

# Malleus Maleficarum

VOLUME I: THE LATIN TEXT

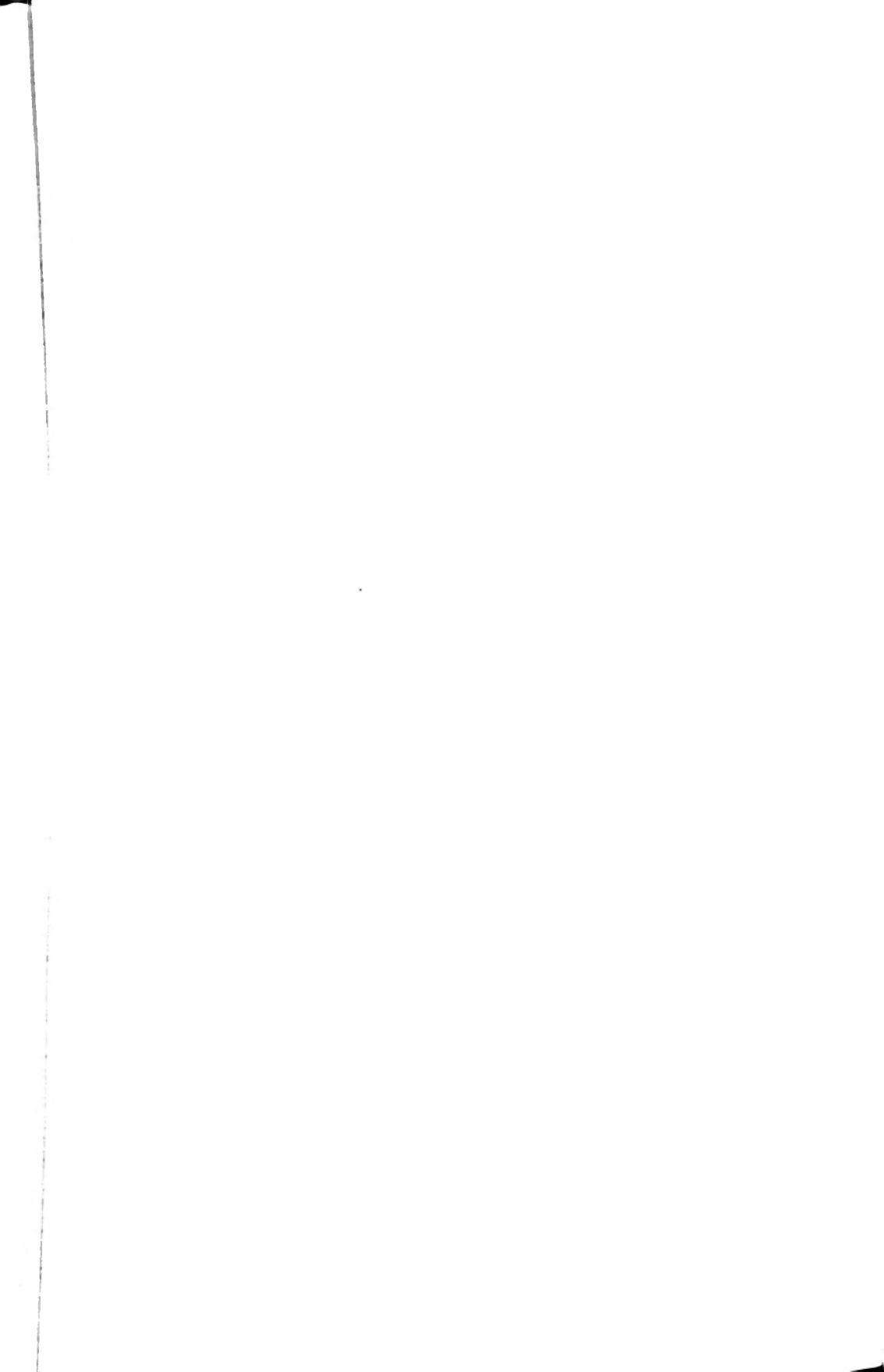
Christopher S. Mackay

## Prima questio in ordine

**A**rum asserere malefi-  
cos esse sit a deo catho-  
licum q̄ eius oppositū  
pertinacit̄ defendere oī-  
no sit hereticum. Et ar-  
guitur q̄ non sit catho-  
licum quicq̄ de his asserere .xxvi. q. v.  
epi. Qui credit posse fieri aliquā creatu-  
ram aut in melius deteriusve transmu-  
tari, aut in aliam speciem vel similitudi-  
nem transformari q̄ ab ipso omniū cre-  
atore: pagano et infideli deterior. Talia  
autēz cū referunt fieri a maleficis: ideo  
talia asserere non est catholicum sed he-  
reticum. Præterea nullus effectus ma-  
leficialis est in mundo. Probat. Quia  
si esset opatione demonu fieret. Sed as-  
serere q̄ demones possint corpales tras-  
mutationes aut impedire aut efficere nō  
videtur catholicuz, quia sic p̄m̄ere pos-  
sunt in mūdū. Præterea omnis al-  
teriusmoda circa infirmitates

demones non opantur nisi p̄ arte  
ars non potest dare veram formā  
in c. de mineris dicit. Sciunt a-  
lchimie species transmutari nō  
Ergo et demones p̄ artem ope-  
ras qualitates sanitatis aut in-  
inducere nō possunt. Sed si  
habent aliquaz aliam causam  
absq̄ ope demonū et maleficis  
contra in decret. .xxiiij. q. i.  
as atq̄ maleficas artes nō  
to iusto dei iudicio p̄mittere  
p̄parante t̄c. loquit de imp-  
leficiali quo ad actus con-  
currere. scz maleficam. d-  
p̄missionem. Præterea si  
test in id qd̄ est minus h-  
demonis est fortior virt-  
rl. Non est potestas sup-  
leat comparari q̄ creat-  
ti. Præterea si  
sum t̄c. Præterea si  
probatio verital pate-  
re p̄mittit sancti

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# MALLEUS MALEFICARUM

## Volume I

The *Malleus Maleficarum* is the most famous early modern text on witches and witch hunting. Often known as the 'Hammer of Witches', the *Malleus* consists of a demonstration of the existence of witchcraft and a discussion of both the practice of witchcraft and cures for the injuries caused by it, together with a recommended method of exterminating it judicially. It was republished twenty-six times in the early modern period, and remained a standard text on witchcraft for centuries. Yet this key text has never before been available in a reliable modern scholarly edition. This fully annotated edition is based on the first edition of 1486–7 and presents the Latin text together with a full textual apparatus. The extensive introduction discusses the authorship, method of composition, and intellectual background of the work. The second volume provides the only accurate English translation available, together with detailed explanatory notes. This important edition makes this vital text accessible to historians of the period and offers extraordinary insights into the attitudes and prejudices inspired by the fear of witches.

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in illam malitiam deo continuo reuo-  
 cante. **S**icut ille manet obduratus ad  
 puniendum nos obdurati ad blandien-  
 tem. Et si amio contra tecum tamen il-  
 le contra te requiritur. nos contra pro-  
 bria morientur. quem per similitudo sup-  
 omnes malefice rebonefices offendit.  
**S**olutiones argumentorum etiam de-  
 clarant veritatem per comparationem  
**A**d argumenta. Ad primum  
 patet responsio per ea que in  
 principio corporis questionis  
 tacta sunt. Unde videlicet ali-  
 quod peccatum debet censeri grauius  
 altero. et quomodo peccata maleficarum  
 grauiosa cunctis quo ad culpam existit  
 27 Ad aliud quo ad penam. Dicendum quod sic  
 culpa ad eam et eius pena dupliciter co-  
 sideratur. vel quo ad personam vel quo ad  
 naturam totam videlicet posteritatem et  
 eo fecutam. Et primo modo. Sicut ma-  
 iora peccata fuerunt post eum peccata  
 quia videlicet ipse solimodo peccata fa-  
 cendo illud quod erat malum non sibi se-  
 sed quia prohiberi. Fornicatione vero.  
 adulteria. et homicidia retroque ma-  
 la sunt scilicet sibi se. et quia prohibita ad-  
 eorum grauiose pena eis debetur. **S**ecun-  
 do vero modo. licet manna pena primi  
 peccatorum secuta est. hoc tamen est p-  
 dictum inquantum videlicet p- eum to-  
 ta posteritas originali peccato fuit infe-  
 cta. eo quod ipse primus pater omnium p-  
 bus omnibus solus filius dei satisfecit  
 potuit potentia ordinata. Pro suo autem  
 personali meritate diuina gratia penitus  
 et saluatus post solutionem sacram per  
 ebisum. inoperabiliter aut peccata male-  
 ficarum creditur in grauitate. non contem-  
 te de suis personalibus peccatis et p-  
 nibus cum etiam innumera salta post se  
 continue trahit. Ad certum videlicet  
 et peccatis quod hoc fuit p- accidens i pre-  
 cato ad eum maiore lesionem intulit. Et  
 hoc videlicet quod natura integra inuenit  
 et quod corrupta necessario non voluntari-  
 ne transfundere habuit. unde non sequi-  
 tur quod suum peccatum simpliciter gra-

uius ceteris fuit. Tu etiam quia hoc idem  
 etiam sequentia peccata fecissent si tale  
 naturam inuenissent. sicut et sibi mox  
 tale peccatum non peiur gratia eo quod il-  
 lam non inuenit. peiuraret autem nulli in-  
 ueniret. **H**ec est solutio sancti thomae. in se-  
 cundo di. ca. ar. q. et in solutione secun-  
 di argumenti. quam solutione si quis ad  
 plenum vult intelligere debet conside-  
 rare quod ad originale iustitiam si p-  
 non transfudisset in posteritas. put anse-  
 mus opinabatur. quia etiam aliquis post eum  
 peccare potuisset. videtur tamen a docto-  
 ris di. r. An pueri mortui fuissent in  
 gratia confirmari. **I**tem quodlibet esse  
 simoimo an idem qui nunc saluatus ho-  
 mines saluati fuissent si adam non pec-  
 casset.

**S**equitur modus predicandi contra  
 quinq; argumenta Lycopii quibus phare  
 videtur spargi quod deus non puniat  
 tantam potestatem diabolo et malefici  
 circa huiusmodi maleficia inferenda.

**S**icut tenes predicatores pos-  
 uidul super cetera argumē-  
 ta laetor: vel etiam pento-  
 rum quocundā qui intan-  
 tum maleficus esse negat  
 quod licet malidam et potentiam ta monis  
 ad inferendum ex suo desiderio huius-  
 modi mala concedant diuinam tamen  
 permissionem sibi concedendūque ne-  
 gant. **N**ec volunt quod deus talia fieri per-  
 mittat. et licet modis arguendi nō ha-  
 beant et in tenebris sicut ceca palpant.  
 tā rnumiam alteri modū tangendo.  
 opus tamē eorū assertiones ad quinq;  
 argumenta reducere. Et quibus vti  
 quod omnino eorū cauillationes pcedere pos-  
 sunt. **E**t primo quod deus non permittat  
 diabolo sub tanta potestate scire in ho-  
 mines.

**R**espondetur ad maleficalem effe-  
 crum a deo nō p maleficez  
 peccandum semp habet cō-  
 currete diuina pmissio. Et  
 arguitur quinq; argumentis quod deus non

Et deus nō  
 pmissio  
 maleficez fieri

An example of the layout of the *editio princeps* of *Malleus Maleficarum*, fol. 41r.  
 Jus crimin. II, 2520 Inc., Niedersächsische Staats- und Universitätsbibliothek,  
 Göttingen

HENRICUS INSTITORIS, O. P.  
and JACOBUS SPRENGER, O. P.

# MALLEUS MALEFICARUM

EDITED AND TRANSLATED BY  
CHRISTOPHER S. MACKAY

Volume I  
The Latin Text and Introduction



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*Kelliae meae  
coniugi atque adiutrici  
optimae*



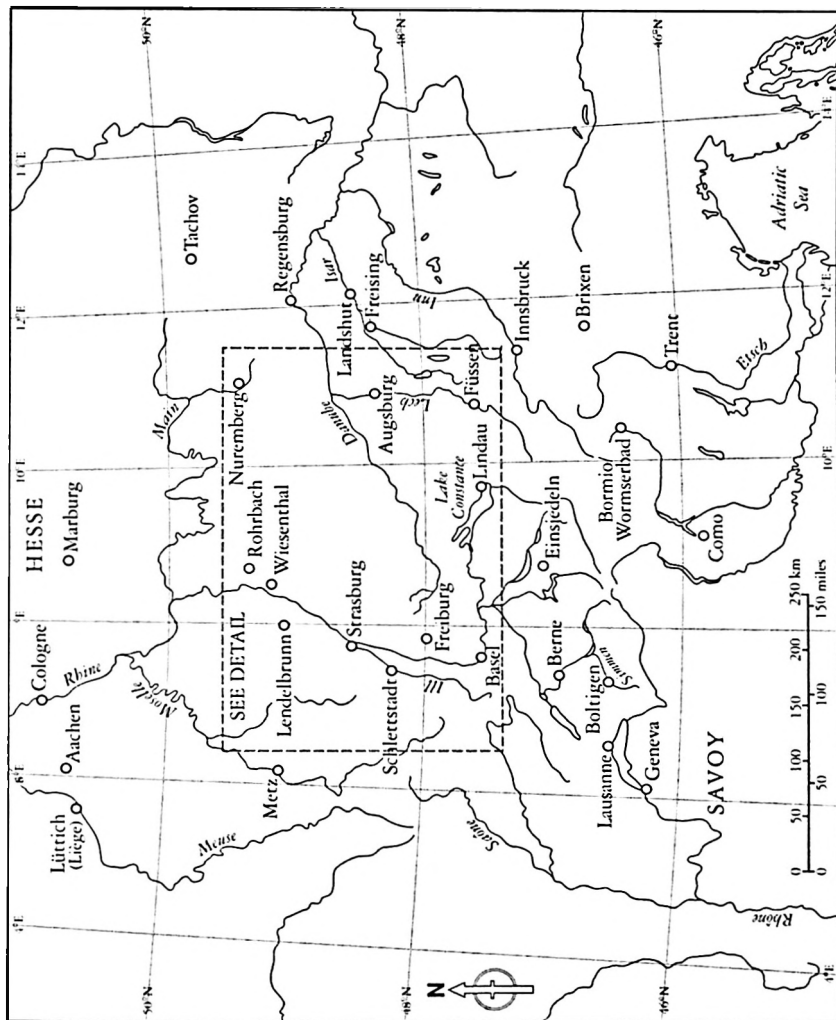
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## *Acknowledgements*

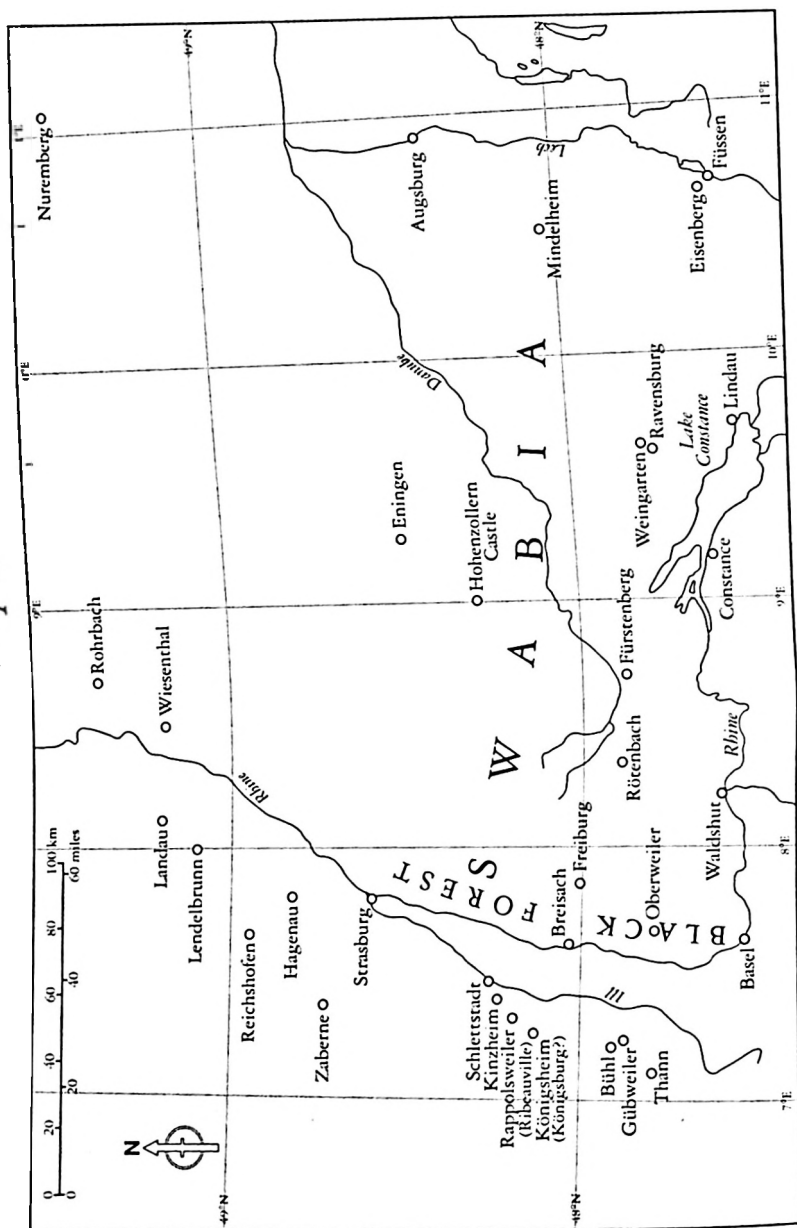
The idea to come up with a new translation of the *Malleus* was first suggested to me in 1998 by Lara Apps and Andrew Gow, who were to provide an introduction and notes. It soon became obvious to me that the project would entail a complete new edition of the Latin text, and eventually the press of circumstances left the entire task to me. First, let me make it clear that while A. Schnyder and the annotators W. Behringer and G. Jerouschek (so often referred to as Behringer *et al.*) are cited mostly to indicate my disagreement on specific points, I have greatly benefited from their work (especially Schnyder's commentary), a fact that may be obscured in my comments, since there is no particular reason to mention agreement. Next, I offer my thanks to Andrew Gow, Richard Kieckhefer, Edward Peters and Jan Ziolkowski for their generosity in providing me with bibliographical assistance; to the Niedersächsische Staats- und Universitätsbibliothek Göttingen for permission to use images of their copy of the *editio princeps*, and to Helmut Rohlfing and Martin Liebetruth for their generous assistance in providing those images; to my wife Kelly MacFarlane for prodigious bouts of proofreading (as well as helping with the often infuriating idiocies of Microsoft Word); and to Kelly and to my previous wife Katy Mackay for their moral support during the many years in which this project brought about my voluntary exile in the study.

Map I



Southern Germany and surrounding areas

Map 2



## *General Introduction*

The past is a foreign country: they do things differently there.

L. P. Hartley, *The Go-between* (1953)

From the fifteenth through the early seventeenth centuries, continental Europe saw the “witch craze” (German *Hexenwahn*), in which official prosecution of those believed to belong to a cult dedicated to the practice of malevolent magic and presided over by Satan himself led to the execution of tens of thousands of victims.<sup>1</sup> The *Malleus Maleficarum* of 1486 was the first major treatment of Satanism to appear in print and remains far and away the best-known handbook on the subject from the early modern period. If the truism cited above holds true, then there are few areas of the historical past that are more foreign (and uncongenial) to the modern mind. The world laid out in the *Malleus* is a place where demons inhabit the area above the earth, which is fixed at the center of the universe, and plot to ensnare humans (especially susceptible women) in their schemes and, after trapping the humans in their society, guide them in their evil-doing and have sex with them. It is a place where an implacable God reacts savagely to this betrayal of loyalty to him and in retribution gives the demons further permission to implement their nefarious plans. It is a place where the tenets of the Catholic Church are held to be absolutely true and it is the duty of the secular authorities to burn alive those convicted of deviating from the Church’s truth. It is a place where clever inquisitors can make use of sagacious stratagems to track down the perpetrators of unspeakable crimes committed through magic and have them turned over to the authorities for burning as heretics. The first purpose of this introduction is to explain

<sup>1</sup> For a short introduction to this period, see Ankarloo and Clark (2002), especially 13–16 for the numbers of victims. Previously, much larger estimates in the hundreds of thousands were made, but it now seems that in the territories of the Holy Roman Empire (the central area for witch-hunting) during the mid-sixteenth to mid-seventeenth centuries (the height of the craze) the victims numbered something like 25,000–30,000.

a number of the institutional and intellectual premises that are taken for granted in the *Malleus* but may not be so self-evident to the modern reader. In addition, both the composition and publication of the work and a few aspects of the translation will also be discussed.

#### OUTLINE OF GENERAL INTRODUCTION

- 1) Ecclesiastical background
  - a) Heresy
  - b) Inquisition
  - c) The Dominican Order
- 2) Intellectual background
  - a) University background
    - i) The medieval university
    - ii) Scholasticism and scholastic theology
    - iii) *Quaestio disputata*
    - iv) Use of sources in scholasticism
      - α) Borrowing from earlier authors
      - β) Use of quotations
    - v) Cosmology
      - α) The nature of "substance"
      - β) "Motion"
      - γ) Cosmology proper (astronomy, physics, etc.)
      - δ) Astrology
      - ε) Psychology
      - ζ) God, Satan and evil
  - b) Misogyny
  - c) "Magic"
    - i) The reality of magical practices
    - ii) Previous ecclesiastical views on magic
      - α) The canon *Episcopi*
      - β) The scholastic view of witchcraft and magic
    - iii) Satanism
      - α) Origins of the concept of Satanism
      - β) Institoris's interpretation of Satanism
      - γ) Institoris's understanding of the Satanic nature of all heresy
      - δ) Apocalyptic conception of Satanism in the *Malleus*
- 3) Legal background
  - a) General legal context

- b) Canon law
  - c) Inquisitorial procedure
  - d) Institoris's presentation of the inquisitorial procedure
- 4) Authors
- a) Life of Jacobus Sprenger
  - b) Henricus Institoris
    - i) Life
    - ii) Written works
      - α) Published
      - β) Manuscript
    - iii) Witch hunting activities
      - α) Ravensburg
      - β) Innsbruck
  - c) The disputed authorship of the *Malleus*
    - i) Evidence from the text
      - α) The Apology
      - β) The Approbation
      - γ) References to dual authorship within the main text
    - ii) External evidence
      - α) Institoris's reference to the *Malleus* in later works
      - β) Druck's earliest references to the work
      - γ) The inability to associate Sprenger with any of the anecdotes
      - δ) The falsification of the approbation
      - ε) Assertion of Servatius Fackel
      - ζ) Anonymous marginal note
      - η) Institoris's disreputable character
      - θ) Supposed enmity between Sprenger and Institoris
    - iii) Sprenger's partial authorship should not be discounted
- 5) Composition and publication
- a) Elements of the *Malleus*
    - i) Bull *Summis desiderantes*
    - ii) Approbation
    - iii) Apology
  - b) Circumstances of printing the first edition
  - c) Title
  - d) Changes in the organization of the work
    - i) Division into three parts
    - ii) Changes in the divisions
      - α) Shift of material from Part 1 to Part 2

- β) Omitted question
- γ) Erroneous cross-references
- δ) Other deviations of table of contents from main text
- iii) Outline of the actual organization of the work
- e) *Memorandum* of 1485/86
- f) Sources used in the composition of the *Malleus*
  - i) Primary
  - ii) Secondary
- g) Intended Audience
- 6) Significance of the work
  - a) Impact on demonology and witch hunting
  - b) Later editions

#### I ECCLESIASTICAL BACKGROUND

The *Malleus* is the work of two Dominicans, about the existence, ceremonies and procedures of a group that was thought to practice malevolent magic, and about the means of undoing the evil done by this group and of exterminating it through investigation and prosecution in court. Thus, it is necessary to place the work within its ecclesiastical setting in terms of both the conceptions and the institutions that are presupposed in it.

##### *1a Heresy*

The notion of heresy goes back to the earliest days of Christianity. The texts of the New Testament leave much theological detail unclear, such as the exact relationship between Christ the Son and God the Father, and early Christian writers spent much time and energy defining the doctrines of the new creed. One called the views one accepted orthodox ("correct thinking" in Greek), while adherence to a different view was called heresy (the term literally means "choice" in Greek, and the word was used to signify the adherents of various philosophical schools or "sects"). Within a generation after the crucifixion, St. Paul was already complaining bitterly about those whose views he considered to be erroneous. Since there could logically be only one correct view on doctrinal matters, it was natural for those who considered their own views orthodox to castigate their opponents as evil and characterize their opponents' views as the Devil's work.

For the first three centuries of Christianity's existence, when it was no more than an illegal and persecuted cult in the Roman Empire,

this disputation about dogma was merely a matter of invective. All this changed once the Roman emperor Constantine (305–337) and his successors adopted Christianity as the religion officially sanctioned by the state. Before the time of Constantine, the Christians had already developed an elaborate organization of their own with a formal hierarchy of priests, the whole being known as the church. Once a Christian became emperor, presumably by the will of God, it seemed natural for the church organization to look to the emperor, whom it too recognized as the supreme governmental authority, to help settle doctrinal disputes. Thus, with the complete agreement of the church hierarchy, Constantine became involved in purely ecclesiastical disputes. While Constantine himself was comparatively deferential, he nonetheless used the powers of the Imperial government to enforce the decisions reached under his aegis about the theological disputes, and many later emperors were rather less forbearing. In effect, once the authority of the state was invoked in settling purely doctrinal disputes, it was up to the state (in the person of the emperor) to decide what was or was not orthodoxy. By the late fourth century, laws had been passed not only against pagan practices but also against heretical forms of Christianity, that is, those that did not adhere to the doctrines about Christianity accepted by the government. So important was the policy of enforcing the correct views on religion that the *Codex Justinianus*, the collection of Imperial decisions drawn up by Justinian in the sixth century, begins with a chapter defining orthodoxy and laying out the laws against heretics.

In the West, the Imperial government faded away in the fifth century as various Germanic kingdoms were established on its territory, but the church lived on in the old territory of the Empire, and in successive centuries expanded through missionary activities into northern Europe. This church referred to itself as the Catholic Church and is the linear ancestor of the modern Roman Catholic Church. For present purposes, however, the term “Catholic Church” will be abandoned. The term “Catholic” implies an equivalence with the modern Church, but in fact the church of the medieval period was in something of a doctrinal flux; there is much overlap in the doctrines of the two periods, but the medieval church tolerated many views that would be unacceptable in modern Catholic doctrine, while conversely certain aspects of modern Catholic doctrine and practice had not yet developed. In fact, the modern period of Catholicism dates to the Council of Trent (1546–1563), which clarified and defined the earlier church’s views in light of the challenge presented by the various forms of Reformation objections to them. For

lack of a better term, the western church of the Middle Ages will simply be called the medieval church.<sup>2</sup>

For several centuries after the fall of the Roman Empire, a period when the church was occupied with converting northern Europe and then surviving in the chaos caused by the invasions of the Arabs in the south and the Vikings in the north, there was little challenge to official doctrine in the form of heresy. This began to change in the eleventh century when the burning of heretics is first attested.<sup>3</sup> From then on, there was a constant succession of religious movements that were deemed unacceptable by the ecclesiastical authorities and suppressed as heretical. Two rather different sorts of late medieval heresy contributed to the development of the view that sorcery was a form of heresy: the Cathars and the Waldensians.

The Cathars were a religious group that took root, apparently from eastern origins, in southern France from the eleventh century on.<sup>4</sup> The Cathars held to a modern sort of gnosticism, that is, a religious view that saw the world as a battle ground between two basic elements of the universe, good and evil. This view held that good and evil were completely incompatible and opposed and thus could not simultaneously subsist in any being, least of all God. Hence, there were two divine figures, the "real" God, who was good, and the sham God, who created the evil material world. The Cathars in various ways associated the sham, evil God with the God of the medieval church, a view that the authorities of the medieval church not surprisingly found offensive. In the early thirteenth century, secular forces from northern France conquered the south in the name of the true religion during the so-called Albigensian Crusade. Although there was much bloodshed at the time, many covert Cathars were thought to subsist, and organized efforts were undertaken to destroy these secret enemies of God. In particular, the foundations of the Dominican Order and of the medieval inquisition can be ascribed to the perceived need to stamp out the remains of the Cathars (see General Introduction, 1b and 1c).

The other sect that contributed to the development of the belief that witchcraft was a form of heresy was the Waldensians.<sup>5</sup> While the Cathars clearly rejected major tenets of the medieval church, this was not the

<sup>2</sup> See the comments of MacCulloch (1996), 3, where he opts for the terms "traditional" and "conservative", terms which make sense in the context of the Reformation but are not appropriate for the earlier period.

<sup>3</sup> For a general treatment of medieval heresy, see Lambert (2002).

<sup>4</sup> For a general treatment of the Cathars, see Lambert (1998).

<sup>5</sup> For a general treatment of the Waldensians, see Audisio (1999).

case with the Waldensians, who basically accepted all the theological doctrines of the church. The problem was with the church's hierarchy. In about 1177, a merchant in Lyons named Waldo became inspired to preach the word of God. This aspiration was rejected by the church, which claimed the exclusive right to preach. For their part, Waldo and his followers rejected the church's pretensions, at the same time censuring the extravagance and immorality of the episcopate. This led to their excommunication, and again stringent (and only partially successful) efforts were undertaken to stamp out the sect.

With their firm renunciation of the material world, the Cathars lived a strictly ascetic life; this was also true of the Waldensians, though for rather different reasons. The rejection of various fundamental tenets of the doctrines of the medieval church on the part of these two sects, however, led the church to develop a rather different view of them. This view saw the heretics as members of a sect whose heresiarch (the leader of the heresy) was Satan himself. In their rituals, the heretics were thought to practice infant sacrifice and to indulge in sexual promiscuity, including incest. These stories can be traced back to claims made in the Greek east about a group of heretics called Paulicians in the ninth century. By the eleventh century, such stories came to be told in the west, and were eventually attached to the Cathars and Waldensians, despite the fact that the truth of their asceticism was known to some at least in the church.<sup>6</sup>

What then is the motive for these sorts of slanders? To some extent, they represent a logical elaboration of the views of the Cathars. Since they clearly believed the exact opposite of certain tenets of the medieval church (holding, for example, that the Christian God was the source of all evil), it is not surprising that it was considered plausible that the Cathars did the opposite of all things that were considered good by the medieval church. Hence, it was perfectly reasonable to expect sexual misbehavior from such perverse people. This view of heretics as subverters of the natural order is completely consonant, though, with the universal pretensions of the church. If, on the one hand, the church is the sole church of God and its doctrines represent the only correct view, and, on the other, Satan is viewed as the enemy of God, then it is hard to escape the conclusion that those who oppose the true church must be the tools of Satan and are completely evil. In effect, organized religious sects that opposed the medieval church were taken to adhere to

<sup>6</sup> For the development of the calumnious accusations made against heretics, see Cohn (1993), esp. 35–78.

antipodian inversions of the norms of the medieval church. Whatever the church endorsed, they did the opposite.

Regardless of the motivations for concocting these calumnies, the idea became firmly entrenched in orthodox circles of the late medieval period that there were sects of heretics who practiced promiscuous sex, killed children and engaged in harmful magic. In the later fourteenth and early fifteenth centuries, this conception of heresy developed into the idea that there was a heresy that had no actual doctrinal basis at all and existed simply for the sake of perpetrating unspeakable acts of malevolent witchcraft. This notion is known as Satanism and is the fundamental basis of the interpretation of witchcraft laid out in the *Malleus* (see General Introduction, 2c.iii).

### *1b Inquisition*

The medieval inquisition is an institution that is subject to much misunderstanding. It is not to be confused with two related but later forms of inquisition, namely the Spanish Inquisition (set up in the Spanish kingdoms under royal control with papal consent in 1478 in order to control the doubted orthodoxy of forcibly converted Moslems and Jews) and the Roman Inquisition (established under direct papal control in 1542 to stamp out the spread of Protestant beliefs in Italy). The medieval inquisition (which naturally set the model for the later versions) was a very different institution that was devised to deal with the problems of religious deviancy in the late medieval setting.

It had traditionally been incumbent upon bishops to stamp out heresy within their dioceses.<sup>7</sup> They were to do so by “investigation”, and the term “inquisition” is simply a nominal abstraction derived from the Latin verb *inquirere* (“to look into” or “investigate”).<sup>8</sup> By the late twelfth century it was clear that they had signally failed to carry out this task in southern France, where the Catharist and Waldensian heresies were widespread, and, in his bull *Ad abolendam* of 1184, Pope Lucius III urged the bishops to undertake their task and laid out the methods for doing this. While there is no substantive innovation in these provisions (they are based on the standard practices of the past), this bull would serve as the cornerstone of later inquisitorial procedure. In 1199, Pope Innocent III

<sup>7</sup> For discussions of the legal and institutional establishment of the inquisition, see Peters (1988), 47–58, Lambert (2002), 108–111.

<sup>8</sup> The term is thus etymologically related to the English words “inquest” and “inquire”, which have a broader signification without ecclesiastical connotations.

overtly equated heresy with treason (and thus implied that the crime was worthy of the death penalty) in the bull *Vergentis*. In 1208 (just before the launch of the Albigensian Crusade to subjugate the heartland of the Cathars), the pope spelled out more concrete measures against heresy with the Bull *Cum ex iniuncto officio*, ordering the convicted heretic to be turned over immediately to the secular authorities (presumably for execution), and introducing further penalties such as the confiscation of the heretic's property. Finally, the second bull *Excommunicamus* of 1231 authorized that convicted heretics should be turned over to the secular authorities for *animadversio debita* ("due punishment"), which is a euphemism for execution. The death penalty could not be carried out by the church on its own, so at the same time secular states indicated their cooperation by enacting the requisite legislation, and in the present context the relevant laws were a series of savage measures against heretics issued by the Holy Roman Emperor Frederick II in the 1220s and 1230s.

These measures laid the legal foundation for the inquisition's jurisdiction over heretics, but the bishops continued to show themselves unequal to the task of dealing with heresy in southern France. In the aftermath of the conquest of the area of the Cathars during the Albigensian Crusade, an attempt was made to stamp out heresy through investigations carried out by the pope's legate, but this was an ad hoc measure that did not provide a general solution. The medieval inquisition was finally instituted through the appointment of members of the newly founded mendicant orders (especially Dominicans, rather less frequently Franciscans) as inquisitors. Such appointments are already attested in 1220, and the first documentary evidence for such appointments appears in two bulls of the early 1230s, *Cum ad capiendos* (enjoining ecclesiastics to cooperate with Dominicans who had been appointed to aid in the task of extirpating heretics in France and adjoining territories) and *Ille humani generis* (addressed to the Dominicans of Regensburg and their prior and authorizing them to hunt out concealed heretics in the area). In the beginning, these appointments were ad hoc affairs, but the efficiency of the system soon became obvious and over the next few decades it was regularized into a permanent institution.<sup>9</sup> Even when the bishops were properly trained in the matter of dealing with heretics (and many

<sup>9</sup> A major bone of contention involved turf wars between the bishops and the new institution of the inquisition, which encroached upon the bishops' previously recognized jurisdiction in the sphere of suppressing heresy. Eventually, it was decided that the local bishop and the inquisitor should work in cooperation, but loopholes in the regulations readily allowed the inquisitor to go his own way if necessary.

were not), they were distracted by many other administrative duties, but the Dominicans appointed as inquisitors were thoroughly trained in theological matters and felt it to be their particular task to hunt out and exterminate heresy (and eventually worked out an elaborate procedure for detecting the often secret devotees of prohibited forms of worship). Sometimes the inquisitors were appointed by provincials (heads of the provinces of the Dominican Order), and at other times received direct appointment from the pope. Normally, the district covered by a given inquisitor was equivalent to the Dominican province. The title for such inquisitors was *inquisitor heretice pravitatis* ("inquisitor into heretical depravity").

These inquisitors, whether appointed by the local provincial or the pope, acted by virtue of delegated papal authority, and they were trusted to act on their own initiative in investigating, tracking down and stamping out local instances of heresy. As the examples of Jacob Sprenger and Henricus Institoris show, the level of activity on the part of an individual inquisitor could vary greatly (while there is very little evidence for Sprenger acting as an inquisitor, this seems to have been Institoris's main occupation; see General Introduction, 4a and 4b). In effect, the inquisitors were to serve as itinerant agents whose mission was to stamp out any form of religious deviation, and anything that could be construed as heresy was subject to their jurisdiction. By the late thirteenth century, Catharism had largely been suppressed, but the Waldensians had spread throughout Germany and Italy, and other forms of religious heterodoxy arose. Some heretics belonged to more or less organized movements (for instance, the followers of Wycliffe and Huss, the beghards and beguines, and the so-called Free Spirits). Others were merely people who considered themselves to be dutiful Catholics but whose activities struck an inquisitor as superstitious (see General Introduction 4b on Institoris's attack on some pious women, whose crime was – of all things – excessive devotion to taking communion).<sup>10</sup>

Thus, the medieval inquisition represented an attempt by the old universal church to set up a mechanism to enforce religious conformity by hunting down and wiping out religious deviants by means of well-educated local investigators who were zealously devoted to the

<sup>10</sup> The institution of the more or less independent inquisitor of heretical depravity was rendered obsolete during the course of the sixteenth century by the need for a more concerted effort to eradicate religious dissent, when those governments that wished to suppress the new religious ideas in defense of the Catholic church had to undertake extreme and coordinated measures that were incompatible with the capricious ad hoc procedures of the old inquisition.

accepted teachings of the church. In this capacity, the inquisitors operated with somewhat different motives and goals from the secular authorities. Whereas criminal law was intended to enforce obedience to the law through the punishment of those who violated it, the ultimate goal of the inquisitors was the spiritual well-being of the Christian world through maintenance of the accepted religious order. Thus, while the extirpation of any deviant religious thought was the ultimate goal, in immediate terms the conversion of the deviant was also strongly desired. Hence, the inquisition tried everything at its disposal to make the deviant retract his views. Not only would this lead to the salvation of the malefactor's immortal soul (or so it was hoped), but the public retraction of the heretical views would be an affirmation of the validity and authority of the official position. Therefore, punishment was viewed somewhat differently from the way it was in secular courts, where the violation of the law had itself to be atoned for through (often savage) punishment and the present contrition of the malefactor was more or less irrelevant. The repentant heretic could be subject to various forms of penance, but usually death (by burning) was reserved only for the impenitent and for the relapsed (i.e., those who had previously confessed or been convicted of heresy and repented). Accordingly, in normal circumstances, the inquisition imposed comparatively few death penalties.<sup>11</sup>

Over time, certain Dominicans wrote handbooks for the assistance of future inquisitors. The most influential of these is the *Directorium Inquisitorum* written by the Spaniard Nicholas Eymeric in the mid-fourteenth century, a book that would later be a major source for the *Malleus* (see General Introduction, 5f.i).

<sup>11</sup> Protestant polemics tended to paint the inquisition as a monstrous institution that made routine use of torture and pitilessly burned untold thousands. Modern revisionist study and Catholic apologetics tend to emphasize that the use of torture was fairly restricted and was in any case restrained in comparison with the practices of contemporary secular courts, and that the percentage of executions among the sentences imposed was comparatively small. This view rather misses the point. While it is no doubt true that the church and state of the late medieval period were incapable of inflicting the sort of large-scale atrocities that modern states like Nazi Germany or the Soviet Union have committed, there was no particular need to inflict death on the majority of the religious deviants who came to the notice of the medieval inquisition. No doubt it took a particularly stout heart to allow oneself to be burned alive for one's religious beliefs, and the church achieved its aim of repressing dissent if the accused heretic renounced his or her beliefs. In any case, the mere knowledge that death by burning was the fate that a heretic could expect would have a deterrent effect on a much larger number of people than simply the incinerated victims. The disappearance of the Cathars and the virtual extermination of the Waldensians (only a small vestige of this once widespread movement survived centuries of persecution in the mountains of Savoy) attest to the efficacy of the religious intolerance that was the sole purpose of the inquisition.

*1c The Dominican Order*

The Dominican Order was founded by Dominic, who was born in Spain in about 1170.<sup>12</sup> In early adulthood he became a Canon Regular, and in the retinue of a Spanish bishop he became involved in the attempt to counteract Catharist influence in southern France during the years immediately preceding the start of the Albigensian Crusade in 1208. Even after the outbreak of open warfare, Dominic and some companions continued to preach the orthodox faith in the area, and he conceived the notion of founding a new order specifically dedicated to the task of preaching. This new order was proposed at the Lateran Council of 1215. There it was decided that no entirely new orders should be founded, but Pope Innocent III advised Dominic that he was open to his proposal so long as it was based on the rule of an existing order. The new order was then approved in late 1216 and early 1217 on the basis of the Rule of St. Augustine. Members of the new order pledged themselves to celibacy and poverty and were to gain their livelihood through begging; for this reason they and the Franciscans who were founded along similar lines at this time are known as mendicants, from the Latin word for begging. Instead of living apart from the world in monasteries like traditional monks, the mendicants were to live amongst the general populace and spread the orthodox interpretation of the Gospel. (The mendicants were known as friars to distinguish them from traditional monks.) Accordingly, the official title of the new order is the Order of Preachers, though they eventually came to be known informally as the Dominicans after their founder.

The new order proved to be wildly popular. It soon spread throughout western Europe, and an administrative system grew up to manage its affairs. While the Dominican friars were to work among the general populace, they were attached to a local priory or convent under the control of the local prior. Broader areas were termed provinces, and the chapter or central administration of each province represented the province's priories and was headed by a provincial. There was also a general chapter for the entire Order located in Rome.

Given the circumstances of the Order's foundation, it is hardly surprising that it should view its chief task as the combating of heresy. In addition, since the order, unlike the older monastic orders, was founded

<sup>12</sup> For a general treatment of the Dominican Order, see Hinnebusch (1966-1973).

through explicit papal recognition, it took upon itself the defense of the supremacy of the papacy within the church.

Since the heretics, whom the members of the new order would be called upon to refute, were often well-versed in scripture, Dominic decided from the start that his friars would devote large amounts of time to the study of the Bible in general and of theology in particular. In the heady decades that followed the order's foundation, large numbers of scholars joined the order, including the great scholastics Albertus Magnus and his protégé Thomas Aquinas. The order developed an elaborate system of internal education. Each priory had its own school, and for the more adept students a number of general houses of study (*studia generalia*) were founded. These Dominican centers of learning often formed close relations with local universities, and this is notably true of the University of Cologne, whose Faculty of Theology would be a bastion of orthodoxy in the late fifteenth and early sixteenth centuries. Dominicans would often receive theology degrees from universities, but eventually the order itself took to granting degrees (theoretically to those otherwise qualified for the honor, but in the fifteenth century a widespread abuse was the granting of degrees by the order to men without the requisite training). Though during his own lifetime Aquinas had met a certain amount of resistance to his scholastic teachings, he soon came to be viewed as the major expositor of orthodoxy (a view enhanced by his canonization in 1323), and the Dominicans were to adopt him as something of a spokesman.

These positions made it perfectly natural for the popes to see in the Dominicans an extremely suitable reservoir of potential inquisitors. Their zealous defense of traditional orthodoxy and tenacious advocacy of papal prerogatives meant that they could be trusted to make an accurate assessment of potential heresy, and that their learning would allow them to deal with the evasions of accused heretics. In addition, their general popularity and their apparent lack of local material involvement would lead to the assumption that they would adjudicate accusations of heresy objectively (though practice would prove that inquisitors were as susceptible to human frailties as anyone else).

In the thirteenth century the Order enjoyed swift and enthusiastic expansion, but a noticeable decline in the adherence to traditional principles of the Order set in in the fourteenth century. The end of that century saw the start of a reform movement within the order whose effects would still be felt a century later. It was felt that over the many years since the foundation of the order, a moral decline in the form of lax

adherence to its primary observances had set in. The reform movement began in 1388, when Conrad of Prussia, a Dominican friar from Cologne, proposed to the master general at the general chapter meeting in Vienna that at least one convent in each province should be reformed so that it would return to the the original strict observances of the past. From this date on, those who advocated this reform were known as observants, while those opposed to it were called conventuals (i.e., members of convents that were unwilling to adopt the practices of the reforms). The reformers held something of the moral high ground, but their efforts to impose the new discipline in specific convents were at times vigorously resisted by the previous conventual residents. An earlier leader of the movement was John Nider, whose writings formed a major source for the *Malleus* (see General Introduction, 5f.i), as was Jacob Sprenger (see General Introduction, 4a).

## 2 INTELLECTUAL BACKGROUND

### 2a *University background*

The *Malleus* is a typical work of the milieu of the late medieval university, and a number of characteristics of it become clearer if something of the intellectual life of the medieval university is understood.

#### 2a.i *The medieval university*

The institution of the medieval university is the ancestor of modern universities and can be defined as a permanent establishment for the training of students that hired its own instructors and awarded to those who completed a prescribed course of studies degrees that certified their competence as instructors and were generally recognized at other universities.<sup>13</sup> These graduates were known at different institutions as "masters" (*magistri*), "doctors" (*doctores*, i.e., "teachers") or professors (*professores*). (Modern universities largely derive this and much other administrative terminology from the medieval institutions, though naturally the terms have acquired new significance.) The new institution soon replaced the monastery as the main center of intellectual life.

<sup>13</sup> Universities were in the beginning known as *studia generalia* or "(centers of) general study." The term "university" originally signified nothing more than the "collective body" of those associated with a given *studium generale* and only later came to signify the institution itself in an abstract sense.

In the six centuries or so that followed the fall of the Roman Empire in the west, the intellectual life of Christian western Europe took place in monasteries. By the eleventh century, urban life had advanced sufficiently that centers of study arose in them (often attached to the local cathedral).<sup>14</sup> Two separate models for the organization of the university were established at the end of the twelfth century – one in Bologna that specialized in the newly emerging study of Roman law and one in Paris that became particularly reputed for the arts and theological studies – and in the succeeding century a number of other universities were founded in Italy, France and England upon the basis of these models.<sup>15</sup> The later fourteenth and the fifteenth centuries saw the foundation of many universities in Germany, one of the most prestigious being that of Cologne (founded in 1388).

The main disciplines of the medieval university were the older literary program known as the liberal arts<sup>16</sup> and the three technical fields of law, medicine and theology (a single institution would not offer instruction in all four). Like their modern equivalents, medieval scholars were jealous of their privileges, and there was much dispute about the hierarchical ranking of these disciplines. Not surprisingly (given the importance of religion in the medieval mind), theology claimed precedence as the “queen of sciences” (*regina scientiarum*).

The development of the university fortuitously took place at a time when the translation of logical works by the ancient philosopher Aristotle, previously unknown in medieval Europe, led to the revolutionary change in thought known as scholasticism. Some of the most notable methods of conception and argumentation in the *Malleus* are determined by the accepted procedures of scholasticism and cannot be understood without some knowledge of scholasticism.

### 2a.ii Scholasticism and scholastic theology

“Scholasticism” is a somewhat vague term used to characterize the intellectual atmosphere that dominated the universities of the later Middle

<sup>14</sup> A convenient general introduction to the origins, development and structure of the medieval university is provided by De Ridder-Symoens (1992). Rashdall (1936), even if dated, is still useful for its greater detail. Piltz (1981) gives an excellent presentation of medieval learning as it was conceived of at the time.

<sup>15</sup> See Piltz (1981), 125–158 for a schematic view of the organization of the universities of Paris and Bologna.

<sup>16</sup> On the basis of the practice of late antique conceptions, the earlier Middle Ages recognized seven liberal arts distributed among two groups: the basic *trivium* of grammar, rhetoric and dialectic (i.e., logic), and the more technical *quadrivium* of arithmetic, geometry, astronomy and music.

Ages. It refers not to a particular doctrine but to the methodology that characterized the pedagogy and argumentation used in the universities.<sup>17</sup>

Prior to the twelfth century, the thought of Augustine (especially in the *City of God*) provided the basic framework for Christian philosophical analysis in western Europe, but an active interest in the use of logic as an analytical tool began to be taken by early scholastics of the twelfth century like Peter Abelard, who relied on a few works from late antiquity for their knowledge of Greek philosophy. This knowledge depended upon the sixth-century author Boethius, who translated into Latin two of Aristotle's works on logic – the *Categories* (*Praedicamenta*) and *On Interpretation* (*Peri hermeneias*) – and Porphyry's *Isagoge*, which was a commentary on the *Categories*. This interest in logic blossomed into a virtual mania when in the period from the later twelfth to the early thirteenth centuries a large number of Aristotle's works as well as Arabic commentaries on them were translated into (often rather dubious) Latin.<sup>18</sup> Today it is rather hard to imagine the hold that these dry works on the use of logical reasoning established on the medieval mind, but the abstract application of the fixed principles of logic became the obligatory method of interpretation and analysis in the late-medieval universities. This methodology involved the precise use of terminology to define the issue at hand and then the (theoretically) rigorous resolution of the issue through logical analysis.

One of the fundamental principles of scholasticism that not infrequently makes its logical reasoning seem strange to the modern mind is the use of deduction. In deduction, logic is used to derive new conclusions on the basis of recognized premises, and since scholasticism recognized a rather disparate group of authoritative texts (e.g., the works of Aristotle, the Bible and the writings of previous figures in the church), totally distinct texts could be combined to reach conclusions that had little to do with the thought of the works being quoted. Furthermore, if it was a question about the natural world, conclusions could be reached without any reference to observable reality (e.g., statements about the physical nature of angels and demons, who by definition did not even

<sup>17</sup> The term "scholasticism" is derived from the late Latin *scholasticus*, which signified anyone associated with the *scholae* or "schools" (i.e., universities). The term was used pejoratively in the Renaissance by those who advocated the revival of the study of the literary classics of antiquity and disparaged the older aims and methods of the late medieval universities. Here the term is used neutrally to designate the pedagogical and intellectual methodologies that were characterized by the very self-conscious use of what was taken to be Aristotelian logic. Piltz (1981) provides the best general introduction to scholastic thinking and methodology.

<sup>18</sup> The older works known from Boethius were called the "old art" (*vetus ars*) in contradistinction to the "new logic" (*nova logica*) introduced by the newly translated works.

exist in the real world). This sort of a priori reasoning is opposed to the basic methodology of modern scientific thought, which involves inductive reasoning. Inductive reasoning is the derivation of general rules or principles on the basis of observed instances of practice or behavior (i.e., data).<sup>19</sup> Thus, whereas deduction attempts to explain phenomena in terms of accepted doctrine, induction formulates general principles as a result of observing and analyzing the phenomena independently in their own right. While it is to some extent hard to restrain the impulse to make fun of those who would, for instance, attempt to explain the behavior of the human body or the stars with reference to Aristotle's theories, even when the observable facts seem to contradict Aristotle, it is worth remembering that the amount of reliable scientific data available in the late medieval and early modern periods was very limited and that in the absence of any elaborate practical method of scientific inquiry, reliance on the logical (if sometimes misguided) explanations of Aristotle was a not unreasonable procedure. In any case, the *Malleus* is pervaded with the deductive methodology so characteristic of scholasticism.

The use of (derivative) Aristotelian logic is the main feature of scholasticism, and with surprising swiftness the logical principles acquired from the newly translated works of Aristotle were incorporated into a new Christian understanding of the world. The first work in this adaptation of the ancient pagan philosopher was undertaken by men like Alexander of Hales (ca. 1185–1245), Albertus Magnus (ca. 1200–1285), Bonaventure (1217–1274) and Duns Scotus (ca. 1266–1308), but undoubtedly the most prominent figure of this movement was Thomas Aquinas (1224/6–1274). The attempt to use the tool of (pagan) philosophy for the interpretation of Christian doctrine met with opposition (mainly from those who objected to this deviation from traditional Augustinian forms of interpretation), but certain attempts in the later thirteenth century to prohibit the use of Aristotelian logic in the universities were fleeting and ineffectual, and soon this logical mode of thought was taken for granted as the natural mode of intellectual discourse. Thus, in the fourteenth and fifteenth centuries the main issue of debate was not whether to use logic in answering questions but by which principles this new logic was to be applied.

Since the proper setting of the terms of a debate was one of the principal issues in scholastic discourse, it is hardly surprising that a major dispute should have arisen over the interpretation of the universal

<sup>19</sup> It is perhaps worth noting that the verb to "deduce" is often used in normal English to mean exactly the opposite of the formal definition given here. When someone is said to "deduce" some conclusion from the evidence, this is actually an example of inductive reasoning.

applicability of terminology. Thomas Aquinas was the main advocate of the school known as "realism," which conceived of words as having an inherent and integral relationship with the things that they described. The Franciscan William of Ockham (1280–1347), on the other hand, began a rival school of thought known as "nominalism," which considered words to be nothing more than conventions of the human mind that therefore had no fixed meaning or inherent relationship with the things they describe.<sup>20</sup> The fourteenth century saw an extended dispute between the adherents of these two schools, a dispute that was aggravated by rivalry between the mendicant orders. Between 1279 and 1313, the general chapter of the Dominican Order passed a number of decrees that enjoined members of the Order to uphold the doctrines of the Dominican Aquinas. Aquinas's position as something like the official arbiter of doctrine in the eyes of the Order was sealed by his canonization in 1323. Not surprisingly, the Franciscans, who to some extent were rivals of the Dominicans, were not so keen on Aquinas. A number of attacks on Aquinas followed after his death, and the nominalist school was generally associated with the Franciscans.<sup>21</sup> Under these circumstances, it is hardly surprising that Aquinas is the main source for the philosophical arguments of the *Malleus*.

The scholasticism of the fifteenth century is not particularly characterized by originality of thought, and for the most part the large number of works written in this period were attempts at upholding the recognized scholastics of the past. In Germany, the strife between the various schools of thought (called "ways" or *viae*) was particularly pronounced (known as the *Wegestreit* or "strife of the ways" in German).<sup>22</sup> Scholastics would align themselves with a given school (often for reasons that seem to have been generated more for the purpose of conflict for its own sake than for genuine understanding of the issues involved or sincere allegiance to the chosen school), and the contentiousness of the parties was so extreme that certain universities were forced to oblige their faculty

<sup>20</sup> The main issue between the realists and nominalists revolved around the issue of how it is that all the individual examples of a category are understood to belong to that category despite their individuality. For the realist, the answer was that there was some sort of externally existing abstraction (or "universal ideal") to which the word referred (i.e., common participation in the ideal of "humanity" is what makes both Peter and Jane, for all their differences, human). Thus, the term "human" would have some sort of objective validity. For the nominalist, the word is simply a convenient convention that the human mind has created for its own purposes and that thus has no inherent significance. See also General Introduction, 2a.v.α.

<sup>21</sup> Nonetheless, as a thoroughly orthodox scholar, Aquinas had adherents among the Franciscans. For the Franciscan attack on and the Dominican defence of Aquinas, see De Wulf (1926), 2.37–55.

<sup>22</sup> For an introduction to the the late scholastic period in the German setting, see Overfield (1984) 3–60.

members and students to adhere to a single school in order to maintain peace. The broadest distinction was between the “way” of the realists (the *via antiqua* or “ancient way”) and the “way” of the nominalists (the *via moderna* or “modern way”), but even within each of these divisions there were the competing adherents of different “doctors” (for instance, the realists were divided into the camps of the followers of Albert and of Aquinas). The second half of the fifteenth century generally saw the triumph of Aquinas in Germany, where his *Summa theologica* began to replace Peter Lombard’s *Sentences* as the main theological textbook first in Dominican convents and then in the universities.<sup>23</sup> A particularly notable bastion of Thomist orthodoxy was the University of Cologne, whose theologians issued an official declaration of the acceptability of the theological views laid out the *Malleus* (see General Introduction, 5a.ii).<sup>24</sup>

In modern works one often sees the works of Aquinas described as dealing with philosophy, but (to borrow a conceit of scholasticism) this depends upon what one means by “philosophy.” If philosophy is conceived of as the use of logical argument to determine the origin and nature of physical reality and of human morality, then in the abstract Aquinas was a philosopher in the modern sense.<sup>25</sup> Such study was, however, firmly grounded in the absolute conviction of the accuracy of the

<sup>23</sup> For the *via antiqua* and the *via moderna* in Germany and the triumph of Aquinas, see De Ridder-Symoens (1992), 438–440.

<sup>24</sup> For Cologne as a realist school, see De Wulf (1926), 215–216. Along with the Sorbonne in Paris, the University of Cologne was an especial opponent of the challenge posed to scholasticism and its interpretation of Christianity first by humanism and then by the doctrinal assertions of Luther. In the first decade of the sixteenth century, the theologians of Cologne became embroiled in a dispute with the humanist scholar Johann Reuchlin, which soon became a *cause célèbre* among the champions of the new form of learning. In connection with the legal travails of Reuchlin and his appeal to the papal curia in Rome, the theologians of Cologne and their supporters were pilloried in the classic parody known as the *Letters of Obscure Men* (*Litterae Obscurorum Virorum*), which purported to be a collection of letters written by scholastic graduates to one of the principal opponents of Reuchlin (Gratius Ortvinus, an inquisitor of heretical depravity who had condemned a work of Reuchlin’s). These letters, written in the 1510s by anonymous humanists in what they took to be the style of scholastics, were intended to demonstrate in their own words the theological and literary ignorance, bad Latin and arrogant self-importance of the scholastics of the next generation after the publication of the *Malleus* (the letters were published only about a decade after the death of Institoris). While the letters obviously have to be read with some caution as the creation of avowed enemies of scholasticism, they are nonetheless valuable as a contemporary (as well as hilarious) introduction to the modes of thought and expression characteristic of scholastics. (Furthermore, a textbook written in about 1480 as an introduction to university Latin by Paulus Nivius, a scholastic who was hardly composing a parody, shows that the bad Latinity, the pedantic use of logic and the overall conceit disparaged in the *Letters of Obscure Men* were not altogether lacking a foundation in reality; see the edition published by Streckenback [1972].)

<sup>25</sup> See Gracia and Noone (2003), 656–657 for a defensive argument that Aquinas should not be excluded from being considered a “philosopher” because he was a theologian.

doctrines of the Christian church, and in fact the impulse for the use of logic among the scholastics was in order to expedite biblical exegesis. At the same time, since scholastic theology strove to understand and explain God's creation in the light of the church's teachings, it entered into areas of discussion that ranged far beyond what a narrow conception of theology would encompass. Thus, while in the modern period the natural sciences became separate and independent fields of study, medieval theology dealt with a total interpretation of the universe as understood at the time, including both moral and natural philosophy. Aquinas's views about the natural world were no doubt based upon the soundest theories of his time, but his often elaborate conclusions, derived from scientific ideas that have since been completely disproved, are frequently vitiated.

Although scholastic methodology permeated all aspects of the medieval university, in no discipline was this more true than theology. The early opponents of the adoption of Aristotelian logic in theological discussion were worried that this would lead to unorthodox conclusions. To some extent such concerns were not without foundation, but it soon transpired that the logic did not serve so much to come up with novel interpretations of the Christian religion as to provide (often specious) rationales to buttress pre-existing dogma.<sup>26</sup> Since logic was thought to be capable of determining the answer to any valid question, then it logically followed that every conceivable theological question not only was susceptible of solution but in fact demanded an answer. It was this sort of irrepressible urge to ask and answer the most esoteric questions that led to the fabrication of the mock scholastic issue of how many angels could dance on the head of a pin. While no scholastic ever asked such a question, we do have an illustration of the scholastic mania for the logical determination of every theological question from the pen of the humanist Erasmus, who had studied theology (to his disgust) at the Sorbonne in 1495-1499. Erasmus, who advocated the ethical imitation of what he took to be the message of Christ in place of the hairsplitting of

<sup>26</sup> Naturally, in the process of developing logical arguments to define and explain the doctrine of the time, the scholastic theologians not only established but modified that doctrine with a legalistic definiteness that had not previously existed, and that contributed to the inflexible resistance that met Luther's objections to certain concepts, like purgatory, that found no basis in scripture. For instance, there was much uncertainty in the late medieval period about the exact nature of the Virgin Mary's "sinlessness." While Aquinas granted her sinlessness, he did not accept the notion of her immaculate conception, which was championed by Bonaventure and Duns Scotus. By the fifteenth century, the immaculate conception came to be established doctrine, but ironically Aquinas's inability to predict the theological future landed certain Dominicans in hot water when they strenuously opposed this doctrine because of their adherence to Aquinas's rejection of it.

scholastic method, left a revealing if hostile picture of the sorts of issues that vexed the scholastic mind.

