⁸ Because of the similarity of the incipits, I have attempted to name the *summae* from a characteristic phrase taken from the first few lines of the text in order to differentiate one text from the other.

I. *Summae* on Raymond's First Recension (Three Books)⁹

A. 'Symonia . . . ut ius patronatus'

A *summa* in Clm 6020 fol. 8^{ra}-36^{ra} and Clm 14094 fol. 110^r-137^r represents an example of the earliest works written on the *Summa de casibus*. All the decretal citations are to the *Compilationes antiquae*. Further, there are not any references to the legislation of Gregory IX which Raymond incorporated into his second recension. Under the title *De voto*, the author repeated the comment that Raymond made about his being the judge in a certain case, a comment which was deleted in the second recension because of subsequent legislation of Gregory IX.¹⁰

libro v, rubrica iii de symonia § i, quid sit.' *Explicit* (title *De dote*): 'In donatione propter nuptias prefertur <mulier> posterioribus tantum. In parafernaliis habet mulier tacitam ypothecam. *Explicit* summula confessorum de summa Johannis maiore, summa questionum contentarum duo milia trecenti quadraginta sex. Deo gratias' (cf. with Johannes of Freiburg's ending of the *Summa confessorum* fol. 242^r). Another confessional work on Johannes' *Summa* is in Clm 7212 fol. 1^r-59^v. It discussed only selected titles from the first three books of Johannes' *Summa*. *Incipit* 'Excerpta de <summ>a Johannis. Primo de sacra eucharistia. Libro tertio, questione lx, titulo xxiiii. De diuersis defectibus et negligencijs que committuntur in missa. Nota secundum Albertum in libro de missa circa finem.' *Explicit* (title *De sepulturis*): 'Nequeunt cum uelle uel nolle non habeant sibi eligere sepulturam, sed sunt apud sua monasteria tumulandi.' On fol. 63^v 'Iste libellus est sancte Marie in Furstenzell quem scripsit frater Fridericus anno domini mcccxxx.'

⁷ Cf. Schulte, *Geschichte der Quellen* II 427-8. Dietterle, 'Die Summae' 27.81-3, 166-88.

⁸ Teetaert 318-20. Clm 8021 fol. 59^{ra}-291^{rb}. Teetaert lists Clm 585 and 7212 as this *Summa*, but they are not (cf. *supra* n. 6).

⁹ Kuttner, 'Entstehungsgeschichte' first established the existence of two different recensions of the *Summa de casibus*.

¹⁰ Clm 6020 fol. 12^v-13^{ra} and Clm 14094 fol. 155^r. This text from the first recension is printed by Kuttner, 'Entstehungsgeschichte' 424-5. The text is from Clm 14094. 'Tamen Honorius constituit quod infra tempus probationis potest quilibet libere ad seculum redire.

Incipit (title *De symonia*): Symonia inter crimina ecclesiastica primum obtinet locum. Est enim symonia studiosa cupiditas uel^a uoluntas uendendi uel emendi aliquod spirituale uel annexum spirituali, ut ius patronatus.

Explicit (title *De satisfactione*): Nota potestatem ligandi atque soluendi accipit qui libet cum ordinatur presbyter, sed executionem officii non habet, nisi sibi prius ab episcopo conferatur.

B. 'Symonia . . . secundum Vincentium et Ambrosium'

Another *summa* on the first recension is found in Clm 7208 fol. 1^{va}-42^{rb}, 43^{va}-53^{va} (fol. 42^v and 43^r are blank). The anonymous author cited the *Comp. ant.* and, as in the previous *summa*, he did not refer to Gregorian legislation; he also repeated the section about Raymond's judgeship.¹¹ The author called Laurentius, Tancred and Johannes Teutonicus 'doctores mei.'¹² He showed a marked preference for the opinions of Tancred and Johannes Teutonicus.

Incipit (title *De symonia*): Symonia est studiosa cupiditas uel uoluntas emendi uel uendendi aliquid spirituale; nec oportet addi 'uel spirituali annexum' quia annexum spirituali spirituale est. Item distingue secundum Vincentium et Ambrosium quibus consentio, quedam <sunt> prohibita et symoniaca ut emere uel uendere sacramenta.

