

COFFREDUS DE TRANO, *Summa super rubricis decretalium*; IOHANNES DE DEO, *Liber seu Summa dispensationum (Libellus dispensationum)*.

In Latin, decorated manuscript on parchment

Germany, c. 1400-1425

242 ff., preceded by a single flyleaf, last leaf (f. 242) pasted on lower board, complete (collation: i-iii⁸, iv⁶, v¹⁰, vi-xix⁸, xx⁶, XXI-XXIX⁸, XXX¹⁰), written in brown ink in a gothic bookhand between four verticals and 39 horizontals ruled in brown ink (justification 220 x 158 mm), occasional catchwords, gatherings numbered at lower inner corner of final versos (numbers sometimes cropped), later foliation in upper right hand corner of rectos, text in two columns of up to 38 lines, prickings survive in outer margins, rubrics in red, text capitals touched alternately in red and blue, initials alternately in red and blue with blue and red penwork flourishing sometimes extending into margins, annotated in a contemporary and a 16th-century hand, with marginal headings and maniculae, space left blank for Tables of Affinity and Consanguinity on ff. 169 and 171. Late 15th-century German white pigskin binding, boards paneled in blind, manuscript title on fore-edge, back sewn on 5 bands (lacking pins and clasps, a few wormholes, light scuffing, some minor worming and soiling to opening and final leaves, a few leaves shaved, some marginal cropping, occasional repairs to vellum). Dimensions 305 x 220mm.

Interesting manuscript in a fine contemporary binding that contains two works by two canonists, writing in the same period and close to the beginning of the pontificate of Pope Innocent IV (1243-1256). Copied in a Germanic environment, this manuscript is amply annotated and corrected by contemporary hands, and boasts an illustrious and learned provenance. The treatise on "dispensation" by Johannes de Deo, dedicated to Pope Innocent IV in certain codices and recensions of the text, still awaits its critical study and edition.

PROVENANCE

1. Copied and decorated in Germany based on script and decoration. Marginal annotations (sixteenth century) point to an early medieval ownership in Germany: the manuscript likely remained there until the 19th century.
2. Leander van Ess (1772-1847), the label on the spine gives the shelfmark 95 from his library. Leander van Ess was a German Catholic theologian, born at Warburg, Westphalia. He was educated at the Dominican order gymnasium of his native town, and in 1790 entered, as a novice, the Benedictine abbey of Marienmunster, in the Bishopric of Paderborn. In 1818 he received his doctorate in theology and canon law. In 1807, in conjunction with his cousin Karl van Ess, he had published a German translation of the New Testament, and, as its circulation was discountenanced by his superiors, he published in 1808 a defense of his views, entitled *Auszuge aus den heiligen Vdtern und anderen Lehrern der katholischen Kirche uber das nothwendige und nutzlicke Bibellesen*. An improved edition of this tractate was published in 1816, under the title *Gedanken der Bibel und Bibellehre*, and in the same year appeared *Was war die Bibel den ersten Christen?* In 1822 he resigned his offices at Marburg in order to devote his whole time to the defense of his views regarding Bible reading by the people, and to endeavor to promote the circulation of the scriptures. He was associated first with the Catholic Bible Society of Regensburg, and then with the British and Foreign Bible Society.

3. Sir Thomas Phillipps (1792-1872), most celebrated bibliophile and collector, his shelfmark Phillipps MS 480. The manuscript passed from Van Ess to Phillipps in 1824, when the latter purchased, among other things, 367 manuscripts from Van Ess's collection. The present manuscript was lot 274 in the Phillipps sale on 24 April 1911.
4. Walther Dolch (1883-1914) for the Eduard Langer Library (Dr. Eduard Langerschen Bibliothek in Braunau am Inn, Upper Austria). Both Walther Dolch and Eduard Langer (1852-1914) co-wrote the authoritative bibliography of early Austrian printing (*Bibliographie der Osterreichischen Drucke des XV und XVI Jahrhunderts*, Vienna, 1913). There is a very rare catalog of the Eduard Langer collection (*Kataloge der Dr. Ed. Langerschen Bibliothek zu Braunau i.B. Harrassowitz*, 1914). Eduard Langer was a staunch defender of the rights of Sudeten Germans, living in Bohemia and part of the Austro-Hungarian Empire.
5. Alexander Fürst von Dietrichstein (1899-1964), his sale, *Bibliothek Alexander Fürst-Dietrichstein... Wertvolle Manuskripte mit miniaturen des 9-15 jhdts...*, Lucerne, 1933, lot 286. The Dietrichstein were a Bohemian and Austrian noble family, who provided a number of dignitaries to Austria.

