

**Parisian Masters and the Jews in the Late Thirteenth Century :
New Perspectives on a Dossier of Texts concerning the *Regimen Judaeorum***

(English translation of « Les maîtres parisiens et les Juifs (fin XIII^e siècle): Perspectives nouvelles sur un dossier d'avis concernant le *regimen judaeorum* » *Journal des Savants* 2016/2, pp. 97-138)

Abstract : Toward 1270, a noblewoman wrote to Thomas Aquinas, John Peckham, and an anonymous jurist, seeking their counsel concerning the good government of her subjects and of Jews. Whether the correspondent was a duchess of Brabant or the countess of Flanders has long been a matter of contention, as has the dating of the three replies and the relationship between them. Comparing anew all three texts, this article argues that the correspondent was not seeking advice on how best to govern Jews already dwelling within her lands, but was instead grappling with the possibility of welcoming new Jewish settlement. This rereading firmly establishes the identity of the correspondent as Margaret of Constantinople, Countess of Flanders, and sheds new light on the politics surrounding the Jewish presence in northwestern Europe in the closing decades of the thirteenth century.

The brief work of Thomas Aquinas generally known as the *Epistola ad ducissam Brabantiae* or *De regimine Judaeorum* was among the most widely-copied of his minor writings, surviving in more than eighty manuscripts¹. As its two most common titles suggest, the text is a letter written in response to a series of questions sent by a certain noblewoman concerning the appropriate governance of Jews, and indeed, the appropriate governance of her subjects more broadly – hence a third title appearing in some manuscripts, *De regimine subditorum*².

Given its contents, the *Epistola* has figured prominently in studies of the Angelic Doctor's attitude toward Jews, especially as it deviates in several respects from the more systematic discussion of Jews and Judaism in his *Summa Theologica*³. Most of the discussion of the *Epistola*, however, has focused instead

I am grateful to Youna Masset, Cécile Morrison, and Cédric Quertier for their assistance in translating this article for publication, as well as for their helpful critiques and suggestions. My colleagues Shane Bobrycki and Michael McCormick offered valuable advice on the edition of the *quaestio*. Only after this text had already been submitted for publication did I learn that Stephen Metzger was working on this dossier of texts, as part of a broader study of Gerard of Abbeville ; I am grateful to him for sharing his thoughts with me, and particularly for helping to clarify a disputed passage in the edition.

¹ *Epistola ad Ducissam Brabantiae*, H.-F. DONDAINE ed., in *Sancti Thomae de Aquino Opera Omnia iussu Leonis XIII P.M. edita*, t. 42, Rome, 1979, p. 357-78. Unless otherwise noted, all subsequent references to Aquinas's *Epistola* are to this edition. For a list of manuscript and incunables of the *Epistola*, see p. 363-64. For later editions of the text, see G. F. ROSSI, *Antiche e nuove edizioni degli Opuscoli di San Tommaso d'Aquino e il problema della loro autenticità*, Piacenza, 1955, p. 63-71.

² See *Epistola ad ducissam Brabantiae*, DONDAINE ed, p. 363.

³ See especially H. LIEBESCHUTZ, « Judaism and Jewry in the Social Doctrine of Thomas Aquinas », *Journal of Jewish Studies*, 13, 1962, 57-81 ; D. BERG, « *Servitus Judaeorum*: Zum Verhältnis des Thomas von Aquin und seines Ordens zu den Juden in Europa im 13. Jahrhundert », in *Thomas von Aquin: Werk und Wirkung im Licht neuerer Forschungen*, A. ZIMMERMANN ed., Berlin, 1988, p. 439-458 ; M. B. LUKENS, « St. Thomas's Letter on the Jews », in *Conflict and Community: New Studies in Thomistic Thought*, M. B. LUKENS ed., New York, 1992, p. 165-

on the identity of the correspondent whose queries spurred its composition, and the corresponding question of its dating⁴.

Since the mid-1970s, studies of the *Epistola* have been inflected by the discovery of two previously-unknown texts, dealing with similar themes, which circulated alongside some copies of the *Epistola*. One of these texts resembles closely Aquinas's *Epistola* in form : written in Paris by a Franciscan, it too is a letter addressed to an unnamed noblewoman concerning the appropriate governance of Jews and other subjects. The other text (which we shall refer to as a *quaestio*) deals with almost exactly the same topics, but its structure is more schematic, consisting of a series of queries each followed by a response.

So far two copies of the complete version of this « dossier », are known : one in an early fourteenth-century manuscript, now in Philadelphia (University of Pennsylvania MS Codex 1271 ; olim New York, Hispanic Society of America, MS B2716)⁵; and the other in a manuscript from the mid-fifteenth century, now in the Bibliothèque Mazarine (MS 1652) ⁶. In addition, extracts from the dossier are found in a manuscript compiled by Godfrey of Fontaines (BnF lat. 16297), and the *quaestio* also appears independently in a fourteenth-century manuscript now in Brussels (Bibliothèque Royale, MS 21838)⁷. To date, no other copies of either the Franciscan *epistola* or the anonymous *quaestio* have been identified.

These three texts offered contemporary readers a tidy array of competing arguments concerning Jews, usury, taxation, and other issues of good government. They are similarly valuable for modern scholars interested in learned attitudes toward these topics in the second half of the thirteenth century, and they have been studied accordingly⁸. Yet, despite the wealth of recent scholarship, much uncertainty and

201 ; J. Y. B. HOOD, *Aquinas and the Jews*, Philadelphia, 1995 ; J. COHEN, *Living Letters of the Law: Ideas of the Jew in Medieval Christianity*, Berkeley, 1999 ; S. C. BOGUSLAWSKI, *Thomas Aquinas on the Jews: Insights into his Commentary on Romans 9-11*, New York, 2008 ; as well as the works cited below.

⁴ H. PIRENNE, « La duchesse Aleyde de Brabant et le 'De regimine judaeorum' de saint Thomas d'Aquin », *Revue néo-scholastique de philosophie*, 2^e sér., 18, 1928, p. 193-205 ; P. GLORIEUX, « Le *De Regimine Judaeorum*: Hypothèse et précisions », *Divus Thomas*, 39, 1936, p. 153-60 ; G. VERBEKE, *Een onvoltooide commentaar van Thomas van Aquino (Peri Hermeneias)*, Brussels, 1960 (Mededelingen van de Koninklijke Vlaamse Academie voor Wetenschappen, Letteren en Schone Kunsten van België, Klasse der Letteren, 22/8) ; R. VAN UYTVEN, « The Date of Thomas Aquinas's *Epistola ad Ducissam Brabantiae* », in R. LIEVENS, E. VAN MINGROOT, & W. VERBEKE, *Pascua Mediaevalia: studies voor Prof. Dr. J. M. de Smet*, Louvain, 1983, p. 631-43 ; D. KUSMAN, « À propos de la consultation de Thomas d'Aquin par la duchesse Aleyde de Brabant (ca. 1267) », *Revue belge de philologie et d'histoire*, 73, 1995, p. 937-46.

⁵ University of Pennsylvania MS Codex 1271 ; olim New York, Hispanic Society of America, MS B2716.

⁶ The discovery of the dossier was first announced by Bernhard BLUMENKRANZ, relying on the Mazarine manuscript ; see his « *Le De Regimine Judaeorum*: ses modèles, son exemple, » in G. VERBEKE & D. VERHELST, *Aquinas and Problems of his Time*, Louvain, 1976, p. 101-117. Soon thereafter, Leonard Boyle drew attention to the second copy, noting furthermore that the Franciscan *Epistola* and the anonymous *quaestio* were in fact two separate texts; see his « Thomas Aquinas and the Duchess of Brabant », *Proceedings of the PMR Conference* 8, 1983, p. 25–35. Although both scholars noted their plans to publish the texts, neither succeeded in doing so.

⁷ The extracts in the notebook of Godfrey of Fontaines were first noted by Father Boyle (« Thomas Aquinas », p. 31), while Christoph Cluse was the first to note the copy of the *quaestio* in the Brussels manuscript ; see his *Studien zur Geschichte der Juden in den mittelalterlichen Niederlanden*, Hanover, 2000 (Forschungen zur Geschichte der Juden, 10), p. 178 n. 403, and p. 182-83. All of these manuscripts are discussed in further detail below.

⁸ G. DAHAN, *Les intellectuels chrétiens et les juifs au moyen âge*, Paris, 1990 ; G. TODESCHINI, « Usura ebraica e identità economica cristiana: la discussione medievale », in C. VIVANTI, *Storia d'Italia. Annali, 11: Gli ebrei in Italia*, t. 1, Turin, 1996, p. 289-318 ; IDEM, « La scienza economica francescana e gli ebrei nel Medio Evo: da un lessico teologico a un lessico economico », *Picenum Seraphicum*, n.s., 20, 2001, p. 113-135 ; IDEM, *I mercanti e il*

confusion continues to surround these texts. The dating of the texts, the identity of the authors, and especially the identity of the unnamed noblewoman all remain matters of contention. So too for the circumstances surrounding the composition of the dossier : were the three texts composed simultaneously or sequentially ? The two most systematic studies of the dossier reached differing conclusions on many of these questions ; of these, one (by a Flemish scholar, Wim Verschooten)⁹ remains unpublished, while the other (by an Italian scholar, Annamaria Emili) has been published only in part and ignored the earlier arguments of her Flemish colleague¹⁰. Other recent analyses have complicated the picture still further¹¹.

The points of contention are closely interlinked, such that fresh evidence for any one question helps to sharpen our hypotheses for the others. For example, the recent discovery of the Brussels copy of the anonymous *quaestio* (unknown to both Emili and Verschooten) challenges earlier assumptions about the dossier's circulation. It has also gone unnoticed that the Brussels copy contains a more complete text of the *quaestio* than either of the other manuscripts, which both allows a more exact reconstruction of its original version and sheds light on its early textual history. (An edition is accordingly given in the appendix.)

The structure of this article is as follows. The first part presents an overview of the texts of the dossier and the manuscripts in which they are found. The article then discusses in turn the authorship of the texts, their dating, and the identity of their addressee. Finally, we will see how a renewed analysis of its composition and historical context sheds new and valuable light on the history of Jews in northwestern Europe in the second half of the thirteenth century.

tempio: la società cristiana e il circolo virtuoso della ricchezza fra medioevo ed età moderna, Bologna, 2002 (Collana di storia dell'economia e del credito 11) ; A. BOUREAU, *Théologie, science et censure au XIII^e siècle: le cas de Jean Peckham*, Paris, 1999 ; C. CLUSE, « Zum Zusammenhang von Wuchervorwurf und Judenvertreibung im 13. Jahrhundert », in F. BURGARD, A. HAVERKAMP, & G. MENTGEN, *Judenvertreibungen in Mittelalter und früher Neuzeit*, Hanover, 1999 (Forschungen zur Geschichte der Juden: Abteilung A: Abhandlungen, 9), p. 135-163 ; IDEM, *Studien zur Geschichte...* ; IDEM, « Jewish Moneylending in Dominican Preaching, Confession, and Counselling. Some Examples from Later Medieval Germany », in E. H. FÜLLENBACH & G. MILETTO, *Dominikaner und Juden: Personen, Konflikte und Perspektiven vom 13. bis zum 20. Jahrhundert*, Berlin, 2015, p. 195-230 ; R. LAMBERTINI, *La povertà pensata. Evoluzione storica della definizione dell'identità minoritica da Bonaventura ad Ockham*, Modena, 2000.

⁹ W. VERSCHOOTEN, « Margaretha van Frankrijk bestemmeling van Thomas van Aquino's 'Epistola ad ducissam Brabantiae' », unpublished doctoral dissertation, Louvain, Katholieke Universiteit, 1991 ; I would like to thank Christoph Cluse for kindly bringing this study to my attention and providing me with a copy.

¹⁰ A. EMILI, « *De regimine Judeorum*. Note su tradizione manoscritta, datazione e contenuti della risposta di Peckham alla Contessa di Fiandra », *Picenum Seraphicum: rivista di studi storici e francescani*, 22-23, 2003-04, p. 67-120 ; EADEM, « *De regimine Judeorum*. Una proposta di edizione dell'epistola *De Judeis* del minorita Giovanni Peckham », *Franciscana: bollettino della Società internazionale di studi francescani*, 13, 2011, p. 158-191 ; EADEM ; « Fonti in dialogo. Tommaso d'Aquino e il dossier sul governo degli Ebrei (1270) », in *Dominikaner und Juden...*, 1-24.

¹¹ C. CLUSE, *Studien zur Geschichte...* ; as well as the review by D. KUSMAN in the *Revue belge de philologie et d'histoire*, 81, 2003, p. 465-71. See also D. KUSMAN, « Le rôle de l'Église comme institution dans la contractualisation des opérations de crédit en Brabant, XIII^e-XV^e siècle », in F. AMMANNATI, *Religione e istituzioni religiose nell'economia europea, 1000-1800 / Religion and Religious Institutions in the European Economy, 1000-1800. Atti della 'Quarantatreesima Settimana di Studi' (8-12 maggio 2011)*, Florence, 2012, p. 234-35 ; and IDEM, *Usuriers publics et banquiers du prince: le rôle économique des financiers piémontais dans les villes du duché de Brabant (XIII^e-XIV^e siècle)*, Turnhout, 2013 (Studies in European Urban History 1100-1800, 28), especially p. 48-49 and p. 98-99.

The Texts – Form and Genre

Let us begin with a brief description of the texts themselves. Aquinas's *Epistola* consists of answers to eight questions that he received from an unnamed woman, whom he addresses as both « illustris domina » and « excellentia vestra » and describes as an « illustris et religiosa domina », with a « devotam dilectionem » for his Dominican brethren¹². The letter, which is the longest of the three texts in the dossier, is written in a flowing, accessible style. Aquinas weaves numerous Biblical passages (11 in total) into the text, but the only reference to a non-Biblical source consists of a citation to the Lateran IV decree requiring Jews to wear distinctive garb (ll. 245-48)¹³.

Of the eight questions to which Aquinas responds, five concern the appropriate treatment of the Jews within her lands, with three of these focusing on usury in particular. The remaining three questions concern the sale of offices to bailiffs and other officials, the levying of taxes or forced loans from her Christian subjects, and the handling of revenues that officials extort illicitly. In terms of length, slightly less half of the substantive part of the letter deals with the Jews. As a result, while most medieval rubricators and modern scholars have comfortably referred to the text as *De regimine Iudeorum* (or variants thereon), others - including both Ptolemy of Lucca and the most recent editor – have opted for titles that downplay or sidestep the Jewish aspect of the text¹⁴.

The second text in the dossier is likewise framed as a letter, in response to the queries of an unnamed « illustris domina » whom the Franciscan author fulsomely praises at the outset (ll. 1, 3-15)¹⁵. Unlike Aquinas, who precisely spelled out the questions to which he was responding, the Franciscan embeds many of the questions within his answers, introducing successive arguments with « amplius » or « adhuc ». Moreover, although a number of passages contain echoes of canon law (all drawn from the title *De Iudeis* of the *Liber Extra*), the author does not include any direct textual references, whether Biblical, patristic, canonistic, or otherwise¹⁶. Indeed, the only authority to which the Franciscan explicitly refers is

¹² For a fuller discussion of the structure and contents of Aquinas's *Epistola*, see the works cited above, n. 4. The initial address to an « illustris domina » is found only in the β-family of texts of the *Epistola*, which includes all of the manuscripts containing copies or extracts of the dossier. See below, p. 8.

¹³ Lat. IV, c. 68 (*In nonnullis provinciis*), in *Conciliarum oecumenicorum decreta*, G. ALBERIGO ed, Bologna, 1973, p. 266. As noted by HOOD (*Aquinas and the Jews*, p. 101), Aquinas similarly eschewed a canonistic framework in discussing Jewish-Christian relations in his *Summa Theologica*, turning to canon law in only five instances. By way of comparison, the slightly earlier *Summa Theologica* attributed to the Franciscan Alexander of Hales (though written in part by John of La Rochelle) contains 48 legal citations in its treatment of the same topic.

¹⁴ Ptolemy of Lucca titled the work *Determinatio quorundam casuum ad comitissam Flandrie*, while Dondaine opted for *Epistola ad ducissam Brabantiae*. J. PERRIER did likewise in his edition of Aquinas's *Opuscula philosophica* (Paris, 1949, p. 212), choosing *De Regimine Subditorum ad ducissam Brabantiae*.

¹⁵ That the author belonged to the Franciscan order is evident from the letter's opening sentence, in which he describes himself as: « frater Johannes serviens fratribus minoribus pro tempore Parisius dans officio lectionis » (ll 1-2.) ; this will be further discussed below. The text has recently been edited by EMILI (« Una proposta di edizione... », p. 178-91) ; all of the references are to this edition. A separate edition of this text, along with the anonymous *quaestio*, may be found in VERSCHOOTEN, « Margaretha van Frankrijk... », p. 10-26.

