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


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 manuscripts. 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.

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. Most of the discussion of the Epistola, however, has focused instead

I am grateful to Youna Masset, Cécile Morrisson, 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.

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

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); and the other in a manuscript from the mid-fifteenth century, now in the Bibliothèque Mazarine (MS 1652). 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). 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 accordingly. Yet, despite the wealth of recent scholarship, much uncertainty and
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) 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 colleague. Other recent analyses have complicated the picture still further.

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.


9 W. VERSCHOOTEN, «Margaretha van Frankrijk bestemmelinge 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.


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 « illustri domina » and « excellentia vestra » and describes as an « illustri et religiosa domina », with a « devotam dilectionem » for his Dominican brethren. 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).

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 Judaeorum (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 text.

The second text in the dossier is likewise framed as a letter, in response to the queries of an unnamed « illustri domina » whom the Franciscan author fulsomely praises at the outset (ll. 1, 3-15). 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 otherwise. 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 « illustri 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 Conciliorum 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 oted 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 Frankrij… », 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 motoio della sua completetza, 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?


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..
quaeestio disputata, as some have suggested, or a record of a quodlibet, as has also been proposed\(^{20}\)? 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 law\(^{21}\). And although the indisputable legal training of the anonymous author of the quaeestio 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 theologians\(^{22}\).

Nor does the text bear the characteristic features of a juridical quaeestio disputata, which generally begins with a rubrique 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 questions\(^{24}\). But our text is missing so many of these elements that it seems quite a stretch to attribute it to the category of quaeestiones 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 law\(^{26}\). 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 »


\(^{22}\) 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 quaeestiones disputatae, those relying almost exclusively on civil law to address a decidedly canonistic topic are a problematic category, as discussed by G. FRANSEN, « Uturumque ius dans les Questiones Andegavenses », in Études d’histoire du droit canonique dédiées à Gabriel le Bras, t. 2, Paris, 1965, p. 900.

\(^{23}\) WEIERS, 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.


\(^{25}\) See, for example, Oldrado DA PONTE, [Consilia et quaeestiones], 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).

Collectively, these varied contexts underscore the fact that our anonymous *quaestio* likely does not represent the written record of an oral disputatio, 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 authorship.

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 Gaeta. 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 at 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

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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 XIIe siècle. La « Summula Magistri Conradi ». Les sommes « Quia non pigris » et « Decime dande sunt »,* J.-P. Renard ed., 2 vols., Louvain-la-Neuve, 1989 (Lex Spiritus Vitae, 6), p. 230-35, §8.1. This differences 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 answers, 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.

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-Victor\(^30\). The first quire contains Aquinas’s commentary on Mark along with Jean Gerson’s *Doctrina pro puere*, 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 it was a single text, with no sign of a break between them\(^31\).

Both of these manuscripts fall within the β-family of texts of Aquinas’s *Epistola*, as classified by Dondaine\(^32\). 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-1280s\(^33\). However, a new study by Andrea Aiello and Robert Wielockx has convincingly established that the majority of the manuscript was compiled almost without

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\(^{30}\) In the Leonine edition of the works of Thomas Aquinas, this manuscript is designated P\(^35\). 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 Iudaorum…* », 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 Isamo-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 ÜYTVEN, « 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.
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. ».

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*. 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 confessors. 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

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34 A. Aiello & R. Wielockx, *Goffredo di Fontaines, aspirante baccelliere sentenzionario. Le autografo ‘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 (*Usuariers 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. According to Dondaine’s reconstruction, in copying a passage that presumably read «…vel mutuo ab eis accipere censum donec tantum recipiant…>, an early scribe changed «censum» 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-tradition. 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 expunged.

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 censum sb’ donec censum 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 censum donec tantum acceperint…». 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’».

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 a-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 writings. 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 matters? 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 regard. Moreover, setting aside the problem of the addressee (the topic of the next section), internal evidence from the text itself is similarly unrevealing.

