

RAYMUNDUS DE PENAFORTE, *Summa de poenitentia [Summa de casibus poenitentiae];
Summa de matrimonio*

In Latin, decorated manuscript on parchment

England, Yorkshire(?), c. 1270-1310(?)

iii (modern parchment) +159 + iii (modern parchment) leaves on parchment, medieval foliation in Arabic numerals in ink, 1-75, 78-87, 89-162, top outer recto, text complete in spite of gaps in foliation (collation i-xii¹⁰ xiii-xiv¹² xv¹⁰ xvi⁴ [+5; f. 162, a singleton tipped in at the end of the quire]), framed horizontal catchwords visible, often partially cropped, in inner lower margins for quires i-iv, vi-x, xii, xiv-xv, second through fifth leaves of quire iii numbered ii-iii, v-vi in the inner lower recto, ruled in crayon with single full-length vertical bounding lines and three top, bottom, and center horizontal rules fully across some folios with additional single full-length vertical lines ruled in outer margin and full-length double horizontal lines in lower margin, along with additional horizontal ruling for text added in the lower margins of ff. 1, 12v, 86r-v, 116v, and 162, prickings in top, bottom, and outer margins (justification 165-168 x 122 mm.), written below top line in an upright gothic bookhand in dark brown ink in two columns of thirty-two to thirty-four lines, guide marks for paragraph marks, guide letters for initials, notes for rubrics in the margins, generally in crayon but written in dark ink in the lower margin between ff. 95v-101v, numbers "2" (?) and "3" written in crayon in the upper margins of the rectos designating the second and third books, some majuscules stroked in red, periodic red underlining of references within the text, red rubrics and empty spaces where red rubrics are lacking, red or blue paragraph marks, one-line initials in red or blue in the chapter lists at the opening of each book, two- to three-line initials in red or blue with pen decoration in the other color, three four-line red and blue parted initials with pen decoration in red and blue (ff. 1, 68, 141), many marginal additions and annotations by the scribe in dark brown and red (some of them cropped, as on f. 162), marginal additions, annotations, brackets, and pointing hands added in at least three medieval hands (see in particular ff. 118-119, 140v, 143), tear in f. 152, small hole in f. 1 with loss of a few letters, small holes and rust stains in outer margin of f. 1 from two clasps on an earlier binding, small holes in ff. 67 and 92 with no loss of text, slight cockling and damp-staining at edges. Bound in nineteenth-century pale blue velvet over thick bevelled wooden boards, smooth spine, with armorial bookplate pasted on the front pastedown. Dimensions 245 x 171 mm.

This is a handsome manuscript, signed by its scribe, William, "once a clerk, of Cottingham," of the second recension of Raymond of Peñafort's important penitential manual. It contains a number of lengthy medieval annotations along with some interesting marginal additions by the scribe, including a unique Latin couplet pertaining to a rather droll medieval English legend. English manuscripts are rare on the market, and this manuscript's probable origin in northern England by a named scribe adds to its interest.

PROVENANCE

1. Script and decoration indicate that this manuscript was produced in England, most likely in the final third of the thirteenth century, though, given the likelihood that it was produced in northern England outside of a major city (see below), it could have been copied as late as the very beginning of the fourteenth century. Similar pen decoration and/or script can be found in Cambridge, Gonville and Caius College MS 454/357 (produced in Peterborough between 1295 and 1299), Cambridge, Peterhouse MS 89 (produced around 1299), Cambridge University Library, MS li.3.3 (dated to 1276), London, British Library, Egerton MS 3142 (produced in Norfolk between 1293 and 1298), London, British Library, Harley MSS 1620 (produced in final quarter of the

thirteenth-century, quite possibly for Jervaulx Abbey, in Yorkshire), 3601 (produced around 1296 in Barnwell), 3663 (produced in the final quarter of the thirteenth century), and 3946 (produced in the second half of the thirteenth century), Oxford, Balliol College MS 244 (dated to 1308) and Oxford, Bodleian Library, Ashmole MS 399 (produced around 1292).

Though some of the scribe's letterforms and abbreviations are conservative for this date – notably the single-compartment "a" and the insular abbreviation for "est" – there is some fluctuation in the script suggesting that this was a preference on the part of the scribe. For example, on f. 141v, just after the beginning of the *Summa de matrimonio*, there is a marked shift in letter forms and their finishing before the scribe reverts to his typical form on f. 142. One particularly noticeable difference on f. 141v are the "a"s, which are not only formed with two compartments, in contrast to the scribe's practice elsewhere, but are rather outsized in some instances as well (possibly showing some cursive influence). Given the location of these deviations on a single verso with no changes to the layout of the page or the ink and no losses of text, it seems probable that this was copied by the same scribe, possibly in response to a new exemplar (with thanks to Matthew Fisher for this suggestion). The notes for rubrication also show cursive influence, particularly in the split ascenders and the long "r."