¹⁶ To judge from the *Apparatus fontium* compiled by VERSCHOOTEN (« Margaretha van Frankrijk... », p. 24), the Franciscan author draws on nine canons (X 5.6.4, 5, 7-9, 13-16, 18). Two Biblical and patristic allusions are proposed in Emili (« Una proposta di edizione... », p. 180, n. 4 ; and p. 181, n. 6), but both examples are quite tenuous.

the example set by the king of France, whom he twice mentions – first as « Christianissimus rex Francorum », then as « rex Francie piissimus » (ll. 51-52, 115).

In terms of its content, the letter covers much the same range of topics as does Aquinas, but his focus is more squarely on the proper treatment of Jews. In the substantive part of his letter, he devotes three times as much space to the topic of Jews and usury as he does to the other questions (on the sale of offices, the levying of taxes, and so forth). Moreover, as Alain Boureau has noted, the responses of the *Doctor Angelicus* encourage his correspondent « à la modération et à l'humanité [...] tout en demeurant dans les limites juridiques du status des juifs » and condemning firmly the practice of moneylending); in comparison, those of the Franciscan offer a more rigid vision of the status of Jews within Christian society¹⁷. Indeed, while it is somewhat misleading to describe the letter as « severely theological » (given that its textual supports are more canonistic than theological), there is no question that the Franciscan letter is marked by a severity that is largely absent from its Dominican analogue¹⁸.

The third text – the anonymous *quaestio* – is the shortest of the three : about 950 words, as compared to 1600 for Aquinas's *Epistola* and 1200 for the Franciscan text. Unlike the others, it contains no explicit mention of by whom, or to whom, it was written. In all three copies, the text simply begins with the first question (« *Questio est si liceat...* »), and continues on with a list of eleven further questions, all introduced by « *Item queritur* » or « *Item si* ». Each of these is in turn followed by a response, given in the form « *Respondeo...* » or « *Responsum est* ». The first seven questions deal with Jews ; there is then one question on revenues derived from Lombard usurers (to which we will return below) ; and finally four on taxation, the sale of offices, and the restitution of illicit gains. The anonymous author draws on a broader range of sources than either of the two *Epistolae*, and he cites them explicitly : there are two Biblical extracts (Genesis 4:4 and Ecclesiasticus 34:24) ; two quotations from Gregory the Great, both cited via Gratian's *Decretum* ; six references to Pope Gregory IX's *Liber Extra*; and no less than sixteen references to Roman law. While the Biblical and canonistic citations are all clustered in the replies dealing with Jews and usury, the citations to civil law are scattered throughout the *quaestio*. Whatever the identity of the author – and neither of the hypotheses put forth so far are especially convincing¹⁹ – there is little doubt that he possessed considerable legal training. Whereas the canonical citations in the Franciscan *Epistola* show little more than a careful reading of the title on the Jews in the official codification of canon law, the citations in the anonymous *quaestio* reflect a much more sophisticated knowledge of both civil and canon law.

Although the *quaestio* shares its formal question-answer structure with Aquinas's *Epistola*, the absence of any sort of preamble or address, together with its staccato citations of legal texts, clearly set it apart from its epistolary counterparts in the dossier. How, then, are we to understand its form ? Is it a

¹⁷ For a fuller discussion of the Franciscan's arguments vis-à-vis those of Aquinas, see BOUREAU, *Théologie, science, et censure...*, p. 182-90; EMILI, « Note su tradizione manoscritta... », p. 97-119; and EMILI, « Fonti in dialogo... », p. 13-18. I hesitate, however, to follow Emili in seeing the Franciscan letter as more faithfully representing the voice of the Church (cf. p. 22: « ...è possibile affermare che il parere del minorita, più che quello di Tommaso, anche a motivo della sua completezza, degli interessi di ordine sociale, della dialettica tra protezione e rigore, rappresenti la voce della Chiesa in merito al governo degli Ebrei. »). Surely one of the principal virtues of the dossier is to remind us that on this topic, as on so many others, the medieval Church spoke with many voices?

¹⁸ BOYLE, « Thomas Aquinas... », p. 30.

¹⁹ DAHAN (*Intellectuels...*, p. 215) suggested the secular master Gerard of Abbeville (†1272), while VERSCHOOTEN (« Margaretha van Frankrijk... », p. 170-201) maintained that John Peckham wrote both the Franciscan *Epistola* and the *quaestio*. The evidence against both attributions is discussed below..

quaestio disputata, as some have suggested, or a record of a *quodlibet*, as has also been proposed²⁰? The schematic structure of the text certainly bears similarities with contemporary *quodlibeta*, whose final written form often omitted the preliminary arguments *pro* and *contra* that were presented in the oral disputations – and which are likewise absent from our text. Yet although such *quodlibeta* were a staple of university training at the faculties of Arts, Theology, and Medicine at the University of Paris and elsewhere during the late thirteenth century, there is no evidence for them in faculties of law²¹. And although the indisputable legal training of the anonymous author of the *quaestio* is not in itself reason to exclude the possibility that he was attached in some fashion to a Faculty of Theology (after all, some contemporary theologians had considerable expertise in law), the decidedly juridical nature of the text, with its heavy reliance on civil law, makes it singularly unlikely that it was delivered before an audience of theologians²².

Nor does the text bear the characteristic features of a juridical *quaestio disputata*, which generally begins with a rubric or title, then a *casus/thema* (which lays out the initial context), followed by the question(s), then the arguments *pro* and *contra*, and finally the *determinatio/decisio* (the solution)²³. To be sure, any of these elements might be omitted in a given case ; as with *quodlibeta*, the arguments *pro* and *contra* were frequently left out, and likewise for the initial rubric. Even the *casus* could be omitted, so long as it was implied in the questions²⁴. But our text is missing so many of these elements that it seems quite a stretch to attribute it to the category of *quaestiones disputatae* simply because it happens to consist of a series of questions and answers.

In fact, echoes of our text's structure are to be found scattered amidst a wide array of contemporary legal writings, from *consilia*²⁵ to commentaries on customary law²⁶. One might also think of certain minor

²⁰ BOYLE (« Thomas Aquinas... », p. 30) was the first to liken it to a *quaestio disputata*, while D. KUSMAN (« Le rôle de l'Église... », p. 235, n. 38) suggests, among other possibilities, that « ce texte pourrait se rattacher davantage au genre des textes quodlibétiques »

²¹ For legal quodlibets in general, see G. FRANSEN, « Les questions disputées dans les Facultés de droit », in *Les questions disputées et les questions quodlibétiques dans les facultés de théologie, de droit et de médecine*, Turnhout, 1985 (Typologie des sources du Moyen Âge occidental, fasc. 44-45), p. 223-77 ; and the more recent discussion in O. WEIJERS, *Queritur utrum. Recherches sur la 'disputatio' dans les universités médiévales*, Turnhout, 2009 (Studia Artistarum: Études sur la Faculté des arts dans les Universités médiévales, 20), p. 103-202 (see especially p. 182-194 for canonical disputations). For the absence of quodlibetal disputations in law faculties, see FRANSEN, *Typologie*, p. 231 ; and O. WEIJERS, *In Search of the Truth: A History of Disputation Techniques from Antiquity to Early Modern Times*, Turnhout, 2013 (Studies on the Faculty of Arts. History and Influence, 1), p. 135.

²² Many surviving quodlibeta draw on canon law (and to a lesser extent, on civil law as well), but I do not know of any that draw so heavily on civil law in addressing a topic for which theological or canonistic sources could so readily be cited (as we see in the answers of both Aquinas and the Franciscan author). Within the genre of canonistic *quaestiones disputatae*, those relying almost exclusively on civil law to address a decidedly canonistic topic are a problematic category, as discussed by G. FRANSEN, « *Utrumque ius* dans les *Questiones Andegavenses* », in *Études d'histoire du droit canonique dédiées à Gabriel le Bras*, t. 2, Paris, 1965, p. 900.

²³ WEIJERS, *Queritur utrum...*, p. 136. In terms of form, the presence of the *casus* is the principal element that distinguishes a juridical *quaestio disputata* from its counterparts in other fields.

²⁴ H. KANTOROWICZ, « The *Quaestiones Disputatae* of the Glossators », *Tijdschrift voor Rechtsgeschiedenis*, 16, 1939, p. 20 and 29-31.

²⁵ See, for example, Oldrado DA PONTE, [*Consilia et quaestiones*], Venice, 1499, cons. 145, which opens *Queritur si...*, then repeats six times *Item queritur...*, with many of these followed by *Respondeo...*

²⁶ Consider the repeated use of the *Item queritur.../ Respondeo...* structure in a commentary of 1296 on the customs of Toulouse, written by a local lawyer with academic training : *Les coutumes de Toulouse (1286) et leur premier*

penitential works such as the *Quaestio magistri super quibusdam casibus* (dating from mid-thirteenth century), which again is marked by the simple repetition of the form “*Item queritur.../Respondeo*” while also lacking arguments *pro* and *contra* (though it differs from our text in its lack of any citations to legal sources)²⁷. Collectively, these varied contexts underscore the fact that our anonymous *quaestio* likely does not represent the written record of an oral disputation, nor does it even fit neatly into a particular academic genre. Rather, like the other two texts, it is simply a response to a series of questions, as given by an author whose style reflects (albeit in the simplest possible form) a mindset shaped by contemporary academic legal training. If this conclusion does not do much to narrow down the circumstances in which the *quaestio* was composed, it at least saves us from adopting an unnecessarily restrictive perspective on either its genre or authorship²⁸.

We will return below to the question of whether the three texts were associated with each other already at the time of their composition (i.e. in response to similar requests sent by the same correspondent), or whether they were generated independently and gathered together only later to form a dossier on shared themes. First, however, we must consider the manuscript tradition and the authorship of the texts.

The Manuscripts

As noted above, two copies of the complete version of the dossier have thus far been identified. The earliest manuscript, now in Philadelphia, dates to the fourteenth century and once belonged to the convent of S. Domenico in Gaeta²⁹. Apart from the dossier texts, the manuscript consists entirely of works of Thomas Aquinas. Since he is described throughout as « frater » rather than « sanctus », it is likely that the manuscript was produced prior to his canonization in 1323. As given in the rubrics, the first text (starting f. 67rb) is entitled *Epistola fratris Thomae ad comitissam Flandrie de Iudeis*, while the second text (starting at f. 68rb) is similarly entitled *Epistola fratris Johannis de Pichano ad comitissam Flandrie de Iudeis*. Notably, the anonymous *quaestio* bears no rubric, nor does it begin with a highly decorated initial as do the preceding two texts. However, its initial is larger and more ornate than those of the subchapters within either of the first two texts, and it begins on a new line rather than continuing straight from the

commentaire (1296), H. GILLES ed., Toulouse, 1969 (Recueil de l'Académie de législation, ser. 6, 5), p. 233, 255-56, and *passim*.

²⁷ This text circulated as a sort of appendix to the *Summula Conradi* (written c. 1226/29) ; see *Trois sommes de pénitence de la première moitié du XIII^e siècle. La « Summula Magistri Conradi »*. Les sommes « *Quia non piger* » et « *Decime dande sunt* », J.-P. RENARD ed., 2 vols., Louvain-la-Neuve, 1989 (Lex Spiritus Vitae, 6), p. 230-35, §8.1. This differs notably from our anonymous *quaestio* in the absence of references to juridical texts. To Renard's list of extant versions of the *Quaestio magistri* one can add Eichstätt UB Cod. St 216, f. 289vb-90va. See also the *Responsiones magistrorum parisiensium de casibus subscriptis in hunc modum*, which also circulated alongside the *Summula Conradi* in some manuscripts (*ibid.*, p. 236-238, §8.2) ; here again there are no arguments *pro* and *contra*, nor is there a *solutio*, just a repeated series of *Item...*, each followed by a concise answer, most of which begin *Dicunt quod...*

²⁸ Cf. KUSMAN (*Usuriers publics...*, p. 98-99), who assumes that the text must once have contained a preamble and list of questions, as was characteristic for an academic consultation, and therefore concludes that the existing copies represent abbreviated copies of the original text.

²⁹ Philadelphia, University of Pennsylvania MS Codex 1271 (*olim* New York, Hispanic Society of America, MS B2716). The dossier is found at f. 67rb-69ra. For a description of the manuscript, see C. B. FAULHABER, *Medieval Manuscripts in the Library of the Hispanic Society of America : Religious, Legal, Scientific, Historical, and Literary Manuscripts*, t. 1, New York, 1983, p. 53-54, n° 43.

previous text. These features suggest that the copyist (or a compiler earlier in the manuscript tradition) saw the *quaestio* as somewhat distinct from the Franciscan *Epistola* that precedes it, but not so distinct as to constitute an independent text.

The second complete copy of the dossier is found in a fifteenth-century manuscript in the Bibliothèque Mazarine (MS 1652), of which at least the first quire (and likely the entire manuscript) once belonged to the Abbey of Saint-Victor³⁰. The first quire contains Aquinas's commentary on Mark along with Jean Gerson's *Doctrina pro pueris*, each written in a different hand. The second quire contains our dossier (f. 77ra-79vb) followed by the anonymous treatise *De statu Sarracenorum* (f. 79vb-87rb), both written in a third hand. None of the dossier texts include a rubric, and in fact the *quaestio* is fused together with the Franciscan *Epistola*, as if was a single text, with no sign of a break between them³¹.

Both of these manuscripts fall within the β -family of texts of Aquinas's *Epistola*, as classified by Dondaine³². Comparing the two texts, the Paris manuscript has consistently better readings for all three texts of the dossier, notwithstanding the fact that it was copied a century after the Philadelphia manuscript. It would appear, moreover, that both texts descend from a common (now-lost) ancestor containing opuscula of Aquinas (which Verschooten designates as Θ). In addition, it would seem that already in Θ the distinction between the Franciscan *Epistola* and the *quaestio* was largely (if not entirely) effaced.

Extracts from the dossier also appear in a third manuscript, namely, the famous notebook of Godfrey of Fontaines (BnF lat. 16297). The dating of this manuscript has long been a matter of contention, with hypotheses ranging from 1270-72 to the mid-1280s³³. However, a new study by Andrea Aiello and Robert Wielockx has convincingly established that the majority of the manuscript was compiled almost without

³⁰ In the Leonine edition of the works of Thomas Aquinas, this manuscript is designated P³⁵. For a full description of the manuscript, see H. V. SHOONER, *Codices manuscripti operum Thomae de Aquino*, t. 3, Montreal, 1985, p. 380, n° 2565. I would like to thank M. Goran Proot, Curator of the Bibliothèque Mazarine, who kindly provided me with images of the manuscript.

³¹ The *quaestio* accordingly went unnoticed by Blumenkranz (« *Le De Regimine Judaeorum...* », p. 116-17) and in the catalogue by Shooner (see the previous note). *De statu Sarracenorum* was previously attributed to William of Tripoli, but that attribution has recently been discredited; see the editor's introduction to William of Tripoli, *Notitia de Machometo: De statu Sarracenorum*, P. ENGELS ed., Würzburg, 1992 (Corpus Islamo-Christianum, Series Latina, 4), especially p. 61-74.

³² Dondaine was unaware of the Philadelphia manuscript, but it contains all of the characteristic features of the β -family; see *Epistola ad ducissam Brabantiae*, DONDAINE ed, p. 366-37. For a detailed discussion of the textual tradition of the two manuscripts, see VERSCHOOTEN, « Margaretha van Frankrijk... », p. 35-39.

³³ P. GLORIEUX (« Un recueil scolaire de Godefroid de Fontaines (Paris, Nat. lat. 16297), » *Recherches de théologie ancienne et médiévale*, 3, 1931, p. 37-53) argued that it was compiled as a single unit between 1270 and 1272, while Godfrey was a student in Paris. He therefore concluded that Godfrey's identification of the addressee as the duchess of Brabant was more trustworthy than the attribution to the countess of Flanders later proposed by Ptolemy of Lucca. By contrast, BOYLE (« Thomas Aquinas... », p. 31) maintained that it « was completed, if not wholly put together, in the 1280s, when Godfrey was regent in theology in Paris ». Other weaknesses in Glorieux's dating were pointed out in VAN UYTVEN, « The Date of Thomas Aquinas's *Epistola*... », p. 635-638. Needless to say, the later the dating of Godfrey's notebook, the less it can be treated as an independent witness, since it might already have been contaminated by other sources.

interruption between the final weeks of 1276 and 1278, with the final texts added between 1279-1281, and some marginal notes inserted in 1285³⁴.