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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 placet ut super his requireretis 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 fratibus 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. WEIJERS, Terminologie des universités au XIIIe 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).
50 John Peckham, Tractatus contra fratrem Robertum Kilwardby, F. TOCCO ed., in Fratris Johannis Pecham 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 oblatis52. 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 precepiisse) » (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


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 epistolarium 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 Pecham », 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 manscrutta... », 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 manscrutta... », 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 1270\(^57\). 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 topic\(^58\). 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 text\(^59\). 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 1260s\(^60\). While it is true (as Elsa Marmursztajn 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 question\(^61\). The library of 330 volumes that he bequeathed to the Sorbonne likewise reflects considerable interest in canon law but

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\(^{57}\) 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 is 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, Venise, 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. Marmursztajn, « Une contribution au débat scolastique sur la dîme au XIII\textsuperscript{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\textsuperscript{e} et VI\textsuperscript{e} Quodlibets de Gérard d’Abbeville », *Mélanges d’archéologie et d’histoire*, 58, 1941, p. 178-205.
none whatsoever in its civil counterpart\textsuperscript{62}. Furthermore, the \textit{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 « Die quod… »; and second, a fondness for tripartite or quadripartite enumerations of the arguments in favour of his theses\textsuperscript{63}. There is little reason, then, to accept this attribution.

Verschooten, in turn, argued that both the second \textit{Epistola} and the \textit{quaestio} were in fact written by the same author, and he concluded in favour of John Peckham\textsuperscript{64}. 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 \textit{quaestio}\textsuperscript{65}. Nor should we give much weight to the marginal note in notebook of Godfrey of Fontaines that attributes the extract from the \textit{quaestio} to « fr. io. »; this almost certainly reflects the early conflation of the \textit{quaestio} with the \textit{Epistola} of Peckham\textsuperscript{66}. Moreover, the stylistic indicators that Verschooten uses to establish that Peckham wrote the second \textit{Epistola} appear far less frequently (or not at all) in the \textit{quaestio}\textsuperscript{67}. The very arguments that Verschooten adduces to support his hypothesis of shared authorship instead undermine it\textsuperscript{68}.

With these two hypotheses therefore dismissed, what conclusions can we in fact draw about the author of the \textit{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


\textsuperscript{63} A. Teetaert, « Quatre questions inédites de Gérard d’Abbeville », Archivio italiano per la storia della pietà, 1, 1951, p. 113-114.

\textsuperscript{64} For a summary of his argument, see Verschooten, « Margaretha van Frankrijk… », p. 198-200.


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

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

\textsuperscript{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.
length. Among contemporary Franciscan theologians in Paris, neither John of Wales nor Walter of Bruges evinces any knowledge of Roman law in their extant writings. 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*. 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 1272: John of Ghent (d. 1316), later a canon of Notre-Dame; *John de Curciaco*; John of Blanot; or John of Estoutville; 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 Theology. 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).


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. Peres, *La Faculté de droit dans l’ancienne Université de Paris, (1160-1793)*, Paris, 1890.


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 : juriconsultes du XIIe 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 Estoutville (dép. Seine-Maritime), since he appears here as « magister Johannes d’Estouteville ».

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 matter. 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)

Anonymous Quaestio

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

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

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

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

« 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)

Anonymous Quaestio

« Item si peccant qui locant domos iudeis » (§4)

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

« Item, si liceat domino terrae communia pascua terraie 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 questionnaire\(^7\). 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 fourteenth\(^8\). Although most of the manuscript evidence follows the Brabantine tradition, prominent early editors of Aquinas’s *Epistola*—such as Échard\(^7\) and De Rossi\(^8\)—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 Brabant\(^8\). 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 1268\(^8\). 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 addressed\(^8\). He noted above all the parallels between the questions asked of the Dominican and the testament of her husband, which called


\(^{78}\) 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.


\(^{80}\) B.-M. DE ROSSI, *De gestis, et scriptis, ac doctrina Sancti Thomae Aquinatis dissertationes criticæ, 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 corpus, 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 1263-65. 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 1265-66.