A scribal colophon on f. 140v helps localize the manuscript's production within England, most probably to Yorkshire: "Qui hanc summam inspexerit oret pro anima Willelmi scriptoris quondam clericus [sic] de Cottingham qui eam fideliter scripsit" (Whoever may have examined this *summa*, may he pray for the soul of the scribe William, once a clerk, of Cottingham, who faithfully wrote it). A "William de Cottingham" worked as a clerk to William Kyme, second Lord Kyme (c. 1283-1338) and under his patronage was appointed rector of the church of Ilkley, West Yorkshire, in the early fourteenth century, probably between 1324 and about 1340 (see Le Patourel, 1981). Manuscript copies of this text more frequently originated among the mendicant orders, so this manuscript's possible connection to a parish church would be well worth further investigation.

2. Added inscription in the lower margin of f. 122v: "Ihesus nazareus rex – Ihesus Maria Iohannes Augustinus Katerina." The inscription is copied in faint crayon like many of the notes for rubrics and appears to be an early addition.
3. Fifteenth-century inscriptions on f. 162v may identify later owners or users of the manuscript: "Radulffus Boteler" and "Johannes Gryggys." The former inscription may refer to Ralph Boteler, first Baron Sudley (c.1394-1473). A "John Gryggys," nobleman of the diocese of Norwich, appears in the *Calendar of Papal Registers Relating to Great Britain and Ireland, Volume 8: 1427-1447* (1909) for 1432.
4. Belonged to at least two generations of the Grosvenor family. The manuscript is described by Alfred J. Horwood in *The Third Report of the Royal Commission on Historical Manuscripts Presented to both Houses of Parliament by Command of Her Majesty*, London, 1872, pp. 210-11. At the time of this examination, it was in the possession of the Hugh Grosvenor, then third Marquess of Westminster and later first Duke of Westminster (1825-1899), and housed in Eaton Hall, Cheshire.

The armorial bookplate on the front pastedown bears the Grosvenor family arms (azure, a garb or) and crest (talbot statant) above a gate flanked by the Grosvenor supporters (on each side, a talbot rampant regardant, or, gorged with a plain collar, azure). The use of the Grosvenor arms rather than the Westminster-Grosvenor arms may indicate that this bookplate precedes the creation of the Dukedom of Westminster in 1874.

5. Sold on behalf of Hugh Grosvenor, second Duke of Westminster (1879-1953), at Sotheby's, London, in 1966; lot 228 in *Important Western and Oriental Manuscripts and Miniatures*, 11 July 1966.
6. Sold at Sotheby's, London, in 1970; lot 70 in *Important Western Manuscripts and Miniatures*, 8 July 1970. Purchased in that sale by Alan Thomas; Sold in 1973 by Alan Thomas; no. 52 in his catalogue 31, *Bibles, Theology and Religious History*, 1973 (previously no. 10 in his catalogue 26, *Fine Books*, 1971).

TEXT

f. 1-36v, *Incipit summam canonum secundum Raymundum*, incipit, "Quoniam ut ait Jeronimus secunda post naufragium tabula est culpam simpliciter confiteri ..."; [book one, list of chapters], incipit, "De symonia. De prelati uices suas sub annuo censu concedatur ..."; *De symonia*, incipit, "Quoniam inter crimina ecclesiastica symoniaca heresis optinet primum locum ... Item per questionem et § queritur hic consequenter";

ff. 36v-67v, [book two, list of chapters], incipit, "De homicidio. De torneamentis ..."; *De homicidio*, incipit, "In prima parte dictum est de quibusdam criminibus ... sed tutori curatori domino monasterio patri marito et ecclesie";

ff. 67v-140v, [book three, list of chapters], incipit, "De qualitate ordinandorum. Quod ordinandus sit sine crimine ..."; f. 68, *De prelati quales debent esse*, incipit, "Expeditis per dei gratiam duabus particulis ... venite benedicti patris mei filij percipite regnum. Amen. *Explicit summa casum secundum* [crossed out?: "ray"] *Raymundum*. Qui hanc summam inspexerit oret pro anima Willelmi scriptoris quondam clericus de Cotingham qui eam fideliter scripsit";