The manuscript contains copies and extracts of texts by a variety of contemporary authors, including Aquinas, Siger of Brabant, Gerard of Abbeville, Nicholas of Amiens, and many more, as well as various documents concerning his home diocese of Liège. The second fascicle, which Aiello and Wiecockx date to the first months of 1277, contains lengthy extracts from Aquinas's *Epistola* (f. 102vb-103va), followed by his treatise *De forma absolutionis* (f. 103vb-106rb). Sandwiched in between these texts is a brief extract from the anonymous *quaestio*, written in Godfrey's own hand, concerning the renting of houses to Jews (a subject which Aquinas had left unmentioned in his *Epistola*). Next to the *Epistola* of Aquinas is a marginal inscription, again written in Godfrey's hand, that reads « frater tho. ducisse brab' », while a note next to the extract from the *quaestio* (again in his hand) reads « fr. io. »³⁵.

Finally, a composite manuscript, formerly in the possession of the Brabantine abbey of Parc-les-Dames and now at the Bibliothèque royale in Brussels (MS 21838), contains a copy of the *quaestio*, unaccompanied by either of the two *Epistolae*³⁶. The manuscript itself contains two quires. The first quire (f. 1-12) dates from the thirteenth century and contains Odo of Tournai's *Expositio in canonem missae*, plus miscellaneous short texts ; the second quire, which appears to date to the fourteenth century (but may be even later) contains mainly materials for confessors³⁷. The *quaestio*, which is written in the same hand as the text that precedes it, occupies the final two folios of the second quire (f. 67r-68v).

As compared to the other two copies of the *quaestio*, the Brussels copy not only contains better readings throughout, but (and this has so far gone unnoticed) it also includes passages of text in the middle and at the end that are missing from the other two copies, which suggests that it derives from a separate, better tradition. Like the other two copies, however, the Brussels *quaestio* similarly lacks any identifying information – whether a rubric, preamble, or marginal note indicating the author or addressee).

That this copy of the *quaestio* is indeed derived from an exemplar that contained all three texts of the dossier is made clear by a textual variant found in all surviving copies of the dossier, as well as

³⁴ A. AIELLO & R. WIELOCKX, *Goffredo di Fontaines, aspirante baccelliere sentenziario. Le autografe 'Notule de scientia theologie' e la cronologia del MS. Paris BNF Lat. 16297*, Turnhout, 2008 (Corpus Christianorum, Autographa Medii Aevii, 6). A summary of the method, argument, and conclusions is found at p. 167-68. The dating of the individual fascicles rests on the assumption, which they persuasively defend, that the fascicles were composed sequentially, with the current ordering in the manuscript corresponding to the chronological order of their composition.

³⁵ BOYLE (« Thomas Aquinas... », p. 31) thought that the inscription « fr. io. » was written in Godfrey's own hand, but considered that the inscription « frater tho. ducisse brab' » was written in a different hand. Aiello and Wiecockx, however, maintain that both inscriptions are in the same hand (i.e. Godfrey's), and I agree.

³⁶ CLUSE, *Studien zur Geschichte der Juden...*, p. 182-83. For a description of the manuscript, see J. VAN DEN GHEYNT, *Catalogue des manuscrits de la Bibliothèque Royale de Belgique*, t.2, Bruxelles, 1902, p. 324, n° 1398. Unfortunately, the detailed studies of E. VAN BALBERGHE on the library of Parc offer no further information on this particular manuscript ; cf. his recueil d'articles, *Les manuscrits médiévaux de l'Abbaye de Parc*, Brussels, 1992. We know, however, that the library did contain at least one copy of the *Epistola* of Aquinas, in a manuscript destroyed in 1944 (Metz, Bibliothèque municipale, MS 1158); see SHOONER, *Codices...*, t. 2, 325-26, n° 1677. Whether the library also contained a copy of the Franciscan *Epistola* is unknown.

³⁷ For KUSMAN (*Usuriers publics...*, p. 98-99, n. 217), the inclusion of the confessional suggests that at least the first owner of the manuscript was likely an individual cleric, but this is uncertain..

throughout the β -tradition of Aquinas's *Epistola*³⁸. According to Dondaine's reconstruction, in copying a passage that presumably read « ...vel mutuo ab eis accipere census donec tantum recipiant... », an early scribe changed « census » to « centum ». A subsequent copyist then inserted « libras » to improve the sense, and this reading (« ...vel mutuo ab eis accipere centum libras... ») was then copied into all of the manuscripts of the β -tradition³⁹. We accordingly find this reading in the notebook of Godfrey of Fontaines (at f. 103ra) and in the Mazarine manuscript of the dossier (at f. 77va), while the Philadelphia manuscript gives « .c. lb' » (at f. 67vb), with the « lb' » later expunged⁴⁰.

What is striking, however, is that this same reading apparently came to contaminate the anonymous *quaestio* as well. In treating what is clearly the same question (here given as the penultimate query), the Brussels manuscript gives the reading « ...accipere ab eis census sb' donec census sb' acceperunt... » (f. 68v), while the Philadelphia copy gives « ...accipere ab eis .c. sb' donec .c. sb' acceperunt » (f. 69va) and the Mazarine copy gives « accipere ab eis .c. lb' donec c lb' acceperunt » (f. 79v). Given its close resemblance to Aquinas's *Epistola* (and the general sense of the question), we can plausibly reconstruct the original text as « ...accipere ab eis census donec tantum acceperunt... ». As for the subsequent changes, here is the most likely explanation : seemingly influenced by the corrupted reading of the *Epistola*, with its added « libras », an early copyist of the *quaestio* then twice inserted « lb' » (for « libras ») into the text. Subsequent copyists, unable to make sense of the now-corrupt phrase, simply copied what they saw, with some reading « lb' » and others transcribing the ambiguous abbreviation as « sb' »⁴¹.

Whether or not one accepts this explanation, it is clear that the repeated insertion of « sb' » (or « lb' ») in all three copies of the *quaestio* is a product of a scribal error that occurred early in the textual tradition, and which was then copied into all surviving copies of the text. It is clear, then, that the Brussels copy of the *quaestio* belongs to the same textual family as the other two copies. If one further accepts the argument that this error was introduced by analogy with the similar passage in Aquinas's *Epistola*, then the Brussels copy must ultimately have derived from a manuscript containing the entire dossier. However, while the exemplar used by Godfrey of Fontaines as well as the shared ancestor of the Paris and Philadelphia copies of the dossier all subsumed the *quaestio* within the Franciscan *Epistola*, the exemplar from which the Brussels copy derived must have clearly distinguished the two texts, such that the *quaestio* could be extracted as a separate oeuvre.

There is therefore no evidence that either the Franciscan *Epistola* or the anonymous *quaestio* circulated independently prior to the compilation of the dossier, in which these two texts were combined

³⁸ As noted by CLUSE, *Studien zur Geschichte der Juden...*, p. 182-83. The variant is also discussed in detail by VERSCHOOTEN, « Margaretha van Frankrijk... », p. 163-64 ; and more briefly by EMILI (« Una proposta di edizione... », p. 172), neither of whose conclusions take into account the Brussels manuscript

³⁹ *Epistola ad Ducissam Brabantiae*, DONDAINE ed., p. 371 and 376 (ll. 122-23). The reading « centum » without the addition of « libras » is found throughout the α -family of the *Epistola*, as well as in Naples, Biblioteca Nazionale MS VII.B.21.

⁴⁰ EMILI (« Una proposta di edizione... », p. 172) argues that the exemplar of the Philadelphia copy of Aquinas's *Epistola* did not contain the *lb'* reading, and that this was added by the copyist « per connessione automatica di idee », who subsequently realized his error and duly deleted it via *expunctio*. In light of the many other readings that this manuscript shares with the β -tradition, however, it seems far more likely that the scribe faithfully copied his exemplar here, and only later (whether in comparing the text with another manuscript of the *Epistola*, or simply in reading it carefully) realized that emendation was needed to improve the sense.

⁴¹ I am grateful to Lawrin Armstrong, Thomas Bisson, and Daniel Lord Smail for their observations on these problematic readings.

together with Aquinas's *Epistola*. (That the dossier was compiled at Paris seems almost certain.) The text of Aquinas's *Epistola* that was copied into the dossier was evidently already marked by the characteristic features of the β -tradition, particularly the « centum libras... » confusion. This in turn apparently contaminated the similar phrase in the text of the *quaestio* as it was included in the dossier. We know, furthermore, that by the time Godfrey of Fontaines was compiling his own recueil (c. 1277), at least two manuscript traditions of the dossier had developed : one in which the *quaestio* was integrated into the Franciscan *Epistola*, and another in which it continued to be identified as a separate work. It is quite possible that the identity of the author of the *quaestio* was already omitted in the dossier as it was originally compiled ; at the very least, it did not take long for his identity to be forgotten.

The Authors

Alone among the texts of the dossier, the attribution of the first work to Thomas Aquinas has never been a matter of dispute. Godfrey of Fontaines, as we have seen, identified the author as « frater tho. », which left little room for doubt. Ptolemy of Lucca, who was a friend and confessor of the future saint, likewise included the *Epistola* in a list of his *œuvres* compiled a half-century later (c. 1315), and it is also found in nearly all of the other early catalogues of his writings⁴². When he wrote it, however, is a matter of doubt : should his *Epistola* be dated to his first Parisian regency, from 1256-59, when he was still relatively unknown as a theologian ? Or did he receive and reply to the queries while in Italy, from 1260-68, a period in which many began to seek out his advice on pastoral and theological matters⁴³? Or does the *Epistola* date from his second Parisian regency, that is, from sometime between January 1269 and Easter 1272, by which time his reputation was known across Christendom ? The manuscript tradition offers no clues, in this regard⁴⁴. Moreover, setting aside the problem of the addressee (the topic of the next section), internal evidence from the text itself is similarly unrevealing⁴⁵.

⁴² ROSSI, *Antiche e nuove edizioni...*, p. 68-69. For the dating of this list, see A. DONDAINE, « Les 'Opuscula fratris Thomae' chez Ptolémée de Lucques », *Archivum fratrum praedicatorum*, 31, 1961, p. 142-203, especially p. 160-64.

⁴³ See the discussion in H. ULRICH, « Thomas von Aquin: Professor und Consultor. (Überblick über die verschiedenen Gutachten zu aktuellen, meist pastoraltheologischen Fragen) », *Münchener theologische Zeitschrift*, 48, 1997, p. 205-218.

⁴⁴ Glorieux assumed that Godfrey was compiling his notebook from newly-published texts, and therefore concluded that the *Epistola* must have been written during Aquinas's second regency, but the assumption itself was unconvincing, and in any event, as we have seen already, the notebook was not composed until later in the 1270s.

⁴⁵ Take, for instance, Aquinas's recommendation that his correspondent seek the counsel of others more expert in such matters (« ...michi placeret ut super hiis requiretis consiliorum aliorum magis in talibus peritorum » (ll. 12-14). Noting that none of the introductions to his other *responsiones* include analogous expressions of humility, VAN UYTVEN (« The Date of Thomas Aquinas's *Epistola*... », p. 635) argued that Aquinas would have been unlikely to make such a remark after writing his *Summa Theologiae*, his commentary on the *Politics* of Aristotle, and his letter *De regno ad regem Cypri*, all of which dealt with questions of good governance (and in the case of the *Summa*, with proper relations between Christians and Jews as well). However, even if we follow the Dutch scholar in seeing this passage as more than a banal stylistic convention (and I am not at all convinced that we should), this does not get us very far. While the most recent scholarly consensus dates the *De regno* to 1267, the commentary on the *Politics* of Aristotle was composed over the course of 1269-72, and the *Secunda Secundae* (which is the part of his *Summa Theologiae* that deals most directly with questions of both Jews and governance) was written in 1271-72. (For these dates, see B. DAVIES & E. STUMP, *The Oxford Handbook of Aquinas*, Oxford, 2012, p. 533-535.) Together these would give a *terminus ad quem* of 1272 for the *Epistola*, but this is of little help, since the end of his Parisian regency already gives us a *terminus ad quem* in the spring of 1272.

What of the other authors ? As noted earlier, the author of the second *Epistola* identifies himself as « frater Johannes serviens fratribus minoribus pro tempore Parisius in officio lectionis » (ll. 1-2). We know, then, that it must be a Franciscan named John who was teaching in Paris sometime before 1277 (the *terminus ad quem* furnished by the notebook of Godfrey of Fontaines)⁴⁶. Moreover, to judge from the references in the text itself, the author must have had at least limited knowledge of canon law. To date, we know of about ten Franciscans named John who are reputed to have been active in Paris (whether as theologians, preachers, confessors) in the two decades before 1277⁴⁷. Of these, only two are known to have held official teaching responsibilities – John of Wales, and John Peckham.

In announcing his discovery of this text, Bernhard Blumenkranz proposed as its author the Franciscan theologian John of Wales (d. 1295), who had arrived in Paris from Oxford before the summer of 1270 (and perhaps even earlier), and whose surviving writings evince both a deep knowledge of theology and canon law, and an abiding interest in questions of governance⁴⁸. Yet this hypothesis is unsatisfactory. For one thing, John of Wales did not become the Franciscan *magister regens* in theology until 1281, but we know that the dossier was already in circulation by 1277. Moreover, there is no sign that he held any other teaching positions before that, though of course our evidence is very incomplete for this period.

The best argument against John of Wales as author, however, is the strength of the evidence in favour of John Peckham (ca. 1230-1292), the *Doctor Ingeniosus*, who likewise served as regent master in theology at the University of Paris, before later becoming archbishop of Canterbury. His name was first suggested by Boyle, whose hypothesis has generally been accepted by all subsequent scholars, especially in light of the Philadelphia manuscript (unknown to Blumenkranz), with its rubric identifying the author as « Johannes de Pichano » (f. 68rb)⁴⁹. We have already seen, however, how unreliable such rubrics and marginal notes can be, so let us review the other arguments in favour of this attribution.

The Franciscan *Epistola*, as we have seen, draws throughout (albeit implicitly) on the title *De Iudeis* in the *Liber Extra*. We know from his other writings that Peckham was well versed in canon law, but so were John of Wales and many others, and in any event the canonistic knowledge displayed in the text is limited. So that is of little help. More persuasive are the stylistic parallels between the second *Epistola* and several works that can be securely attributed to Peckham. Consider his *Tractatus contra fratrem Robertum Kilwardby*, a work written before 1272 that is similarly epistolary in structure and tone, and which was also composed in response to a series of questions⁵⁰. Both the *Epistola* and the *Tractatus* use

⁴⁶ As rightly noted by EMILI (« Una proposta di edizione... », p. 178 n. 1), the phrase « in officio lectionis » does not mean that the author was a *lector*, as Blumenkranz and Dahan mistakenly assumed ; it was rather an understated way of referencing his teaching duties. For precise discussions of the meaning of the terms *lectio/lector*, see O. WEJERS, *Terminologie des universités au XIII^e siècle*, Rome, 1987 (Lessico Intellettuale Europeo, 39), p. 160-66, 299-302, 324-29 ; and M. TEEUWEN, *The Vocabulary of Intellectual Life in the Middle Ages*, Turnhout, 2003 (CIVICIMA : Études sur le vocabulaire intellectuel du Moyen Âge, 10), p. 85-87.

⁴⁷ See the online database compiled by B. ROEST, *Franciscan Authors, 13th - 18th Century: A Catalogue in Progress* (<<http://users.bart.nl/~roestb/franciscan/franautj.htm>>).

⁴⁸ BLUMENKRANZ, « Le *De Regimine Judaeorum*... », p. 116-117. For the life and works of John of Wales, see J. SWANSON, *John of Wales: A Study of the Works and Ideas of a Thirteenth-Century Friar*, Cambridge, 1989. It is worth noting, in this context, that his surviving writings demonstrate little interest in contemporary debates over usury (see, for example, *ibid.*, p. 119-20).

⁴⁹ BOYLE, « Thomas Aquinas... », p. 30.

⁵⁰ John Peckham, *Tractatus contra fratrem Robertum Kilwardby*, F. TOCCO ed., in *Fratris Johannis Peckham quondam archiepiscopi Cantuariensis Tractatus tres de paupertate*, C. L. KINGSFORD, A. G. LITTLE, & F. TOCCO

idcirco to begin the last sentence of the introduction, for example, and both repeatedly use *adhuc* and *amplius* to begin new paragraphs. This unusual stylistic quirk is also found in another work of Peckham, the treatise *De pueris oblatis* (written in spring 1270), which contains 26 cases of *amplius* at the start of a paragraph⁵¹. Other minor parallels abound, such as the unusual use of *iniuriari* with the dative (rather than the accusative) in both the *Epistola* and the *De pueris oblatis*⁵². Finally, there is the fact that Jewish usury was a topic of considerable and continuing concern for Peckham⁵³.