What is the need for a theologian to give a specific answer to every little question posed by every single person? There is no number or limit or end to these questions, with six hundred popping up after the fashion of the hydra for each one cut off. There are certain things which it is not really pious to investigate, some which can be left unknown without risk to salvation, others about which it would be more erudite to be uncertain and check oneself as the Academics [i.e., ancient followers of Plato] did rather than give a pronouncement. For what is the use of racking myself about the question of whether God is able to create a man incapable of sinning? Or whether God is one though there is someone distinct from Him? Or whether He is able to produce a relationship that is without basis or limit? Or whether the soul of Christ was able to be deceived or to lie? Or whether the proposition "God is a scarab" is just as possible as the proposition "God is man"? Or whether the power of generation in the Father is something absolute in Him or a property of the Father? Or whether persons [i.e., of the Trinity] are established in a personal existence in relation to their origin? Or whether there is a single eternity of all things eternal? Or whether grace and charity are distinguished? Or whether grace is in the essence of the soul or in its power? Or whether the Incarnation of the Word was preceded by the organization and animation of the body? Or whether the highest grace that can be conferred on a creature was conferred on the soul of Christ? Or whether the soul of Christ recognizes in the Word everything that the Word itself recognizes? Or whether the soul of Christ grieved at the moment of its conception? Or whether the fire in Hell belongs to the same category as the fire among us? There are some things which it is sufficient to investigate only to a certain extent and sinful to poke into any further.<sup>27</sup>

Oddly enough, the very first of these issues, which Erasmus clearly picked as being (to him at any rate) self-evidently ridiculous, actually appears in the *Malleus*.<sup>28</sup> As to his assertion that it is impious to delve into certain issues, one cannot know exactly what he had in mind, but it is very likely that he would have put into this category the determination of Aquinas (which appears in *Malleus* 107D) that while in his human incarnation Christ did eat like a regular person, his digestion worked differently and hence he did not shit. To Erasmus's mind it was an insult to God to conceive of such matters, but to the mind of a scholastic like Aquinas such a topic was no less worthy of logical determination than the

<sup>27</sup> This passage appears in Erasmus's *Ratio seu Methodus*, a defense of his method of textual exegesis that was based on the preface to his publication of the Greek text of the New Testament. The version here is translated from the composite edition of Holborn (1933), 297–298, which synthesizes the numerous modifications that Erasmus made in successive reprintings of the text.

<sup>28</sup> Whether God is able to create a man incapable of sinning is discussed as a subordinate issue in Pt. 1, Q. 12 (67B–68C).

issue of whether demons had real eyes (no, they are painted on: *Malleus* 107B–C) or whether demons can make use of semen stolen from humans to impregnate women (yes, they can move it so swiftly from the man from whom they have stolen it that it does not lose its effectiveness: 26D).

This intellectual argumentativeness was, to some extent at least, ascribable to the methods of scholastic pedagogy, which placed a heavy emphasis on formally structured open disputation with others and decided the issue on the basis of how well the point was upheld in terms of the logical validity of the arguments put forward in defense of it. Not surprisingly, the instructors were expected to continue to exhibit their excellence at logical disputation in public performances. The *Malleus* is suffused with the spirit of this sort of discourse. Arguments frequently take the form of a syllogism. That is, a major premise and a minor premise are juxtaposed and a conclusion reached on the basis of rigidly determined logical principles.<sup>29</sup> An argument is often presented in the form of a reply to a theoretical question: “If it is asked why . . . , then it should be said/responded that . . .” Such phraseology does not imply that anyone had actually raised the stated question. Rather, it was a natural procedure for someone trained in the scholastic tradition to present his argument as the response to a putative debating opponent (see next section). Another characteristic form of organizing thought is the “difficulty.” Sometimes this signifies simply a potential objection to the argument, but it can also refer to a major issue that apparently contradicts the advocated view (such a difficulty often being dealt with in the form of an “incidental question”). Disputes were often resolved through terminological considerations: a certain objection would be said to be true in only certain regards, and if a proper “distinction” was observed in an important term in the issue, then the advocated view was said to be upheld.

At the start of the period of scholasticism Peter Lombard (see General Introduction, 5f.ii) wrote a four-book work that was meant to serve as a sort of compendium of theological views by arranging the views of accepted ecclesiastical authorities on various topics (quotations from Augustine provided the largest amount of the material). Since these authoritative views were called *sententiae* in Latin, the work as a whole

<sup>29</sup> For the structure of the syllogism, see Piltz (1982), 99–102. Note that this form of argumentation is so engrained in the thinking of a scholastic that if the conclusion is self-evident from the set-up of the syllogism, it may be replaced merely with the abbreviation *etc.*, “and so on” (like the mathematical formulation “QED”); there are several instances of this usage in the *Malleus*.

is known as the four books of *Sentences* (translated in the *Malleus* as *Pronouncements*; see Introduction to the Translation, 3). Though the work is now generally derided as lacking in originality, perhaps for this very reason it quickly became the standard introductory textbook on theology, and the custom soon arose of writing commentaries on the text as a means of showing off one's theological erudition. Aquinas followed this practice, and his commentary is quoted extensively in the *Malleus*, especially for the sections in Book Two that deal with demons.

One tendency of scholastic writing is worth mentioning. The habit arose of writing synthesizing treatments that dealt systematically with all the various aspects of a topic. Such a synthesis was called a *summa* (more or less "summation"), and a number of *summae* are cited in the *Malleus*.

### 2a.iii Quaestio disputata

Much of the *Malleus* is written in the form of a *quaestio disputata*. The *quaestio disputata* was a standard mode of discourse in the scholastic tradition and had its origins in actual debates that took place under the presidency of a senior scholar. After an oral debate on a specific topic (hence the phrase "disputed question"), the presiding scholar would formally summarize the debate. This mode was a very convenient way to lay out an issue, and hence could be used as a formal way to present an issue without reference to an actual debate. In the *Malleus*, the purely conventional nature of the so-called question can be seen in the fact that it is sometimes phrased not as a question but as a statement. The *Malleus* uses the form of the *questio disputata* that appears in the works of Aquinas.<sup>30</sup> Failure to understand the conventions of the *questio disputata* can make the method of argumentation hard to follow, but once the principles are grasped, it can be seen why the scholastics found the form such a handy way to present their views on a topic.

The *quaestio* normally begins with an indirect question, which describes the issue at hand (this is called the *titulus* or "title" of the question). This title gives the correct answer to the question, which begins by giving the incorrect negative answer that the author will eventually refute and then presenting one after the other various arguments in favor of this false initial answer. Each argument is at most a few sentences long and is generally based on or corroborated by a quotation from some authority, though sometimes it appeals to some principle of reason or observation

<sup>30</sup> The earlier scholastic Alexander of Hales perfected this mode of discourse.

of the natural world. The arguments after the first one typically begin with the word *praeterea* ("also" or "besides which"). After the arguments in favor of the false answer comes contradictory evidence in the form of quotations from relevant authorities who indicate that the initial answer to the question was not correct. This section begins with the phrase *sed contra* ("but to the contrary"). After the various arguments pro and con have been set out in this way, the presiding scholar (or author) gives his *determinatio* ("decision") of the issue. Here he gives a discussion of some length explaining his reasoning in rejecting the false answer to the question and then answering the question affirmatively. This section (the *corpus* or "body" of the question) is introduced with the word *responsio* ("response") or *respondetur* ("the response is given"). After this, the question is concluded with a direct refutation of the individual arguments made in favor of the false conclusion at the beginning of the question. These refutations are termed the "solutions of the arguments."

Apart from a heading that sometimes begins the "solutions" at the end, separate sections of the *quaestio disputata* are not marked off as such in the *Malleus*, but the introductory words usually are used to allow anyone who knows the conventions of the mode of discourse to follow the progress of the argument without much difficulty. In order to assist the modern reader, the conventional abbreviations that mark off the sections of the *quaestio disputata* in texts of Aquinas have been added.

#### 2a.iv Use of sources in scholasticism

Given that the scholastics took for granted the absolute validity of the official teachings of the church, it is not surprising that they had a completely deferential attitude towards the ecclesiastical authorities considered orthodox.<sup>31</sup> From this attitude arose two procedures in the composition of the *Malleus* that may give a misleading impression to the modern reader. First, medieval authors felt themselves free to adapt with

<sup>31</sup> Note the double meaning of the Latin word *auctor*, which is reflected in the differing meanings of the English derivatives "author" and "authority." In classical Latin *auctor* signifies someone who advocates or vouches for a view or proposal, and thus while it comes to be merely a term for the person who writes a book, etymologically the term signifies the author as the person responsible for the views expounded in his work (this sense of indicating responsibility is preserved in English in the phrase "author of the crime"). In turn, *auctoritas* ("authority") is the abstract quality of being such a "proponent," and in the context of religious discourse it signifies the advocacy of an orthodox interpretation of some aspect of the faith as laid out in writing by a recognized "authority."

little or no attribution extended passages from previous authors. Second, scholastics would borrow from intermediate sources citations or quotations of previous authors with whom the scholastics had no immediate familiarity.

2a.iv.α *Borrowing from earlier authors* In the present day, academic convention demands that direct quotations from other authors should be clearly marked as such, and even in instances where a previous author's work is not directly quoted, due acknowledgement must be given if the thought of the present passage is derived from someone else's work. The medieval conception of literary adaptation was rather different. It was perfectly acceptable to borrow large amounts of text without direct citation from previous authors, sometimes verbatim, sometimes with greater or less modification. This procedure made perfectly good sense if the continued validity of previous work was taken for granted, as had to be the case in using the work of authors considered orthodox authorities. In effect, the new author was merely updating or improving upon his predecessors and did not have to mention when he was taking over such earlier material (though nothing prevented the occasional mention of the earlier source). An unsympathetic description of how this procedure worked in terms of scholastic theology is provided by Erasmus in a passage in which he disparages their work in comparison with the patristic authors of antiquity.

What is the point of wasting good hours on these new-fangled authors [sc. scholastic theologians], whose work consists more truly of piling up rather than interpreting? First of all, how much is there in them that you would have to expend greater energy to unlearn later, and in any case whatever is correct in them you will find to have been drawn from the ancients [i.e., the patristic authors favored by Erasmus] but generally in a mangled and mutilated form, because on account of their linguistic ignorance they were forced to leave out many things – I suspect the best – since they could not grasp them. Furthermore, a good number of those people did not even make their excerpts from the ancients but pinched them from collections that were quite often confused transcriptions as if from a ditch ten times removed, so that the excerpts had virtually no taste of their source.<sup>32</sup> Next, to avoid the appearance

<sup>32</sup> Here Erasmus is playing upon the common Renaissance image that compared the traditions of the Middle Ages to muddy derivatives from the clear original source (the writings of antiquity), and here he is specifically making an analogy between the practice of deriving quotations from intermediate sources to taking water from the final ditch after the water has been transferred from one ditch to another several times over after being taken initially from a fresh spring.

of having added nothing from their own stock, they splatter on something of their own delusions or mix in something from some tawdry author born the other day.<sup>33</sup>

If one ignores Erasmus's disparaging emotive language (and his dismissal of modern authors), he gives a reasonable account of the scholastic methodology of adaptation. It was perfectly acceptable (and to some extent necessary) to borrow from the works of one's predecessors, but the material had to be reworked in some way to make a contribution of one's own (otherwise, what is the point of a new treatment of the topic?).

A clear example of such a procedure in the *Malleus* appears in the adaptation of a passage of Aquinas in which he discussed the ability of demons to speak. The original passage:

To speak is properly carried out through the formation of voiced words as a result of striking air that has been breathed with specific organs in order to express some understanding, and for this reason bodily speaking in assumed bodies cannot be appropriate for angels according to the complete definition, since they do not have true bodily organs. But there is a certain similarity to speaking in that they have understanding and express this understanding with certain sounds that are not properly voice but similarities of words, just as certain animals that do not breathe are said to give voice, like certain instruments, as the Philosopher says. (*Sent.* 2.8.1.4c.Co)

This passage appears in the *Malleus* in the following form:

[Demons] cannot truly talk in their own right, but since they have understanding, when they wish to express the understanding of their mind, it is not vocal expressions but sounds with a certain similarity to vocal expressions that they use. They knock air that has not been drawn in through inhaling, as in the case of humans, but has been held within an assumed body, and then they release it in an articulate way to the air outside up to the ears of the listener. That something resembling a voice can be made with air that has been drawn in by a process other than inhalation is shown by certain non-breathing animals, which are said to give voice, and by certain other instruments, as the Philosopher says

<sup>33</sup> Translated from Holborn (1933), 296. Erasmus shows that his hostility to the scholastics was based not simply on the content of what they said but also on what he took to be their linguistic ineptitude when he continues with the revealing comment, "Finally, even though they may give the same teaching as the ancients, how lame this teaching is in their works, in which everything is tawdry on account of a most infantile babbling of speech. Yet, Jerome flavors and enriches everything to such an extent that when he deviates from the truth and diverges from the truth, he teaches more goodness than those people do when they truly present the truth." Seemingly, an unorthodox but well phrased formulation from a linguistically acceptable patristic author was more pleasing to Erasmus's ear than the barbarously expressed truth of the scholastics!

in *The Soul*, Book Two. For when the herring is taken out of the water, it suddenly lets out a vocal sound and dies. (107B)

The general sense of Aquinas is the basis of this passage, but it has been much expanded through the inclusion of biological material from some sort of scientific description of the physical process of producing speech. This sort of mixing of sources is uncommon in the *Malleus*. Much more frequently attestable is the procedure of adapting a single source by breaking it up into smaller excerpts that are interspersed among authorial material and of modifying the original to a greater or lesser extent to make it fit the new context.

2a.iv.β Use of quotations When Erasmus speaks of the information that appears in the scholastics as being “several ditches” removed from the original source, he is referring to their regular practice of getting quotations (and citations) at second hand. Scholastic authors frequently give small citations of earlier authors in support of their logical arguments, but such citation does not imply direct familiarity with the work in question. Rather, the early scholastics made use of earlier *florilegia*, that is, collections of short quotations from accepted authors (mainly the major patristic writers of Late Antiquity) that were drawn up during the Carolingian period. In short, the Carolingian monks made collections of pithy excerpts from a given author and the quotations thus culled were then selected and arranged in other collections in which the items were listed under various topics. In this way, the early scholastics were able to find relevant quotations for their arguments on a given topic (say, the nature of grace or original sin).<sup>34</sup> Later scholastics then simply borrowed the quotations used by their predecessors, a process that is constantly evident in the *Malleus*, where vast numbers of quotations from a whole array of earlier authors can be traced back to their appearance in Aquinas (at times through the intermediary source of John Nider; see General Introduction, 5f.i).

Two problems arose from this procedure. First, the quotations themselves were sometimes adapted or otherwise modified in the process of excerpting and transmission, and at times quotations were falsely ascribed to authors who never said any such thing (sometimes these falsely attributed quotes can be ascribed to other authors and sometimes

<sup>34</sup> In connection with the Carolingian *florilegia*, Lawrence (1984), 73, makes the amusing observation that “It was unoriginal work, but in the end it served a wider purpose than its authors could have foreseen: the patristic anthologies of the ninth century provided a compost in which the Schoolmen [i.e. scholastics] of a later age were able to grow stange plants as yet undreamed of.”

they are of indeterminate origin).<sup>35</sup> Second, even if the quotation in question actually is recorded accurately in terms of the directly cited words, these words have been literally taken out of context and thus often mean something rather different if read in their original setting. This was a practice to which Erasmus, who advocated a literary (philological) method of textual interpretation, took strong objection:

Frequently the sense of this or that passage depends on what precedes. Let him [sc. the reader] consider by whom it is said, to whom it is said, at what time, at what prompting, with which words, with what intent, what preceded, what follows. For as a result of having assessed and collected these things the meaning of what has been said can be grasped.<sup>36</sup>

Such thoughts played no role in the interpretation of the scholastics, who for the most part had never read the original context of the words at all, and in the case of the later scholastics simply reused the short quotations provided for them in previous scholastic discourse.

#### 2a.v *Cosmology*

As already noted, the theology of Aquinas picked up from Aristotle a number of logical and scientific notions that were not strictly speaking a part of theology. Nonetheless, since Aquinas's work was intended to explain the creation of God, this project necessarily involved a theological interpretation of the natural world, and for this reason Aquinas based himself upon and gave his own interpretations of what would have been taken to be accurate scientific knowledge. (For the sake of convenience, I term this interpretation of the world as "cosmology" in the broad sense of an interpretation of the natural world, encompassing such diverse modern spheres of knowledge as physics, metaphysics, astronomy and psychology.) The extensive scientific discoveries of the succeeding centuries have largely invalidated this scientific element of Aquinas's work, but it is frequently taken for granted in the *Malleus* in the context of explaining the reality of sorcery. Therefore, since many of scholasticism's characteristic premises and detailed understanding of the functioning of the world are no longer well-known and may well strike

<sup>35</sup> An element of this process of garbling quotations was the lack of any punctuation mark corresponding to modern quotation marks to mark off the beginning and end of the quotation. There was sporadic use of a formula like *haec Thomas* ("this Thomas [said]") to indicate the end of the quotation (this device is used on occasion in the *Malleus*), but if this device was not used in an intermediate source from which a quotation was borrowed, there was the risk of attributing to the quotation a subsequent statement by the intermediate source.

<sup>36</sup> Holborn (1933), 285.

the modern reader as weird if not incomprehensible, it is useful to give a short resumé of some of the scientific ideas that figure prominently in the *Malleus*.

2a.v.α The nature of “substance” A fundamental element in scholastic discourse was the proper definition of the question at issue. This resulted in extended arguments over how exactly the identity or existence of a thing could be determined. In Aquinas’s understanding, the world consists of inchoate material (*materia prima*) that is made into an actually existing substance by being “shaped” by an abstract “substantial form” (*forma substantialis*). This “form” lends the natural tendencies characteristic of the category represented by the form to an item belonging to that category, though in practice the individual member of the category may have its own “accidental” qualities that have nothing to do with the category. For instance, a given rock is “formed” by the form of “rock” and by virtue of this form has certain qualities that are shared by all rocks. At the same time, the fact that this rock is a certain size and color and weight has nothing to do with its inherent “rockness,” and these “incidental” qualities are called “accidental.”<sup>37</sup> It is by reference to the external “form” that an item can be described as belonging to the appropriate category. In addition to its “substantial” existence by virtue of being “formed,” an item derives its “essence” (*essentia*, the abstract concept of “being” derived from the Latin *esse* or “to be”) from God, who is the only entity that does not derive its existence from an external source.

2a.v.β “Motion” In the Aristotelian view expressed in his *Categories*, matter was said to be describable in terms of ten qualities or categories (substance, quantity, quality, relationship, place, time, position, equipment, activity, passivity), which represent the “accidents” or “incidental qualities” mentioned in the previous section.<sup>38</sup> The matter in the world of men is distinguished from the eternal bodies in the heavens by the fact that it changes in terms of the categories, being made up of variable amounts of the elements of earth, air, fire and water. Such changes in category are referred to in scholastic discourse by the rather misleading

<sup>37</sup> As a concession to modern English usage, I have used the term “incidental” in this context in place of “accidental,” since the later adjective has taken on the predominant sense of “fortuitous” or “unintentional,” which is not appropriate to the context.

<sup>38</sup> For a discussion of the categories, see Piltz (1982), 61. In scholastic discourse, the “categories” could also be called “predicaments” (*praedicamenta* or “statements of predication”).

term "motion," which signifies merely some change in incidental characteristic. This leads to the frequent use in the *Malleus* of the (now) odd-sounding expression "move in location" (*movere localiter* or "loco-motion") to specify change in the category of "position."

2a.v.γ Cosmology proper (astronomy, physics etc.) A half century after the publication of the *Malleus*, Nicholas Copernicus would revolutionize the conception of the nature of the world outside of the earth by proposing that the sun and not the earth was at the center of the planets and that the earth circled the sun along with the other planets. This notion was simply the start of the long process of discovery and analysis by which the scholastic view of the natural world was overthrown by new views that gave rise to the modern understanding of the laws and processes by which the behavior of the physical world is governed. The *Malleus*, on the other hand, is permeated with the Aristotelian interpretation of the cosmos (as represented by the ancient Greek astronomer Ptolemy).<sup>39</sup>

The changeable world of mankind was thought to be made up of four elements of earth, air, fire and water. It sat immovably in the middle of the cosmos and was surrounded by the "heavenly bodies." These bodies were made of an immutable material known as ether (the quintessence or "fifth essence"), and as for the various "motions" or changes to which matter was normally subject, they participated only in "change in location." The heavenly bodies were thought to be attached to spheres ("orbs") whose revolving around the earth caused the motion of those bodies. To explain the complicated cycles of celestial motion, Aristotle posited fifty-five spheres, but under the influence of Ptolemy, who added a system of "epicycles" or circular motions of the bodies themselves upon their spheres to explain the apparent irregularity known as retrogression (the occasional backwards motion of planets in their journey across the sky), the scholastics reduced the number of spheres to a much smaller number (between eight and fourteen).<sup>40</sup> A system of eight spheres would

<sup>39</sup> For a short summary of the scholastic view of the cosmos, see Piltz (1982), 110–111, 164–165. Grant (1994) treats medieval notions about astronomical questions at great length but gives a false sense of the medieval sources by asking what answer they would give to modern questions rather than examining the medieval conceptions in their own right and on their own terms, as Piltz does. A clear indication of this distorted perspective is the fact that demons do not appear in Grant's index. While such creatures play no role in modern conceptions of the heavens, they certainly did in the scholastics'.

<sup>40</sup> Aquinas himself did not directly reject the system of epicycles but adopted a more agnostic attitude, arguing that while the system might well be true, the phenomena that were explained by it could have other causes (*De Caelo* 2.17; *Summa* 1.32.1.Ra2).

assign one each to the five visible planets (Mercury, Mars, Venus, Saturn, Jupiter), the sun, the moon and the stars. These spheres were thought to be of different sizes, the larger ones (to which the slower moving objects were attached) fitting concentrically around the smaller ones. The moon was attached to the lowest sphere, and thus the changeable material of the earth was called "sublunar" (some astronomers added four spheres in the sublunar area above the earth for the four elements). The stars were all attached to the furthest sphere, which explained why they did not appear to move in position with respect to each other but did move with respect to the planets. Outside of these celestial spheres, Aquinas accepted the existence of a ninth sphere or *primum mobile* ("first moveable"), which was most directly affected by the *primus motor* ("first mover").

This basically mechanistic conception of the world had to be adapted to the Christian idea of God and the angels (including the fallen angels known as demons). God and the nine choruses of angels (who were divided into three hierarchies) lived in heaven, which was situated in the "emphyrean" area beyond the ninth sphere.<sup>41</sup> Aristotle had posited unspecified "movers" of the celestial spheres, and these were assimilated to angels in the form of "disembodied entities" (*substantiae separatae*), while God himself assumed the role of the "first mover." The view of the demons as "fallen angels" could be fitted quite literally into this cosmology in that they were said to have descended to the "sublunar" area between the earth and the lunar sphere, which they now inhabited. This location would allow them to intervene directly in the affairs of the earth in the period before the Last Judgment, when they would finally be cast into hell, which was located below the earth.

As beings of the celestial region, the angels (both loyal and fallen) were not made of the transient material of the human world that was subject to the alterations of change. Instead, they were thought to be eternal, purely "spiritual" beings that were not directly perceptible to the human senses. This presupposition led in turn to much speculation as to how the demons could manifest themselves to humans.

Medieval cosmology also encompassed a sort of more or less popular teleology that did not form part of the Thomistic worldview but nonetheless had a great influence on the interpretation of sorcery put forth in the *Malleus*. It was held that, at the time of Satan's fall from grace, one tenth of the "good" angels fell with him, becoming demons

<sup>41</sup> See Piltz (1982), 164–165 for a graphic medieval representation of this conception of the world.

("bad angels"), and that the world would be "consummated" when the number of the elect who rise to heaven equals that of the angels who remained there (see Caesarius of Heisterbach, *Dialogue of Miracles*, 5.8). This idea appears in the *Malleus* as part of a grotesque explanation of the notion that sorceresses kill unbaptized children (see General Introduction, 2c.iii.8).

2a.v.8 Astrology Today we make a clear distinction between astronomy, a recognized science that deals with the behavior of the heavenly bodies as governed by the immutable laws of nature, and astrology, a pseudoscience that deals with the supposed effect of the configurations of the stars on affairs on earth. In the ancient and medieval periods, when the laws of nature in general and the basic principles governing the behavior of the celestial bodies were poorly understood, such a clear distinction between the two "sciences" was impossible to make. Accordingly, notions that we would associate with astrology were widely held in the late medieval and early modern periods and were often intermixed with speculation that would now be assigned to astronomy.<sup>42</sup>

The notion that the separate world of the celestial spheres had some influence on earthly affairs was widely granted, but the exact form attributed to this influence varied greatly. In one view, the literal disposition of the stars in a location was thought to affect the metaphorical disposition of the inhabitants, and in this manner the astrological influence can be conceived of as a sort of climatology. This kind of indirect influence of the heavenly bodies in terms of producing a general tendency towards action that was nonetheless not obligatory was more or less acceptable to the orthodox scholastics. On the other hand, the notion of a direct influence of the stars on human events was rejected by them. Particularly anathema was the idea of rigorous astrology that the configuration of the planets at the time of a person's birth could predict aspects of his future life and that events in that life could be determined by future configurations.

2a.v.e Psychology A fundamental axiom of scholastic reasoning was the idea that two distinct entities could not occupy the same space. Since it was a further premise of the *Malleus* that demons were able to manipulate human perceptions and thoughts, it was necessary to explain how exactly this was possible if the demon could not be physically present in

<sup>42</sup> For a general introduction to medieval astrology, see Tester (1987), 98–201.

the human body. Part of the explanation involves the Thomistic interpretation of the functioning of the human mind.<sup>43</sup> The sensory organs are capable of perceiving external phenomena in various ways (sight, sound, touch, smell and taste), and there are corresponding internal faculties to receive the impressions of the outside world made on the organs of perception.<sup>44</sup> In addition to merely receiving the “forms” (i.e., shapes or images) perceived by the external senses, it is necessary to make sense of them, and for this purpose there are four faculties within the brain that in effect allow the individual to think. First, a “common sense” (*sensus communis*) produces a common (or general) interpretation of phenomena perceived by several organs (e.g., motion can be perceived through sight, touch and sound).<sup>45</sup> Second, the faculty of “fantasy” or “imagination” serves to retain “forms” previously perceived by the external senses. Third, the faculty of “estimation” allows the formulation of notions that have not been perceived by the external senses. Fourth, the faculty of “memory” allows for the retention of such notions and in effect is equivalent to the fantasy as the repository of non-sensory ideas. These various faculties are located in separate “cells” (*cellulae*) in the brain.<sup>46</sup> The demons were thought to be able to influence humans to see things that do not in fact exist by manipulating the images stored in the faculty of imagination through a process similar to the one thought to cause dreams.<sup>47</sup>

2a.v.ζ God, Satan and evil The role of God in the world naturally takes a prominent place in a theological conception of the world, and the *Malleus* has to deal repeatedly with the question of how to reconcile the existence of a sect dedicated exclusively to the commission of the most extreme evil with the presupposition of an omnipotent and wholly good God. Not surprisingly, the answer is given in terms of the traditional explanation that God’s grant of free will to mankind makes it perfectly just (and necessary) for him to tolerate evil deeds (whose perpetrators will of course then be suitably punished after death). The way that this position is worked out deserves some comment. The argument is made

<sup>43</sup> Summarized conveniently in Piltz (1982), 204–208.

<sup>44</sup> The *locus classicus* for Aquinas’s understanding of the “inner senses” is *Summa* 1.78.4.

<sup>45</sup> In this understanding, “common” means “common to all the senses” and thus signifies something quite different from the phrase “common sense” in normal modern English.

<sup>46</sup> See Piltz (1982), 207, for an amusing reproduction of a picture drawn by a student at the University of Leipzig in about 1488 that shows the physical location in the head of the various faculties posited by Aquinas.

<sup>47</sup> See *Summa* 1.111.3.

several times that Satan has no power except to the extent that this is granted to him by God, and that the magical procedures of the sorceresses themselves had no inherent efficacy and “work” simply because of Satan’s execution of the deeds that the sorceresses ostensibly bring about through their rites and procedures. This conception of how the magic involved in sorcery operates is necessitated by the premise that God is omnipotent and that nothing can be done without his permission, but this direct involvement of God in the granting or withholding of permission with reference to specific acts of sorcery means that something more than a broad granting of free will is needed to explain how such evil can exist in a world governed by this omnipotent and good God. It is occasionally asserted that God’s purposes are inscrutable, which serves to defer judgment on the question of why he allows evil, with the assumption that there must be some greater good at issue which is simply unknown to the human observer (126A, D). Much more frequent, however, is the idea that the existence of sorcery is tolerated by God as a form of retribution on the human race as a whole for previous acts of sorcery. Indeed, Satan himself is aware of this reaction on the part of God and therefore seeks both to commit such acts and to bring about a human failure to punish them (on account of the false notion that sorcery does not actually exist), because he knows that this will enrage God, who then gives continued permission for further, more heinous crimes. In effect, the situation is a downward spiral of human crimes, the penalty for which is the commission of even worse crimes. This situation would seem to have no end but the overwhelming of the human race under this mounting wave of crime, and in fact the *Malleus* is conceived in terms of the very idea that the apocalyptic end of the world is near and that the perceived recent upsurge in sorcery plays a central role in the downfall of humanity (see General Introduction, 2c.iii.δ).

The modern view of the Christian God tends to emphasize his role as a figure of compassion and love. This is certainly not the main characteristic of the God of the *Malleus*, who is portrayed as a stark and inflexible figure who exacts the severest penalties for acts that offend him. He demands absolute loyalty from those dedicated to his worship (i.e., baptized Christians) and expects to take precedence over anything and anyone else in their affections.<sup>48</sup> Disloyalty to God is equated with

<sup>48</sup> In fact, this claim to the affection of humans is so exclusive that he allows the children of parents whose love for those children is excessive to be removed and replaced with other ones by demons (183A). This passage does not explicitly state that the love felt for the child is excessive in comparison with the love felt for God, but the second explanation for God’s permission in

treason against a secular prince, and this act deserves to be punished with the same savage penalty on earth that the Roman Emperors decreed against traitors in the *Code of Justinian*. This vengeful God not only visits punishment on the descendants of malefactors removed from the crime by three or four generations, but he also feels so affronted by the insult made against him through the commission of the crimes associated with Satanism that he allows the innocent to be harmed (Pt. 1, Q. 15 is devoted exclusively to proving the point). Given this conception of the dire results to be expected from the failure to suppress sorcery, it is not surprising that Institoris felt such outrage at the perception that there were both laymen and priests who endeavored to undermine the efforts to exterminate the sorceresses through their denial of the reality of the phenomenon (see General Introduction, 3d).

### 2b *Misogyny*

The *Malleus* has been characterized as a thoroughly misogynistic work, and (to borrow a mode of argument from scholasticism) this is true or not depending on what one means by misogyny. In the proper meaning of the term, it signifies a self-conscious literary attack on the female gender as a whole. This genre of literature is exemplified in the Greek poet Semonides' attack on women or the Sixth Satire of the Roman poet Juvenal. By this standard, the *Malleus* is not misogynistic in that even the main passage discussing what is taken to be the flawed nature of females is prefaced with a overt statement that the negative characterization of women as a group does not apply to all of them (42B), and the work contains references to pious women who resist the allurements of sorcery or fall victim to it.

Nonetheless, even if the *Malleus* is not misogynistic in a narrow sense, the work is clearly permeated with a hostile and negative view of women as a whole. Given the often negative characterization of women in both the Old and the New Testament, it is not surprising that Christian thought of Antiquity and the Middle Ages adopted a similar attitude. What Sprenger's thoughts along these lines may have been is unknown, but Institoris's statements in other works make it clear that the

regard to the demons' substitution of children is that the women to whom such things happen are superstitious. and the analogy is made between spurned God and a husband against whom his wife has committed adultery. Seemingly, the whole situation is conceived of as one in which God claims absolute loyalty from his adherents just as a husband would from his wife, and God is thought of as reacting to infidelity with the same savagery that would be expected of a medieval cuckold.

anti-female premises of the *Malleus* are fully attributable to him. While he no doubt had no qualms about adhering to this point of view, the sections of the *Malleus* that most directly cover the topic are derived from previous authors. The section on why women practice sorcery more frequently than men (Pt. 1, Q. 6) is based on several passages. Exactly the same topic is treated in Nider's *Praeceptorium* 1.11.21 (for Nider, see General Introduction, 5f.i), and this material is expanded through the addition of another passage from Nider (*Formicarius* 5.8) at the beginning and a heavily reworked section of the *Summa* (3.1.25) of Antoninus of Florence (see General Introduction, 5f.ii) that treats the mental and moral inferiority of women.<sup>49</sup> In fairness to Institoris, it should be pointed out that the ridiculous etymology of the word *femina* (Latin for "woman") from the words *fides* and *minus* ("faith" and "less"), because of which the *Malleus* is often derided, is borrowed verbatim from Antoninus. In any case, this material is used to explain a fundamental premise of the work, which is that participation in the Heresy of Sorceresses is peculiarly characteristic of women (see 42C).

## 2c "Magic"

### 2c.i *The reality of magical practices*

Witchcraft (or sorcery as it is here translated) is a form of magical practice, and while the idea of "magic" is understandable in general terms, a clear and exact definition of the concept is hard to give. An older definition that has long been out of favor in academic circles but still enjoys wide currency in more popular thought has it that whereas religion proper involves supplication of the divinity, magic is conceived of as being characterized by the intention of imposing one's will upon (that is, compelling) the divine power through the use of magical formulas or ceremonies that obligate the divinity to act in the way desired by the practitioner of magic. Such a definition is to be rejected on two grounds. First, it is simply a means by which those who adhere to or at least uphold the legitimacy of the formalized modern religions (e.g., Christianity in its traditional form, Judaism or Islam) disparage expressions of religious sentiment that do not involve elaborate ecclesiastical hierarchies and dogmas based on the interpretation of a more or less closed canon of

<sup>49</sup> For a discussion of Nider's views about the connection between women and witchcraft, see Bailey (2003), 48–53. Bailey's premise for this discussion is that the prosecution of witches mainly involved women, but for a corrective of this perspective, see Apps and Gow (2003).

accepted scriptures.<sup>50</sup> Second, even if one grants such a distinction, it is by no means clear that it could be applied to the subjective understanding of what they were doing that was held by people in the Middle Ages who engaged in practices that could be considered "magic."<sup>51</sup> For the very limited purposes of the present discussion, the term "magic" is used to describe procedures and practices that were intended by those who used them to bring about some result in the natural physical world on earth that could not otherwise be caused through the normal, recognized properties and behavior of physical entities. Thus, plunging a knife into a person's heart will directly cause that person's death without any need to make additional use of magic formulas, and such a practice has nothing to do with magic (though such formulas could of course be added to the action). If, on the other hand, someone places lizard skins or a bag of vegetable matter under someone else's threshold, this action will not normally cause that person any harm, and if this act is in fact intended to cause some result such as infertility or physical affliction on the part of that person, then the act constitutes magic. In effect, I take magic to be the causing of results in the natural world through non-natural (supernatural) means.

In the modern world, in which fairly exact knowledge of the natural phenomena is provided by such scientific disciplines as physics, biology and medicine, the distinction between natural and supernatural effects is reasonably clear cut. In the Middle Ages, there was, to be sure, a body of scientific knowledge, but even in general terms it was often incapable of explaining the principles underlying the behavior of the physical world, and certainly found itself unable even to interpret very basic phenomena like human illnesses, much less bring about an effective cure. Under these circumstances, it is not surprising that attempts to influence the natural world, even in procedures that we might conceive of as being scientific, might also entail some sort of invocation of supernatural forces, and thus there was no tidy separation of the scientific and magical activities.

It is beyond dispute that most people in the Middle Ages believed in the reality of magic, even if they did not engage in such practices (and no doubt many did in one way or another). The spectrum of such beliefs was very wide indeed, from peasant women using a magical trick to get a cow to point out the home of a witch to a "seer" having a

<sup>50</sup> One might compare the way that some Christian people use the term "sect" pejoratively of forms of Christianity of which they disapprove.

<sup>51</sup> See Kieckhefer (1989), 14–16, for a discussion of the subjective understanding of the practitioners. For a more general discussion of subjective belief in the reality of magic, see Midelfort (1992).

victim of theft look into a shiny object to see the perpetrator of the crime, from an old woman reciting a chant while giving some form of herbal medicine or prescribing a love philtre to retain a man's affections to a learned necromancer using special formulas to invoke demons. It is against the background of this wide range of actual magic practices that the conception of sorcery laid out in the *Malleus* needs to be assessed.

There is a twofold division of magical practices that is at the heart of the analysis in the *Malleus*. On the one hand, there was a form of magic practiced by the learned, and this may be called "clerical" or "high" magic.<sup>32</sup> (The former term refers to the fact that since the ability to read was largely restricted to the priestly class, at least in the earlier medieval period, this sort of magic was mostly associated with priests. The latter term signifies the higher social prestige of those who engaged in this sort of practice.) In high magic, the necromancer (or nigromancer, to use the medieval version of the term) used the formulas of his handbook (grimoire) of spells to summon the devil and by virtue of his magical procedures could (to some extent at least) control the devil and get him to do his bidding.<sup>33</sup> The *Malleus* explicitly notes (91C) that this sort of practice is not the subject of the book and contrasts the use of spells performed by the learned through the consultation of books with the sort of magic practiced by the "altogether ignorant." "Low" magic, on the other hand, was the sort of "folk magic" that was performed among the vast majority of the population that was illiterate.<sup>34</sup> Since the great majority of the population lived in the countryside, this sort of magic would be most associated with the peasantry, though there is no reason why it could not also be practiced by city dwellers. This kind of magic was thought to be practiced for the most part by (generally old) women, and it can be termed "witchcraft." Two modern misconceptions about

<sup>32</sup> For a discussion of the necromancy of the "clerical underground," see Kieckhefer (1989), 151–175.

<sup>33</sup> A clear example of this conception of magical practice is given in Caesarius of Heisterbach, *Dialogue of Miracles (Dialogus Miraculorum)* 5.1–5, in which various edifying anecdotes of people prevailing upon the old priest and nigromancer Philip to show them the demons are related. He does this by putting the people in a magical circle drawn on the ground and guaranteeing their safety so long as they do not extend a limb outside of the circle. The details are of no consequence here but it is to be noted that Philip is able to summon the demons at will and can impose his own terms of behavior upon them. (In the incident related in 5.4, when one of these curious viewers of the demons does stick out a limb in violation of Philip's instructions and gets dragged to hell, Philip is able to use his influence with Satan to secure the man's release.) A surviving example of a nigromancer's book of spells to acquire various desirable objects and bring about assorted actions is published in Kieckhefer (1997).

<sup>34</sup> There is also no reason why people of the upper classes could not also avail themselves of this sort of magic (and to this extent the distinction between high and low magic was by no means absolute), but it was mostly associated with the less prestigious strata of society.

witchcraft need to be cleared aside before discussing what the “witches” did do.

First, there is the prevalent notion that the witches of the Middle Ages (and their supposed modern descendants) were adherents of a pagan cult of the earth goddess that went back to the practices of the pre-Christian past and had been driven into secret as a result of Christian persecution once western Europe was Christianized. This thesis was popularized by the Egyptologist Margaret Murray (in a number of works but semiinally in her work *The Witch-Cult in Western Europe*, published in 1921). The academic literature on the subject of witchcraft has demonstrated on numerous occasions that Murray’s selective and ill-informed use of a very limited body of evidence is methodologically unsound and her conclusions unsupported by the evidence, but this has not prevented a wide dissemination of her views in popular culture (in particular, her thesis has become an element in the self-conception of the modern neo-pagan and wiccan movements).<sup>55</sup> The practices of medieval witchcraft certainly can be traced back to similar “occult” practices in the ancient world, but they did not represent any continuation (conscious or otherwise) of a specific cult that covertly maintained itself in an organized form in the early centuries of the medieval period and then suffered persecution during the “witch craze” from the fifteenth through the seventeenth centuries, when it was mistaken for “Satanism.” The second modern misconception about witchcraft is the distinction between “good” or “white” magic on the one hand and “evil” or “black” magic on the other. According to this distinction, white magic refers to practices that have beneficial ends while black magic designates practices that have evil or harmful ones. There is no evidence that any such strict division was made either by medieval practitioners or in medieval theorizing about magic. Magic as such was magic, and there was no clear-cut distinction made on the basis of the purposes for which the magic was performed. The term “black magic” was used in the Middle Ages of occult activities thought to involve the invocation of demonic powers, and the corresponding term “white” was invented in the modern period as a natural opposite by those who wished to legitimize the neo-pagan revival of what was taken to be the earlier beneficial practice of magic.<sup>56</sup> To be sure, the practitioners themselves in their self-assessments and the ecclesiastical and

<sup>55</sup> For direct refutations of Murray’s methodology, see Cohn (1975), 152–161, and Thomas (1971), 614–615. For a general survey of subsequent discussion, see Hutton (1999), 362, and for a discussion of her place in the fascinating (and often bizarre) development of modern neo-paganism, see Hutton (1999), 194–201.

<sup>56</sup> For the origins of the term “black” magic in the medieval misunderstanding of the Greek term *necromancy*, see Introduction to the Translation, 3.

scholarly authorities in their pronouncements on the subject did think that the motives involved in the use of magic had a relevance in assessing the morality of the activity, though without thinking that there was an inherent division of the practice itself on the basis of such motives. Furthermore, non-ecclesiastical legal practice distinguished between magic intended to harm and magic used for other purposes, only the former being subject to punishment. The views of the church on the matter will be discussed below, and what we are concerned with here is the way in which low magic, including witchcraft, was perceived by those who practiced it and by those who took such practices for granted and may have thought that either they themselves or someone whom they knew had been affected by it.

For the later Middle Ages and the early modern period, it is hard to gain a clear insight into what exactly the peasants and others who believed in and/or engaged in it thought was going on. Almost all evidence comes from ecclesiastical and legal sources which at the least take a dim view of the matter and give their own (hostile) interpretation of magical practices, assessing it in light of their view of it as some form of interaction with dark powers.<sup>57</sup> The natural result of this was that the practitioners of magic would not be likely to share their views frankly with the sorts of people who would be in a position to pass these views on to us in written form. Naturally, there are the statements made by those accused of witchcraft, but these are fundamentally worthless as historical evidence of the reality of magic practices. Such statements would have been made either under torture or the threat of it, and there is no doubting that interrogators led, cajoled or flatly forced the accused to confess to the interrogators' own conceptions of their supposed crimes.<sup>58</sup> Thus,

<sup>57</sup> For an extensive treatment of the relationship between popular beliefs and learned beliefs, and of the ways in which the former were reinterpreted in terms of the latter, see Kieckhefer (1976), esp. 73–92.

<sup>58</sup> See Kieckhefer (1976), 73–92, for the “imposition of learned notions” on the accused. For examples of the leading questions that would be put to the accused in interrogations, see, in addition to 200D–201D (and *Nuremberg Handbook* Pt. 2, Ch. 4 in both the German and Latin versions), the list of potential questions preserved in the city archive of the German city of Kelheim (see *Der Kelheimer Hexenhammer* [n.d.]). For instance, the latter poses (under the category *mixtura carnalis* or “carnal union”) the questions: “How often in the year apart from witches’ dances did the Devil commit fornication with her, in which place, at home or elsewhere? Did it happen at night or during the day? How did she perceive him? Did he speak softly or loud? How did she recognize him? How was he clothed or how else did he appear?” (*Wie oft der Teufel im Jahr ausser den hexen Tänzen mit ihr vnzucht getrieben, an welchem Orth, im Haus oder sonnstent? Ob zur nachts oder beim Tag geschehen? Wie sie ihne empfunden . . . Ob er stillt oder lauth geredt? Wie sie ihne erkandt? Wie er claidt oder wie er sonsten ausgesehen?*) If such a list of questions was used, it is obvious that torture would soon enough elicit the expected responses.

such confessions, while indicative of the views held about witchcraft in educated circles, do not necessarily tell us much about what the people involved actually thought was going on.<sup>59</sup>

Given the difficulties of recovering the realities of magic practices from the late medieval and early modern periods, it is more satisfactory to examine the evidence from a later period when the decline in the belief of a Satanic element in magic (as well as an end to the execution of convicted witches) made it easier to acquire a sense of what those involved in low magic thought about such practices. In his discussion of the origins of modern neo-paganism, Hutton discusses attestations for magical practices in Britain in the period 1750–1950 and produces a surprisingly large body of evidence that even extends well into the twentieth century.<sup>60</sup> There seems to be no particular reason to think that his generalizations would not have held true (at least in general outline) for fifteenth-century Germany.

The . . . category contain[ing] those who claimed themselves to work in a branch of magic or the occult or to possess arcane powers . . . is a very large one – including . . . many thousands of individuals. It may be subdivided in turn. One distinctive part of it was represented by people who offered no actual services but gloried in a reputation for the ability to work magic if they wished. Some were content to enjoy the enhanced respect and the awe in which they were held as a result, while others went further, to levy a tribute of gifts and payments from neighbours whom they frightened with threats of bewitchment. The rest of the class of self-declared workers of magic was made up of those who were prepared to use their presumed skills on behalf of others, and this may be divided in turn into different levels. At the lowest were those who specialized in the curing (“charming”) of specific ailments in humans or animals, or the provision of specific divinatory services such as astrology or fortune-telling. The charmers were very numerous, especially in rural areas, so that most nineteenth-century villagers would have had access to one in their own parts or another nearby town.<sup>61</sup> Astrologers were especially common in London, and in provincial towns . . . Fortune-tellers were also more likely to be urban, though found in many parts of the countryside as well . . . Above the level of these specialists came those practitioners who offered a range of skills linked to the operation of apparent supernatural powers: the treatment of human and animal illnesses, the finding of lost or stolen goods and the detection of thieves, the removal of destructive magical spells and the punishment of the person who cast them,

<sup>59</sup> See Behringer (1998) for a well-attested example of the interaction between the actual practices of someone who engaged in occult practices (in this instance a man) and the legal authorities’ (mis)interpretation (after his arrest) of what he had been up to.

<sup>60</sup> Hutton (1999), 84–111.

<sup>61</sup> Note the remarkably similar conception in 155C (repeated in the German text of the *Nuremberg Handbook*, Pt. 3, Ch. 5).

astrological calculations, and other divinatory techniques. Such an operator was known throughout England as a “wise-woman” or “wise-man”, with “wizard” a common alternative for the latter.<sup>62</sup>

Such would have been the reality of magical practice in the countryside, in which it was more or less uniformly believed that certain people could exercise a baneful or beneficial influence through their “skills.” While it is easy for people today to put little credence in the efficacy of these activities and to underestimate the extent to which they caused very real anxiety among the general populace, there can be no doubt that all those who were thought to be knowledgeable in the exercise of magic were viewed with wary awe and that witches who practiced maleficent magic (or were thought to do so) were feared and hated. Furthermore, it is not surprising that an inquisitor who had been raised in such an environment and took the reality of magical practices for granted would put the most sinister interpretation on all such practices, however they were viewed by their practitioners.<sup>63</sup>

#### *2c.ii Previous ecclesiastical views on magic*

It should cause no surprise that Christianity adopted a negative view towards any practices whose efficacy was thought to depend upon any force or entity apart from the one true God. All manner of activities, from astrological predictions to leaving out food to propitiate fairies during their imagined nightly visitations of households, were censured and penalized (especially as many survivals of older pagan practices involved supernatural beings who were interpreted as demons).<sup>64</sup> Only two elements of the pre-fifteenth-century tradition need detain us for present purposes.

*2c.ii.α The canon *Episcopi** The canon *Episcopi* is a document of rather doubtful origin that played a significant role in later medieval conceptions of witchcraft. Since the view of witchcraft that is apparently given

<sup>62</sup> Hutton (1999), 85.

<sup>63</sup> It is certain that many such practitioners mixed Christian elements into their spells (this is an amply attested characteristic of high magic), and while this sort of mixture of “superstitious” and Christian formulas and practices would not have met muster with the likes of Thomas Aquinas, undoubtedly the clear distinction between acceptable and unacceptable Christian practices would not have been so evident among the peasantry (or even the often poorly educated secular clergy) of medieval Germany. See the discussion in 171C–175A of how to distinguish an acceptable form of chant for the purposes of curing an illness: it turns out that the distinction is by no means self-evident, and a number of rather subjective criteria are cited for making a determination.

<sup>64</sup> For a discussion of Christian views about witchcraft in Late Antiquity and in the early and middle Middle Ages, see Russell (1972), 45–100, Peters (2001).

in the canon *Episcopi* is at variance with the view advocated in the *Malleus* and the canon was so well known, it was felt necessary on numerous occasions in the text of the *Malleus* to argue that the *prima facie* interpretation of the canon does not in fact contradict the view in the *Malleus*. Accordingly, it is useful to give a short overview of what in fact the canon *Episcopi* is and how it relates to witchcraft.

The text is first attested around 906 in a handbook written by Regino of Prüm to lay out guidelines for bishops in visitations of their dioceses. After this, the canon is copied (with variation) in several later collections of canons, and its later importance derives from the fact that it eventually winds up in Gratian's *Decretum*, the first collection of canons, which formed the basis of canon law (see General Introduction, 3a). It is conjectured that the text was actually drawn up in the Carolingian period and that its original source no longer survives. Regino gave no indication of the canon's origin, and since the previous canon cited by Regino derived from the Synod of Ancyra (modern Ankara) of ca. 314, later versions of the canon *Episcopi* assumed that it too derived from that prestigious synod, and this apparently early origin added to the authoritative reputation of the text.<sup>65</sup>

The text instructs bishops to stamp out "the pernicious art of sorcery and witchcraft invented by the devil" (*perniciosa[m] et a diabolo inuentam sortilegiam et maleficam artem*) and to banish from their dioceses anyone, whether male or female, who is an adherent (*sectatorem*) of this crime. The text goes on to specify (in the form quoted in Gratian) that "certain criminal women . . . having been seduced by the delusions and fantasies of demons, believe and profess that during the hours of the night they ride on certain beasts with Diana, the goddess of the pagans, and Herodias, and with an innumerable multitude of women, and that they traverse broad stretches of the earth in the silence of the middle of the night" (*quedam scelerate mulieres . . . demonum illusionibus et phantasmatibus seducte credunt se et profitentur nocturnis horis cum Diana paganorum dea vel cum Herodiade et innumera multitudine mulierum equitare super quasdam bestias et multa terrarum spatia intempestate noctis silentio pertransire*). This claim is censured as being equivalent to the pagan belief in gods other than the Christian God. The reality of such rides is flatly denied, and anyone who believes in them is overtly characterized as an infidel (i.e., a non-believer). Rather, the women's notion of participating in such rides is attributed to fantasies instilled in the women's minds by

<sup>65</sup> For the history of the text, see Russell (1972), 75–81.

the Devil, such fantasies being compared to the false experiences that appear to people in dreams but do not in fact take place: "Who then is not taken outside of himself in dreams and nighttime visions and does not see when sleeping things that he had never seen while awake? And who is so stupid and obtuse as to think that all these things that take place only in the spirit also happen in the body?" (*Quis enim non in somnis et nocturnis visionibus extra se ipsum educitur et multa videt dormiendo que nunquam viderat vigilando? Quis vero tam stultus et hebes qui hec omnia que in solo spiritu fiunt etiam in corpore accidere arbitretur?*) The text then enjoins the bishops to issue a public declaration that belief in these rides is an act of infidelity (lack of belief in the true faith) and concludes by censuring anyone who "believes that anything can happen or any creature be transformed for better or worse or turned into any other species or appearance except by the creator himself" (*aliquid credit posse fieri aut aliquam creaturam in melius aut in deterius immutari aut transformari in aliam speciem vel similitudinem nisi ab ipso creatore*) as an infidel. Though the logic is not spelled out, this final assertion apparently denies the possible objection that the women do in fact physically participate in these rides, but the creatures upon which they ride are not real animals but demons.

This text was problematical for advocates of later conceptions of witchcraft because it apparently denied the reality of transportation by demons, which was one of the major elements of the Satanic interpretation of witchcraft (see General Introduction, 2c.iii). As a historical observation, it is clear that the text is not in fact referring to witchcraft at all, but instead dealt with certain folk beliefs that are attested in a number of locations over many centuries. In fact, it would appear that the canon actually relates to two separate but related beliefs which could be confused both by the unlearned people who held them and by the Christian writers who related them. First, there is the idea that beautiful "ladies of the night" roamed the night under the leadership of a mistress or queen.<sup>66</sup> This queen is here associated (as in later texts) with the Roman goddess Diana and with the biblical figure Herodias (a deformation of Herod's daughter Salome, who brought about the death of John the Baptist), but one of the later versions of the canon gives her the additional name of Holda, a figure of Germanic folklore who is attested as the head of the nocturnal roamings of these female figures.<sup>67</sup> In the variegated folkloric traditions, which are attested in France, Germany and

<sup>66</sup> For these ladies, who apparently ultimately go back to some sort of pagan fairies, see Cohn (1972), 166-175, Behringer (1998), 47-71.

<sup>67</sup> Cohn (1972), 169, Behringer (1998), 50-51, 55-56.

Italy from the Middle Ages into the modern period, these figures were basically well-disposed creatures (though their anger could be roused by slovenly housekeeping).<sup>68</sup> There is reasonably frequent attestation of humans taking part in their procession, but not of their riding with them. Such riding is part of the related notion of the “wild hunt” or “raging army” (*der wilde Jagd, das wütende Heer*), which described the destructive nocturnal marauding of armies of dead souls who battled other such armies and wrought havoc.<sup>69</sup> These armies were under the leadership of a figure called Wuotas, who seemingly goes back to the Teutonic god Wotan.<sup>70</sup>

Naturally, the folkloric beliefs that were being combatted by the canon were irrelevant to its author, who doubtless saw in them merely errors spread by the Devil, and there is no way to recover exactly what beliefs led to its promulgation in the ninth century. What is important for present purposes is how it was taken in subsequent ecclesiastical discourse about witches. While the canon dealt, as we have seen, with assorted folk beliefs concerning humans consorting with various nocturnal entities, the phrase “art of sorcery and malefice” (*sortilegam et maleficam artem*) indicates that the author of the canon *Episcopi* conceived of the activity it describes as falling under the rubric of “sorcery,” and it was natural for later authors on the topic of witchcraft to assume that the canon dealt with the same topic as their own. Thus, it was easy to assume that the mention of “riding on certain animals” was equivalent to the later notion that witches were able to fly physically through the air in order to attend assemblies (“synagogues”) presided over by Satan,<sup>71</sup> even though the text indicates only that these rides took place over great distances with no particular destination mentioned or implied. In any case, the problem for the advocates of the later conception of witchcraft was the text’s very

<sup>68</sup> Various names for the figures show their good will, e.g., “good women, good thing, good people, good society” (*bonae mulieres, bona res, bona gens, bona societas*). There are numerous other names attested for the queen which all have to do with her association with abundance and good fortune. These good creatures also turn up in a story involving St. Germanus that is discussed at length in the *Malleus* (105C, 133B), though naturally with no idea of the historical connection with the folkloric beliefs underlying the canon *Episcopi*.

<sup>69</sup> Behringer (1998), 72–81. Cohn (1972), 169, makes the mistake of associating Holda’s followers with the wandering spirits of the dead, but Behringer (1998), 26–38, shows that the nocturnal processions of the dead represent a separate (if related) folkloric belief.

<sup>70</sup> This was not realized by those who spoke of the leader in the Christian period, and the name is distorted into Muotas and Guotas (apparently meaning “good,” presumably through confusion with the beneficent activities of the “good society”).

<sup>71</sup> The expression “synagogue of Satan” is first used in the Book of Revelation (2:9, 3:9), where it is used to describe Jews who speak out against Christians. The phrase appealed to the anti-semitic minds of the Middle Ages as a term to describe heretics (who could thus be equated with the supposedly anti-Christian Jews).

explicit denial of the reality of the physical transportation of women by demons. The answer given to this interpretation in the *Malleus* (105C) is simply to deny that it is of universal applicability, i.e., even if physical transportation was impossible in the case dealt with by the canon, this does not mean that such transportation is absolutely impossible.<sup>72</sup>

2c.ii.β The scholastic view of witchcraft and magic Since demons and the Devil figure prominently throughout the books of the Bible and the works of patristic authors, the scholastics naturally took their existence for granted, and worked into this conception notions about the reality of magical practice (whose efficacy was attributed to these demons) derived from the beliefs of society at large. In terms of the *Malleus*, the greatest influence was exerted by the writings of Aquinas, who has several prominent passages on demons and their works.<sup>73</sup> In *Pronouncements (Sentences)* 2.7 and 2.8 he discusses in general terms their powers and the illegitimacy of human invocation of these powers. In 4.34.1.3 he treats the specific question of whether witchcraft (sorcery) can impede a marriage, and in upholding the notion that witches can in fact do so, he launches into a general rebuttal of those who deny the reality of witchcraft. While it may be true that in the development of notions about witchcraft the scholastics did not so much add anything new as take for granted the ideas that surrounded them in society at large, it remains the case that treatments like Aquinas's gave an elaborate intellectual underpinning to those ideas.<sup>74</sup>

### 2c.iii Satanism

The great witch persecutions that lasted from the fifteenth until the early seventeenth centuries (the period known in German as the *Hexenwahn* or "witch craze") were based upon a new notion of witchcraft that can be termed Satanism or diabolism. This view saw the supposed witch as participating in a malevolent society presided over by Satan himself and dedicated to the infliction of malevolent acts of sorcery (*maleficia*) on others. This new conception is known in modern scholarship as the "elaborated concept of witchcraft," which is characterized by six basic

<sup>72</sup> This rebuttal is not very convincing (the canon does seem to be speaking in absolute terms), and Bernard (Rateno) of Como came up with a more logically satisfactory explanation by claiming that the witchcraft practiced in the fifteenth century was inherently different from the sort practiced at the time of the Synod of Ancyra (taking for granted the erroneous early dating of the canon): see Bernardus Comensis (1584), 145.

<sup>73</sup> For a lengthy treatment of his views, see Hopkin (1940).

<sup>74</sup> For discussions of ecclesiastical views, see Russell (1972), 142–147, Peters (2001).

beliefs about the activities of those considered guilty of this form of witchcraft:

- 1) A pact entered into with the Devil (and concomitant apostasy from Christianity)
- 2) Sexual relations with the Devil
- 3) Aerial flight for the purpose of attending:
- 4) An assembly presided over by Satan himself (at which initiates entered into the pact, and incest and promiscuous sex were engaged in by the attendees)
- 5) The practice of maleficent magic
- 6) The slaughter of babies.<sup>75</sup>

2c.iii.α Origins of the concept of Satanism The general area and time in which this concept arose are clear enough, but the process by which this new conception developed from earlier interpretations of witchcraft and magic is still obscure. The new conception is first attested in four works written around the second quarter of the fifteenth century:<sup>76</sup>

1) The account of Hans Fründ. Fründ, who was born around 1400 and died in 1461, was a German-speaker born in Lucerne. He is attested in various capacities as a notary in Schwytz and Lucerne, and he wrote a chronicle of a war fought by Zurich in 1437–1447. The German “account” is a work preserved in a manuscript containing various legal and historical works written by various authors and describes the discovery and persecution of a sect of Satanists in the territory and bishopric of Wallis (Valais) in the year 1428.

2) John Nider (see General Introduction, 5f.i), *Formicarius*. Book Five as a whole deals with witchcraft and Section Three of that book attests to the elaborated concept. This information was related to Nider by Peter von Greyerz, who acted as judge in Boltigen in his capacity as bailiff of the territory of the Hoch-Simmental (valley of the High Simmen in modern Switzerland), which had recently been acquired by the city of Berne. He is attested as bailiff in 1393–1397 and 1407–1410, but it is not known when exactly the events related by him took place.<sup>77</sup>

3) *Errores Gazariorum*. This anonymous work is preserved in two manuscripts that both preserve texts concerning the Council of Basel.

<sup>75</sup> Behringer (1997), 14, gives a less detailed version: 1) the Devil's pact (and apostasy); 2) a sexual relation with the Devil; 3) the possibility of aerial flight to attend 4) the witches' sabbath to worship the Devil; 5) maleficent magic.

<sup>76</sup> These texts are collected (with French translations) in Ostorero *et al.* (1999).

<sup>77</sup> For the date, see Ostorero *et al.* (1999), 107 n. 47.

It is not, however, possible to be more precise than to ascribe the work to the mid-fifteenth century. As for location, a topographical reference seems to place the events in either upper Savoy or southern Switzerland.<sup>78</sup> Written in Latin, the work refers to practitioners of the form of witchcraft it describes as *Gazarii*, which is a deformation of *Cathari* (Cathars) and was basically an Italian term used to describe the Waldensians (see General Introduction, 2i.a).

4) An untitled essay by the jurist Claude Tholosan. Tholosan wrote this work during his term in the period 1426–1449 as judge at Briançonnais in the Dauphiné, the area of southeastern France to the west of Piedmont in Italy. Tholosan was active in the persecution of witches and drew up the work to facilitate the cause of exterminating them. Though much of the work concerns the legal basis of the persecution, he clearly lays out the elaborated conception of witchcraft.