Explicit (title *De impedimentis penitentie*): Donet deus ut uniuersi per hanc angustam portam intrare iuxta consilium domini contendamus, per eum qui uiuit in eternum.¹³

^acupiditas uel *add.*² *marg.* Clm 6020

Quod tamen intellige si infra triduum exierit [exuerit Clm 6020]. Quia tunc intelligitur quod sine deliberatione intrauerit. Ego fui super hoc casu [hunc casum Clm 6020] iudex, tamen in iudicio penitentie non consulerem ei quod posset redire ad seculum, si compos mentis intrauit. Si autem ultra triduum steterit, non potest redire. Si quis intrauit religionem dissolutam et ad talem uitam se obligauit . . . ' Clm 6020 fol. 36^{va}-39^{rb} has Bonaguida Aretinus' *De dispensationibus*. Also on fol. 118^{ra}-132^{va} is Paul of Hungary's *De confessione*. This tract is also in Clm 7208 fol. 54^{va}-68^{ra} and Clm 665 fol. 137^r-144^v. On this tract see Michaud-Quantin, *Sommes de casuistique* 24-26.

¹¹ Clm 7208 fol. 10^{va}-b.

¹² Clm 7208 fol. 28^{ra} (title *De raptoribus*) 'Et hanc opinionem tenent omnes doctores mei, scilicet Laur. T. et Joh.' This manuscript also contains Tancred's *Summa de matrimonio (finis deest)* fol. 68^{ra}-69^{vb}. Just as Tancred's *Summa* was added to Raymond's first recension as the fourth book, it was also added to this commentary on Raymond's *Summa*.

¹³ Another *Summa* found in a fifteenth-century manuscript Clm 3042 fol. 244^{ra}-283^{ra} has four books; the first three books seem to be based in large part on the *Summa* in Clm 7208. Schulte, *Geschichte der Quellen* II 532 and M. Bloomfield, 'A Preliminary List of Incipits of Latin Works on the Virtues and Vices, Mainly of the Thirteenth, Fourteenth and Fifteenth Centuries,' *Traditio* 11 (1955) 259-379 at 365, refer to this work as 'Quid sit symonia.' *Incipit* (title *De symonia*, <Quid sit symonia>): 'Symonia est studiosa cupiditas uel uoluntas emendi uel uendendi aliquod spirituale; nec oportet addi uel spirituali annexum quia annexum spirituali, spirituale est. Tamen nota distincte secundum Vincentium (MS inuicencudi), Ambrosium, quibus assentio, quedam sunt prohibita quia symoniaca ut uendere et emere sacramenta.' *Explicit* (title *De sacramentis*): 'Ecce extrema unctio ac si dicetur, "Iam dicit spiritus ut requiescant a laboribus suis." [Apoc. 14.13]. Amen. Qui scripsit, sit benedictus. 1468, finitus est in vi^a Martii' (MS Mathei).

II. *Summae on Raymond's Second Recension (Four Books)*

A. 'Quid est et unde dicatur'

The most sophisticated of these *summae* is one which is contained in Clm 18755 fol. 2^{va}-98^{va}. It was written on Raymond's second recension, but in the first part (to fol. 28^{va} under the title *De furtis*) only the *Comp. ant.* were cited. There is, however, at this point a change of scribes, and this probably accounts for the change in the method of citation. One may assume that the original work cited the *Comp. ant.* throughout (or that the *Gregoriana* was published while the author was working on the *Summa*; but this is unlikely, for the author would probably not have published the *summa* without revising the first section). The author discussed the decretals of Gregory IX which Raymond had added to the second recension and expunged almost all of the material peculiar to the first recension.¹⁴ Yet the author still cited the *Comp. ant.* Could one conclude from these facts that he finished writing before the promulgation of the *Gregoriana* in 1234 and that Raymond himself may have finished his second recension before that date? One would imagine that the author had a second-recension copy of Raymond's *Summa* before him, with citations still to the *Comp. ant.* Manuscripts of this type do exist for Raymond's second recension.¹⁵ But without an examination of the entire manuscript tradition, this must remain an hypothesis.