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.
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 Paris. 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 officials. 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 potencia. 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 Brabant? Margaret of France, daughter of Saint Louis, married John I of Brabant in February 1270 and died in late 1271 or early 1272. 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 matters; 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 « excellentina 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.ccnml.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.
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 dossier? 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 absence. He was certainly in Brabant on 16 May of that year, and then again on 11 November. 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 one.

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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’Aquint*, 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 1983. 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 particular. 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 arisen. Many subsequent scholars have accordingly accepted Boyle’s conclusions.

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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 Judaerorum... », 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.

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 century. 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 Mons. 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 1306. In an anonymous Hebrew narrative concerning a supposed expulsion and massacre of French Jews in 1007, the protagonist—a certain Jacob ben Yequietl 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 Flanders. 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.


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 century. But none of this suggests that there was much of a Jewish community within the counties (if at all). Why, then, would Countess Margaret have sought the advice of the Parisian masters?

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 be. Reviewing all of these theories three decades ago, a distinguished Dominican scholar lamented that « the problem had not yet found a decisive solution », 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

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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 (Queritisigitur 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 iniurii 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...»).

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 conciere 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 follows

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 terms.

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 forsitam 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 iuctum 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 quaeestio 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 lands. 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 lands. For the afflicted Jews, this surely brought back memories of similar royal measures taken two decades earlier, in the context of the preceding crusade.

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 kingdom.

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

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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 LAURIERE ed., t. 1, Paris, 1723, p. 75 (§32).
another. In England, Henry III had previously forbidden the Jews to leave his kingdom, their pleas notwithstanding. 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 king. 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 power.

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

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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 maior, 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.

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
Ny5  Philadelphia, University of Pennsylvania, MS Codex 1271 (olim New York, Hispanic Society of America, MS B2716)
P35  Paris, Bibliothèque Mazarine, MS 1652

[§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 sit, ad quam omnes iudei ut christiani sunt compellandi, ut C. de hereticis, l. curiales6, et C. de iudeis, l. iussio7, et ff. de decurionibus3, l. generaliter8, in fine9. Secunda non est licita immo improbata omni tempore et omni iure et cuique, ut10 C. de iudeis, l. nemo, et C. de sacrificiis, l. christianis11. Et appello omnem12 illictam13 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 iusti conquerenti16, si quis est.

[§3] Item queritur17 si liceat recipere exenia18 a iudeis. Respondeo quod, cum toto sit usura quod habent, nichil dono ab eis recipiendum est, quia uitime impiorum abhominabiles sunt Deo, ut dicit Gregorius, XIII19, q. v. c. scriptum est20. Item dicit Ecclesiasticus quod qui offert sacrificium ex substantia

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1 et om. Ny5
2 exactio] ex exaccio Ny5
3 pro om. Ny5P35
4 utilitati] utilize 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 illictam] illicitum P35
13 sint] sunt Ny5P35
15 extorsum Ny5
16 conquerenti] de iudeo add. Ny5P35
17 queritur Ny5P15] om. Br
18 recipere exenia inv. Ny5P35
20 est om. Ny5
pauperis\textsuperscript{21} immolat filium in conspectu patris\textsuperscript{8}, unde scriptum est quod Dominus respetit ad Abél\textsuperscript{22} et ad\textsuperscript{23} munera eius\textsuperscript{3}, non autem ad Caym. Ex quo colligitur quod non\textsuperscript{24} offerens a\textsuperscript{25} muneribus, sed munera ab offerente debent\textsuperscript{26} placere, ut dicit Gregorius, III, q. vii, c.\textsuperscript{27} in graubus\textsuperscript{4}.