TEXT

ff. 1-231, Goffredus de Trano, *Summa super rubricis decretalium*, with Preface, f. 1, rubric, *Incipit summa Ganifredi super decretale*, incipit, "Glosarum diversitas intelligentiam textus nonnumquam obtenebrat...";

ff. 1-65, Goffredus de Trano, *Summa super rubricis decretalium*, Book I, rubric, *De summa trinitate*; incipit, "Post prohemium in quo breviter edocentur quare hoc nova compilation facta sit..."; explicit, "ut superius dictum est et probatur c. e. t. i" [complete];

ff. 65-115v, Goffredus de Trano, *Summa super rubricis decretalium*, Book II, rubric, *Explicit liber primus incipit secundus rubrica de iudiciis*; incipit, "Explicitis quibusdam iudiciorum..."; last rubric, explicit, "[...] di quis nesciat." [complete]

ff. 116-159v, Goffredus de Trano, *Summa super rubricis decretalium*, Book III, rubric, *De vita et honestate clericorum rubrica*; incipit, "Finito tractatu iudiciorum..."; rubric, *De cobitationem clericorum et mulierorum*, explicit, "[...] super specula sit penalis ad alios quoniam exprimat non debet" [complete];

ff. 160-180v, Goffredus de Trano, *Summa super rubricis decretalium*, Book IV, rubric, *Incipit liber iiiius [quartus] de sponsalibus et matrimoniis*; incipit, "Postquam de hiis que ad clericos pertinent superius satis tractavimus..."; explicit, "[...] secundum iura canonica non tenet" [complete];

ff. 180v-241, Goffredus de Trano, *Summa super rubricis decretalium*, Book V, rubric, *De accusationibus inquisitionibus et denuntiationibus*; incipit, "Proximum tractavimus de accusatione..."; explicit, "[...] malui repeti quoniam de esse" [complete];

Goffredus of Trano (Tranensis) (1200-1245) was an Italian jurist, canon lawyer, university professor, cardinal and one of the earliest glossators of the *Decretals* of Gregory IX. His work became a fundamental resource for canon law. Goffredus was a student of the renowned civilian Azo and subsequently became professor of Roman law at Naples, until he was appointed *auditor*

of the Roman Rota in 1240. In 1244, Pope Innocent IV, his former fellow student at Bologna, elevated him to the cardinalate.

Goffredus wrote his full apparatus (glossae) on the *Decretales Gregorii IX*, before 1243. Then, before his death, between 1241 and 1243, Goffredus completely rewrote the work as the *Summa super rubricis (seu titulis) decretalium*. Goffredus also wrote glosses on the Novellae of Innocent IV (On Goffredus de Trano, see Schulte, II, p. 88). The *Summa super rubricis (seu titulis) decretalium* which is a commentary on Gregory's *Decretals*, circulated in a wide number of manuscripts (there are more than 280 extant codices of the text), and was structured in a similar fashion as the *Decretals* themselves (on this work, see Schulte, II, pp. 89-91). In importance, the *Summa* of Goffredus de Trano ranks right after the *Summa de penitencia* of Raymond of Peñaforte.

The *Summa super rubricis decretalium* was first printed in Cologne under the title *Summa Ganfredi [de Trano super titulos Decretalium]*, [Köln, Ludwig von Renchen, circa 1487-1488] (Goff T 424). It was a popular work and there were other successive editions, well into the sixteenth century.

ff.232-242, Iohannes De Deo, *Summa de dispensationibus et de sententiis dispensationum formandis. rubric, Incipit summa composita a magistro Johanne de Deo de dispensacionibus et de sentenciis dispensacionium formandis, incipit, "Tene quod dispensatio est iuris relaxacio vel dispensare est diversa laxare vel pensare..." ; "[...] et partes qualiter se habeant in sententiis preferendis. Explicit summa composita a magistro Johanne de Deo de dispensacionibus et de sentenciis dispensationum formandis"* [partially published in Sousa Costa, 1971, pp. 285-287].

Johannes de Deo was born in Silves in the Algarve (Portugal) between 1189 and 1191 and studied canon law, and possibly civil law, at Bologna for at least the six years preceding 1229. His long subsequent tenure as a professor of law at the university gave rise to a significant body of summaries and digests of canon law, principal among them being a *Lectura* for the *Decretals*, a *Breviarium decretorum*, the *Quaestiones de processu canonico*, the *Liber poenitentiarius* and the present *Liber seu Summa dispensationum*. His main public consisted of students and practitioners of canon law, hence the didactic nature of his works and the large diffusion. Johannes remained in Bologna until not long after 1255. By 1260 he was archdeacon in Lisbon, where he had held the post of canon since 1241. He died in Lisbon in 1267. The high esteem for his works in the Middle Ages is demonstrated in a number of tributes by other scholars, as well as by the broad diffusion of his manuscripts up to the end of the fifteenth century (On Johannes de Deo, see Schulte, II, pp. 94-95; Michaud-Quantin, 1962, pp. 26-27; all references to Sousa Costa in Literature, esp. 1976, pp. 113-117. It should be noted that Sousa Costa rescued Johannes de Deo from unfair neglect).

