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RAYMUNDUS DE PENAFORTE, *Summa de poenitentia [Summa de casibus poenitentialis]*

and *Summa de matrimonio*

In Latin, decorated manuscript on parchment

Italy, c. 1240 (little after 1239)

49 ff., preceded by 2 paper and 1 parchment flyleaves, followed by 1 paper flyleaf, on parchment, missing a number of quires and thus quite fragmentary, wanting quires numbered i-ii, iv, v, vii-xi (collation: i6, iis, iii1 [a singleton], iv-viis, viiis [of 4, with iii-iv a blank followed by a cancelled blank]), written in a highly abbreviated gothic bookhand in dark brown ink, by a single hand, text on two columns, ruled in plummet (justification: 145 x 100 mm), prickings still visible, paragraph marks in red, rubrics in red, headings (Roman numerals) in red, some simple red or blue painted initials with long descenders, other 2-line high initials in red or blue with opposing blue or red filigree penwork, one larger 5-line high parti-colored initial in red and blue with red and blue filigree penwork extending in the margin (fol. 36), some contemporary or near-contemporary annotations (marginal or interlinear). Bound in a 19th century half-binding of tan pigskin, smooth spine with gilt lettering "Summa de casibus / Anno 1239," marbled paper on boards, leather corners (Rubbing to boards, else in sound condition). Dimensions 208 x 160 mm.

Early copy of the second recension of Raymond of Penafort's important penitential manual (redrafted in 1235-1236), the first of a new generation of penitential books to contain a repertory of canons following Gregory IX's famous Decretals. This manuscript is a very early copy, near-contemporary if one accepts the date of c. 1239. Although fragmentary, it contains the complete *Summa de matrimonio*, often considered Book IV of the *Summa de poenitentia*.

PROVENANCE

1. Copied and decorated in Italy, based on paleographic and ornamental elements. A date of c. 1240 is inferred because of a subtle variant in the text. In the *titulus* "Divorce on account of fornication" in the *Summa de matrimonio*, there is a contemporary example dated 1235, which in the earliest manuscripts (and those later manuscripts that choose to consider the text as fixed and set) Raymund de Penaforte's date of composition. One would think that the scribes would copy the dated example as was composed in 1235, considering the text immutable. But in this manuscript, as in a handful of a few others (see below), the date has been adapted to the current year of copy, meaning that in the present manuscript the date "1239" (see on fol. 48, right-hand column) replaces the original "1235."
2. An inscription reveals a list of expenses disbursed for monks: "Expensis pro fratre...pro secularibus [for footwear]...pro roba alba, pro roba de anchorio (?), pro domo [for the monastery], pro lignis [for wood]..." (f. 49v). A date below the list reads: "Anno .lxxvii. pro

facienda vinea [for wine] .xlxiii. s[olidi] viii d[enarii]..." Given the script, this is in all likelihood a date of 1277, suggesting the present manuscript was in a monastic (mendicant?) environment at an early date.

3. Collection Docteur Ernest Bonnejoy (1833-1896), collector and one of the founders of the Société végétarienne de France, his ex-libris pasted on lower pastedown, drawn by himself (E. Bonnejoy del[inavit] et sc[ulpsit] 1871). Bonnejoy pasted also on upper pastedown a small printed advertisement: "Journal du Treguier. Votre abonnement finit le 15 avril 1888." Le Docteur Bonnejoy. Château de Mégalite. Seine-et-Oise." No doubt the same proprietor cut out and pasted a number of references, very loosely related to the present manuscript, mostly references to printed incunabula editions of the text he thought found in the manuscript (for instance Angelus de Clavasio, *Summa angelica de casibus conscientiae*).
4. Another unidentified ex-libris, pasted on upper board: "Scientia duce" and the initials "IL."
5. European Private Collection.