[§4] Item\textsuperscript{28} si peccant qui locant domos iudeis. Respondeo quod non, immo peccarent si non locarent\textsuperscript{29} in necessitate positis. Nam cum\textsuperscript{30} ecclesia eos sustineat, sine\textsuperscript{31} habitaculo esse non debent, ut Extra, de iudeis, c. \textit{eti iudeos}\textsuperscript{1}. Item\textsuperscript{32} in commertiis ad sustentationem eorum emendo et\textsuperscript{33} uendendo eis communicare debemus\textsuperscript{34}, ut dicta l. \textit{nemo}\textsuperscript{k}.

[§5] Item si liceat iudeis uendere panem\textsuperscript{35}, uinum, et cetera\textsuperscript{36} necessaria et etiam superflua. Responsorum est supra\textsuperscript{37} proximo, quod sic\textsuperscript{38}. Nam alias ecclesia non uiderur eos sustineere, cum sine eiusmod non possint. Hae c tamen omnia quidam concedunt de iudeis iusta bona habentibus, quales negotianti uel artes aliquas addiscendo et eas exercendo uel alias manualter uel alio modo laborando habere possunt\textsuperscript{39}.

[§6] Item si iudeus\textsuperscript{40} peccauerit\textsuperscript{41} uel deliquerit\textsuperscript{42}, utrum sit pena\textsuperscript{43} pecuniaria puniendus, et si sic, unde ueniet ei. Respondeo quod puniendus est, ut Extra, de iudeis, c. \textit{postulas}\textsuperscript{2}, et de raptoribus\textsuperscript{44}, c.\textsuperscript{45} \textit{in archiepiscopatu}. Et si queratur unde soluet, dico\textsuperscript{46} de eo quod habet licite uel illicite, puta\textsuperscript{47} ex usura. Ut tamen\textsuperscript{48} illicitum, dominus qui pecuniam\textsuperscript{49} recipit erogat illum pauperibus si nescitur cui dictus\textsuperscript{50} iudeus ad restitutiam teneatur. Si uero sciat, illi fiat restitutio, ut Extra, de iudeis, c. \textit{cum sit}. Non enim pecuniam uel penam\textsuperscript{51} dominus potest retinere\textsuperscript{52}, quia talibus penis creditorum alii ipsius iudei sunt preferendi, ut\textsuperscript{53} C. \textit{penis fiscalibus}\textsuperscript{8} creditorum \textit{preferrit}\textsuperscript{55}, l. una\textsuperscript{o}. Si autem nichil habeat\textsuperscript{46} iudeus, solut debitum pena quod non potest compensare pecunia, ut \textit{ff.}\textsuperscript{57} de \textit{penis}\textsuperscript{58}, l. \textit{prima}\textsuperscript{p}.

[§7] Item queritur utrum\textsuperscript{59} iudei sunt\textsuperscript{60} distinguendi a christianis per aliquod signum distinctum. Respondeo quod sic, ut expressum est Extra, de iudeis, c. \textit{in nonnullis}\textsuperscript{61}, ut communisionis indebite periculum eutetur\textsuperscript{62}.

[§8] Item queritur\textsuperscript{63} de restitutione de extortis a lombardis\textsuperscript{64} et de locandis\textsuperscript{65} domibus et de ipsis seruentibus. Respondeo quod extorta ab eis illicite eis sunt restituenda et licita\textsuperscript{66} retinenda\textsuperscript{67}. Item quod\textsuperscript{68}
Epistola...ad Comitissam Flandrie,

Item queritur\textsuperscript{83} si liceat domino terre\textsuperscript{84} facere exactionem uel precaria\textsuperscript{85} in subditos christianos propter nuptias liberorum suorum uel propter militiam\textsuperscript{86} eorum dumtaxat angariare debet. Item queritur\textsuperscript{87} domino terre ex officio debito omnem immunitatem et feditatem de finibus rei publice sibi commisso eliminare teneatur, ut Extra, de sententia excommunicationis, c.\textsuperscript{78} quarte. Item si dominus terre ex officio debito omnem immunitatem et feditatem de finibus rei publice sibi commisso eliminare teneatur, ut\textsuperscript{88} ff. de officio presidis, l. congruit, quia\textsuperscript{92} tales Deo et mundo abhominabiles in terra sua sustinere non debet pro aliquo commodo temporali.