Incipit (title *De symonia*) Quid est et unde dicatur? Symonia est studiosa cupiditas uel uoluntas emendi uel uendendi aliquod spirituale, et hic spirituale uocatur etiam annexum spirituali. infra q.iii et extra de iure patronatus. Et nota quod secundum Ambrosium quedam sunt prohibita quia symoniaca ut uendere uel emere sacramenta.

Explicit (title *De dotibus*): C. de impensis in rebus dotalibus factis l.i. Voluptarias uero perdit sicut ibi dicitur, ut forte si pingat uel huiusmodi.

B. 'Quid sit symonia'

There are two manuscripts of a *summa* that R. Weigand first discovered in Innsbruck University MS 368, which he dubbed 'Quid sit symonia'.¹⁶ They are Clm 9664 fol. 1^{ra}-84^{vb} and Clm 7802 col. 7^{ra}-136^{va}. Upon examining this text,

¹⁴ There is one bit of the first recension on fol. 17^{rb} (*De decimis*): 'De feodo dico quod si ecclesia recipit in pignore feodum quod miles tenet per eam, si durante pignore recipit ab eo seruitium feodi, tenetur fructus computare in sortem, aliter non. extra iii de feod. Vel dic si ecclesia recipit pagesiam siue coloniam rustici sui in pignore, debet computare in sortem fructus deducto iure suo et laboribus et expensis.' The use of the Catalan expression 'pagesia' is found only in the first recension. Kuttner, 'Entstehungsgeschichte' 427.

¹⁵ There are two such manuscripts in Munich: Clm 6040 has Raymond's second-recension changes and additions added in the margin. Within these additions, the decretal references are to the *Comp. ant.* Further, Clm 7631 has the text of the second recension, but its decretal references are only to the *Comp. ant.* Great caution is, however, indicated. Instances are known of scribes' mixing the two recensions (Kuttner, 'Entstehungsgeschichte' 422); as for Clm 6040 I checked all the decretal references to the *Comp. ant.* in the marginal additions, and only one of the citations was correctly attributed to the proper *Comp. ant.* (fol. 48^r 'ex iii de donat. Cum dilecti'). In several instances Gregory IX's decretals were cited as being one of the *Comp. ant.* (e.g. fol. 61^v 'ex. i de sent. et re iud. Duobus'). For the manuscripts of the *Summa de casibus* in Munich see *Traditio* 26 (1970) 435-40.

¹⁶ See *Traditio* 16 (1960) 562 and 17 (1961) 541-2.

it became clear that this work was written on Raymond's *Summa* and the *Apparatus* which Guillaume de Rennes (Redonensis) wrote for Raymond's *Summa*.¹⁷ The letters *a.* and *t.* which occur frequently in the text refer to Guillaume's *apparatus* and Raymond's *textus* respectively. Since, as far as I could determine, the author did not use Johannes of Freiburg, one would suppose that 'Quid sit symonia' was written between 1245 and 1290.¹⁸ A paragraph taken from the beginning of the *summa* will show the method that the author employed. Sometimes he quoted the gloss and the text verbatim, but more often he merely summarized their opinions. (In the following text the sections quoted exactly are italicized).

Incipit (title *De symonia*) [Clm 9664 fol. 1^{ra}] Quid sit? ^a*Symonia est studiosa cupiditas uel uoluntas emendi uel uendendi aliquod spirituale uel sibi annexum.*¹⁹ *Studiosa a.*^b *Idest in actum exteriorem progressiua.*²⁰ *t.* *Et nomine emptionis uel uenditionis intelligas omnem contractum non gratuitum preter contractum permutationis.*²¹ *a.* *Contractus est ultra citraque obligatio.*²² Queritur utrum sola uoluntas faciat symoniacum? Respondeo quod sic in emptione uel uenditione eorum que prohibita sunt quia symoniaca, ut uendere uel emere^c sacramenta, et breuiter omnia que in utroque testamento symoniaca erant.²³ *a.* Quantum ad peccatum etiam in limitibus suis, uero non quantum ad irregularitatem, nisi progrediatur in actum paciscendi.²⁴

Explicit (title *De dotibus et donationibus propter nuptias*): Preterea notandum est quod maritus in reddenda dote impensas necessarias et utiles in rebus dotalibus factas potest retinere, uoluptarias uero perdit. *a.* Etiam factas de mulieris uoluntate^a etc. Finito libro sit laus et gloria Christo.