Thus, all of the works attesting the elaborated conception seem to have been written within a decade or so of the 1430s. There is, however, some indication that it was thought that the activities that would fall under the category of the elaborated conception were practiced at an earlier date. The witch hunting activity attested by Nider took place around 1400, but there is no way of knowing whether his account written decades later could have been affected by ideas of witchcraft that he (or for that matter his informant Peter von Greyerz) learned of only later. Furthermore, Nider explicitly states that von Greyerz indicated that the sect had begun its activities “about sixty years ago” (*a sexaginta circiter annis*). This calculation is presumably counted from the date of the composition of the *Formicarius*, which in turn would place this activity around 1380. In addition, the inquisitor Bernard of Como contrasts the novelty of the new variety of maleficent witchcraft with any previous manifestations of it, and claims that this change had taken place about 150 years before his own time.<sup>79</sup> Unfortunately, his work is not explicitly dated, but since it refers to his activities as inquisitor, to which position he was appointed in 1505, and his death is dated to 1510 or 1516, it is perhaps reasonable to date the work to about 1510.<sup>80</sup> This would place the change in about 1360. Bernard cites as evidence for his claim inquisitorial records in Como, and while Cohn rejects this

<sup>78</sup> Ostorero *et al.* (1999), 273 and 331.

<sup>79</sup> Bernardus Comensis (1584), 145.

<sup>80</sup> For information about his life, see Hansen (1901), 279–280. Bonomo (1959), 254, dates the work to around 1508, which seems reasonable enough, but on p. 141, without citation of evidence, he dates Bernard's appointment as inquisitor of Como to 1484–1505 and the composition of the *Tractatus de Strigibus* (“Treatise on Witches”) to 1484–1487, both totally unacceptable dates.

notion out of hand, Borst has suggested that Bernard's reference may be to trials of Waldensians conducted in Pinerolo in the Savoyard Alps in 1387–1388.<sup>81</sup> In any case, the *Malleus* holds that the beginning of the new practice of witchcraft dates to the beginning of the fifteenth century (108A).

Whether or not Borst is correct in associating Bernard of Como's dating of the start of the new form of witchcraft with the specific trials of Waldensians conducted in 1387–1388, it seems clear enough that the new conception of witchcraft, as a form of direct worship of Satan that involves the infliction of harm through witchcraft, can be derived from the revolting lies told about the Waldensians by their orthodox foes.<sup>82</sup> The logical development seems to have been as follows. First, the heretical Waldensians were conceived of as tools of Satan, and thus the traditional calumnies about heretics, including the murder of babies and the practice of maleficent witchcraft, were ascribed to the Waldensians. Eventually, the Waldensians became so associated with witchcraft that deformed versions of their name could become terms for "witch" in Romance languages.<sup>83</sup> In the next step, the sect that practices witchcraft is no longer associated specifically with the Waldensians. Instead, the notion develops that there is a deviant group of renegade Christians who renounce Christianity in favor of the worship of Satan, who are led by him, and who practice the most extreme form of maleficent witchcraft for its own sake.<sup>84</sup> The texts cited above present the first attested manifestation of this new conception. The Latin works refer to this supposed organization as a "sect" (*secta*) of whatever term is used in a given text for witches, but the German text of Fründ describes them as the "heresy of witches and of magicians, both women and men, who are called sorcerers in Latin" (*ketzerye der hexssen und der zùbrern* [in modern German *Ketzerei der Hexen und der Zauberer*], *beide wiben und mannen, die da heissent sortileij ze latein*). This corresponds directly to

<sup>81</sup> Cohn (1972), 200, rejects Bernard's evidence on the grounds that no one has found the evidence for such trials in Como. But it is to be borne in mind that Bernard does not actually say that the trials took place in Como, only that he found records of the previous trials in the archives in Como ("as is evident from the ancient protocols of inquisitors that are preserved in the archives of our inquisition in Como," *ut apparet ex processibus inquisitorum antiquis, qui in archiuijs inquisitionis nostre Comensis*, Bernard [1584], 145). Contra Borst (1992).

<sup>82</sup> For the transformation of Waldensians into heretical practitioners of magic, see Audisio (1999), 72–78.

<sup>83</sup> In Provence, the term *uudois* or "Waldensian" came to mean "witch" or "heretic" and the resulting crime was called *uauderie*.

<sup>84</sup> The clearest exposition of this position appears in Cohn (1972), 202–210 (though he tends to underestimate the value of the literary evidence).

the term "heresy of sorceresses" (*heresis maleficarum*) used repeated in the *Malleus*.

Incidentally, the origin of the so-called "sect of sorcery" in the actual sect of the Waldensians explains one of the notable illogical aspects of the elaborated conception as laid out in the *Malleus*. One of the inherent characteristics of belonging to the sect is the "renunciation of the faith" (*abnegatio fidei*), which constitutes the crime of apostasy. But a heretic is someone who denies some particular aspect ("article") of the faith while otherwise adhering to it, something that is ruled out in apostasy, which entails the rejection of the entire faith. As the notion of the heretic came to be increasingly "demonized" and heretics were accordingly viewed as the most depraved criminals, it was natural to view them as having totally rejected the faith, despite the fact that this definition effaced the distinction between heretics and apostates.

The derivation of the notion of "heresy of witches" from calumnies told about the sect of the Waldensians explains the geographical area in which the first texts that describe the elaborated conception of witchcraft were composed, namely the mountainous regions of what is now southwestern France and especially northern Italy and southern Switzerland. These are precisely the inaccessible districts into which the Waldensians were driven by the persistent persecution at the hands of orthodox ecclesiastical and secular authorities. This is not to say that those who suffered persecution in the witch hunting activities described in the works mentioned above were actually guilty of the extravagant charges made against them. Rather, the victims of witch hunting were either regular Catholics who were totally innocent of the charges, or at the most peasants whose dabbling in plain old magic was given a very sinister coloring by secular investigators, who interpreted such magical activities as they found in terms of the new conception and used torture to force the accused to confess to the investigators' self-induced delusions.

One might ask whether it is not possible that there were in fact Satanic sects that subjectively believed that they were carrying out the will of Satan (whatever the metaphysical truth of the matter). To this the simple answer is no, on the basis of the following considerations.

1) There is absolutely no independent corroboration of any such activity on the part of anyone.<sup>85</sup> The sole evidence for this activity comes

<sup>85</sup> One might, I suppose, cite in objection the confession made by Aymonetus the son of Jaqueti Maugetaz, who "appeared voluntarily and presented himself" (*comparuit spontaneus et se presentavit*) before an inquisitor in 1438 (for the text, see Ostorero *et al.* [1999], 344-353). In this confession, the deponent Aymonetus enumerates a large number of Satanic acts that he had

from the theoretical discussions and judicial investigations of those who believed in the existence of a form of maleficent witchcraft.

2) All confessions to such activity are of no evidentiary value as they were extracted through the use or the threat of (often extreme) torture (see General Introduction, 3c). Thus, these confessions are evidence for nothing but the delusions of the investigators.

3) The stories told about the practitioners of the elaborated conception of witchcraft were also told about any number of previous heretics, and there is no reason to believe that anyone actually engaged in these activities. Rather, the self-image of the official forms of Christianity necessitated the notion that any deviation from orthodoxy could only be based on adherence to Satan, and thus it was natural to imagine the most unspeakable (and literally impossible) misdeeds on the part of perceived heretics (see General Introduction, 1a).

4) The demonological works make much of the supposed fact that the confessions of the accused are concordant in the details given about the practices of maleficent witchcraft, but it should be emphasized that while the fairly vague characteristics laid out above for the elaborated conception of witchcraft have been drawn up in order to encompass all four works listed above (as well as the *Malleus*), there is in fact a great deal of variation in the details given in the various works about the specifics. This is not the place to go into any detail about these discrepancies; let it suffice to note the details are so divergent that no single "sect" following a fixed set of practices could conceivably lie behind the specific details given in the various works. Instead, while the general outline of the practices of the "sect of witches" was known in various locations, the details were made up according to the notions held by the local investigators.

Since the propensity of orthodox thought to foist the most heinous crimes upon its opponents is manifest and widespread, the elaborated conception of witchcraft is simply an example of this tendency run amok. Instead of slandering a particular set of heretics, this theory posited the

supposedly witnessed and to some extent participated in. But it must be borne in mind that Aymonetus' father had recently been burned to ashes for witchcraft, and given the propensity to assume that children of convicted witches were involved in their parent's (usually mother's) misdeeds, presumably Aymonetus was simply trying to save his skin by confessing in a way that minimized his guilt (he claims to have been forced into these activities by his father and to have been reluctant) to activities of which he could easily foresee himself being accused anyway. And he succeeded (the whole point of the document is to record the abjuration that he had to perform, which was a far preferable result compared to being burned alive). A similar "confession" is recorded in 96D-97B.

existence of a group whose sole reason for existing was to commit the sorts of crimes (especially, though not exclusively, those of maleficent witchcraft) associated in the orthodox mind with heretics. While this is hardly the place to investigate the later development of this conception of witchcraft, it is worth noting that the use of torture to extract confessions seemingly provided evidence to corroborate this crazy notion. The craze for witch burning (especially in German-speaking lands) resulted from this self-fulfilling fantasy, and it took more than two and a half centuries for the idea to take hold that the notion of Satanism for which large numbers of people were burned (alive or already strangled) simply did not correspond to reality.<sup>86</sup>

2c.iii.β Institoris's interpretation of Satanism One might think that the *Malleus* should be allowed to speak for itself in terms of the detailed version of the elaborated conception of witchcraft that is advocated in it, but there are several reasons why a short summary of the views of Henricus Institoris on the subject – he was clearly responsible for the practical and legal elements of the work (see General Introduction, 4c) – is worthwhile. First, since the *Malleus* is basically a patchwork of previous writers' words, Institoris's own views are sometimes obscured through being presented in the words of others, which do not necessarily spell out what he means directly. Second, his own views are sometimes expressed in the anecdotes scattered through the work but the relevance of these anecdotes is not always made explicit. Third, Institoris made a full exposition on his views about prosecuting witches in the handbook that he wrote for the city council of Nuremberg in 1491 (see 4b.iii), and since the work is fully his own composition in his own words (partially in German rather than Latin), this work makes much more explicit some of the thoughts that are only implied or undeveloped in the *Malleus*. Accordingly, a resumé of Institoris's version of the elaborated conception of witchcraft may prove helpful for the reader.

First, a matter of terminology. In the German text of the *Nuremberg Handbook*, Institoris uniformly uses the term *Unhold* for (maleficent) "witch" belonging to the "Heresy of Sorceresses," though in the cover letter to the work he gives as a variant the term *Hexe*, which is the usual term that survives in modern German (*personen mit namen unholden*

<sup>86</sup> See for example Behringer (1997), 322–327, for widespread doubts about the validity of the methods used to convict witches during the massive campaigns of witch hunting in southern Germany that reached culmination in the 1620s.

*oder hegksen*).<sup>87</sup> This term is in turn uniformly rendered in the Latin (of both the *Malleus* and the *Nuremberg Handbook*) as *malefica*. This terminology is significant in that this usage shows an invariable preference over the many synonyms for “witch” in both German (*Zauberin* and *Giftmischerin* in addition to *Hexe*) and Latin (*lamia*, *striga*, *venefica*). As noted repeatedly in the *Malleus* (in the form of the etymology of the word given by Isidore of Seville), the literal meaning of *maleficus* is “evil-doer,” and, as we will soon see, it is the inherent necessity to inflict evil through sorcery that distinguishes adherents of the sect from mere dabblers in magic. Those who practice magic without belonging to the sect are termed *Zauberer* in the German of the *Nuremberg Handbook*, which corresponds to *incantatrix* in the Latin version.<sup>88</sup> The more specific term *warsager* (=modern German *Wahrsager*) is attested for those (“soothsayers”) who can “divine” the truth; this corresponds to the Latin *divinatrix* (cf. 183D). The “Heresy of Sorceresses” (*heresis maleficarum*) appears several times in the German in the literal translation *ketzerei der unholden*.

The characteristics of the elaborated conception of witchcraft (see General Introduction, 2c.iii) all appear in the *Malleus*, but the *Nuremberg Handbook* gives a simpler definition: “this depravity of sorceresses consists of two elements: the heresy and apostasy from the Faith and the temporal loss that she inflicts” (*ipsa prauitas maleficarum ex duobus consistit, scilicet heresi et apostasia a fidei et ex temporali damno quod infert* [21r]). The first element is phrased in two ways, one positive, one negative. The aspect of heresy represents adherence to the tenets of the sect as a result of the homage that they do to Satan, while apostasy represents the rejection of the Christian faith that the witch adopted at baptism. The second element consists of the harm that is obligatorily inflicted by the witches as a result of their adherence to the sect.<sup>89</sup> Thus, the other elements of the modern definition of the elaborated concept of

<sup>87</sup> On the basis of the fact that in a later Latin work Institoris translated *malefica* as *Unhold*, Hansen (1901), 390, already recognized that this was Institoris’s vernacular term, a conclusion that has been amply confirmed in the German text of the *Nuremberg Handbook*. This in turn means that the traditional German translation of the *Malleus* as the “*Hexenhammer*” is not strictly correct (we have no idea how Institoris himself would have translated the title, since he uses the Latin version even in the German text of the *Handbook*), and that it should be termed the “*Unholdenhammer*” (though no doubt common usage has made it impossible to change this).

<sup>88</sup> Presumably merely as a result of chance usage, the feminine form *Zauberin* is not actually attested in the *Handbook*.

<sup>89</sup> This formulation comes from the table of contents to the work, and at the start of the relevant chapter (Pt. 2, Ch. 8) Institoris elaborates with the peculiar image, borrowed from one of the basic conceptions of Thomistic scholasticism (see General Introduction, 2a.v.α), that heresy is the material, and the infliction of loss the external form (*ipsa heresis tanquam materiale, alterum*

witchcraft are simply subsumed into this twofold scheme. The pact with Satan is simply an element of giving allegiance to him, and the other elements (flying to attend meetings with Satan and the specific forms of witchcraft) are simply aspects of belonging to the sect.

It is the overt pact with Satan (part of the act of entry into the sect) and the intentional infliction of loss that distinguish the Heresy of Sorceresses from other forms of magical practice. The Latin of the *Nuremberg Handbook* (Pt. 2, Ch. 8) poses the question of "whether acts like denial of the Faith in body and soul, complete dedication of oneself [i.e., to Satan], and the horrific infliction of disgrace upon the most divine sacrament of the eucharist<sup>90</sup> belong to the essence and characteristic of this depravity, so that without them no one can be a sorcerer" (*an huiusmodi actus, ut sunt fidei abnegacio in corpore et anima, suiipsius totalis abdicacio et diuissimi eukaristie sacramenti horrenda dehonestacio, sint de essencia et proprietate huius prauitatis, ita quod nemo sine hys valeat esse maleficus* [39r]), to which the answer is given that "without these acts, though people can be nigromancers and assorted invokers of demons, no one can be a sorcerer in this depravity unless he is ensnared in those acts" (*sine huiusmodi actibus licet valeant esse nigromantici et varij demonum invocatores, tamen in hac prauitate nemo existit maleficus nisi predictis fuerit implicatus* [39r]). A similar conception appears in the German text (Pt. 2, Ch. 5), where a distinction is made about various people who are heavily suspected of heresy without being guilty of the Heresy of Sorceresses: "Under heavy suspicion are all those whose activity involves magic but lacks two things, namely the dedication of body and soul along with renunciation of the Faith, and the infliction of injury in the manner of witches. This sort of magic is carried out in countless numbers with the help and activity of the Evil Spirit in many sorts of ways: by summoning the Devil into a circle, into a crystal, into water, openly in the guise of a human or domestic animal, a dog or cat." (*Im sweren argkwon alle die mit zauberey handlen on zway ding, daß ist, on ergebung leibs vnd*

*vero tamquam formale ab extra apprens* [39r]). Presumably, the sense is that there exists an undifferentiated mass of theoretical heresy that is given substance as a specific manifestation of heresy through the imposition of some "form," which in this instance is the infliction of temporal losses. Presumably, the "form" of a regular heresy is the doctrine that distinguishes it from orthodoxy, and since the Heresy of Sorceresses is not even a heresy at all in the proper sense (as noted in Institoris's definition, it entails apostasy, which is the *rejection* of Christianity in its entirety), the infliction of loss through witchcraft is used to fill the logical gap in the conception of witchcraft as a heresy.

<sup>90</sup> Given the heightened devotion to the eucharist that developed in the later Middle Ages, it is not surprising that heretics (and Jews) were often imagined as trampling the sacramental host in the mud as a sign of their rejection of Christianity (presumably because it would be easier to steal the host than the sacramental wine), and not surprisingly this notion was attributed to the imagined initiation rites of witches.

*sels mit verleüung deß glaubens, vnd auch kain schaden zû fiegen, als die unholden, welche zauberey auch mit des bösen gaistes hilff vnd handel gieibt wirt on zal an mangerlay weyß, dem teüfel zû rieffen in kreüß, in cristal, in wasser, offentlich in menschen oder fûch gestultnus, hunt oder katzen. [14r-v]).* Clearly activities that are of extremely dubious orthodoxy and are subject to severe penalty are nonetheless trivialities compared to the imagined heinousness of the Heresy of Sorceresses. Apart from the lack of direct homage to Satan, the main distinguishing characteristic in the form of magic that is to be (grudgingly) tolerated is lack of intentional harm to others, which in practice means that the magic is intended only for personal benefit:

Countless instances of this activity [magic involving the invocation of Satan] take place in all estates, rich and poor, in wedlock and out of it, and yet no common injury is sought and only a personal gain, such as when married women learn how to make their husband love no one but them or not hit them, or when an unmarried person wants to make some man be fond of her and for this takes some wild things that she causes to be affected with magic through reading of the Mass or other blessings. The judge should not bother with any of these things, for he would never have peace, unless he is worried about the young crowd learning worse things, like not becoming pregnant or killing children.<sup>91</sup>

This sentiment is repeated in the Latin:

Here the reader should note that this would happen when the woman had sought only personal advantage, namely that in order for her husband not to hit her or to stop committing adultery or to know her alone [i.e., carnally], she had practiced superstitious acts that would make him impotent towards other women but not towards her.<sup>92</sup>

The very acts listed here are often mentioned in the *Malleus* among the crimes committed by members of the Heresy of Sorceresses, but here the heinousness of these crimes is explicitly denied. Clearly, the mere practice of magical acts, even with an explicit invocation of Satan, was

<sup>91</sup> *So deß handelß vnzal geschicht in allen stenden, arm vnd reich, in der ee, auß der ee, vnd doch kain gemainer schad dann allain aigen nutz gesücht wirdt, also do efrauen lerten, daß ir mann kain andere dann sy lieb hab oder nit schlag, oder do ledig person wil machen, das ir ainer holde werde, vnd nymt darzû wild sachen, die sy lot mit meßlesen vnd ander segen verzaubern. Aller solichen sachen kümmer sich nit der richter, wenn er het nymmer rüg, eß sey dann, das er besorg, erger sachen die iunge welt zû lernen, als daß sy nit swanger wurden vnd kinder verderbten. (15v)*

<sup>92</sup> *Vbi lector notat quod hoc fieret vbi solum commodum proprium mulier quesiuisset, videlicet vt eam non verberaret vir vel vt ab adulterio desisteret et eam solam cognosceret, talia superstitiosa praticasset vt esset ad alias mulieres impotens, non autem ad eam. (51r)*

a comparatively trivial matter so long as the question did not involve participation in the Heresy of Sorceresses.<sup>93</sup>

This conception of the Heresy of Sorceresses as a group of people who deny Christianity and commit harm helps explain one of the peculiar aspects of the *Malleus*, namely its inclusion of a very specific category of male malefactors, namely the “archer sorcerers” treated in the grouped Chs. 16–18 of Pt. 2, Q. 1. There seems to have been some methodological difficulty concerning this group in that while the archers treated in Ch. 16 – those who use a form of “sympathetic magic” to guarantee hitting their (human) target by shooting the intended part on an image of crucified Christ – are included without reservation, the other two categories – those who use a similar procedure to secure themselves against being struck and those who merely recite incantations over their weapons – are included only through the force of inner logic, the first because of the similarity in procedure (151A) and the second merely because of the similarity in terms of the object that is affected with magic. By the time of the writing of the *Nuremberg Handbook*, Institoris seems to have cleared up his thinking. Towards the end of the work he gives a list of those suspected of heresy upon whom canonical purgation (see General Introduction, 3b) is to be imposed (rather than death), and the penultimate category consists of “those who enchant their arms and arrows in a hostile manner through the Devil’s art” (*qui arte dyabolica arma et sagittas incantant hostiliter* [52r]). The crucial element here is the adverb *hostiliter*, literally “in the manner of a military foe.” Such archers are logically included in the same category as the adherents of the Heresy of Sorceresses because like them they enter into an agreement with Satan that involves desecration of the most revered elements of the faith (in this instance the image of the crucifixion) and on the basis of this agreement they then inflict harm on others. At the time of the composition of the *Malleus* there was already some sense that the second two categories really do not deserve to be included because of the defensive nature of their activities – note the statement that those who shoot at the crucified Christ to protect their own body differ from the first category because they “lack the intention of harming someone else” (151A) – but the force of apparent analogy led to their inclusion. Note in particular

<sup>93</sup> The comparative indifference to amatory magic was traditional. In *Directorium Inquisitorum* 2.43 (see General Introduction, 5f.i), Eymeric cites Oldradus (de Ponte or di Lodi), a famous jurist of the early fourteenth century, as stating that the acts of giving a woman love potions (*pocula amatoria*), making images to woo women’s love, and even invoking demons to tempt a woman’s chastity, while “base, foul, and mortal sins,” nonetheless do not smack manifestly of heresy.

that the activities of the second and third categories are described with *incantator* and etymologically related words, which is the terminology in the *Nuremberg Handbook* for those practitioners of magic who do not fall into the Heresy of Witches (*Ketzerei der Unholden*) and do not at all deserve the savage penalties meted out to the latter. Even in the case of the first category of archer sorcerers, it is fundamentally only the external similarity in their activities to those of the adherents of the Heresy of Sorceresses that led to their inclusion, and the inclusion of this separate category of men in the work does nothing to undercut the conception of the Heresy of Sorceresses as an exclusively female cult (see also Latin Introduction, 2 for the seemingly anomalous use of the male gender in the work).

It is worth noting that there are only two demonstrable sources for the specific notions about the elaborated conception as it is laid out in the *Malleus*. First, there are the writings of John Nider (see 5f.i). Despite the large number of other texts available at the time, there is no sign of consultation of any of them.<sup>94</sup> Second, there is the testimony of the anonymous inquisitor of Como, whose recent deeds in the sphere of witch hunting made a strong impression on one author, presumably Institoris (see 64A, 108C). Seemingly, the two inquisitors had had some occasion to compare notes on their experiences in this activity. It is surprising that there is no evidence for any other influences in the presentation of such a fundamental element of the subject.

2c.iii.γ Institoris's understanding of the Satanic nature of all heresy It should not be thought that Institoris viewed the Heresy of Sorceresses as an isolated phenomenon. To the contrary, he also associated other forms of real heresy (that is to say, actual religious practices that are deemed by the official church to be deviant) with sorcery. In his grant to the convent in Schlettstadt of the privilege of selling indulgences, Pope Sixtus IV makes the following note in his preamble:

Since it is not without serious annoyance that it has been brought to our hearing through reliable report that in certain parts of Germany at the instigation of the Sower of Weeds<sup>95</sup> heresies of certain womenfolk who deny the Faith have run riot in times past and especially present, when that son of iniquity and foster child of perdition Andrew, the previous archbishop of the Craina, being given over to a sinful spirit, with a stiff neck deviated from the Faith and with

<sup>94</sup> See Hansen (1901), 67–242 for fifteenth-century works discussing witchcraft.

<sup>95</sup> I.e., the Devil (cf. Matt. 13:25–30).

his false delusions seduced to his faith-breaking sect many who had previously been true Christians and truly Catholic.<sup>96</sup>

There can be little doubt that the “reliable report” of the activities came from Institoris himself, because of whose petition the privilege was granted.<sup>97</sup> From this it would follow that not only was the connection of the conciliarist movement with the Heresy of Sorceresses made by Institoris, but he actually seems to have considered the sorceresses to be the predominant element. A similar view is attested in Institoris’s discussion of the origins of the “Waldensian” heresy in Bohemia. Here he notes that people often have trouble understanding how God could allow misfortunes like the Waldensian heresy and that of the sorceresses as well as the expansion of the Ottoman Turks to befall Christendom.<sup>98</sup> These heresies of the Waldensians and the sorceresses are said to weaken the Catholic faith more than any others had, the former through its doctrinal errors, and the latter through its contumacious renunciation of the faith, and once more this attack is directed personally by the Devil.<sup>99</sup> Thus, this Heresy of Sorceresses is viewed as part of the Satanic

<sup>96</sup> *Sane sicut fidedigna relatione non sine graui mentis nostre molestia ad nostram audientiam peruenit in nonnullis Alamanie partibus zizanie satore procurante alique hereses etiam quarundam muliercularum fidem abnegantium ab aliquibus citra temporibus et presertim hoderinis, quibus ille iniquitatis filius et perditionis alumnus Andreas olim archiepiscopus crainensis in reprobum sensum datus erecta ceruice a fide deuiauit ac multos, qui antea veri christiani et vere catholici erant, suis falsis illusionibus ad suam perfidiam sectam induxit* (Doc. 24 in Schnyder [1993], 42).

<sup>97</sup> In his petition protesting at the revocation of the privilege of selling indulgences on behalf of the convent at Schlettstadt, Institoris notes that “at the foot of Your Holiness [I conducted] the business of the faith against the conciliarists and certain other heresies, especially that of certain womenfolk who deny the Catholic faith before incubus demons” (*Ad pedes namque sanctitatis vestre constitutus ac negotia fidei contra concilijstas ac quasdam alias hereses, presertim muliercularum quarundam fidem catholicam erga incubus demones abnegantes* [sic] [Petersohn (1988), 123]). The similarity of this text to the pope’s is clear, and while it is conceivable that Institoris is here copying the earlier papal text, it seems a more reasonable interpretation that he is quoting his own original words to the pope that gave rise to the papal text.

<sup>98</sup> This and subsequent quotes from the *Clypeus* about conjoining the Hussites and the heresy of sorceresses are cited in doc. 72 in Schnyder (1993), 70–71: “various difficulties [arise] not only among the unlearned simple [i.e., lay] people but also often among the learned regarding God’s providence and permission because of which the Church is shattered by these most bitter afflictions, not only through internal dissensions in terms of the expansion of heresies, especially these two, namely those of the Waldensians and sorceresses, but also regarding the most bitter afflictions that are constantly being inflicted by the infidel Turks” (*varie difficultates non tam apud indoctos et simplices quam et sepe erga doctos super diuinam prouidentiam eiusque permissionem, cur ecclesia his amarissimis concutitur afflictionibus non tam per intestinas dissensiones quo ad multiplicationem heresum, et precipue duarum, scilicet Waldensium et maleficarum, quantum etiam super amarissimas afflictiones ab infidelibus Thurcis continue illatas*).

<sup>99</sup> “As for why the Devil is now so savagely harassing the Church through these two most recent heresies, the response is clear. Since the heresies surpass all others in cruelty in terms of humans who inflict harm on humans, domestic animals and the fruits of the earth [a very common definition of sorcery in the *Malleus*], as is explained in the ‘Sermons against the Heresy of

conspiracy to undermine the true church of God, and it is this that distinguishes it from other forms of magic.

2c.iii.δ Apocalyptic conception of Satanism in the *Malleus* The book of Revelation (the Apocalypse) was included in the canon of orthodox books of the New Testament because of the erroneous belief that its author was the same as that of the Gospel of John. As it is, the author of the Apocalypse was steeped in the tradition of the prophetic books of the Hebrew Bible like Ezekiel, Isaiah and Daniel, and thus the Apocalypse follows them in giving a rather fanciful vision (with much bizarre imagery and numerology) of the "Final Days." First, Satan will triumph (as the Antichrist in later medieval interpretation), but after he is vanquished by Christ, there will be a thousand-year period of direct rule by the latter (the Millennium). Next, Satan will be released from his prison to wage a final, futile battle against God, at the end of which the world will end, Satan being cast into eternal torment and the Last Judgment taking place. On the whole, orthodox writers recognized as authorities by the church tended to downplay the imminence of these events, in that they would seem to imply no further role for the official church, and much mischief would be wrought in the later medieval and early modern periods by people who took the Book of Apocalypse at (more or less) face value and acted upon the assumption that its predictions were about to be fulfilled.<sup>100</sup> The attempt to establish the thousand-year kingdom of God on earth is known as millenarianism, but what we are dealing with here is the somewhat toned-down version of the Last Days that prevailed in more or less official medieval dogma. For convenience' sake I call this apocalypticism, and the understanding of witchcraft in the *Malleus* is firmly set within the context of this apocalypticism.

This context is referred to from the very start of the work in the Author's Apology (see 5a.ii), which notes that while Satan has always attempted to undermine the church of Jesus with heresy, he is redoubling

Sorceresses' [i.e., the *Malleus*], and the Heresy of the Waldensians is surpassing in terms of the demons' most evil doctrines, as has been mentioned and will be proven subsequently in the refutation of their errors, accordingly, because these heresies also suit his purposes more than the others, he persecutes the Church through them" (*cur per has hereses duas iam nouissimas sic atrociter diabolus ecclesiam infestate, patet responsio: Quia enim cunctas alias hereses excedunt et in crudelitate quo ad maleficos hominibus, iumentis et terre frugibus supra modum nocentes, ut in opere contra heresim maleficarum deducitur, et heresis Waldensium excedit in pessimis demoniorum doctrinis, ut tactum est et successiue in reprobacione eorum errorum deducitur, ideo eciam, quia peramplius he hereses sibi deseruiunt pre ceteris, eciam per eas ecclesiam persequitur . . .*)

<sup>100</sup> For an analysis of such movements down to the sixteenth century, see Cohn (1970).

his efforts at the present, since he knows that he has little time left, as the world is now declining towards its end and human evil is increasing. The notion that Satan angrily realizes the shortness of his remaining time comes from Apocalypse 12:12 (as noted in the text), and the reference to the cooling of charity is derived from Matthew 24:2 (the reference to the increase of evil is from a passage in canon law).<sup>101</sup> Thus, the introduction suggests that the plague of sorceresses is part of Satan's efforts in the Last Days, and this connection is spelled out in later passages.

In Q. 2 of Part 1, there is a rebuttal of the putative argument that the Devil is able to act without the cooperation of a witch, since he harmed Job without any cooperation. The counter-argument is that at that time sorcery had not yet been invented [16B], and this results in a long discussion of the historical development of sorcery going back to Zoroaster. There were no witches at the time of Job, and just as the wisdom of the saints grew over time, so too did the evil arts. And thus in the present world, just as it is filled with the knowledge of God, so too, as the world's twilight fades to sunset and men's evil grows, is every form of iniquity on the part of sorcerers superabundant (*ita iam mundi vesper ad occasum declinante et malicia hominum excrescente et caritate refrigescente superabundat omnis maleficorum iniquitas*). This conception is another adaptation of Matthew 24:11–13, which is the culmination of a long quotation from Jesus in which he describes the final days of the earth: "And many false prophets will rise up and lead many people astray, and when iniquity will be abundant, the charity of many will cool off. But whoever perseveres to the end will be saved" (*Et multi pseudoprophetae surgent et seducent multos et quoniam abundabit iniquitas, refrigescet caritas multorum. Qui autem permanserit usque in finem, hic salvus erit*). This passage was fitted into the medieval conception of the Last Days, and it is clear that sorcery is being conceived of as the abundant iniquity that will mark that time. Later in the work, it is argued that it is just for God to allow sorcery to happen, "especially now that the world is cooling off and sinking to its setting" (*presertim iam refrigescente et mundo ad occasum declinante* [67B]). The repetition of the earlier phraseology is unmistakable, and it would seem that the increased evil that is embodied in sorcery actually justifies God in allowing more of it to happen. The direct connection between the advent of Satan in his capacity as the Antichrist and the increase in the incidence of sorcery along with the

<sup>101</sup> *Extra Decretum* 2.21.26. The origin of the image comparing the end of the world to the setting sun is unknown to me.

development of a new form of witchcraft is made very explicit in the *Nuremberg Handbook*:

In addition, the [German] text teaches the judge to notice and not be amazed, as vulgar and unlearned judges generally are, at the fact that sorceresses for the most part carry out their acts of sorcery and forms of harm to creatures by means of threatening words and not silently. This has several causes. First, the infamous Foe strives out of arrogance to show himself in his miracles (or miraculous prodigies) to be the perverse imitator of Christ, whose servants declare through the invocation of his most holy name, just as he does through through his members [i.e., adherents] and the invocation of his most unspeakable name, that he is working and will work such wondrous things for the advent of the Antichrist, whose advent will, according to the Apostle, be marked out in every working of Satan and in lying prodigies. In fact, that his advent is at hand is made clear in connection with his precursors the sorceresses, who now work to inflict and remove all varieties of illness with mere touch and mere words through the invocation of a demon.<sup>102</sup>

The specific point in this passage is to explain why sorceresses reveal themselves by needlessly threatening their intended victim (see General Introduction, 3d for further discussion of this point), but what is important for present purposes is the way that it clearly lays out the connection between the behavior of sorceresses and the impending arrival of Satan as Antichrist and his effort to take over the world. Not only do their evil acts set the stage for his arrival, but the sorceresses themselves are directly connected with that event as his “precursors.” Related to this close association of sorcery with the impending arrival of the Antichrist is the notion that the crimes of “present-day” (*moderne*) sorceresses surpass all those of the past (71C–D). The dating of the “present day” seems to be indicated in a passage in which the sexual depravity of sorceresses is discussed. In response to the disbelief of certain contemporaries that present-day sorceresses do engage in the acts alleged against them, it is asserted (108A–B) that, whatever may be the case of those who existed before 1400, experience shows that since that date sorceresses have in fact engaged in sexual misconduct with demons. The reason given for

<sup>102</sup> *Docet insuper litera iudicem aduertere et desuper non minari, prout vulgares et indocti iudices facere solent, quod malefice per verba minatoria ut plurimum sua maleficia et lesiones creaturarum procurant et non tacite. Hoc enim plures habet causas. Primo quia aduersarius ille ex superbia cum affectat in suis miraculis seu miris prodigijs exhybere se uti peruersum Christi imitatore, cuius serui per inuocationem nominis sui sanctissimi declarant, sic et ipse per sua membra et per sui nephandissimi nominis inuocationem, talia mira operatur et operaturus est in aduentum antechristi, cuius aduentus secundum apostolum erit in omni operatione Sathane insignis et prodigijs mendacibus. Et reuera quod in propinquo sit talis aduentus patet in ipsius precursoribus maleficis, qui cunctas iam infirmitates inferre et auferre solo nutu, solis verbis per inuocationem demonis operantur. (29r)*

uncertainty in the earlier period is that the literary record does not record similar behavior (though the existence of demons then is undeniable), but it is noted that, whereas in the past the victims apparently had had to be forced to engage in such acts, in the present day they do so willingly. As previously noted (see General Introduction, 2c.iii.α), not only is there no literary evidence of the elaborated concept of witchcraft before the early fifteenth century, but there was a notion at that time that a new sort of witchcraft had developed in the middle to late fourteenth century. Seemingly, Institoris was similarly aware of a novelty in the sorts of activity that he classified as the Heresy of Sorceresses, and dated the start of this development to the beginning of the fifteenth century. Thus, his own century was the start of the final assault of the Antichrist predicted in the Book of Apocalypse, and the rise of the new heresy and the unspeakable horrors supposedly perpetrated by its adherents were the main weapon in the hands of the Antichrist.

This sense of the approaching apocalypse brought in its wake a novel interpretation of the common idea that sorceresses murder children. A medieval notion held that at the time of Satan's fall from grace, one tenth of the "good" angels fell with him, becoming demons ("bad angels"), and the world will be "consummated" when the number of the elect who rise to heaven equals that of the angels who remained there.<sup>103</sup> The *Malleus* directly notes this conception in terms of the horrific notion that midwives intentionally (and even unwillingly) murder newborns at the insistence of demons. The reason for this is that the devil knows that unbaptized children are not allowed into the kingdom of heaven and thus the consummation of the world, and the day of judgment that will see the devil cast into eternal perdition, will be put off (138C). Thus, the idea that the contemporary world is destined to see the terrible tribulations predicted by the Book of Apocalypse explains not only why sorcery is apparently getting worse but also the specific rationale for some of the most heinous crimes attributed to it.

<sup>103</sup> This view is neatly outlined by Caesarius of Heisterbach (*Dialogue of Miracles* 5.8): "we consider it certain that at the end of the world, when the number of the reprobate is completed, there will be many more evil people than demons. How is this proven? One tenth of the angels fell and were made demons. As St. Gregory attests, the number of the elect who will rise up will equal the number of the angels who remained there. According to this, the number of the elect will surpass the number of the demons by nine times." (*certum habemus quod in fine mundi, quando completus fuerit numerus reprobatorum, multo plures erunt mali homines quam daemones. Unde hoc probatur? Decima pars angelorum cecidit, ex quibus daemones facti sunt. Teste beato Gregorio tot ascensuri sunt ex electis hominibus quot ibi angeli remanserunt. Secundum hoc novem partibus numerus hominum electorum transcendet numerum daemoniorum.*)

## 3 LEGAL BACKGROUND

## 3a General legal context

A large part of the *Malleus* is taken up with discussion of the legal procedure to be used in the prosecution of sorceresses. After Christianity was adopted as the official religion of the Roman Empire, the emperors began to legislate on matters relating to religion and sometimes delegated the adjudication of this legislation to bishops. With the disappearance of the Empire in the fifth century, the church became the natural heir of the relevant jurisdiction, and the body of law that arose to cover this jurisdiction of the church is known as canon law. Since, in addition to its own internal regulation, the church ruled on a number of matters of basic concern like marriage and inheritance, canon law held a very important place in the legal framework of the Middle Ages.

The church claimed the right to judge matters covered by canon law, and such a court was known as an “ecclesiastical forum.” Church courts had the right to impose ecclesiastical punishments (the most severe being excommunication, or exclusion from participation in the sacraments of the church). These courts could not, however, inflict corporal penalties, and while the church did not explicitly impose death as the penalty for heresy, in the later Middle Ages a number of secular jurisdictions did pass legislation mandating the penalty of burning alive for heresy.<sup>104</sup> Naturally, the decision of whether someone was guilty of heresy was decided in an ecclesiastical court, and if such a court wished the accused to be burned, it “relaxed” (i.e., handed over) the convict to the secular authority, which did not try the case over in its own right but simply inflicted the secular penalty on the basis of the ecclesiastical conviction. While abjuration (the formal renunciation of heretical belief) was the normal penalty imposed by ecclesiastical courts on those who were convicted of heresy for the first time and were repentant, the impenitent and those who had relapsed (that is, were convicted of heresy after having previously made either a general abjuration of all heresy or a specific one

<sup>104</sup> In the German setting, the relevant legislation was established in a series of laws promulgated by Frederick II in the 1220s and 1230s. In England, the basis for burning heretics was the rather straightforwardly titled law “on burning a heretic” (*de heretico comburendo*) passed in 1401 under Henry IV. (This law was used to burn heretics down through the time of Henry VIII. It was repealed under the protestant Edward VI, but his sister Mary revived it in the counterproductive attempt to burn protestantism out of England. The law was then permanently repealed under Elizabeth I.) Both laws were passed by kings who needed support and calculated that passing such legislation was a good way to gain the church’s favor.

relating to that particular heresy) were relaxed. As noted in the *Malleus*, the decision of the ecclesiastical court turning over the convict to the secular court would ask that court to refrain from bloodshed, but this request was the rankest of hypocrisy. As the *Malleus* makes clear on numerous occasions, it was taken for granted that the penalty was a most unpleasant death by fire, but it was simply felt to be unseemly for the church to participate openly in the imposition of the death penalty. The thoroughly insincere plea for mercy (whose rejection was assumed) was the solution.

As noted several times in the *Malleus*, the Heresy of Sorceresses was a "mixed crime" (*crimen mixtum*) in that it contained both ecclesiastical and secular elements. This dual nature derives from the notion that this heresy consisted of two elements: heresy/apostasy on the one hand and the infliction of temporal losses on the other (see General Introduction, 2c.iv). Theoretically, a repentant sorceress who was not relapsed should have gotten off with mere abjuration of the heresy. This possibility was clearly unpalatable to Institoris, whose authorship of the legal sections of the *Malleus* is undeniable through comparison with the content of the *Memorandum* and *Nuremberg Handbook* (see General Introduction, 4c.iii), and to avoid such an outcome he harps upon the necessity of inflicting (on the basis of the secular legislation against witchcraft) the death penalty even on repentant sorceresses, on account of the temporal losses inflicted (192B, 224C–D). Indeed, one of the overt purposes of the text is to heighten the sense of outrage at the activities of sorceresses in the minds of secular judges, on the assumption that even if they do not care much about the affronts supposedly committed against God by the sorceresses, they can at least be gotten to work up some anger about the harm caused by the sorceresses in this world (142C–D; cf. 136D).

### 3b Canon law

The term "canon" derives from the Greek word for "rule," and the word is used to describe the rules of the medieval church. Properly speaking, a canon is a pronouncement passed by an ecumenical council, but the term was used of other texts like papal decisions ("decretals") and quotations from patristic authors that were taken to have the same validity as rulings as the decrees of the councils.<sup>105</sup>

In the earlier Middle Ages, the procedure by which canons were issued and accepted on an ad hoc basis was untidy, and by the Carolingian

<sup>105</sup> For a convenient introduction to canon law, see Brundage (1995).

period the need was felt to gather together the scattered rulings in collections. At first such collections were drawn up in a chronological fashion, but it soon became evident that the material had to be systematized by topic. These systematic collections compiled by various individual churchmen for various purposes would form the basis of the first authoritative collection, the *Decretum* of Gratian.

In the eleventh century, the rediscovery of a copy of the late antique collection of Roman jurisprudence known as the corpus of Roman law led to the start of self-conscious legal studies in Bologna. In contrast to the legists (scholars who studied the Roman law), the students of the canon law came to be known as canonists, and they endeavored to impose upon the unwieldy mass of canonical decisions the logical tidiness of Roman law. Although there was some overlap in their functions, scholastic theologians and canonists looked at issues from different perspectives. Whereas the theologian aimed at determining the truth of God as understood by the church, the canonist's purpose was to interpret the legal provisions of canon law in terms of practical reality reflected in the legal issues at stake. Hence, it is not surprising that it is generally assumed (and often overtly stated) in the *Malleus* that the views of canonists and of theologians are naturally divergent.

Far and away the most important early canonist was Gratian, who taught at the law school in Bologna in the first half of the twelfth century. As a textbook he produced the *Concordia discrepantium canonum* ("Concordance of contradictory canons"), which was later known by the shorter title *Decretum* ("Decree"). The work (published in its final form in about 1140) is divided into two parts. The first consists of 101 "distinctions," each of which deals with a specific topic, and the relevant canons are listed one after another under the heading laying out the topic. The second part is divided into thirty-six theoretical "cases" (*causae*), each of which treats a supposed legal situation. Each case is then divided into individual questions that deal with specific aspects of the case, and under each question are listed relevant canons. At a later date, a treatise on the sacraments was added and was considered the third part of the work. In light of the work's purpose as a textbook, Gratian added occasional commentary that discusses the bearing of a given canon on the issue at hand.

Because the *Decretum* was the basic textbook on canon law, it came to assume the place of the first authoritative collection, though it was never officially promulgated as such. It was thus the basis of the ensuing effort to transform canon law into a fully formed system of jurisprudence, parallel to the school of civil law that was built upon the foundation

of the Justinianic corpus. In the subsequent period, the main source of new legal decisions in canon law consisted of the decretals of the popes, and new codifications of decretals were added to the *Decretum* as source books of canon law. Unlike the pedagogical method of organization used in the *Decretum*, these new collections followed the logical principles of Justinian's *Code* and *Digest*, distributing the decretals into books and titles, with the decretals providing the chapters of each title. By the end of the twelfth century private collections of decretals began to be compiled, and in 1230 Pope Gregory IX (1227–1241) asked the canonist Raymond of Pennafort to draw up an official version. Issued in five books in 1234, the new collection became known as the *Decretales* ("Decretals") of Gregory IX. Because the *Decretum* had previously been the major source of canon law, the new collection was also referred to as the *Extra Decretum* ("[collection] outside of the *Decretum*"), which is how it is described in the *Malleus* (in the shortened form *Extra*). The promulgation of new decretals went on apace, and in 1298 a collection of those issued since the *Extra Decretum* was issued by Pope Boniface VIII<sup>106</sup> (1295–1303). Since the new collection was conceived of as an addition to the five books of the *Extra Decretum*, it was called the *Liber Sextus* ("Sixth Book"), but it was actually organized like its predecessor in five books. A new collection was promulgated in 1317 by Pope John XXII (1316–1334), but since the work had been commissioned by his predecessor Clement V (1305–1314), it is known as the *Constitutiones Clementinae* ("Constitutions of Clement" or *Clementines* in English). This was the last official collection promulgated in the Middle Ages, but two later collections came to be included among the official collections: the *Extravagantes Johannis XXII*, containing twenty "stray" decretals of John XXII, and the *Extravagantes communes* ("Common stray decretals"), containing the decisions of a number of late medieval popes.

These collections represent the totality of the canon law in the fifteenth century, and the *Malleus* cites decisions from all of them (apart from the *Extravagantes communes*). The canonists wrote a number of commentaries on the various collections of canon law. The most prominent ones mentioned in the *Malleus* are probably Hostiensis (Henricus de Segusio) and John of Andrea, but a number of others are also cited. None of them was directly consulted, however, and the references come from Eymeric's *Directorium*.

As already noted, the convicted heretics could be admitted to the church's mercy if they were penitent, but if they were impenitent or

<sup>106</sup> Or VII, depending on one's attitude towards the tenth-century Pope Boniface.

relapsed, the only available option for a court operating by canon law was to turn them over to the secular court, which would inflict the appropriate penalty (death). (And in the case of convicted sorceresses, regardless of the church's mercy, they would then be executed for the temporal losses that they had supposedly caused.) There were two courses for suspected heretics. Those less strongly suspected could be forced to demonstrate their asserted innocence through swearing to this and providing a number of people who knew them and could in turn swear to their faith in the truthfulness of the initial oath. This procedure may seem somewhat odd to the modern mind, but it reflects a social situation in which people seldom traveled much and in which one's neighbors could be reasonably knowledgeable about one's behavior. Furthermore, since reputation played a major role in the initial suspicion on the part of the investigator of the crime, it was reasonable that this suspicion could be "purged away" through the direct attestation of a certain number of respectable people that it was unwarranted.

The second method of dealing with a serious suspicion that nonetheless did not suffice for conviction was to make the suspect undergo an "abjuration" or personal oath of rejection. In this, the person officially rejected the heresy for which he was suspected. In immediate terms, this rejection merely demonstrated the orthodoxy of the person's views on the issue at hand, but it had drastic consequences if at a later date the person was found to have relapsed, since relapsed heretics were subjected to death. If the person abjured only the suspected heresy, then he could be executed only for relapsing into that specific variety of heresy, but a general abjuration meant that a future conviction for any form of heresy would result in "relaxation" to the secular court for execution.

### *3c Inquisitorial procedure*

One aspect of the *Malleus* that might cause confusion in the mind of the English-speaking reader is the entire legal procedure of criminal investigation and trial that underlies the third part of the work, since this procedure operates by principles that are quite different from those of Anglo-Saxon jurisprudence. The procedure laid out in the *Malleus* is known as the inquisitional process (from the German *Inquisitionsprozess*), and before discussing it directly, a short summary of Anglo-Saxon procedure is helpful in making the differences between the two procedures clear.

In the legal practice of the English-speaking world, the determination of guilt in criminal matters is reached through a sort of dialectical process

that involves the participation of a number of independent (and in part adversarial) elements. First, the police investigate the crime, and on the basis of evidence provided by the police the state prosecutor lodges a formal accusation before a court. The verdict is then reached in the court through the interaction of four parties. While the state prosecutor presents the case against the accused through the production of witnesses and evidence, the defendant's legal representative may cross examine the prosecution's witnesses and produce his own witnesses and evidence. The legal framework of the dispute between the prosecution and defense is adjudicated by an independent judge, and the actual decision of guilt is determined by the votes of a separate panel of (theoretically) impartial jurors. Finally, if the accused is convicted, the sentence is passed by the judge on the basis of the law that has been violated. Apart from the last step in the procedure, the inquisitional process works by quite different practices.

The inquisitional process is characterized by two features.<sup>107</sup> First, the operation of investigating and adjudicating the case is entirely conducted by an official. Once the case is initiated, that is, once it comes to the attention of the appropriate official (how this happens is discussed below), he conducts the entire procedure on his own *ex officio*. Second, this official is obligated to inform ("instruct") himself about the substantive facts and thereby establish the guilt of the accused. Thus, the procedure is one in which the state official undertakes to investigate the accusation and to judge the accused on his own, and there is no element that would correspond to what we would call a trial. In effect, the official (normally a judge) determines the truth of the matter (and the verdict) during the course of his private investigation, and the only public aspect of the proceedings, the passing of judgment (*iudicium*), is predetermined.

The inquisitional process arose as part of the attempt to replace the criminal procedure of the earlier Middle Ages, which was based on Germanic traditions and involved the direct participation of the parties to the case in an appeal to God to adjudicate the matter. This took place through two methods. One was a personal combat (duel) between the accuser and accused. The other was the ordeal, in which the accused undertook a physically dangerous activity, such as plunging the arm into boiling water to retrieve an object, and God was expected to save

<sup>107</sup> For a discussion of the origins and theory of the inquisitional process, see Langbein (1974), 129-139, and for its reception in Germany, 141-155.

the accused from harm if he was innocent. A different version of the ordeal was the carrying of a red-hot piece of iron for a set number of paces, a procedure that is vigorously argued against in the *Malleus* (on the grounds that Satan can protect his votaries: see 216C, 219C–D). These procedures needed ecclesiastical participation for the invocation of God, and in the twelfth century (as part of a broader effort to reform the church) such participation came under increasing attack. Finally, the Fourth Lateran Council of 1215 prohibited priests from administering the necessary rites, which effectively ended the possibility of deciding criminal cases through the ordeal or duel. The inquisitional process then came to be adopted as a means of determining guilt through the rational evaluation of evidence, now that appeal to a direct judgment from God was precluded.

The inquisitional process may seem subject to the capricious interpretations of the investigating official, but in theory the high level of proof demanded in capital cases should have prevented this. As is noted on numerous occasions in the *Malleus*, the procedure allowed conviction on the basis of only three circumstances: the production of two or three witnesses to the crime, the personal confession of the accused, or the “evidence of the crime.” The evidence of the crime means that the accused committed an act that proves the crime (in terms of heresy, the preaching of heresy is given as an example), but since for the most part witnesses are necessary to prove the “evidence,” this category was subsumed into the first. In any case, the high level of proof needed for conviction led to the widespread use of torture in the process of investigation, a practice which virtually vitiated the new procedure as a method of determining the truth.

Properly speaking, torture is the use of the infliction of physical pain to extract information.<sup>108</sup> It was widely recognized that torture was a very unreliable method of determining the truth, in that some people can endure the pain without too much difficulty, and thus would not confess even when guilty, while other people with less fortitude would

<sup>108</sup> That is, this definition excludes the infliction of pain as a form of punishment. Although the perversity of the human mind devised all manner of torments, the standard method of torture during questioning was the strappado, whereby the hands of the accused were tied behind his back and he was raised up off the ground by a rope attached to his hands (see Peters [1985] 68). This exerted great strain on the shoulders and could result in their dislocation. The torment could be increased by attaching weights to the feet. (For the particularly obstinate, the pulley could be released and then precipitously arrested before the victim reached the ground. The abrupt halt then puts even greater strain on the already distended ligaments of the shoulder.) Since the traditional method was tried and true and novelty in such matters was thought unseemly, inquisitors were enjoined not to devise new methods.

confess to crimes of which they were not guilty to avoid the pain.<sup>109</sup> The inquisitional process involved two measures designed to circumvent this unfortunate fact.<sup>110</sup> First, there was a procedure that limited the introduction of torture into the proceedings. While the standard of conviction by two or three witnesses was called "full proof," circumstantial evidence suggestive of a person's guilty was called an "indication" (*indicium*), and an elaborate doctrine arose governing what indications were sufficient for examination under torture (for instance, a single witness, while not sufficient for conviction, was sufficient for torture).<sup>111</sup> The underlying logic seems to have been that since torture was not inherently reliable, it was necessary to ensure that the accused was likely to have been guilty before the application of torture.<sup>112</sup> The inherent idiocy of this procedure hardly needs to be pointed out: since the torture could well wrench a false confession from the victim, the conviction would in effect be extracted on the basis of a confession that was acquired as a result of evidence insufficient to convict. Two further practices were meant to obviate this possibility. First, the accused who confessed under torture had to "voluntarily" repeat the confession a day later without the application of torture. This safeguard was of little or no utility in that the accused who recanted would simply be tortured again until the confession was repeated ("voluntarily"). Second, the torture could not

<sup>109</sup> A famous passage from the Roman jurist Ulpian (*Digest* 48.1.23) that makes exactly this point was widely known in the legal sources and is even referred to indirectly in the *Malleus* (228A) and directly (if inaccurately) cited in the *Nuremberg Handbook* (37r).

<sup>110</sup> For a discussion of the role of torture in the inquisitional process, see Langbein (1977), 3–17; Peters (1985), 40–73.

<sup>111</sup> The most convenient source for the inquisitional procedure as applied in criminal law is the *Carolina*, the code issued for the Holy Roman Empire by Charles V in 1532. Though it was promulgated more than a generation after the composition of the *Malleus*, the *Carolina* is the culmination of a series of legal reforms based on the new procedure (and the initial request for the new code was made in the Imperial Diet of 1496–1497). The German text of the *Carolina* itself, along with earlier drafts from 1521 and 1529 and earlier local codes of 1507 and 1516 upon which the *Carolina* was based, are available in Zocphl (1842). Langbein (1974), 261–313, translates large portions of the *Carolina* into English.

The meaning of an "indication" (*anzeigung*=modern German *Anzeigung*) sufficient for torture is given in *Carolina* §19 and the general description of how to prove it in §23. Langbein (1974) and (1977) both refer repeatedly to a "two-witness" standard of proof for conviction (esp. [1974] 180–181), but *Carolina* §57 states that the accused should be sentenced to the appropriate penalty "if a crime is proven with at least two or three credible good witness who speak on the basis of true knowledge" (*so cyn missethat zum wenigsten mit zweyen oder dreien glaubhafften guten zeugen, die von cynem waren wissen sagen, bewiesen wirdt*), the same number appearing in the corresponding sections of the earlier legislation.

<sup>112</sup> *Carolina* §20 prohibits conviction on the basis of a confession that has been extracted through torture without there being "sufficient indication" to warrant such torture, and obligates the legal authorities who acted in this way to compensate the victim (see also the rule given in *Malleus* 197A).

be repeated, and if the accused made it through without confessing, then the indication that had led to the torture was to be considered voided (or “purged” to use the technical jargon). In practice, this protection was of little avail. Even within the theoretical constraints, the torture could be repeated on the basis of a new indication (which could be contrived without much effort), and in any case the “same” instance of torture could be “resumed” in a subsequent session under the specious conception that this was a “continuation” rather than a “repetition.”<sup>113</sup> As a further safeguard, the investigating official was not supposed to ask suggestive questions or merely seek a confession. Instead, he was to seek the unprompted revelation of verifiable facts that could only be known to the perpetrator (e.g., the location of the hidden murder weapon). In practice, even the most conscientious investigator (and many were not) could reveal the expected answer though the sort of questions that were posed.<sup>114</sup> In any case, whatever the theoretical expectations, in practice the usual procedure boiled down to the attempt to extract a simple confession from the accused, who would then be punished on this basis.<sup>115</sup>

In the history of German legal practice, the inquisitorial process is termed “Roman–canon” as a reflection of its dual origin. The adoption of the inquisitorial process was part of the development by which legal scholars trained in the newly revived discipline of Roman law taught in

<sup>113</sup> Following conviction, it was permissible to apply further torture for the purpose of extracting the names of the convict’s accomplices. During the great witch hunts, this practice resulted in a virtually endless expansion of suspected witches, as the victims of barbarous torture accused anyone they could think of in order to escape the torment. While the *Malleus* argues for the validity of accusations made by convicted sorceresses (on the grounds that accusations against heretics formed an exception to the normal practice whereby the convicted became “infamous” [a technical term designating someone whose disreputability debarred him from giving testimony] and thereby lost the right to lodge accusations), not much emphasis is laid on the procedure, which is viewed merely as a means of providing potential suspects who would be investigated in the regular fashion.

<sup>114</sup> For an example of such leading questions, see n. 58.

<sup>115</sup> The tendency simply to extract a confession is inherent in the procedure of the *Carolina*, which provides (§ 16) for the use of “serious questioning under torture” (*mit peinlicher ernstlicher frage*) to extract a confession if the crime is “obvious and undoubted” (*offenlich und unzweiffenlich*). The overt purpose of this was to avoid the unnecessary expense of protracted proceedings if conviction was in any case guaranteed, but it is obvious that if the judge was already convinced of the guilt of the accused, then he could simply use torture to gain the necessary conviction, even though it was likewise perfectly clear that in and of itself a confession extracted under torture proved nothing. In the later history of witch hunting in Germany, witchcraft was classified as a *crimen exemptum*, that is, a crime (like treason, heresy and brigandry) that so grievously disturbed the public good that the investigation of it was exempted from adherence to the normal safeguards like restrictions on the use of torture. There is no mention of this concept in the *Malleus*.

the Italian universities endeavored to replace the previous hodgepodge of Germanic legal practices with the new learning (and into the bargain made specialists in Roman law like themselves indispensable for the administration of the law). Within this context, a special role in the development of the inquisitional process was played by the investigation ("inquisition") into heresy in the thirteenth century as prescribed by canon law (see General Introduction, 1b). First, the crime involved association with groups of deviant believers who attempted to keep their activities secret out of the reasonable fear of persecution. Thus, there was no aggrieved public party to initiate the proceedings, and the official (in this instance the inquisitor) undertook to investigate those who were implicated in heretical activity, either through public repute or through reports that came to his attention when he ordered anyone with suspicions about possible heretics to report these to him. Thus, it was incumbent upon the inquisitor to track down and punish criminality on his own (*ex officio*). Second, the crime of heresy differed from regular criminal behavior (e.g., murder) in having little or no physical evidence to betray the crime. Rather, heresy consisted either of personal opinion (i.e., the rejection of orthodox beliefs or the holding of ideas rejected by the church), which could be revealed only by the accused himself, or of participation in prohibited group activities, which could be revealed only by one participant, who would in turn implicate others. Thus, just at the time that the ordeal came to be ruled out as a method of adjudicating guilt, the church was involved in developing procedures for hunting out and condemning heretics, and this procedure was incorporated into the practical application of Roman law. (The criminal law of the Roman Empire as laid out in the *Code of Justinian* is very centralized and the trial of a case is vested in the provincial governor, but the *Code* is not much interested in the procedures by which the trial was to be conducted or the decision to be reached.)

The inquisitional process is still the basis of much criminal procedure in continental Europe (though of course without the use of torture), and there is nothing that inherently prevents it from reaching an accurate assessment of the truth of an accusation. Certainly, the adversarial Anglo-Saxon procedure is not without its failings and has at times proven incapable of reaching just decisions. In its late medieval manifestation, however, the complete control of the entire proceedings by a single official, who was to determine the "facts" through his method of applying torture and then reach a decision on the basis of those facts, and who was accountable to no one apart from his superiors in the government,

resulted in an unfair system that was bound to reach unjust results, especially in the case of accusations of Satanic witchcraft, a crime that simply did not exist."<sup>16</sup>

### *3d Institoris's presentation of the inquisitorial procedure*

The sections of the *Malleus* concerning legal procedure (Part 3) are for the most part based on the *Directorium Inquisitorium*, a handbook on inquisitorial procedure composed by Nicholas Eymeric in the fourteenth century (see General Introduction, 5f.i). This material has been modified in two ways. First, it has been adapted specifically for the purposes of suppressing the Heresy of Sorceresses in particular. One notable aspect of this is the very sporadic replacement of the generic masculine gender used by Eymeric with the feminine (a problem that may not be entirely Institoris's fault: see Latin Introduction, 2). Second, while Eymeric clearly has in mind the co-operative efforts of the local bishop and the inquisitor in prosecuting heretics, Institoris makes the somewhat surprising argument (perhaps based on his unhappy experience in Innsbruck: see General Introduction, 4b.iii.β) that inquisitors into heretical depravity (*inquisitores hereticae prauitatis*) do not actually have to investigate the activity of the adherents of the sect (Part 3, [unnumbered] Introductory Q.), and accordingly an (incompletely executed) attempt was made to change mentions of the role of the inquisitor that are made in the many formulas for passing sentence into references to the secular judge who is forseen as taking over the role of the inquisitor. It is hard to see how these forms, which are clearly written from an ecclesiastical official's point of view and for the most part contain references to ecclesiastical modes of passing sentence (e.g., the abjuration and the "relaxing" of the relapsed convict into the hands of the secular authority), could have been of much use to a secular judge.<sup>17</sup> In any case, since Part 3 is long on detail and

<sup>16</sup> The use of torture in criminal investigations persisted in Europe until the late eighteenth century, despite the fact that the gross defects in the system were well known. (For the sorry history of the drawn-out process by which the use of torture was eventually abolished in criminal investigations, see Langbein (1977) and Peters (1985), 74–102.) In defense of the system, one might say that in an age when the organs of the state were comparatively weak and even the most rudimentary scientific aids like the analysis of fingerprints were unavailable, there was little alternative. The more cynical view would see in this inquisitorial process an attempt by the practitioners of the Roman law first to oust the traditional lay jurors (*Schöffen*) who had previously exercised criminal jurisdiction in Germany (see Strauss [1976]), and then to maintain their privileged position in control of the organs of the absolutist governments that seized centralized control of public functions.