[§9] Item queritur\textsuperscript{89} si liceat domino terre\textsuperscript{90} facere exactionem uel precaria\textsuperscript{91} in subditos christianos propter nuptias liberorum suorum uel propter militiam\textsuperscript{92} eorum dumtaxat angariare debet. Item queritur\textsuperscript{93} domino terre ex officio debito omnem immunitatem et feditatem de finibus rei publice sibi commisso eliminare teneatur, ut Extra, de sententia excommunicationis, c.\textsuperscript{78} quarte. Item si dominus terre ex officio debito omnem immunitatem et feditatem de finibus rei publice sibi commisso eliminare teneatur, ut\textsuperscript{94} ff. de officio presidis, l. congruit, quia\textsuperscript{95} tales Deo et mundo abhominabiles in terra sua sustinere non debet pro aliquo commodo temporali.

[§10] Item queritur\textsuperscript{96} si liceat domino terre\textsuperscript{97} facere exactionem uel precaria\textsuperscript{98} in subditos christianos propter nuptias liberorum suorum uel propter militiam\textsuperscript{99} eorum dumtaxat angariare debet. Item queritur\textsuperscript{100} si liceat domino terre\textsuperscript{101} facere exactionem uel precaria\textsuperscript{102} in subditos christianos propter nuptias liberorum suorum uel propter militiam\textsuperscript{103} eorum dumtaxat angariare debet. Item queritur\textsuperscript{104} si liceat domino terre\textsuperscript{105} facere exactionem uel precaria\textsuperscript{106} in subditos christianos propter nuptias liberorum suorum uel propter militiam\textsuperscript{107} eorum dumtaxat angariare debet. Item queritur\textsuperscript{108} si liceat domino terre\textsuperscript{109} facere exactionem uel precaria\textsuperscript{110} in subditos christianos propter nuptias liberorum suorum uel propter militiam\textsuperscript{111} eorum dumtaxat angariare debet. Item queritur\textsuperscript{112} si liceat domino terre\textsuperscript{113} facere exactionem uel precaria\textsuperscript{114} in subditos christianos propter nuptias liberorum suorum uel propter militiam\textsuperscript{115} eorum dumtaxat angariare debet. Item queritur\textsuperscript{116} si liceat domino terre\textsuperscript{117} facere exactionem uel precaria\textsuperscript{118} in subditos christianos propter nuptias liberorum suorum uel propter militiam\textsuperscript{119} eorum dumtaxat angariare debet. Item queritur\textsuperscript{120} si liceat domino terre\textsuperscript{121} facere exactionem uel precaria\textsuperscript{122} in subditos christianos propter nuptias liberorum suorum uel propter militiam\textsuperscript{123} eorum dumtaxat angariare debet.
§12 Item queritur\textsuperscript{115} si iusticiario\textsuperscript{116} ultro oblatum aliquid fuerit\textsuperscript{117} aut\textsuperscript{118} acceptum\textsuperscript{119} ab eodem, utrum teneatur ad restitutionem. Respondeo quod\textsuperscript{120} recipit a sibi coniuncto\textsuperscript{121} consanguinitate uel\textsuperscript{122} affinitate, et hoc licite potest cum ibi cessest omnis suspicio, ut ff. \textit{ad legem Iuliam}\textsuperscript{123} repetundarum\textsuperscript{124}, l. prima\textsuperscript{a}; aut ab alio\textsuperscript{125} non coniuncto\textsuperscript{126} et sibi subdito, et sic\textsuperscript{127} non potest aliquid accipere, cum muneribus talibus cito uioleretur\textsuperscript{128} justicia nisi esculentum et postulentum\textsuperscript{129} quod\textsuperscript{130} in proximo prodigatur et quod ad munerum\textsuperscript{131} qualitatem minime producatur, quod\textsuperscript{132} si ultra recipserit\textsuperscript{133} ad restitutionem tenetur et ad penam etiam domino\textsuperscript{134} qui illum deputauit iusticie exercende, ut C. \textit{de contractibus iudicum}, l. una\textsuperscript{2} et ff. \textit{ad legem Iuliam repetundarum}\textsuperscript{135}, l. i et ii\textsuperscript{136}.