This is a copy of the second recension of Raymond of Peñafort's *Summa de casibus poenitentiae*. Raymond had produced an earlier version of the *Summa de casibus* c. 1222-1225, but the changes he made in his second recension, completed c. 1234-1236, reflect the important work he had done in the interim on the Decretals of Gregory IX, completed in 1234 (see Kuttner, 1953, pp. 419-434). The text of the second recension has been edited in a modern critical edition by Xavier Ochoa and Aloisio Diez, 1976 (col. 277-884, with book two beginning col. 441, and book three, col. 575). Ochoa and Diez based their edition on only two early manuscripts: Paris, Bibliothèque de l' Arsenal, MS 370 (dated 1244) and Rome, Vatican, Biblioteca Apostolica, Ottoboniani latini 5 (dated 1242). The second recension was by far the more influential recension of the two, circulating in more than 311 manuscripts (Roblès, 1971, pp. 14-33); the first recension survives in eight (Roblès, 1971, p. 14). The first printed edition, which is based on the second recension and includes glosses by William of Rennes (attributed in the edition to John of Freiburg), appeared relatively late in Rome in 1603.

f. 140v, incipit, "Percutimus pectus cum confitemur peccata quatenus exemplo publicani qui percuciebat suum dicens ... Ita tribus modis penitere debemus. corde per dolorem. ore per pudorem. et opere per laborem";

Brief excerpt from Book 2, Chapter 13 of the *De sacro altaris mysterio* of Innocent III (printed in *PL* 217.806).

ff. 141-162, *Incipit summa matrimonij secundum Raymundum*, incipit, "Quoniam frequenter in foro penitenciali dubitationes circa matrimonium uno et quasi perplexitates occurrunt . . ."; [list of chapters], incipit, "Primo de sponsalibus et matrimoniis. Secundo de xvi impedimentis matrimonij . . ."; *De sponsalibus*, incipit, "Quoniam matrimonium sponsalia precedere consueuerunt . . . sed benigno corrigat et emendat. *Explicit summa matrimonij secundum Raymundum*";

In the course of the revisions of his *Summa de casibus poenitentiae* (see above), Raymond of Peñafort produced his *Summa de matrimonio* (c. 1235-1236), which was a revision of the earlier work with the same title by Tancred of Bologna, composed c. 1211-1213. Raymond's *Summa de matrimonio* has been edited in a modern critical edition by Xavier Ochoa and Aloisio Diez, 1978 (col. 901-998). Ochoa and Diez based their edition on three early manuscripts: Barcelona, Biblioteca Universitaria, MS 748 (dated 1242), Paris, Bibliothèque de l'Arsenal, MS n. 370 (dated 1244) and Rome, Vatican, Biblioteca Apostolica, MS Ottoboniani latini 5 (dated 1242). There is an English translation of Raymond's *Summa de matrimonio* by Payer, 2005. Raymond's *Summa de matrimonio* is usually found, as it is here, following the *Summa de casibus* as if it were an additional book (see Pérez de Heredia y Valle, 2002, pp. 115-116, and García y García, 1967, p. 417), but it also circulated independently (see Dolezalek, in Online Resources). Roblès lists at least 129 manuscripts, not including this one (1971, pp. 34-45). It was printed alongside Raymond's *Summa de casibus* in Rome in 1603.

f. 162, incipit, "Gregorius. Si res desunt que fortasse indigenti proximo prebeantur . . . Intra pax hominibus bone uoluntatis";

Brief excerpt from the seventh homily of Gregory the Great's *Homiliae in Ezechielem* (printed in *PL* 76.1015).

f. 162, incipit, "Plebs fera dorsethe que caudis leserat illum / Leditur in tota posteritate sua";

Unique distich pertaining to a legend, first attested in William of Malmesbury's *Gesta pontificum Anglorum* (completed in 1125), in which some of the inhabitants of Dorsetshire insulted Augustine of Canterbury by attaching tails of rays (the fish) to his garments. In subsequent histories of Britain, notably Wace's *Roman de Brut* and Layamon's *Brut*, those who had offended Augustine in this manner were punished with tails of their own, as were all of their descendants. This legend gave rise to the crusading insult of the *caudatus anglicus*, or tailed Englishman.

f. 162v, Partial list of chapters in the *Summa de casibus poenitentiae* in a late fourteenth- or fifteenth-century hand, breaking off in the middle of the second book.