Assuming that Peckham is indeed the author of the second *Epistola* – and there are no substantive arguments to the contrary – then what does this imply for the chronology of its composition? The dates of his Parisian regency are disputed, but the most persuasive reconstruction has him succeeding Eustache of Arras in the Franciscan chair, which the latter relinquished in order to join Louis IX on crusade in March 1270 (n.s.). The regency of Peckham would therefore have begun sometime between January and March of that year. He then left Paris for good two years later, after Easter 1272, relinquishing the Franciscan regency at the same time as Thomas Aquinas gave up the Dominican one⁵⁴. Peckham must therefore have composed the second *Epistola* between the beginning of 1270 and the late spring of 1272⁵⁵.

In fact, as Annamaria Emili has recently demonstrated, we can narrow the dating still further, based on internal evidence from the text. In discussing the restitution for usurious revenues, Peckham recommends that his correspondent do just as the « most Christian king of the French is known to have done (*optime potest fieri quo christianissimus rex francorum in regno suo id fieri noscitur precepisse*) » (ll. 51-52). Then, addressing the problem of occult usurers, he recommends that she « proceed against them as did the most pious king of France (*contra eos procedi sicut rex francie piissimus facit...*) » (ll. 114-16). Setting aside the temporal implications of the syntax of the two sentences (which Emili examines at length), there can be no doubt that the two references are to Saint Louis, rather than to his son and successor, Philip III⁵⁶. Yet there is no hint here of the king's death, which occurred in Tunisia on 25

ed., Aberdeen, 1910 (British Society of Franciscan Studies, 2), p. 91-147. On this text, see also DOUIE, Peckham, 39-40.

⁵¹ John Peckham, *De pueris oblatis*, in L. OLIGER, « De pueris oblatis in Ordine Minorum, » *Archivum franciscanum historicum*, 8, 1915, p. 389-447 (edition aux p. 414-39). For the dating of this text, see also *Quodlibeta quatuor*, G. ETZKORN ed., Grottaferrata, 1989, p. 22*.

⁵² For a full discussion of the stylistic parallels, see VERSCHOOTEN, « Margaretha van Frankrijk... », p. 186-95, whose conclusive (but little-known) findings underlie much of the preceding analysis. As will be seen below, however, I do not share his conclusions regarding the attribution of the anonymous *quaestio* to Peckham.

⁵³ See, for example, his 1283 and 1286 letters to Queen Eleanor of Castile (the wife of King Edward I of England), warning her against Jewish usury: *Registrum epistolarum Iohannis Peckham, archiepiscopi Cantuariensis*, C. T. MARTIN ed., London, 1884-85, t. 2, p. 619 ; and t. 3, p. 937-938.

⁵⁴ See G. ETZKORN, « John Peckham », in *A Companion to Philosophy in the Middle Ages*, Malden (Mass.), 2003, p. 384-87, who follows the dating first suggested by I. BRADY, « Questions at Paris c. 1260-1270 », *Archivum franciscanum historicum*, 62, 1969, p. 687-89. As noted by EMILI (« Note su tradizione manoscritta... », p. 94), another tradition dates his second regency to 1269-1271. It seems, however, that the disagreement is due to some scholars having used the contemporary Easter-style of dating, while others have updated it to new style. In any event, it is impossible to maintain, as does D. KUSMAN (*Usuriers publics...*, p. 49-50), that Peckham composed the *Epistola* after 1274.

⁵⁵ EMILI « Note su tradizione manoscritta... », p. 81-90 and 95-96.

⁵⁶ Contemporary royal measures against Jews and usury are discussed below, p. 27.

August 1270, with the news arriving in Paris in late September. Peckham must therefore have composed his *Epistola* between January and September 1270⁵⁷.

Let us turn now to the anonymous *quaestio*, and the problem of its author. To begin with, the evidence of the notebook of Godfrey of Fontaines gives us a *terminus ad quem* of 1277 for the *quaestio*'s composition. In fact, the text must have been written before the summer of 1274, since in discussing the renting of houses to Lombards (§8), the text does not cite the decree *Usurarum voraginem*, which was promulgated following the Second Council of Lyon and which laid out strict regulations concerning this very topic⁵⁸. It also seems likely, given the evidence from the other two texts, that the author of the *quaestio* was active in Paris, but we cannot say for certain.

The defining characteristic of the *quaestio*, as noted above, is its abundant use of Roman law as compared to other sources. Whatever the identity of its author, he had considerable familiarity with *droit civil*, which he cites expertly and accurately throughout the text⁵⁹. This in itself is enough to cast considerable doubt on the attribution – first proposed by Gilbert Dahan – to the secular master Gerard of Abbeville (d. 1272), the bitter rival of Aquinas and Peckham in the Secular-Mendicant dispute of the 1260s⁶⁰. While it is true (as Elsa Marmursztejn and others have noted) that his conspicuous use of canon law sets him apart from many contemporary theologians, none of his extant writings reveals much knowledge of *droit civil*, even where it might have been relevant to the topic in question⁶¹. The library of 330 volumes that he bequeathed to the Sorbonne likewise reflects considerable interest in canon law but

⁵⁷ EMILI (« Note su tradizione manoscritta... », p. 96) narrows the dating still further, arguing that since Peckham would not have been occupied « in officium lectionis » during the summer months, the text must date to the Lent academic term – that is, to the spring of 1270. I suspect that this places too much weight on a phrase that was simply meant to indicate (albeit with a degree of understatement) his position as regent master, rather than specific didactic responsibilities at that precise moment.

⁵⁸ Lyon II, c. 26 (*Usurarum voraginem*), in *Conciliorum oecumenicorum decreta*, G. ALBERIGO ed, Bologna, 1973, p. 328-329. KUSMAN (*Usuriers publics...*, p. 98) assumes that the reference to the renting of houses to Lombards in the *quaestio* was itself inspired by the conciliar decree, and therefore argues for a post-1274 dating. Yet it hardly seems likely that the author would not have mentioned the decree in some manner had it already been promulgated. Moreover, the renting of houses to foreign usurers had already been a matter of debate among ecclesiastical authorities, as indicated by the acts of a provincial council held at Sens in October 1269, at which the archbishop forbade anyone from lodging « Lombardos vel alios advenas qui vulgariter [caorsini] dicuntur » : *Sacrorum conciliorum nova et amplissima collectio*, G. D. Mansi ed., t. 24, Venice, 1780, p. 3 (c. 2). KUSMAN (*Usuriers publics...*, p. 99) then posits an even later dating for the *quaestio*, to 1284-90, based on the earliest appearance of the term *Lombard* in the records of the ducal chancery of Brabant, but this argument is invalidated by the evidence of Godfrey's notebook. Cf. also his similar arguments in his review of CLUSE, *Studien zur Geschichte...*, in *Revue belge de philologie et d'histoire*, 81, 2003, p. 469 ; and his article on « Le rôle de l'Église... », p. 235, n. 38.

⁵⁹ As observed by VERSCHOOTEN (« Margaretha van Frankrijk... », p. 26), there is only one error in his citations, and it is a minor one : in the final reply of the *quaestio*, the author incorrectly renders the title *De lege Iulia repetundarum* (Dig. 48.11) as *Ad legem Iuliam repetundarum*. The erroneous title in fact corresponds to a later emendation of the law (Cod. 9.27).

⁶⁰ Dahan, *Intellectuels...*, p. 215.

⁶¹ E. MARMURSZTEJN, « Une contribution au débat scolastique sur la dîme au XIII^e siècle : six questions quodlibétiques de Gérard d'Abbeville », *Archives d'histoire doctrinale et littéraire du Moyen Âge*, 77, 2010, p. 107-156, especially p. 115. For the absence of Roman law where he might reasonably have drawn on it (given the *thema*), see the texts discussed in D. CORNET, « Les éléments historiques des IV^e et VI^e *Quodlibets* de Gérard d'Abbeville », *Mélanges d'archéologie et d'histoire*, 58, 1941, p. 178-205.

none whatsoever in its civil counterpart⁶². Furthermore, the *quaestio* betrays neither of the two defining stylistic characteristics of Gerard's writings, as observed by Amédée Teetaert: first, a tendency to introduce his replies with the phrase « Dic quod... » ; and second, a fondness for tripartite or quadripartite enumerations of the arguments in favour of his theses⁶³. There is little reason, then, to accept this attribution.

Verschooten, in turn, argued that both the second *Epistola* and the *quaestio* were in fact written by the same author, and he concluded in favour of John Peckham⁶⁴. It is true that Peckham displays an unusually deep knowledge of Roman law in his quodlibets and other writings, but this is clearly not sufficient to ascribe to him the *quaestio*⁶⁵. Nor should we give much weight to the marginal note in notebook of Godfrey of Fontaines that attributes the extract from the *quaestio* to « fr. io. » ; this almost certainly reflects the early conflation of the *quaestio* with the *Epistola* of Peckham⁶⁶. Moreover, the stylistic indicators that Verschooten uses to establish that Peckham wrote the second *Epistola* appear far less frequently (or not at all) in the *quaestio*⁶⁷. The very arguments that Verschooten adduces to support his hypothesis of shared authorship instead undermine it⁶⁸.

With these two hypotheses therefore dismissed, what conclusions can we in fact draw about the author of the *quaestio* ? Alas, very little. Even if we limit our horizons to Paris, in the years just before 1274, we cannot even fully reconstruct the list of those who held teaching positions at the university, let alone establish their stylistic characteristics or legal knowledge. Of the secular theologians from this period, for example, Gerard of Abbeville appears to be the only one whose writings survive in much

⁶² An edition of his testament is given by Ph. GRAND, « Le quodlibet XIV de Gérard d'Abbeville, » *Archives d'histoire doctrinale et littéraire du moyen âge*, 31, 1964, p. 214-218.

⁶³ A. TEETAERT, « Quatre questions inédites de Gérard d'Abbeville », *Archivio italiano per la storia della pietà*, 1, 1951, p. 113-114.

⁶⁴ For a summary of his argument, see VERSCHOOTEN, « Margaretha van Frankrijk... », p. 198-200.

⁶⁵ See his *Quodlibeta quatuor*, ETZKORN ed., especially QL 1.22, 1.26, 1.31, 1.34-35, and 4.49 ; as well as his *De pueris oblatis*, op. cit. ; and his *Canticum pauperis*, in *Stimulus Amoris fr. Jacobi Mediolanensis – Canticum pauperis fr. Johannis Pecham*, L. OLIGER ed., Quaracchi, 1905 (Bibliotheca Franciscana Ascetica Medii Aevi, 4), p. 170-72, 174, and 178-79.

⁶⁶ Given that the Paris and Philadelphia manuscripts both attest to a textual tradition in which the *quaestio* was fused with Peckham's *Epistola* (rather than being treated as a separate text), Godfrey's mistaken attribution would suggest that this « fusion » had already taken place in 1277.

⁶⁷ The most obvious difference is the absence of initial *amplius* and *adhuc* in the *quaestio*, whereas these figure prominently in the *Epistola*, the *Tractatus contra fratrem Robertum Kilwardby*, and the *De pueris oblatis*. Other examples in which Verschooten himself inadvertently identifies a sharp distinction between the *Epistola* and other writings of Peckham, as compared to the *quaestio*, include the idiosyncratic use of *siquidem*, *idcirco*, and *pariter et*; a preference for the ablative absolute (7 cases in the *Epistola*, and none in the *quaestio*); and the repeated separation of a noun from its modifying adjective (23 cases in the *Epistola*, as opposed to only one in the *quaestio*). Particularly striking is the frequent use of nominative present participles in the *Epistola*, the *Tractatus*, and the *De pueris oblatis*, whereas these do not appear at all in the *quaestio* – an absence that Verschooten characterizes as « rather remarkable (*enigszins opvallend*) ». In fact, it is only « remarkable » if one is determined to assert that Peckham wrote the *quaestio*, in the face of much stylistic evidence to the contrary. Cf. VERSCHOOTEN, « Margaretha van Frankrijk... », p. 187-95.

⁶⁸ For this reason, we can safely ignore his rather tortuous efforts to explain why the same author would have produced two texts that differ so markedly in style and structure.

length⁶⁹. Among contemporary Franciscan theologians in Paris, neither John of Wales nor Walter of Bruges evinces any knowledge of Roman law in their extant writings⁷⁰. Moreover, given the juristic nature of the *quaestio*, it seems very likely that it is in the Faculty of Decretals, rather than in the faculties of arts or theology, that we should be searching for our author – but so far we know of no extant writings from the Parisian *doctores* of that period, to which we might compare the *quaestio*⁷¹. Our knowledge of the names of contemporary members of the faculty is also spotty. Might we imagine that the author of the *quaestio* was also named John, and that this is how it came to be conflated with the *Epistola* of Peckham? If so, then a number of candidates emerge from a list of members of the faculty from 1272⁷²: John of Ghent (d. 1316), later a canon of Notre-Dame; John *de Curciaco*; John of Blanot⁷³; John of Estouteville⁷⁴; or John of Champlay. Cardinal John Cholet (d. 1292) is another possibility; while we have no precise information on his teaching career, his epitaph declared that « canonis et legum professor erat generalis », and he was certainly affiliated with the University of Paris, founding the College des Cholets and declaring in his testament that his books of law (both canon and civil) were to be sold off to the benefit of students in the Faculty of Theology⁷⁵. But this is all entirely speculative, and in any event, there is no concrete reason to limit our search to Paris; it is possible that the author of the *quaestio* could have been teaching at Orleans or Toulouse, both major centres for the study of droit civil, or even further afield. In short, then, in the absence of new evidence, it is too hazardous to attribute the *quaestio* to any particular author; all that we can say is that he was active before 1274, was well-versed in droit civil, and probably had received some formal legal training (even if we cannot say for sure whether he was a jurist by profession).

⁶⁹ See I. BRADY, « John Pecham and the Background of Aquinas's *De Aeternitate Mundi* », in *St. Thomas Aquinas, 1274-1974. Commemorative Studies*, Toronto, 1974, t. 2, p. 147.

⁷⁰ VERSCHOOTEN, « Margaretha van Frankrijk... », p. 41-90, lists all of the sources cited in the extant writings of John of Wales, in which civil law is notably absent. For Walter of Bruges (who was active in Paris around 1267-1269), see *Quaestiones disputatae du B. Gauthier de Bruges*, E. LONGPRE ed, Louvain, 1928 (Les Philosophes Belges, Textes et Études, 10), which makes frequent reference to canon law but never to civil law.

⁷¹ The legal faculty has been largely neglected by scholars of Parisian intellectual life in the late thirteenth century, owing in large part to the paucity of surviving records. As a result, one must still resort for many details to the outdated work of G. PERIES, *La Faculté de droit dans l'ancienne Université de Paris, (1160-1793)*, Paris, 1890.

⁷² *Chartularium universitatis Parisiensis*, H. DENIFLE & E. CHATELAIN ed., Paris, 1889-97, t. 1, p. 500, n° 442; cf. see also the brief remarks on this document in the review of the preceding work by B. HAUREAU, *Journal des Savants*, Mai 1890, p. 302-303). Other members of the faculty appear as signatories to a charter of 1279 (ibid., t. 1, p. 574, n° 489); and a list of those who « fuerunt licenciati in decretis » between avril-mai 1280 is edited in C.-V. LANGLOIS, « Promotion de licenciés en droit en décrets à l'Université de Paris, en avril-mai 1280 », *Revue historique de droit français et étranger*, sér. 4, 4, 1925, p. 295-296.

⁷³ On this Jean de Blanot and another of the same name (both jurists), see the helpful article of G. JEANTON, « Les deux Jean de Blanot : jurisconsultes du XIII^e siècle », *Annales de l'Académie de Mâcon*, sér. 3, 15, 1910, p. 40-59.

⁷⁴ His name is given as *Joanne de Totivilla*. Denifle (followed by the editors of *Studium Parisiense* <<http://lamop-vs3.univ-paris1.fr/studium/>>) maintained that this referred to Totainville (dép. Vosges), but it is clear from the list of *licentiati* in 1280 that it instead denotes Estouteville (dép. Seine-Maritime), since he appears here as « *magister Johannes d'Estouteville* ».

⁷⁵ See E. MULLER, « Jean Cholet », *Mémoires de la Société académique d'archéologie, sciences et arts du département de l'Oise*, 11, 1880, p. 792 and 820; his testament (Paris, AN, M 111, n° 4) is edited in *I testamenti dei cardinali del Duecento*, A. PARAVICINI BAGLIANI ed., Rome, 1980 (Miscellanea della Società Romana di Storia Patria 25), p. 250-67, with the disposition concerning his books at p. 264 (c. 135).