TEXT

f. III, Title in red ink, with filigree initials, added in the 19th c. (by E. de Bonnejoy?): *Summa de casibus*;

ff. 1-6v, Raymundus de Penaforte, *Summa de casibus poenitentialis* or *Summa de poenitentia*, Liber I (begins and ends incomplete), begins Liber I, tit. 8 [De votis et votorum transgressionibus], incipit, "[...] ad seculum ex quo fecit ibi professionem..."; first rubric, *De iuramento et periurio*; ends, Liber I, tit. 12 [De feriis], last rubric, *De feriis*; explicit, "[...] sive festivae. Primas autem.... [...]" (published in X. Ochoa and A. Diez, 1976, col.356-395);

ff. 7-7v, Raymundus de Penaforte, *Summa de casibus poenitentialis* or *Summa de poenitentia*, Liber I, tit. 5, incipit, "[...] et tocius obsequii quicumque lapsis..."; rubric, *Redeuntibus ab heresi*; explicit, "[...] ecclesiae non est locus veri [...]" leaf misbound, correct text sequence is ff. 7-7v-1 et sq. (published in X. Ochoa and A. Diez, 1976, col.320-325);

ff. 8-14v, Raymundus de Penaforte, *Summa de casibus poenitentialis* or *Summa de poenitentia*, Liber II (begins and ends incompletely), begins Liber II, tit. 5 [De raptoribus praedonibus], incipit, "[...] illius negotium utliter..."; first rubric, *In quantum heredes tenentur restituere*; ends, Liber II, tit. 6 [De furtis], last rubric, *De furtis*; explicit, "[...] causa quare [or quae?] debeat non credere credens [...]" (published in X. Ochoa and A. Diez, 1976, col. 493-528);

ff. 15-35v, Raymundus de Penaforte, *Summa de casibus poenitentialis* or *Summa de poenitentia*, Liber III (begins incomplete), begins Liber III, tit. 33 [De forma absolutionis]; incipit, "-di .xxx. illud .xiii....per obeuntibus...Infligitur similiter utraque..."; first rubric, *De forma absolutionis*; ends Liber III, tit. 34 and "conclusio operis"; explicit, "[...] venite benedicti percipite regnum. Amen. *Explicit summa de casibus*" (published in X. Ochoa and A. Diez, 1976, col. 759-884);

ff. 36-49, Raymundus de Penaforte, *Summa de matrimonio* [Liber IV of the *Summa de paenitentia*], begins Liber IV [De matrimonio], tit. 1-23, missing tit. 24-25; Prooemium and index titulorum, rubric, *Incipit summa de matrimonio*; incipit, "Quoniam frequenter in foro penitentiale dubitationes circa matrimonium immo etiam interdum quasi perplexitates...De sponsalibus–De matrimonio–De errore persone..."; first rubric (tit. 1), *De sponsalibus*; incipit, "Quoniam sponsalia praecedere matrimonium consueverunt ideo primo loco de sponsalibus est agendum..."; last rubric (tit. 23), *De numero testium tam in matrimonio quam in aliis causis*; ends with fragment of Liber IV, tit. 25: explicit, "[...] non invidenti animo sed benigno corrigat et emendet. *Explicit summa de matrimonio*" (published in X. Ochoa and A. Diez, 1978, col. 901-990, and fragment, col. 996-998).

The *Summa de matrimonio* by Raymond de Penaforte was joined to the second redaction of the *Summa de casibus*. Beforehand, Raymond assumed those concerned with issues relating to marriage would turn to the canonist Tancred's *Summa de matrimonio*. This work was no longer adequate, and so Raymond composed a complete revision of Tancred's work. By 1241, the second edition of Raymond's work on penance (*Summa de casibus*) was generally copied with his account of marriage (if the date of 1239 is accepted for the present manuscript, it would be an early instance of this textual association). The *Summa de matrimonio* provided an important resource for the exercise of Dominican pastoral ministry and presents a fine summary of current law on marriage, offering the reader a reliable picture of the medieval conception of marriage. There is an English translation of the *Summa de matrimonio* (P. Payer, 2005).