Patron saint of lawyers, Raymond of Peñafort (c. 1180-1275), a noted Dominican, is well known for his career as a canonist. He was born in Catalonia, near Barcelona, where he studied and taught arts courses at the cathedral school. He then studied, and subsequently taught law at the University of Bologna between 1218 and 1222. He entered the Dominican order c. 1222, shortly after his return to Barcelona. At the request of Pope Gregory IX (*sedit* 1227-1241), he went to Rome in 1230 and began work on a new compilation that aimed to gather together earlier decretal collections into one up-to-date volume. The *Decretales Gregorii IX*, or the "Liber Extra," so called because it included the law not found in Gratian's *Decretum*, was completed in 1234. Pleading ill health, he returned to Spain in 1236 and became active in the conversion of

Jews and Muslims, teaching Hebrew and Arabic to missionaries as an aid to conversion. It was at Raymond's instigation that Thomas Aquinas wrote his *Summa contra gentiles*. He was canonized in 1601, a process that began in 1279, only four years after his death.

Raymond's *Summa de casibus poenitentiae* remains his most popular work. The Dominicans were charged from their earliest years with the duty not only to preach to the people, but to serve as confessors. Raymond states in the preface to his work that he compiled his little summa ("summula") "... so that if brothers of our order, or others, should perhaps have doubts concerning the judgment of souls in sacramental confession, through using it, as much in their counseling as in their judgments, they may be able to untangle many questions and various cases, both difficult and perplexing" (prologue, translation in Mulchahey, 1998, p. 535). Humbert of Romans, master general of the Dominicans from 1254-1263, included it among the seventeen essential works that were to be kept in Dominican libraries for reference, and it was among the works considered essential for students at the University of Paris, where it was included in the lists of exemplars in 1275 and 1304 rented "in pieces," or by *pecia* (Murano, 2005, no. 801), explaining the large number of manuscripts surviving of this essential text.

It contains a manual of instruction for confessors, through which the newly developed canon law that flourished under the impulse of the Gregorian Reform (that dealt with sacraments, moral problems, and the general conduct of Christians) became available to the ordinary confessor. Raymond's *Summa* thus stands at the very beginning of a new generation of penitential manuals, in which the judgment of sins, their consequences and remedies, was viewed through a repertory of canons on various matters – passages from the Fathers, church councils, and papal decisions. Book one discusses sins against God, beginning with simony (the sale of ecclesiastical office), book two includes sins against one's neighbors, with chapters on homicide, tournaments, duels, theft, and usury, among others, and book three discusses holy orders, including a chapter directly discussing the doctrine and administration of penance. His work greatly expanded previous penitential manuals by including numerous particular "cases" or examples.

Issues relating to marriage and its treatment under canon law are absent from Raymond's *Summa de casibus*, quite possibly because Raymond expected his readers would avail themselves of Tancred of Bologna's *summa* on the subject. Both *summae* drew on similar sources, including Gratian's *Decretum* and other collections of ecclesiastical law that had been compiled following the *Decretum*. Following his work on the *Decretals*, however, Raymond undertook a revision and updating of Tancred's *Summa de matrimonio* alongside his revisions of his own *Summa de casibus*. Though both updated works often circulate together in manuscripts and were printed together in the 1603 edition of Raymond's *Summa de casibus*, Raymond does not appear to have regarded his *Summa de matrimonio* as the fourth book of the *Summa de casibus* but as a separate work, meant to help address questions regarding marriage that might arise in the context of confession. Much of Raymond's *Summa de matrimonio* is given over to the requirements for, and impediments to, legal engagements and marriages, and it also addresses legal issues pertaining to the legitimacy of children and to dowries.

LITERATURE

García y García, A. "La canonística ibérica medieval posterior al Decreto de Graciano," *Repertorio de historia de las ciencias eclesíasticas en España* 1, 1967, pp. 397-434.

Kaeppli, Thomas. *Scriptores ordinis praedicatorum medii aevi*, vol. 3, Rome, 1980, 283-87: 3407, 3408.

Kuttner, Stephan. *Repertorium der kanonistik (1140-1234) Prodromus corporis glossarum*, Studi e testi 71, Vatican City, Biblioteca apostolica vaticana, 1937, pp. 443-445.

Kuttner, Stephan. "Zur Entstehungsgeschichte der Summa de casibus poenitentiae des hl. Raymund von Penyafort," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung* 39 (1953), pp. 419-34.

Le Patourel, John, *Ilkley Parish Church*, 4th edition, Gloucester, 1981.