\textsuperscript{a} Cod. 1.5.7
\textsuperscript{b} Cod. 1.9.5
\textsuperscript{c} Dig. 50.2.3.3
\textsuperscript{d} Cod. 1.9.9
\textsuperscript{e} Cod. 1.11.6
\textsuperscript{f} C.14 q.5 c.11
\textsuperscript{g} Sir. 34:24
\textsuperscript{h} Gen. 4:4
\textsuperscript{i} C.3 q.7 c.5
\textsuperscript{j} X 5.6.13
\textsuperscript{k} Cod. 1.9.9
\textsuperscript{l} X 5.6.14
\textsuperscript{m} X 5.17.4
\textsuperscript{n} X 5.6.16
\textsuperscript{o} Cod. 10.7.1
\textsuperscript{p} Dig. 48.19.1
\textsuperscript{q} X 5.6.15
\textsuperscript{r} X 5.39.47
\textsuperscript{s} Dig. 1.18.13
\textsuperscript{t} Cod. 10.76.1
\textsuperscript{u} Cod. 12.48.1
\textsuperscript{v} Cod. 11.61 (60).1
\textsuperscript{w} Auth. 8 (= Nov. 8)
\textsuperscript{x} Dig. 48.11.1; \textit{vide supra}, p. 14, n. 59.
\textsuperscript{y} Cod. 1.53.1
\textsuperscript{z} Dig. 48.11.1-2

\textsuperscript{115} queritur om. Ny\textsuperscript{5}P\textsuperscript{35}
\textsuperscript{116} iusticiario] iustitiatio Ny\textsuperscript{5}
\textsuperscript{117} aliquid fuerit inv. Ny\textsuperscript{5}P\textsuperscript{35}
\textsuperscript{118} aut] et Ny\textsuperscript{5}P\textsuperscript{35}
\textsuperscript{119} acceptum Ny\textsuperscript{5}P\textsuperscript{35} accep Br
\textsuperscript{120} quod] aut add. Ny\textsuperscript{5}P\textsuperscript{35}
\textsuperscript{121} coniuncto] coniunctio Ny\textsuperscript{5}
\textsuperscript{122} uel] aut P\textsuperscript{35}
\textsuperscript{123} Iuliam] Iulia Ny\textsuperscript{5}
\textsuperscript{124} repetundarum P\textsuperscript{35} -endarum BrNy\textsuperscript{5}
\textsuperscript{125} aut ab alio] aut ab alio Ny\textsuperscript{5}, aliter ab alio P\textsuperscript{35}
\textsuperscript{126} coniuncto] coniunctio Ny\textsuperscript{5}
\textsuperscript{127} sic om. Ny\textsuperscript{5}P\textsuperscript{35}
\textsuperscript{128} uioletur] uiolenter Ny\textsuperscript{5}
\textsuperscript{129} esculentum et postulentum] osculentum et peculentum Ny\textsuperscript{5}, esculentum et pociunculum P\textsuperscript{35}
\textsuperscript{130} quod Ny\textsuperscript{5}P\textsuperscript{35} iter. Br
\textsuperscript{131} munenum] minimam Ny\textsuperscript{5}
\textsuperscript{132} quod] quia P\textsuperscript{35}
\textsuperscript{133} recipiter] receperit Ny\textsuperscript{5}P\textsuperscript{35}
\textsuperscript{134} domino] a domino Ny\textsuperscript{5}P\textsuperscript{15}
\textsuperscript{135} repetundarum em.] -endarum Br
\textsuperscript{136} exercende...l. i. et ii] om. Ny\textsuperscript{5}P\textsuperscript{35}