The *Liber seu Summa dispensationum* by Johannes de Deo is discussed in Schulte, II, pp. 96-97, but see especially Sousa Costa: "Redacções do 'Liber dispensationum'..." (1971, pp. 269-297). The work is known in two recensions composed before and after 1243. The first recension is found in Milan, Bibl. Ambros. 64 sup., fol. 95ra-101va. Our manuscript contains a version of the second, shorter redaction (Rome, Bibl. Casanat. 108; Vatican City, Vat. lat. 5066 et alia). Schulte provided a first list of identified manuscripts (Schulte, 1877, p. 96, note 10), completed by Sousa Costa [1957], pp. 103-105, pp. 196-197.

The work addresses the prickly issue of "dispensation" (*dispensatio*), the act by which in a particular case a lawful superior grants relaxation from an existing law. Dispensation differs from 'abrogation' or 'derogation' inasmuch as these suppress the law totally or in part, whereas dispensation leaves it still in vigor. The *raison d'être* for dispensation lies in the nature of prudent

administration, which often counsels the adapting of general legislation to the needs of a particular case by way of exception. The Divine purpose of the Church -- the welfare of souls -- obliges it to reconcile as far as possible the general interests of the community with the spiritual needs or even weaknesses of its individual members. Hence, for example we find instances of matrimonial dispensations from the very earliest centuries. The power of dispensation usually rests in the following persons: the pope, the bishop, the vicar general, the parish priest. In his *Liber dispensationum*, Johannes de Deo examines all forms and types of *dispensatio*, granted by various members within the hierarchy of the Church, but also amongst lay society: "De dispensatio patris cum filio tam legitimo quam bastarda" [On dispensation granted by a father to a son, legitimate or illegitimate]; "De dispensatio amici cum amico, socii cum socii" [On dispensation granted by a friend to another friend, by a colleague to another colleague].

LITERATURE

Bertram, M. "Goffredo da Trani," in *Dizionario biografico degli italiani*, Rome, 2001, vol. 57, pp. 545-549.

Bertarm, M. "Der Dekretalenapparat des Goffredus Tranensis," *Bulletin of Medieval Canon Law* 1 (1971), pp. 79-83.

Deshusses, J. "Jean d'Espagne," in *Dictionnaire de droit canonique*, VI, Paris, 1935-1965, p.99.

Gottofredo da Trani (Goffredus Tranensis). *Summa super titulis decretalium. Novissime cum repertorio et numeris principalium et emergentium questionum impressa*, Scientia Verlag Aalen (Darmstadt), 1968.

Marmursztejn, E. "Penser la dispense: éclairages théologiques sur le pouvoir pontifical (XIIIe-XIVe siècles)," in *Tijdschrift voor rechtsgeschiedenis*, Groningen, vol. 77 (2009), pp. 63-88.

Michaud-Quantin, P. *Sommes de casuistique et manuels de confession au moyen âge*, Louvain - Lille - Montréal 1962, pp. 26-27.

Schulte, J.P. von. *Geschichte der Quellen und der Literatur des kanonischen Rechts*, vol. II, Stuttgart 1875.

Sousa Costa, A. de. *Doutrina penitencial do canonista João de Deus*, Braga 1956.

Sousa Costa, A. de. "Animadversiones criticae in vitam et operam canonistae Joannis de Deo," *Antonianum* 33 (1958), pp.76-124.

Sousa Costa, A. de. "Redacções do 'Liber dispensationum' e da 'Summula super decimis ecclesiasticis' do canonista João de Deus," *Revista Portuguesa de História* 13 (1971), pp. 269-97.

Sousa Costa, A. de. "João de Deus," in *Estudios sobre la canonística portuguesa medieval*, Madrid 1976, pp. 113-117.

ONLINE RESOURCES

K. Pennington, List of manuscripts containing Goffredus de Trano, *Summa super titulis decretum*:
<http://faculty.cua.edu/pennington/1140a-z.htm>

On Goffredus de Trano:

http://it.wikipedia.org/wiki/Goffredo_da_Trani

Marmursztejn, E. "Penser la dispense: éclairages théologiques sur le pouvoir pontifical (XIIIe-XIVe siècles)" (2009):

<http://www.utexas.edu/law/journals/tlr/sources/Volume%2091/Issue%204/John%20YOO/JohnYoo.fn065.penserladispense.pdf>

Leander van Ess and his book collections

http://www.miltongatch.us/the_book_collections_of_leande.html

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