Michaud-Quantin, Pierre. *Sommae de casuistica et manuales de confession au moyen-âge (XII-XVI siècles)*, Louvain, 1962.

Mulchahey, Marian Michèle. "First the Bow is Bent in Study": *Dominican Education before 1350*, Toronto, Pontifical Institute of Mediaeval Studies, 1998.

Murano, Giovanna. *Opere diffuse per exemplar e pecia*, Turnhout, Brepols, 2005.

Ochoa, Xavier and Aloisio Diez, eds. *Sanctus Raimundus de Pennaforte, Tomus B. Summa de poenitentia*, Rome, Commentarium pro religiosis, 1976.

Ochoa, Xavier and Aloisio Diez, eds. *Sanctus Raimundus de Pennaforte, Tomus C. Summa de matrimonio, Decretales novae, Responsiones ad dubitabilia, Questiones variae canonico-pastorales, Summula de consanguinitate et affinitate*, Rome, Commentarium pro religiosis, 1978.

Payer, Pierre J., trans. Raymond of Penyafort. *Summa on Marriage*, Toronto, Pontifical Institute of Medieval Studies, 2005.

Perez de Heredia y Valle, Ignazio. "La 'Summa de matrimonio' de S. Raimundo de Penafort," *Magister Raimundus. Atti del convegno per il IV centenario della canonizzazione di San Raimondo de Penyafort (1601-2001)*, ed. Carlo Longo, Rome, Istituto Storico Domenicano, 2002, pp. 111-163.

Raymond of Peñafort. *Summa Sti. Raymundi de Peniafort Barcinonensis Ord. Praedicator. de poenitentia, et matrimonio, cum glossis Ioannis de Friburgo ad S.D.N. Clemen. PP. VIII. nunc primum in lucem edita*, Rome, Sumptibus Ioannis Tallini, 1603.

Roblès, Laureano. "Escritores dominicos de la Corona de Aragón (siglos XIII-XV)," *Repertorio de historia de las ciencias eclesiasticas en España* 3, 1971, pp. 11-175.

Schulte, Johannes Friedrich von. *Die Geschichte der Quellen und Literatur des Canonischen Rechts von Gratian bis auf die Gegenwart*, vol. 2, Stuttgart, 1877, 408-14.

Teetaert, P. Amedeus. "La doctrine pénitentielle de Saint Raymond de Penyafort," *Analecta Sacra Tarraconensia* 4, 1928, pp. 5-62.

Teetaert, P. Amedeus. "La Summa de Poenitentia de Saint Raymond de Penyafort," *Ephemerides Theologicae Lovaniensis* 5, 1928, pp. 49-72.

Teetaert, P. Amedeus. "Summa de matrimonio de Saint Raymond de Penyafort," *Jus Pontificium* 9, 1929, pp. 54-61, 219-234, 312-322.

Valls y Taberner, Fernando. *San Ramón de Peñafort*, Barcelona, 1998.

ONLINE RESOURCES

Dolezalek, Gero R. *Manuscripts of Canon Law and Roman Law*, 2010 (manuscripts of Raymond of Peñafort's writings)

<http://www.uni-leipzig.de/~jurarom/manuscr/Can&RomL/authors/a1810.htm>

O'Kane, Michael. "St. Raymond of Peñafort," *The Catholic Encyclopedia*, vol. 12, New York, 1911

<http://www.newadvent.org/cathen/12671c.htm>

Pennington, Kenneth. *Medieval and Early Modern Jurists: A Bio-Bibliographical Listing*

<http://faculty.cua.edu/pennington/1140a-z.htm>

Raymond of Peñafort. *Summa Sti. Raymundi de Peniafort Barcinonensis Ord. Praedicator. de poenitentia, et matrimonio, cum glossis Ioannis de Friburgo ad S.D.N. Clemen. PP. VIII. nunc primum in lucem edita*, Rome, 1603

http://books.google.com/books?id=3AZKAAAACAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false

The Third Report of the Royal Commission on Historical Manuscripts Presented to both Houses of Parliament by Command of Her Majesty, London, 1872 (see pp. 210-11 for a description of this manuscript)

<http://books.google.com/books?id=bJQNAAAAQAAJ&pg=PA211&lpg=PA211&dq=%22radulfus+boteler%22&source=bl&ots=ERvezBGxJO&sig=b8PcjJMpifcSiyxb2j7hU1XD3c&hl=en&sa=X&ei=hgEFVNOREsPiiwLRzICoBA&ved=0CDkQ6AEwBA#v=onepage&q&f=false>

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