The Dossier

There can be little doubt that all three responses are responding to queries that – even if they were not identical – nevertheless overlapped closely in their language and subject matter⁷⁶. Consider, for example, the first three queries as given in Aquinas's *Epistola* and their corresponding queries in the *quaestio* :

Aquinas's *Epistola*

« Primo igitur uestra excellentia requirebat si liceat uobis aliquo tempore et quo exactionem facere in Iudeos. » (ll. 19-21)

« Secundo requirebatis, si peccauerit Iudeus, utrum sit pena pecuniaria puniendus » (ll. 65-66)

« Tertio querebatur, si ultro conferat pecuniam uel aliquod exenium, an recipere liceat » (ll. 93-94)

Anonymous *Quaestio*

« Questio est si liceat aliquo tempore et quo exactionem facere in iudeos » (§1)

« Item si iudeus peccauerit uel deliquerit, utrum sit pena pecuniaria puniendus » (§6)

« Item queritur si liceat exenia recipere a iudeis » (§3)

Or consider these parallel passages from Peckham's *Epistola* and the *quaestio* :

Peckham's *Epistola*

« ...licet Christianis eis locare domos, vel vendere necessaria ; » (ll. 96-97)

« De communibus autem pascuis planum est quod non licet uobis ad censum ea dare... » (ll. 147-48)

Anonymous *Quaestio*

« Item si peccant qui locant domos iudeis » (§4)
« Item si liceat iudeis uendere panem, uinum, et cetera necessaria et etiam superflua » (§5)

« Item, si liceat domino terrae communia pascua terrae dare ad censum » (§10)

To be sure, the structure of the three texts does not align perfectly. Peckham, for instance, appears to have clustered together the first seven queries (as given in the *quaestio*) into a single general question : « Queritis igitur primitus qualiter iudeos generaliter regere debeatis » (ll. 19-20). His ordering of the final topics (that is, those not dealing with Jews) likewise differs from that of the *quaestio*, and he mostly embeds the questions into his text rather than listing them explicitly (in contrast to the other two texts). As for Aquinas's *Epistola*, its structure largely matches that of the *quaestio*, but the Dominican somewhat incongruously treats the *signum distinctum* of the Jews at the very end of his letter (after the queries dealing with officials and Christian subjects), whereas in the other two texts the topic is treated alongside the other queries pertaining specifically to Jews.

There is also some variation in the topics discussed in each text. At the end of his *Epistola*, for example, Peckham responds to a question about tithes that finds no echoes in the other texts. Similarly, both Peckham and the anonymous author of the *quaestio* respond to queries about the taxation of common pastureland and the renting of houses to Jews, but neither topic is mentioned by Aquinas.

⁷⁶ For a schematic presentation of these overlaps, see CLUSE, *Studien zur Geschichte...*, p. 182-83.

Most scholars of the dossier have explained these variations by assuming that the three authors each reworked the same questionnaire⁷⁷. It is possible, however, that they were each responding to slightly different missives. Alternately, given that the *Epistola* of Peckham and the *quaestio* both deal with a wider array of topics than the *Epistola* of Aquinas, it is possible that an inquiry was first sent to the Dominican, and then an expanded inquiry was sent to the other respondents (following on the recommendation of Aquinas that other experts be consulted). Regardless, the questions to which each of the authors was responding overlapped closely in their scope, structure, and vocabulary, so much so that there can be no doubt that they were directly inspired by one another.

The Addressee

We come now to the long-standing debate over the identity of the unnamed noblewoman to whom the replies were addressed. (Or, to be more precise, the unnamed noblewoman/women, since we cannot yet exclude the possibility that the letters were addressed to different correspondents.) As indicated above, the uncertainty dates back to the Middle Ages ; the identification of Aquinas's correspondent as a duchess of Brabant is already attested in the late 1270s (in the notebook of Godfrey of Fontaines), while the earliest extant attribution to a countess of Flanders dates to the end of the thirteenth century or the very beginning of the fourteenth⁷⁸. Although most of the manuscript evidence follows the Brabantine tradition, prominent early editors of Aquinas's *Epistola* – such as Échard⁷⁹ and De Rossi⁸⁰ – opted instead for a Flemish addressee. That uncertainty persists, despite the patient efforts of so many subsequent scholars, is a reflection of the compelling objections to all of the attributions proposed so far. Let us now review the arguments for and against each one.

The first candidate is Aleyde, duchess of Brabant⁸¹. The daughter of Hugh IV of Burgundy, she married in 1253 Henry III, duke of Brabant. Following his death on 28 February 1261, she assumed the regency of the duchy, ruling first on behalf of her eldest son Henry IV (until he renounced his rights on 25 May 1267) and then briefly on behalf of her cadet son John I, who came of age in the fall of 1268⁸². It was the great Belgian historian Henri Pirenne who first laid out a detailed argument for Aleyde as the « *illustris et religiosa domina* » to whom Aquinas's *Epistola* was addressed⁸³. He noted above all the parallels between the questions asked of the Dominican and the testament of her husband, which called

⁷⁷ For instance, CLUSE, *Studien zur Geschichte...*, p. 181; BOUREAU, *Théologie, science, et censure...*, p. 184; EMILI, « *Fonti in dialogo...* », p. 19.

⁷⁸ This is found in Paris, Bibliothèque Sainte-Geneviève MS 238, f. 176va. The manuscript was composed in Avignon in the late thirteenth or early fourteenth century, and DONDAINE (« *Les 'Opuscula fratris Thomae'...* », p. 172-97) has demonstrated that it was the ancestor of the text from which Ptolemy of Lucca compiled his list of Aquinas's writings.

⁷⁹ J. QUETIF & J. ÉCHARD, *Scriptores ordinis praedicatorum*, t. 1 (Paris, 1719), p. 337.

⁸⁰ B.-M. DE ROSSI, *De gestis, et scriptis, ac doctrina Sancti Thomae Aquinatis dissertationes criticae, et apologeticae*, Venice, 1750, p. 235 (§22.4.3).

⁸¹ Not to be confused with her contemporary namesake, Aleyde of Brabant or of Louvain (c. 1190-c. 1265), who was the daughter of Henry I of Brabant, countess of Boulogne through her cousin Mathilde de Dammertin (d. 1259), and countess of Auvergne through her husband William X of Clermont.

⁸² This second regency, which most historians have ignored, is noted by D. KUSMAN, « *À propos de la consultation...* », p. 942, n. 18.

⁸³ PIRENNE, « *La duchesse Aleyde de Brabant...* », which was originally given as a lecture on 5 March 1928 to the Classe des Lettres de l'Académie royale de Belgique. His attribution and dating were accepted by J. PERRIER in his edition of Aquinas's *Opuscula philosophica* (p. 212) ; and more recently by COHEN, *Living Letters*, p. 365.

for both the abolition of arbitrary tallage and the expulsion of any Jews or Cahorsins who refused to refrain from usury. Selon Pirenne, the fiscal burden that these testamentary wishes would have engendered spurred Aleyde to seek spiritual guidance from the future saint soon after she assumed the regency in the spring of 1261, though his answers proved less accommodating than she might have hoped.

There are indeed parallels between the testament of Henry III and the *Epistola* of Aquinas, but they are weaker than Pirenne suggested. While it is true, as Van Uytven observed, that the terms *Cahorsini*, *exactiones*, *precaria*, *tallia* (all of which appear in both the testament and Aquinas's *Epistola*) are otherwise rare or unattested in the rest of the Thomistic corpus⁸⁴, there is no reason to assume that they had to be lifted directly from the testament, for they belong to the commonplace contemporary vocabulary of finance and administration in France, the Low Countries, and beyond. As for the thematic connections, if the duchess-regent was indeed worried about the demands imposed by the testament, then it is odd – as Glorieux observed – that she did not pose questions « sur le caractère obligatoire de ces dispositions, sur la possibilité d'y surseoir ou même sur le droit de maintenir les Juifs dans le duché, nonobstant le désir du défunt »⁸⁵. And if Aleyde was indeed writing soon after assuming the regency, why would she have written to Thomas Aquinas, who was relatively unknown and far away in Italy, as opposed to his more renowned Dominican colleague and teacher, Albert the Great, who was then in nearby Cologne ?

Others have dismissed any immediate connection between the testament of Henry III and the *Epistola* of Aquinas, while still maintaining Aleyde as the addressee of the latter. Blumenkranz, for example, argued that her concerns (and hence, her initial letter) were inspired by the anti-Jewish measures taken by Saint Louis in the 1250s in neighbouring France, while Van Uytven framed the query of Aleyde in the context of her close relations with the Dominican order in 1263-65⁸⁶. Most detailed of all is the reconstruction of David Kusman, who rejected any direct link with the testament, framing the query instead in the context of the political and fiscal exigencies of her regency, which reached a peak in 1265-66⁸⁷.

Of course, the discovery of the dossier complicates all of these arguments, at least if we assume that all of the letters were addressed to the same correspondent. As established above, Peckham must have composed his reply between January and September 1270, a year and a half (or maybe even two years) after Aleyde's regency had come to an end. It is possible that Aleyde wrote first to Thomas Aquinas while she was still regent (that is, before the fall of 1268), and then, taking seriously his suggestion that she consult others more expert in such matters, sent a new (and slightly revised) list of questions to the

⁸⁴ VAN UYTVEN, « The Date of Thomas Aquinas's *Epistola*... », p. 640-41, here relying on the *l'Index Thomisticus* compiled by R. BUSA.

⁸⁵ GLORIEUX, « *Le De Regimine Judaeorum*... », p. 155-156.

⁸⁶ BLUMENKRANZ, « *Le De Regimine Judaeorum*... », p. 102 ; VAN UYTVEN, « The Date of Thomas Aquinas's *Epistola*... », p. 643.

⁸⁷ KUSMAN, « À propos de la consultation... », p. 939-946. He fixed the *terminus ad quem* at 29 June 1267, when John I (in an act sealed by his mother Aleyde, among others) granted privileges concerning Jews and Cahorsins to the city of Louvain. Selon KUSMAN (ibid, p. 943), « On voit déjà mal pourquoi un tel acte aurait été donné avant la consulte de Thomas », but I find the argument here less than convincing. He also challenges (ibid, p. 944) the attribution to Margaret of France on the grounds that she had no known links with the Dominican house at Louvain, of which Aleyde had been the principal benefactor – but the theory (proposed by PIRENNE, « La duchesse Aleyde de Brabant... », p. 199-200) that the correspondent had written first to the Dominicans at Louvain, who then passed her letter to Thomas Aquinas, is entirely speculative, and hence irrelevant to the problem at hand.

masters at the University of Paris⁸⁸. But under such circumstances, it would seem odd – even inappropriate – for Peckham to refer to « *statuto dominationis vestre* » and « *potenciam vestram* » (ll. 58, 62, 146) in addressing his correspondent, to say nothing of his other references to her subjects and officials⁸⁹. Indeed, as Boyle astutely pointed out, the reference to « *potenciam vestram* » (which also appears in Aquinas's *Epistola*) is awkward regardless of when the two letters composed, since whether she is regent or dowager, in neither case is she exercising her own *potentia*⁹⁰. Equally odd, in the context of a duchess-regent, is the valedictory remark of Aquinas, « *valeat Dominatio vestra per tempora longiora* ». Whether or not she could claim to be exercising *dominatio*, it was unquestionably awkward to wish her a prolonged regency – all the more so if the letter was indeed written c. 1267, when John I was soon about to reach the age of majority. One might simply dismiss this as formulaic politeness on the part of Aquinas, albeit an uncharacteristically thoughtless example, but taken as a whole, the strained chronology and awkward phrases cast doubt on the attribution to Aleyde.

What if the addressee was not Aleyde, but rather (as Glorieux first suggested) her successor as duchess of Brabant⁹¹? Margaret of France, daughter of Saint Louis, married John I of Brabant in February 1270 and died in late 1271 or early 1272⁹². Her brief period as duchess-consort aligns neatly with the second Parisian regency of Aquinas as well as the regency of Peckham. There is evidence, moreover, that her father regularly consulted with the Dominican on difficult matters⁹³; might she not have followed his example? The Franciscan *Epistola*, moreover, pointedly extols Saint Louis as a model to be emulated, insofar as the treatment of Jews was concerned; might this not also bolster the case for his daughter as the unnamed addressee?

⁸⁸ Here I am following a hypothesis first set forth by D. KUSMAN in his compte-rendu of Cluse, *Studien zur Geschichte...*, in *Revue belge de philologie et d'histoire*, 81, 2003, p. 469-70, though I have modified his chronology in light of the evidence presented above. He has continued to defend the attribution to Aleyde in subsequent writings; see his « *Le rôle de l'Église...* », p. 234; and *Usuriers publics...*, p. 48 n. 191.

⁸⁹ Kusman considers significant the fact that Aquinas addressed his correspondent as « *excellencia vestra* » whereas Peckham uses the formula « *Illustris domina* »; according to him, this shift reflects the fact that Aleyde was no longer regent by the time Peckham responded to her. To judge from other contemporary letters to noblewomen, however, the styles of address were far from fixed, and both of these formulas are used in addressing queens, countesses, and other powerful women, whether they were consorts, regents, or ruling in their own right. See the examples gathered in the online database *Epistolae: Medieval Women's Latin Letters* (<<https://epistolae.ccnmtl.columbia.edu>>).

⁹⁰ BOYLE, « *Thomas Aquinas...* », p. 27. Indeed, as Boyle points out, Dondaine found the phrase so disconcerting that he emended it in his edition of Aquinas's *Epistola* to « *per provinciam vestram* » (l. 242), notwithstanding the unanimous consensus of the manuscripts. Given that the same phrase appears in Peckham's *Epistola*, however, the emendation of Dondaine is surely to be rejected.

⁹¹ GLORIEUX, « *Le De Regimine Judaeorum...* », p. 155-160. His arguments are closely followed VERBEKE, *Een onvoltooide commentaar*, 6-7. Others who have followed his lead include M. GRABMANN, *Die Werke des hl. Thomas von Aquin: Eine literarhistorische Untersuchung und Einführung*, 3^e éd., Münster, 1949, p. 336-338; I. Th. ESCHMANN, « *A Catalogue of St. Thomas's Works* », in E. GILSON, *The Christian Philosophy of St. Thomas Aquinas*, New York, 1956, p. 422; C. RENARDY, *Le monde des maîtres universitaires du diocèse de Liège, 1140-1350*, 2 vols., Paris, 1979-1981, t. 1, p. 325 and t. 2, p. 274 n. 4; and BERG, « *Servitus Judaeorum...* », p. 452. As the title of his study suggests, VERSCHOOTEN (« *Margaretha van Frankrijk...* ») likewise identifies Margaret of France as the addressee.

⁹² For these dates, see VAN UYTVEN, « *The Date of Thomas Aquinas's Epistola...* », p. 633-634.

⁹³ For the king's relationship with the Dominican friar, see William DE TOCCO, *Ystoria sancti Thome de Aquino*, C. LE BRUN-GOUANVIC, ed., Toronto, 1996 (*Studies and Texts*, 127), p. 162-63 (c. 35) and p. 173-176 (c. 43).

Here again, however, we run into difficulties. If the chronology of the dossier matches nicely, the content does not. Most obviously, there is the problem of her status as duchess-consort. Ruling neither in her own right nor as regent, why would Margaret, newly arrived in Brabant as the young wife of the duke, have sought counsel on matters such as the status of Jews, the treatment of usurers, and the licitness of taxation, all of which lay firmly outside her sphere of influence ? If she was asking on behalf of her husband, why does he go unmentioned in all three of the texts in the dossier⁹⁴? And if the multiple references to the *dominatio* and *potentia* of the addressee (which we found in the *Epistolae* of both Aquinas and Peckham) are unseemly in relation to the regent Aleyde, they are no less awkward in relation to the duchess-consort Margaret.

Nor is it possible, as Glorieux first suggested, that John I took the cross with saint Louis in the spring of 1270, leaving his new wife either as regent or at least with a considerable degree of independence in his absence⁹⁵. He was certainly in Brabant on 16 May of that year, and then again on 11 November⁹⁶. Even if we imagine that he could have made it to Aigues-Mortes by the time the fleet set sail on July 1, the crusaders did not set forth on their return journey from Tunis to France until 11 November – the same day that John I is attested in Brabant. So if Margaret did indeed seek academic counsel, she did so when her husband was still exercising full power in Brabant – and yet she apparently did not mention him in her letter (or so suggests the absence of any mention of him in the replies.)

In light of these troublesome incongruities, many scholars have simply sidestepped the problem, following the weight of the manuscript tradition in associating Aquinas's *Epistola* (and, more recently, the entire dossier) with a duchess of Brabant, but without specifying which one⁹⁷.

⁹⁴ Even Glorieux, who first proposed the attribution to Margaret, was troubled by this problem; see his « *Le De Regimine Judaeorum...* », p. 158. Similar objections were raised by BOYLE, « Thomas Aquinas... », p. 26-27 ; VAN UYTVEN, « The Date of Thomas Aquinas's Epistola... », p. 633-635 ; and KUSMAN, « À propos de la consultation... », p. 942-943.