<sup>17</sup> In the *Nuremberg Handbook*, Institoris refers the reader (presumably a secular official of Nuremberg is the intended audience) to the many formulas for passing sentence contained in the

somewhat lacking in summarizing analysis of the broad issues involved, a short outline of the basic procedural issues may help the reader.

There were three methods of initiating a criminal case. First, the victim could come forward and prosecute the case himself. This procedure is basically a holdover from the "self-help" conception of earlier medieval law, in which the state simply provided a venue in which the victim could "fight it out" with the alleged wrong-doer (and this would be the setting for adjudicating the dispute by duel). This procedure is strongly discouraged on the grounds that it puts the accuser at risk since he becomes subject to the *lex talionis* ("law of retribution"), that is, to the imposition of a severe penalty if the accused is acquitted (on the grounds that the accusation must have been false and that the unsuccessful prosecution was therefore maliciously motivated).<sup>118</sup> The second method was denunciation, which resembled the first in that a specific accuser steps forward to lodge the accusation with an official, but from there on the latter prosecutes the case. In the third, the general inquisition, there is no specific accuser at all. Instead, the inquisitor simply proceeds on the basis of his office (*ex officio*), because there is general rumor about witchcraft in a given region and as a result of this he enters the area and issues a general summons that anyone aware of such activity should come forward to make a deposition (this procedure being based on the one used to ferret out heretics). Thus, whether the matter comes to his attention from a specific individual or from common report (which is conceived of as taking the place of an accuser), the inquisitor takes upon himself the burden of investigating the supposed crime and punishing those convicted of it.

As Institoris notes in the *Nuremberg Handbook*, "while a crime like murder, fornication, theft and so on can be practiced in a way that

*Malleus*, and he directly states that they are ones "that the spiritual judge will follow" (*Ceterum super formam sentencie ferende, cum in Malleo Maleficarum huiusmodi plures posuimus formas, ad presens obmittuntur quas spiritualis iudex prosequetur* [48v]). Seemingly, he recognized that these formulas borrowed from Eymeric were basically ecclesiastical in composition and he disregarded his own efforts to modify them for the use of a secular judge.

<sup>118</sup> Pt. 1 of the *Nuremberg Handbook* deals with what Institoris perceived to be legal "abuses" (termed *defectus* in the Latin and *mißhandel* in the German) in the treatment of cases involving witchcraft, and the fifth such abuse is the refusal of judges to accept denunciations unless they are formed as proper accusations subject to the *lex talionis*. Institoris is particularly vexed at an incident (3v) that is said to have happened near to the town of Tübingen. A man accused two women of having set a cauldron to boil without fire (clearly through witchcraft), but when they were absolved since he could provide no witnesses, and they refused to confess under torture, the accuser had his tongue and two fingers amputated. This was the penalty for false accusation: the symbolism of the tongue is obvious, and the two fingers were raised when he swore to the truth of the accusation (see 195D).

is directly perceptible, the crime of sorcerers/sorceresses is committed secretly and invisibly through the virtue of demons" (*crimen intuitiue potest praticari, ut sunt homicidia, fornicationes, furta etc., malefico<sup>rum</sup> uero crimen occulte et invisibiliter virtute demonum committitur* [34v]). In more practical terms, the sorceress made her pact with Satan in an assembly attended by no one but other sorceresses, and she then inflicted temporal harm through magical rites (such as leaving hidden in a house a bundle of various items like seeds and thorns) that were of no efficacy in and of themselves but because of which Satan then inflicted the intended harm. This conception meant that it would be theoretically impossible to prove anyone guilty of the crime. Luckily, Satan provided an element in the practice of sorcery that made it possible to conjecture who the culprit was. For reasons of his own, Satan has his human minions reveal themselves through the pointless use of threatening words.<sup>119</sup> This foolish indulgence of his means that whereas it would otherwise not be possible to track down the culprit of the sorcery, the utterance of the threats, which supposedly often indicate both the nature of the harm that will ensue and the time in the future when the harm will happen, makes it easy enough to conjecture who was responsible. This supposed direct link between the sorceress and the harm she inflicts provides a means of circumventing the difficulty of securing a conviction for witchcraft under the normal usage.

In the *Nuremberg Handbook*, Institoris repeatedly complains about the insistence of certain judges on inflexibly upholding the maxim that a person could be convicted only through the testimony of two witnesses or by his or her own confession, and in the *Malleus* he makes a similar complaint (159C). In the latter passage he contrasts this attitude with the alternative of punishing on the basis of "indications of the deed or the evidence consisting of serious or violent suspicions," while in the *Nuremberg Handbook*, he constantly speaks of convicting on the basis of "conjectures." In effect, the inherent nature of sorcery made it impossible to provide witnesses to the deed in the way that was possible in the case of regular physical crimes like murder: whereas people might witness the accused stabbing the victim, no one would normally see the act of producing or concealing the (meaningless) item(s) that "caused" Satan to inflict the harm, which in any case could well ensue at a much

<sup>119</sup> The *Nuremberg Handbook* explains that Satan has two purposes in fulfilling the threats made by his sorceresses. First, since he is a rival of Christ, the realization of these threats is a travesty of the miracles of Christ's church. Second, the apparent efficacy of the use of magic will be an inducement to others to pursue such heretical activities themselves.

later date.<sup>120</sup> But the “obligatory” utterance of the threat by the sorceress revealed her identity before the fact, and this felicitous circumstance allows Institoris to argue for his alternative method of conviction, though not without a certain amount of legal contortion. Institoris does not deal with the topic of how his procedure deviates from and supersedes regular legal practice in a single coherent treatment, and instead has to present his case in an ad hoc manner more or less determined by the order in which Eymeric dealt with various matters. Accordingly, I will try to synthesize his overall argument.

First, witnesses. Institoris states that whereas the “letter of the law” allows conviction on the basis of two witnesses, this standard is not good enough in connection with accusations of sorcery, both because of the severity of the charge, which should therefore demand a higher standard, and because of the limited possibility of mounting a defense on the part of the accused, which obligates the judge to determine the case on the basis of totally incontrovertible evidence (196D–197C). The small figure for conviction of someone with a good reputation is uniformly ruled out, but the situation with someone with a bad reputation is not so clear. Although it is stated at one point that even someone with a bad reputation cannot be convicted by the testimony of witnesses (202B), other statements indicate that such a person can be convicted on the basis of the testimony of two witnesses to the same act (197B) or three to separate acts (197C). Basically, the testimony by itself is not considered valid grounds for conviction.<sup>121</sup> Instead, guilt is to be proven on the basis of a combination of various forms of evidence.

The three elements whose coincidence leads to a “violent suspicion” of guilt are bad reputation, indications of the deed, and the testimony of the witnesses, especially if there are a large number of witnesses, say six to ten (202A–B). Close examination of the details, however, shows that there are not in fact three separate elements. Instead, certain aspects of the testimony are treated as providing independent corroboration of the testimony, despite the fact that this corroboration arises from the testimony.

The first corroboration comes from the reputation of the accused as a practitioner of sorcery. We learn that while the witnesses may speak of

<sup>120</sup> Of course, a single witness might see the activity, but it was impossible to prove the case by the testimony of one man (see the anecdote about the difficulties of the man near Tübingen in n. 118, and the one in 138D–139B about a man who sees his daughter dedicate his newborn son to Satan and then hatches a plot to find witnesses to her sorcery).

<sup>121</sup> It must be borne in mind that the testimony here does not directly attest the crime but merely provides “indications” like threats uttered by the accused and their supposed subsequent fulfillment.

different aspects of the charge, "one for instance making a deposition that she affected his son with sorcery, the second saying this of a domestic animal, the third mentioning bad reputation, and so on with other instances" (202B), they nonetheless agree on the substance of the issue (namely the practice of sorcery). This shows that the reputation is really not an element distinct from the testimony. Instead, the reputation is treated as some sort of objective entity that has an existence separate from the people who subscribe to it (and who attest to it).

The second supposed corroboration consists of the "indications of the deed" (*indicia facti*). Under regular criminal procedure, such indications never provide proof of guilt and instead are merely grounds for examination under torture. Here they are raised to the level of proof through a form of analogy (202B). First it is noted that ecclesiastical law held that "evidence of the deed," that is a manifest instance of guilt, was grounds for conviction, and an example of this is that preaching heresy is "evidence" of the crime of being a heretic. The threat of the supposed sorceress is then equated with this situation: "In this category we place the indication of the deed consisting of public threats that she made by saying, 'You will never have healthy days' or the like, and the subsequent effect." The logical shift by which the threat, which would normally provide only an "indication" of the deed, is raised to the level of "evidence" is overtly noted and explained on the grounds that "the Devil does not work manifestly but secretly, and the losses and the devices for sorcery that are found give an indication of the deed." In effect, there is no justification for converting the evidentiary value of such a statement, which, it should be noted, does not in fact *prove* anything. In any case, once again the act attested to by the testimony is being treated as something that exists independently of the testimony and as corroboration of the testimony.

In effect, Institoris argues that since there is no direct and immediate physical connection between the action of the sorceress and the effects of the sorcery, it is necessary to shift from convicting the accused on the basis of direct proof to a presumption of guilt on the basis of circumstantial evidence.<sup>122</sup> Since the harm is inflicted invisibly through the independent operation of Satan, it is necessary to use the threatening words as a guide

<sup>122</sup> As he puts it in the *Nuremberg Handbook*, "There are three kinds of suspicion, heavy, light, and heaviest, of which the last is called *violenta praesumptio*, and on the basis of this suspicion the judge passes a sentence of death or of life imprisonment, when the witch does not confess her evil-doing" (*Der argkwon auch dreyerlay ist: swer, leücht vnd allerswerst, der do haist violenta presumpcio, auß welichem argkwon der richter vrtailt oder züm tod oder zü ewiger gefengknüs, wa die unhold nit bekennen ist ir bösen handel* [31]).

to the identity of the culprit, whose guilt is then corroborated through her reputation for other such acts.<sup>123</sup> The case is made compelling if multiple examples of such threats can be demonstrated. Regardless of any considerations as to whether such a procedure was a legitimate method of determining the truth or even whether it was internally logical, this methodology was certainly a violation of the normal mode of conviction according to the inquisitional procedure of the secular courts. While Institoris considered the utterance of a threat, followed by the harm that had been threatened, to be “evidence of the deed” and thus grounds for violent suspicion, which in turn led to conviction on the grounds of violent presumption of guilt, such a circumstance is explicitly categorized in the *Carolina* as mere grounds for examination under torture: “If someone . . . threatens to affect someone with magic and such a thing happens to the person threatened . . . this gives sufficient indication of magic and satisfactory cause for questioning under torture” (*So jemandt . . . jemandts zu bezaubern bedraht vnd dem bedrahten dergleichen beschicht . . . das gibt eyn redlich anzeygung der zauberey vnd gnugsam ursach zu peinlicher frage* [§44]). Faced with the situation delineated by Institoris for a conviction by presumption, a secular court would have no choice but to examine the accused under torture and to acquit her if she refused to confess.

Not surprisingly, Institoris rejected the attitude of secular courts that would convict only on the basis of two or three witnesses or the confession of the accused. In the *Nuremberg Handbook* the fourth procedural abuse attributed to secular courts is that “the authority absolves the persons when they have not confessed anything under torture, however great the reputation and suspicion that have come over them” (*die oberkait ledig vnd los geben die personen, wa sy in marter nichtz bekennt haben, wie gros der lümüt vnd argkwon vber sy gangen ist* [3r]), and this refusal to convict those who have not confessed is censured throughout the work. Similar exasperation is already exhibited in the *Malleus* in a criticism of judges who adhere to the regular standard and pay no heed to notoriety and suspicion (159C).

To some extent, one can sympathize with Institoris’s impatience. So long as one assumes the existence of this malevolent sect of Satan-worshippers (and since the Bible is full of demons, who could have

<sup>123</sup> This investigation could even take the form of determining whether the disease in question was a natural one or one caused by sorcery (207D–208A). It would seem, however, that this determination was made more for the purpose of thwarting any possible objection from the defendant rather than as a means of weeding out false accusations.

doubted the plausibility of the concept?), it would have been clear that some sort of drastic action would have to be taken to detect and eliminate them. For the most part, the legal construct laid out in the *Malleus* is at least internally logical, but there are a few instances in which a subterfuge has to be cobbled together to conceal a failure in the logic. One is the notion that once arrested by the public authorities, the sorceresses lose their ability to harm the officials who deal with them (86C–87C). On the basis of Nider, this assertion is made to explain away the contradiction between the great power to do harm attributed to them before their arrest and their inability to avoid being burned alive.<sup>124</sup> Another example of a failing in the system has to do with the examination of accused sorceresses under torture. To explain away the refusal of some to confess even under the most severe torment, the notion of the “sorcery of silence” (*maleficium taciturnitatis*) was applied (the idea goes back to the *Directorium Inquisitorum*, the handbook on inquisitorial procedure written in the fourteenth century by Nicholas Eymeric). According to this idea, the accused could somehow be bewitched so that she would not reveal the “truth” under torture, and the perverse result of this reasoning was that the refusal to confess under torture, which under secular law was a sign of innocence, was taken to be strong evidence of guilt (250D)! In the *Malleus* it is asserted that those under the influence of such sorcery would not be able to cry, which provides a method of determining when such sorcery was operating (213B).<sup>125</sup> While it is not implausible that some people would not cry while being tormented to confess to heinous crimes of which they were not guilty (either through a high threshold of pain or simple obstinacy in the face of unwarranted and unjust persecution), Institoris has to explain away the apparent tears of some accused women who would not confess but of whose guilt he was certain. He notes that while such women may cry properly in front of the guards when in their cells, the judge should watch out against their efforts to

<sup>124</sup> Even this logical ploy is not maintained consistently. It is also claimed that sorceresses can affect judges by touching or glancing at them (214A–B), and in an anecdote a sorceress about to be burned alive has the ability to inflict leprosy on the executioner (134A).

<sup>125</sup> Among the many abuses denounced in his *Cautio Criminalis* of 1631, a vehement attack against the judicial practices used in the massive witch hunts that were being carried out at that time in the south of Germany in territories ruled by Catholic prelates, Friedrich von Spee noted the illogic and injustice of using a refusal to confess under torture as evidence that the accused witch had to be in league with Satan since she could otherwise not endure such torment (Q. 25). He noted that the use of extreme torture was a violation of accepted legal procedure, and in any case there was no valid reason to assume out of hand that a seemingly preternatural ability to withstand the torture had to come from Satan. After all, if the victim was innocent, there was just as much reason to assume that God was aiding her in her affliction.

feign tears through plaintive sounds and dabbing their cheeks with spit (213C). This statement is intended to explain away the disagreeable fact that some women who he was certain were under the influence of the sorcery of silence nonetheless did not exhibit the supposed sign of that sorcery, namely the inability to cry, since it would seem that they were in fact crying.<sup>126</sup> This apparent contradiction could then be resolved through the claim that the crying was false. Given the scenes in the torture chamber that must have resulted in this perverse interpretation of the facts, this is a horrific example of the human mind's ability to delude itself on the basis of inflexible preconceived notions.

#### 4 AUTHORS

##### *4a Life of Jacobus Sprenger*

Jacobus Sprenger was a Dominican of a rather different stripe from Institoris. Whereas Institoris was an aggressive loner who traveled across central Europe with the intention of stamping out heresy (see General Introduction, 4b.i), Sprenger seems to have been what one might call a company man. He was clearly inclined to be an administrator, within both the Dominican Order and the University of Cologne, and he also showed a clear interest in promoting piety among those loyal to the church rather than exterminating its opponents.<sup>127</sup>

Sprenger was born in Basel about 1436–1438 to judge by his entrance into the local convent of Dominicans in 1452.<sup>128</sup> In 1467 he matriculated at the University of Cologne, and from then on is firmly associated with the convent of that city.<sup>129</sup> There he pursued a career in the teaching of theology that took place both within the convent and in the theological faculty of the University of Cologne, which was closely affiliated with the convent. He was authorized to lecture on Peter Lombard's *Sentences* at the convent in 1468, was a licentiate of the university (i.e., had fulfilled the requirements of a doctorate) in 1471, and received a doctorate

<sup>126</sup> The *Nuremberg Handbook* (91) has an even more elaborate version, claiming that they dab spit or urine on their cheeks or even make their eyes water with onion juice. The last supposed method seems to be conclusive evidence that these women really were crying.

<sup>127</sup> The primary evidence is collected in Schnyder (1993), 74–95.

<sup>128</sup> Docs. 82 and 83 in Schnyder (1993), 74. Novices normally entered at the age of fourteen to sixteen (Hansen [1901] 395).

<sup>129</sup> Hansen (1901), 396, speculates that the move may have had something to do with the reformation of the convent there (it was reformed in 1464, while the one in Basel was reformed in 1429), but there is no evidence for this. As late as 1478, his transfer from Basel to Cologne had to be reconfirmed by the general chapter (doc. 103 in Schnyder [1993], 79).

of theology by 1476.<sup>130</sup> He is frequently attested as presiding over theological disputations at the university (the last attested example is from 1486) and was granted authority to appoint lecturers at the convent.<sup>131</sup> In 1480 he was dean of the theological faculty, and in this capacity had official dealings with the city of Cologne.<sup>132</sup> Thus, Sprenger clearly took an active role in the theological studies at the university in the period leading up to the time of the composition of the *Malleus*.

Sprenger was also active in the administration of the Dominican Order. He became prior of the convent of Cologne soon after 1471, a post he held until he was released from it in 1482.<sup>133</sup> In 1486 he presided over the chapter meeting of the province of Teutonia, and he became vicar of the province in 1487 and provincial of it in 1488, holding this last position until his death.<sup>134</sup> The large number of administrative posts entrusted to him over the course of so many years indicates an efficient man, and the fact that he is attested as being selected as an arbitrator to decide disputes within the order suggests that he got along well with people (in apparent contrast with the confrontational style of Institoris).<sup>135</sup>

Sprenger was a great promoter of the reform movement within the Dominican Order (see General Introduction, 1c), and on numerous occasions between 1474 and the end of his life two decades later he was assigned to oversee the reformation of specific convents, both of men and of women, along the Rhine.<sup>136</sup> While some of these reformations were voluntary, others were imposed by the central administration of the order and met with resistance from the unreformed (and presumably unreformable) conventual Dominicans. Some of these malcontents apparently got the ear of Pope Alexander VI, who in April of 1495 delegated to two local Dominicans the task of looking into charges that Sprenger had been sowing discord in his province.<sup>137</sup> In response, Maximilian, the son of the Holy Roman Emperor Frederick III and an important man in his own right, wrote a letter in defence of Sprenger to

<sup>130</sup> Docs. 87, 90, 94 in Schnyder (1993), 75–77.

<sup>131</sup> Disputations: docs. 111, 129, 133 in Schnyder (1993), 81, 84–85; appointments: doc. 115 in Schnyder (1993), 82.

<sup>132</sup> Docs. 112–114 in Schnyder (1993), 81–82.

<sup>133</sup> Docs. 91, 112 in Schnyder (1993), 76, 83.

<sup>134</sup> Docs. 131, 134, 136, 138 and 140 in Schnyder (1993), 83, 85–87.

<sup>135</sup> Docs. 97, 102, 110, 125 in Schnyder (1993), 77, 79, 81, 83. The penultimate document records an appointment in 1479 to settle a border dispute between two convents in the Netherlands, which indicates a high regard for his abilities.

<sup>136</sup> He is attested reforming convents in Pforzheim, Frankfurt, Cologne, 'sHertogenbosch, Speyer, Wissemburg, Schlettstadt, Strasburg and Löwen (docs. 92, 93, 118, 123, 127, 148–150, 157–158, 160 in Schnyder [1993], 76, 82–84, 89, 91).

<sup>137</sup> Doc. 161 in Schnyder (1993), 91–92.

the pope, who in late November issued a retraction of the commission of investigation on the grounds that he had been misinformed.<sup>138</sup> This good news was probably of no consolation to Sprenger, who died in early December.

During his lifetime, Sprenger's greatest claim to fame came from his work in promoting the rosary (this is a distinctive Catholic prayer consisting of ten groups of fifteen repetitions of the "Hail Mary," each group being concluded by an "Our Father" and a meditation upon the mysteries of redemption; a special set of beads is used to keep track of the count). The fifteenth-century advocates of the rosary were all Dominicans of the reform movement, so it is no surprise to see Sprenger numbered among them.<sup>139</sup> While repetitive prayers with mechanical methods of keeping count can be traced back to antiquity, and various sorts of prayer that resemble the rosary are attested for centuries earlier, the development of the modern form of the prayer began with Dominic of Prussia in the 1390s. In the 1470s, the Dominican friar Alan de Rupe of Douai in France (who erroneously ascribed the prayer to St. Dominic, a misattribution that later became standard) began extensive promotion of this new form of prayer, and it was from him that Sprenger derived the notion of founding a lay confraternity devoted to practicing the rosary. According to his own account, the citizens of Cologne felt threatened in 1475 because of a siege that Charles the Bold of Burgundy was conducting against the town of Neuss a few miles to the north and decided to ask the Virgin Mary for salvation. In gratitude for the city's miraculous deliverance and in praise of the Virgin, Sprenger founded a fraternity of devout men and women for the purpose of practicing the new form of devotion.<sup>140</sup> This innovation struck a receptive chord in contemporaries, and not only did the practice of the rosary soon spread far and wide, but tens of thousands of people quickly enrolled in the confraternity set up by Sprenger for "Our Lady of Cologne" (one of the first was the Holy Roman Emperor Frederick III himself).<sup>141</sup>

As early as 1479 Sprenger is attested as present at a trial for heresy, and in 1481 he was appointed inquisitor for the archbishoprics of Mainz, Trier and Cologne, but unlike Institoris, Sprenger seems to have taken

<sup>138</sup> Docs 164 and 165 in Schnyder (1993), 92–93.

<sup>139</sup> For the association with the observant reform, see Winston-Allen (1997), 73–80.

<sup>140</sup> Docs. 98 and 99 in Schnyder (1993), 77–78.

<sup>141</sup> For the appeal of the confraternity, see Winston-Allen (1997), 118–127; for the emperor's enthusiasm, see Hansen (1901), 398. There was virtually no requirement for entry, and the confraternity provided an easy way to expedite the exit from purgatory of both oneself and one's relatives (you could pray for the latter yourself and other members of the confraternity would pray for you).

little direct interest in rooting out heresy.<sup>142</sup> In 1489 he presided over a commission that investigated an astrologer, and he was consulted about arresting another in 1492, and in both instances these activities had to do with his involvement with the theological faculty of the University of Cologne rather than his appointment as papal inquisitor, a post which he is nowhere attested as exercising.<sup>143</sup>

Again unlike Institoris, Sprenger was not given to writing. Apart from a commentary on Peter Lombard's *Sentences* which he composed for his university studies,<sup>144</sup> the only preserved text of his is a short work describing his rosary fraternity.<sup>145</sup>

#### 4b *Henricus Institoris*

##### 4b.i *Life*

We are reasonably well informed about the career of Henricus Institoris, but we know virtually nothing of his private life. Sometime around 1430 he was born in the southwestern German city of Schlettstadt (now Séléstat in France).<sup>146</sup> His given name was Heinrich Kramer, but in Latin he used the translated form Henricus Institoris.<sup>147</sup> Nothing is known of the circumstances of his entry into the Dominican Order.

<sup>142</sup> Docs. 109 and 119 in Schnyder (1993), 80, 82. Note how the papal chancery specifically restricted the sphere of Sprenger's inquisitorial activity to the area along the Rhine; see n. 260.

<sup>143</sup> Docs. 144 and 155 in Schnyder (1993), 88, 90. In the former he acts in conjunction with Jacob de Stralen, Udaricus Kridwiss and Thomas de Scotia, who all appear in the *Approbation* of the *Malleus* drawn up two years earlier, while in the latter he is consulted by the theological faculty.

<sup>144</sup> Of the commentary on *Sentences*, only the part dealing with Bk. 4 survives. The fragment is preserved in Eichstätt's Staats- und Seminarbibliothek (Hs. 724 bl. 149r-193v), and Dr. Petra Seegets has kindly examined the work for me. She reports that it is an unoriginal work that does not resemble the discussions of 4.34 that appear in Pt. 2 of the *Malleus*.

<sup>145</sup> The work on the rosary is entitled *Die erneuerte Rosenkranzbruderschaft*, and it was published a few times; see Hansen (1901), 398.

<sup>146</sup> The date is merely a guess based on the facts that his first activity as a priest dates to 1458, that he refers to himself as an old man in the cover letter sent with the *Nuremberg Handbook* in 1491, and that he died around 1505. As for the location, documents from his early career refer to him as "Brother Henry of Schlettstadt," which could signify either his place of birth or his present residence in the Dominican convent in that city, but there is no particular reason not to think that he entered the local convent of his hometown.

<sup>147</sup> That he continued to be known in the vernacular by his birth name is demonstrated by the cover letter to the *Nuremberg Handbook*, in which he uses the German form. The Latinized last name Institoris has at times caused difficulty. Among intellectuals who spoke Latin in the late medieval period it was common to convert the vernacular form of their last name into Latin. *Kramer* means "small-scale merchant" and the Latin for this is *institor*. The last name was treated as a patronymic and thus placed invariably in the genitive case. Thus, the name literally signified "son of the shopkeeper." (Cf. the Latinized version of the canonist whose vernacular name was Jean LeMoine. In the *Nuremberg Handbook* [49v], his family name is inflected in the form *Johannem Monachum*, but in the *Malleus* [187B], it is put in the invariable genitive in the form *Johannem Monachi*.) Since last names originated with individual nicknames that could indicate

The first attestation of his activity has him serving as the confessor of the Waldensian leader Friedrich Reiser when he was burned alive in Strasburg in 1458.<sup>148</sup> This is suggestive, in that Institoris would show a lifelong interest in combating the heretical Hussites of Bohemia and Moravia, who were associated with the Waldensians (who in turn were associated with sorcery).<sup>149</sup> He is attested as assisting Bishop Rudolf of Bratislava in combating the Hussites in the years 1468–1470, and his final activities were likewise directed against them in the years from 1500 until his death there a few years later.<sup>150</sup>

Nothing is known directly of his education, but late in his life a Hussite opponent of his disparagingly referred to his “German school and Italian *collegium*.” The school perhaps refers to the famous Latin school of Schlettstadt. The term *collegium* presumably refers to one of the major centers of learning which the Dominicans maintained to train the most advanced students of theology and which had to accept a quota of foreign Dominican scholars.<sup>151</sup> Institoris’s career shows that he must have had an aptitude for academic study. In our first official notice of him (October, 1467) he holds the title of “reader of sacred theology” (*sacre theologie lector*), which means that he was authorized to instruct

the bearer’s occupation, this usage originally did make sense, but once last names became fixed and inherited, such “patronymical” last names in Latin ceased to give any indication of the father’s actual occupation.

<sup>148</sup> Institoris claims that he was Reiser’s confessor in his late work *Clippeus* (General Introduction, 4b.ii.α). This is often doubted, but considering the scantiness of the sources, there is no reason not to take Institoris at his word. The story about one of the authors meeting a possessed priest while traveling to Rome during the reign of Pope Pius II (1458–1464) most likely relates to this period of Institoris’s career.

<sup>149</sup> For the Waldensians, see General Introduction, 1a. The Hussites were a religious movement of fifteenth-century Bohemia. Jan Huss had been a critic of church dogma, and was burned alive as a heretic at the Council of Constance in 1415, despite the safe conduct he had been given by the Holy Roman Emperor. As a result, a religiously inspired rebellion broke out in Bohemia, which had strong millenarian, anti-clerical, anti-German and nationalistic tendencies, and despite numerous attempts to suppress them, the Hussites maintained themselves throughout Institoris’s lifetime. While the extent to which Huss was influenced by Waldensian thought is uncertain, the radical Taborite faction among the Hussites would soon establish links with the Waldensians, who likewise suffered official persecution as heretics; for Taborite relations with the Waldensians and Reiser’s activities in this regard, see Audisio (1999), 78–85.

<sup>150</sup> The earlier activity: docs. 3–7 in Schnyder (1993), 34–36. Pope Alexander VI appointed Institoris to a mission to combat heresy in Bohemia and Moravia on Jan. 31, 1500 (doc. 66 in Schnyder [1993], 64–66), and he is attested there in April, 1502 (doc. 78).

<sup>151</sup> The term *collegium* appears in the German translation of the Czech original: doc. 78 in Schnyder (1993), 73. For the Dominican schools, see General Introduction, 1c. There were several such institutions in Italy, the most important being located in Bologna and Naples. The former had a close relationship with Cologne (see Hinnebusch [1966–73], 2.64), but since Institoris’s grant of the privileges of a master of theology was issued in Naples (doc. 23, Schnyder [1993], 41), presumably he studied there.

pupils in the local school of an (unknown) convent to which he was then attached. On June 15, 1474, when he already held the rank of master of arts (*artium magister*) (presumably from a regular university), he was granted the privileges of a master of theology (*theologie magister*), and from now on was entitled to style himself a professor of sacred theology (*sacre theologie professor*). On November 23, 1479 he was officially granted the right to wear the insignia of a master of theology, apparently by the *studium generale* of Naples, and on the following December 13 this status was confirmed in Rome by the master general of the Dominican Order.<sup>152</sup>

It was apparently clear to Institoris's superiors that he could be trusted to act independently. At the same time that he was granted the privileges of a master of theology, he was also named as preacher general and allowed to exercise the office of the inquisition even where he held no specific appointment as inquisitor, receiving additional permission to choose the convent from which he operated and move about as he pleased.<sup>153</sup> In effect, he was allowed to function as an inquisitor wherever he wanted, regardless of whether he had been specifically appointed by a Dominican superior such as the provincial. This certainly suggests confidence in his abilities and discretion. Further confidence in his inquisitorial abilities was demonstrated in the highest quarters when Pope Sixtus IV appointed him to the unfilled position of inquisitor of heretical depravity for Upper Germany on March 3, 1478 (the vagueness in the terms of this appointment would later cause trouble).<sup>154</sup> At some point, Institoris decided to reside in the convent at Schlettstadt, and became its rector, and he was released from this duty by the general chapter in Rome in February 1483.<sup>155</sup> Since tenure as prior was indefinite, and he was authorized to oversee the appointment of his successor, he presumably asked to be relieved himself.<sup>156</sup>

<sup>152</sup> Docs. 14, 15 in Schnyder (1993), 38. For the right of the chapter to grant theological degrees, see General Introduction, 1c.

<sup>153</sup> "He was also made preacher general and [allowed] to carry out the office of the inquisition where he is not inquisitor and where he desires according to his wish. He likewise acquired [the right] to choose a convent for himself as he moves around" (*Idem fuit factus predicator generalis, et quod possit exercere officium inquisitionis, ubi non erit inquisitor vel ubi erit de licentia sua et beneplacito. Item habuit quod possit discurrendo eligere sibi conventum* [doc. 8 in Schnyder (1993), 36]). A preacher general was allowed to roam about at will within the territory of his province, whereas regular preachers could not normally go beyond the borders of their convent and in any case needed the prior's permission.

<sup>154</sup> Doc. 11 in Schnyder (1993), 36.

<sup>155</sup> Doc. 22 in Schnyder (1993), 41.

<sup>156</sup> For tenure, see Hinnebusch (1966–73), 1.220; for the appointment, doc. 24 in Schnyder (1993), 41. Since the privilege of collecting funds through the sale of indulgences that Sixtus IV granted to the convent in the fall of the same year (see next n.) was in part intended to defray the

His career shows that his initiative was well thought of. He participated actively over a long period of time in the sale of indulgences.<sup>157</sup> His activity in Bohemia in 1467–1470 specifically concerned selling indulgences to finance the campaign against the Hussite heretics. Dealing with the large sums of money involved could be perilous. In 1481, Institoris was authorized by the pope to rescind the excommunication of certain indulgence sellers who had gotten into trouble on account of inadequacies in their collection of money through the sale of indulgences for a campaign against the Turks.<sup>158</sup> Next, it was his turn to get into trouble. On March 26, 1482, the general chapter demanded that he come to Rome within nine days, and on the following April 2 the pope himself ordered the bishop of Augsburg to arrest him. The matter concerned sums of money and silver and valuables that Institoris had deposited with a local widow. Though much is sometimes made of this incident to impugn Institoris's integrity, it would seem from the facts that no actual indication of theft appears in the documents and that the location of the items was known, so that this was an administrative matter rather than a criminal accusation.<sup>159</sup> The affair had no longterm effect on his career. In the fall of 1483, as prior of the convent of Dominicans in Schlettstadt, he acquired from the pope the privilege of granting plenary indulgences, one third of the proceedings to go towards the refurbishment of the convent structure, one third to defray the cost to the convent of Institoris's activities as inquisitor, and the final third to go to the

expenses that inquisitors incurred in their peripatetic activities, one might make the further guess that Institoris found the local duties expected of a prior to be incompatible with his wide-ranging obligations as inquisitor (a prior normally did not leave his convent: Hinnebusch [1966–73], 1.3446).

<sup>157</sup> The theory of indulgences had it that the church had a "reserve" of excess merits that had been created in the past by the saints, and that the church could dispense them to the deserving, who acquired them by contributing to activities endorsed by the church. In concrete terms, the indulgence allowed the recipient to get out of the torments of purgatory and enter the delights of heaven more quickly than would otherwise be the case. Although assorted forms of supporting the church like undertaking pilgrimages to authorized sites or warring heretics being burned alive could be rewarded with varying numbers of "days off" from purgatory, the practice of selling indulgences was an abusive practice of the cash-strapped papacy of the fifteenth century, which had limited income but large expenditures such as building St. Peter's basilica in the Vatican and attempting to organize resistance to Turkish encroachments in the east. Someone who made a suitable financial contribution to a particular activity would receive in return as a sort of receipt an indulgence document that specified the extent of the indulgence that he had just acquired. While the theory was that only true contrition for his sins on the part of the recipient made the indulgence valid and that the church was merely interceding on his behalf, the average Christian can be forgiven for thinking that he was purchasing his release from purgatory.

<sup>158</sup> Doc. 17 in Schnyder (1993), 39.

<sup>159</sup> Docs. 18, 19 in Schnyder (1993), 40.

pope.<sup>160</sup> It would seem that large sums of money were involved in these activities.<sup>161</sup>

The trust that was placed in him by his superiors is shown by numerous other activities. In 1475 his assistance was enlisted by an embattled local bishop to find justification for the recent execution of Jews who had been compelled under torture to confess to having murdered a Christian child for cultic purposes.<sup>162</sup> In 1480, he proceeded against certain women who had committed the supposedly superstitious excess of taking communion every day.<sup>163</sup> On September 6, 1482, Institoris was appointed by Pope Sixtus IV as inquisitor in the diocese of Basel. Though the letter of appointment does not directly relate this appointment to the attempt

<sup>160</sup> Text: Petersohn (1988), 158–160.

<sup>161</sup> The privilege of collecting indulgence money granted to the Schlettstadt convent was soon revoked during a blanket rescinding of all such privileges, and in a letter of protest that he sent to the pope (for the text, see Petersohn [1988], 123–126), Institoris noted that he had cost his convent 1300 florins (a considerable sum of money) because when he had been on the point of death in Siena (his reason for being there is left unstated), he had sent this money, which he had collected with much labor during the course of more than twenty years of preaching against the Bohemians (i.e., Hussites) and Turks, to the pope, thus depriving the convent of these sums, but he did this because he thought it right since the money had been collected as if from papal commissions (*Nam ex ciuitate Senarum semel in articulo mortis positus mille et trecentos aureos, quos a viginti et ultra annis multis laboribus presertim contra Bohemos et Thurcos predicando acquisieram, sanctitati vestre, conuentum meum illis priuando, destinaui, putans hoc fore justum, cum ex laboribus et legatorum commissionibus collegeram*). This statement is problematical on a number of counts (What was he doing in Siena with such a large amount of money? If it had been collected over twenty years, why had he not already dispatched it to Rome? If he thought the money really belonged to the pope, in what way was he depriving the convent in giving it to the pope?) but in any case it demonstrates the large amounts of money that came into Institoris's hands through the sale of indulgences.

<sup>162</sup> The event in Trent was something of a *cause célèbre* in the so-called blood libel (the spurious accusation that Jews murder Christian children in their rites). In the spring of 1475, a Christian child named Simon went missing and local Jews found his body in a canal leading into their house. They were arrested and the whole adult male Jewish community was eventually executed. Complaints of a miscarriage of justice led to the appointment of a Dominican by the pope to investigate the matter. In the fall the bishop employed the services of "Brother Heinrich of Schlettstadt" to travel to Germany to collect documentary proof of other such trials, and he brought back sworn depositions about earlier proceedings in Ravensburg (a town where Institoris would later conduct an inquisition into sorceresses; see General Introduction, 4b.ii.β), Pfullendorf and Endingen. This friar would continue to participate in the case, and in January of 1476 he presided over the conversion of two among the convicts who wished to receive a less painful method of execution on this account, and his presence is also attested at further executions three days later. For the whole unseemly story, see Hsia-Po (1992), esp. 76, and 103–104 for the friar's activities. The identification of this friar as Institoris is made in Behringer *et al.* (1999), 42.

<sup>163</sup> These pious women had been doing so for more than a decade under the guidance of their parish priest. Given the increasing emphasis placed on the mass in late medieval piety, it is hardly surprising that some people should have come to believe that the more frequently it was attended, the better. This odd action may reflect Institoris's poor opinion of women in general (see General Introduction, 2b).

of Andrew, archbishop of the Craina, to summon a new general council of the church to curb the powers of the pope, Institoris was no doubt expected to suppress any attempts to support the proposal.<sup>164</sup> It would seem that this activity against the conciliarists led to the appointment of Institoris as an inquisitor directly by the pope.<sup>165</sup> In the order of March 26, 1482 by which he was ordered to appear in Rome, he is styled *inquisitor in provincia Theutonie* (Teutonia was the name of the relevant province of the Dominican Order), but in the letter of September 6, 1482 by which the bishop of Basel instructed his subordinates to co-operate with Institoris it is noted that Institoris had been appointed inquisitor by Pope Sixtus IV, and in the pamphlet against the archbishop of the Craina, Institoris calls himself “inquisitor general of heretical depravity through the regions of Upper Germany” (*heretice prauitatis per partes superioris Alemanie inquisitor generalis*), which presumably gives the frame of reference of the papal appointment (the vagueness of this would lead to difficulties that resulted in the request for and issuance of the bull *Summis desiderantes*; see General Introduction, 5a.i).<sup>166</sup> Institoris seems to have had a particularly close relationship with Sixtus IV, and this favor continued under Innocent VIII.<sup>167</sup>

<sup>164</sup> Doc. 21 in Schnyder (1993), 40. The Council of Constance (1414–1418) had finally resolved the Great Schism in which there were two competing lines of popes, and as a result the so-called conciliarist movement arose, which tried to make such ecumenical councils the supreme authority in the church. The line of popes re-established in Rome not surprisingly rejected this view, and the Council of Basel (convened in 1431 and later moved elsewhere) quarreled with Pope Eugenius IV over this issue. In the spring of 1482, Andrew Jamometric, the archbishop for the Craina (i.e. the area known as Carniola, now in modern Slovenia), summoned a new council to Basel to reform the church, to deal with a crusade against the Turkish threat and to bring the pope to account for his supposed failings. Naturally, Sixtus IV did not look favorably upon this undertaking, and the archbishop was arrested in the fall of 1482 (see Petersohn [1987] 131–32). Institoris dutifully wrote a vituperative pamphlet attacking the archbishop (see General Introduction 4.b.iii.α.1).

<sup>165</sup> Hansen (1901), 383, makes the oft repeated charge that Institoris’s zeal later in the year in defending the pope against the conciliarist movement was motivated by the desire to ingratiate himself with the pope, in order to extricate himself from troubles into which he had gotten himself earlier in the year concerning indulgence money. There is, however, absolutely no reason to connect the two events, the substance and resolution of the Augsburg affair being totally unknown.

<sup>166</sup> Order of March 26: doc. 18 in Schnyder (1993), 40; letter of September 2: doc. 21 in Schnyder (1993), 40–41. In the preface to the treatise published in 1496 attacking the *Monarchia* (see General Introduction, 4b.ii.α.3), Institoris still refers to himself as inquisitor “throughout Upper Germany” (*per superiorem Germaniam*; cited in Hansen [1901], 392 n. 1), though after the issue of the Bull *Summis desiderantes* he normally specifies the five archbishoprics mentioned in that bull. Presumably, the simpler title still held good, but he preferred to use the longer version in order to impress.

<sup>167</sup> As already noted, Sixtus appointed Institoris as a papal inquisitor in 1479, and in his petition of 1483 Institoris notes that he had had three audiences with the pope, who enjoined him to write often (“the generosity of Your Holiness . . . most kindly indulged in threefold gracious meetings

Institoris's influence in Rome is implicit in an incident related in the *Nuremberg Handbook*, in which an unnamed "spiritual prince" on the Rhine (i.e., an ecclesiastic who also held temporal jurisdiction, e.g., the Archbishop of Cologne, though there were many others) is said to have released three accused (and supposedly guilty) witches. Institoris continues: "When I came to the prince to ask why he had set them free, he responded, 'This was the advice that our learned men gave me.' But he asked that this not come to the notice of the pope, saying that he would conduct himself differently in future" (*Vnd do ich zu dem fürsten kam fragen, warumb er die ledig gelassen hett, antwort er: Vnser gelerten hetten mirs geratten, doch bat er das eß nit fürkem dem babs; er wölt sich fürder anders halten.* [3v]). Assuming the truth of the anecdote (and there is no reason to doubt it), Institoris took it upon himself to question this prelate about his activities, and the prelate expected that if he did not satisfy Institoris, the inquisitor would report the matter unfavorably to the pope (just as Institoris apparently did regarding the bishop of Strasburg, which resulted in the issue of the Bull *Summis desiderantes*).

Institoris's activities in witch hunting appear in the 1480s and will be treated separately below (General Introduction, 4b.iii). In the 1490s he is attested in various other business. In 1491, he attended the Imperial Diet in Nuremberg, where he was requested by the city council of that city to provide them with a handbook on witch hunting, which he sent from Augsburg on October 2 (the *Nuremberg Handbook*: see General Introduction, 4b.ii.β). It would seem that he now resided in the convent of Augsburg, in that in February of 1493 he was entrusted with installing the next prior there.<sup>168</sup> By the fall of that year, however, he was functioning as preacher in Salzburg, where a dispute ensued. Whereas the general chapter of the order wished this position to be taken by

... that I should write often" [*sanctitatis vestre benignitas . . . sub trina graciosa audientia, ut sepius scriberem, clementissime indulsit*: Petersohn (1988), 123]). This letter also indicates that at that time the pope had granted Institoris's request that confraternities of lay associates be established to assist inquisitors in their work, a project that Institoris claims the pope approved but was thwarted by the inadequate terms in which the papal chancery drew up the pope's approval. It would seem that Institoris's complaints were answered. At any rate, in June of 1485, Innocent VIII sent a letter to the Archbishop of Mainz instructing him to facilitate the establishment of such confraternities (doc. 29 in Schnyder [1993], 48). Nothing further is known of them (on this project, see Petersohn [1988], 138–142). (Innocent VIII also, of course, issued the famous bull *Summis desiderantes* to expedite the inquisition's activities concerning witches: see General Introduction, 5a.i.) Institoris also certified in a letter of 1488 (doc. 48 in Schnyder [1993], 57–58) that Sixtus IV had likewise granted his request that whenever anyone visited a crucifix erected 1064 paces (supposedly the distance that Jesus carried his cross) from a house for the purpose of thwarting witchcraft, he should get one hundred days' worth of indulgence.

<sup>168</sup> Docs. 53–54 in Schnyder (1993), 60.

a certain Nicholas Gundelfinger, the archbishop intervened with the general chapter to have this order quashed.<sup>169</sup> This episode did nothing to undermine the general chapter's confidence in him, in that it sent him to Venice (he is first attested there in November of 1495) to participate in a dispute regarding the nature of the eucharist, and he was still there in August of the following year, when he published a book in defense of papal supremacy.<sup>170</sup> By July of 1497 he was back in Germany, delegating to the provost of Rohr, a monastery of Augustinian canons south of Regensburg, the office of the inquisition against the Heresy of Sorceresses and other heretics, because he was too busy with other dangers to the faith.<sup>171</sup> Around 1500 he personally saw the stigmata of a nun in Italy, and soon made his way back to Bohemia, where he spent his last years combating the Hussites, as noted above. He was apparently a prominent public figure, in that he preached in Latin and German before King Ladislaus II of Bohemia, in Prague.<sup>172</sup>

The evidence indicates that Institoris was something of a headstrong individual. It is noted in the general chapter records that in 1474 he was subject to imprisonment for having impugned the Holy Roman Emperor (Frederick III) but the penalty was remitted and he was allowed to continue with his duties.<sup>173</sup> The penalty was still in existence as late as 1479, when it was once more remitted.<sup>174</sup> Apparently, the transgression was too great to be simply ignored, yet the general chapter was so convinced of his merits that this matter was not allowed to interfere with his duties. In 1475, Institoris accused two of his fellow Dominicans at Schlettstadt of stealing money from him, and the case was seemingly still unresolved in 1479.<sup>175</sup> As already noted, in 1482 he got into trouble concerning sums realized from the sale of indulgences, but the matter had no lasting consequences. In 1483 the general chapter had to enjoin Institoris to preach regarding the conciliarist controversy as he had been ordered to, but the exact nature of the disagreement is unclear.<sup>176</sup> Yet, by 1487 he was once more in trouble with the general chapter, which in 1490

<sup>169</sup> Docs. 55–57 in Schnyder (1993), 60–61. The intervention would seem to have been a success, in that Institoris is still attested in Salzburg in August of 1495 (doc. 58).

<sup>170</sup> Docs. 59 and 62 in Schnyder (1993), 61–62.

<sup>171</sup> Doc. 63 in Schnyder (1993), 62–63.

<sup>172</sup> Docs. 65, 80 in Schnyder (1993), 64, 73.

<sup>173</sup> Doc. 8 in Schnyder (1993), 36.

<sup>174</sup> Doc. 12 in Schnyder (1993), 37.

<sup>175</sup> Docs. 10, 13 in Schnyder (1993), 36, 38.

<sup>176</sup> On April 23, 1483, he was ordered to preach that the bull issued against the archbishop of the Craina was valid and that he should obey the papal legate and carry out the orders that had been given to him (Institoris). Seemingly the matter involved an argument about the actual content of what he was preaching.

sent a letter to the vicar of the province (presumably, the Dominican province of Teutonia) stating that he was subject to all penalties and censures because of the “many scandals that he committed in the province” (*multa scandala que perpetravit in prouincia*) and banning him from all convents.<sup>177</sup> Seemingly not much came of this, since in the following year we find him settled happily enough in Augsburg, where he composed the *Nuremberg Handbook*.<sup>178</sup> As noted above, he also seems to have gotten into trouble for retaining the position of lector in Salzburg when the general chapter wished to give it to someone else. Yet, however frequently he got himself into difficulties with his superiors, we find them continuing to make use of his services soon after they threaten him. It would seem that he had trouble submitting to authority, and perhaps this is why itinerant preaching and heretic hunting figure so prominently in his career. Given that the man apparently had no qualms about attacking the Emperor, it is not surprising that in the *Malleus* (199A) he should express dissatisfaction with magistrates who refused to co-operate in his witch hunting in the way that he desired, and in the *Nuremberg Handbook* his impatience with such behavior is expressed even more emphatically.<sup>179</sup> It perhaps comes as little surprise that the Humanist Conrad Peutinger (1465–1547), who claimed to have known Institoris well, reminisced that at Augsburg Institoris had been “quite the drinker” (*egregie bibebat*), and on one occasion his importunate demands for more wine eventually had to be turned down.<sup>180</sup>

<sup>177</sup> Docs. 49, 135 in Schnyder (1993), 58, 85. The earlier document is actually a directive from the general chapter to Sprenger in his capacity as prior of the convent of Cologne confirming the provincial's delegation to him of the task of dealing with Institoris. This is sometimes taken as a sign of animosity between Sprenger and Institoris (in the very year of the publication of the *Malleus*), but there is no evidence to indicate that Sprenger himself instigated the proceedings. In any case, if the matter was still unresolved three years later (there is no overt indication of whether the order of 1490 continues the one of 1487), it seems not to have been of any more consequence than the prolonged censure that Institoris had incurred for speaking ill of the Holy Roman Emperor back in 1474.

<sup>178</sup> Given the difficulty of exerting its will at a distance, it would seem that the general chapter was prone to using inordinately vigorous language in the attempt to get people to pay attention to its commands. Hence, it is probably best to take the severity of the terms of such orders with a grain of salt.

<sup>179</sup> In the *Nuremberg Handbook*, Pt. 3, Ch. 1 he states: “No matter bothers me, the inquisitor, more greatly than such stupid authorities, who did not punish persons with such a reputation” (*Kain sach auch mich, inquisitoren, fester bekumert dann solliche torecht oberkair, die solichen verlümte personen nit gestrafft haben* [10v]).

<sup>180</sup> Doc. 64 in Schnyder (1993), 64. “The mother-in-law of lord Jacob Fugger, when he was annoying her a great deal by asking for wine, finally sent water and with that rid herself of him” (*Socrum domini Jacobi Fuggeri, cum plurimum petendo vinum eam molestaret, tandem aquam misit et sic se ab eo absoluit*). Since this anecdote refers to his being entertained by the famous Fugger banking family of Augsburg, it is worth noting how illustrious was the company which the inquisitor kept.

## 4b.ii Works written by Institoris

4b.ii.α Published works 1) The first work of his to be published was his pamphlet of 1482 *Epistola contra quendam concilijstam archiepiscopum* ("Letter against a certain conciliarist archbishop"), which was originally issued only in MS form, but was soon printed twice.

2) The *Malleus Maleficarum*, written in 1486 and published in the fall of that year or the start of the next.

3) *Opusculum in errores Monarchie* ("Small work against the errors of the *Monarchia*"), a work published in 1496 in refutation of the old *Monarchia sive de Potestate Imperatoris ac Pape*. The older work was an anti-papal treatise written in 1438 by the jurist Antoninus de Rosellis (1381–1466) that argued against papal supremacy and jurisdiction; it was a topical item in that it had been republished in Venice in 1487 under the abbreviated title *Monarchia* and in 1491 the book was condemned by the bishop of Venice (see Hansen [1901], 391–392). Institoris wrote the refutation at the request of Antonius Pizomannis, a local theologian to whom he dedicated the work.

4) *Sancte romane ecclesie fidei defensionis clypeus aduersus Waldensium seu Pickardorum heresim* ("Shield of defence of the Holy Roman Church against the Heresy of the Waldensians (Picards)"), published in Olmütz in 1502. Despite the title the work is actually directed against the Hussites.

4b.ii.β Manuscript works 1) The so-called *Vorarbeit* ("Preliminary Work") or *Memorandum*, which forms part of the dossier preserved in the diocesan archives in Brixen that concerns Institoris's inquisition in Innsbruck in 1485 (see General Introduction 5e).

2) In the summer and fall of 1491 he wrote an extensive handbook on witchcraft (the *Nuremberg Handbook*) for the city council of Nuremberg.<sup>181</sup> It consists of sixteen folios in German, which lay out how to investigate, try and punish witchcraft, and of a further thirty-six folios in Latin that go over the same material at greater length with more emphasis on the legal sources. To some extent this work is based on the

<sup>181</sup> The MS is at present preserved in the Bavarian State Archives in Nuremberg (D 251). Jerouschek (1992a) provides an often illegible facsimile of the original plus a transcription of the German text (which must be used with caution: there are occasional mistranscriptions, the abbreviations of Latin citations are often resolved incorrectly, and six entire lines are omitted through haplography on folio 4r). No title is given for the work, but since Institoris refers to it several times as a "book" (*büch*) in the German text and as an *opusculum* in the Latin, *Nuremberg Handbook* seems a suitable title. (Jerouschek calls it the *Nürnbergger Hexenhammer*, but since the material overlaps only with the legal content of Pt. 3 of the *Malleus*, and the theoretical material of Pt. 1 and the practical descriptions of Pt. 2 are not treated, this title gives an erroneous impression of the relationship between the two works. For a discussion of the German text, see Enders (1988).

*Malleus*, but in the German section *Institoris* lays out his own views directly without having to base himself on the words of earlier works, while the Latin section directly explains the legal situation much more overtly than is the case with the *Malleus*, in which the legal sources are seldom named (presumably for literary reasons).

#### 4b.iii Activities as witch-hunter

As we have seen, *Institoris* took his responsibilities as inquisitor very seriously and traveled about southern Germany putting a stop to various threats to the Christian order. In the *Malleus* it is asserted (108C) that within the diocese of Constance, especially in the city of Ravensburg, forty-eight convicted witches had been burned at the stake after being “turned over to the secular arm by us.” In the *Nuremberg Handbook* of 1491 *Institoris* increases the count to more than two hundred.<sup>182</sup> For all this, however, the amount of external confirmation of *Institoris*’s activity is small, there being little direct evidence for *Institoris*’s involvement in cases in the diocese apart from the events in Ravensburg.<sup>183</sup>

4b.iii.α Ravensburg As already noted, the *Malleus* speaks of executions in the diocese of Constance, and the broader context seems to imply that the forty-eight victims were burned in Ravensburg.<sup>184</sup> Conveniently, there is preserved a letter in which the burgermasters and city council of Ravensburg report to Archduke Sigmund about the trial and execution of witches in the fall of 1484.<sup>185</sup> According to the letter, the archduke had earlier sent a letter stating that a member of the Dominican Order would come to the town to conduct an inquisition into witches, bring them

<sup>182</sup> “The judge should note that more than two hundred have been condemned through my investigation, and they all made a confession about the items listed, a small or large confession according to their age” (*Merck der richter, das vber zuohundert sein durch mein ersüchung gericht, die all in den erzalten stücken bekant haben. lützel oder vil nach irem alter*) (Pt. 2, Q. 8 [9v]).

<sup>183</sup> Behringer *et al.* (2000), 55–58, valiantly try to suggest other places in the diocese where he may have conducted inquisitions and note references in the *Malleus* to other events involving sorceresses there, but it remains a fact that the only vivid anecdotes relating to the diocese pertain to the inquisition in Ravensburg (which resulted in only two deaths).

<sup>184</sup> The text (108C) invokes the inhabitants of the city as witnesses and goes on to specify the number as forty-eight, which suggests that that many were actually executed in the city.

<sup>185</sup> Actually, the letter is dated merely to the year “84,” but apart from any other considerations, other documents in the file where the letter was found allow it to be dated to the fifteenth century. Konrad Geldrich is attested as *Bürgermeister* for the year July 25, 1484–July 25, 1485 (Dreher [1972], 615, 640), which fits the Gehler who is named as burgermaster in 146A. A deposition dated October 23 apparently indicates that the inquisition was underway by then. Müller (1910), 408, dates this deposition to 1484, though it is not clear that the document in question actually specifies the year (he does not quote the date directly and indicates that other depositions are preserved from subsequent years).

before the council and have them executed, and this earlier letter had requested that the city council should inform the archduke of the course of events. (The purpose of the surviving letter, which is dated December 17, 1484, is to provide this report.)<sup>186</sup> The friar arrived as indicated, and he had a papal bull, which he posted on the church doors, and from the pulpit issued a general summons (the procedure is described in 194D–195B), and as a result a large number of women were imprisoned and two of them confessed and were burned alive.<sup>187</sup> The letter goes on to tell Sigmund of some remarkable matters that the council learned of from the friar. Upon arrest, the accused were to be picked up off the ground, they were to be shaved, and if they did not cry when tortured, then they were witches, matters that are all described in the *Malleus*.<sup>188</sup> Given the similarity to the events related in the *Malleus* and the proximity in time, it is the universal assumption that Institoris is the Dominican in question.<sup>189</sup>

The account of the trials in Ravensburg given in the *Malleus* needs to be checked against this independent evidence. In the *Malleus* it is claimed (145D–146A) that the inquisition in Ravensburg was the result of a huge hailstorm, which led to popular outcry that this must have been an act of witchcraft, and once a notary of the inquisition heard of this outcry, he reported it to his superior. Supposedly this hailstorm took place

<sup>186</sup> Doc. 28 in Schnyder (1993), 47–48. The subservient tone taken in the letter towards the archduke is rather puzzling. Sigmund belonged to a junior branch of the Habsburg family, while his cousin Frederick III controlled the rest of the family territory and was in addition Holy Roman Emperor. Since Ravensburg was an Imperial free city, its privileges depended upon the Emperor and it did not owe Sigmund the “diligent subordination” (*blissige underthenigkait*) repeatedly mentioned in the letter. Sigmund, did, however, rule over a divergent group of territories in southern Germany that stretched from the family’s original holdings in the upper Rhine area to the Tyrol. In the 1480s he instituted a policy of establishing defensive alliances with the Imperial free cities in Swabia, which felt threatened by the aggression of the Duke of Bavaria-Munich, signing such a treaty with Ravensburg in May of 1484 (see Baum [1987], 420–422; Dreher [1972] seems not to mention this treaty, though the discursive nature of his narrative makes consultation difficult). Clearly, Sigmund himself took a direct interest in the course of the witchcraft trials (note that in addition to the fact that the city council of Ravensburg informed the archduke of what happened in their city, Institoris made sure that the pope would inform him of the commendation sent to the abbot of Weingarten in connection with the events in Ravensburg; see n. 193).

<sup>187</sup> Given the date of these events, this bull must have been his general appointment as inquisitor in Upper Germany by Sixtus IV in 1479, since *Summis desiderantes* was not issued until December 5, 1484.

<sup>188</sup> Picking up: 203C; shaving: 214C; lacking of crying as proof of guilt: 213B–C. Institoris speaks of these matters in similar terms in the *Nuremberg Handbook* (picking up in Pt. 2, Ch. 6 [8v], and shaving and crying in Ch. 7 [9r]).

<sup>189</sup> The letter also refers to the Dominican as a *doctor* (of theology). While this description could also fit Sprenger, the fact that there is no attestation of itinerant witch hunting activity on the part of Sprenger while Institoris was frequently involved in this makes an identification of the inquisitor as Sprenger far less likely.

twenty-eight German miles from Ravensburg in the direction of Salzburg (i.e., due east). First, this is a much greater distance than it seems in English, since a German mile was nearly five times the length of the corresponding English unit.<sup>190</sup> It is hard to see why a storm more than one hundred miles away should have led to an investigation in Ravensburg. In any case, the letter makes it perfectly clear that the city councillors had no prior knowledge about the supposed sorcery that came to light during the inquisition. There is no way of knowing what led to the decision to institute an inquisition in Ravensburg, but presumably Institoris applied to Sigmund for co-operation in this endeavor, and, while conceivably the distant hailstorm played some part in the decision to investigate Ravensburg, the procedure involving the general call to give testimony suggests that in fact the hailstorm was unknown at the time, and the claim that the whole town was abuzz with talk of the storm and that this led to the inquisition in the first place is a false reinterpretation of the course of events in light of the eventual convictions. (The two women burned are said in the city council's letter to have admitted to causing storms, but that says nothing about the events that started the inquisition.) In any case, it is said in the *Malleus* that the inquisition took half a month (146A). While there are said to have been many suspects, the account goes on at some length (146A–147A) to relate the interrogation of two suspects in particular (Agnes the bathkeeper and Anna of Mindelheim), who were found to have consorted with demons for two decades and to have caused hailstorms, and were burned at the stake for it. This conviction sounds exactly like the description given of the two women burned in the city council's letter.<sup>191</sup> This means that the identity of the

<sup>190</sup> A "common German mile" equals 4.6 English miles (7.42 kilometers). The distance of this storm from Ravensburg is thus 129 miles (208 kilometers), an astonishing distance for an event that supposedly led to an inquisition in Ravensburg. Behringer *et al.* (2000), 492 n. 357, try to make sense of this by claiming that this description is from the perspective of Salzburg, where Institoris was located in the spring of 1486 after the *débâcle* in Innsbruck the preceding fall, and the figure of twenty-eight German miles indicates the distance of Ravensburg from Salzburg. Apart from the considerations that such an indication of the distance from Salzburg is nowhere else given and that the Latin can hardly mean this, the distance in question is actually about 300 kilometers as the crow flies (and would presumably be greater by foot).