C. 'Quoniam inter crimina . . . uidendum est quid sit symonia'

Another *summa* of the 'Quid sit symonia' type is found in Clm 7821 fol. 1^{rb}-220^{va}. Like 'Quid sit symonia' it is a work which explicated and summarized Raymond's text and Guillaume's *apparatus*.²⁵

Incipit (title *De symonia*): Quoniam inter crimina ecclesiastica symoniaca heresis primum obtinet locum, uidendum est quid sit symonia. W. Crimina ecclesiastica sunt quorum cognitio pertinet ad ecclesiasticum iudicem; secularia uero que pertinet ad iudicem secularem.

Explicit (title *De dote*): Nota quod maritus expensas necessarias et utiles in rebus dotalibus factas, puta quia domum refecit, potest repetere. Voluntarias [sic] uero potest perdere.

^asymonia *deest* *codd.* ^bapparatus Clm 7802 ^cuendere uel emere *add.*²
 marg. Clm 7802, sunt Clm 9664.

^auoluptate *codd.*

¹⁷ On Guillaume de Rennes, who wrote his *Apparatus* circa 1240-1245, see Dietterle 24.542-8; Michaud-Quantin, *Sommes de casuistique* 40-41.

¹⁸ Dietterle 25.255-68. Michaud-Quantin, *Sommes de casuistique* 43-8.

¹⁹ See *Summa de casibus* (Rome 1603) 3.

²⁰ *Ibid.* s.v. *studiosa*.

²¹ *Ibid.* 5.

²² *Ibid.* s.v. *contractum*.

²³ *Ibid.* 4; Raymond's text is greatly summarized here.

²⁴ *Ibid.* s.v. *non sufficit sola uoluntas*, also summarized.

²⁵ A *Summa* very similar to this one is found in Frankfurt Stadtbibl. Praed. 154 fol. 1^v-219^v.

D. 'Qui stat . . . premittit quia' and 'Verbum abbreviatum . . . premittit quia'

There is a *summa* in Clm 14789 fol. 2^r-74^v which corresponds closely to the description of it given in the catalogue, 'Summa Raymundi abbreviata.' In fact, in the prologue the author explicitly stated that his purpose was to abbreviate Raymond's *Summa*.²⁶

Incipit prologus: Qui stat, uideat ne cadat, ait apostolus. Videns enim apostolus homines ad casum uitiorum ab adolescentia sua procliuios, dicente domino, proni sunt sensus hominis in malum.

Incipit (title *De symonia*) Premittit quia hoc plurimum sapit naturam peccati. Peccatum enim auersio <est> a bono incommutabili ad bonum commutabile. Symonia directe obuiat spiritu sancto cui bonitas appropriatur.

Explicit (title *De dotibus*) Puta quod domum refecit, potest retinere, ut C. de impensis in rebus dotis factis l.i. Voluptarias uero perdit, sicut ibi dicitur.

Licet autem tam super dote quam super aliis articulis plurima fuissent, ut^a plena noticia in causis matrimonialibus haberetur, dicenda, hec tamen que premissa sunt, breuitatis causa sufficiant. Super operis imperfectione ueniam postulans.^b Et que corrigenda uiderit et addenda, non inuidenti animo sed benigno corrigat et emendet.²⁷

There are three more manuscripts which contain a *summa* that is closely related to the above work, but differs from it in small ways. Generally, however, it follows the text of the *summa* in Clm 14789. It is also provided with a different prologue. It is found in three Munich MSS, Clm 665 fol. 145^{ra}-199^{vb}, Clm 9528 fol. 102^{ra}-131^{rb}, Clm 22293 fol. 149^{ra}-178^{ra}.²⁸

Incipit prologus Verbum abbreviatum fecit dominus super terram Ysay. [cf. Is. 10.23] Ecce deus omnipotens humane fragilitati compatiens abbreviauit uerbum suum.