In the present copy of *Summa de matrimonio*, in the chapter entitled *Qui admittuntur ad accusationem quod sit propter fornicationem* <De divortio propter fornicationem> (f. 48) [Divorce on account of fornication], one finds a brief passage in which there is a date of 1239: "[...] Anno domini nostri ihesu christi M. CC. XXXIX residente domino...sequitur videre quando maritus potest uxorem accusare de adulterio..." It is interesting to note that the text as established by Ochoa and Diez (1978, col. 986) gives a different date: "Anno Domini Nostri Iesu Christi MCCXXXV...", with the year 1235, rather than 1239. Ochoa and Diez, when discussing the date of composition of the *Summa de matrimonio*, suggested a date of composition of circa 1235-1236, which would account for the example dated 1235 in the text. Our scribe thus made a conscious effort to adapt to his contemporary setting the original 1235 dated reference, copying 1239 rather than 1235. Could this mean that the present manuscript is datable 1239 or little after? Another manuscript (Vatican, Cod. Vat. Lat. 1708) reads "Anno Domini N. I. Christi MCCXLIII": the scribe adds another 5 years to our 1239 date, and 9 years to the original 1235 date. Consequently, this manuscript is considered to be datable 1244 (see Ochoa and Diez, 1978, p. cxxv).

f. 49, blank.

Patron saint of lawyers, Raymundus de Penaforte (or de Peñafort, in Catalonia) (1180-1275) was a noted Dominican and is well known for his career as a canonist. In his youth, he taught philosophy in Barcelona, before leaving Spain for Bologna in 1210, where he completed his doctorate in canon law and subsequently occupied a chair of canon law at the university. At the request of Pope Gregory IX, he went to Rome in 1230. There he served as the pope's confessor and codified his Decretals. 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 of Penafort's *Summa de poenitentia* or *Summa de casibus poenitentialis* remains his most popular work. He was asked to write the *Summa de poenitentia* to facilitate the ministry of confession to fellow Dominicans. The work 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.

Two redactions of the *Summa de poenitentia* are known: a first composition between 1225 and 1227, and a second redaction c. 1235-1236, revised after the composition of the Decretals of Pope Gregory IX, assembled in 1234 (see Kuttner, 1953, pp. 419-434). On the occasion of the second redaction of the *Summa de poenitentia*, the *Summa de matrimonio* was composed by Raymond of Penafort, who reworked Tancredus de Bologna's work by the same title, composed c. 1211-1213 (published by Wunderlich, 1841; see also Ochoa, 1978, pp. CXX-CXXIV), the reworking necessitated by the publication of the Gregorian Decretals in 1234. Raymond's *Summa de matrimonio* was generally incorporated in most extant manuscripts of the *Summa de poenitentia* as its fourth book (see Pérez de Heredia y Valle, 2002, pp. 115-116, and García y García, 1967, p. 417), but it also circulated independently (see Dolezak, in Online Resources).

The number of extant manuscripts of the *Summa de poenitentia* attests to the work's enormous popularity. For lists of the manuscripts, see Robles (1971, pp. 14-33), Ochoa and Diez (1976, pp. XCIII-CIV), Kuttner (Catalogue, 2: 1, 3-6); and Professor Dolezak's site on Roman and Canon Law (see Online Resources below). Only a small number of manuscripts exist of the first edition (Robles records 8), whereas many more are extant of the second recension. At least seven manuscripts of the second edition are recorded in North American collections (see DeRicci and Wilson, 2: 1206, 2154; and Faye and Bond, 53, 79, 106, 215, and 402). To these should be added two other manuscripts: University of California, Berkeley, Robbins Collection, MS 9 (see www.law.berkeley.edu/library/robbins/RobbinsMSScatalogue1-30.html); and Yale University, Beinecke Library, MS 999. Ochoa and Diez (1976) based their critical edition on two early manuscripts, contemporary with the author: Paris, Bibl. Arsenal, MS 370 (dated 1244) and Rome, Vatican, Bibl. Apostolica, Ottob. lat. B (dated 1242). A comparative study of all the extant manuscripts with marginalia, indications of early provenance, and original bindings would contribute to a better understanding of the abiding interest Raymond's work held for his contemporaries and followers.

The *editio princeps* of the *Summa de poenitentia*, which also included the *Summa de matrimonio* as the fourth book of the work, appeared relatively late, in Rome, Michael Llot, 1600 (see Ochoa and Diez, 1976, p. XCIV)

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ONLINE RESOURCES

On Raymond de Penaforte:

http://en.wikipedia.org/wiki/Raymond_of_Penyafort.htm

List of manuscripts containing both works by Raymond de Penaforte:

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

TM 463