⁹⁵ GLORIEUX, « *Le De Regimine Judaeorum...* », p. 159. He therefore suggested that young Margaret, preparing for the possibility of a long regency (or, if she had not been named regent, at least the long absence of her husband), took it upon herself to seek counsel on matters that she had found troubling upon her arrival in her new lands. Boyle, « Thomas Aquinas... », p. 27, dismissed this possibility on the grounds that Aquinas would not have been so tactless as to wish that « *valeat Dominatio vestra per tempora longiora* », since, as he interprets the phrase, this would have been tantamount to hoping that her husband's absence would be prolonged. In fact, as noted by CLUSE (*Studien zur Geschichte...*, p. 178), this takes too seriously the comparative force of the adverb *longiora*. Moreover, if we take *dominatio* in a figurative sense rather than a juridical one (and this seems appropriate, given the valedictory nature of the phrase), then Margaret would have enjoyed her *dominatio* so long as her marriage endured – in which case the sentiment was entirely felicitous. In contrast, where Aleyde was concerned, her *dominatio* – whether figurative or juridical – would firmly come to an end once her son came of age, so there Boyle is right to underscore the potential awkwardness of the phrase. In any event, since it seems impossible that John could have gone on crusade, this debate is irrelevant.

⁹⁶ A. WAUTERS, *Table chronologique des chartes et diplômes imprimés concernant l'histoire de la Belgique*, t. 5, Bruxelles, 1877, p. 444-468 (ann. 1270). John I apparently signed a charter in favour of the beguines of Aerschot in August 1270, which suggests that he was still in Brabant at this time, but the text is known only through a later *vidimus*, and its authenticity is therefore difficult to confirm. See *Analectes pour servir à l'histoire ecclésiastique de Belgique*, E. REUSENS, C.-B. DE RIDDER, & J. BARBIER ed., t. 12, Louvain, 1875, p. 29-30.

⁹⁷ Chief among these is Dondaine in his edition of Aquinas's *Epistola* : « Les deux hypothèses [...] ont leur vraisemblance et aussi leur faiblesse, la seconde [Margaret of France] surtout » (p. 363). See also A. WALZ, *Saint Thomas d'Aquin*, Louvain, 1962, p. 138 (p. 225 he opts for a dating to 1265-1267) ; R. W. DYSON, in his

But what if the addressee was not in fact a duchess of Brabant, but instead the countess of Flanders? As noted above, this was the position taken by both Ptolemy of Lucca and several early modern editors, following an early manuscript tradition. Thereafter, however, this attribution was largely forgotten until Boyle proposed it anew in his article of 1983⁹⁸. Specifically, the Irish scholar identified the addressee of the *Epistolae* of Aquinas and Peckham as Margaret of Constantinople, who succeeded her sister Jeanne as countess of Flanders in 1245 and ruled over the county until 1278 (when she abdicated in favour of her son Guy de Dampierre). Margaret likewise succeeded her sister as ruler of the county of Hainaut, which (despite considerable challenges, especially in the 1250s) she held until her death in 1280.

This hypothesis is compelling on a number of fronts. First and foremost, Margaret of Constantinople was countess of Flanders and Hainaut *suo iure*. Her authority therefore raises none of the problems posed by the status of Aleyde as regent, or that of Margaret of France as wife, and as Boyle pointed out, the final sentence of Aquinas's *Epistola* (« valeat Dominatio vestra per tempora longiora ») is entirely appropriate as a valediction for one who had already been ruling over her counties for a quarter-century. Second, the dates of her rule over the counties fully encompass the possible datings of the letters. Third, she (like both of her Brabantine counterparts) was an ardent patron of the mendicant orders, and of the Dominicans in particular⁹⁹. Finally, since her granddaughter – also named Margaret – married Duke John I of Brabant in 1273 (thereby becoming duchess of Brabant), it is easy to see how the confusion over the identity of the addressee might have arisen¹⁰⁰. Many subsequent scholars have accordingly accepted Boyle's conclusions¹⁰¹.

introduction to [Thomas Aquinas], *Political Writings*, Cambridge, 2002, p. xix-xx, leaning toward Aleyde ; and CLUSE, « Jewish Moneylending », p. 201, leaning toward Margaret of France.

⁹⁸ BOYLE, « Thomas Aquinas... », p. 28-32.

⁹⁹ See W. SIMONS, *Stad en Apostolaat: De vestiging van de bedelorden in het graafschap Vlaanderen (ca. 1225-ca. 1350)*, Brussels, 1987 (Verhandelingen van de Koninklijke Academie voor Wetenschappen, Letteren en Schone Kunsten van België, Klasse der Letteren, 49/121), especially p. 136-40; see also the references in BOYLE, « Thomas Aquinas... », p. 28-29.

¹⁰⁰ BOYLE (« Thomas Aquinas... », p. 34 n. 26) attributed this observation to T.-M. ZIGLIARA, who compiled the catalogue of the works of Thomas Aquinas in the first volume of the Leonine *Opera omnia* (Rome, 1882, p. cclviii). In fact, it was DE ROSSI (*De gestis et scriptis ac doctrina...*, p. 235, §22.4.3) who first suggested how easily Margaret of Constantinople (who was countess of Flanders) might have been confused with her granddaughter Margaret de Dampierre (who became duchess of Brabant). GLORIEUX (« *Le De Regimine Judaeorum...* », p. 154) also noted the profusion of Margarets, but he did not consider the possibility that Aquinas might have been responding to the grandmother (i.e. the countess of Flanders) and he dismissed the younger Margaret as a possible correspondent on the grounds that she did not marry John I of Brabant until after Aquinas had already resigned his second regency. In any event, it seems certain that it was the presence of multiple Margarets in the courts of Flanders and Brabant around 1270-1273 that inspired the conflicting attributions among later scribes and commentators.

¹⁰¹ First among them G. DAHAN, in a review of the article in the *Bulletin de théologie ancienne et médiévale*, 14, 1988, p. 530-31 (n° 1121), then in *Les intellectuels chrétiens...*, p. 214. See also LUKENS, « St. Thomas's Letter on the Jews », p. 182 ; ULRICH, « Thomas von Aquin... », p. 214 ; BOUREAU, *Théologie, science, et censure...*, p. 183-84 ; LAMBERTINI, *Povertà pensata...*, p. 94 ; J.-P. TORRELL, *Initiation à saint Thomas d'Aquin. Sa personne et son oeuvre*, 2^e éd., Paris, 2002, p. 318-21 and 517; EMILI, « Note su tradizione manoscritta... », p. 67 ; BOGUSLAWSKI, *Thomas Aquinas on the Jews...*, p. 13 n. 12. Having initially accepted the attribution to Margaret of France, J. WEISHEIPL subsequently accepted the arguments of Boyle, but he confusingly described Margaret of Constantinople as both the daughter of Louis IX and as countess of Flanders ; see his *Friar Thomas d'Aquino: His Life, Thought and Work*, 2nd ed., Washington, D.C., 1983, p. 398 n° 80 and p. 486-87. The same error then reappears in HOOD,

The hypothesis is undercut, however, by the absence of any clear evidence for Jewish moneylenders in the counties of Flanders and Hainaut during this period, in contrast to Brabant, where numerous Jewish communities existed throughout the second half of the thirteenth century¹⁰². Indeed, there is no clear evidence for any permanent Jewish settlement in Flanders or Hainaut before 1307, when some Jews driven from France by Philip the Fair sought permission to settle in Mons¹⁰³. Given the commercial and urban dynamism of this region, the late arrival of Jews is striking – and yet assiduous research over the last century has failed to uncover any traces of sustained Jewish activity before the great expulsion of 1306¹⁰⁴. In an anonymous Hebrew narrative concerning a supposed expulsion and massacre of French Jews in 1007, the protagonist – a certain Jacob ben Yequiel de Rouen – ultimately accepts an invitation from Count Baldwin of Flanders to settle in his lands, along with thirty fellow Jews. The historicity of this account (which some scholars consider a thirteenth-century fabrication) has been aggressively challenged, not least because of the lack of any subsequent evidence for Jewish settlement anywhere within the county of Flanders¹⁰⁵. Admittedly, a Jewish doctor, originally from London, was known to have been present at the comital court in the last quarter of the century, and there is some scanty onomastic evidence suggesting the possible presence of descendants of Jews before the start of the

Aquinas and the Jews, p. 37 and 102. Boyle's proposal is also generally accepted by TODESCHINI (cf. his « Usura ebraica e identità economica cristiana... », p. 302; and « La scienza economica francescana... », p. 128), though in one study (*I mercanti e il tempio...*, p. 273 and 277) he inadvertently identifies the addressee first as duchess of Brabant and then as countess of Flanders.

¹⁰² See, in general, J. STENGERS, *Les Juifs dans les Pays-Bas au Moyen Âge*, Brussels, 1950; CLUSE, *Studien zur Geschichte...*; IDEM, « The Structure of Medieval Jewish Settlement in the Southern Low Countries », *Jewish Studies*, 40, 2000, p. 43*-56* ; G. WAELPUT, « Les juifs à Mons au Moyen Âge », *Le Moyen Âge: Revue d'histoire et de philologie*, 107, 2001, p. 283-304 and 503-521. For a comprehensive mapping of Jewish settlements in the medieval Low Countries, see A. HAVERKAMP, *Geschichte der Juden im Mittelalter von der Nordsee bis zu den Südalpen*, 3 vols., Hanover, 2002 (Forschungen zur Geschichte der Juden, Abteilung A: Abhandlungen, Bd. 14).

¹⁰³ See, in general, J. STENGERS, *Les Juifs dans les Pays-Bas au Moyen Âge*, Brussels, 1950; CLUSE, *Studien zur Geschichte...*; IDEM, « The Structure of Medieval Jewish Settlement in the Southern Low Countries », *Jewish Studies*, 40, 2000, p. 43*-56* ; G. WAELPUT, « Les juifs à Mons au Moyen Âge », *Le Moyen Âge: Revue d'histoire et de philologie*, 107, 2001, p. 283-304 and 503-521. For a comprehensive cartographic representation of Jewish settlement in the medieval Low Countries, see A. HAVERKAMP, *Geschichte der Juden im Mittelalter von der Nordsee bis zu den Südalpen*, 3 vols., Hanover, 2002 (Forschungen zur Geschichte der Juden, Abteilung A: Abhandlungen, Bd. 14). I am grateful to Robert Chazan and Christoph Cluse for their helpful advice on this topic.

¹⁰⁴ Voir J. TOLLEBEEK, « Joden in de Zuidelijke Nederlanden, 12de-14de eeuw », *Spiegel historiael*, 19, 1984, p. 248 ; IDEM, « De joden in de Zuidelijke Nederlanden tijdens de late middeleeuwen: Kritisch-bibliografisch overzicht (1949-1983) », *Bijdragen tot de geschiedenis*, 66, 1983, p. 13-34.

¹⁰⁵ According to the narrative, Jacob dies in Aryys, which scholars of the text have generally interpreted as a Hebrew transliteration of Arras (among the leading cities in the county of Flanders in the eleventh century). In any case, even if a Jewish community did somehow persist in Arras, the city ceased to be under the jurisdiction of the counts of Flanders in 1191, becoming thereafter the capital of the county of Artois. The narrative has been the topic of vigorous debate ; for initial competing views, see R. CHAZAN, « 1007-1012: Initial Crisis for Northern European Jewry », *Proceedings of the American Academy for Jewish Research*, 38/39, 1970 -1971, p. 101-117 ; K. R. STOW, *The '1007 Anonymous' and Papal Sovereignty: Jewish Perceptions of the Papacy and Papal Policy in the High Middle Ages*, Cincinnati, 1984, especially p. 26-33 ; and Chazan's response in a review in *Speculum*, 1987, p. 728-31. D. MALKIEL offers a judicious overview of the ongoing debate in his *Reconstructing Ashkenaz: The Human Face of Franco-German Jewry, 1000-1250*, Stanford, 2015, à p. 62-65. Menachem Butler was characteristically generous in guiding me through this text.

fourteenth century¹⁰⁶. But none of this suggests that there was much of a Jewish community within the counties (if at all)¹⁰⁷. Why, then, would Countess Margaret had sought the advice of the Parisian masters¹⁰⁸?

All of the proposed attributions therefore suffer from serious weaknesses. If we opt for the Brabantine tradition, then two solutions are possible : either Thomas Aquinas wrote to the regent Aleyde and a few years later Jean Peckham wrote to the young duchess-consort Margaret of France ; or they were both responding to Margaret of France, at roughly the same time. Even if we accept the former solution (in which there are two successive correspondents), it seems hard to imagine that Peckham would have written to the newly-wed wife without any mention of her husband – especially when the matters being treated fell far outside the sphere of influence of his young correspondent. (And if Aquinas was likewise writing to the young Margaret of France, the double silence regarding her husband is even more disconcerting.) Yet if we accept the Flemish tradition, then we must grapple with the apparent absence of Jews within the lands of the countess. None of the adherents of Margaret of Constantinople have yet been able to resolve this dilemma.

Yet unless we assume that the addressee was neither a duchess of Brabant nor a countess of Flanders (and this seems even more problematic), these are our only options, however flawed each one might be¹⁰⁹. Reviewing all of these theories three decades ago, a distinguished Dominican scholar lamented that « the problem had not yet found a decisive solution¹¹⁰», and this has remained the case up to the present, as shown by the continuing and conflicting adherence of modern scholars to each of the proposed addressees.

The Dossier – A Critical Rereading

What if modern scholars (and perhaps even the recipients of the initial queries) have entirely misunderstood the context that prompted the unnamed noblewoman to seek expert advice in the first place ? More specifically, what if she was not wondering how to govern an existing community of Jews within her lands ? What if her questions about the correct governance of Jews were instead inspired by the possibility of welcoming Jews into her lands ? Said otherwise, perhaps she was not concerned about the legitimacy of an existing fiscal and legal framework concerning Jews, but was rather trying to determine

¹⁰⁶ See J. TOLLEBEEK, « Joden in de Zuidelijke Nederlanden, 12de-14de eeuw », *Spiegel historiae* 1, 19, 1984, p. 248 ; IDEM, « De joden in de Zuidelijke Nederlanden tijdens de late middeleeuwen: Kritisch-bibliografisch overzicht (1949-1983) », *Bijdragen tot de geschiedenis*, 66, 1983, p. 13-34.

¹⁰⁷ Her second husband, William II of Dampierre, had ruled over a venerable Jewish community in the town of Dampierre (dép. Aube), and indeed was partially responsible for a baleful episode in 1223 (also involving Theobald, Count of Champagne) ; see *Layettes du Trésor des chartes*, A. TEULET ed., t. 2, Paris, 1866, p. 17-18 (n° 1619) et p. 30 (n° 1648) ; and the discussion in W. C. JORDAN, *The French Monarchy and the Jews : From Philip Augustus to the Last Capetians*, Philadelphia, 1989, p. 99-102. Upon William's death in 1231, the lordship of Dampierre, Sompuis and Saint-Dizier passed to his son John, who was in turn succeeded by his son (also named John) in 1258. Toward 1270, then, there were Jews in the lands of Margaret's grandson, but these lay outside her jurisdiction as countess of Flanders and Hainaut. For further references on the Jewish presence in Dampierre, see HAVERKAMP, *Geschichte der Juden*, T. 2 : *Ortskatalog*, p. 84-85, s.v. « Dampierre ».

¹⁰⁸ VAN UYTVEN (« The Date of Thomas Aquinas's *Epistola*... », p. 632) was the first to raise this objection.

¹⁰⁹ Nor do many contemporary possibilities present themselves, in terms of women exercising independent authority over lands with Jewish populations in western Europe ca. 1270.

¹¹⁰ C. VANSTEENKISTE, in *Rassegna di letteratura tomistica*, 20, 1987, p. 423-24 (n° 11) ; see also his remarks in *ibid.*, 19, 1986, p. 42-43 (n° 76).

how a new framework might be established. If this is the case, then the absence of a known Jewish community in Flanders would no longer pose any difficulties, and we could confidently identify Margaret of Constantinople as the addressee.

In order to evaluate this hypothesis, we must first reconstitute – as far as possible – the content of the inquiries that were sent to Thomas Aquinas, John Peckham, and the author of the anonymous *quaestio*. Although we cannot assume that these inquiries were identical, certain patterns hold across all three of the resulting responses.

First of all, none of the responses demonstrate any specific knowledge of the conditions of Jews within her domains. Indeed, this silence is not limited to the queries concerning Jews ; the replies concerning the governance of Christian subjects likewise do not betray any specific knowledge of the local circumstances. Altogether, this suggests that no such information was given in the initial letters. It also seems that the correspondent did not explain the particular circumstances that prompted her to seek counsel, since this too goes unmentioned any of the resulting replies.