<sup>191</sup> "As a result, we brought some female persons into our prison, of whom two confessed that they had devoted themselves to the devil and with him cultivated their delusions of filthiness, that they had helped make hail and lightning, and likewise that they had lamed and injured people and animals, and done much other such sorcery and delusion over the course of many years. After this, we had them condemned to the flames" (*uf daz haben wir etzlich wips personen in unser gewengknuss prächt, darunder zwo veriechen hand, wie daz si sich dem rüfel ergeben habint und mit im ir gespenst der unluterkeit gepflegen, ouch hügel und ungewitter helffen machen, derglich lüt und wech gelembdt und gesert und vil ander derglich zobri, gespenstes vil iar und zit getriben; und demnach haben wir zu inen mit dem für richten lausen*).

other forty-six victims whom Institoris is said to have condemned in the diocese of Constance is totally unclear.

4b.iii.β Innsbruck Institoris conducted an inquisition in Innsbruck in the fall of 1485. There is a fair amount of documentation of this event, which is referred to extensively in the *Malleus*, and it is generally thought that the supposed fiasco that this inquisition turned out to be influenced the composition of the *Malleus*. Unfortunately, while a number of documents relating to the event were published in the nineteenth century, much of the surviving material is only paraphrased, which makes it perilous to draw conclusions from it.<sup>192</sup> Let us begin with the general course of events.

On June 18, 1485, Pope Innocent VIII issued three documents on behalf of Institoris, one being a request sent to Archduke Sigmund of Austria.<sup>193</sup> After being commended for his previous zeal in defence of the faith against the “sect of heretics and sorcerers” (*aduersus hereticorum et maleficorum sectam*), which presumably refers to his role in the Ravensburg events, the pope asks him to lend his assistance to the inquisitors and to instruct his subordinates to do the same.<sup>194</sup> On July 23, Bishop George Golser then issued a decree that indicated that Institoris had presented to him the Bull *Summis desiderantes*, and ordered all of his

<sup>192</sup> These documents appear in Ammann (1890) and (1911).

<sup>193</sup> Docs. 29–31 in Schnyder (1993), 48–49. Doc. 29 is the letter to the archbishop of Mainz mentioned above (n. 167). Doc. 30 is a letter to “John, Abbot in Weingarten” (*Johanni abbati in Wingarten*) commending him for his defence of the faith against heretics and informing him that he (the pope) had also written in commendation of him to Sigmund. (Weingarten was a Benedictine monastery close to Ravensburg, and one may presume that the abbot had assisted Institoris during the Ravensburg inquisition in the preceding fall. Behringer *et al.* [2000], 57, state that the abbot in the period 1477–1491 was Caspar Schiegg, and suggest that the man in question here was actually John of the nearby monastery of Weissenau, who came from Ravensburg. But surely it is the *prima facie* presumption that Institoris must have known the identity of the man whom he was commending to the pope! Perhaps a better explanation can be found in the ongoing dispute over control of the position of abbot of the monastery that had been going on between Sigmund and the city of Ravensburg since 1459. By the early 1480s, the provost Johann Lanz had assumed leadership of the pro-Habsburg faction in the monastery, and perhaps he is the person that Institoris had in mind [see Dreher (1972), 311–313].) Doc. 31 is the letter to the archduke, which does in fact contain the commendation of Abbot John mentioned in the letter to him. It must be the case that all these documents were issued at the instigation of Institoris.

<sup>194</sup> Doc. 31 in Schnyder (1993), 49. This refers in the plural to anonymous inquisitors, but the letter to the archbishop of Mainz specifically names Institoris and Sprenger (in that order). The letter to the archduke is presumably inspired by a request from Institoris in that it contains an explicit request that the archduke not allow any appeal to the “judgment of the glowing iron” (*ne aliquo pacto ad iudicium candentis ferri admittantur*), a procedure to which Institoris took strong exception (see General Introduction, 3d).

ecclesiastical subordinates to co-operate.<sup>195</sup> Brixen was the bishopric in which the city of Innsbruck, Sigmund's capital, was located. On the basis of this appointment, Institoris gathered testimony in Innsbruck from August until the middle of September.<sup>196</sup>

The first sign of trouble appears in a letter written by the bishop to the archduke in response to a (no longer extant) request for advice. The bishop begins by noting that since the inquisitor has papal authorization, he himself is bound to obey him, while the same applies to the archduke because of provisions in canon law that compel secular authorities to co-operate in the suppression of heresy. The bishop continues by noting that since the inquisitor's procedure has hitherto been impeccable, it is necessary to assist him. So far, so good, but now the bishop suggests that the course to be followed next should be modified. He grants that actual offences committed against God and malevolent magic that results in death should be punished severely, but argues that given the large numbers of people involved, those guilty of comparatively minor crimes like seducing others (i.e., amatory magic) should be given penance this time and warned of more severe penalties if they relapse.<sup>197</sup> The archduke is advised to urge this course of action on the inquisitor by appealing to his "goodness," though he does note that if the inquisitor rejects this course and invokes the archduke's assistance, the archduke is in no position to refuse. While this letter makes it clear that the bishop was not yet ready to oppose Institoris directly, he did harbor strong misgivings about the direction that the inquisition was taking. In particular, the bishop appears to reject the equation of amatory magic with Satanism.<sup>198</sup> On the same day, the bishop sent a letter to Institoris in which he informed him of having received the archduke's and the inquisitor's (now unknown) letter. He informs the inquisitor that he had advised the archduke to co-operate, and after excusing his own participation in the inquisition on the grounds of ill-health, delegates his own role to Institoris, with the sole proviso that he abide by § "cessante" of the decretal "*Statuta*" (*Liber Sextus*, 5.2.20). This decretal provides for the concealment of the names

<sup>195</sup> Doc. 32 in Schnyder (1993), 49.

<sup>196</sup> Amman (1890), 9–25.

<sup>197</sup> The bishop cites as examples of dishonor to God the whipping and stabbing of an image, which is clearly a reference to the misdeeds cited in 136C.

<sup>198</sup> Oddly enough, Institoris himself strongly asserts in the *Nuremberg Handbook* that inquisitors should not bother with amatory magic that does not result in harm (see General Introduction, 2c.iii.β). Presumably, then, the disagreement with the bishop was one of interpretation rather than theory. Both granted that amatory magic was a trivial offence, but in this instance Institoris chose to view it as part of a broader (and far more evil) Satanic conspiracy while the bishop did not.

of witnesses from those accused of heresy if revealing the names could result in harm to the witnesses, but the paragraph cited directs that once such danger passes, the names were to be revealed. Seemingly, the bishop had been keeping himself informed of the course of the proceedings and was apparently worried about Institoris's procedure. This impression is increased by the bishop's concluding statement that the proceedings should be conducted "according to the true form of the law" (*iuxta iuris veram formam*) despite the fact that such proceedings had virtually fallen into desuetude.

In the meanwhile, eight women had become suspects, and in October, Institoris held further hearings to investigate their cases.<sup>199</sup> On October 7, Sigmund sent a letter to the bishop noting the arrests and asking him to send a representative to assist in the matter.<sup>200</sup> In response, the bishop appointed a parish priest.<sup>201</sup> The trial culminated in a heated debate among the members of the inquisitor's council on October 29 and 31. Unfortunately, we do not have direct record, only Ammann's summary.<sup>202</sup> First, when Institoris began to question the main accused about her sexual background, objections were raised about this irregular procedure, and then the man appointed to represent the accused challenged the validity of Institoris's procedure. The upshot was that the proceedings were halted, jurisdiction assumed by the archduke, and the accused released on bail.<sup>203</sup>

The cases were never resumed, but Institoris clearly did not foresee this and drew up for the benefit of the bishop two documents that are preserved in the diocesan archives of Brixen.<sup>204</sup> First is a document that provides a summary of the German testimony, which includes a list in Latin of articles on which the accused are to be questioned further and suggestions for their punishment. This document clearly foresees that the investigation is to be continued by the bishop in the absence of Institoris.<sup>205</sup>

<sup>199</sup> Ammann (1890), 32–65.

<sup>200</sup> Doc. 37 in Schnyder (1993), 51–52.

<sup>201</sup> Doc. 38 (undated) in Schnyder (1993), 52.

<sup>202</sup> Ammann (1890), 65–72.

<sup>203</sup> See the analysis of Wilson (1996), 95–97.

<sup>204</sup> Amman (1890) and (1911). Both documents are addressed to *reverendissima paternitas vestra*, a circumlocution for an ecclesiastic, and Ammann (1911), 463–464, demonstrates that this must be Bishop George.

<sup>205</sup> At the end of the section on the main accused woman (Barbara Scheuberin), Institoris notes that in his view she at least should be handed over to the secular arm (for execution), "but because I have left everything to the discretion of you, Father, let those things be done by which you might emerge blameless before the All-highest and without censure before the Apostolic See and from which your glory and merit may increase. It would be a very good idea for me

Also included in the archives is another document (the *Memorandum*), in which Institoris instructed the bishop on how to proceed with the prosecutions in Institoris's absence (see General Introduction, 5e). Thus, it would seem that even though modern scholarship generally holds that the conclusion of the proceedings on October 31 marked a defeat for Institoris, whose inquisition had resulted in a "fiasco," he seems not to have shared this opinion.

Institoris's continued presence was clearly not to the liking of the bishop, who on November 14 wrote two letters in order to secure his departure. First, he wrote by his own hand to the parish priest in Innsbruck (he is unnamed, but the phraseology shows that he and the bishop were on familiar terms), including a letter for Institoris whose delivery, if Institoris had not already left, the priest was asked to expedite by having a young man show the letter bearer where the inquisitor was living so he could present him with the letter.<sup>206</sup> If Institoris did not leave immediately upon receipt of the letter, the priest was instructed to "tell him that because quite a few scandals have arisen on account of his bad procedure, he should not stay in the place lest something worse ensue or happen to him. A few words to the wise: what he did was very inappropriate" (*sibi dicere . . . quod satis multa scandala sunt suborta propter malum processum suum, quod non remaneat in loco, ne deterius aliquid inde sequatur aut sibi contingat. Intelligenti pauca: est valde indebitum id quod fecit*). The letter for Institoris contained more or less the same message, but was

to be present on account of the Apostolic authority, which I cannot transfer, but in hopes of being upheld [?] in that see to the extent that I can, I am departing, and will also consider you, most reverend father, excused" (*attamen quia omnia discretioni paternitatis vestre reliqui, fiant ea per que immunis et apud altissimum et absque nota apud apostolicam sedem venire possitis et unde vobis gloria et meritum accrescat. Expediret plurimum ut propter apostolicam auctoritatem, quam transfundere non valeo, presens essem, sub spe autem rate [=rati?] habitiois apud eandem, quantum valeo, sedem declino, et eandem reuerendissimam paternitatem vestram excusatam semper habebo* [Ammann (1890), 42–43]). Unfortunately, the exact sense of the last sentence is not clear, but it seems to indicate that Institoris himself is choosing to withdraw from further participation and that he holds no ill-will towards the bishop. In certain instances, Institoris states what he thinks the appropriate penalty should be, most notably in connection with Barbara Pflieglin for whom he suggests that she should have a fine imposed upon her to reimburse him for his expenses: "In addition, a pecuniary penance regarding the expenses incurred by me, since she has a lot, which expenses I will list at the end" (*Sed et pecuniaria penitentia super expensas factas a me, quia bene habundat, quas expensas in fine recitabo* [Ammann (1890), 52]).

The unsatisfactory nature of Ammann's publication leaves much doubt about this matter (the material is rearranged in his partial publication, which makes the exact format unclear). The document includes transcripts of the final sessions on October 29 and 31 and ends with a list of the surties given by the accused for bail, but it is not clear how these sections relate to the summary of the earlier testimony, which seemingly provides information for further investigation.

<sup>206</sup> Doc. 41 in Schnyder (1993), 53.

couched in much less blunt terms.<sup>207</sup> It remarked upon the exasperation and annoyance that his proceedings had caused and advised him to leave “the sooner the better” and to return to his usual residence. While the bishop did not spare the inquisitor’s feelings in laying out the situation, he makes no overt criticism in his own voice, and ends by politely expressing his good wishes.

Whether Institoris received this message is unknown, but the bishop lost all patience with him when Institoris was still in Innsbruck nearly three months later, apparently ready to resume the inquisition. On February 8, 1486 the bishop wrote to Brother Nicholas the choir master a similar, though much less temperate, letter, instructing him to write to Institoris in the terms of the letter to Institoris that was included.<sup>208</sup> The bishop then goes on in a somewhat jumbled mixture of German and Latin that seems to reflect his agitation. “I’m quite sick of the monk in the bishopric . . . I find in the papal bull that he was previously inquisitor for many popes, but he seems to me to have become quite childish because of old age, when I along with the [cathedral] chapter heard him here in Brixen.<sup>209</sup> I advised him to go back to his cloister and stay there. He really seems to be crazy to me. Perhaps he’d still be happy to proceed with the business of the women, but I’m not going to let him get involved, since before he totally erred in his procedure. What he presented in writing at the beginning was magisterial,<sup>210</sup> but in practice his foolishness became apparent, in that he made many presuppositions that were not proven.” (*Mich verdrewst des münchs gar vast im bistumb . . . Ich find in des babst bullen, das er bey vil bäbst ist vor inquisitor gewesen, er bedunckt mich aber propter senium gantz chindisch sein worden, als ich in hie zu Brixen gehört hab cum capitulo. Ich hab im geraten, das er solt in sein closter ziehen und da bleiben. Ipse realiter mihi delirare videtur. Er volt villeicht noch geren in der frawn sachen handeln, ich lass in aber darzue nit chömmen, so er vormaln als vast erriert hat in seinem process. Was er ersten hat in geschriff angeben ist magistrale gewesen, aber in practica sua apparuit fatuitas sua, quia multa presupposuit que non fuerunt probata.*)

<sup>207</sup> Doc. 42 in Schnyder (1993), 53.

<sup>208</sup> Doc. 43 in Schnyder (1993), 53–54: “write as you will find in the copy herewith [attached] and send the letter to him at my expense” (*schreibt als ir in der copi hiebey finden werd, schickt im den brieff expensis meis*). This seems to imply that Institoris was not to receive the exact letter that the bishop wrote but another letter that Nicholas was to write in imitation of it.

<sup>209</sup> Nothing else is known of this visit to Brixen. Presumably it took place during the previous few months.

<sup>210</sup> “Magisterial” means “as befits a master [of theology],” i.e., is a term of academic praise. Presumably, this praise refers to the *Memorandum* adapted from Eymeric.

After indicating that he will conduct the proceedings himself without the inquisitor on the basis of his own office and bring the matter before the archduke, he returns briefly to the inquisitor's departure – “In your presence it is necessary to speak with him. Let it be done so that he disposes of his nonsense for the future” (*Et in presentia vestra ist es not mit in zu reden: ut dimittat in futurum leuitates suas fiat*) – before mentioning how he intends to deal with the case and turning to other matters.

In his letter to Institoris, the bishop adopts an uncompromising tone, but is not rude. “I am quite surprised that you remain in my diocese and in a place so close to the curia in which errors were committed and it reached the point of dissensions, not to say scandals” (*Miror valde quod manetis in diocesi mea et in loco ita vicino curie, in qua errores sunt commissi et peruentum ad dissensiones, ne dicam scandala*). He informs Institoris that the archduke had granted him permission to leave in peace, and that the inquisitor should not involve himself with the suspects and the bishop would take the burden upon himself. He had not yet had the opportunity to discuss the topic with the archduke, but would involve him. “It is to be feared that the husbands of the women or their friends could commit an offense against you, Father. For the legal actions, I do not need your presence, which could serve more as an impediment than a help, and by my authority as ordinary<sup>211</sup> I will do what seems appropriate. Certainly you, Father, should withdraw to your monastery, as I advised before. You ought not to be annoying to others. I have often told you, Father, that you could do nothing in the diocese in light of present circumstances and should leave. I had in fact imagined that you would long since have departed. Farewell.” (*Verendum est quod mariti mulierum vel amici possent paternitatem vestram offendere. Non indigeo in agendo presentia vestra, que plus posset impedire quam conferre. Ego auctoritate ordinaria faciam que videbuntur expedire. Certe paternitas vestra declinare deberet ad suum monasterium, sicut prius persuasi. Non deberetis alijs esse molestus. Sepe dixi paternitati vestre, quod nihil faceretis in diocesi pro hac temporum conditione, sed exiretis. Ita etiam putabam vos diu recessisse. Valet.*) It is to be noted that once again the bishop is shifting the blame for asking for Institoris's departure onto others and even talks of continuing the case without him as the assumption of a burden (of which he is implicitly relieving Institoris). In addition, the letter not only does not state that the cases were without merit (even

<sup>211</sup> That is, episcopal judge of ecclesiastical crimes.

if there had been errors in procedure) but clearly implies that they will proceed without Institoris.

It has been necessary to go through the evidence for several reasons. First, material derived from the inquisition in Innsbruck is mentioned several times, and forms the substance of Part 2, Q. 1, Ch. 12. Detailed comparison of the accounts there with what is known of the version of the protocol containing the testimony that is preserved in Brixen shows that while Institoris sometimes colors his recollections to bring them more closely in line with his conception of Satanism, there are no grave discrepancies.

Second, the explicit praise that is bestowed on Archduke Sigmund and the bishop of Brixen (136D) is often considered to be incompatible with the course of events and is thus taken as evidence of Institoris's disingenuity. But we have seen that while the bishop did prevent Institoris from executing the suspects and was blunt in his criticism of Institoris in his writings to others, he went out of his way to avoid offensive language in dealing with the inquisitor and in fact gave him to understand that the cases would proceed in his absence, which was caused by the hostility not of the bishop but of the relatives and friends of the accused. Thus, the matter boils down to the subjective issue of whether Institoris himself felt ill-treated by either the archduke or the bishop, and of this there is absolutely no evidence, and thus no reason not to take Institoris at his word.<sup>212</sup> It would seem that the bishop was a tactful and discreet man who could manipulate Institoris without causing offence.

Third, the idea that there was a disaster in his proceedings and that his (mis)treatment at the hands of the disbelieving bishop and his associates was a major factor in writing the *Malleus* is also firmly entrenched in scholarship. It is certainly true that events relating to Innsbruck are cited often in the *Malleus*, which is hardly surprising since the inquisition there took place only a year before the final manuscript was turned over to the printer, and thus must have been fresh in Institoris's mind. But even if much of the work for Part 3 was sketched out in the *Memorandum*, the corresponding sections had to be worked out all over again, and it is hard to imagine that a work of such length could have been composed

<sup>212</sup> Cf. the overt praise of the *Malleus* with Institoris's criticism of a high-ranking prelate in the *Nuremberg Handbook* (Book One, Abuse Six [3v]) When Institoris remonstrated with him for having released suspected witches, the prelate shifted the blame to his council of advisors and promised to mend his ways in future. As is often the case in the *Malleus*, Institoris overtly refrains from naming the man "out of respect" but nonetheless makes his disapproval quite clear. There is no reason why he could not have adopted the same procedure in discussing the bishop of Brixen if he had felt himself hard done by. Presumably, he felt no ill-will.

from scratch in the space of a year at the most.<sup>213</sup> One should not overestimate the significance of the events at Innsbruck, which are known in such detail merely as a result of the chance survival of the dossier in Brixen. It should be remembered that the Bull *Summis desiderantes* was asked for and granted in the fall of 1485 because of disbelief in the Satanic conception of sorcery that had predated the events in Innsbruck. While the opposition that Institoris encountered in Innsbruck may have resulted from such disbelief, he was thwarted on procedural, not theoretical grounds.

#### 4c *The disputed authorship of the Malleus*

The authorship of the *Malleus* is a much disputed topic. In the generations after the publication of the work, it was generally ascribed only to Jacobus Sprenger, who alone is mentioned by name as the author in the apology (see General Introduction, 5a.iii). On the other hand, the text repeatedly claims to be the work of two authors, and the man who was instrumental in acquiring the approbation of the University of Cologne was Sprenger's inquisitorial colleague Henricus Institoris. Scholarship of the last century has shown that in many regards the personal anecdotes related anonymously within the text can be associated with Institoris, while there is very little evidence that Sprenger was engaged in witch hunting. In the nineteenth century, Hansen claimed (falsely, as it turns out) that the approbation was falsified, and from this has arisen a strong (though by no means uncontested) tendency to view the claim of dual authorship as a falsehood committed by Institoris.<sup>214</sup> Though there is some contemporary evidence supporting this view, it is rather weak and is not sufficient to outweigh the evidence in favor of Sprenger's participation in the composition of the work. The best procedure is to begin by clearly laying out the evidence.

##### 4c.i *Evidence from the text*

4c.i.α *The Apology* The justification ("apology") section of the work begins with the heading: "Author's Apology of the *Malleus Maleficarum*"

<sup>213</sup> The final manuscript must have been delivered in late 1485 or early 1486 (see n. 301), while the proceedings in Innsbruck were (as it turned out) finished at the end of the preceding October, and Institoris remained in Innsbruck until the following February.

<sup>214</sup> For an elaborate argument against Sprenger's participation in the composition and in favor of mendacity on Institoris's part, see Behringer *et al.* (2000), 31–37 (their argument is often vitiated by *petitio principii*). For an equally elaborate rejection of this position, see Schnyder (1993), 419–425.

(2A). Since this section was meant to be the first that the reader encountered in the work (see General Introduction, 5b), this heading would seem not only to provide the title of the work but also to indicate that it was the composition of a single author.<sup>215</sup> Closer examination of the heading shows that it is not meant to convey the sense of single authorship, and in any case the content of the Apology, though sometimes obscurely phrased, nonetheless makes it clear that the work was being presented as the composition of two authors. After a discussion of the travails of the contemporary world and the concomitant increase in the prevalence of sorcery, the Apology states that “we inquisitors, Jacobus Sprenger together with the very dear associate delegated by the Apostolic See for the extermination of so destructive a heresy, though very insignificant among the Professors of Holy Theology in the Order of Militant Preachers, nonetheless considered with a pious and grieving mind what remedy or solace should be administered to people as a salutary cure, and thought it right to set our shoulders to this work” (2A–B). Here the work is explicitly said to be the composition of two inquisitors, one of whom is named: Jacobus Sprenger. It is true that the text is somewhat ambiguous about the number of authors. When the term “Heresy of Sorceresses,” which is by no means a self-evident concept, is first used, it is emphasized by being qualified with the assertive intrusion “I say” (“a Heresy, I say, of Sorceresses, since it is to be designated by the particular gender over which he is known to have power” [2A]). Not too much emphasis should be placed on this point, however, since this sort of assertion, which appears elsewhere in the main body of the text (34C, 129D, 142A, 155C, 158D, 245D [twice]), could hardly be put into the plural.<sup>216</sup> In any case, the rest of the Apology speaks of the authorship in the plural, and while this could conceivably be taken as a “royal plural” (i.e., the common Latin practice by which a speaker refers to himself in the first person plural), the overt identification of the authors as Sprenger plus his “associate” makes it impossible to conceive of the “we” in the justification as referring to anyone but these joint authors.

In any case, the identity of Sprenger’s inquisitorial colleague and joint author was meant to be perfectly clear to any attentive reader of the text. The Apology was meant to be directly followed by the Bull *Summis*

<sup>215</sup> Note that Behringer *et al.* (2000) translate the heading as “Defence of the author” (*Verteidigung des Autors* [emphasis added]).

<sup>216</sup> The use here may well reflect the fact that the Apology was composed by a single person (after all, joint authors cannot actually write every word “jointly”), but this does not affect the issue of joint authorship of the work as a whole.

*desiderantes* and the Approbation of the University of Cologne, which would leave no doubt in the reader's mind as to the identity of the co-author as Henricus Institoris. The Bull records their joint activity as inquisitors of heretical depravity in Germany, while the Approbation explicitly states their joint authorship.

There is a later section of the apology that has entered the argument about authorship. First, the authors state their decision to reject writing poetry or abstract theory, and then continue: "*Maleficarum Malleum tractatum nuncupando aggredimur recollectionem operis socio, executionem vero his quibus iudicium durissimum imminet* (2B). Several philological issues arise in interpreting this sentence. First, who is the *socius* ("associate") for whom the work is being undertaken? Presumably, it is an ecclesiastic: directly above in 2A, this term was used to characterize Institoris as Sprenger's "associate" and in 108C the Inquisitor of Como is called *noster socius* ("our associate"). Second, what is the sense of "work"? This could conceivably be taken as the "work" of exterminating sorceresses and the genitive case construed as dependent upon *socius* ("associate in the work"), but given that in the rest of the justification, the word is used in the sense of "literary work," it seems best to take it in this sense here too. Third, what is the meaning of *recollectio*? While the simple verb *colligere* is used in the *Malleus* in the sense of "compose," the compound *recolligere* is attested only in a letter written by Institoris, where it has the literal sense of "gather together."<sup>217</sup> Since any claim to originality had just been disclaimed a few sentences before in the Apology on the grounds that the work consists mostly of quotations from previous authors: "from our intellect little or virtually nothing has been added, and hence this work is considered to belong not to us but to those men from whose writings the individual sections have generally been woven together" (*ex nostro ingenio pauca et quasi nulla sint addita, unde non nostrum opus sed illorum potius censetur quorum ex dictis fere sunt singula*

<sup>217</sup> In a letter in which he discusses nuns who have been ejected from their convent, Institoris reports: *in quodam loco inter silvas exulantes se recollegerunt sub maxima necessariorum penuria* ("as exiles in a certain place in the woods, they gathered themselves together in a state of abject poverty"). For the use of the comparable verb *colligere* in the sense of "compose," see 3B\* and 110B (so too in the title of his *Varij tractatus* written in 1495 [quoted in Hansen (1901), 389] and Institoris's description of the non-extant *tractatus a me collectus* in Czech and Latin [doc. 71 in Schnyder (1993), 70]). It is to be noted that in this compound the prefix *re* does not signify "back" (i.e., a return to the previous state of the subject of the verb), but as is often the case with verbs of motion in Classical Latin, it indicates that the motion is natural or intended (e.g., *redire* often signifies this). (Behringer *et al.* [2000] retain in Latin both *recollectio* and *socius* in their German translation, which rather begs the question.)

*contexta*), it makes sense for the process of composing such a work to be described as a “gathering” (i.e., a “compilation”).<sup>218</sup>

This much seems clear enough, but the following accusative *executionem* is by no means clear. The syntax indicates that it is parallel to *recollectionem* and is thus an additional object of *aggredimur*.<sup>219</sup> Here the main issue is what is it that is being “executed” on behalf of the “those whom the most severe judgment threatens”? The meaning of “capital punishment” that can be conveyed by the English derivative seems inappropriate: in the body of the *Malleus* it is used to indicate “carrying out” or “fulfillment” of a task or duty.<sup>220</sup> The nature of this duty that needs to be “executed” may be determined through the identity of those who are threatened. These are the secular authorities, as is made clear in 193C–D, where it is stated that the transferral by the bishop of his right to prosecute sorceresses will contribute not only to their extermination but also to the protection of the authorities, from whom God will demand a strict accounting of their activities (including the obligatory punishment of sorceresses).<sup>221</sup> In this case, *executio* should refer to their duty of punishing the convicted sorceresses (by inflicting the death penalty).<sup>222</sup> As it turns out, the *Nuremberg Handbook* attests exactly this meaning.<sup>223</sup> If *executio* means “carrying out sentence,” then there must be a form of anacolouthon in taking *executionem* as the direct object

<sup>218</sup> For a comparable sense, note the untitled treatise in Hansen (1901), 149, which begins: *Recollectio casus, status et conditionis Valdensium ydolotary, ex practica et tractatibus plurium inquisitorum et aliorum expertorum atque etiam ex confessionibus et processibus eorundem Valdensium in Atretrato facta anno domini millesimoquadringesimosexagesimo* (“*Recollectio* of the case, status and condition of the idolatrous Valdensians made in Arras in the year of the Lord 1460 on the basis of the practice and treatises of many inquisitors and of other experts and also of the confessions and protocols of these Valdensians”). Here *recollectio* seems to signify “compendium.”

<sup>219</sup> Among other usages, *vero* is used to introduce an alternative (usually an opposite term) for a single syntactical item (along with concomitant changes in modifying expressions) within the context of a single, common verb (e.g., *antiquum certe materia et auctoritate, nouum vero parium compilatione earumque aggregatione*, and *in vindictam malorum, laudem vero bonorum* [both in 2B]; so too 4B, 7D).

<sup>220</sup> 1B\*, 5B\*, 3A, 35C, 220D (so too in a letter of Institoris [doc. 26 in Schnyder (1993), 43] plus the same usage with *executor*: 159C, 219A); twice the word is used absolutely to mean “execution of sentence” (234C, 238A) and both usages are copied from Eymeric.

<sup>221</sup> This interpretation is confirmed in the context by the subsequent explanation that the authorities “are clearly seen to have been established by God for punishing the wicked and praising the good.”

<sup>222</sup> Theoretically, one could understand *operis* with *executionem* as implied by its appearance with *recollectionem*, and take the phrase to mean “completion of the work,” but elsewhere in the *Malleus* the dependent genitive indicates an actual job or duty (e.g., *inquisitorum officij executio* [1B\*]); in 3A *operum* is dependent upon *executio*, but there it clearly refers to the “works” that sorceresses are obliged to carry out, not literary works (cf. 35C).

<sup>223</sup> The work notes “that in the crime of heresy it is the role of the spiritual judge to try and to pass judgment and of the secular one to execute and to punish (*quod in crimine heresis sit iudicis spiritualis cognoscere et iudicare, secularis vero exequi et punire* [191]). Clearly, the sense of *exequi* is “to carry out sentence,” since otherwise *punire* would be otiose.

of *aggredimur*, since the authors are not undertaking the “execution” of the implied task themselves but “expediting” it, by composing the work that will prepare the authorities for the job for which they will be held accountable.

Hansen attempted to resolve the problem of how to understand these rather incompatible direct objects of the verb *aggredimur* with the theory that Institoris composed the work on the basis of excerpts provided to him by Sprenger, understanding the “associate” to be Institoris, who is being referred to obliquely by Sprenger, the “author” mentioned in the singular in the heading of this section. Here he interprets *recollectio* literally as a “gathering” or “collecting.”<sup>224</sup> Hansen attempts to make sense of the syntax of *executionem* by restoring the participle *committendo*, which governs both *recollecionem* and *executionem*.<sup>225</sup> In his discussion he indicates that the end of the sentence would then be translated “leaving the composition of the work to an associate and the execution to those who . . .,” but since he does not provide his own translation, his understanding of the sentence as a whole is not clear, and in any case the emendation is unjustified.

By Hansen’s interpretation, both *recollecionem* and *executionem* would have to depend upon this gerund *committendo*, but its placement between *his* and the following relative clause is rhetorically very clumsy, and in any case he does not indicate what then the object of *aggredimur* would be. In 186B the verb *aggressi sumus* takes *opus* as its object in a similar passage, and thus *recollecionem* would appear to be the natural object of *aggredimur* here; yet, 186B also makes it clear that the conceived purpose of the work is to relieve inquisitors of the burden of prosecuting sorceresses in ecclesiastical courts by providing secular judges with information on proper procedure (*ipsis iudicibus modos cognoscendi, diffiniendi et sentiendi relinquendo*; see also 12D, 45D, 193C). On this basis, one might suggest *relinquendo* here, but the particle *vero* seems inappropriate. It is normally used to mark a further step in a sequence (5C), to introduce an entirely new sentence that in some way contrasts with the preceding one, but is not syntactically parallel with it (e.g., end of 8B), or to designate a new, contrasting element within a single sentence (e.g., the contrast of *vindictam malorum* and *laudem bonorum* that immediately follows in the present sentence). Hence, *vero* excludes a participle and indicates that *recollecionem* and *executionem* are alternative direct objects of *aggredimur*, which seems to make no sense in that the whole purpose is that the secular authorities and not the inquisitors

<sup>224</sup> Hansen (1901), 406.

<sup>225</sup> Hansen (1901), 405 n. a.

will undertake the *executio*. The only possible place for a new finite verb (e.g., *relinquimus*) would be between *vero* and *his*, but in that case there would be no explanation for its loss. There is no readily apparent reason based on paleography or compositing that would explain the putative loss of *committendo*, and given the frequently inept phraseology of the authorial sections of the *Malleus* (as opposed to those borrowed from earlier authors), it is hardly surprising that the attempt at grandiloquence that was clearly intended in the Apology should have gone awry. Hence, mere obscurity of expression (and doubtful syntax) is not in and of itself sufficient grounds to doubt the text. Perhaps, it is best to explain the construction as an unhappy attempt to shift the thought to “the execution is for those whom . . .” while maintaining the syntactical parallel of an accusative followed by a dative.

Thus, the text provides no support for Hansen’s interpretation. Furthermore, since his explanation contradicts the numerous other indications in the text of joint authorship and finds no support elsewhere, it causes more difficulties than it solves. Whatever the exact interpretation of this poorly composed sentence, it cannot detract from the clear indication of the Apology that the work is the production of two authors, one of whom is Jacobus Sprenger and the other his inquisitorial colleague.

4c.i.β The Approbation Hansen argued that the Approbation of the University of Cologne is a forgery, and this view still haunts scholarship on the *Malleus* in one form or another. The matter is discussed in the next section (General Introduction, 5a.ii), and here let it suffice to say that this argument is unjustified and the approbation should be taken at face value. Let us then examine what it says.

The notary who drew up the approbation as a formal legal document at the request of Institoris gives an extended explanation at the beginning of the document of Institoris’s reasons for requesting it. Institoris first notes that he and Sprenger had been confirmed in their office as inquisitors of heretical depravity by the Bull *Summis desiderantes*, which he produced. After noting that the endeavor to exterminate sorceresses was being hampered by ecclesiastics who rejected the existence of sorcery, Institoris then ascribes the composition of the *Malleus* to this situation: “for this reason, the aforementioned Inquisitors, in their desire to block every danger and attack with all their strength, put together a certain treatise” (3B\*). This treatise was therefore being laid before the theological faculty of the university in order to make its orthodoxy indubitable. Manifestly the “treatise” in question is the *Malleus*, and thus there can

be no doubt that Institoris is stating in this legal document that it was composed jointly by him and Sprenger.

4c.i.γ References to dual authorship within the main text The main body of the *Malleus* refers several times to the fact that it is the work of two authors, always in the context of ascribing an anecdote to only one of these unnamed authors: 102B, 110B, 127C. While it may be argued that these citations are part of Institoris's scheme to pass his own work off as a collaboration with Sprenger, there is nothing at all remarkable about these references, which have no particular emphasis placed on them and are buried in inconspicuous locations in the text. If Institoris was a liar, he was a very subtle one.

Thus, the evidence of the work itself is clear and unequivocal.<sup>226</sup> It is ascribed to joint authorship by Jacobus Sprenger and Henricus Institoris. What then is the counter evidence?

#### 4c.ii External evidence

4c.ii.α Institoris's reference to the *Malleus* in later works In later works written by him, Institoris speaks of himself as the author of the *Malleus*.

1) In the *Chypens* (see General Introduction, 4b.ii.α), a tract published in 1501 against the "Waldensians and Picards" (i.e., against the supposedly heretical Hussites of Moravia), Institoris adds after an argument "as was discussed elsewhere by us at length in the sermons against sorceresses and we concluded in the treatise *Malleus Maleficarum* against those who deny the existence of sorceresses" (*prout alibi in sermonibus contra maleficas ad longum a nobis discussum est et in tractatu Mallei Maleficarum conclusimus contra illos qui maleficas esse negant*).<sup>227</sup>

2) In the *Nuremberg Handbook*, there are numerous citations in the Latin text that refer to what "we treated/wrote/set down" in the *Malleus*.<sup>228</sup> In the German text, however, there is one citation in the singular. After relating various crimes of sorceresses, he notes, "as I determined in the aforementioned book *Malleus Maleficarum*, and as the University of Cologne confirms." (*also dann in dem vorgenanten büch*

<sup>226</sup> Behringer *et al.* (2000), 32, give much information about attribution of authorship to Sprenger or Institoris in sixteenth-century editions, but this is of no evidentiary value.

<sup>227</sup> Quoted in Segl (1988), 117 n. 72.

<sup>228</sup> *vi in Malleo Maleficarum tractauimus* (23v); *tractatum Mallei Maleficarum a nobis collectum* (24r); *ut ad longum in ipso Malleo Maleficarum . . . tractauimus* (25r); *cum in hac materia . . . in Malleo Maleficarum ad plenum tractauimus* (37v); *ut alibi ad longum declarauimus, in Malleo Maleficarum* (39v); *quia plura super hys scripsimus in Malleo Maleficarum* (40r); *cum in Malleo Maleficarum huiusmodi plures posuimus formas* (48v).

*Malleo Maleficarum ich bestimbt hab, vnd die hoch schùole zu Kôlen bestet hat* [3v]).

The citations that use the first person plural pronouns prove nothing. It is probably more natural to take this as the common Latin use of the plural in references to oneself (since in context there is no way to know who would be included with the speaker if it is a real plural), but since the matters cited from the *Malleus* all refer to legal issues, the cited sections may well have been the work of Institoris alone. In one instance, Institoris certainly seems to speak of himself as the sole author, but two considerations militate against taking it as an implicit rejection of any collaboration. First, since the document in which it appears is a discussion of Institoris's views about witch hunting, it is natural for him to refer to the relevant sections of the *Malleus* as being his own determination. In any case, if one is arguing that, in ascribing a role in the composition to Sprenger, Institoris was knowingly making a fraudulent claim, then obviously he himself would know this and it would be silly for him to claim otherwise, particularly when he knew that the only overt indication of authorship in the book referred to Sprenger and not himself. But why should he abandon this claim now? There is absolutely no reason why Institoris should have "confessed" to his supposed misdeed in the later *Clypeus*.<sup>229</sup> Rather, it would seem that he took the exposition of the *Malleus* to be an exposition of his own views, which it undoubtedly was.

4c.ii.β Drach's earliest references to the work It is true that in the earliest surviving references to sales of the *Malleus* the printer Drach at times calls the work the "treatise of Master Heinrich" (see General Introduction, 5b). This merely proves that Institoris saw to the publication of the work, a circumstance that would not be surprising since he also undertook by himself to have the finished work approved by the theologians of the University of Cologne. The fact that the printer referred to the work informally by the name of the man with whom he was dealing in practical aspects of publishing does not rule out the possibility of a co-author who meant little to the publisher.

4c.ii.γ The inability to associate Sprenger with any of the anecdotes In favor of the argument that Sprenger was falsely described as a collaborator in the composition, it is noted that Sprenger is not known to have taken part in any witch hunting and that no anecdote in the

<sup>229</sup> In claiming that the statement in the *Clypeus* demonstrates that Institoris was the sole author, Segl refers to it as "das eigene 'Geständnis' des Verfassers" ("the author's own 'confession'").

*Malleus* can be ascribed to him, whereas many can be clearly tied to Institoris the witch-hunter. While it is true that Sprenger did not engage in itinerant witch hunting as Institoris did, he is attested as presiding over the investigation of an accused astrologer in 1489, and in any case did hold the position of inquisitor of heretical depravity, just as Institoris did. Nonetheless, as holder of a permanent position as a theologian at the University of Cologne, as a university official, and a prior of the convent of Dominicans there, he had other activities that precluded his engagement in the sort of activities that Institoris seemed to revel in. But this does nothing to prove that he therefore did not contribute to the composition of the *Malleus*.

4c.ii.δ The falsification of the Approbation As already noted, Hansen's argument that the Approbation is a falsification is groundless (see General Introduction, 5a.ii), and thus there is no reason not to take it at face value.

4c.ii.ε Assertion of Servatius Fackel In 1972 a note written on a copy of the *Malleus* preserved in the monastery of Abdinghof was published. This note transcribes a letter to a monk of the monastery and preserves the views held about the authorship of the *Malleus* by the letter's author, Servatius Fackel, Sprenger's successor as prior of the Dominican convent at Cologne. This letter is very important because its information derives from a well-informed contemporary, and thus should be quoted in full.<sup>230</sup>

Servatius Fackel, Professor of Sacred Theology and Prior of the convent of Friar Preachers [i.e., Dominicans] at Cologne sends the highest greetings to Brother Judocus Cassel, monk of the Benedictine monastery of Abdinghof in Paderborn. It is certainly true, Reverend Father, that the *Malleus Maleficarum* is ascribed to Master Jacobus Sprenger of pious memory and to one other inquisitor, but Master Jacobus contributed or knew nothing about this book. It is indeed a good one, but there are things in it that are not fully considered. Yet those parts would be disgusting which are said to be contained in that book on the topic of the temptation of the flesh and of the demon and so on. There is a pronouncement of St. Thomas (on Book Two of *Sentences*, Distinction Twenty-one), where he states as a pronouncement that temptation of the flesh and the lusting of the flesh which arises from within is always a sin. He cites as the reason for this that every inordinate appetite of the soul is a sin, and the temptation of the flesh, which derives from a feeling of pleasure, is an inordinate act of the soul and the appetite, since the soul inordinately has an appetite and is moved (through the intervention of the flesh and as a result of the suggestion of the flesh). Therefore, it is a sin. As for your having argued, Father, to the

<sup>230</sup> Doc. 61 in Schnyder (1993), 62.

contrary regarding the inordinate movement that rises up against the will in the flesh, the Saintly Doctor gives the solution that this movement in reality rises up in one way, through both the warming of the body and its purely nocturnal disposition without any disturbance on the part of a demon, who has power over this movement by God's permission. This movement is not a sin when the opposition of the will and of reason and of displeasure stands firm, but can be an object of and occasion for merit. It can also become a sin through the dissimulation of reason and the assent of the will, but in and of itself it is no sin. [This happens] in another way on account of the rising up of such movements as a result of a pleasurable imagination in terms of sensuality. This is always an act of the human and of his soul and so on, and it is always subject in some way to the liberty of reason and the soul, which is able to prohibit this sort of inordinate act, and the Devil could not oppose this. Therefore, this movement is in some way from within, from the person and his soul, and so on. It is always a sin (at least a venial one), and could become a mortal one through the addition of the consent of reason when it is expressed (interpreted) through lasting pleasure. The interpretation of these sorts of consent would require more information than this present sheet can contain right now, but you would get sufficient doctrine regarding souls in Nider's *Praeceptorium* and in reading Gerson and many others. Farewell, Fathers! Hurriedly from Cologne in the year '95 on the Feast of St. Margaret the Virgin and Martyr [July 13].<sup>231</sup>

First, let us assess the information itself. The same hand that wrote the transcription adds:

<sup>231</sup> *Servacius Fackel, sacre theologie professor, conuentus fratrum predicatorum in Colonia prior. fratri Judoco Cassel. monasterij Abdinghof in Paderborn ordinis sancti Benedicti monacho. salutem dicit maximam. Es<1> quidem verum, honorande pater, quod Malleus Maleficarum inscribitur magistro Jacobo Sprenger pie memorie et vni alteri inquisitori, sed magister Jacobus nihil apposuit aut sciuit de compilatione dicti libri. Est profecto bonus, sed sunt in eo que non ad plenum digesta sunt. Nauseant tamen illa, quod dicitur in eo libro contineri de tentacione carnis et demonis etc. Sententia est sancti Thome (super 2 sententiarum dist. 21), vbi sententialiter dicit quod tentacio carnis et concupiscentia carnis, que ab interiore oritur, semper est peccatum, cuius rationem assignat quia omnis inordinatus appetitus anime est peccatum, sed tentacio carnis que ex apprehensione delectabili procedit est actus inordinatus anime et appetitus, quia ipsa anima inordinate appetit et mouetur, licet mediante carne et ex suggestione carnis: ergo est peccatum. Quod paternitas vestra in oppositum arguit de inordinato motu insurgente contra voluntatem in carne soluit doctor sanctus quod motus ille realiter insurgit vno modo, et calefactione corporis et dispositione pure nocturnali sine commocione demonis, in cuius potestate est motus ille deo permitte. Et iste motus stante contrariedade voluntatis et rationis et displaceitie non est peccatum, sed potest esse obiectum et occasio meriti. Potest etiam fieri peccatum per dissimulationem rationis et assensum voluntatis, sed in se non est peccatum. Alio modo propter insurgentes huiusmodi motus ex imaginatione delectabili secundum sensualitatem, et semper est actus hominis et anime etc. Semper aliquo modo est sub libertate rationis et voluntatis potentis huiusmodi inordinationem prohibere, nec potest diabolus in oppositum huius. Et ergo motus ille est aliquo modo ab intrinseco, ab homine ipso et anime etc. Semper est peccatum, ad minus veniale, et posset fieri peccatum mortale per superuenientem consensum rationis expressum vel interpretatum per delectationem morosam. Quorum consensuum interpretationem maiorem requireretur quam hec carta capere possit pro nunc informationem, haberes tamen de animis in Preceptorio Nider, in lectione Gerson et alijs multis doctrinam sufficientem. Valet, patres, felicissime. Ex Colonia rapsum anno xcvi in beate Margarethe virg. et martiris.*

The aforementioned Servatius was received into religious status in the convent of Preachers in Cologne under Jacob Sprenger when he was the prior there, and was his close friend until his death. Therefore he is in a better position to have known whether he wrote this book. (*Prescriptus Servacius Jacobo Sprenger existente priore in Colonia sub ipso ad religionem seu conuentum predicatorum ibidem susceptus est, et sibi usque ad mortem familiarissimus extitit, et ergo sibi constat melius si compilauerit hunc librum.*)

It is impossible to assess the accuracy of this statement, since neither its author nor his evidence is known. Therefore, we are left with what can be inferred from the letter itself.

First, we should note that the letter was occasioned by a dispute with the addressee about the nature of the temptation of the flesh. The addressee had apparently argued against Fackel's interpretation by ascribing carnal temptation to the flesh, and seemingly backed up his position by citing the *Malleus*.<sup>232</sup> He grants that overall the work is good, presumably on the basis of its general reputation since he apparently has not read it himself.<sup>233</sup> Fackel spends by far the largest portion of the letter asserting his own view (based on Aquinas). It is in this context that we must assess the information about Sprenger's authorship.

In reporting this letter, Schnyder claims that "an apologetic motive for deception is lacking, since Fackel evaluates the *Malleus* positively (though with reservations)."<sup>234</sup> Fackel may have no "apologetic" motive, but he certainly has a hostile one. In referring to the *Malleus*, the addressee was implicitly citing Fackel's predecessor as prior for the view that Fackel found distasteful.<sup>235</sup> Fackel was thus put in something of a quandary in terms of rebutting this view. He could not simply reject out of hand a book that was evidently orthodox (note the approbation of the theology faculty of Cologne!). Hence, the vague concession that the book is "good" is merely a prelude to an assault on its validity as support for the monk's views on temptation, and in this light the terms in which the claim is made that Sprenger had had nothing to do with the work are

<sup>232</sup> Note the statement "As for your having argued the opposite . . ."

<sup>233</sup> Note the statement "which are said to be contained in that book." One would hardly speak this way if one had read the work.

<sup>234</sup> Schnyder (1993), 421.

<sup>235</sup> The vagueness of the reference to the "disgusting parts" of the *Malleus* leaves it unclear what the view that was being propounded on the basis of the *Malleus* was, but the counter argument in the letter strongly suggests that it was Pt. 1, Q. 7 (46A–52B) about the ability of sorceresses and demons to change the mind of humans in the direction of love or hatred. (Note that this question even contains a section on how this material could be preached [49B–50D], which may have appealed to the monk, who was also an ordained priest, according to the title *vestra paternitas* by which he is addressed.)

surprisingly lacking in specificity. If Fackel had actually heard Sprenger deny responsibility for the work, his counter argument would have been much stronger if he had asserted in so many words that Sprenger stated that he had had nothing to do with the work, which Institoris had committed perjury in ascribing to him (as would *ex hypothesi* have been the case). It is true that the statement that “he knew nothing of its composition” *implies* denial, but given the vagueness of the assertion and its lameness from a rhetorical point of view, it is preferable to interpret this claim as an *inference* based on the fact that Fackel rejected the view for which the *Malleus* was cited as evidence (Fackel’s own apparent unfamiliarity with the work would seem to indicate that he was in no position to know if the *Malleus* did in fact argue what was claimed about it). It is also noteworthy that Fackel claims that the work is attributed to Sprenger and “another inquisitor.” This piece of information seems to go no further than the statement made in the Apology of the work, which mentions only Sprenger by name but alludes to his collaboration with an inquisitorial colleague. If Sprenger had in fact informed his “close friend” Fackel of the calumny that had supposedly been foisted on him by Institoris, could he conceivably have omitted to mention the liar’s name? All told, it would seem that while the claim made in this letter cannot be dismissed out of hand, it is hardly compelling.

4c.ii.ζ Anonymous marginal note At the point corresponding to Schnyder’s 102B, where one of the statements is found that while there were two authors, the anecdote about to be related concerned only one of them, the edition of the *Malleus* used in the facsimile published by Jerouschek has the marginal note (written in the early modern period, to judge by the handwriting), “This man alone wrote it, but in order for the treatise to have greater authority he named Master Jacobus Sprenger as his associate” (*Solus scripsit iste, sed ut maioris auctoritatis esset tractatus, Jacobum Sprengerus [sic] socium nominavit*).<sup>236</sup> Who wrote this and on what evidence is unknown. Certainly, it would seem to be based on insufficient knowledge, since the name of the actual author is not specified. Conceivably, the note could have been based on Fackel’s claim, since it too fails to name the perpetrator of the supposed fraud.

4c.ii.η Institoris’s disreputable character In favor of a falsehood perpetrated by Institoris it is argued that he was accused of stealing money

<sup>236</sup> Actually, the Latin apparently says, “Sprenger named Jacobus as his associate,” but the ending of “*Sprengerus*” is presumably a mistake.

from indulgences and that his accounts in the *Malleus* of the events that took place in connection with his inquisition in Innsbruck do not correspond with the "facts." The first point is irrelevant (even if true, which it is not: see General Introduction, 4b.iii.β), and the second is a matter of personal interpretation. While it may seem to us that the inquisition turned out to be a "fiasco" and that Institoris was thwarted by George Golser, the bishop of Brixen, the question is how did *Institoris* view these matters? We can only convict him of mendacity in the favorable analysis of the events in Innsbruck that he presents in the *Malleus* if we can be sure that he in fact "knew" better. But since most of what we know of his opinion derives from the *Malleus*, we cannot reject this account as a conscious falsification because *we* know better. In any case, the *Memorandum* that Institoris wrote to the bishop clearly indicates that he was confident that the bishop would continue to conduct the inquisition in a manner acceptable to Institoris during his (Institoris's) absence. As for instances in which the accounts given in the *Malleus* of the cases of various of the accused at Innsbruck diverge from what can be gathered about what actually happened in light of the evidence presented in the *Memorandum*, this is again of significance only if it can be demonstrated that Institoris had the transcripts of the trials before him during his composition of the *Malleus*.<sup>237</sup> This seems *a priori* unlikely, and in any case he alludes to the fact that the protocols of the trials were deposited with the bishop of Brixen (just as those concerning the earlier trials in Ravensburg were preserved in the town's city hall).<sup>238</sup> If he was working from memory, then it is hardly surprising that the old man (and at the age of approximately fifty-six at the time of the composition, he was indeed an old man by contemporary standards) colored his recollections of events in light of the very conception of sorcery that he was writing about. This is hardly comparable to the sort of overt, thoroughgoing falsification that would be constituted by stating, both in the text itself and in a sworn document, that Jacobus Sprenger was the main author of the work when in fact he had nothing to do with it.

4c.ii.θ Supposed enmity between Sprenger and Institoris Much is often made of supposed disagreements between Sprenger and Institoris, and these are taken as evidence for the impossibility of their having

<sup>237</sup> These stories are mostly told in Pt. 2, Q. 2, Ch. 12 (134B–137A). A close comparison shows that the general gist of the stories is preserved accurately enough, but the details are unreliable and are often "shifted" to bring them into alignment with the preoccupations of the *Malleus*.

<sup>238</sup> 95A, 147A.

co-operated on the *Malleus*. Yet, in none of this evidence is there any actual indication of conflict between the two Dominicans. Rather, it is assumed that disagreement is indicative of personal incompatibility, an assumption that is clearly false. In any case, there is in fact no direct evidence for the personal engagement of either man in the various issues, and their disagreements are mere inferences.

First, we have the fact that Johannes Molitoris, the parish priest of Augsburg who organized the practice of daily communion because of which Institoris investigated various women in Augsburg for superstition in 1480, was also closely involved in Sprenger's rosary confraternity, and the assumption is that the investigation of daily communion must have offended.<sup>239</sup> But we know nothing of Sprenger's attitude to the practice of daily communion instituted under Molitoris's guidance, and even if he did disagree with Institoris on the issue, there is no reason why this would necessarily have precluded cooperation between the two men regarding a different matter.

The convent of Schlettstadt was unreformed (for the reform movement, see General Introduction, 1c), and in March of 1490 the general chapter of the Dominican Order instructed Sprenger to carry out the reformation of that convent, but this directive was revoked the following August, presumably upon the objections of the convent.<sup>240</sup> Since Institoris had previously been prior of the convent, one might conclude that he was an opponent of the reform movement within the order, but even this conclusion is nothing but inference. He had been released from this office in 1483, and we know nothing of his attitude toward the reform movement in general or about the later objections of the convent to enforced reform.<sup>241</sup> He had presumably settled in that convent in the first place because it was in his hometown, and the mere fact that the convent would eventually oppose reform says nothing about his own attitude, much less does it necessarily imply conflict with Sprenger. Certainly, nothing in Institoris's career shows any interest on his part in the reform movement, but that does not mean that he could not have co-operated with someone who was enthusiastic about

<sup>239</sup> Molitoris kept the registry of members for southern Germany and brought about the publication of the regulations of the confraternity (Schnyder [1993], 38 n. 27).

<sup>240</sup> Docs. 149 and 150 in Schnyder (1993), 89.

<sup>241</sup> Perhaps Institoris's lack of interest in the reform is confirmed by his later residence in the unreformed convent in Augsburg (Winston-Allen [1997], 78, attributes the founding of the rosary confraternity in Augsburg by Molitoris rather than by the convent to a lack of enthusiasm for the project on the part of the convent because it was unreformed), but we do not know Institoris's reasons for taking up residence there.

it.<sup>242</sup> Furthermore, one of the major sources for the *Malleus*, John Nider, was a leading early advocate of the reform movement (see General Introduction 5f.i). While this circumstance does not preclude Institoris's use of him as a source, it would certainly not be likely to make Nider a congenial figure in Institoris's eyes if Institoris were in fact a committed opponent of the reform movement.<sup>243</sup>

It is true that in various official capacities within the Dominican province of Teutonia Sprenger was delegated the task of imposing sanctions on Institoris for unknown reasons. This is sometimes interpreted as forming part of a posited "break" between Sprenger and Institoris, but there is absolutely no reason to conclude that Sprenger was motivated by personal animus.<sup>244</sup>

<sup>242</sup> It is interesting to note that in recompense for composing the *Nuremberg Handbook* for them, the city council of Nuremberg gave Institoris a gratuity of six florins to spend on a new habit (docs. 51 and 52 in Schnyder [1993], 59–60). Since one of the policies advocated by the reform movement was a return to the simple attire of the early days of the order, one may suppose that this was not very appealing to Institoris, who presumably had asked for the method of payment offered by the city council and may have been interested in looking impressive in his meetings with popes, prelates and potentates. But it must be emphasized that this does not necessarily mean hostility to the reform movement or to its advocates.

<sup>243</sup> It is also noteworthy that the reform movement advocated less emphasis on esoteric theological disputes and more concentration on practical issues of the spiritual life. This led to an emphasis on pastoral duties, and members of the reform movement showed an interest in the suppression of popular superstition and sorcery; see Bailey (2003), 18. This circumstance would seem to associate Institoris more with the reformers than the conventuals.

<sup>244</sup> For a succinct exposition of the thesis of a "campaign of persecution" conducted against Institoris by the hostile Sprenger, see Behringer *et al.* (2000), 37–38. This argument is characterized by thoroughgoing *petitio principii*, that is, that evidence is interpreted on the basis of the conclusion and then is taken as proving it. The "coincidence" that on the same day on which Sprenger was elected as provincial of Teutonia in 1487 he also received confirmation of a previous directive from the general chapter to take action against Institoris (for unknown reasons) is thought to "have the appearance of a 'conjunction' (*Junktim*)," and from this the totally baseless conclusion is drawn that Sprenger was appointed with the intention of bringing Institoris into line. This activity is said to have driven Institoris to take refuge in Salzburg, an unwarranted interpretation that ignores the fact that he is attested in Augsburg in 1491. The dispute over the position of reader in Salzburg in 1493–1494 is taken to be further proof of Sprenger's hostility, despite the fact that the initiative in the matter again came from the general chapter (and in any case the matter clearly involved competition for a position rather than an *ad hominem* attack on Institoris). The summation that "From these facts one can perceive that from 1485 until the end of his life (December 6, 1495) Sprenger attempted to make life difficult for his fellow Dominican wherever he could . . . It is clear that Sprenger was so little in agreement with Kramer's activities that he did everything possible within the order to shut this inquisitor down" (*Aus diesen Angaben kann man ersehen, daß Sprenger von 1485 bis zu seinem Lebensende (6. Dezember 1495) seinem Ordensbruder das Leben schwer zu machen versuchte, wo er nur konnte . . . Doch wird deutlich, daß Sprenger so wenig mit den Aktivitäten Kramers einverstanden war, daß er alles innerhalb des Ordens Mögliche tat, um diesen Inquisitor auszuhalten*) is a gross exaggeration that goes far beyond any conclusions that are permitted by the evidence.

*4c.iii Sprenger's partial authorship should not be discounted*

In assessing the claim that Sprenger's collaboration in the work was a fabrication on the part of Institoris, which rests on very little substantive contemporary evidence (no more than Fackel's tendentious assertion plus a marginal note of unknown origin), one has to remember the question that was put to juries by a famous Roman jurist: *cui bono* ("for whose benefit")? What would be the profit that could conceivably have accrued to Institoris for claiming that Sprenger was involved in the composition when he was not? The only motive that is ascribed to him is the desire to increase the authority of his book.<sup>245</sup> This position can be looked at from two perspectives.

In the first place, how does the association with Sprenger increase the prestige of the work? For the most part, Sprenger's activities were confined to the internal administration and reform of the Dominican Order. Certainly, Sprenger had won some renown back in 1475 for the foundation of the confraternity of the rosary, but how exactly would this association have enhanced the reception of the *Malleus*? Surely, in this regard the only contribution that Sprenger could provide was that he too was an inquisitor, but as previously noted, he seems not to have taken much interest in exercising the office of inquisitor, and Institoris clearly outshone him both as an inquisitor and as a personage of "high profile." Institoris had undertaken an important task in helping out the bishop of Trent in justifying his prosecution of Jews back in 1475, and more recently he had had personal interviews with Pope Sixtus IV, whose confidence he evidently enjoyed, and was on close terms with the present pope, Innocent VIII. In his prosecution of sorceresses, he had evidently enjoyed the support of Archduke Sigmund of Austria and had recently visited the court of Maximilian (heir apparent to the Holy Roman Emperor and regent for his wife in the Low Countries) in Brussels to secure his assistance (5B\*). This man would go on to be consulted by the city council of Nuremberg, the most impressive Imperial free city in the Empire, and would preach before the King of Bohemia. Institoris is a man who seems to have had little doubt about the orthodoxy of his own views (brooking no opposition), and given the large number of high-ranking ecclesiastical and secular figures who vouched for his view of sorcery, in what regard did he need validation through association with a man who was little recognized outside of the Dominican Order?

<sup>245</sup> So Behringer *et al.* (2000), 31.

That he needed Sprenger's name for purposes of prestige is unlikely enough in itself, and that he should try to usurp it by perpetrating a fraud in such a public way is even more implausible. It would have been foolhardy to run the risk involved, not simply in publishing this falsehood in the book in question, but in making a public declaration of this in an official document that was to record the opinion of the theological faculty to which the person about whom the lie was told belonged. For not only does the Apology name Sprenger alone as the author, but joint authorship is asserted in the Approbation of the theological faculty with which Sprenger himself was closely associated. If the claim was false, it is totally unreasonable for anyone to have expected that word of this lie would never have reached Sprenger's ear.

To sum up, the notion that Institoris was in some way a fraud goes back to Hansen, and while his original evidence has not stood up to the test of time, his general idea continues to haunt scholarship, turning up in different guises. Though there is some reason to be surprised at Sprenger's participation in the composition of the *Malleus*, there are absolutely no compelling grounds for doubting the prima facie validity of the statement in the work itself that Sprenger co-operated with Institoris.