Incipit (title *De symonia*): Premittit hic quia hec plurimum sapit naturam peccati. Peccatum enim est auersio a bono incommutabili ad bonum commutabile. Symonia uero directe obuiat spiritui sancto cui bonitas appropriatur.

^aMS ubi

^bMS postularis

²⁶ Clm 14789 fol. 2^v. 'Porro quoniam etiam omne bonum <de> facili in hoc tempore potest esse fastidii, gaudentque breuitate moderni gratum duxi . . . ad utilitatem beneuolorum [MS beneuolorum] discipulorum et pauperum, a presenti opere pretermisiss nouerculis [or: nouiciolis, MS nouiculis] iuris, opinionibus abrogatis ac disputationibus uariis, ipsam ueritatis sententiam abstrahere . . . et de summa summulam compilare.' Compare this with the statement of the author of the *summa* discussed immediately below. Clm 665 fol. 145^{ra}: 'Si quid sapit [capit Clm 9528] si quid [sic Clm 9528] intelligit sine uelamine et nube uerborum inferioribus communicare sic [MS commutare se] tenebitur, studiose ita quod ad intentionem pietatis summe, summam casuum a uenerabili fratre Raymundo, ex uariis iuris et legum sententiis in uno uolumine coartatam simplicioribus abbreviare studimus.'

²⁷ Cf. with Raymond's ending of the *Summa de casibus* 584.

²⁸ Generally, the catalogues do not give enough information to distinguish between these *summae*. Other MSS that probably contain the above or similar *summae* are Huntington Library (Calif.) HM 57, Univ. of Michigan MS 89, Berlin, Görres 49, Oxford, Bodl. 36, Nuremberg, Stadtbibl. VI. 48; Graz, Univ. 821 also contains a *summa* of this type. However, this was one of the eighty-eight MSS which (according to information from Dr. Maria Mairold) were lost at the end of World War II.

Explicit (title *De dotibus*): Qui etiam impensas necessarias et utiles^a in rebus dotalibus factas licite deducet,^b uoluptarias uero perdit. *Explicit liber quartus et ultimus cum tota summa.*^c

III. The *Summa* 'Quia non pigris'

Finally there is another anonymous *summa*, which is contained in three Munich manuscripts, Clm 16122 fol. 63^{ra}-86^{vb}, Clm 19802 fol. 135^{ra}-163^{rb} (ends in the middle of the penultimate title, *De divortiis*), and Clm 27302 fol. 12^{va}-22^{vb}, 25^{ra}-48^{va}.²⁹ Although the first and last folios of Clm 19802 are damaged, this late thirteenth- or early fourteenth-century manuscript is the best of the three.³⁰ Unlike the previous *summae* which have been described, this author did not take Raymond's *Summa* — which otherwise he used extensively — as a model for the structure of the text, but largely relied on an earlier *summa* [*Incipit prologus*: 'Hoc opusculum in tres partes'; *incipit* (title *De decimis*): 'Decime ut ait decretum'] which has been attributed to Conrad of Höxter.³¹

^auiriles Clm 665 et 9528 ^breducit Clm 9528, reducet Clm 22293 ^cet—
summa] magistri Raymundi Clm 665

²⁹ The *Summa* is interrupted in Clm 27302 by a tract on fol. 23^{ra}-24^{vb} 'Excepta de geomancia,' which begins 'De marito et uxore, si uis scire quis eorum primo moriatur.' This manuscript also contains a *Summa de casibus* which still has to be placed in the penitential-literature, but appears to be a continuation and expansion of Raymond's *Summa de casibus*. The work is on fol. 50^{ra}-153^{rb} and begins 'Queritur de hiis qui scienter peccauerunt.' See Kuttner, *Repertorium* 446. Dr. H. Hauke of the Staatsbibliothek, who is preparing a catalogue of the Latin MSS not covered by the present published catalogue, has kindly informed me that the tract 'Queritur de hiis' in Clm 27302 is not complete. The first forty of the sixty-three titles listed in the beginning of the work are in order (to fol. 118^{rb}), but from fol. 118^{rb} to 147^{ra} we have titles 47, 48, and 49, followed by the title *De adulterio uel stupro* (fol. 126^{va}), which repeats (but is not identical with) title 39. Then come titles 55, 54, 56, 57 in that order, followed by two more repeated, but not identical titles, *De symonia* (fol. 147^{ra}) and *De observantia ieuniorum* (fol. 151^{va}). The remaining sixteen titles are missing.