Let us examine each of the texts more closely. The anonymous *quaestio* poses no difficulties for this hypothesis, being framed throughout in abstract terms. The first question is typical of the rest: « It is asked whether it is permitted at any time to levy taxes on the Jews, and of what sort (*Questio est si liceat aliquo tempore et quo exactionem facere in iudeos*) » (§1). Nothing in this question or its response implies that Jews are already present in the lands of the correspondent, and the same is true of the subsequent questions. Indeed, the phrasing throughout is so generic that were it not part of the dossier, there would be nothing to suggest that it was intended to address the realities within a particular jurisdiction. It is possible that this was a deliberate choice on the part of the author, who (perhaps reflecting his juridical formation) sought to give answers that would be universally valid. But more likely it reflects the abstract nature of the initial inquiry, since the preference for the general over the particular holds true across all three of the resulting replies.

What of the *Epistola* of Peckham ? Here again the tone is thoroughly generic, and again none of the questions or answers specifically imply the existing presence of Jews. To be sure, the phrasing of the letter does not exclude this possibility, and the opening question could certainly apply to one who was already ruling over Jews: « You ask first, therefore, how one ought in general to govern Jews (*Queritis igitur primitus qualiter iudeos generaliter regere debeatis*) » (ll. 19-20). But it could equally apply to one who was wondering about the *regimen* to be established, should Jews be newly welcomed. It is telling, moreover, that the only instance in the letter in which Peckham specifically addresses conditions within the lands of his correspondent concerns not Jews, but rather the Cahorsins and other Christian usurers (« Cavercini et quicumque alii usurarii - falso de christiano nomine gloriantes », ll. 105-6) whose usurious despoliations were harming her subjects (« vestre iniuriantur dominationi vestros subditos spoliando iniuriis usurarum... », ll. 111-14). Insofar as Peckham demonstrates an awareness of contemporary realities within the territory of the unknown lady, it pertains to the presence of Christian usurers rather than Jewish ones.

Aquinas's *Epistola* is more challenging, since it is clear that he assumes that Jews are indeed present in the lands of his correspondent. In responding to the first question, dealing with fiscal exactions on the Jews, he twice states that she may tax them according to the customs of her predecessors¹¹¹ - which would imply a long-standing Jewish community. Neither of these references, however, should be given much

¹¹¹ « ...potestis secundum consuetudinem predecessorum uestrorum in Iudeos facere exactionem, si tamen aliud non obsistat » (ll. 38-39) ; « Nec esset illicitum si etiam de nouo a Iudeis exigeretis talia, seruata consuetudine predecessorum uestrorum » (ll. 61-63).

weight ; the Dominican is not displaying actual knowledge about customary practices within her lands, but merely making a conventional argument about the legitimacy of what was traditional. (He makes a similar point later in his letter, in reference to the levying of taxes on her Christian subjects.) Indeed, it is clear that the correspondent did not provide any contextual information on this topic, since Aquinas himself comments on the terseness of the question as put to him (l. 22 : « Ad quam questionem sic **absolute** propositam... »)¹¹².

In his response to the first question, Aquinas also makes direct reference to « the Jews of your lands (*Iudei terre uestre*) » (l. 43), which would seem to be unambiguous evidence for the presence of a Jewish community. Yet it is clear that the Dominican is not relying on his own knowledge, but is rather extrapolating from the questions that were put to him. Let us consider the phrase in its entirety :

« **From what I have been able to presume from the things you ask afterwards**, it seems that your doubt concerns mainly that the Jews of your lands seem to have nothing except what they have acquired through the depravity of usury (*Videtur enim, quantum conicere potui ex hiis que subsequenter inquiritis, in hoc magis dubitationem uestram uersari quod Iudei terre uestre nichil habere uidentur nisi que acquirunt per usurariam prauitatem*) » (ll. 40-44).

Of course, we know the subsequent questions that were put to him (and from which he was extrapolating), because he spells them out explicitly in what follows¹¹³ It is clear from these questions that the correspondent did indeed presume that all Jewish revenue was derived from usury, just as Thomas deduced. But nothing in the questions forces one to assume that she was speaking about Jews specifically within her lands ; indeed, in these questions, as in all of the others referenced in the dossier, Jews are spoken of in entirely abstract terms¹¹⁴.

Faced with nearly identical questions, neither of the other two authors made the same interpretative leap ; only Thomas Aquinas clearly assumed that the questions of the *illustris domina* concerning Jews were motivated by the existing presence of Jews within her lands. The other two simply responded to abstract inquiries with equally abstract answers. We can admit that Aquinas's assumption was entirely reasonable. After all, why would someone have sent him a list of queries about the correct governance of Jews, if she had no Jews to govern ? But here is where the correct dating of Aquinas's *Epistola*, and of the dossier in general, proves to be crucial to its interpretation.

¹¹² For the same reason, we can dismiss his remark about the usurious revenues that Jews had extorted from her or from her ancestors : « ...nec uos licite retinere possitis, nisi forsitan essent talia que a uobis uel ab antecessoribus uestris hactenus extorsissent » (ll. 50-53). Here again the *Doctor Angelicus* is not speaking from specific knowledge, but is simply presenting hypothetical scenarios.

¹¹³ « Secundo uero requirebatis, si peccauerit Iudeus, utrum sit pena pecuniaria puniendus, cum nichil habeat preter usuras » (ll. 65-66) ; « Tertio querebatur, si ultro conferat pecuniam uel aliquod exenium, an recipere liceat » (ll. 93-94) ; « Quarto queritis, si plus accipiatis a Iudeo quam ab eo Christiani requirant, quid sit de residuo faciendum » (ll. 99-101).

¹¹⁴ In responding to the second question, the Dominican demonstrates precise knowledge concerning Jews in his Italian homeland (ll. 83-86 : « Melius enim esset ut Iudeos laborare compellerent ad proprium uictum lucrandum, sicut in partibus Ytalie faciunt »), but nowhere in the text does he evince similarly precise knowledge concerning Jews in the lands of his correspondent (or anywhere else).

As noted above, Peckham's *Epistola* may confidently be dated to the spring or summer of 1270. Less certain is the dating of the other two texts : the *quaestio* must have been composed before 1274, and Aquinas's *Epistola* was written no later than the spring of 1272. Given the overall similarities between the texts and the questionnaires that inspired them, the most compelling explanation is that all of them were composed around the same time – let us say between late 1269 and the summer of 1270. (It is impossible to determine whether the questions were sent simultaneously, or whether the correspondent wrote first to Aquinas and then followed up on his suggestion to consult other experts.)

The preceding year had witnessed an aggressive royal assault on French Jewry, launched by Saint Louis as part of the lead-up to the Eighth Crusade. In September 1268, the king had ordered the widespread arrest of Jews within his domains together with the confiscation of their property, and some of the leading barons did the same within their lands¹¹⁵. The king also appears to have ordered the expulsion of Jews from his domains, at least in the north. Although the expulsion order itself does not survive, both the archbishop of Reims and the lord of Ivry (to the southeast of Paris) subsequently complained to the Parlement of Paris that the royal bailiffs had unjustly driven Jews from their lands¹¹⁶. For the afflicted Jews, this surely brought back memories of similar royal measures taken two decades earlier, in the context of the preceding crusade¹¹⁷.

Meanwhile, across the Channel, the 1260s had been a traumatic period for English Jews, who had suffered widespread attacks and massacres during the revolt of the barons against King Henry III. Then, in January 1269, the king imposed dramatic new sanctions against Jewish moneylending, the first in a series of measures that would culminate in 1275 with a total ban on Jewish lending within his kingdom¹¹⁸.

The year 1269 therefore saw considerable turmoil and concern among the Jewish communities in England and France. Is it not possible, then, that Margaret of Constantinople and her councillors foresaw the possibility of an influx of Jewish settlers into Flanders and Hainaut ? The questionnaires sent to the university might therefore have been intended (at least in part) to help determine whether Jews should indeed be welcomed, and to evaluate the fiscal benefit that might licitly be derived from their presence ? If we accept this line of reasoning, then the absence of any earlier attestations of Jews in her lands is no longer an argument against Margaret of Constantinople as the addressee of the three responses, but instead becomes an argument in her favour.

This hypothesis would also explain why her initial inquiries were expressed in such abstract terms. After all, it would have been highly impolitic – perhaps even treasonous – to broach openly the topic of Jewish resettlement, whether forced or otherwise. In the Ordonnance of Melun of 1230, Saint Louis - who was formally the feudal overlord of Flanders – had unambiguously asserted his regalian rights over the movements of Jews within the kingdom, prohibiting Jews from migrating from one *dominium* to

¹¹⁵ On these measures, see most recently M. DEJOUX, « Gouvernement et pénitence. Les enquêtes de réparation des usures juives de Louis IX (1247-1270) », *Annales. Histoire, Sciences Sociales*, 69, 2014, p. 849-874.

¹¹⁶ *Actes du Parlement de Paris (1253-1328)*, E. BOUTARIC éd., t. 1, Paris, 1863, p. 130 (n° 1462, 1465).

¹¹⁷ En 1253, while Saint Louis was still in the Holy Land, he reputedly ordered the expulsion of any Jews who refused to refrain from usury, and he reiterated this threat in 1254 upon his return to France ; see Matthew Paris, *Chronica maiora*, H. R. LUARD ed., t. 5, London, 1880, p. 361-62 ; and *Ordonnances des roys de France de la troisième race...*, E. J. DE LAURIÈRE ed., t. 1, Paris, 1723, p. 75 (§32).

¹¹⁸ R. C. STACEY, « The English Jews under Henry III », in *The Jews in Medieval Britain: Historical, Literary, and Archaeological Perspectives*, P. SKINNER ed., Woodbridge, 2003, p. 52-54. For the 1269 statute, see *Select Pleas, Starrs, and Other Records from the Rolls of the Exchequer of the Jews, A.D. 1220-1284*, J. M. RIGG ed., London, 1902, p. xlviili-li (n° III).

another¹¹⁹. In England, Henry III had previously forbidden the Jews to leave his kingdom, their pleas notwithstanding¹²⁰. So it is not surprising, then, that the specific motivations for the queries would have gone unstated, and that the queries themselves would have been offered without any context.

Moreover, if the letters were sent in the late spring of 1270 or over the summer, then Margaret may well have been taking advantage of the absence of her son Guy de Dampierre, who had taken the cross alongside the French king¹²¹. In the years leading up to his departure, Guy had been playing an ever greater role in the political affairs of the county ; his absence therefore gave his mother a year-long opportunity to wield single-handedly the reins of power¹²².

In any event, whether Margaret sent the letters independently or with the consent of her son, the outcome was the same : no Jews are known to have settled in Flanders or Hainaut before the beginning of the fourteenth century, following the expulsion of Jews from France. This, too, is not surprising, given the tenor of the replies ; their pessimistic perspective on the licitness of taxing Jewish usury would surely have dampened the appeal of establishing new communities of Jewish moneylenders. Or perhaps the opportunity simply never presented itself ; after all, the Jews of England would not be expelled for another two decades, while their French counterparts would be driven from the kingdom only in 1306. If the countess's inquiry was meant to chart a course for welcoming Jews into her lands, it would be a road not taken.

Conclusion

Hewing closely to the text of the *Epistola* of Thomas Aquinas, scholars have universally followed him in assuming that the noblewoman who sent the initial inquiry was troubled by the governance of Jews within her lands. As our rereading has suggested, however, the letters that were sent to the Dominican, his Franciscan contemporary John Peckham, and an anonymous jurist may have instead been intended to help shape debates over whether to welcome Jews into the county of Flanders, and the fiscal and legal regime that might accordingly be established.

If this interpretation of the circumstances behind the composition of the dossier is correct, then there are no longer any compelling grounds on which to challenge the identification of the addressee as Margaret of Constantinople, countess of Flanders and Hainaut. Moreover, the importance of the dossier

¹¹⁹ *Layettes du Trésor des chartes*, p. 192-93 (n° 2083) : « ...nec aliquis in toto regno nostro poterit retinere Judeum alterius domini, et, ubicumque aliquis inveniet Judeum suum, ipsum licite poterit capere tanquam proprium servum, quantumcunque moram fecerit Judeus sub alterius dominio vel in alio regno ». Although the 1223 *stabilimentum* of Louis VIII (*ibid.*, p. 14 [n° 1610]) had already established the principle of non-retention (according to which no lord could welcome into his lands the Jews of another), the Ordonnance of Melun made non-compliance into a treasonous offense. It was therefore, in the words of W. C. Jordan, « the first piece of treason legislation in French history » ; see his « Jews, Regalian Rights, and the Constitution in Medieval France, » *AJS Review*, 23, 1998, p. 1-16. The extent of this regalian right would become a matter of considerable discord following a programme of confiscations under Philip III, and especially in the wake of the expulsion of Jews from France in 1306 ; see C. BALASSE, *1306: L'expulsion des Juifs du royaume de France*, Brussels, 2008, p. 47-53 and 205-30.

¹²⁰ Matthew Paris, *Chronica maiora*, t. 5, p. 441.

¹²¹ Guy left the fortress of Male on 12 April 1270, and met the king at Saint-Gilles-du-Gard on 20 May ; see V. GAILLARD, *Expédition de Gui de Dampierre à Tunis, en 1270*, Ghent, 1853, p. 3-5.

¹²² T. DE HEMPTINNE, « De landsheren van de zuidelijke gewesten : de gravinnen en graven van Vlaanderen/Henegouwen, Namen en Luxemburg, de hertog van Brabant, de prins-bisschop van Luik », in *Wi Florens - : De Hollandse graaf Floris V in de samenleving van de dertiende eeuw*, D. E. H. DE BOER, E. H. P. CORDFUNKE, & H. SARFATIJ ed., Utrecht, 1996, p. 72.

for the history of Jews in the Middle Ages becomes all the greater. The three texts do not merely reflect varying perspectives on the way in which Christian authorities ought to govern the Jews within their jurisdictions. They also shed light on the attention paid by contemporary rulers to the unstable position of European Jews in the years around 1270, as they weighed the pecuniary benefits of welcoming Jews against the moral dangers of moneylending.

EDITION

Before November 1274 (probably between January and September 1270)

REPLIES TO QUESTIONS PRESENTED BY AN ANONYMOUS NOBLEWOMAN (PRESUMABLY MARGARET OF CONSTANTINOPLE, COUNTESS OF FLANDERS AND HAINAUT) CONCERNING THE GOOD GOVERNMENT OF HER LANDS.

Sigla Codicum

To avoid confusion, the *sigla* correspond to those used by the Leonine Commission. Since the Brussels manuscript does not contain any works of Thomas Aquinas, it was not assigned a *siglum* by the Commission; it is here designated Br, and it forms the basis for the edition below. The merits of Br, as compared to the other surviving MSS, are discussed above, p. 9.

Br	Brussels, Bibliothèque royale de Belgique, MS 21838
Ny ⁵	Philadelphia, University of Pennsylvania, MS Codex 1271 (<i>olim</i> New York, Hispanic Society of America, MS B2716)
P ³⁵	Paris, Bibliothèque Mazarine, MS 1652
V	W. VERSCHOOTEN, « Margaretha van Frankrijk bestemmeling van Thomas van Aquino's 'Epistola ad ducissam Brabantiae' », unpublished doctoral dissertation, Louvain, Katholieke Universiteit, 1991, pp. 10-26

[§1] Questio est si liceat aliquo tempore et¹ quo exactionem facere in iudeos. Ad hoc respondeo quod est exactio² duplex : iusta et iniusta. Prima omni tempore licita est que pro³ communi expeditione et utilitati⁴ terre seu patrie fit⁵, ad quam omnes iudei ut christiani sunt compellendi, ut C. *de hereticis*, l. *curiales*⁶, et C. *de iudeis*, l. *iussio*^b, et ff. *de decurionibus*⁷, l. *generaliter*⁸, in fine^c. Secunda non est licita immo improbata omni tempore et omni iure et cuique, ut⁹ C. *de iudeis*, l. *nemo*^d, et C. *de sacrificiis*, l. *christianis*^{e10}. Et appello omnem¹¹ illam¹² illicitam¹³ que pro causis predictis, uidelicet publica utilitate patrie uel ex consuetudine debita, non est introducta.

[§2] Item queritur quibus restituenda sint¹⁴ extorta per exactionem ab eisdem. Ad hoc responsum est, quia si licita est exactio, nulli facienda est restitutio ; si uero illicita, illi a quo extortum¹⁵ est. Et demum super hoc fiat iusticia conquerenti¹⁶, si quis est.