It may be better to start by reconsidering the *Malleus* itself. Previous studies of its authorship have viewed the work as a monolithic whole which Sprenger either did or did not contribute to. But the *Malleus* is far from uniform in its contents, and the various sections could have been composed by different authors. The *Memorandum* composed by Institoris for the bishop of Brixen shows conclusively that Part 3 of the work is to be attributed to him. It seems that the "practical" topics that dominate the two questions of Part 2 also suit Institoris's interests as a witch-hunter, and that part does in fact contain a number of anecdotes that can be associated with Institoris's activities in southern Germany, especially in Ravensburg and Innsbruck. Part 1, on the other hand, gives a rather different impression. While it still contains anecdotal material that can be associated with Institoris, it has an overall tone that is noticeably different from that of the other two, being mainly taken up with rather dry logical argumentation about theory in standard scholastic format. It is particularly noteworthy that while the *quaestiones disputatae* that appear in Part 1 are properly laid out and rigorously logical (from an internal point of view at any rate), the two *quaestiones disputatae* of Institoris's Part 3 are defective both in logic and in format.<sup>246</sup> This would

<sup>246</sup> These appear in the unnumbered introductory question (184B–193D) and in Q. 17 (218A–219D).

make it reasonable to suppose that Institoris did not compose the theoretical material of Part 1, and the obvious candidate for the composition of the properly drawn up *quaestiones disputatae* would be an academic familiar with the methodologies of scholastic discourse. Given this conception, it is easy to conclude that the body of Part 1 is attributable to Jacobus Sprenger, who held a permanent position as a theologian at the University of Cologne, and thus must have had the requisite competence to deal with the theoretical issues of Part 1, a competence which Institoris evidently lacked.

In this regard, it is worth considering the composition of the work as a whole. The text states several times that it was written in the year 1486, and while Institoris was still in the vicinity of Innsbruck in February of that year, the manuscript must have been delivered to the printer by the middle of the fall at the latest. If this is so, it is inconceivable that a work of such massive length and extreme complexity could have been put together from scratch in the space of little more than half a year. We know that the kernel at least of Part 3 was provided by Institoris's *Memorandum*, which he wrote in the fall of 1485, and perhaps the theoretical issues of Part 1 are based on pre-existing material on sorcery that Sprenger had composed either for some other (unknown) purpose or specifically in defence of the Satanic conception of sorcery (see General Introduction, 2c.iii).<sup>247</sup> At the very least, it would seem that Sprenger had begun to work on the theoretical sections before 1486, and that Institoris added to the work anecdotes from his own experience in adapting this theoretical material to the broader work. It is worth remembering that, while Institoris was a facile author (even if his Latin style leaves something to be desired), Sprenger evidently had little interest in writing. Perhaps one may then assess the matter in a way that is similar to but notably distinct from Hansen's view. Whereas Hansen interpreted the Apology as indicating that Sprenger had gathered all the material and left the secretarial task of stitching it together to Institoris, it is now obvious that large parts of the work are the composition of Institoris and that anecdotal material relating to him can be found throughout the finished work. Thus, the driving force behind the work was definitely Institoris, but perhaps it is not unreasonable to take the Apology at face value and see the mind of Sprenger behind the theoretical material of Part 1, which seems to show a mastery of scholastic method that is more

<sup>247</sup> After all, even if Sprenger was not as active an inquisitor in the persecution of witchcraft as Institoris was, it would seem from the joint mention of the two of them in the Bull *Summis desiderantes* that Sprenger must have had some interest in the business.

to be expected from the academic Sprenger than the man of action Institoris. Institoris thus must have been responsible for drawing up the finished work, to which he added a duly humble introduction in which he mentioned his coauthor by name and modestly merely implied his own participation. Nonetheless, Institoris took upon himself the onus of seeing to the publication of the manuscript and of having the orthodoxy of the printed book vouchsafed by the theologians of the University of Cologne.

## 5 COMPOSITION AND PUBLICATION

### *5a Elements of the Malleus*

The *Malleus* consists of four distinct elements, which have a rather peculiar publication history. Before entering into the question of how the first edition of the *Malleus* was put together, it is a good idea to look at the various elements individually.

#### *5a.i Papal Bull Summis desiderantes*

The papal Bull *Summis desiderantes* (named after the first two words of the Latin text) is often described as in one way or another authorizing witch hunting. This characterization tends to be rejected in modern scholarship, and to some extent this is valid. Like their contemporaries, the medieval popes took the reality of witchcraft for granted and in preceding centuries had issued a number of letters that dealt with the suppression of witchcraft.<sup>248</sup> Hence, there is nothing particularly novel in the bull's taking for granted the existence of witchcraft. In any case, a careful reading of the text quickly demonstrates that this bull had a very specific purpose relating to the activities of inquisitors in Germany. Nonetheless, the form chosen for this text shows that it was meant to serve a greater purpose than simply a narrow ruling applicable only to one particular situation.

The term "bull" signifies properly the seal that was appended to the official correspondence of the popes, but it came to designate the correspondence that bore the seal. There were a variety of documents issued by the popes, and the Bull *Summis desiderantes* belongs to those that lacked any addressee and began with the name of the pope followed by the distinctive heading *ad futuram rei memoriam* ("for future documentation

<sup>248</sup> Hansen (1901), 1–37, publishes a number of such papal decisions from the period 1258–1526.

of the matter”).<sup>249</sup> This opening formula was used for texts that were meant to be of uniform applicability and the heading indicated that they were to be preserved in the papal archives rather than being dispatched to a particular person.<sup>250</sup> Any further copies of the document would have to be made for or by interested parties. At the same time, the content of the text does refer to a specific situation, but before discussing why it was decided to couch the terms of a specific ruling in a form reserved for rulings of general applicability, the content needs to be discussed.

The text begins with an introduction that explains how the ruling is necessitated by the pope’s general obligation to maintain the church’s well-being in general and to wipe out heresy in particular. Then comes the narrative section, which explains the situation that will lead to the ruling. It was conjectured long ago that the ultimate decision in favor of the inquisitors Institoris and Sprenger must have resulted from a petition lodged with the pope (Innocent VIII) by one or both of them, and that this narrative was taken from that petition.<sup>251</sup> Here the pope begins by noting that it has come to his attention from an unnamed source that in the archbishoprics of Mainz, Cologne, Trier, Salzburg and Bremen, many people of both sexes had begun to engage in witchcraft, killing humans, animals and crops, inflicting physical torment on humans and animals, and thwarting human reproduction, and that among other acts offensive to Christianity these practitioners of witchcraft deny their Christian faith. Against this background, the pope indicates that, despite the fact that Jacobus Sprenger and Henricus Institoris have a papal appointment as inquisitors, certain clergymen and laity in the areas mentioned have asserted that the inquisitors’ appointment does not specifically mention those areas, and that accordingly they have no jurisdiction, which has been detrimental to the task of extirpating such activity. The substance of the decree then follows in the ruling that the inquisitors do in fact have the authority to proceed against the offenses outlined and are authorized to preach in those regions as they think fit. At the end, the pope uses the formula normally used in initial letters of appointment for inquisitors to “renew” it: *de novo concedimus facultatem* (“once again we grant the ability”).<sup>252</sup> The bishop of Strasburg is then specifically ordered to allow exactly this sort of preaching and to oppose anyone who undertakes to impede the inquisitors.

<sup>249</sup> For a general introduction to the various forms of bulls, see Pitz (1988), 26–29.

<sup>250</sup> For the details about this form of document, see Pitz (1988), 29–30.

<sup>251</sup> Hansen (1900), 454.

<sup>252</sup> For this formula in letters of appointment, see Pitz (1988), 55–56.

Clearly, the specific purpose of the bull was to overcome any opposition to the inquisitors' activities on the grounds of lack of jurisdiction on their part, by specifically authorizing them to investigate crimes that are clearly described in terms of the elaborated concept of witchcraft (see General Introduction, 2c.iii.α, β). Though there is no known conflict between the bishop of Strasburg and either Sprenger or Institoris, the specific directive to him seems to imply that he had been the cause of some trouble, or at least that opposition on technical grounds against the inquisitorial investigation of witchcraft had taken place in his diocese, and he had done nothing to assist the inquisitors. Therefore, since the bull is intended to do away with this opposition, it must have been issued as a result of a petition from the inquisitors themselves, or more likely Institoris alone.<sup>253</sup> In the most extensive discussion of the legal implications of this bull, Pitz concludes that because the document is in content a response to problems that the inquisitors had encountered, it was really a rescript (that is, a legal ruling issued in response to a petition) but was drawn up in the form of a bull *ad perpetuam rei memoriam* "at the request of the petitioners for the sake of its particular importance" (*auf Antrag der Petenten wegen besonderer Wichtigkeit*).<sup>254</sup> This is true as far as it goes, but the argument concentrates too much on external form and does not explain why any particular importance should be attached to these proceedings. In practical terms, it would seem that the bull was requested to clear the way for some sort of proceedings that had first been thwarted by procedural objections, and then further obstructed by either the bishop of Strasburg's active interference or at least his refusal to thwart such obstruction on the part of those whose doubts of the reality of witchcraft. But the petition that gave rise to the bull desired a ruling that was of wider import. Not only was any doubt about the inquisitors' rights to conduct investigations into the matters in question to be rejected, the inquisitors' authority strengthened through their reapointment, and the bishop instructed in no uncertain terms to bring a halt to anyone's obstruction of the proceedings, but the very basis of the investigation was to be validated through the pope's overt recital of the charges that were being rejected as unjustifiable. By drawing up in the *ad perpetuam rei memoriam* format the document granting the request that

<sup>253</sup> There is no external confirmation of any activity on the part of Sprenger in witch hunting (see General Introduction, 4a), but the bull certainly implies that he was at least passively involved in Institoris's activities. In any case, the bull was in Institoris's possession when he had the approbation of the theologians of the University of Cologne drawn up in May, 1487 (see next section).

<sup>254</sup> Pitz (1988), 56.

the opposition to the inquisition into witchcraft be halted, the pope was giving direct confirmation of Institoris's conception of witchcraft.

While the pope himself may not have understood his decision in exactly these terms, this is certainly how Institoris took it. Apart from taking the bull as directly affirming the beliefs outlined in the *Malleus* (see next paragraph), he cited the bull on other occasions. He produced it when he convened the meeting at which the theologians of the University of Cologne formally approved the *Malleus* itself (3A\*; for the approbation, see General Introduction, 5a.ii). Later, in the *Nuremberg Handbook*, he cites the papal see as condemning disbelief in the existence of witches (2v), and since this condemnation is also attributed to the University of Cologne, he must be referring to the Bull *Summis desiderantes*.

The issuance of the bull obviously has no direct connection with the text of the *Malleus*. After all, the bull was issued on December 5, 1484, two years before the publication of the *Malleus*. Why then was it included with the *Malleus*? The work itself is said at the very start to be an elaboration of the meaning of the bull (3A), and on several occasions the validity of the views espoused in the work is described as validated by the bull, in reference to both the existence of sorcery in general terms (20D) and specific details (45C, 52C, 71C). Just as he had produced the bull as evidence for the orthodoxy of the views propounded in the *Malleus* at the meeting recorded in the approbation, he also wished it to be included in the final version of the *Malleus*, so that the reader would have no doubt that the argument made in the *Malleus* was of indisputable orthodoxy.<sup>255</sup>

Recently, the text of an early draft of the bull has been discovered in the papal archives.<sup>256</sup> The text has been published by Senner, but he misinterprets the text as the actual petition submitted by Institoris. He describes the document as "the *supplicatio*, the motive for the bull," but the text is written from the point of view of the pope and is clearly not the petition itself but an outline of the desired bull, which was passed on to the chancery for drafting in the final form.<sup>257</sup> The draft lacks the introductory sentence of the final version and begins directly with the

<sup>255</sup> And in fact, the beginning of the *Malleus* speaks as if the text is really a justification and explanation of the bull.

<sup>256</sup> For the two independent discoveries of the text, see Senner (2004), 399 n. 28. The text is reproduced here in an appendix after the main text.

<sup>257</sup> Senner (2004), 399. When the draft begins with "we have heard" (*accepimus*), in place of the final version's "recently it has come to our hearing" (*nuper ad nostrum . . . pervenit auditum*), it is clearly the pope who has heard.

narrative (the initial paragraph of the final version is mere boiler-plate text indicating in a vague way the pastoral duties of the pope). From this point until the final directives to the bishop of Strasburg, the two versions are basically the same, but a number of changes, some purely stylistic, some substantive, have been introduced into the final version.<sup>258</sup> The draft ends with a final paragraph added by the pope, who indicates his assent to the text with the words “let it be done as is requested” (*fiat ut petitur*), adding his initial *J*.<sup>259</sup> In the rest of this last paragraph, the pope gives instructions about how the proposed text was to be turned into its final form, by indicating in an abbreviated way the exact form of the penal clauses to enforce compliance with its provisions (clauses that are already delineated in the draft), and the details of the dating formula to be used at the end of the final version. This procedure makes sense only if Institoris submitted the main body of the text in the draft, including the legal provisions, to the pope, who in passing it on to the chancery noted his general approval and specified the nature of the final clauses.<sup>260</sup>

As for Institoris’s assumption that the document served as papal validation of his views, this may not exactly have been the pope’s intent but such clearly is the implication of the document in its final revision. In addition to adding a preface explaining the general reason for the pope’s issuance of the bull and the detailed provisions at the end

<sup>258</sup> A change like the one noted in the previous note is of no consequence, and the official who drew up the final version made a number of such pointless stylistic changes. For instance, the verb *generare* is replaced with *gignere* in the meaning of “begetting,” a variation that signifies nothing. Sometimes, the phraseology of the original version is tidied up, but much of the change results in the conversion of the text into the sort of turgid, bombastic prose style that the medieval chancery of the popes picked up from the obscurantist language favored in the legal language of the Late Roman Empire and preserved in the *Code of Justinian*.

<sup>259</sup> Senner (2004), 399, takes this to be the initial of the pope’s given name John, but there seems to be no reason why it should not be the capital form of “I” for Innocentius.

<sup>260</sup> Senner (2004), 402–404, accepts the prevalent but unwarranted interpretation of Institoris’s career that views him as a deceitful and mendacious individual (see General Introduction, 4b.i), and on this basis he argues that the change in the final version, by which the original vague reference to the two inquisitors Institoris and Sprenger as simply inquisitors in Germany is replaced by a more specific description, giving Institoris wide authority all over Germany, while Sprenger’s sphere of activity is restricted to the area along the Rhine, is to be attributed to Institoris. Even if one accepts Senner’s false understanding of the new document as Institoris’s petition rather than the pope’s early draft, he does nothing to explain why the change in the final version should be ascribed to Institoris rather than Sprenger. In any case, it is clear that it was the legal specialists in the papal chancery who were responsible for the change (replacing Institoris’s humble formulation that put Sprenger’s lesser appointment on a par with his own). Apart from stylistic considerations, a major reason for Innocent’s passing of the draft over to the chancery for it to be drawn up in its final form must have been precisely the need to make sure that the legal provisions were accurate and correct.

to which violators were subject, whoever drew up the final form made subtle but nonetheless noticeable changes in the phraseology. In part the logic of the argument is tidied up and the text equipped with a reference from the New Testament that would demonstrate the chancery's (and the pope's) erudition.<sup>261</sup> But more significantly, the simple phrase "they renounce the Catholic Faith" (*et fidem catholicam abnegarent*), used as the final instance of the crimes of the practitioners of sorcery, is expanded into the elaborate formulation "and for this reason they feel no shame at renouncing with a sacrilegious mouth the very Faith that they received upon receiving Holy Baptism and committing and perpetrating very many other unspeakable excesses and crimes at the instigation of the Enemy of the Human Race, which imperils their souls, insults the majesty of God and sets a pernicious example for many others and scandalizes them" (*fidem propterea ipsam quam in sacri susceptione baptismi susceperunt ore sacrilego abnegare aliaque quamplurima nefanda excessus et crimina instigante humani generis inimico committere et perpetrare non verentur in animarum suarum periculum, diuine maiestatis offensam ac perniciosum exemplum et scandalum plurimorum*). While the draftsman in the chancery may have simply felt that he was introducing the necessary note of grandiloquence at the end of the catalogue of crimes that caused the bull to be issued, there is every reason to imagine that when Institoris read the final draft of the bull that was granted at his request, the changes introduced into the text showed that it was not simply a mechanical reproduction of the phraseology of his petition.<sup>262</sup> Instead, the fact that his simple words about the denial of the faith, which was a fundamental element of his understanding of the Heresy of Sorceresses, came out in a more elaborate and forceful form must have signified in his mind that the pope, who after all was the vicar of Christ on earth, fully shared his view of the Heresy of Sorceresses (which of course is not explicitly mentioned in the petition or the bull) and felt the same horror at the notion that Satan himself was controlling the horrific activities of his minions on earth. This explains why for the rest of his life Institoris continued to produce the bull in validation of his views when they were questioned and why the bull was to be given pride of place at the start of the work written in justification of those views.

<sup>261</sup> The more or less pointless reference is to Romans 12:3.

<sup>262</sup> This assumes that the draft submitted to the chancery by Innocent merely reproduced the phraseology of the original petition. If, on the other hand, some sort of revisions had already been introduced into the draft compared to the petition, then the final version would have been that much more different from what Institoris wrote in the first place.

5a.ii *Approbation of the theologians of the University of Cologne*

The approbation of the *Malleus* is an official document (*instrumentum publicum*) drawn up according to the prescribed formalities by a public notary and signed by certain professors of the theology faculty of the University of Cologne. Hansen, a nineteenth-century scholar of witchcraft who had a certain animus against witch hunting in general and the authors of the *Malleus* in particular, made the argument that the approbation granted to Institoris for the *Malleus* was falsified. This claim is not infrequently repeated in modern scholarship (often in support of further accusations of malfeasance on Institoris's part), but while it is true that there may have been some sort of procedural irregularity in the approbation, the assertion that the document is a forgery is to be rejected.

Before discussing Hansen's theory, it is necessary to examine the layout of the approbation, which can be divided into the following sections.

1) An introduction. This begins by informing anyone who reads the document that on May 19, 1487, Henricus Institoris appeared before the notary and the witnesses on behalf of himself and his colleague Jacobus Sprenger, stating that he and his colleague had been appointed inquisitors into heretical depravity, and producing the Bull *Summis desiderantes* as proof.

2) Narrative. Since Institoris and Sprenger had met opposition from various skeptical curates and preachers in their efforts to stamp out the Heresy of Sorceresses, they decided to write a treatise laying out the correct procedure in suppressing them, and offered this treatise to the University of Cologne, or to certain professors of the faculty of theology, so that they could examine its orthodoxy.

3) First signing. Four members of the faculty (Lambertus de Monte, Jacobus de Strahlen, Andreas de Ochsenfurt, Thomas de Scotia) affirm the orthodoxy of the work with their signatures. Lambertus, the dean of the Faculty of Theology, begins, stating that the first two parts of the work are in his judgment in conformity with church teaching and that the third part should be approved to the extent that it conforms with church procedure. The other professors merely state their concurrence.

4) Four articles attacking incautious preachers are set out.

5) Second signing. Eight professors place their signatures below these articles (Lambertus de Monte, Jacobus de Strahlen, Udalricus Kridwiss de Esslingen, Conradus de Campis, Cornelius de Breda, Thomas de Scotia, Theodoricus de Bummell, Andreas de Ochsenfurt). Arnold the notary states that the beadle Johannes Vorde de Meclinia (one of the witnesses to the signing; see Section 7) told him of these proceedings

under oath, and Arnold himself compared the signatures in Sections 3 and 5.

6) Institoris presented a sealed document from the Holy Roman Emperor Maximilian enjoining his subjects to co-operate with activities of the Inquisition.

7) It is stated that Institoris asked the notary to draw up the proceedings in the form of an official document (i.e., the present document). The transactions took place at the time noted above in the house of Lambertus de Monte in the presence of four witnesses (Lambertus himself, Johannes the beadle, Nicholas Cuper of Venrath, and Christianus Wintzensis of Euskirchen).

8) Arnold Kolich attests that the events took place in his presence or he heard of them from Johannes the beadle and that he drew up the document in the normal, official manner.

It would be easy enough to determine the status of this document if the archives of the faculty of theology were extant, but they disappeared when the university was secularized in 1798, though four sets of excerpts were made before then.<sup>263</sup>

Hansen's argument that the approbation is a forgery begins with a complete misunderstanding of the proceedings. He claims that while Lambertus de Monte was present for the proceedings, the other three signatories in Section 3 were not. He does not explain this at all, but seems to reach this conclusion from the fact that Lambertus is one of the witnesses to the entire proceeding.<sup>264</sup> This, however, has nothing to do with the fact that both Lambertus himself and the other signatories appended their signatures to approve the *Malleus* in the presence of the notary. That in fact is the whole purpose of the exercise. Signing the document and attesting to the proceedings are two entirely separate events, and the fact that Lambertus alone appears as a witness has nothing whatsoever to do with the presence or absence of the other signatories to the orthodoxy of the *Malleus*. Thus, Hansen's inference that Institoris presented a signed document to the notary and witnesses is groundless.

<sup>263</sup> See Hansen (1898), 134, for details.

<sup>264</sup> "Since Lambert was himself present at the act, one could assume that he executed his signature at the time and place. That this was not the case, however, can be seen as a matter of course from the fact that three further signatures follow, from professors who were not present at the act but cite their predecessor Lambertus de Monte" (*Da Lambert bei dem Akte selbst zugegen war, so könnte man annehmen, dass er seine Unterschrift an Ort und Stelle vollzogen habe. Dass dies aber nicht der Fall war, ergibt sich ohne weiteres daraus, dass noch drei weitere Unterschriften folgen, von Professoren, die beim Akt nicht zugegen waren, sich aber auf ihren Vorgänger Lambertus de Monte beziehen*: Hansen [1898], 147). He gives no argument at all for the assertion that the other signatories were not present.

There was no document to be produced. Instead, Lambertus stated his opinion that his reading of the first two sections of the *Malleus* showed it to be orthodox, and the other three professors indicated their agreement. These statements are in fact the “document” that is Section 3.<sup>265</sup>

Hansen interprets the second set of signatures (Section 5) in light of his peculiar interpretation of the first. Whereas, in his view, the testimony of Lambertus de Monte sufficed to certify the accuracy of Section 3, the authenticity of Section 5 is oddly ascribed to the report given to the notary under oath by Johannes von Vorda the beadle. As Hansen himself states, it is not normal practice for a notary to attest to something that he did not witness himself. Hansen’s interpretation, though, is marred by his misunderstanding of Section 3. What the text must mean is that whereas the notary himself witnessed the signing of Section 3, for some reason he was called away when Section 5 was signed. He clearly states at the end that everything took place in one proceeding in the late afternoon of May 19, and some presumably unavoidable event called him away.<sup>266</sup> It is noteworthy that the notary emphasizes that he did not rely only on the sworn testimony of the beadle but himself compared the signatures of Sections 3 and 5.<sup>267</sup>

<sup>265</sup> Hansen (1898), 147, complains that the “reference to this document” (*Vorweisung dieses Document*) is much less clearly laid out than was the case with the papal bull and the Emperor’s document (which were specified by quoting the opening and concluding words), but again there was no pre-existing document to be described before the proceedings.

<sup>266</sup> “And I, Arnold Kolich of Euskirchen, sworn cleric of Cologne, having been present, along with the aforementioned witnesses, at each and everyone one of the foregoing when they were carried out and conducted in the manner set out before, and having seen them carried out in this way and heard as is stated before from the report of the beadle” (*Et ego Arnoldus Kolich de Euskirchen, clericus Coloniensis iuratus, quia premissis omnibus et singulis dum sic ut premititur fierent et agerentur una cum prenotatis testibus presens fui, eaque sic fieri vidi et ut prefertur ex relatione bedelli audiui* [end of approbation]).

<sup>267</sup> “Finally, the Doctors of the aforementioned Faculty of Theology who are written below and above signed their names with their own hands, as I, Arnold the scribe written below, heard from the report of the respectable Johannes Vorda de Mechlinia, the sworn beadle of the dear University of Cologne, who reported this to me, and saw as was clear from the hands [i.e., handwriting] written above and below, in the following manner” (*Demum vero subscripti et superscripti doctores predictae facultatis theologie manibus proprijs se subscriperunt, prout ego Arnoldus notarius infrascriptus ex relatione honesti Johannis vorda de Mechlinia alme vniuersitatis Coloniensis bedelli iurati, qui michi hoc retulit, audiui et ut ex manibus etiam supra et infrascriptis apparuit, vidi in hunc qui sequitur modum.*) Note that Hansen (1898), 148, misquotes the end of this passage (dropping *ut* and *vidi*) and on p. 150 falsely states that “The beadle was entirely saddled with responsibility for the accuracy of this document” (Section 5) (*Die Verantwortlichkeit für die Echtheit dieses Gutachtens war vollständig dem Pedell zugeschoben*) (emphasis added). His claim of forgery is, as we will see, based in part on the notion that the beadle was falsely cited as a witness for the forged section, and hence Hansen apparently attempted to downplay the fact that the notary was clearly taking responsibility upon himself, though noting that he in part relied on information from the beadle.

Hansen uses another piece of information to support his claim of forgery. In the municipal library of Cologne there is a copy of an early edition of the *Malleus* in which the following note is written on the endpaper: "That the approbation of the sacred faculty of theology was forged is demonstrated by Thomas de Scotia, who is listed among the signatories, and Joannes de Vorda. They both declare in the dean's ledger of the faculty of theology that they never signed such a document" (*Approbationem sacrae facultatis theologiae confictam esse docent Thomas de Scotia, qui refertur inter subscriptores, et Joannes de Vorda, qui ambo fatentur in libro decanali facultatis theologiae se nunquam huiusmodi instrumento subscripsisse*).<sup>268</sup> Hansen claims that a check of the handwriting shows that this anonymous note was written by Joseph Hartzheim, who was dean of the faculty of theology in 1758.<sup>269</sup> It is convenient to ascribe the note to Hartzheim, because he was one of the men who wrote down excerpts from the records of the faculty of theology before they became lost. Thus, Hansen takes this note to be an authentic reflection of the faculty's records. This is rather dubious. In the first place, Hansen is not an unprejudiced witness when it comes to ascribing the handwriting. Next, if the note is to be ascribed to Hartzheim, it is rather surprising that in the work that Hartzheim made from the records of the faculty (*Prodromus historiae universitatis Coloniensis*), which does cite the approbation of the *Malleus*, there is in fact no reference to the supposed statement of Thomas de Scotia and the beadle disclaiming their signature. Hansen is reduced to special pleading, claiming that the endpaper note was made at a later date, when Hartzheim was presumably more familiar with the records. Thus, the provenance of the note is far from certain, and in any case it is manifestly inaccurate. The beadle could hardly have claimed not to have signed the document, since it nowhere states that he did: he was merely a witness.<sup>270</sup> And whatever the truth behind the notice, there is no evidence that anyone else complained, or that the complaint of Thomas de Scotia ever amounted to anything.

Hansen then uses the fact that the approbation did not appear in the first two editions of the *Malleus* to concoct a theory of "manipulation." He claims that the publication of the approbation separately from the main text of the *Malleus* was intended to forestall the appearance of the

<sup>268</sup> Quoted in Hansen (1898), 155 n. 90.

<sup>269</sup> Hansen (1898), 155 n. 90.

<sup>270</sup> Hansen (1898), n. 91, points out that in describing the approbation in the *Prodromus* Hartzheim himself erroneously states that the beadle signed the document, but this does nothing to establish Hartzheim's reliability as an interpreter of documents.

approbation in Cologne.<sup>271</sup> (He assumed a publication in Strasburg; in fact, the first edition probably appeared in Speyer [see General Introduction, 5b], but that does not affect the argument.) Hansen ascribes this scheme to Sprenger and Institoris, but the whole notion is ridiculous. In the first place, there is absolutely no reason to imagine that they had anything to do with the business arrangements involved in selling the *Malleus*. In any case, even if the publisher was willing to cooperate in some such scheme, how could it have been ensured that the book would not be taken by a bookseller to Cologne? And even if that were possible, how would this prevent any purchaser of the book from taking it to Cologne? And how could it have been ensured that no one who read the book elsewhere would ever mention the signatures to Thomas de Scotia or the beadle? While one may well forge documents for secret purposes, it is the height of temerity to forge a document which will then be published in a format that makes it very likely that the forgery will come to the notice of the very people whose signatures are being forged. In any case, the whole notion is clearly wrong-headed. The evidence indicates that the main text was printed in late 1486 (see General Introduction, 5b), while the proceedings at which Lambertus de Monte gave his opinion after reading the work took place on May 19 of the following year. Thus, unless we imagine that Lambertus read the original manuscript, it follows that he read the text immediately after its publication and the approbation was published months after the main text. No malfeasance was involved in the separate publication of the approbation and the main text of the *Malleus*.

Hansen lays out an elaborate and completely unfounded scheme allegedly implemented by the authors, Lambertus de Monte and the notary Arnold de Kolich. For reasons completely unclear (and unlikely), the conspirators were unable to gain suitable approbation from the faculty of theology and resorted to subterfuge.<sup>272</sup> Supposedly, the authors had valid copies of only the papal bull and the Emperor's edict and attempted to have their two forged documents of approbation wedged sneakily between the two in the document drawn up on May 19. As we have seen, however, Hansen here misunderstands the proceedings,

<sup>271</sup> Hansen (1898), 154.

<sup>272</sup> As is well-known, the Dominican-dominated faculty of theology at Cologne was very conservative (it was a particular butt of derision in the anti-scholastic *Epistulae Obscurorum Virorum*), and as Hansen (1898), 159–161, himself shows, during this period the city itself was in the forefront of the campaign against witches, and the faculty spoke authoritatively in favor of proceedings against various practitioners of magical arts. Hence, it seems very unlikely that it was necessary to forge an approbation, particularly in light of its limited scope (see below).

since the two approbations were signed before the witnesses on that day. In any case, Hansen claims that the responsibility for the second approbation was shifted onto the beadle, whose death was supposedly imminent. In the first place, the only evidence for his ill health is the fact that in 1492 he was allowed to retire because of good health, which is hardly relevant.<sup>273</sup> Regardless of the beadle's health, what is the point of shifting responsibility to the beadle? Presumably, the idea is that the notary was so scrupulous in his malfeasance that he was unwilling to attest to a falsehood but was willing to falsely ascribe the falsehood to someone else. Once the beadle was dead, however, he could have been blamed if any of those whose signatures were supposedly forged on the Approbation complained. This is silly.<sup>274</sup>

Furthermore, Hansen does not make clear the extent or purpose of the forgery. If the false attribution of responsibility to the beadle is intended to cover the forgery, then it would seem that Section 5 is forged and Section 3 is not. But since the content of the former is rather unobjectionable, it is hard to imagine that anyone who would sign the first approbation (as Thomas de Scotia purportedly did) would balk at the second. If, on the other hand, both approbations are forgeries (as must be the case if any credence is placed in the anonymous note that Thomas de Scotia disclaimed having signed "any such document"), why is the beadle cited only in connection with the first?

Hansen also claims that the fact that Sprenger was not eulogized by the rector when he died in 1495 is further evidence of him being in disrepute, but this proves nothing.<sup>275</sup>

There is, however, one piece of evidence to show that there was something unusual in the proceedings of May 19, 1487. In an excerpt from the dean's register preserved in Paris, Arnold von Tongern apparently noted: "The book called the *Malleus Maleficarum* is falsely ascribed to

<sup>273</sup> Hansen (1898), 153.

<sup>274</sup> Hansen's thesis was criticized by Paulus (1907), and in his response Hansen (1907b), 400 n. 42, cites further desperate evidence. He notes that, while in the approbation Ulrich Kridwis calls himself the *sacre theologie professor nouissimus*, the distinction of being the newest member of the faculty actually belongs to Andrew of Ochsenfurt. Paulus (1908) correctly ascribes this adjective to the false modesty obligatory among the theologians, but he does not get the exact explanation. Obviously, *nouissimus* here means not "most recent" but "last [in order]." Once Hansen got the notion into his head that Institoris was guilty of malfeasance, he began to see his supposed lying everywhere. Hansen (1907a) thought that a document about indulgences for using the crucifix in warding off sorcery contained a falsehood (disproven by Paulus [1908], 563–564), and Hansen (1901), 383, makes the groundless accusation that Institoris used his writing skills to weasel his way out of a charge involving the misuse of funds (see General Introduction 4b.i).

<sup>275</sup> Hansen (1898), 164.

the faculty. It is handed over for examination to one of the masters, with notification being given to the faculty" (*Liber qui Malleus maleficarum dicitur falso facultati inscriptus: examinandus traditur uni magistrorum cum relatione ad facultatem*).<sup>276</sup> Hansen does not indicate what he takes this notice to mean, but it is in fact rather interesting. First, it is not clear what is meant by the statement that it is "falsely ascribed" (*falso inscriptus*) to the faculty of theology.<sup>277</sup> Presumably, this is an abbreviated way of indicating that the approbation was attributed to the faculty as a corporate entity. If so, then he is technically correct in calling this a falsehood. The approbation nowhere states that the faculty made an official determination. Instead, what we have is the "approbation and subscription of professors of the dear University of Cologne" (*approbatio et subscriptio doctorum alme vniuersitatis Coloniensis*) to whom the *Malleus* was presented for examination. It would seem then that the objection was not that the approbation was false but that the conclusion drawn from it that the signatories' approval reflected the official opinion of the faculty was unwarranted. And we have no idea what determination was made by the master to whom it was turned over.

Undoubtedly the claim of a forgery in connection with the approbation is to be rejected, but in considering contemporary evidence of later doubts about the proceedings, it is perhaps a good idea to remember what the whole purpose of the exercise was, namely the affirmation of the Catholic orthodoxy of the theological views laid out in the work. As we have seen, it is really only Lambertus de Monte who attests to such orthodoxy, the rest of the professors following his lead. One may wonder how carefully he read the work, and in any case, while it cannot be determined whether or not Lambertus would have subscribed to all the views expressed in the *Malleus*, it is clear that some people found the discussion of the nature of evil and of the devil's influence on the human will to be offensive (see General Introduction, 4c.ii.ε). While such matters are not anywhere near as appealing to the modern mind as the idea that Institoris could have been engaged in skullduggery, they were of the keenest interest to the contemporary audience of the *Malleus*. In this case, it may well have turned out that Lambertus de Monte's approval of the work's orthodoxy and the acquiescence of his colleagues in his judgment proved in the long run to have been ill-advised, and some of those

<sup>276</sup> Quoted in Hansen (1898), 165. Arnold von Tongern is one of the bugbears of the *Epistulae Obscurorum Virorum*.

<sup>277</sup> Institoris himself went further, ascribing the approbation not simply to the theological faculty but simply to the university itself as a whole (see n. 279).

involved may have attempted to withdraw their approval after the fact. But there is no sure basis for doubting the validity of the approbation itself.

Let us now consider what exactly the approbation does say. The orthodoxy of the *Malleus* itself is attested to in Section 3. This attestation is mainly the work of Lambertus de Monte. He certifies that the first two parts of the work, which deal with the theory about the Heresy of Sorceresses, are in conformity with the church's doctrine, and that the third part, which concerns procedural matters, ought to be upheld. He then notes the utility of having this information disseminated. The three signatories who follow are rather muted. They all basically state their agreement with Lambertus's assessment, but Andreas de Ochsenfurt is quite circumspect in his adherence, restricting his agreement to the "surface impression" of the work (*quantum prima facie apparuit*).

The next set of signatures is appended to four articles attacking skeptical preachers (Section 5). Here, four new signatories are added to the four of Section 3. Once more, Lambertus takes the lead, but everyone, including him, is much more succinct than in Section 3, since all they are doing is stating their adherence to the articles, which were presumably drawn up by Institoris. At any rate, Lambertus indicates his adherence as if the articles derived from someone else, and it is hard to see who but Institoris could have formulated them. In any case, why are there now four new signatories? Presumably, these men had not read the *Malleus* itself and thus were in no position to attest to its orthodoxy in Section 3. It was an easy enough matter, however, to read four short articles and state whether one agreed with them.

Whatever the exact circumstances under which the approbation was drawn up, it is clear why the document was included with the *Malleus*. Like the papal bull, the approbation served to demonstrate the orthodoxy of the main text, though in a somewhat different fashion. While the pope was the ultimate arbiter of orthodoxy, he was not a scholastic, and since much of the argumentation of the *Malleus* is based on scholastic theology, it was necessary to gain some form of academic validation if the text was to be unassailable. This is exactly what the approbation provides. While the pope validates the overall conception, the theologians of Cologne uphold the conformity with scholastic theology of the first two parts of the work, which deal with the scholastic discussion of witchcraft in general and its specific practices (and their cures); as for the third section on legal procedure, that is the very field of inquisitors, and thus no external confirmation is needed for this material in a book written by

inquisitors.<sup>278</sup> The view of the theologians also confirmed the condemnation made repeatedly in the *Malleus* against priests who doubt the efficacy of witchcraft. Since the approbation was made only after the publication of the main text, there was no way for that text to allude to the approbation in the way that it could cite the bull, but in the later *Nuremberg Handbook*, Institoris does cite the approbation as validation of his views.<sup>279</sup>

### 5a.iii Apology

The content of the *appologia* (sic)<sup>280</sup> of the *Malleus* has been discussed elsewhere (basically, it notes the apocalyptic context of the sort of sorcery attacked in the work, notes that the work consists mostly of passages borrowed from earlier works, and gives a rather unclear explanation of the threefold division of the work and its intended audience; see General Introduction, 4c.i.α). What will be dealt with here is the question of the actual meaning of the title of this section.

First, the modern English derivative "apology" is misleading. The English word normally signifies some sort of indication of regret about some unfortunate event for which one is responsible. Here the word has the meaning of the Greek word *apologia* from which the Latin was borrowed. The Greek word signifies a defense (for instance "Socrates' apology" refers to the speech that he made in defense of himself at his trial), and here it takes on the sense of "self-justification." In effect, the apology serves the same purpose as the preface to a modern work in

<sup>278</sup> Note that Lambertus de Monte attests to the conformity with official doctrine of only the first two parts of the work, and merely indicates that the third part ought to be upheld [4A<sup>\*</sup>]. Presumably, the theologians' competence did not extend to the legal material treated in the final section, which only canonists could judge, but Lambertus was willing to give this section his general approval.

<sup>279</sup> In the German text, Institoris cites both the papal see (presumably on the basis of the Bull *Summis desiderantes*) and the University of Cologne as condemning disbelief in witches (2v), and he also talks of the crimes of witches surpassing all other crimes, "as I determined in the aforementioned book, the *Malleus Maleficarum*, and the University of Cologne confirmed (*also dann in dem vorgenanten büch Malleo Maleficarum ich bestimbt hab, vnd die hoch schñole zů Kölen bestet hat* [3v]). In the Latin text, he mentions the "determination of the dear University of Cologne regarding the treatise *Malleus Maleficarum* written by us" (*determinacio alme uniuersitatis Coloniensis super tractatum Mallei Maleficarum a nobis collectum* [24r]), and speaks of the earlier work as "the little work entitled *Malleus Maleficarum*, which was approved by the University of Cologne" (*opusculum Mallei Maleficarum ab uniuersitate Coloniensi approbatum* [19r]).

<sup>280</sup> The etymologically unwarranted spelling with two "p"s is a reflection of the constant confusion in the *Malleus* of whether certain consonants should be written twice (as in German, the pronunciation of Latin in Germany had no doubled consonants); see Latin Introduction, 2.

which the author explains such issues as how he got involved in writing the book and what his motives were in composing it.

The second point concerns the exact form of the heading to this section, which reads *appologia auctoris in malleum maleficarum* in the Latin, that is, "author's apology with reference to the *Malleus Maleficarum*." This heading is sometimes noted in connection with doubts about Sprenger's participation in the composition of the work, the problem being that the word "author" is clearly in the singular, which is thought to be incompatible with a work that was jointly composed (see General Introduction, 4c.i.α). Such an argument can be disposed of on two grounds. First, it presupposes that, while Institoris went to such lengths to claim falsely that Sprenger took part in the composition of the work, he was careless enough to note his sole authorship at the very beginning of the main text (as opposed to the extraneous texts of the Bull *Summis desiderantes* and the theologians' approbation). This presupposes not merely malfeasance on Institoris's part but also rank stupidity. Second, the argument presupposes that the sense of the heading is "apology of *the* author," but since Latin has no definite article, one could just as well take it as "author's apology," in which case this does not refer to any particular author and the usage is comparable to a compound noun in a Germanic language (i.e., *Autorenverteidigung*) or a genitive without article in a Romance language (*apologia di autore*).<sup>281</sup> Thus the heading has no bearing on the issue of whether Sprenger participated in the work.

### *sb Circumstances of printing the first edition*

Internal evidence shows that the main text (at least in its final form) was completed in 1486.<sup>282</sup> The process by which this text was converted into the printed format was far from simple. The first edition of the text of the *Malleus* is rather odd in that it was the work of two separate printers. Neither publication contains any identification of the publisher or the year of printing, but this information can be determined on the basis of

<sup>281</sup> Cf. the Italian movie *Profumo di donna*, whose title was mistranslated into English as *Scent of a Woman*. The scent in question is not that of any particular woman and would be better translated as "woman scent." In terms of the issue at hand, if royalties had been paid to authors in the fifteenth century, both Sprenger and Institoris would have been entitled to what is called in German the *Autorenhonorarium*, which could have been rendered in Latin as *auctoris honorarium* ("author's honorarium") and certainly would not have become *auctorum honorarium* ("authors' honorarium") simply because there were two authors. The singular does not refer to any specific author but signifies an indeterminate (and basically numberless) generality.

<sup>282</sup> In 215C the inquisitor of Como is said to have stated that he had forty-one people burned "last year, which was 1485" (*anno elapso, qui fuit mccccxxxv*); see also 64A, 96C, 108C.

other evidence. A comparison with fonts used in books whose publisher is identifiable indicates that the main body of the text can be attributed to Peter Drach "the middle," of Speyer.<sup>283</sup> This portion begins with the apology in a single-column format (i.e., one column per page), then continues with the main table of contents and then the main text in double columns. The other portion is much smaller, containing only the Bull *Summis desiderantes* and then the approbation of the faculty of theology of the University of Cologne, all in single-column format. Comparison of fonts again allows this portion to be attributed to Peter Schöffler of Mainz.<sup>284</sup> In later editions, the two portions were brought together and published as one text. The reason for the separate initial publication is nowhere explicitly stated, but a reasonable conjecture can be made. First, the known dates for the two portions should be laid out.

By a strange coincidence, portions of the accounting records for Peter Drach's business have been preserved. It was discovered in 1957 that various leaves of his account book had been used as scrap paper in the backing of a book cover, and these were removed and published.<sup>285</sup> One entry shows that on the "day after St. Lucy's day" (December 13) Drach dispatched twelve copies of a "treatise against sorcerers" (*tractat wider die zauberer*).<sup>286</sup> The year of this transaction is not specified but can be surmised in that the same agent received six copies of a "treatise against sorceresses" (*tractat wider die zaubernisse*) on the Friday after Epiphany in 1487. Hence, the St. Lucy's day in the other document likely fell in the preceding year, i.e., 1486. It may be conjectured, then, that Drach's publication of the main portion was carried out in the fall of 1486, and that the manuscript must have been delivered to him in late summer or early fall of that year at the latest.

<sup>283</sup> The identification was made by Polain (1932), #2121. Three printers named Peter Drach are attested, and this one is neither the elder nor the younger one. Hansen (1900), 473, had identified the publisher as Johann Prüss of Strasburg.

<sup>284</sup> The figure of Schöffler shows how close the publication of the *Malleus* is to the beginnings of printing. Schöffler (ca. 1425–1503) was a witness to the legal proceedings by which Johann Fust, who had lent money to Johann Gutenberg to set up the first commercial printing press using movable type, sued Gutenberg to get his money back, and in default of repayment took possession of Gutenberg's press. Schöffler, who married Fust's daughter, first acted as Fust's partner in using the foreclosed printing facilities, but from 1456 on he became an independent printer, concentrating on legal and theological works.

<sup>285</sup> The relevant evidence is conveniently collected in Schnyder (1993), 432–433.

<sup>286</sup> In the early period of book production, publishers often sold their works at both the wholesale and the retail level.

In the late medieval and early modern period, dating was often reckoned not by the numbered days of the month but by specifying a day of the week before or after an ecclesiastical feast day.

It is worth noting that at first Drach used a number of ad hoc descriptive titles in German to describe the work, calling it variously the “treatise against sorcerers” (*tractat wider die zauberer*), “treatise against sorceresses” (*tractat wider die zuabernisse*), “treatise against sorcery” (*tractat wider die zauberein*), and “Master Heinrich’s treatise” (*tractat meister Heinrichs*).<sup>287</sup> Only at Eastertime of (probably) 1487 did he begin to refer to it in garbled manner as the “treatise on the *Malleus Maleficarum*” (*tractat de malleo malificarum*). He is then attested from October on as referring to the work as the *Malleus Maleficarum* (with various misspellings). Drach is attested as selling the book directly to several ecclesiastics and dispatching multiple copies to various major cities in southern Germany.<sup>288</sup> It cost twelve white (i.e., silver) pennies (*alb. xij*) in 1487, but by 1496 the price had dropped to six.

The only indication of the date of the printing of the other portion is the date of the approbation, which was officially drawn up by a notary on May 19, 1487. This suggests that this section was printed at least half a year after the main section. What would motivate this odd procedure? An additional complication is provided by the fact that while this separate publication ends with the phrase “The table of contents for the work (treatise) follows” (*sequitur tabula subsequentis operis seu tractatus*), in the main section the table of contents is preceded by the apology. If the main section had been in existence for months, how could such a mistake have been made?

An explanation is given by Behringer *et al.* (2000), 28, that unfortunately is based on a misunderstanding of the methods of early modern printing. They start from the assumption that, since the notice about the table of contents follows the section published by Schöffler, at the time when Schöffler published this section, the main section *did* begin with the table of contents, and therefore the apology must have been composed after the receipt of the printing done in Mainz, that is, late May or early June of 1487. The appearance of the book is cited in confirmation of this interpretation. Whereas the main text of Drach’s publication leaves

<sup>287</sup> Drach is not known to have published any book on the subject other than the *Malleus*.

<sup>288</sup> In March, 1487, the prior of the monastery *Zum Heiligen Grabe* in Speyer owed the price for the book; at Easter, the “father at Schönfeld” (*pater in Schonfeldt*) bought a copy, as did the parish priest of St. Peter’s in Speyer at Eastertime of 1487(?). On December 14, 1486(?), one of Drach’s employees received twelve copies for wholesaling; six copies were dispatched to Nivenstadt (Neustadt an der Weinstrasse, near Speyer) on January 12, 1487; at an indeterminate date in perhaps 1486 or 1487 sixteen copies were taken to Nivenburg (Neuenburg in the Upper Palatinate); ten copies were sent to Nuremberg and Augsburg, probably in April, 1487; fifteen copies were sold in Leipzig in 1488; in August, 1490, a book dealer in Tübingen bought six copies; twenty copies were received for sale at the important fair at Frankfurt in 1491.

virtually no empty space anywhere, the apology is followed by a blank page. Though the exact logic of this piece of evidence is not stated, the thought must be that since the apology consists of only one page of text, the fact that it is unusually followed by a blank page means that it was printed separately from the rest of Drach's printing and thus there was no way to avoid leaving the back (verso) side of the new leaf blank. In addition, the single-column format of the apology makes it resemble the portion published by Schöffler, in contrast to the double-column format of the rest of Drach's portion, and thus the apology forms an aesthetic "bridge" between the two separate publications. The internal evidence of the main section, however, shows that this hypothesis is impossible.

The first page of the main text bears the signature "a2," which must mean that the signature "a1" should have appeared at the bottom of the apology (and was presumably omitted for aesthetic reasons). This means that the apology was printed at exactly the same time as the other folios that form the first gathering, and it is impossible for it to have been printed at a later date.<sup>289</sup> In fact, so far from being printed separately long after the rest of Drach's portion in the late spring of 1487, the apology represents the very first words of the *Malleus* that were composed back in the fall of 1486.<sup>290</sup>

What then to make of the odd fact that Schöffler's portion seems to suggest that the table of contents would follow directly, when in fact

<sup>289</sup> In printing a book during this period, the plates for a number of pages were produced ("composed") together, and after being arranged appropriately in a form, these pages were then printed on both sides of a large piece of paper, which could then be folded up and cut open, with the pages appearing in the right order. Such a group of pages printed on a single sheet was termed a gathering; all the gatherings for a given edition of a book were produced at the same time, and the gatherings would be produced one after another. In order to ensure that the sheet had been folded properly and that the gatherings were arranged in the correct order in each copy of the book, "signatures" were added at the bottom of the initial few pages of each gathering. Each gathering was given its own letter of the alphabet, and the Roman numbers were added to the first few odd-numbered (four out of sixteen in the first edition of the *Malleus*, which was printed in octavo format). If the numbers of the signature were in the proper order, then the book had been assembled correctly. (For the details of this procedure, see Gaskell [1974], 40–57, esp. 51–52 for signatures.) Thus, "a2" on the first page of the main text means that the preceding folio must be "a1," which in turn means that that page was produced at the same time (and on the same sheet) as the other pages of the first folio and could not have been printed and inserted at a later date.

<sup>290</sup> Behringer *et al.* (2000), 28–29, argue that the shift in the excerpts of Drach's records from the German *tractatus wider zauberer* (and the like) to the Latin *Malleus Maleficarum* around Eastertime in 1487 is to be attributed to the later inclusion of the apology with its reference to the Latin title in its heading, but such an explanation of the shift in language is clearly ruled out. Their discussion on p. 24 of the production rates for the book is likewise vitiated by the apparent assumption that an entire copy of the work could be produced in a single day (though this misunderstanding does not affect their calculations about the total amount of time necessary to finish the whole job).

the apology intervenes? To explain this we must look at the second and third editions of the *Malleus*, which, like the main section of the first edition, were published by Drach. In these, the order of the work is: apology, bull, approbation, table of contents, main text.<sup>291</sup> Thus, it can be assumed that the note at the end of Schöffner's portion indicates not the situation that would obtain in the composite first edition but the situation that would appear in subsequent editions, when the peculiarities of the first would be removed. And now we should turn to these peculiarities.

Why were the bull and the approbation published separately? The main reason must be the process by which the approbation had to be obtained. As an "inquisitor of heretical depravity specially appointed by the Holy See," Institoris (and presumably Sprenger) did not feel the *need* to receive the approval of the theologians of the University of Cologne. No doubt the authors were convinced of the orthodoxy of their work. Instead, the approbation provided external validation of the view of sorcery presented in the work, a view that apparently met with resistance in many quarters, as both the introduction to the approbation and the main text repeatedly complain. Therefore, the approval did not have to be acquired before publication, and in fact such a procedure would have been highly inconvenient, since in that case a handwritten copy would have had to be submitted for the perusal of the theologians. Apart from considerations of the cumbersome state of the unpublished manuscript, such a procedure would entail either the dangers inherent in turning over the single manuscript meant for the compositor to use in type-setting the book (what would happen if part or all of the manuscript was lost?), or the huge expense of having an entire copy of such a monstrously long work transcribed specifically for the theologians' perusal. All of this would be obviated if the theologians were presented with a copy of the printed version of the main text. Thus, if the book was already available in December, 1486, there would have had something like six months for them to receive and examine the work before giving their assessment in the following May.

But what of the bull? First, it is clear from several references in the main text that the reader was expected to have knowledge of it, which could only be the case if it was published with the main text.<sup>292</sup> Thus, its inclusion was presupposed from the beginning. Though there is no way of telling why it was not published in Drach's section, one may

<sup>291</sup> For the bibliographic information on these editions, see Schnyder (1993), 2.

<sup>292</sup> It is overtly alluded to in 3A, 20B, 20D, 45B, 52C, 71C, 190C.

conjecture that the reason has to do with hierarchical conceptions. If it was included in Drach's portion, it would presumably intervene between the apology and the table of contents, as was the procedure in the second and third editions. If this was the case, then the approbation, which was the only section of the whole work that could not be type-set back in the fall of 1486, would precede the bull, but clearly the bull was meant to take pride of place, as the main validation of the conception of sorcery argued for in the book (it is clearly assumed in the work that the pope shares that conception). The only solution for the first edition was to have the bull published separately along with and preceding the approbation. Presumably, it was intended that Schöffner's portion would be bound in front of Drach's, which would then give the order: bull, approbation, apology, table of contents, main text. Thus, the only element that would be out of place compared to the proper order given in the second and third editions would be the apology. Behringer *et al.* (2000) would then be partially correct in associating the choice of the single-column format for the apology with the similar format of Schöffner's portion, but the motivation is more than simply aesthetic. All of the "front matter" of the work (the portion of the text that would appear in a modern edition with roman rather than arabic pagination) is marked off from the main text by this different format, and the apology was drawn up in this way not because it was intended to form a "bridge" but because it was meant to be the initial section of the whole work, a position that it could not hold in the first edition because the approbation could not be acquired until after the publication of the main text. While it is conceivable that the authorial manuscript may have contained this differing arrangement, it seems more likely that it should be attributed to the publisher (that is, Drach).

This conclusion brings us to the question of why the bull and approbation were produced by a separate publisher if it was Drach who determined the single-column format. Since he was also the publisher of the second and third editions, one would imagine that he ought to have also undertaken this very subordinate element of the publication of the first one (after all, the bull and approbation consist of only three leaves). The only hypothesis that can explain all of this evidence is that Drach was simply busy with some other job at the time when Institoris finally received the formal version of the approbation drawn up by the notary in May, 1487. Thus, he simply "farmed out" the job to Schöffner, who, it must be admitted, was an inferior publisher.<sup>293</sup>

<sup>293</sup> His small text has some misprints in it, and in any case his font is clumsier than Drach's.

*sc Title of the work*

The term *malleus haereticorum* (“hammer of heretics”) was a term of approbation for those zealots of orthodoxy who endeavored to “smash” those with other views.<sup>294</sup> Use of this term apparently goes back to Late Antiquity, but from the thirteenth century on it became a favorite designation for those who undertook to wipe out heresies like those of the Cathars and the Waldensians. The term later continued to be used of Catholic opponents of Protestantism like Johannes Faber, who attacked Luther and Zwingli. The term was transferred to a literary work with the *Malleus Judeorum* (“Hammer of Jews”) of the inquisitor John of Frankfurt, which appeared around 1420. This set the precedent for the title of the *Malleus*, with the heretical sorceresses (*malefice*) replacing the traditional heretics as the object of its attack.

The traditional English translation “Hammer of Witches” is literally correct but not very helpful in convey the sense of the phrase. Grammatically, *maleficarum* is an objective genitive, which means that it should be the object of the underlying verb to which a noun with a verbal sense corresponds. Thus, the “hammer of witches” is the instrument that “hammers” or “smashes” the witches. This sense would be better conveyed by a compound noun: “witch hammer” (just as a tack hammer is a tool designed for hammering tacks).

*sd Changes in the organization of the work*

The *Malleus* not only has a general table of contents at the beginning but is also filled with a number of passages that describe the organization of various subsections.<sup>295</sup> In addition, the work contains numerous cross-references to other sections. For the most part these references to the organization of the work are correct, but there are a certain number of instances in which these references do not in fact reflect the work as it stands, and these discrepancies provide information about the original conception of the work and how this conception changed during the course of composition.

*sd.i Division into three parts*

The apology indicates (2B) that in honor of the Trinity the work is organized into three parts, which treat the origin, development and

<sup>294</sup> Hansen (1901), 361–362, gives a short history of the term. He claims that Jerome was given the title, though I have only found it used of St. Augustine and Filaster the bishop of Brescia.

<sup>295</sup> 20B–21A, 39D–40A, 64B, 85D–86B, 158D–159A, 193D–194B, 217D–218A.

eradication (*originem, progressum et finem*) of sorcery. This description is elaborated on at the start of the main text, which states (3A) that the work has three main topics: "first the origin, second the development, third, the final remedy, the origin in terms of increase in numbers, the development in terms of carrying out works, the final remedy in terms of exterminating that heresy" (*primo originem, secundo progressum, tercio finale remedium, originem quo ad multiplicationem, progressum quo ad operum executionem, finale remedium quo ad illius heresis exterminium*). This rather contrived description does not really fit the actual contents of the three parts of the work, and it is perhaps simply an artificial attempt to follow Aristotle's fundamental threefold division of any phenomenon into its beginning, development and end.<sup>296</sup>

In the present arrangement, Parts 1 and 3 have a single cohesive topic – the former demonstrates the theoretical reality of sorcery and the latter the methods of exterminating sorcery through judicial prosecution – and each part is subdivided into separate topics called questions. Part 2, on the other hand, consists of two quite separate sections called questions, and these two questions are in turn divided into subunits called chapters, which correspond to the questions of the other two parts. Of these questions of Part 2, the first question treats the practice of sorcery, while the second treats the cures for sorcery. There is evidence, however, for a different, earlier arrangement of this material.

References in Part 1 show that the two questions of the present Part 2 were originally meant to be independent, in that discussions in the present Q. 2 are several times referred to as appearing in Part 3 (9C, 49B, 58D). This suggestion, that at an earlier stage a division between the second and third parts was meant to be placed at the end of the present Q. 1 of Part 2, is corroborated (though not proven) by several instances in Part 1 where discussions that appear in Part 2, Q. 1 are ascribed simply to Part 2 without any specification of the question (11A, 11C, 37A, 60B, 64B, 85B). In addition, the start of the introductory passage of Part 2 (85D–86A) counts only Q. 1 (though Q. 2 is soon mentioned), and after speaking of a twofold division of the material, it in fact specifies three topics, the first two representing the substance of Q. 1 and the third that of Q. 2, which therefore seems to have been an addition. Furthermore, there are three instances in Part 3 (203C, 251C [twice]) that apparently confirm that the division between the second and third part was originally made between the present Qs. 1 and 2 of Part 2 in

<sup>296</sup> The superstitious fetish about the number three also brings to mind the monk in Browning's *Soliloquy of the Spanish Cloister*, who prides himself on drinking his orange juice in three gulps to "frustrate" the Arian and "illustrate" the Trinity.

that the introductory question of Part 2, Q. 2 (153A–154B) is ascribed to Part 3.<sup>297</sup> In addition, the treatment on the penalties for those who harbor sorcerer archers is located “in the second basic division of the work at the end” (253B), but this material actually appears at the end of Part 2, Q. 1. However, most cross-references in Parts 2 and 3 refer to the present arrangement. In Part 2, Q. 2 there are many references to Part 3 that overtly characterize it as dealing with the judicial persecution of sorceresses (133A, 150A, B, 151A, 166C, 183D), and in Part 3, Part 2 is cited as concerning “remedies,” which ought to signify Part 2, Q. 2 (208A, 214A and 252C–D, though oddly the second reference is apparently to Part 2, Q. 1, and the third is difficult to identify; other references to Part 2: 203C, 210D, 214D).

It would seem, then, that the original division of the work was into sections treating the theory, practice and cure for sorcery, the cure consisting both of remedies against the practices (the present Part 2, Q. 2) and of exterminating the sorceresses themselves (the present Part 3). At some point after the initial composition, it would seem that the first half of the old third part was detached and added to the old second part, and while most cross-references were revised to bring them into alignment with new arrangement, a number were left that refer to the old scheme.

### *5d.ii Changes in the divisions*

5d.ii.α Shift of material from Part 1 to Part 2 In the introductory passage (39D–40A) to Part 1, Q. 6, a number of matters involving the

<sup>297</sup> Schnyder (1993), 243, simply dismisses the cross-reference in 203C as false, and on p. 285 he gives a quite different explanation for the false reference in 251C. He thinks that the passage referred to there is not the introductory “difficulty” of Pt. 2, Q. 2, but a discussion in Pt. 2, Q. 2, Ch. 6 (177B–C). He argues that the cross-reference erroneously located the passage at the start of Pt. 3, because Institoris was misled by a paragraph in the cited passage that begins “as for the third main part” (*quo ad tertium principale*). This argument is rather unlikely. First, while it is true that *tertiium principale* could by itself be taken as meaning “Part Three” (cf. 253B), the compound preposition *quo ad* (“as for”) makes it perfectly clear that the whole phrase marks the transition to some subordinate point in the immediate discussion rather than the start of Pt. 3. (And surely the context would suffice to indicate that this was not the start of Pt. 3.) Second, if he was so unaware of the location of the passage that he was misled by a few words in it, how could he have found it in the first place? Schnyder claims that Institoris was “flipping back in his manuscript” (*in seinem Manuskript zurückblätternd*), but it strains credulity to think that if he had no idea where it was, he could have used such an unsystematic procedure to find a short passage that appears thirty-seven folios earlier in the printed version. In any case, Schnyder gives no explanation for why, just a few sentences later in the same paragraph, a passage that is clearly at the start of Pt. 2, Q. 2 is similarly located at the start of “the present Part Three.” Surely, the same explanation must lie behind these two errors (as well as the similar error in 203C).

interaction of demons and sorcerers are laid out, and then it is stated that discussion of these topics is being postponed to Part 2, where they duly appear in Q. 1, Chapter 4 (105D–114A), with an introduction that repeats virtually verbatim that of the earlier passage. It is argued by Stephens (2002), 38–52, that the discussions of these topics had in fact originally appeared in Q. 6 of Part 1, and were at a later stage transferred to their present location in Part 2. He has two substantive pieces of evidence:

1) In 108C, it is stated in regard to the sexual misconduct of sorceresses with demons that “these events will be treated one at a time in Part 2 of the work, where their particular works will be described.” Such a discussion appears in a previous passage of Part 2 (Q. 1). Hence, while the reference to a future discussion in Part 2 seems odd in its present location, it would have made perfectly good sense if the passage in which it appears had been transferred from Part 1.