³⁰ Clm 19802 is a paper manuscript from the fifteenth century. However, a parchment text of 'Quia in pigris' was inserted in the middle of the MS.

³¹ See Dietterle 24.520-30 and 26.79-80. On Conrad of Höxter see Kuttner, 'Pierre de Roissy and Robert of Flamborough,' *Traditio* 2 (1944) 494 n. 10; A. Walz, *Compendium historiae ordinis praedicatorum* (Rome 1948) 152; Michaud-Quantin, *Sommes de casuistique* 24-25. Twelve MSS of this *Summa* have come to my attention. Two attribute the *Summa* to Conrad, Clm 2956 fol. 75^{ra}-106^v and Prague Metropolitan Chapter I 28; two to Raymond, Graz Univ. 1434 fol. 105^v-119^r and Clm 19139 fol. 14^r-27^v (not complete); and one, which may be the oldest, to a certain Sibotus (Sibertus?), Graz Univ. 1494 fol. 72^r-121^r. The *Summa* is anonymous in the remaining manuscripts: Assisi Biblioteca Comunale 635 fol. 1^{ra}-15^{vb}, Bamberg Theol. 99 fol. 132-152 (prologue is missing), Clm 22293 fol. 178^{ra}-181^{ra} (not complete), Graz Univ. 1294 fol. 164^r-180^v (prologue and end are missing), Prague Metropolitan Chapter K 12 fol. 1^r-16^r, and Freiburg Univ. 252. Whether Conrad was the author of this *Summa* seems to be still open to question. I hope to examine this problem in detail at another time. — Graz Univ. 1294 fol. 143^r-163^v also contains a late adaptation of Conrad's *Summa*. The author used nineteen of Conrad's titles, but left out all the legal citations and changed the wording of the text slightly. These titles are contained on fol. 143^r-155^v. On fol. 155^v-159^v the author included short *dicta* of legal rules which were important for the

The author did not divide his work into books as did Raymond and Conrad. The titles that he added to Conrad's work were all taken from the canon law collections or Raymond's *Summa*.³² He cited the opinions of Magister Prepositinus, Alanus, Laurentius, Raymond, William of Auxerre, and, most frequently, Tancred and Johannes Teutonicus. Since the author used the *Gregoriana* and did not cite any later canonists or legislation, it may be assumed that he wrote the work between 1234 and 1240.

Incipit prologus (Clm 27302 fol. 12^{ra}): Quia non pigris et negligentibus, sed iugiter uigilantibus, [non otio torpentibus, sed uiriliter pro domino laborantibus,]^a eterne felicitatis corona promittitur, ne in foro presentis uite otiosus et omnino inutilis inueniar, ad erudicionem elementariorum,^b qui non solidum cibum sed lac puerilis scientie concupiscunt, et ad utilitatem pauperum, quorum facultates ad comparanda magna iuris uolumina non sufficiunt, pro iuris consiliis que non numquam ab eis maxime in foro penitentie requiruntur . . . mittere proposui non exquisiti sermonis uenustatibus aut profundis sententiis, sed breuibis et leuibis notulis traditionem iuris^c canonici et ciuilis, tum iuxta diuersitatem casuum proseguendo, prolixitatem quantum ualeo fugiendo. [Melius est siquidem pauca cum utilitate discere quam multis inutilibus auditorum animos perturbare . . .]^d (the author then asked the reader to correct any mistakes that he might find).

Incipit (title *De iustitia et constitutionibus*): Iustitia est constans et perpetua uoluntas ius suum unicumque tribuens, instit. de iustitia et iure (*Instit.* 1.1.1).

Explicit (title *De dote*): Vel si cui donatur, prius moriatur, eodem titulo, Donatio. Explicit.