[§3] Item queritur¹⁷ si liceat recipere exenia¹⁸ a iudeis. Respondeo quod, cum totum sit usura quod habent, nichil dono ab eis recipiendum est, quia uictime impiorum abominabiles sunt Deo, ut dicit Gregorius, XIII¹⁹, q. v, c. *scriptum est*²⁰. Item dicit Ecclesiasticus quod qui offert sacrificium ex substantia

¹ et *om.* Ny⁵

² exactio] ex exaccio Ny⁵

³ pro *om.* Ny⁵P³⁵

⁴ utilitati] utilitate Ny⁵P³⁵

⁵ terre seu patrie fit] terre seu patrie sit Ny⁵, fit terre uel patrie P³⁵

⁶ l. *curiales*] i. *curiales* Ny⁵

⁷ de *decurionibus*] *decurionibus* Ny⁵P³⁵

⁸ l. *generaliter*] i. *generaliter* Ny⁵

⁹ ut *om.* Br

¹⁰ *christianis*] omnem illiciti *add. sed del.* P³⁵

¹¹ omnem *iter.* P³⁵

¹² illam *om.* Ny⁵

¹³ illicitam] illicitum P³⁵

¹⁴ sint] sunt Ny⁵P³⁵

¹⁵ extortum] extorsum Ny⁵

¹⁶ conquerenti] de iudeo *add.* Ny⁵P³⁵

¹⁷ queritur Ny⁵P³⁵] *om.* Br

¹⁸ recipere exenia *inv.* Ny⁵P³⁵

¹⁹ XIII P³⁵] XIII Br, *om.* Ny⁵

²⁰ est *om.* Ny⁵

pauperis²¹ immolat filium in conspectu patris^g, unde scriptum est quod Dominus respexit ad Abel²² et ad²³ munera eius^h, non autem ad Caym. Ex quo colligitur quod non²⁴ offerens a²⁵ muneribus, sed munera ab offerente debent²⁶ placere, ut dicit Gregorius, III, q. vii, c.²⁷ *in grauibus*ⁱ.

[§4] Item²⁸ si peccant qui locant domos iudeis. Respondeo quod non, immo peccarent si non locarent²⁹ in necessitate positus. Nam cum³⁰ ecclesia eos sustineat, sine³¹ habitaculo esse non debent, ut *Extra, de iudeis, c. etsi iudeos*^j. Item³² in commertiis ad sustentationem eorum emendo et³³ uendendo eis communicare debemus³⁴, ut dicta l. *nemo*^k.

[§5] Item si liceat iudeis uendere panem³⁵, uinum, et cetera³⁶ necessaria et etiam superflua. Responsum est supra³⁷ proximo, quod sic³⁸. Nam alias ecclesia non uideretur eos sustinere, cum sine eis uiuere non possint. Haec tamen omnia quidam concedunt de iudeis iusta bona habentibus, qualis negotiando uel artes aliquas addiscendo et eas exercendo uel alias manualiter uel alio modo laborando habere possunt³⁹.

[§6] Item si iudeus⁴⁰ peccauerit⁴¹ uel deliquerit⁴², utrum sit pena⁴³ pecuniaria puniendus, et si sic, unde ueniet ei. Respondeo quod puniendus est, ut *Extra, de iudeis, c. postulasti*^l, et *de raptoribus*⁴⁴, c.⁴⁵ *In archiepiscopatu*^m. Et si queratur unde soluet, dico⁴⁶ de eo quod habet licite uel illicite, puta⁴⁷ ex usura. Ut tamen⁴⁸ illicitum, dominus qui pecuniam⁴⁹ recipit erogat illam pauperibus si nescitur cui dictus⁵⁰ iudeus ad restitutionem tenebatur. Si uero sciatur, illi fiat restitutio, ut *Extra, de iudeis, c. cum sit*ⁿ. Non enim pecuniam uel penam⁵¹ dominus potest retinere⁵², quia talibus penis creditores alii ipsius iudei sunt preferendi, ut⁵³ *C. penis fiscalibus*⁵⁴ *creditores preferri*⁵⁵, l. una^o. Si autem nichil habeat⁵⁶ iudeus, soluat debitum pena quod non potest compensare pecunia, ut ff.⁵⁷ *de penis*⁵⁸, l. prima^p.

[§7] Item queritur utrum⁵⁹ iudei sunt⁶⁰ distinguendi a christianis per aliquod signum distinctum. Respondeo quod sic, ut expressum est *Extra, de iudeis, c. in nonnullis*⁶¹, ut communionis indebite periculum euitetur⁶².

[§8] Item queritur⁶³ de restitutione de extortis a lombardis⁶⁴ et de locandis⁶⁵ domibus et de ipsis seruientibus. Respondeo quod extorta ab eis illicite eis sunt restituenda et licita⁶⁶ retinenda⁶⁷. Item quod⁶⁸

²¹ pauperis] pauperum Ny⁵P³⁵

²² Abel] Bel Ny⁵

²³ ad om. P³⁵

²⁴ non] est add. P³⁵

²⁵ a] ex Ny⁵P³⁵

²⁶ debent Ny⁵P³⁵] debet Br

²⁷ vii, c. *inv.* P³⁵

²⁸ Item] queritur add. P³⁵

²⁹ peccarent si non locarent] si non locarent peccarent Ny⁵P³⁵

³⁰ cum om. Ny⁵

³¹ sine] cum P³⁵

³² Item] si add. Br

³³ et] ut Ny⁵

³⁴ debemus] –imus Ny⁵

³⁵ iudeis uendere panem] uendere panem iudeis Ny⁵P³⁵

³⁶ cetera] certa P³⁵

³⁷ supra] superius Ny⁵P³⁵

³⁸ quod sic P³⁵] quia sic Br, quod sicut Ny⁵

³⁹ Haec...possunt om. Ny⁵P³⁵

⁴⁰ iudeus] uideris Ny⁵

⁴¹ peccauerit Ny⁵P³⁵] peccauit Br

⁴² deliquerit] delinquerit Ny⁵P³⁵

⁴³ pena] plena Ny⁵

⁴⁴ de raptoribus Ny⁵P³⁵] raptoribus Br

⁴⁵ c. *supplevi*

⁴⁶ dico] quod add. Ny⁵

⁴⁷ puta *iter.* Ny⁵

⁴⁸ Ut tamen] Ut cum Ny⁵, Unde tamen P³⁵

⁴⁹ pecuniam] pecunia Ny⁵, penam P³⁵

⁵⁰ dictus] dominus P³⁵

⁵¹ uel penam om. Ny⁵P³⁵

⁵² potest retinere *inv.* Ny⁵P³⁵

⁵³ ut om. P³⁵

⁵⁴ fiscalibus P³⁵] fiscalibus Br, pascalibus Ny⁵

⁵⁵ preferri] prefacti Ny⁵

⁵⁶ habeat om. Ny⁵

⁵⁷ ff.] sunt P³⁵

⁵⁸ de penis Ny⁵P³⁵] om. Br

⁵⁹ utrum] lucrum Ny⁵

⁶⁰ sunt] sint P³⁵

⁶¹ in nonnullis] non nullis Ny⁵, non in nullis P³⁵

⁶² euitetur] emittetur Ny⁵

⁶³ Item queritur] Idem queratur Ny⁵, Item queratur P³⁵

⁶⁴ lombardis] lanbardis P³⁵ a.c. lonbardis P³⁵ p.c.

⁶⁵ et de locandis om. Ny⁵

⁶⁶ licita] licite V

⁶⁷ retinenda] restituenda P³⁵ a.c.

⁶⁸ quod] si Br

domus eis possunt⁶⁹ locari ad opus suum et seruitium eorum⁷⁰, dummodo non exercent usuram. Nam si pro exercenda usura locetur domus⁷¹ eidem, uel aliquid⁷² accipiatur ab eis a domino ut in terra ipsius morentur⁷³, usura⁷⁴ est uel⁷⁵ rapina, seu particeps est dominus usure, iuxta illud : Consentientes et agentes⁷⁶ pari pena puniuntur⁷⁷, ut *Extra, de sententia excommunicationis, c.*⁷⁸ *quante*^f. Item si⁷⁹ dominus terre ex officii debito omnem immunditiam et feditatem de finibus rei publice sibi commisse eliminare teneatur⁸⁰, ut⁸¹ ff. *de officio presidis, l. congruit*^s, quia⁸² tales Deo et mundo abominabiles in terra sua sustinere non debet pro aliquo commodo temporali.

[§9] Item queritur⁸³ si liceat domino terre⁸⁴ facere exactionem uel precaria⁸⁵ in subditos christianos propter nuptias liberorum suorum uel propter militiam⁸⁶ eorumdem uel propter nuptias fratris sui uel propter militiam⁸⁷ eiusdem. Respondeo quod nullo istorum casuum⁸⁸ hoc potest, uidelicet exigere uiolenter, nisi de consuetudine hoc habeatur⁸⁹. Ceterum precibus, non tamen uiolentiis⁹⁰, subsidium potest petere gratuitum, ut *C. de auro coronario*⁹¹, l. una^t, et *C. de oblatione uotorum*⁹³, l. una^u. Non enim pro priuata utilitate sua dominus sed pro communi dumtaxat angariare debet subditos⁹⁴.

[§10] Item queritur⁹⁵ si liceat domino⁹⁶ terre communia pascua terre dare ad censum. Respondeo quod si⁹⁷ pascua illa⁹⁸ certum quid reddant domino redditum illum potest ascensare⁹⁹, alias si fuerit libera ab antiquo non, ut *C.*¹⁰⁰ *de pascuis publicis, l. i*^v.

[§11] Item queritur¹⁰¹ si liceat uendere iusticiariis¹⁰² eorum officia¹⁰³ et accipere ab eis censum donec tantum¹⁰⁴ acceperunt¹⁰⁵ a subditis. Respondeo quod nullo modo hoc facere potest, immo mortaliter peccat hoc faciendo¹⁰⁶, cum nichil aliud¹⁰⁷ sit¹⁰⁸ hoc facere quam subditos¹⁰⁹ suos in predam¹¹⁰ ponere taliter ementium iusticias supradictas et omni iniusticie uiam¹¹¹ et etiam criminibus aperire, ut *Auth.*¹¹², *ut iudices sine quoquo*¹¹³ *suffragio*^w, per totam quasi¹¹⁴ constitutionem.

⁶⁹ eis possunt] *iter. sed del.* P³⁵

⁷⁰ seruitium eorum] seruientium suorum Ny⁵P³⁵

⁷¹ locetur domus *inv.* P³⁵

⁷² aliquid] aliquod Ny⁵

⁷³ morentur] morantur Ny⁵

⁷⁴ usura] non *add.* Ny⁵

⁷⁵ uel] *om.* Ny⁵

⁷⁶ Consentientes et agentes] *inv.* Ny⁵P³⁵

⁷⁷ puniuntur] –entur Ny⁵

⁷⁸ c. Ny⁵P³⁵] *om.* Br

⁷⁹ si] cum Ny⁵P³⁵

⁸⁰ teneatur Ny⁵P³⁵] –antur Br

⁸¹ ut] in P³⁵

⁸² quia *om.* Ny⁵P³⁵

⁸³ queritur *om.* Ny⁵P³⁵

⁸⁴ terre] temporali Ny⁵P³⁵ (*Cf.* Jean Peckham, *Epistola...ad Comitissam Flandrie*, A. EMILI éd., ll. 68-69)

⁸⁵ precaria] –am Ny⁵P³⁵

⁸⁶ militiam] maliciam Ny⁵

⁸⁷ militiam] nuptias Ny⁵P³⁵

⁸⁸ nullo istorum casuum] neutro casu Ny⁵P³⁵

⁸⁹ habeatur] habeat Ny⁵P³⁵

⁹⁰ uiolentiis] uiolenter Ny⁵

⁹¹ coronario] conario Ny⁵P³⁵

⁹² C. *om.* P³⁵

⁹³ l. una...uotorum] *om.* Ny⁵

⁹⁴ subditos] subiectos Ny⁵P³⁵

⁹⁵ queritur *om.* Ny⁵P³⁵

⁹⁶ domino *om.* Ny⁵

⁹⁷ quod si] quod non Ny⁵

⁹⁸ pascua illa] *iter. sed del.* P³⁵

⁹⁹ potest ascensare] poterit Ny⁵, poterit domino accensire P³⁵

¹⁰⁰ C.] capitulo Ny⁵

¹⁰¹ queritur *om.* Ny⁵P³⁵

¹⁰² uendere iusticiariis *inv.* Ny⁵

¹⁰³ eorum officia *inv.* Ny⁵P³⁵

¹⁰⁴ censum...tantum *em.*] censum sb' donec censum sb' Br, centum sb' donec centum sb' Ny⁵, centum lb' donec centum lb' P³⁵ (*Vide supra*, p. 10)

¹⁰⁵ acceperunt] –erint P³⁵

¹⁰⁶ faciendo] faciando Ny⁵

¹⁰⁷ aliud *om.* Ny⁵

¹⁰⁸ sit] sic P³⁵

¹⁰⁹ subditos] subiectos Ny⁵P³⁵

¹¹⁰ predam] preditam P³⁵

¹¹¹ uiam *om.* Ny⁵

¹¹² Auth.] in autentica Ny⁵P³⁵

¹¹³ ut iudices sine quoquo] deinde sine quo Ny⁵

¹¹⁴ quasi] quare P³⁵

[§ 12] Item queritur¹¹⁵ si iusticiario¹¹⁶ ultro oblatum aliquid fuerit¹¹⁷ aut¹¹⁸ acceptum¹¹⁹ ab eodem, utrum teneatur ad restitutionem. Respondeo quod¹²⁰ recipit a sibi coniuncto¹²¹ consanguinitate uel¹²² affinitate, et hoc licite potest cum ibi cesset omnis suspicio, ut ff. *ad legem Iuliam*¹²³ *repetundarum*¹²⁴, l. prima^x; aut ab alio¹²⁵ non coniuncto¹²⁶ et sibi subdito, et sic¹²⁷ non potest aliquid accipere, cum muneribus talibus cito uioletur¹²⁸ iusticia nisi esculentum et postulentum¹²⁹ quod¹³⁰ in proximo prodigatur et quod ad munerum¹³¹ qualitatem minime producatur, quod¹³² si ultra recipit¹³³ ad restitutionem tenetur et ad penam etiam domino¹³⁴ qui illum deputauit iusticie exercende, ut *C. de contractibus iudicum*, l. una^y et ff. *ad legem Iuliam repetundarum*¹³⁵, l. i et ii^z¹³⁶.

^a Cod. 1.5.7

^b Cod. 1.9.5

^c Dig. 50.2.3.3

^d Cod. 1.9.9

^e Cod. 1.11.6

^f C. 14 q. 5 c. 11

^g Sir. 34:24

^h Gen. 4:4

ⁱ C. 3 q. 7 c. 5

^j X 5.6.13

^k Cod. 1.9.9

^l X 5.6.14

^m X 5.17.4

ⁿ X 5.6.16

^o Cod. 10.7.1

^p Dig. 48.19.1

^q X 5.6.15

^r X 5.39.47

^s Dig. 1.18.13

^t Cod. 10.76.1

^u Cod. 12.48.1

^v Cod. 11.61 (60).1

^w Auth. 8 (= Nov. 8)

^x Dig. 48.11.1; *vide supra*, p. 14, n. 59.

^y Cod. 1.53.1

^z Dig. 48.11.1-2

¹¹⁵ queritur *om.* Ny⁵P³⁵

¹¹⁶ iusticiario] iustitiatio Ny⁵

¹¹⁷ aliquid fuerit *inv.* Ny⁵P³⁵

¹¹⁸ aut] et Ny⁵P³⁵

¹¹⁹ acceptum Ny⁵P³⁵] accep Br

¹²⁰ quod] aut *add.* Ny⁵P³⁵

¹²¹ coniuncto] coniunctio Ny⁵

¹²² uel] aut P³⁵

¹²³ Iuliam] Iulia Ny⁵

¹²⁴ repetundarum P³⁵] -endarum BrNy⁵

¹²⁵ aut ab alio] aut ab alio Ny⁵, aliter ab alio P³⁵

¹²⁶ coniuncto] coniunctio Ny⁵

¹²⁷ sic *om.* Ny⁵P³⁵

¹²⁸ uioletur] uiolenter Ny⁵

¹²⁹ esculentum et postulentum] osculentum et peculentum Ny⁵, esculentum et poculentum P³⁵

¹³⁰ quod Ny⁵P³⁵] *iter.* Br

¹³¹ munerum] minimam Ny⁵

¹³² quod] quia P³⁵

¹³³ recipit] receperit Ny⁵P³⁵

¹³⁴ domino] a domino Ny⁵P³⁵

¹³⁵ repetundarum *em.*] -endarum Br

¹³⁶ exercende...l. i. et ii] *om.* Ny⁵P³⁵