2) In 110D, it is stated that certain insulting practices that sorceresses are obliged to perform in the mass “will now be discussed in Part Two,” but the discussion in question appears earlier, in 93B–C.

This hypothesis also makes sense of a separate false reference. In 64A there is a reference to “the Inquisitor of Como mentioned above.” He has not in fact been mentioned previously, and a later reference in 108C seems to describe him as if for the first time. If, however, the discussion in 108C had originally appeared in Q. 6 of Part 1, then this would have been the first mention and the later indication in 108C that he had already been mentioned would make sense. Furthermore, the introductory summary of subsequent material in 111C–D seems to provide a better description of what would follow after the posited original location in Part 1, rather than what follows the present location of the passage.

A further claim is made by Stephens (2002), 43–46, that a section of the transferred passage in Part 2 (108A–109B) was actually originally at the end of Part 1, Q. 5. He argues:

1) The block of material in question “forms a large, coherent block.”  
 2) It intervenes “somewhat clumsily” between the material before and after.

3) The topic is not foreseen in either of the two introductory passages (i.e., 39D–40A or 105D).

These arguments hold little weight, for the following reasons:

1) Since the section at hand overtly deals with a single topic, it is naturally a “coherent block,” but this says nothing about it not originally belonging where it stands.

2) There is nothing “clumsy” about the intervention. The issue is an explanation of a foreseen objection to the first topic, and its placement as such is perfectly natural.<sup>298</sup>

3) As just indicated, the issue is a preventative countering of a potential “difficulty” that might arise as an objection to the conclusion reached in the first topic, and thus deserves no independent mention in an introductory outline of the topics to be discussed.

Thus, there is overall support for the argument that the content of Part 2, Q. 1, Ch. 4 was transferred from an earlier placement in Part 1, Q. 6, but even if such a procedure did take place, this hardly validates the conclusions that Stephens draws from it. He argues that the shift was motivated by a realization of certain inadequacies in the demonstration of female intercourse with demons, but his explanations of what was considered inadequate about the original version and the motivations for the change are quite implausible, and show little sensitivity to the actual thoughts of the author.<sup>299</sup> I think the reason is more pragmatic. Pt. 1 discusses theory, and once work was begun on Part. 2, Q. 1, it was realized that the more practical nature of the content of this section made it a more suitable location for the discussion of the practices of sorcery, and this material was therefore transferred there.

5.ii.β Omitted question The main table of contents indicates that Qs. 6–17 of Part 3 each discuss one of the twelve steps that a judge must take in investigating an accusation. All goes well in the main text down through Q. 12/Step 7. After this question, the table of contents indicates that Q. 13/Step 8 was to discuss what the judge is to do when the

<sup>298</sup> Stephens (2002), 43, muddies the issue by characterizing this section as covering “expert-witness arguments” as if it were unconnected to the surrounding discussion, but the text itself makes it very clear that the discussion is a rebuttal of potential objections to what precedes it.

<sup>299</sup> Stephens (2000), 39–40, thinks that there is a major “discrepancy between the women’s evil chapter [i.e., Pt. 1, Q. 6] and the chapter’s original title” (39), but his argument is prejudicial and misleading. He repeatedly speaks of the chapter as discussing “women’s evil,” but there is nothing to show that that is how it was conceived of by its author. According to him, the list in 39D–40A of topics whose discussion is deferred shows that originally the “problem discussed was, not women’s evil, but the discoverability of demons” (39) but “[a]fter writing the chapter in its original form, Kramer decided that the reader’s acceptance of demonic copulation must be more carefully prepared. So he wrote a new chapter on the inherent evil of women” (40). But there is not the least indication elsewhere in the text that the “discoverability of demons” was debatable at all, much less that there was any reason to wish to debate the matter. The existence of demons and their intervention in the world is taken for granted throughout the text, and the only place where their existence has to be dealt with is the discussion of how to dispel their supposed ability to prevent the confession of sorceresses under torture (Pt. 3, Q. 15). While Stephens is to be commended for noticing evidence that suggests the transfer of the passage, his explanation of the motivation for it entails a great deal of groundless supposition about the author’s original plan and his subsequent change of it.

accused demands that he recuse himself, but no such question appears in the text. Instead, Q. 12 is followed by Q. 14/Step 9 and Q. 15/Step 9, which seem to continue the numbering that would be expected if the question about the recusal had been included. But Q. 15/Step 9 is followed by a second Q. 15, which is called Step 10, and then by Q. 16/Step 11. Thus, it would seem that while the step numbers are left undisturbed by the omission of Step 8, an effort was made to reduce the question numbers appropriately starting from the end, but only the last two were changed, which left the numbering of the two questions that immediately followed the omitted one unchanged, and resulted in the duplication of the number fifteen. The introductory passage that lays out these steps in 194A–B correctly numbers them consecutively, which indicates either that the omitted question was never written at all, that the introduction was written after the decision was made to omit the question already written, or that the introduction was correctly revised once the already written question was omitted. The disordering of the headings makes little sense if the eighth question was never written, so presumably one of the second two alternatives must be correct (the last one seeming more likely). This procedure suggests that the main table of contents is based on some sort of organizational list drawn up before the composition of the main body of the work.

5d.ii.y *Erroneous cross-references* It seems that erroneous cross-references are sometimes to be ascribed to various mental slips. Twice, Q. 33 of Part 3, a discussion of certain stratagems that appear in the last two questions (15–16) of Part 2, is ascribed to “the present Part Three” (249B plus 250D). Presumably this mistake is to be explained by positing that the reference was made without consultation of any sort of table of contents and is a mental slip. At any rate, there is also an erroneous cross-reference in 250A in which a topic that is discussed in Part 2 is stated to be in Part 1.

There is a different sort of error in Part 3, concerning instances in which the numbered “methods” of sentencing are ascribed to the wrong question. In Q. 33 (248D), Method 2 is said to be in Q. 22, but the reference should be to Method 3 in Q. 22. The mistake made here seems to have led to corresponding confusion throughout the rest of Q. 33, the number given for the question for each method being too low by one. The easiest explanation for this consistent mistake is as follows. A mistake was made in looking up the relevant question in 248D (back in 248C the correct number was given), and on the basis of this mistake, it was assumed that the question in which a given method appears could

be determined simply by adding the number of the method to twenty, a procedure that was followed later (249C). This explanation presupposes that the appropriate method for cross-referencing was determined by consulting a list that enumerated the methods without indicating the number of the corresponding question (see 224D–225A). This also explains why the references to Qs. 15, 16 and 19 give the correct number (250B, D). Thus, the mistaken references here have nothing to do with the decision to drop the Step 8 originally intended in Q. 13 (see 5d.ii.β), which after all should have no bearing on the misnumbering of Step 2.

5d.ii.δ Other deviations of table of contents from main text Ch. 9 of Pt. 2, Q. 2 is listed as the last chapter of the question in the table of contents (4D), where it is said to deal with the topic of those who get involved with demons for the sake of temporal gain. In the main body, this topic is simply a small section at the end of Ch. 8 (184A), which is the last chapter of the question.

*5d.iii Outline of the actual organization of the work*

The actual argument of the work as it appeared in the final draft can be outlined as follows.<sup>300</sup>

- I) Proof of the existence of sorcery (1.1)
- II) The elements involved in the performance of sorcery
  - A) Demon
    - 1) Demons necessarily co-operate with sorceress (1.2)
    - 2) Demons beget humans to increase the number of sorceresses (1.3)
    - 3) Only low-ranking demons have sex with humans (1.4)
    - 4) Sorcery cannot be ascribed to astrological influences or to human evil or to the utterance of magic formulas, to the exclusion of demonic assistance (1.5)
  - B) Sorceress
    - 1) Why women engage in sorcery more than men do (1.6)
    - 2) What sorts of sorcery women engage in
      - a) Women turn humans' minds to love or hatred (1.7)
      - b) They impede procreation (1.8)
      - c) They seemingly remove penises (1.9)
      - d) They seemingly turn people into beasts (1.10)
      - e) Midwives kill fetuses and newborns (1.11)

<sup>300</sup> For a discussion of the way in which large initial letters are used in the first edition to mark off sections, see Latin Introduction, 3 d.

- C) God's permission
  - 1) Proof that God permits sorcery (1.12)
  - 2) Incidental discussion of why God allows sin (1.13)
  - 3) The sins of sorceresses are worse than those of Satan or of Adam, and than those of regular heretics (1.14)
  - 4) Why God allows the innocent to be harmed by sorcery (1.15)
  - 5) Sorcery is worse than other sorts of magic (1.16)
  - 6) Sorcery is a worse sin than the fall of the demons (1.17)
  - 7) Refutation of seven laymen's arguments against God allowing the existence of sorcery (1.18)
- III) The practice of inflicting and curing forms of sorcery
  - A) Certain people are exempted from being harmed by sorcery (unnumbered)
  - B) Methods of inflicting sorcery
    - 1) Recruitment and initiation of sorceresses
      - a) Methods of enticement of the innocent through sorceresses (2.1.1)
      - b) Avowal and homage to Satan (2.1.2)
      - c) How they move from place to place (2.1.3)
      - d) How they have sex with demons (2.1.4)
    - 2) Methods of infliction
      - a) The use of sacraments in sorcery (2.1.5)
      - b) Impeding procreation (2.1.6)
      - c) Removal of penises (2.1.7)
      - d) Turning people into beasts (2.1.8)
      - e) How demons can exist inside people (2.1.9)
      - f) How demons can possess people (2.1.10)
      - g) General method of inflicting illness (2.1.11)
      - h) Specific methods of inflicting illness (2.1.12)
      - j) How midwives kill babies or offer them to Satan (2.1.13)
      - k) How sorceresses cause bad weather (2.1.14)
      - l) Harm to domestic animals (2.1.15)
      - m-o) Male sorcerers (archers, enchanters, users of grimoires) (2.1.16)
  - C) Methods of curing sorcery
    - 1) Demonstration that curing sorcery is permissible (unnumbered)
    - 2) Cures for incubus/succubus demons (2.2.1)
    - 3) Cures for impeded procreation (2.2.2)

- 4) Cures for irregular love/hatred (2.2.3)
  - 5) Cures for removed penises and for people turned into beasts (2.2.4)
  - 6) Cures for demonic possession (2.2.5)
  - 7) Cures for illnesses inflicted through sorcery (2.2.6)
  - 8) Cures for bad weather caused by sorcery (2.2.7)
  - 9) Cure for those who seek temporal gain (2.2.8)
- IV) Judicial extermination of sorceresses
- A) That sorceresses and their accomplices are subject to both ecclesiastical and civil jurisdiction, and that inquisitors do not have to involve themselves in such cases (unnumbered)
  - B) Initiating proceedings
    - 1) How to begin proceedings (3.1)
    - 2) Number of witnesses (3.2)
    - 3) How to examine the witnesses (3.3)
    - 4) Who is allowed to give testimony (3.4)
    - 5) Exclusion of mortal enemies (3.5)
  - C) Investigation
    - 1) Continuation of proceedings (3.6)
      - a) Non-legalistic nature of the proceedings
      - b) List of questions (Step 1)
        - i) General
        - ii) Specific
    - 2) Number of witnesses (3.7/Step 2)
    - 3) When the suspect is to be considered guilty (3.7/Step 2)
    - 4) Detention and arrest of suspects (3.8/Step 3)
    - 5) How to conceal names of the witnesses from the accused (3.9/Step 4)
    - 6) Assigning a suitable advocate to the accused (3.10/Step 5)
    - 7) The advocate is not allowed to cite any defense apart from enmity on the part of the witnesses (3.11/Step 6)
    - 8) Investigating such charges of enmity (3.12/Step 7)
 

[omitted issue of demand by the accused that the judge recuse himself (would have been 3.13/Step 8)]
    - 9) Considerations of the feasibility of extracting a confession through torture (3.14/Step 9)
    - 10) Sentencing the accused to questioning under torture and initiating it (3.15/Step 10)
    - 11) Precautions against the sorcery of silence (3.15/Step 11)
    - 12) Ruses to facilitate confession (3.16/Step 12)

- V) Twenty methods of passing sentence
- 1) (1) Rejection of judgment by ordeal (3.17)
  - 2) (2) Generalities about how to pass sentence (3.18)
  - 3) (3) The kinds of suspicion that result in passing of sentence (3.19)
  - 4) Methods of passing sentence if the accused is found:
    - a) (4) to be innocent (3.20/Method 1)
    - b) (5) to have a bad reputation (3.21/Method 2)
    - c) (6) to be subject to questioning under torture (3.22/Method 3)
    - d) (7) to be lightly suspected of heresy (3.23/Method 4)
    - e) (8) to be vehemently suspected of heresy (3.24/Method 5)
    - f) (9) to be violently suspected of heresy (3.25/Method 6)
    - g) (10) to have a reputation for heresy and to be generally suspected of it (3.26/Method 7)
    - h) (11) to have confessed to heresy and to be penitent but not relapsed (3.27/Method 8)
      - i) (12) to have confessed to heresy and to be penitent and relapsed (3.28/Method 9)
      - j) (13) to have confessed to heresy and to be impenitent but not relapsed (3.29/Method 10)
      - k) (14) to have confessed to heresy and to be impenitent and relapsed (3.30/Method 11)
      - l) (15) not to have confessed but to be legally convicted (3.31/Method 12)
    - m) (16) to have confessed to heresy but to be a fugitive (3.32/Method 13)
    - n) (17) to have been denounced by a convicted sorceress and not to have confessed (3.33/Method 14)
    - o) (18–20) not to have inflicted but to have broken sorcery unlawfully; to have inflicted death through affecting weapons with sorcery; to have offered babies to Satan as a midwife; also how to deal with those who obstruct the inquisition (3.34/Method 15)
  - 5) How to deal with legal appeals (3.36)

*se Memorandum of 1485/86*

As recently as the fall of 1485 or even the winter of 1486, Institoris had written a memorandum about witch hunting for the bishop of Brixen (see General Introduction, 4b.ii.β) that in many ways resembles

the procedural details in Part 3 of the *Malleus*.<sup>301</sup> This document has three sections and is for the most part a preliminary version of the legal material laid out in Part 3 of the *Malleus*. It has a short introductory section on the number of witnesses.<sup>302</sup> Next, another short section deals with arguments parish priests can use to demonstrate the existence of sorcery.<sup>303</sup> By far the largest section covers the methods of sentencing sorceresses.<sup>304</sup> Like Part Three of the *Malleus*, the document is mainly based on the *Directorium Inquisitorum* of Nicholas Eymeric, but there are numerous deviations in the treatment. In particular, much of the ecclesiastical procedure that still appears in the *Memorandum* (e.g., the granting of indulgences to those who take part in the legal procedure against heretics or attend the resulting public abjuration or execution) is excised in the *Malleus*. It is not the case, however, that the *Malleus* merely abbreviates the presentation of the *Memorandum*. At one point, Eymeric shows off his ability at preaching by inserting (rather pointlessly) a sample sermon at the beginning of a legal formula, and while this text is omitted in the *Memorandum*, it duly appears in the *Malleus* (245C–246A), which at the very least shows that the *Malleus* was composed through direct consultation of the text of Eymeric and not simply through modification of a draft of the *Memorandum*. Apparently, Institoris did not keep a copy of the *Memorandum* for himself, or even if he did, he used the original text of Eymeric for composing the *Malleus*. Thus, when the text of the *Malleus* agrees with Eymeric against the *Memorandum*, this is the result of using the text of Eymeric directly in the process of adaptation, while agreement of the *Memorandum* and the *Malleus* against Eymeric is to be attributed to defects in Institoris's copy of Eymeric.<sup>305</sup>

#### *sf Sources used in the composition of the Malleus*

It is stated quite clearly in the introductory apology that the *Malleus* should not be thought of as the work of its authors. Rather, the *Malleus* was to be considered the work of those authors from whose works the

<sup>301</sup> It was written after the release of the suspects (after the suspension of their trials) in late October, since the *Memorandum* (465) refers to their release on bail. There is no way to tell how long after their release the document was drawn up, but certainly the composition of such a long text must have taken at least several weeks.

<sup>302</sup> This corresponds to Pt. 3, Q. 2.

<sup>303</sup> This section is least like the *Malleus* in its phraseology, though its content is not divergent.

<sup>304</sup> This section corresponds to Methods 1–13 of bringing the proceedings to an end, treated in Qs. 20–32.

<sup>305</sup> The most notable such agreement in error is the phrase *brachio seculari traditus* in both the *Memorandum* (498) and the *Malleus* (240A) in place of the correct reading *seu brachio seculari tradimus* in Eymeric.

text of the *Malleus* was excerpted. A modest deprecation of one's own contribution to the finished work was no doubt necessitated by the humility expected of a Dominican friar, but the work is certainly much more than simply a collection of excerpts. While the *Malleus* does in fact contain a large amount of borrowed material that is to a greater or lesser degree adapted to its new context, a greater contribution is made by the authors than this statement would indicate. In the first place, the sometimes extensive excerpts are situated within the broader argument by original discursive passages. In addition, there is also a fair amount of anecdotal material about sorceresses and about investigating and trying them that largely or perhaps even entirely derives from the personal experience of Institoris.

The *Malleus* is full of a very large number of references to previous authors, but these references give a rather misleading impression of the number of sources that were actually consulted in the composition of the work. In fact, the number of works directly consulted and used in the composition is quite small. It becomes easier to identify these works the further one goes in the *Malleus*.

#### *sf:i Primary sources*

Part 3 is mostly derived (with the exception of the introductory question) from the *Directorium Inquisitorum*, a handbook of inquisitorial procedure written by the Spanish Dominican Nicholas Eymeric. Born in the Spanish kingdom of Aragon in 1320, Eymeric entered the Dominican Order in 1334 and became prominent both within the order itself and in the church at large. He was inquisitor general in Catalonia, Aragon, Valencia and Majorca from 1357 to 1392 (with two large gaps due to his being exiled from Aragon for political reasons), and he wrote the *Directorium* in about 1376 in Avignon (he held the position of chaplain to the pope, who was then residing in Avignon). He presided over the general chapter of the Dominican Order in Rome in 1391, and after returning to Aragon in 1397, he died in 1399. Eymeric's handbook is interested in outlining the procedure to be used by inquisitors in tracking down and investigating heretics, and this emphasis carries over into Part 3 of the *Malleus*, which takes over from Eymeric the emphasis on procedural detail and sample formulas for passing sentence.

The situation with Part 2 is less tidy. Given its divergent topics (the activities of sorceresses and the ways to counteract them), it is not surprising that the sources are likewise various. In particular, this part of the work has the largest number of anecdotes from personal experience (almost certainly that of Institoris). In terms of written sources, two

works by the Dominican John Nider stand out. Born in ca.1385 in the area of southern Germany called Swabia, Nider joined the Dominicans in 1402, and after studying theology at the Universities of Cologne and Vienna, had become by the late 1420s a leading proponent and implementer of the reform movement (see General Introduction, 1c) of the Dominican Order within the province of Teutonia.<sup>306</sup> He attended the Council of Basel from its opening in 1431 until the year 1434, when he was appointed a professor of theology at the University of Vienna, and most of his numerous writings can be dated to this period. In 1437–1438, he wrote the *Formicarius* (“Ant Hill”), in the fifth book of which appears one of the earliest written discussions of the “elaborated concept of witchcraft” (see General Introduction, 2c.iii.α), and at the same time or slightly later he wrote his *Praeceptorium Divinae Legis* (“Book of Commandments of God’s Law”), which contains a number of passages dealing with witchcraft and is the other main source for Part 2.<sup>307</sup> This seems to have been the source of Institoris’s understanding of the sect, and extensive passages of Part 2 are based on this work.

With Part 1 the situation is even less clear. The main detectable source is a large number of selections from Aquinas, which are modified and excerpted as required. Conceivably, this procedure of remodeling this source material was carried out for the first time in the composition of the *Malleus*, but this seems unlikely. In the first place, such a procedure seems to be contradicted by the words of the apology, which disclaim any originality on the part of the authors (2B). In any case, there is no such originality of thought in Parts 2 and 3, which merely rearrange the previous discussions of Eymeric and Nider without drastically modifying the material for present purposes. Furthermore, the passages from Nider contain large numbers of quotations from Aquinas, and if we did not have Nider’s original version, one might be inclined to attribute the adaptation of Aquinas to the authors of the *Malleus*. Overall, then, it would seem that some previous (and now unknown) work that argued for the theoretical existence of witchcraft was used as a source.<sup>308</sup> In addition to the many excerpts from Aquinas, a major source for this section is the *Summa* of Antoninus of Florence (see next section), which contained an extensive discussion of the failings of women. This material appears in a highly remodeled form in 42B–45A. Antoninus used the

<sup>306</sup> For the facts known about Nider’s life, see Bailey (2003), 14–28.

<sup>307</sup> For the dating, see Bailey (2003), 153.

<sup>308</sup> See General Introduction, 4c for the suggestion that Sprenger may have been responsible for this part of the work.

silly conceit of giving a fault of women for each letter of the alphabet, a device dropped in the *Malleus*, and the material that is borrowed is drastically reordered. Again, it is conceivable that this process of revision was carried out in the composition of the *Malleus*, but such extensive revision is not attested in the other two parts and it seems more likely that this adaptation of Antoninus first appeared in the unknown source from which the passages of Aquinas that appear in Part I were also borrowed.

Finally, there are certain passages that refer to the legal views of early canonists on a variety of topics and to the penalties of sorcery imposed in civil law (9A–10B, 73A, 74C, 185C–D, 221C–222C). It is likely that these too derive from an unknown legal handbook.<sup>309</sup>

As already noted, it was standard practice to mix new material into the main source (see General Introduction, 2a.iv.α). In addition to the legal sections already noted, there are a number of substantial stretches of text which are unattributed. Both the discussion of the concept of sorcery argued for in the text and the anecdotal material about witch hunting are likely to be direct authorial composition, but technical material (e.g., the discussion of the etymology of the names of demons in 28D–29B) probably comes from other sources that have not yet been identified.<sup>310</sup> Now that the issue has been made clearer, perhaps the works from which such excerpts were taken can be determined.

On the topic of primary sources, a point from a negative perspective is worth noting. Even though the mid-fifteenth century saw the composition of a large number of works on the subject of witchcraft, there is no evidence for the use of any of these in the writing of the *Malleus*.<sup>311</sup> Seemingly, the only written source was Nider (supplemented by the anonymous inquisitor of Como: see General Introduction, 2c.iii.β).<sup>312</sup>

<sup>309</sup> In the *Malleus* the only canonists cited by name are Hostiensis, the Chancellor, Bernard and Raymundus, but in the *Nuremberg Handbook*, Institoris cites a much larger range of sources, the latest of whom seems to be Angelus di Ubaldi of Perugia, who is conceivably the source of citation of earlier legal writers. As evidence for the use of some legal textbook, cf. the verbatim repetition of 12B in 222B–C.

<sup>310</sup> A common origin in an as yet unidentified source may also explain certain verbatim repetitions in the text (e.g., 83C–D=93C–D and 62A=119B–C; see also previous note). (Of course, the second appearance of similar words may simply be a copy of the earlier one, but such a procedure would be cumbersome, and the content of these texts suggests that they may well be borrowings from an earlier work.)

<sup>311</sup> For the written sources of the fifteenth century prior to the publication of the *Malleus*, see Hansen (1901), 67–242 (though many of these touch upon the subject of witchcraft only incidentally).

<sup>312</sup> In the *Nuremberg Handbook* Institoris refers (27v) to Albertus de Gandino's *tractatus maleficorum* ("treatise on sorcerers"), but the reference to this much earlier work is probably tralaticious (see below).

*sf.ii Secondary sources*

Secondary sources are those which were not consulted directly. Instead, the references to these works were present in the primary sources and were merely copied over when passages were borrowed from the primary sources. References borrowed from intermediate sources without any direct consultation of the cited work are called tralatitious, and the great majority of the references to earlier sources in the *Malleus* fall into this category.

A large number of citations are made from the Bible; for the most part the references speak for themselves, but a few comments about medieval citation of the Bible are necessary. First, the numbering of individual verses is a later convention and in the *Malleus* only the chapter number is cited. Also, in a few respects, the standard Latin text of the Bible used in the medieval church (the Vulgate) differed from many of the common English translations. First, the numbering of the Psalms is often slightly different. Second, modern translations generally ignore the so-called apocryphal books of the Old Testament (i.e., those not written in Hebrew).<sup>313</sup> Those that appear prominently in the *Malleus* are the Books of Ecclesiasticus (not to be confused with Ecclesiastes) and of Tobias (also called Tobit). It is also worth noting that the prestige of the writings of St. Paul led to him being referred to simply as the "Apostle."<sup>314</sup>

To avoid repetitious footnotes, a list (arranged alphabetically by first name) is given below of the works cited secondarily in the *Malleus*, which also provides a brief description of the authors and their works.<sup>315</sup>

Alexander of Hales (ca. 1185–1245) An Englishman who was both a prelate in England and a member of the faculty of theology of the University of Paris, he became a Franciscan friar in 1236/7. He became a favorite scholastic for Franciscans, and his *Summa theologica*, of which Part Two is cited in the *Malleus*, was the text for which he was best known. It is now clear that he did not finish the work, and the final version was completed and expanded by other Franciscans. He also played a key role in establishing

<sup>313</sup> These books duly appeared in the original version of the King James translation but were later omitted once the canonical status of the non-Hebrew books came to be rejected.

<sup>314</sup> Paul was not one of Jesus' original disciples but nonetheless considered himself to be one of his apostles.

<sup>315</sup> Snyder (1993), 288–305, provides a full index of the citations plus bibliographical information. Brundage (1995), 206–230, provides convenient short biographical sketches for the important canonists, and Gracia and Noone (2003) gives short essays on medieval philosophers (i.e., scholastics).

- the *Pronouncements (Sentences)* of Peter Lombard as the standard theological textbook.
- Albert (Albertus Magnus or "The Great," ca. 1200–1285) A German from Swabia, he entered the Dominican Order while studying law at Padua in the 1220s. In the early 1240s, the order sent him to study theology at the University of Paris, where he not only received a degree but was appointed to one of the Dominican chairs in the faculty of theology. In 1248 he moved to the University of Cologne. At both institutions, he instructed Thomas Aquinas. Despite the advanced age at which he came to be a scholastic, he undertook the monumental task of commenting upon all the works of Aristotle and played a crucial role in winning for the Greek philosopher a prominent place in scholastic philosophy.
- Algazel (Abu Hamid Muhammed al-Ghazali, 1058–1111) A Persian theologian of Islam who wrote in Arabic, he composed a work attacking the use of Greek philosophers in Islamic thought. As a preliminary to this work, he wrote another (*The Incoherence of the Philosophers*) that laid out his understanding of the views of the philosophers (most as outlined by Avicenna), but ironically, when this work was translated into Latin in the Middle Ages, the passages indicating the author's hostility to the views discussed were omitted and the views were attributed to him. The references to him in the *Malleus* come from Aquinas.
- Ambrose, St. (ca. 340–397) Bishop of Milan, he was a strict defender of orthodoxy and influenced several Christian Roman emperors.
- Anselm (†1109) An Italian who ran away from home and became a monk in France, he soon established a reputation for piety and learning and not only became abbot of the abbey of Bec but was eventually made archbishop of Canterbury (where he had difficult relations with the Norman kings William II and Henry I). Though his writings were influential, he wrote at the very beginning of the scholastic movement and his works were largely superseded by those of more mature scholastics.
- Antoninus (1389–1459) A Dominican prelate, he became archbishop of Florence in 1459 and wrote the *Summa theologica moralis* towards the end of his life. A popular work on various aspects of moral and ecclesiastical life, it provided the source of the rather negative view of women adopted in the *Malleus*.
- Archdeacon, the (Guido de Baysio, ca. 1250–1313) Italian canonist who first taught at Reggio and then at the famous faculty of law at

the University of Bologna (his papal appointment as archdeacon in the city gave rise to the title by which he was later known). He was best known for the *Rosarium*, a commentary on Gratian's *Decretum*, but his relevance to the *Malleus* comes from his having written an *apparatus* (collection of glosses) on the *Liber Sextus* (see General Introduction, 3a).

**Aristotle (384–322 BC)** He and Plato were the pre-eminent philosophers of ancient Greece, and while Plato's thought was somewhat mystical and allusive, Aristotle advocated the rigorous use of logic. Large numbers of his writings on various topics of philosophy and what we would call science (i.e., natural philosophy) survived antiquity, and the rediscovery of these works through Latin translation, first of Arabic translations and then of the Greek originals, had a profound influence on scholasticism (because of his seminal role in the development of scholastic thought he was known simply as "the Philosopher"). Tralatitious references to the *Eudemian Ethics* and *Nicomachean Ethics* are given simply as the *Ethics* without distinction. The pseudo-Aristotelian *Properties of Elements* is attributed to him.

**Augustine, St. (354–430)** Born a pagan in north Africa, Augustine first became a Manichaean, then converted to Christianity in 386 under the influence of Ambrose of Milan and was chosen as bishop of Hippo in North Africa in 396. He was far and away the most intellectually significant figure among the Latin-speaking Christian thinkers of Late Antiquity; very large numbers of his writings survive and these formed the basis of western theology until the time of the scholastics. His *City of God* (*De civitate dei*), which is the most frequently cited work of his in the *Malleus*, was written in the aftermath of the sack of Rome in 410, and its discussion of the role of God in human affairs provided the framework for the medieval understanding of history.

**Authentic (*Authenticum*)** Medieval term for the *Novels* (*Novellae*), the subsequent Imperial decisions of Justinian that were issued after the promulgation of his *Code*. These decisions were never officially issued as a collection, and two separate private collections survived in the West at the time of the revival of the study of Roman law in the eleventh century. The term *Authenticum* signifies the famous legist Irnerius's erroneous belief that one collection represented the "authentic" or official version.

- Avicenna (980–1037) He was a Persian interpreter of Aristotle who attempted to adapt the Greek philosopher's thought to the explanation of Islam, and in Latin translation his work had an influential impact on scholastic thought, especially Aquinas (from whom the references in the *Malleus* derive).
- Azo (ca. 1150–1230) Famous early legislator.
- Bede (672/3–735) A learned English monk who composed a large number of works on a variety of topics (both secular and ecclesiastical). His famous *Ecclesiastical History of the English People* treated the history of the Germanic population of England.
- Bernard, St. (of Clairvaux, 1090–1153) An early leader of the Cistercian movement of monastic reform, he founded the abbey of Clairvaux, of which he was the abbot. He took a prominent role in ecclesiastical affairs and had a heated dispute with the early scholastic Abelard, but in the *Malleus* he is simply cited in passing.
- Bernard (de Botone of Parma, †1266) After studying canon law at the University of Bologna, he became a canon of the cathedral of Bologna, where he taught canon law. His *apparatus* (collection of glosses), the *Commentary on the Decretals of Gregory VII*, became the *Ordinary Gloss* on the *Liber Extra* (see General Introduction, 3a).
- The Birth of the Sciences* A work by Robert Kilwardby (ca. 1215–1279), an English scholastic (and high-ranking Dominican prelate). This work was a theoretical treatment of the nature of speculative philosophy.
- Boethius (480–524/5) A well-educated orthodox Christian of high birth, he became the confidant of Theodoric, the Arian Ostrogothic king of Italy, but after being accused of disloyalty by his enemies, he was imprisoned and executed by the king (he was later considered to have been denounced for his orthodoxy, but there is no substance to this notion). While in prison he composed the *Consolation of Philosophy* (*De consolatione philosophiae*), and even though this work is inspired by purely pagan philosophical thought and bears no trace of Christian influence, it was popular in the Middle Ages. His translation of and commentary on Porphyry's *Isagoge* was one of the foundations of Christian logic until the scholastic age. The *Malleus* also has a reference to his treatise on *Music* (*De institutione musica*).

- Bonaventure, St. (1217–1274) Italian Franciscan scholastic theologian, who taught at the University of Paris.
- Book of Examples of the Most Blessed Virgin Mary (Liber exemplorum Beatissime Virginis Marie)* Presumably an alternative title for some collection of edifying anecdotes; its identity is unknown.
- Book of the Saintly Fathers* See *Lives of the Fathers*
- Book on Causes (Liber de causis)* An Arabic compilation of the Greek *Stoicheiosis theologica* of the Neo-Platonic philosopher Proclus, this work was taken to be Aristotelian. It was translated into Latin in the twelfth century and was commented on by Aquinas (from whom the reference comes).
- Caesarius (of Heisterbach, ca. 1170–ca. 1240) After studying theology and classical authors, he entered the Cistercian monastery of Heisterbach in southwestern Germany in 1199. He was a prolific author (and decent stylist), and his *Dialogus miraculorum* (“Dialogue on Miracles”) was an extremely popular work in late medieval Germany. In twelve books, each of which covers a single topic (e.g., the sacraments or demons), the work is structured as a discussion between a novice and an elder monk and is basically a collection of often puerile and credulous anecdotes that were intended to be edifying.
- Cassian (ca. 360–ca. 435) Born to high status in southern Gaul, he moved to the Near East, where he took up the life of Christian asceticism that was popular there and traveled to visit prominent hermits. After sojourns in Constantinople and Rome, he spent the remainder of his life in southern Gaul, where he worked to propagate the monastic movement. He wrote two works on monasticism, one a handbook of monastic life and the other (quoted extensively in the *Malleus* through citations of it in Nider) the *Collationes* (“Conferences”), a collection of conversations that he and a companion had with famous ascetics in Egypt.
- Catholicon* A popular medieval dictionary of Latin.
- Cato A collection of one- and two-line moral aphorisms was made at an indeterminate date under the Roman Empire on the basis of sententious statements in the mimes of Publilius Syrus (fl. 46 B.C.), to which similar sentiments from other authors were added. One version came with a preface purporting to be addressed by Marcus Cato to his son. Since this work provided a simple collection of uplifting sentiments suitable for young students of Latin, the work was very popular in the Middle Ages under the title *Catonis Disticha*

("Cato's couplets," so called because the collection contained two-line aphorisms). The putative author was presumably meant to be Cato the Elder (M. Porcius Cato, 234–149 BC), who had a reputation for strict morality and was a prolific author (rather than his great-grandson Cato Uticensis).

Chancellor, the (1166/85–1236) Philip the Chancellor was known for his position as chancellor of the cathedral of Notre Dame in Paris (which position gave him an administrative role at the University of Paris). While his definition of the cardinal virtues in *Summa de bono* was influential, he is little studied apart from that work, and the identity of the *Flowers of Moral Rules* (*Flores regularum moralium*) is unclear.

Chrysostom, St. (ca. 347–407) His actual name was John, but he posthumously came to be called Chrysostom ("Golden-mouthed") on the basis of his oratorical skills. A late antique ascetic in the Greek east, he was named patriarch of Constantinople in 398, but he was indiscreet in dealing with the Imperial family and died in exile. He was not a great thinker but his excellence as a preacher resulted in the preservation of large number of his works, especially homilies and commentaries on various books of the Bible. The *Unfinished Work on Matthew* is the composition of a late antique Arian that was spuriously ascribed to Chrysostom.

Cicero (Marcus Tullius Cicero, 106–43 BC) Far and away the most famous orator of ancient Rome. In addition to many speeches, a number of philosophical works survive. In these, he attempted to explain Greek philosophy in Latin, and these works (including the *Paradox of the Stoics*) provided the main access to Greek philosophy that was available in Latin-speaking western Europe during the early Middle Ages. To him was falsely ascribed the *Rhetoric*, an anonymous treatise on rhetorical practice from the early first century BC that is known today as the *Ad Herennium*.

*Code of Justinian* Official collection of decisions of Roman emperors that was compiled by order of the late Roman emperor Justinian (527–565).

Dionysius the Areopagite Acts 17:34 states that someone of this name was converted to Christianity by Paul's speech about the "unknown god," and several works written in Greek purport to be by this man. Internal evidence shows that the author who adopted this persona lived around 500 and was probably a Syrian monk. When this corpus was translated into Latin in the ninth century,

these works were highly regarded because of their supposed sub-apostolic origin, which was not even doubted until the fifteenth century and was not definitely disproved until the nineteenth.

*Directorium [Inquisitorium]* Handbook on inquisitorial procedure written by Nicholas Eymeric that was the main source for Part Three of the *Malleus* (see General Introduction 5f.i).

*Ecclesiastical Dogmas (Liber de ecclesiasticis dogmatibus)* A work falsely ascribed to Augustine; the tralaticious reference is from Aquinas.

Geoffrey (Gotfridus or Goffredus de Trano, †1245) An early canonist from Italy. His *Summa on the Titles of Decretals (Summa super rubricis decretalium)* was a major source for the *Ordinary Gloss*, but knowledge of him in the *Malleus* is only tralaticious.

Gregory, St. ("The Great") (ca. 540–604) Of high birth, he first became a monk and abbot and then was the first monk elected pope (590). He is historically important for having laid the foundations of the medieval papacy, and while he is not significant as a thinker, his importance as pope lent prestige to his writings.

Guido of the Order of Carmelites (Guido Terrena, †1342) French scholastic and prelate, he wrote a number of works on theology, held high office within the Order of Carmelites to which he belonged, and also was a bishop.

Haguccio (†1210) Italian canonist who taught at the University of Bologna until he was named bishop of Ferrara in 1190 (after which he engaged in a number of missions on behalf of various popes). At Bologna he wrote a *Summa super corpore decretorum* ("Summa on the body of decretals"), which is considered one of the most important treatises on canon law but has never been published.

Heraclides The story of this reference is somewhat complicated. There is a work about early Egyptian monasticism known as the *Lausiac History* (because it was dedicated to Lausus, the chamberlain of the late Roman emperor Theodosius II) that was written by someone named Palladius, who may or may not be the same as a fifth-century bishop of Helenopolis of the same name. This work circulated in the Middle Ages in a short Latin version known as the *Paradise of Heraclides (Paradisus Heraclidis)* and on the basis of its content was also called *Vitas Patrum* ("Lives of the Fathers"). In any case, the reference in the *Malleus* is from Nider.

Hostiensis (Henry of Susa or Henricus de Segusio, 1190/1200–1271) He was a high-ranking prelate as well as a canonist (the name by which he is generally known signifies the fact that he

was appointed as the cardinal-bishop of Ostia, the ancient port of Rome), and his *Copious Summa* (*Summa copiosa*, also known as the *Aurea summa* or “Golden Summa”) was a greatly respected legal treatise.

Isidore, St. (ca. 560–636) Isidore, the bishop of Seville in Spain, was a prolific writer and his *Etymologies* (*Etymologiae*) is a storehouse of the detritus of ancient learning that was still known in the early Middle Ages. The book was popular in the later Middle Ages as an encyclopedia.

*Itinerary of Clement* (*Itinerarium Clementis*) This work (also known as the *Recognitions of Clement*) was written early in the history of Christianity (third century?) and purports to be the personal story of St. Clement, who was supposedly bishop of Rome ca. 100 AD. The work was written in Greek but survives only in a Latin translation from Late Antiquity.

Jerome, St. (ca. 340–420) A dyspeptic Christian ascetic who was also a prolific author. He is best known for drawing up in its final form the Vulgate Latin text of the Bible. Not a very deep thinker, he wrote a large number of commentaries on various books of the Bible. He also wrote several vitriolic treatises against those whose orthodoxy he disputed, and the *Malleus* quotes from the work *Against Jovinianus*, a heated defense of the superiority of celibacy over married life. Jerome put a high value on virginity and attacked any writer who he thought undermined this virtue. Jovinianus published a work which argued, among other things, that virginity was no better than a properly sanctified marriage, and Jerome replied with the tract *Against Jovinianus*, in which he refuted this argument in intemperate language. Towards the end of Book One, Jerome has an extended passage in which he disparages wives as a group, and this became a favorite anti-female text in the Middle Ages and served as a source for Walter Map in his spurious *To Rufinus* of Valerius (see below under Valerius).

John Monachi (Johannes Monachus or Monachi, or Jean LeMoine, ca. 1250–1313) After studying theology at the University of Paris, he turned to legal studies and became a confidant of both popes and kings. He wrote a number of influential works on canon law.

John Nider One of the main sources for the *Malleus* (see General Introduction, 5f.i).

John of Andrea (Johannes Andreae or Giovanni d'Andrea, ca. 1270–1348) After studying theology and canon and civil law at the University of Bologna, he became a professor of canon law there,

a position he held until his death. He was a prolific writer, and his *apparatus* (collection of glosses) on the *Liber Sextus* and the *Clementines* was soon adopted as the *Ordinary Gloss*. In addition to his legal works, he wrote the *Book on Jerome* (*Hierominianus*), a treatise on the cult of St. Jerome. This work is based on three late medieval letters about Jerome that were erroneously ascribed to various church fathers of Late Antiquity. The first of two printed editions appeared in Cologne in 1482, so perhaps perusal of this recent edition is the source of the citation in the *Malleus*.

John of Damascus (St. John Damascene, ca. 675–ca. 750) The last of the Greek Fathers, he was a vigorous opponent of iconoclasm. His *Exposition of the Orthodox Faith* (*Expositio fidei orthodoxae*), which was the third part of his *Fount of Knowledge* (*Pege gnoeseos*), was a collection of pronouncements by earlier Greek patristic authors on a variety of topics. Translated into Latin by the command of the pope in 1150, the work is similar in conception to Peter Lombard's *Pronouncements* and perhaps not surprisingly is actually referred to by this title in the *Malleus*.

Lactantius (Lucius Caecilius Firmianus Lactantius, fl. 300–320) Christian apologist whose *Divine Institutes* (*Divinae institutiones*) was the first attempt at systematic theology composed in Latin.

*Lives of the Fathers* The *Vitas Patrum* was a compilation of stories from various sources about the early Egyptian hermits and was falsely ascribed to Jerome.

Lucan (Marcus Annaeus Lucanus, AD 39–65) Ancient Roman poet whose *Civil War* treated the war that broke out in 49 BC between Julius Caesar and the defenders of the Roman Republic.

Master, The See Peter Lombard and *Scholastic History*.

Moses (Maimonides, 1135–1204) Famous Jewish philosopher from Spain. The reference to him is borrowed from Aquinas.

Nicholas of Lyra (1270–1340) French Franciscan well known for his commentary (*Postilla Literalis*) on the Bible. He is cited merely because of Paul of Burgos' correction of him.

*Ordinary Gloss* (*glossa ordinaria*) Strictly speaking, a "gloss" is a note explaining a single word, but it came to be used collectively to describe a collection of such glosses on a single work. Thus, the "ordinary gloss" signifies the "standard commentary." The *Ordinary Gloss* for the books of the Bible was the work of Strabus (q.v.) and consisted of excerpts from the recognized exegetes of the past. Later, an *Ordinary Gloss* was established for the canon law (a different

commentator providing the commentary for each of the successive codes).

Origen (185–253/4) Born in Alexandria in Egypt, he was an extremely prolific and original author on various Christian topics (comparatively few of his works survive). He was highly respected in his lifetime, but in Late Antiquity certain groups in the Greek east were condemned for adherence to beliefs attributed to him and “Origenism” fell into disrepute.

*Pandect* This was a medieval term for the *Digest*, which constituted one of the three sections of the final codification of Roman law promulgated under the late Roman emperor Justinian (527–565). The work consists of extracts from the jurists of Roman civil law arranged under various rubrics in fifty books.

Paul of Burgos (ca. 1365–1435) A converted Spanish Jew who eventually became archbishop of Burgos, he was a biblical scholar (he had studied the Talmud as a Jew), and his *Additions* (*Additiones*) or marginal notes on the *Postilla* of Nicholas of Lyra were published several times in the 1480s.

Peter of Bonaventure See Bonaventure

Peter Damian, St. (1007–1072) Italian prior who was deeply involved in papal politics. Known in the *Malleus* only from a reference to him in Vincent.

Peter Lombard (ca. 1100–1160) Little is known of the man who produced one of the most influential books in the history of scholastic theology. His *Pronouncements* (generally known as *Sentences*)<sup>316</sup> is a collection of excerpts from recognized church authorities that are arranged under logical rubrics in four books. The work thus showed little originality but was a very convenient summary of views on a given topic. This collection was the standard introduction to theology throughout the scholastic period (in the fifteenth century, there was some tendency to replace it with Aquinas's *Summa theologica*), and later theologians frequently wrote commentaries on the work.

Peter de Palude (also Peter Paludanus, ca. 1280–1342) Prolific Dominican author whose works include a *Commentary on Pronouncements*.

Peter of Tarentaise (1245–1277) French Dominican and prelate who became Pope Innocent V. Previously, he had taught theology at the University of Paris and among other works wrote a *Commentary on Pronouncements*.

<sup>316</sup> For the reason for the unusual translation, see Introduction to the Translation, 3.

Philosopher, The See Aristotle.

*Pronouncements* See Peter Lombard

Ptolemy (Claudius Ptolemaeus, fl. AD 127–147) Greek-speaking astronomer from Egypt. His *Almagest* (known by its Arabic name) is a clear exposition of the heliocentric astronomical theory, and as the standard textbook on the subject in the medieval period it provided the basis for scholastic thought on the subject.

Raymund (of Penyafort or Raymundus, 1180/85–1275) Extremely influential Spanish prelate. As a respected canonist in Spain, he was summoned by Pope Gregory IX to draw up the collection of decretals known as the *Liber Extra*; then as a Dominican he was elected master general of the order and revised the order's constitutions in a form they would retain until 1924. After returning to Spain, where he engaged in missionary work among the Moslems and Jews, he commissioned Thomas Aquinas to compose a work in furtherance of this project (the *Summa contra Gentiles*).

Remigius (†908) The commentary on the letters of Paul written by Haimo of Auxerre was attributed to Remigius of Auxerre, a Benedictine monk who wrote a number of works of biblical exegesis.

Saintly Doctor, The See Thomas Aquinas.

*Scholastic History* This work of the twelfth-century ecclesiastic Peter Comestor was a sort of historical exegesis of the non-didactic books of the Bible that enjoyed great popularity in the late Middle Ages. Hence, the abbreviated form of reference to both the title and author (though the straightforward "Master" would more naturally taken as referring to Peter Lombard).

Scotus (John Duns Scotus, ca. 1266–1308) Of Scottish origin (hence the name Scotus, which means "the Scotsman"), he was a Franciscan friar who began to study theology at the University of Oxford, then transferred to the University of Paris, where he received his degree and became a professor before being transferred in 1304 to Cologne. He was one of the most influential scholastic theologians, but since he was a Franciscan, it was somewhat unusual for Dominicans to follow his views. In 153A–B and 177D–178A his authority is appealed to in support of the views of the canonists, which were otherwise rejected by theologians.

Seneca (Lucius Annaeus Seneca, 4 BC/AD 1–AD 65) Roman Stoic philosopher, he was tutor and adviser to the Roman emperor Nero, who eventually ordered him to commit suicide. In addition to a number of philosophical works, he composed several tragedies,

which were known in the Middle Ages. One tralaticious quotation in the *Malleus* comes from his play *Medea*, but another quotation attributed to his tragedies actually comes from Publilius Syrus.

Severus (Sulpicius Severus, ca. 360–ca. 420) Born to a high position in Gaul, he attached himself to St. Martin of Tours and wrote a number of works about his esteemed mentor including two dialogues.

*Six Principles* This work is an anonymous elaboration on the six of Aristotle's ten "categories" which he described less fully than the other four (the regular Latin translation of "category" was *praedica-mentum*, but here it was rendered as *principia*, which I have translated as "principles"). This work came to be ascribed to Aristotle, but it was often considered by later scholastics to be the work of Gilbert of Porrée (a twelfth-century scholastic of dubious orthodoxy) on the basis of an assertion of the scholastic Albert. Many people continued to consider the work anonymous, however, and this seems to be the case in the *Malleus*.

Strabus (Walafriidus Strabus, †849) Monk of the famous monastery of Fulda, he compiled the biblical *Ordinary Gloss* (q.v.).

Terence (Publius Terentius Afer, ca. 190 BC–159 BC) Roman playwright of North African origin.

Thomas Aquinas, St. (1224/6–1274) Italian scholastic ("Aquinas" means "of Aquino," his birthplace) who was a student of Albert. A Dominican theologian, he produced a very large number of works on theology, which eventually came to be accepted as standard expositions of Catholic doctrine (and were particularly esteemed in Dominican circles). He is frequently mentioned in the *Malleus* simply as the "Sainly Doctor" (*doctor sanctus*), which refers to his canonization. Though a number of his works are cited, the most references are to his *Commentary on Pronouncements*, and to the *Summa Theologica*. The peculiar method of citing the latter needs comment. The work is divided into three parts (the last completed, on the basis of his outline, by students from material in the *Commentary on Pronouncements*), and the second part is itself divided into two parts. Due to its high esteem (in the fifteenth century it even began to oust Peter Lombard's *Pronouncements* as the standard textbook on theology), the *Summa Theologica* was quoted only by reference to the part without explicit mention of the title. References to *Part One* and *Part Three* are simple enough, but the second

part was cited as *First* or *Second of the Second* without explicit mention of the word "part."

Thomas of Brabant (Thomas de Cantinpré, 1201–1271) Dominican who studied theology at the Universities of Cologne and Paris. Among the seven works attributed to him is the *Universale bonum de apibus* ("Universal Good regarding Bees"), an allegorical treatment of moral precepts and the appropriate behavior of superiors and subordinates that deals with its subject through the image of bees.

Valerius The tract *Ad Rufinum* ("To Rufinus") is a work of humor that has been removed from its context and taken seriously. It was written by Walter Map (ca. 1140–1208/10), an English ecclesiastic with a rather secular sense of humor, and appeared in his *De nugis curialium* (*Jokes for Courtiers*, 3.3–5). It was supposedly an earlier effort to show the evils of marriage to a friend called Johannes Rufus, with Map using the pseudonyms Valerius for himself and Rufinus for his addressee. The work was then detached and circulated separately, and in this guise enjoyed much popularity among those who favored celibacy. Its spurious argumentation is based on both Classical authors and Jerome's attack on marriage *Against Jovinianus*, but it contains much fictional elaboration.

Vincent (of Beauvais, ca. 1190–ca. 1264) A Dominican friar who produced a massive encyclopedia of human knowledge. The whole work is known as the *Greater Mirror* (*Speculum Majus*), and it is divided into four subsections, the first of which, the *Mirror of Nature* (*Speculum naturale*), covers the natural world, and the third, the *Mirror of History* (*Speculum historiale*), human history down to 1250.

William (of Auvergne, 1180/90–1249) He studied theology at the University of Paris and became a canon of the Cathedral of Notre Dame in Paris. After traveling to Rome to complain to the pope about the bishop chosen by his fellow canons in 1228, he was appointed bishop by the pope in 1229. He was a prolific writer on theological matters in the scholastic manner, and in *The Universe* (*De universo*) he discussed philosophical questions about the created universe from two perspectives, first treating the material world and then the spiritual one.

William Durand (Guilhelmus Durantis, 1231–1296) French canonist who served the papal curia. His *Speculum iudiciale* ("Judicial

mirror”) was a comprehensive treatment of legal procedure that remained a standard reference for centuries.

William of Montlezun (Guilhelmus de Monte Lauduno, †1343)  
Minor French canonist (and abbot of a Benedictine monastery).

### *sg Intended audience*

There was no single audience for whom the *Malleus* was intended, and the three parts served different purposes. Numerous references in Part 1 indicate that it was meant to provide material for the correct preaching on the topic of the reality of sorcery.<sup>317</sup> The reason for this was the perceived need to counteract the preaching of priests who denied this reality.<sup>318</sup> Though any priest could conceivably be meant, presumably the main audience foreseen for the scholastic argumentation of the *Malleus* were other members of the Order of Preachers, i.e., Dominicans, who were specifically obligated to study theology, unlike the rather poorly educated secular (i.e., parish) clergy of the time, and whose very purpose was to spread this learning through sermons.<sup>319</sup> The case is not so clear with Part 2, which deals with the procedures of the sorceresses and the ways to counteract these. At one point, it is stated that a certain explanation has been provided for the purposes of preaching (106D), but at another it is indicated that some of the matter should not be preached (142C). The introduction to this part of the work (85–86A) addresses the reader in terms of excusing the dropping of the *quaestio disputata* method of argumentation without explaining what the positive purpose of explaining this material is. Finally, Part 3 seems to have a distinct and separate purpose of its own. After the initial introductory question, which is intended for Institoris’s own benefit (it makes the paradoxical argument that inquisitors of heretical depravity are not in fact obligated to investigate the Heresy of Sorceresses, which one would have thought would fall into their sphere by definition), it lays out the method of prosecuting heretical sorceresses by adapting the general procedure for

<sup>317</sup> 3D, 10A, 11A, 40B, 42A, 49B–D, 50C, 54A, 57C, 60D, 64C–D, 65C, 71A, 76C, 78D, 79D, 81C–D, 82C–D, 84A, 105A.

<sup>318</sup> 3A\* explicitly states that Institoris sought the approbation of the orthodoxy of the text from the theologians of the University of Cologne because he wished to preclude any obstruction from preachers who denied the reality of sorcery, and the four articles laid out in 4B\* are specifically drawn up to refute any such preaching.

<sup>319</sup> For the learning of Dominicans, see General Introduction 1c. Note in particular, with reference to preaching about sorcery, the explicit statement in the Bull *Summis desiderantes* (1B\*) that Institoris and Sprenger were to be allowed to preach on this topic wherever and whenever they thought appropriate.

dealing with heretics written by Eymeric. The introductory passage to this section indicates (193D) that it is addressed to both ecclesiastical and secular judges for their practical use, but while the references to inquisitors have been stripped out of the many sample formulas that are reproduced, it is hard to see what use these would have been in secular courts.

## 6 SIGNIFICANCE OF THE WORK

### *6a Impact on demonology and witch hunting*

The extent to which the *Malleus* influenced the conception of witchcraft that formed the basis of the great persecutions of the period 1590–1630 is open to question.<sup>320</sup> On the one hand, later textbooks on witchcraft like Del Rio's *Disquisitiones magicæ* certainly refer to ideas and anecdotes from the *Malleus*, though perhaps through borrowings from intermediate textbooks rather than through direct consultation of the original. In any case, the secular authorities who conducted the persecutions may have had their own ideas about the matter which deviated from those of the *Malleus*. Discussion of this issue lies beyond present purposes, but a few words should be said about the later printing history of the work.

### *6b Later editions*

A total of twenty-eight editions of the work appeared in the course of nearly two centuries, and some conclusions can be reached about the location and dating of these editions.<sup>321</sup> The editions can be divided into two periods as follows:

#### 1) First period

Speyer: 1486/7, ca. 1490/91, 1494

Nuremberg: 1494, 1496, 1519, 1520

<sup>320</sup> It is sometimes asserted that the *Malleus* does not reflect fully the characteristics of the elaborated conception that formed the basis of the *Hexenwahn* and that accordingly the work could not have influenced these trials. While it may be true that all the elements of the elaborated theory are not given a prominent place, they are nonetheless present (especially in Pt. 2, Q. 1, Ch. 2, which describes the methods of initiation). It was simply not necessary for the purpose of the work to dwell on them. (The only element that was later prominent but plays no role in the conception laid out in the *Malleus* is the "devil's mark," a blemish on the skin that was supposedly made by Satan as part of the initiation and whose discovery would mark out the bearer as an adherent of Satan.)

<sup>321</sup> For the full bibliographical details, see Schnyder (1993), 2–23.

Cologne: 1494, 1511  
 Metz: 1508/11  
 Paris: 1512, 1523  
 Lyon: 1519

2) Second period

Venice: 1574, 1576  
 Frankfurt am Main: 1580, 1582, 1588, 1600  
 Lyons: 1584, 1595, 1604, 1614 (twice), 1615, 1620, 1669

The first period shows frequent reprints from the time of the original edition in 1487 down to 1523, with continuous interest in the work in Germany and several French editions beginning in 1512. There is no reason to take the issuance of so many reprints of the work as indicating anything other than that it was read seriously for its own sake as an authoritative textbook during this early period of witch hunting. After this initial period of popularity, the work was not reprinted for two generations, and while it is not easy to give reasons for why people failed to do something, a reasonable conjecture is that the authorities who would otherwise be involved in the persecution of witches were occupied with the convulsions that swept Europe as a result of the Reformation. Certainly, it was during this very period that the French demonologist Jean Bodin complained bitterly about the failure of the government to carry out its duty in this regard.

The pattern of printing during the second period, which roughly corresponds to the period of the worst excesses of witch hunting in Germany, is noticeably different. The first two editions from Venice are distinctive because of both the location and nature of their publication. In the first place, no other Italian editions are attested, and it may be that these editions were intended for sale north of the Alps.<sup>322</sup> In any case, the Italian editions are the only ones from the later period in which the *Malleus* was printed by itself. In all the others, the work was simply the first in an extensive series of treatises on witchcraft that appeared in multi-volume omnibus editions, reprinted several times over in both Frankfurt am Main and Lyons. This suggests that the *Malleus* had by this date lost its independent value and was merely lumped together with other worthy (and dated) treatises on the subject.

<sup>322</sup> Many German printers set up shop in this major commercial center, and while the Venetian publisher of the *Malleus* was Italian, he could have been familiar with the German market for books.



## *Introduction to the Latin Text*

### I LAYOUT AND ORTHOGRAPHY OF THE FIRST EDITION

The text presented here is meant to serve as an interpretation of the text of the first edition that will allow a reasonably competent reader of Latin to follow the text readily. As such it is not meant as a diplomatic transcription in Roman script of the original Gothic text, whose format (e.g., lack of consistent capitalization, punctuation or paragraphing) is not conducive to easy comprehension; those who wish to consult the original have easy access to it in the two facsimiles that formed the basis of the present text.<sup>1</sup> Before discussing how the text is rendered, a few words about the format and orthography of the first edition are in order.

Unlike the apology, which is composited in a single column, like the separately published Bull *Summis desiderantes* and approbation, the main body of the work consists of 128 unnumbered folios (256 pages) of text laid out in two columns per page. For ease of selection, I have chosen to follow Schnyder's modern pagination, which gives each page its own arabic number (rather than Jerouschek's bibliographically accurate but cumbersome procedure of numbering the folios and indicating the front and back sides with the superscript letters <sup>r</sup> and <sup>v</sup> for "recto" and "verso").<sup>2</sup> (Schnyder uses an arabic number followed by an asterisk for the few pages of the separate publication containing the bull and approbation, while Jerouschek numbers these folios with roman numerals.) Schnyder then inserts capital letters to designate the halves of the

<sup>1</sup> Jerouschek (1992b) and Schnyder (1991) provide reproductions of the first edition on the basis of separate surviving copies. In several instances (48D, 49A, 112C, 251D) I have noticed that the copy used for Jerouschek's facsimile corrected erroneous text in the copy used for Schnyder's, which suggests that the latter was put together out of sheets produced earlier in the printing process (I thank my colleague Julian Martin for discussing with me the habits of early modern printers).

<sup>2</sup> It is simple enough to convert Schnyder's numbers to Jerouschek's (which are also used in the German translation in Behringer *et al.* [2000]). If the number is even, one simply divides by two and appends the letter <sup>v</sup> (thus, 102 becomes 51<sup>v</sup>). If the number is odd, one adds one and then divides by two, appending the letter <sup>r</sup> (thus, 101 becomes 51<sup>r</sup>).

two columns, so that A and B represent the start of the top and bottom halves of the first column and C and D the corresponding halves of the second (Jerouschek again uses the bibliographically correct but less informative procedure of designating the first column as a and the second as b).<sup>3</sup>

This main body is divided into sections (questions and chapters) which have a heading indicating the content and a large initial capital. These capitals were not produced by printing. Instead, the compositor left a large open square at the beginning of the section, and at some point after the printing the appropriate letters were drawn in calligraphically.<sup>4</sup> In addition, further subdivisions within the main divisions of the work are sometimes (mainly in Part 3) indicated by starting these subdivisions with an initial drawn-in capital. There is a general impression that the subordinate nature of these subdivisions was meant to be conveyed by the use of a smaller size for their introductory capitals (the main capitals take up four lines and the subordinate ones three), but this procedure is imperfectly carried out.

Within each section, the text is written solidly without any breaks.<sup>5</sup> There are, however, sporadic indications of major sense breaks with a paragraph mark ("¶"). The main punctuation mark used is the period (full stop), which serves a number of functions. It can be used like its modern descendant to mark the end of a sentence or an abbreviation, but it is also used to mark off clauses like a modern comma (and in this usage it sometimes appears where no punctuation would be used in a modern text, for instance separating a long subject from the remainder of the sentence). Very infrequently a colon (":") is used in place of a period.

Capitalization is used in a rather haphazard fashion. The first letter of a new sentence is often, but not uniformly, capitalized (with or without a preceding period), and proper names are also sometimes capitalized. In both instances, however, the relevant word may appear in its lower-case form, and sometimes the initial letter of a clause that does not begin a

<sup>3</sup> Thus, Schnyder's 102C and 102D comprise the top and bottom halves of Jerouschek's 51<sup>b</sup>.

<sup>4</sup> This procedure was intended to mimic the fancy initials that appeared in contemporary manuscripts. In a few instances, one of the two facsimiles has the wrong letter drawn in, and in a single instance (196D), the compositor forgot to leave the required space, which necessitated drawing the letter in the gutter between the two columns.