Manuscripts Cited

Bayerische Staatsbibliothek, München

Clm 585 n.6,8	7208 IB	9664 IIB	22293 IID
665 IID	7212 n.6,8	14094 IA	27302 III
2959 n.32	7631 n.15	14789 IID	
3042 n.13	7802 IIB	16122 III	
4595 n.5	7821 IIC	18755 IIA	
6020 IA	8021 n.8	19139 n.31	
6040 n.15	9528 IID	19802 III	

^anon—laborantibus Clm 16122 (*et forsan* Clm 19802), *om.* Clm 27302³³ ^belementanorum ^ciuricum ^dMelius—perturbare Clm 16122 (*et forsan* 19802), *om.* Clm 27302³³

forum poenitentiae. An index of titles and subjects follows on fol. 159^v-163^v. The *Summa* begins 'Symonia est studiosa cupiditas uel uoluntas emendi uel uendendi aliquod spirituale uel annexum spirituali.' It ends, 'Item uota non possunt commutari nisi auctoritate dyocesani episcopi uel domini pape.'

³² The first titles of the *Summa* are *De iustitia et iure et constitutionibus*, *De consuetudinibus*, *De parochiis*, *De sepulturis*, *De decimis*, *De primiciis et oblationibus*, *De regularibus et transeuntibus*, *De conversione coniugatorum*, *De voto*, *De negotiis clericorum et laicorum*.

³³ Clm 19802 also has these additions, but the text is so badly damaged at these two points that I could discern only a word here and there — the texts seem to be the same as in Clm 16122.

Assisi Biblioteca Comunale 635 n.31
 Bamberg Staatsbibl. Theol. 99 n.31
 Frankfurt Stadtbibl. Praed. 170 n.5
 Praed. 154 n.25
 Freiburg Univ. 252 n.31
 Graz Univ. 821 n.28
 1294 n.31
 1434 n.31
 1494 n.31
 Innsbruck Univ. 368 IIB
 Prague Metropolitan Chapter K 12 n.31
 K 28 n.31

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ROBERT HOLCOT'S QUODLIBETA*

I. INTRODUCTION

As historians of medieval theology and philosophy increasingly turn to study intellectual developments in the early fourteenth century, it is natural that Robert Holcot, O.P. († 1349), should come to stand out as an Oxford master worthy of further investigation.¹ During his own lifetime, when he was associated with the household of Richard de Bury, the famous bishop of Durham,²

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¹ Recent studies of Holcot include the following: J. Breumer, 'Zwang und Freiheit in der Glaubenszustimmung nach Robert Holcot,' *Scholastik* 37 (1962) 514-529; Alois Meissner, *Gotteserkenntnis und Gotteslehre nach dem Englischen Dominikaner Theologen Robert Holcot* (Limburg/Lahn 1953); E. A. Moody, 'A Quodlibetal Question of Robert Holcot, O.P., on the Problem of the Objects of Knowledge and Belief,' *Speculum* 39 (1964) 53-74; J. T. Muckle, 'Utrum theologia sit scientia: A Quodlibetal Question of Robert Holcot, O.P.,' *Mediaeval Studies* 20 (1958) 127-153; Heiko A. Oberman, 'Facientibus quod in se est Deus non denegat gratiam: Robert Holcot, O.P., and the Beginnings of Luther's Theology,' *Harvard Theological Review* 55 (1962) 317-342; *id.*, *Forerunners of the Reformation* (New York 1966) 123-150; *id.*, *The Harvest of Medieval Theology* (Cambridge, Mass. 1963) 235-243; Beryl Smalley, *English Friars and Antiquity in the Early Fourteenth Century* (Oxford 1960) 133 ff; *id.*, 'Robert Holcot, O.P.,' *Archivum fratrum praedicatorum* 26 (1956) 7-28; L. Thorndike, 'A New Work by Robert Holcot (Corpus Christi College, Oxford Ms 138),' *Archives internationales de l'histoire des sciences* 2 (1957) 227-235; J. C. Wey, 'The Sermo finalis of Robert Holcot,' *Mediaeval Studies* 11 (1949) 219-223.

² William de la Chambre (*Anglia Sacra* [ed. Henry Wharton; London 1691] I 765, as