<sup>5</sup> Only very rarely is there a line of text within a subdivision that is not made to end on the justified right margin (e.g., 123C). The decision to justify the right margin leads to frequent word division. This procedure must be the result of the fundamentally aesthetical determination that the finished product would give the best appearance in the form of solid square blocks of text with no empty spaces left at the ends of lines.

new sentence is capitalized. At other times, the initial letter of a sentence may not be capitalized.

The orthography of early modern texts of English and German are beset with problems that arise from very unstable spelling conventions, but for the most part there are no such problems in the Latin of the *Malleus*. Whatever the actual pronunciation of the time, the spelling of most words was fixed and well-known (the only major difficulty here was confusion about when certain consonants were doubled; see below). The *Malleus* makes extensive use of a comparatively restricted number of abbreviations. In some instances, words are simply curtailed; in others, symbols are used that stand in place of a number of letters. For the most part, these abbreviations are easily resolvable. Numbers generally appear in the form of numerals, but they are not infrequently written out fully.

For the most part, words are spelled in the Classical manner, but there are some deviations from Classical practice that are worth noting for the benefit of those less familiar with medieval practice.

- Uniform substitution of the simple vowel e for the diphthong ae.
- A notable aspect of the sort of standard late-medieval orthography used here is the distribution of the pairs of letters i and j, and u and v. In Classical Latin, the relevant sounds were simply phonological variants (one vocalic and one consonantal) that are represented in modern English by the letters i, y, u and w, and a single letter (i or u) was used for each pair regardless of whether the sound in question appeared in its vocalic or consonantal function. The consonants came to have a different pronunciation in the various Romance languages that developed from Latin, and eventually the letters j and v came to be used to represent these sounds. In their origins in medieval orthography, however, these new letters were merely variants of i and u, and they were distributed not on the basis of the phonological nature of the sound in question (i.e., whether the vowel or consonant was being represented) but on the basis of where in the word the letter appeared. For the most part, the letter i does duty in the *Malleus* both as vowel and consonant in the lower-case form, but the variant j is used as the final form when two or more i's appear in a row (including its use as a Roman numeral), both medially and finally: e.g., *filij*, *petijt*. In addition, a single capital form is used for both vowel and consonant, but in this instance the hooked J form is used: e.g., *Jacobus* and *Institoris*. The distribution of v and u is likewise based on position in the word rather than function. The form v appears initially, while u is used

in medial and final position: *vulnerauit* (this usage can occasionally be confusing, as in *vuas* for *uvas*).

- Certain words/phrases such as *spiritus sanctus* and the paired reflexive pronoun and intensive adjective (e.g., *sibi ipsis*) are written as one word (and any resulting conjoined i's appear in the form *ij*).
- The regular use of *infra* in place of *intra*.
- The prefix *in* (whether a verbal prefix or a negative one) is frequently written separately, which then determines the initial form of the word to which it is compounded if this begins with *i* or *u*.
- A thoroughgoing uncertainty about double consonants (esp. *opidum* for *oppidum*).
- When written out in full, the labial consonant *m* of the pronominal ending *-cumque* is assimilated to the following consonant as *n*, a procedure that is extended to the combined forms *cunque* (i.e., the conjunction *cum* plus *que*) and *nanque* (= *namque*).
- Some confusion about the sound *h* (e.g., *actenus* for *hactenus*, *exibere* for *exhibere*).
- The occasional confusion of the voiced and voiceless pairs *f/v* (e.g., *fisco* for *visco* and *investatio* for *infestatio*), *b/p* (e.g., *pladis* for *bladis*) and *d/t* (e.g., *velud* for *velut*). (This is a common phenomenon in Early Modern German.)

Comparison with the manuscript of the *Nuremberg Handbook* attests all of these practices in Institoris's orthography (when there are comparanda), and the fact the compositor was faithfully copying the layout and orthography of the manuscript presented to the printer.<sup>6</sup>

## 2 LATINITY

When a text of Classical antiquity is edited, one can assume that as the author conceived the text, it would have been written in fully grammatical Latin. Starting with this assumption, one then examines the preserved text, which is often centuries removed from the author's original copy, to determine whether the text is acceptable and to propose solutions if it is not. A number of factors make this procedure much more difficult in the case of the *Malleus*.

<sup>6</sup> The only way in which the manuscript of the *Nuremberg Handbook* seems to deviate at all from the first edition of the *Malleus* is in not having an invariable right margin, but this is merely the result of the impossibility of achieving through handwriting the rigid regularity necessitated by the physical process of composing.

Since very large portions of the *Malleus* are copied over from earlier works, the Latinity in them is the responsibility of the earlier authors. If the *Malleus* merely reproduces an ungrammatical construction in the original, so be it. Sometimes, however, the original source is unknown or the text in the *Malleus* deviates from the accepted text of the original. In this case, it is impossible to determine whether the text of the prior work that was available to the author of the passage of the *Malleus* was defective or whether some mistake was introduced in the process of adaptation. It is demonstrable that in certain instances when texts were to a greater or lesser degree adapted for their context in the *Malleus*, this process involved the introduction of ungrammatical passages. In such instances, it is not the editor's responsibility to act as a copy editor and to restore grammatical correctness when there is no reason to think that the grammatical defects in question were not present in the written text that was presented to the printer for compositing.<sup>7</sup>

Different problems arise with the numerous connecting passages and anecdotes. Probably the former and certainly the latter are to be attributed to Institoris, and his linguistic competence in Latin is defective by Classical standards. He randomly selects the subjunctive or indicative for all subordinate clauses, shows no understanding of the principle of sequence of tense, uses the present or imperfect subjunctive without distinction in conditions with the apparent sense of "would do," often fails to make participles agree with their nouns, and uses the present indicative prescriptively in injunctions. This sort of usage is simply reflective of the poor standard of Latin that was customary in scholastic circles.<sup>8</sup>

<sup>7</sup> It should also be stated that the main text seems to have been very carefully composed and proofed, there being no routine distortions of the text that are likely to be attributable to mistakes committed in the process of compositing. This is not to say that the text does not exhibit errors that are common in printing such as the incorrect use of one letter that is an upside down variant of the correct letter, but this is a mistake of the process of returning previously used letters to the correct bin (the compositor selected the letters without looking at them) and of proofreading rather than compositing.

<sup>8</sup> While it is true that most of the errors of Institoris's Latinity can be found to one degree or another in medieval authors, they cannot be excused on the grounds that medieval Latin should not be held to the standards of the Classical period. It is true that once Latin had ceased to be a spoken language and became a sort of educated speech that was learned by its users after the age at which languages are acquired naturally, it would no longer be a purely intuitive idiom and would be subject to a variety of linguistic "slips." It is nonetheless true that many medieval writers, even in the latest period before the revival of Classical idioms during the Renaissance, were capable of producing a Latinity that perhaps in some ways diverged from Classical usage but still gives the appearance of being simply a variant on the sort of language that Cicero or even Augustine would have recognized (e.g., the anonymous author of the *Gesta Francorum* or Peter Abelard in his *Historia calamitatum*). The deviations of the language of the scholastics are an entirely different matter. These are apparently due in origin to the very clumsy and unidiomatic

Hence, unless there is compelling reason to suspect an error of composing, grammatical errors must be attributed to the author and thus left in the text (with merely a note explaining what the correct form would be).<sup>9</sup>

One particularly noteworthy example of a problem in grammatical usage concerns gender. It is clear from the overall argument of the work that those who are principally guilty of belonging to the Heresy of Sorceresses are women, and accordingly the appropriate form for such people is the feminine *malefica*, *-e*, and all gender agreement (i.e., in participles, adjectives and relative pronouns) should be feminine. Such is not always the case, however, and not only does the masculine *maleficus*, *-i* appear where the context would seem to demand the specifically feminine form, but forms that refer to the feminine form are put into the masculine. Sometimes this can be attributed to the vagaries of adaptation. Since Eymeric's text refers to heretics in general, he uses the generalizing masculine, and in the adaptation this form is sometimes retained and sometimes modified, so that even in the same passage the usage wanders confusingly back and forth between the two genders (see for instance the clumsy adaptation starting in 201A). The usage of the Latin text of the *Nuremberg Handbook* suggests, however, that the responsibility for this incoherence may not be entirely Institoris's. The difference between the masculine and feminine forms is usually a single letter, and in the later work Institoris quite frequently

nature of the translations of Aristotle that formed the fundamental texts for scholasticism. In addition, the scholastic theologians self-consciously held aloof from the linguistic studies of the arts faculty, which looked to the texts of pagan antiquity for models. The upshot is that the writings of scholastics often sound like the vernacular (whether French or in this instance German) converted into unnatural Latin in violation of the most basic principles of Latin usage. Sometimes this is excused on the grounds that the novel ideas of scholasticism needed a new idiom to be expressed in, but this argument is not valid. In the first place, the issue here concerns not terminology but the basic underlying grammatical rules of the language, and certain fundamental defects in linguistic usage (such as the failure to use the requisite tenses in conditions) obscure the actual meaning that is meant to be expressed. In any case, the *Nuntius sidereus* of Galileo shows that it was perfectly possible to express in Classical Latin idiom ideas that literally no one in the Classical period could have conceived (though perhaps the strain of producing such a work in Latin is reflected in his decision to compose his momentous *Dialogo dei massimi sistemi* in the vernacular).

<sup>9</sup> For instance, the first instance (21B) of the illogical phrase *maleficas se demonibus subijcientibus* (the participle should appear in the form *subijcientes* to agree with *maleficas*) could be ascribed either to someone who drew up a clean draft of the work for presentation to the printer (if there was such a draft) or to the compositor on the assumption that the ending of the participle was unconsciously changed to that of the preceding *demonibus*. However, when the same mistake is made twice in a later passage (39D), the conclusion is compelling that the error resulted from some sort of mental glitch in the author's mind during the composition of the first passage that became fixed and repeated itself in the second one.

indicates that he has either gender in mind by using one gender and then writing the different vowel of the other gender as a superscript letter, e.g., *maleficus<sup>a</sup>*, *malefica<sup>us</sup>*, *malefici<sup>r</sup>*, *malefice<sup>i</sup>*, *eo<sup>a</sup>s*, *ed<sup>a</sup>*, *delato<sup>r</sup>*, even *incantatrix<sup>or</sup>*. Conceivably, this procedure was simply a novelty brought about by realization of the incoherence of the *Malleus* in this regard, but it is also possible that the manuscript presented to the printer contained such a usage, which it turned out to be impractical to reproduce in the printed version. In this case, the main form would have been composited and the superscript letter(s) ignored. Even if this is what happened and the confusion of gender is not to be ascribed to Institoris, the fact remains that as printed the book does exhibit a confusing habit of shifting back and forth between the two genders.

### 3 EDITORIAL PRINCIPLES

In light of what has just been said about the nature of the Latin text of the first edition, the method used in the present edition can be explained succinctly.

a) The intention is to give the clearest indication of what the authors wished to convey to the reader. In many instances, this text is defective either in terms of grammar, logic or the accurate transmission of an earlier text that is quoted or adapted in the work. My role is not that of a copy editor who improves the text but of textual critic who restores the text to its intended original state. This function involves removing any interference that arose from a mistake on the part of the compositor, and occasionally the restoration or removal of small sections of text that were affected by infelicities in the process of marking out what portions of Eymeric were to be omitted in the adaptations made in Part Three. Nonetheless, as an aid to the reader, in instances where the printed text is grammatically dubious or the medieval orthography may confuse a reader conversant with classical Latin, the "correct" form is indicated (with the notation *sc.*) in a footnote. All footnotes that bear on the accuracy of the original text are marked with a letter.

b) I have normally expanded all abbreviations (including numerals) on the basis of attestable expansions elsewhere in the work. Because access to the original is readily available, I make no indication of such expansions.<sup>10</sup> There are a very limited number of exceptions to this practice.

<sup>10</sup> Some texts italicize all letters that are not written as such in the original, but this procedure results in a text that is extremely hard on the eyes for little gain.

- i) The frequent *etc.*, whose very form signifies its function.
- ii) Numerals in textual citations that appear as parentheses in the present edition, and some large numbers in the main text.
- iii) A persistent grammatical infelicity on Institoris's part led to an impracticality of expansion. An extremely frequent usage is the *c.* (occasionally *ca.*) for *capitulum* as part of the citation of particular decretals in the various collections of canon law. For the most part, this is non-problematical and the expected case ending is easy to predict, but in the case of the two chapters *Excommunicamus* Institoris shows himself to be inept in his use of the ordinal number that follows and specifies which chapter is meant. Not infrequently this appears in the full form *iuxta c. Excommunicamus primo* (e.g., 206A) or *secundo*. The preposition *iuxta* takes exclusively the accusative case, and thus the appropriate form would be *primum*. Apparently, the incorrect form has been carelessly adapted from instances in which the citation appears by itself in the ablative without the preposition (e.g., 186A). Since the same mistake appears in both his earlier *Memorandum* (e.g., 482) and his later *Nuremberg Handbook* (e.g., 47r), it would seem that this was an ingrained error in Institoris's mind. Accordingly, I deemed it best to leave the numerals *i* and *ij* unresolved, since on the one hand it is likely that these forms would have been conceived by Institoris in the wrong case, as indicated by the frequent error in the *plenum* spelling, but on the other it seemed unreasonable to foist onto him infelicities that he had not overtly made himself. But what to make of the abbreviation *c.* in cases where *primo* or *secundo* is spelled out *in pleno*? The reading *iuxta capitulo* would be gibberish, but *iuxta capitulum . . . primo* is hardly any better.<sup>11</sup> For this reason, I decided for the sake of regularity to leave *c.* unresolved whenever it is used to introduce the name of a decretal. In a few instances where the abbreviated form *alleg.* (for *allegatum/-o*) accompanies such citations, I expanded it with the grammatically correct form.

<sup>11</sup> In the *Nuremberg Handbook* there appears the phrase *quia c. "Inter sollicitudinis" et c. "Excommunicamus" primo ("De hereti.") et alia capitula "Ut officium" et c. "Inquisicionis" et omnia alia (eodem titulo Libro Sexto) loquuntur de infamatis de heresi indistincte* (32v–33r), in which it is obvious that *c.* is actually in the nominative but is nonetheless modified by the ablative form *primo*. Presumably, Institoris conceived of the whole collocation *excommunicamus primo* as a fixed unit that was unaffected by the syntax of the introductory noun *capitulum*, which was inflected by itself without any effect on the ordinal at the end. Accordingly, he probably did pronounce the problematical phrase in the *Malleus* as *iuxta capitulum excommunicamus primo*.

iv) To my knowledge, the word indicated by the symbol § is never spelled out *in pleno*, though its gender is masculine (224A) and presumably represents the word *paragraphus*.

c) The very rudimentary and generally inadequate punctuation of the original edition is disregarded and replaced with more modern conventions that make the logical flow of thought more obvious.<sup>12</sup>

d) Comparison with the manuscript of the *Nuremberg Handbook*, which has a very similar series of hierarchically arranged large initial capitals, indicates that the compositor of the *editio princeps* was attempting to reproduce a similar set of initial capitals that must have appeared in the authorial clean copy from which he was working. In typesetting the printed version here, it proved to be impractical to use so-called drop capitals, and in any case, strict adherence to the irregular sizing of the initials in the *editio princeps* would have resulted in confusion.<sup>13</sup> Accordingly, these initials appear in the present text in a simplified format that gives the general sense of the original without either reproducing the chaotic way in which the hierarchy was implemented or imposing an order that may not reflect the original intent. The initials are reproduced in three versions. First, in place of the very large initials used to mark the start of the first two of the three major divisions ("parts") of the work, the first word of that part is written all in capitals with a larger initial CAPITAL<sup>14</sup> Second, the start of the major "questions" or "chapters" into which the parts are divided (including questions that are not numbered in the table of contents) are indicated by printing the first word all in normal CAPITALS. Finally, any other divisions marked by a larger initial in the original are indicated by printing the first word in

<sup>12</sup> Naturally, there are instances in which the original punctuation clarifies how the sense was divided, but these are few. Anyone who tries to read the first edition with its large blocks of undifferentiated text will soon see how laborious is the task of trying to make sense of the flow of the argument. Simply converting the Gothic font to Roman while leaving the original punctuation, capitalization and lack of paragraphing alone would merely render these obscurities more legible. One element of modern printing practice that would further facilitate comprehension of the sense is the footnote. Clearly, there are certain obtrusive passages which break up the flow of the argument and which would have been placed in a footnote by a modern author to whom such a procedure is available. Since this practice was unknown to Institoris (and Sprenger), it is best to mark off such passages with parentheses.

<sup>13</sup> Though the compositor of the *editio princeps* seems to have attempted to reproduce faithfully the size of initials given in the clean copy (including its failure to maintain a fixed ratio for the various hierarchical levels indicated by the initials), he was occasionally forced by circumstances to deviate from the clean copy, for instance when a new section appeared at the very bottom of a column, which resulted in an initial that was clearly too small (e.g., 141D).

<sup>14</sup> The first two parts are clearly marked off with very large capitals and special headings. This procedure is forgotten for Part Three (184A), where there is no heading or initial for the introductory paragraph.

small CAPITALS. This last category includes not only subdivisions of the questions and chapters but also incidental questions added at the end of a regular question (e.g., 53D) and intrusive discussions of the course of the argument over several questions (e.g., 40A).<sup>15</sup>

#### 4 CITATION OF EARLIER SOURCES

In addition to the regular apparatus for textual matters\*, there is a second one for known passages that were used as sources. These are marked with arabic-number footnote markers. If the passage is copied verbatim, then simply the first and last words of the quotation are indicated. Often, however, the passage was adapted to a greater or lesser degree, and the adaptations are indicated in ways that vary according to the extent to which the original was modified. Sometimes, the first few words of the excerpt were changed to fit the new context, and in this case the introductory footnote indicates how the original began until the new and old versions overlap, with the joint words repeated to indicate where the text in the *Malleus* begins to follow the original without change. Thus, the ellipsis "... " indicates that from then on (until the end of the passage or until a note to the contrary) there is no difference between the *Malleus's* text and the original. Sometimes, a word or clause is inserted into an otherwise unmodified passage. Here the practice of the footnotes varies. If the intrusion is of fairly limited scope, then a footnote at the end of the intrusion simply indicates which words have been inserted. Sometimes the intrusion is more extended, and in this case the footnote keyed to the last word of the original indicates that the original text "pauses" and the footnote to the first word of the resumption of the original after the intrusion indicates that the original "resumes."

Thus, for sources other than Eymeric, the footnote indicating a "pause" should be taken to mean that there was no adaptation of the original apart from the insertion (i.e., if one jumps from the pause to the resumption, the text of the source appears as it did in the original). With Eymeric, the procedure is modified slightly to take into account the fact that in Part 3 the *Malleus* follows Eymeric more or less verbatim for very large stretches but at times omits certain passages of the original that were thought inappropriate and replaces this with other material. In such an instance, the note indicating the "pause" also describes the

<sup>15</sup> Those who are interested in the sizing of the initials in the *editio princeps* may of course consult the facsimiles of Schnyder (1991) and Jerouschek (1992).

\* (Indicated with lower-case-letter footnote markers)

content of the omitted passage and the "resume" note indicates that the text in the *Malleus* takes up the passage of Eymeric at the end of the omitted passage described in the "pause" note.

Sometimes, the final words of the original were omitted, and if such is the case, this is noted in the footnote marking the end of the adaptation. At other times, the whole passage was so extensively rewritten that I held it necessary to include the whole of the original. The widely varying extent to which the original sources were adapted (through rewording, reordering, abridgment and greater or lesser elaboration) made it impossible to adhere rigidly to any fixed principle. These notes should make the extent of the adaptation clear enough.

It should be noted that while the sections quoted from Nider's *Formicarius* and *Praeceptorium* and Eymeric's *Directorium Inquisitorum* are the immediate source, the passages from Aquinas and Antoninus of Florence in Part One may well derive from an unknown intermediate source (see section 5f.i of the General Introduction).

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Aquinas: *S. Thomae Aquinatis Opera Omnia*, 7 vols. (Stuttgart-Bad Cannstatt: Frommann-Holzboog, 1980).

Eymeric: *Directorium Inquisitorum F. Nicolai Eymerici Ordinis Praedicatorum, cum comentariis Francisci Pegñae Sacrae Theologiae ac Iuris Vtriusque Doctoris* (Venice: Apud Marcum Antonium Zalterium, 1595).

Nider: Johannes Nyder, *Formicarius* (Graz: Akademische Druck- und Verlagsanstalt; reprint of Ulrich Zell's Cologne edn. of ca. 1473).<sup>16</sup>

Johannes Nider, *Praeceptorium legis sive expositio decalogi* (Paris: Udalricus Gering, 1482).

<sup>16</sup> Deviations between this edition and the text in the *Malleus* show that this was not the source used. An elaborate apparatus criticus is available for certain of the sections of Nider's Bk. 5 in Osterero *et al.* (1999), but since they do not supply the text for all the sections used in the *Malleus*, I thought it best to use a single version that provides all of Bk. 5. To make citation easier, I have added the letters A–D in the fashion used for the *Malleus* to describe the top and bottom halves of the two columns on each page.

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## *Sigla*

- <> Text accidentally omitted  
[] Text accidentally included and to be ignored  
| Marks the start of the section of Schnyder's facsimile noted in the margin (a marginal number without this mark signifies that the section starts at the beginning of the line). (The Appendix follows the pagination of Senner [2004].)

### *Abbreviations used in the Notes*

- Ant.: Antoninus (of Florence)  
Aq.: (Thomas) Aquinas  
Eym.: Eymeric, *Directorium inquisitorum*  
Form.: *Formicarius*  
PL: *Patrologia Latina*  
Praec.: *Praeceptorium*

NB Unless further specified, *Summa* signifies *Summa theologica*



*Malleus Maleficarum*  
The Latin Text



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TENOR BULLE APOSTOLICE ADUERSUS HERESIM  
MALEFICARUM CUM APPROBATIONE ET SUBSCRIPTIONE  
DOCTORUM ALME VNIUERSITATIS COLONIENSIS IN  
SEQUENTEM TRACTATUM INCIPIT FELICITER

1\*

JNNOCENTIUS episcopus, seruus seruorum dei, ad futuram rei memoriam. Summis desiderantes affectibus, prout pastoralis sollicitudinis cura requirit, vt fides catholica nostris potissime temporibus vbique augeatur et floreat, ac omnis heretica prauitas de finibus fidelium procul pellatur, ea libenter declaramus ac etiam de nouo concedimus per que huiusmodi pium<sup>a</sup> desiderium nostrum votiuum sortiatur effectum, cunctisque propterea per nostre operationis ministerium, quasi per prouidi operatoris<sup>b</sup> sarculum, erroribus extirpatis eiusdem fidei zelus et obseruantia in ipsorum corda fidelium fortius imprematur.

Sane nuper ad nostrum<sup>c</sup> non sine ingenti molestia peruenit auditum quod in nonnullis partibus Alamanie superioris necnon in Moguntinensi, Coloniensi, Treuerensi, Saltzburgensi et Bremensi prouincijs, ciuitatibus, terris, locis et dyocesisibus quamplures vtriusque sexus persone, proprie salutis immemores et a fide catholica deuiantes, cum demonibus incubis et succubis abuti ac suis incantationibus, carminibus et coniurationibus alijsque nephandis supersticijs et sortilegijs, excessibus, criminibus et delictis mulierum partus, animalium fetus, terre fruges, vinearum uuas et arborum fructus necnon homines, mulieres, iumenta, pecora, pecudes et alia diuersorum generum animalia, vineas quoque, pomeria, prata, pascua, blada, frumenta et alia terre legumina perire, suffocare et extinguere facere et procurare, ipsaque homines, mulieres, iumenta, pecora, pecudes et animalia diris tam intrinsicis quam extrinsicis doloribus et tormentis afficere et excruciare ac eosdem | 1B\* homines ne gignere et mulieres ne concipere, virosque ne vxoribus, et mulieres ne uiris actus coniugales reddere valeant impedire, fidem propterea ipsam quam in sacri susceptione baptismi susceperunt ore sacrilego abnegare, aliaque quamplurima nefanda excessus et crimina instigante humani generis inimico committere et perpetrare non verentur in animarum suarum periculum, diuine maiestatis offensam ac perniciosum exemplum et scandalum plurimorum; quodque licet dilecti filij Henricus<sup>d</sup> Institoris in predictis partibus Alamanie superioris in quibus

<sup>a</sup> *Ed. prin.*: puim

<sup>b</sup> *Schnyder (1993) 45 n. 71: operationis (without reason)*

<sup>c</sup> *Ed. prin.*: -am

<sup>d</sup> *Ed. prin.*: -i

etiam prouincie, ciuitates, terre, dyoceses et alia loca huiusmodi comprehensa fore censentur necnon Jacobus Sprenger per certas partes linee Rheni, ordinis fratrum predicatorum et theologie professores, heretice prauitatis inquisitores per litteras apostolicas deputati fuerint, prout adhuc existunt, tamen nonnulli clerici et layci illarum partium, querentes plura sapere quam oporteat,<sup>1</sup> pro eo quod in litteris deputationis huiusmodi prouincie, ciuitates, dyoceses, terre et alia loca predicta illarumque persone ac excessus huiusmodi nominatim et specificè expressa non fuerunt, illa sub eisdem partibus minime contineri et propterea prefatis inquisitoribus in prouincijs, ciuitatibus, dyocesibus, terris et locis predictis huiusmodi inquisitionis officium exequi non licere et ad personarum earundem super excessibus et criminibus antedictis punitionem, incarcerationem et correctionem admitti non debere pertinaciter asserere non erubescunt, propter quod in prouincijs, ciuitatibus, dyocesibus, terris et locis predictis excessus et crimina huiusmodi non sine animarum earundem euidenti iactura et eterne salutis dispendio remanent impunita: nos igitur impedimenta quelibet per que<sup>a</sup> ipsorum inquisitorum officij executio quomodolibet retardari posset de medio summouere et ne labes<sup>2A\*</sup> heretice prauitatis aliorumque excessuum | huiusmodi in perniciem aliorum innocentum sua venena diffundat, oportunis remedijs, prout nostro incumbit officio, prouidere volentes (fidei zelo ad hoc maxime nos impellente), ne propterea contingat prouincias, ciuitates, dyoceses, terras et loca predicta sub eisdem partibus Alamanie superioris debito inquisitionis officio carere, eisdem inquisitoribus in illis officium inquisitionis huiusmodi exequi licere et ad personarum earundem super excessibus et criminibus predictis correctionem, incarcerationem, et punitionem admitti debere, perinde in omnibus et per omnia ac si in litteris predictis prouincie, ciuitates, dyoceses, terre et loca ac persone et excessus huiusmodi nominatim et specificè expressa forent, auctoritate apostolica tenore presentium statuimus, proque potiori cautela litteras et deputationem predictas ad prouincias, ciuitates, dyoceses, terras, et loca necnon personas et crimina huiusmodi extendentes, prefatis inquisitoribus quod ipsi vel alter eorum accersito secundo dilecto filio Johanne Gremper clerico Constantiensis dyocesis magistro in artibus eorum moderno<sup>b</sup>, seu quouis alio notario publico per ipsos et quemlibet eorum pro tempore deputando in prouincijs, ciuitatibus, dyocesibus, terris et locis predictis

<sup>a</sup> *Ed. prin.*: que per

<sup>b</sup> *First draft of the bull*: notario.

<sup>1</sup> *Rom. 12: 3*: Dico . . . omnibus qui sunt inter vos non plus sapere quam oportet sapere . . .

contra quascunque personas, cuiuscunque conditionis et preeminentie fuerint, huiusmodi inquisitionis officium exequi<sup>a</sup> ipsasque personas quas in premissis culpabiles reperierint, iuxta earum demerita corrigere, incarcerare, punire et mulctare, necnon in singulis prouinciarum huiusmodi parrochialibus ecclesijs verbum dei fideli populo, quotiens expedierit ac eis visum fuerit, proponere et predicare omniaque alia et singula in premissis et circa ea necessaria et oportuna facere et similiter exequi libere et licite valeant plenam ac liberam eadem auctoritate de nouo concedimus facultatem.

Et nichilominus<sup>b</sup> venerabili fratri nostro, episcopo Argentinensi per apostolica scripta mandamus quatenus ipse per se vel alium<sup>c</sup> seu alios premissa vbi, quando et quotiens expedire cognouerit, fueritque pro parte <sup>2B\*</sup> inquisitorum huiusmodi seu alterius eorum legitime requisitus, solemniter publicans non permittat eos per quoscunque super hoc contra predictarum et presentium literarum tenorem quauis auctoritate molestari seu alias quomodolibet impediri, molestatores, et impediens et contradictores quoslibet et rebelles, cuiuscunque dignitatis, status, gradus, preeminentie, nobilitatis et excellentie aut conditionis fuerint et quocunque exemptionis priuilegio sint muniti, per excommunicacionis, suspensionis et interdicti ac alias etiam formidabiliores de quibus sibi videbitur sententias, censuras, et penas, omni appellacione postposita conpescendo et etiam legitimis super hijs per eum seruandis processibus, sententias ipsas, quotiens opus fuerit, aggrauare et reaggrauare auctoritate nostra procuret, inuocato ad hoc, si opus fuerit, auxilio brachij secularis, non obstantibus premissis ac constitutionibus et ordinacionibus apostolicis contrarijs quibuscunque, aut si aliquibus communiter vel diuisim ab apostolica sit sede indultum quod interdicti, suspendi vel excommunicari non possint per litteras apostolicas non facientes plenam et expressam ac de verbo ad verbum de indulto huiusmodi mentionem et qualibet alia dicte sedis indulgentia generali vel speciali, cuiuscunque tenoris existat, per quam presentibus non expressam vel totaliter non insertam effectus huiusmodi gratie impediri valeat quomodolibet vel differri et de qua cuiusque toto tenore habenda sit in nostris litteris mentio specialis. Nulli ergo omnino homini liceat hanc paginam nostre declaracionis, extensionis, concessionis et mandati infringere vel ei ausu temerario contraire. Si quis autem hoc attemptare presumpserit, indignacionem omnipotentis dei ac beatorum Petri et Pauli apostolorum eius se

<sup>a</sup> *Ed. prin.*: ex qui

<sup>b</sup> *Ed. prin.*: -mius

<sup>c</sup> *Ed. prin.*: aluim

nouerit incursum. Datum Rome apud Sanctum Petrum anno incarnationis dominice millesimoquadringsimooctagesimoquarto, nonis decembris, pontificatus nostri anno primo.

3A\* SEQUITUR IN SEQUEM TRACTATUM APPROBATIO ET  
SUBSCRIPCIO DOCTORUM ALME VNIUERSTITATIS  
COLONIENSIS IUXTA FORMAM PUBLICI INSTRUMENTI

JN nomine domini nostri Jhesu Christi. Amen. Nouerint vniuersi pens publicum instrumentum lecturi, visuri et audituri quod anno a natuitate eiusdem domini nostri mccccclxxxuij, indictione quinta, die vero sabbati decimanona mensis maij, hora quinta post meridiem vel quasi pontificatus sanctissimi in Christo patris et domini nostri domini Jnnocentij diuina prouidentia pape octauj anno tercio in mei notarij publici et testium infra scriptorum ad hoc specialiter vocatorum et rogatorum presentia personaliter constitutus venerabilis et religiosus frater Henricus Institoris sacre theologie professor ordinis predicatorum heretic<sup>a</sup> prauitatis inquisitor a sancta sede apostolica vna cum venerabili et religioso fratre Jacobo Sprenger, etiam sacre theologie professore ac conuentus predicatorum Coloniensis priore, collega suo specialiter deputatus, pro se et dicto collega suo proposuit atque dixit quod modernus summus pontifex, scilicet dominus Jnnocentius papa prefatus, per vnam patentem bullam commisit ipsis inquisitoribus Henrico et Jacobo ordinis predicatorum et sacre theologie professoribus predictis facultatem inquirendi apostolica auctoritate super quascunque hereses, precipue autem super heresim maleficarum modernis temporibus videntem, et hoc per quinque ecclesias metropolitanas, videlicet Moguntinam, Coloniensem, Treuerensem, Saltzburgensem, et Bremensem, cum omni facultate contra tales procedendi vsque ad vltimum exterminium iuxta tenorem bulle apostolice quam suis habebat in manibus sanam, integram, illesam et non viciatam, sed omni prorsus suspicione carentem. Cuius quidem tenor bulle sic incipit: “Jnnocentius episcopus  
3B\* seruus seruorum dei ad futuram | rei memoriam. Summis desiderantes affectibus, prout pastoralis sollicitudinis cura requirit, vt fides catholica nostris potissime temporibus vbique augeatur et floreat” etc., finit autem sic: “Datum Rome apud sanctum Petrum anno incarnationis dominice millesimoquadringsimooctagesimoquarto nonis<sup>b</sup> decembris, pontificatus nostri anno primo.”

<sup>a</sup> *Ed. prin.*: -i

<sup>b</sup> *Ed. prin.*: nos

Et quia nonnulli animarum rectores et verbi dei predicatoribus publice in eorum sermonibus ad populum asserere et affirmare non verebantur maleficas non esse aut quod nichil in nocendum creaturarum quacunque operatione efficere possent, ex quibus incautis sermonibus nonnunquam seculari brachio ad puniendum huiusmodi maleficas amputabatur facultas, et hoc in maximum augmentum maleficarum et confortacionem illius heresis, ideo prefati inquisitores totis eorum viribus cunctis periculis et insultibus obuiare volentes, tractatum quendam non tam studiose quam et laboriose collegerunt, in quo non tam<sup>a</sup> huiusmodi predicatorum ignorantiam pro catholice fidei conseruatione repellere nisi sunt quantum etiam in exterminium maleficarum <declarando><sup>b</sup> debitos modos sentiendi et easdem puniendi iuxta dicte bulle tenorem et sacrorum canonum instituta laborarunt. At quoniam consonum rationi est vt ea que pro communi vtilitate fiunt etiam communi approbacione doctorum roborentur, ideo ne prefati rectores discolori et predicatoribus sacrarum litterarum ignari estimarent predictum tractatum sic vt premititur collectum minus bene doctorum determinationibus et sententijs fulcitum, eundem ad vniuersitatem Coloniensem seu nonnullis ibidem sacre pagine professoribus ad discutiendum et collacionandum obtulerunt, vt si qua<sup>c</sup> reprehensibilia et a catholica veritate dissona reperirentur eorum iudicio<sup>d</sup> refutarentur, que<sup>e</sup> tamen consona catholice veritati, approbarentur, quod et subscriptis modis factum fuit.

JN PRIMIS EGREGIUS DOMINUS LAMBERTUS de Monte manu 4A\* sua propria se subscripsit, prout sequitur: Ego Lambertus de Monte, sacre theologie humilis professor, decanus pro tempore facultatis sacre pagine eiusdem studij Coloniensis, fateor hac manu propria istum tractatum tripertitum per me lustratum et diligenter collationatum quo ad eius partes duas primas nichil continere saltim meo humili iudicio quod sit contrarium aut sententijs non errantium philosophorum aut contra veritatem sancte catholice et apostolice fidei aut contra doctorum determinationes a sancta ecclesia approbatorum aut admissorum; tercia etiam pars vtique sustinenda et approbanda quo ad illorum hereticorum

<sup>a</sup> The following quantum suggests that this should be tantum, but such tidiness is probably not to be expected of this text.

<sup>b</sup> Hansen (1898) 141: significare vel sim. before laborarunt; but for the absolute use of in ... laborare, see 111B, 136D; for declarando, see 76C.

<sup>c</sup> Schnyder 55: que (the form here is probably influenced by the common usage of the indefinite pronoun directly after si)

<sup>d</sup> Ed. prin.: iudice sic; Schnyder 55: iudicio sic; Behringer et al.: indice sic. The sic is pointless and probably derives from a misreading of the end of iudicio.

<sup>e</sup> Ed. prin.: qd' (=quod)

punitiones de quibus tractat in quantum sacris canonibus non repugnat, iterum propter experimenta in hoc tractatu narrata quae utique propter famam tantorum virorum, precipuorum etiam inquisitorum, creduntur esse vera. Consulendum tamen videtur quod iste tractatus doctis et viris zelosis qui ex eo sana varia et matura consilia in exterminium maleficarum conferre possunt communicetur, simul et ecclesiarum rectoribus timoratis et conscientiosis dumtaxat, ad quorum doctrinam subditorum corda in odium tam pestifere heresis incitari poterunt, ad cautelam bonorum pariter et malorum inexcusabilitatem atque punicionem, ut sic misericordia in bonis et iusticia<sup>a</sup> in malis luce clarius pateat et in omnibus deus magnificetur ipso prestante, cui laus et gloria.

Deinde ad idem venerabilis magister JACOBUS de Stralen etiam propria manu sua se subscripsit in hunc modum: Ego Jacobus de Stralen, sacre theologie professor minimus, post visitacionem tractatus memorati sentio conformiter per omnia hijs que per venerabilem magistrum nostrum Lambertum de Monte, decanum sacre theologie, superius annotata sunt, quod attestor hac scriptura manus mee ad dei laudem.

Pariformiter eximius magister ANDREAS de Ochsenfurt etiam propria manu se subscripsit, ut infra: Conformiter michi, Andree de Ochsenfurt, sacre theologie professori nouissimo, videtur censendum de materia oblato tractatus, quantum prima facie apparuit, quod contestor manus mee scriptura ad finem in eodem expressum promouendum.

Consequenter autem egregius magister THOMAS de Scotia similiter se propria manu sua subscripsit, prout sequitur: Ego Thomas de Scotia, sacre theologie doctor, licet immeritus, conformiter sentio per omnia venerabilibus magistris nostris precedentibus in materia prefati tractatus per me examinati, quod attestor manu propria mea.

Subsequenter et secunda subscriptio contra prefatos predicatores incautos sic acta fuit. In primis positi fuerunt articuli prout sequitur: primo inquisitores heretice prauitatis deputatos auctoritate sedis apostolice iuxta formam canonum commendant magistri sacre theologie subscripti et hortantur quod dignentur prosequi cum zelo eorum officium; secundo quod maleficia posse fieri permissione diuina ex cooperatione dyaboli per maleficos aut maleficas non est contrarium fidei catholice, sed consonum dictis sacre scripture, ymo necessarium est iuxta sententias sanctorum doctorum illa quandoque posse fieri admittere; tercio predicare ergo maleficia non posse fieri erroneum est, quia sic predicantes impediunt quantum in eis est opus pium inquisitorum in preiudicium

<sup>a</sup> *Ed. prin.*: ins-

salutis animarum; secreta tamen que quandoque ab inquisitoribus audiuntur non sunt omnibus reuelanda; vltimo exhortandi veniunt omnes principes et quicumque catholici vt assistere dignentur tam pijs votis inquisitorum pro defensione sancte catholice fidei.

Demum vero subscripti et suprascripti doctores predicte facultatis theologie manibus proprijs se subscripserunt, prout ego Arnoldus notarius infrascriptus ex relacione honesti Johannis Vorda de Mechlinia, alme vniuersitatis Coloniensis bedelli iurati, qui michi hoc retulit, audiui et vt ex manibus etiam supra et infrascriptis apparuit, vidi in hunc qui sequitur modum.

Ego LAMBERTUS de Monte, sacre theologie humilis professor, ita 5A\*  
sentio vt prescribitur, teste hac manu mea propria, pro tempore decanus.

Ego JACOBUS de Stralen, sacre theologie professor minimus, ita sentio vt supra scribitur, quod testificor manu mea propria.

Ego VDALRICUS Kridwiß de Eßlingen, sacre theologie professor nouissimus, vt prescriptum est, ita sciendum hac manus proprie scriptura censeo.

Et ego CONRADUS de Campis, sacre theologie professor humillimus, prout supra cum maioribus meis in idem concurro iudicium.

Ego CORNELIUS de Breda, minimus professor, ita sentio vt prescriptum est, quod testificor manu mea propria.

Ego THOMAS de Scotia, sacre theologie professor, licet immeritus, conformiter sentio venerabilibus professoribus prescriptis, teste manu mea propria.

Ego THEODERICUS de Bunwell, sacre theologie humilimus professor, ita sentio sicut perscriptum est per magistros meos prescriptos, quod testor manu mea propria.

In assercionem articulorum prescriptorum conformis iudicij sum cum venerandis magistris nostris preceptoribus meis, ego ANDREAS de Ochsenfurt, sacre theologie facultatis professor ac theologorum vniuersitatis Coloniensis collegij minimus.

Nouissime autem et finaliter iam dictus venerabilis et religiosus frater HENRICUS Institutoris inquisitor habuit et tenuit in suis manibus quandam aliam litteram pergameneam serenissimi regis romanorum sigillo suo rubeo rotundo in capsula cere glauca impressa impressula pergamini inferius impendenti sigillatam, sanam et integram, non viciatam, non cancellatam neque in aliqua sui parte suspectam, sed omni | prorsus 5B\*  
vicio et suspicione carentem, ita quod in faciliorem expeditionem huius negocij fidei idem serenissimus dominus romanorum rex prefatus ipsam eandem bullam apostolicam supra tactam tanquam christianissimus

princeps tueri et defendere voluit atque vult et ipsos inquisitores in suam omnimodam protectionem suscipit, mandans et precipiens omnibus et singulis romano imperio subditis vt in execucione talium negociorum fidei ipsis inquisitoribus omnem fauorem et assistentiam exhibeant ac alias faciant prout in eadem littera plenius continetur et habetur. Cuius quidem littere regalis principium et finis hic infra annotantur in hunc modum: "MAXIMILIANUS diuina fauente clementia romanorum rex, semper augustus, archidux Austrie, dux Burgundie, Lotharingie, Brabancie, Lymburgie, Lutzenburgie et Gelrie, comes Flandrie" etc., finis vero: "Datum in oppido nostro Bruxellensi nostro sub sigillo mensis nouembris die sexta anno domini millesimoquadringentesimo octuagesimosexto, regni nostri anno primo."

De et super quibus premissis omnibus et singulis iam dictus venerabilis et religiosus frater HENRICUS inquisitor pro se et collega suo antedicto ipsis a me notario publico supra et infra scripto fieri et confici vnum vel plura publicum seu publica instrumentum et instrumenta in meliori forma petijt. Acta sunt hec Colonie<sup>a</sup> in domo habitationis venerabilis magistri LAMBERTI de Monte predicti infra emunitatem<sup>b</sup> ecclesie sancti Andree Coloniensis sita, in camera negociorum et studij eiusdem magistri Lamberti inferius, sub anno domini, indictione, mense, die, horis et pontificatu quibus supra, presentibus ibidem predictis magistro Lamberto et Johanne bedello necnon honestis viris Nicolao Cuper de Venroide venerabilis curie<sup>c</sup> Coloniensis notario iurato et Cristiano Wintzensi de Euszkirchen<sup>c</sup> clerico Coloniensis dyocesis testibus ad premissa fide dignis rogatis et requisitis.

Et ego Arnoldus Kolich de Euszkirchen,<sup>d</sup> clericus Coloniensis iuratus, quia premissis omnibus et singulis dum sic vt premittitur fierent et agerentur vna cum prenomatis testibus presens fui, eaque sic fieri vidi et vt prefertur ex relatione bedelli audiui, idcirco presens publicum instrumentum manu mea propria scriptum et ingrossatum exinde confeci, subscripsi, publicauit, et in hanc publicam formam redegi, signoque et nomine meis solitis et consuetis signaui rogatus et requisitus in fidem et testimonium omnium et singulorum premissorum.

SEQUITUR TABULA SUBSEQUENTIS OPERIS SEU TRACTATUS.

<sup>a</sup> *Ed. prin.*: Coloñ

<sup>b</sup> *Sc.*: immun-

<sup>c</sup> *Ed. prin.*: en }z-

<sup>d</sup> *Ed. prin.*: en }z-

CUM INTER RUENTIS SEculi calamitates, quas – proh dolor! – non tam legimus quam passim experimur, vetus oriens damno sue ruine irrefragabili dissolutus ecclesiam quam nouus oriens homo Christus Jesus aspersione sui sanguinis fecundauit, licet ab initio varijs heresum contagionibus inficere non cessat, illo tamen precipue in tempore his conatur quando mundi vespere ad occasum declinante et malicia hominum excrescente nouit in ira magna, vt Johannes in *Apocalypsi* testatur, se modicum tempus habere: quare et insolitam quandam hereticam prauitatem in agro dominico succrescere fecit, heresim, inquam, maleficarum, a principaliori in quo vigere noscitur sexu denotando. Que dum innumeris machinatur insultibus, hoc tamen in singulis quod cogitatu terribile, deo nimium abominabile et omnibus Christi fidelibus odibile cernitur, operibus expletur – ex pacto enim cum inferno et federe cum morte fetidissime seruituti pro earum prauis explendis spurcitijs se subiiciunt – praeterea, ea que in quotidianis erumnis hominibus, iumentis, et terre frugibus ab eis deo permittente et virtute demonum concurrente inferuntur.

Inter que mala nos inquisitores Jacobus Sprenger vna cum charissimo ab apostolica sede in exterminium tam pestifere heresis socio deputato, licet inter diuinorum eloquiorum professores sub predicatorum ordine militantium minimi, pio tamen ac lugubri affectu pensantes quid remedij quidue solaminis mortalibus ipsis pro salutari anthidoto foret administrandum, huic operi pre cunctis alijs remedijs pios submittere humeros dignum iudicauimus, confisi de melliflua largitate illius qui dat omnibus affluenter et qui calculo<sup>2</sup> sumpto de altari forcipe tangit et mundat labia imperfectorum<sup>3</sup> in finem opratum cuncta perducere.

Verum cum in operibus hominum nil fiat adeo vtile et licitum cui non possit aliqua pernicies irrogari,<sup>4</sup> ingeniola etiam nostra ad acumen non perueniunt veritatis nisi lima alterius prauitatis plurimum fuerint abrasa, ideo qui de nouitate operis nos redarguendos estimat, ad certamen illius confidenter accedimus. Sciat tamen hoc ipsum opus nouum esse simul et antiquum, breue pariter et prolixum: antiquum certe materia et auctoritate, nouum vero partium compilatione earumque

<sup>2</sup> *Start of adaptation of Isaiah 6:6–7:* Et volauit ad me vnus de seraphim, et in manu eius calculus quem forcipe tulerat de altari, et tetigit os meum et dixit: "ecce tetigit hoc labia tua et auferetur iniquitas tua et peccatum tuum mundabitur."

<sup>3</sup> *End*

<sup>4</sup> *Cf. Augustine, Ep. 47.5:* Quid enim est in usu hominum bonum aut licitum unde non possit pernicies irrogari?

aggregatione, breue propter plurimorum auctorum in breue<sup>a</sup> perstrictionem, longum nihilominus propter immensam materie multitudinem et maleficarum imperscrutabilem maliciam. Nec hoc dicimus ceterorum auctorum scriptis presumptuose derogando, nostrumque opus iactanter et inaniter extollendo, cum ex nostro ingenio pauca et quasi nulla sint addita, vnde non nostrum opus sed illorum potius censeatur quorum ex dictis fere sunt singula contexta.

Qua simul ex causa nec poemata condere nec sublimes theorias cepimus extendere, sed excerptorum more procedendo, ad honorem summe trinitatis et indiuidue vnitatis super tres partes principales (originem, progressum et finem), *Maleficarum Malleum* tractatum nuncupando aggredimur recollectionem operis socio, executionem vero his<sup>b</sup> quibus iudicium durissimum imminet,<sup>c</sup> eo quod in<sup>d</sup> vindictam malorum, laudem vero bonorum<sup>e</sup> constituti cernuntur a deo, cui omnis honor et gloria in secula seculorum. Amen.

- 3A SUPER BULLAM ERGO INNOCENTII octauī aduersus heresim maleficarum nouissime emanatam questiones quadraginta octo discutiende; tria principaliter habent declarare: primo originem, secundo progressum, tercio finale remedium, originem quo ad multiplicationem, progressum quo ad operum executionem, finale remedium quo ad illius heresis exterminium. Prima pars super tria que ad maleficalem effectum concurrunt, vt sunt demon, maleficus et diuina permissio, continet in numero questiones decem et octo, quarum quattuor super potentiam demonis, relique super eorum opera. Est autem prima et totius operis introductoria, an asserere maleficas esse ita censeatur catholicum quod eius oppositum pertinaciter defendere omnino sit hereticum; secunda an catholicum sit asserere quod ad effectum maleficalem semper habeat demon cum malefico concurrere vel quod alterum sine adminiculo
- 3B alterius talem effectum possit producere; tercia an catholicum sit asserere quod huiusmodi effectus per incubos et succubos demones sic procurantur, quod etiam veri homines in multiplicationem et originem maleficorum per tales demones procreantur; quarta quaestio an catholicum sit asserere quod actus incuborum et succuborum demonum tantummodo

<sup>a</sup> Ed. prin.: -em

<sup>b</sup> Hansen (1901) 405 n. a suggests that *committendo* or *the like* has dropped out after his (see also *General Intro.* 4c. i. α)

<sup>c</sup> Cf. *Wisdom 6:6*: ... iudicium durissimus in his qui presunt fict.

<sup>d</sup> Start 1 *Peter 2:14*

<sup>e</sup> End

infirmis spiritibus conueniat; quinta an quoque<sup>a</sup> modo possit catholice censi quod origo et multiplicatio maleficorum operum ex influentijs procedat corporum celestium absque adminiculo demonum, seu a substantijs separatis, vt sunt motores orbium celestium, seu etiam a malicia hominum concurrente ad voces et verba quacunque virtute stellarum; sexta quo ad maleficos cum demonibus concurrentes, cur mulieres amplius inueniuntur hac heresi infecte quam viri, cuiusmodi etiam mulieres prae ceteris sunt inuolute declaratur per quinque sequentes questiones; septima an malefice virtute demonum mentes hominum ad odium vel amorem inordinatum incitare valeant et de modo proponendi huiusmodi materiam in sermonibus ad populum; octaua an generatiuam potentiam seu actum venereum impedire et maleficari possunt cum quadam incidentalibus questione cur interdum actus ille impeditur respectu vnus et non respectu alterius persone; nona an prestigiosa illusionem membra virilia quasi sint a corporibus euulsa auferre solent cum certis alijs annexis difficultatibus; decima an homines in bestiales formas possint transmutare cum incidentalibus alia difficultate; vndecima de obstetricibus maleficis conceptus in vtero et extra diuersimode interimentes;<sup>b</sup> duodecima super permissionem diuinam que ad demonem et maleficam habet concurrere, an diuinam permissionem in his operibus maleficarum commendare ita sit catholicum quod eius oppositum, scilicet illam redarguere, omnino sit hereticum; tredecima etiam incidentalibus super duas diuinas permissiones, circa casum diaboli et primorum parentum, ex quibus cuncta maleficorum opera iuste permittuntur; quartadecima an premissis non obstantibus peccata maleficorum grauiora<sup>c</sup> sint peccatis malorum angelorum et priorum parentum, et est tota materia predicabilis, cum declaratione quod grauissimas mererentur penas etiam in presenti vltra omnes flagitiosos mundi; quintadecima an propter peccata maleficorum innoxij sepe maleficientur; sextadecima an heresis maleficarum omnes alias superstitionis species excedat; decimaseptima est declaratiua quartedecime, grauitatem criminis in maleficis ad peccata quecunque demonum comparando; decimoctaua contra quinque argumenta laicorum quod deus non permittat tantam potestatem diabolo et maleficis, et in hac materia coniungitur finis suo principio,<sup>d</sup> dum hec vltima questio annectitur prime.

<sup>a</sup> Sc. quoquam

<sup>b</sup> Sc. -ibus

<sup>c</sup> Ed. prin.: grauiaora

<sup>d</sup> Ed. prin.: plin-

SECUNDA PARS OPERIS CONTINET sedecim capitula sub duabus questionibus, quarum vna in principio et altera in fine ponitur, et prima super remedia preseruatiua, altera super remedia maleficia amouentia. Capitula autem intermedia modum procedendi maleficorum in maleficijs inferendis pertractant. Prima questio an quis possit per bonos angelos ita beneficiari | quod a maleficis et demonibus non possit maleficiari: 4A capitulum primum de diuersis medijs quibus demones ad augmentum illius perfidie alliciunt per maleficas innoxias<sup>a</sup> et honestas puellas; secundum capitulum de modo sacrilege professionis earum cum declaratione omagij prestandi dyabolo; tertium super modum quo de loco ad locum corporaliter transferuntur; quartum de modo quo se incubis demonibus subijciunt, in quo etiam tractatur qualiter ex his multiplicantur, et an semper cum decisione seminis incubus maleficam aggreditur, et an potius vno tempore quam altero et similiter de loco, et an visibiliter illas spurcitas agitant cum maiori vel minori venerea delectatione, et an incubi tantummodo mulieres ex earum spurcicijs procreatas aggrediuntur; quintum capitulum de modo generali quo per sacramenta ecclesie sua maleficia exercent et de sex modis quibus omnibus creaturis corporalibus demptis corporibus celestibus veras infirmitates, licet non | veras sanitates, virtute naturali inferre possunt; sextum de 4B modo quo vim generatiuam impedire solent; septimum de modo quo membra virilia auferre solent, quia ea que in prima parte tacta sunt super potentiam faciendi iam per modos operandi declarantur, vnde non est eadem vtrobique materia; octauum de modo quo homines in bestiales formas transmutant; nonum de modo quo demones intra corpora sine lesione existunt quando prestigiosas operantur transmutationes; decimum de modo quo demones substantialiter per maleficarum operationes homines inhabitant; vndecimum de modo quo omne genus infirmitatis inferre possunt: hoc tamen in generali tractatur, in speciali vero sequenti duodecimo capitulo quo grauiores infirmitates inferunt; tertiumdecimum super modum quo malefice obstetrices pre omnibus alijs maiora damna inferunt infantes aut interimendo aut demonibus offerendo; quartumdecimum super modum | quo iumentis varia nocumenta 4C inferunt; quintumdecimum super modum quo grandines et tempestates concitare ac fulgura fulminare solent; sedecimum super tres modos quo<sup>b</sup> viri reperiuntur maleficijs infecti et non mulieres, et primo de maleficijs sagittarijs, secundo de incantatoribus qui per carmina sacrilega arma

<sup>a</sup> *Ed. prin.* -os

<sup>b</sup> *Sc.* quibus

lesiuā contra quecunq̄ue nocumenta incantare sciunt, et hoc per verba, tertio qui per breuia scripta.

SED QUO AD REMEDIA maleficia amouentia, quod est secundum principale huius secunde partis, primo ponitur questio, vtrum sit licitum maleficia per alia maleficia aut per illicita tollere, et habet capitula nouem: primum super remedium ecclesiasticum contra incubos et succubos demones; secundum super remedia contra vim generatiuam maleficiatam; tertium super remedia contra maleficiatos super amorem vel odium inordinatum; quartum super remedia vbi prestigiosa arte membra virilia auferuntur, et vbi homines in bestiales formas transmutantur; quintum super remedia contra obsessos ex maleficio; sextum super remedia contra quascumque<sup>a</sup> infirmitates a maleficis illatas et hoc per licitos exorcismos; septimum super remedia contra grandines et fulmina ac etiam super iumenta maleficiata; octauum super remedia quedam occulta contra quasdam occultas demonum infestationes; nonum super remedia pro illis qui se demonibus intuitu alicuius comodi temporalis totaliter deuouissent. 4D

TERTIA PARS OPERIS SUPER remedia vltima non tam contra earum opera quam personas maleficarum super ipsorum<sup>b</sup> exterminium continet tres partes principales, scilicet modum inchoandi processum iudicij et modum continuandi et modum sentiendi, puniendi et plectendi [questiones], et prima pars continet questiones quinque, secunda duodecim, tertia viginti. Et prima et omnium sequentium questionum 5A  
introductionaria est: vtrum malefice et earum fautores, receptatores et defensores ita subiiciuntur tam ecclesiastico quam ciuili iudicio quod ab earum inquisitione valeant heretice prauitatis inquisitores esse exonerati, demum super modum inchoandi processum: prima questio, quis sit modus conpetens iudici ad inchoandum processum fidei contra maleficas; secunda questio de numero testium; tertia, quotiens possint examinari; quarta de conditione testium; quinta, an inimici capitales ad testificandum admittuntur; super secundam partem, qualiter processus talis est continuandus, est questio sexta, et primo qualiter testes sunt citandi et interrogandi, secundo, qualiter interrogatoria generalia pro primo actu maleficis proponuntur, tertio qualiter interrogatoria particularia; questione septima varia dubia super responsiones negatiuas maleficarum

<sup>a</sup> *Ed. prin.*: -cuuque

<sup>b</sup> *Sc.* -arum

- 5B declarantur, et quando potest incarcerari, quando etiam pro manifeste deprehensa in heresi maleficarum sit habenda, et est actus secundus; questione octava, quomodo sit capienda et incarceranda (erit actus tertius); nona questio: an deponentium nomina sint ei post captionem manifestanda (actus quartus); decima, qualiter defensiones sunt concedende cum deputatione aduocati (actus quintus); vndecima, quid faciet aduocatus cum sibi testium nomina non publicantur (actus sextus); duodecima magis declaratiua, quomodo sit capitalis inimicitia inter delatam et testes inuestiganda, et est actus septimus iudicis; tredecima, quid faciet iudex vbi delatus vult eum recusare (actus octauus); quartadecima de hijs que iudex habet aduertere ante locum carceris et torture, et quod non sit facilis ad exponendum maleficam tormentis propter maleficium taciturnitatis (actus nonus); quintadecima de modo sentiendi delatam ad questiones, et qualiter prima die sit questionanda; sedecima, quomodo questiones sunt continuande, et de signis ex quibus malefica cognoscitur, et quomodo sunt abradende, et de varijs cautelis super maleficium taciturnitatis, et est actus vndecimus iudicis; decimaseptima de tempore et de secundo modo interrogandi et de cautelis extremis a iudice obseruandis.

SUPER MODOS VERO SENTENTIANDI viginti: in numero est prima questio, an super examen et iudicium candentis ferri, vbi ad illud appellant, possint sententiarum; secunda de his que generaliter iudex debet obseruare tam circa sententias interlocutorias quam diffinitiuas; tertia, quot modis iudex potest delatum habere suspectum, et super quibus suspicionibus potest ferre sententiam; quarta, quomodo sit sententia ferenda super personam delatam sed immunem totaliter; quinta, qualiter sit ferenda super delatam et diffamatam generaliter; sexta, qualiter super delatam diffamatam questionibus tamen et tormentis exponendam aliquid; septima, qualiter super suspectam de illa heresi leuiter; octava, qualiter super suspectam vehementer; nona, qualiter super suspectam violenter; decima, qualiter est ferenda super diffamatam et suspectam insimul et communiter; vndecima, qualiter super confessam illam heresim sed non relapsam et penitentem; duodecima, qualiter super confessam heresim et penitentem sed relapsam probabiliter; tredecima, qualiter super confessam et impenitentem sed non relapsam realiter; quartadecima, qualiter super confessam heresim et impenitentem atque relapsam certitudinaliter; quintadecima, qualiter super non confessam sed conuictam de heresi legitimis testibus et alias iudicialiter; sedecima, qualiter super conuictam sed fugitiuam vel se absentantem contumaciter;

decimaseptima, qualiter super delatam ab alia malefica incinerata sed non confessam; decimaoctava, qualiter super delatam non maleficia inferentem sed tollentem; decimanona, qualiter super sagittarios maleficos, armorum incantatores, et quoscunque nigromanticos; vicesima, super obstetrices maleficas omnes alias in malefijis excedentes; concludendo de remedio appellationis, vbi delata quecunque ad illud confugeret, quid iudici ecclesiastico seu ciuili sit faciendum.



P A R S I



VTRUM ASSERERE MALEFICOS ESSE sit adeo<sup>3</sup> catholicum quod 7A  
 eius oppositum pertinaciter defendere omnino sit hereticum, et arguitur  
 quod non sit catholicum quicquam de his asserere: (xxvi q. v. “Episcopi”)  
 “Qui credit posse fieri aliquam creaturam aut in melius deteriusue trans-  
 mutari aut in aliam speciem vel similitudinem transformari quam ab ipso  
 omnium creatore pagano et infideli deterior.” Talia autem cum referun-  
 tur fieri a maleficis, ideo talia asserere non est catholicum sed hereticum.

Preterea, nullus<sup>1</sup> effectus maleficialis est in mundo. Probat, quia, si  
 esset, operatione demonum fieret, sed asserere quod demones possint  
 corporales transmutationes aut impedire aut efficere non videtur  
 catholicum, quia sic perimere possent totum mundum.<sup>2</sup>

Preterea,<sup>3</sup> omnis alteratio corporalis, puta circa infirmitates aut sani-  
 tates procurandas, reducitur in motum localem. Patet ex vij *Phisicorum*  
 (“quorum | primus est motus celi”). Sed demones motum celi variare 7B  
 non possunt (Dionisius in *Epistola ad Policarpum*) quia hoc solius dei  
 est. Ergo videtur quod nullam transmutationem adminus veram<sup>4</sup> in  
 corporibus<sup>5</sup> causare<sup>6</sup> possunt<sup>7</sup> et quod necesse sit huiusmodi transmu-  
 tationes in aliquam causam occultam reducere.

Preterea,<sup>8</sup> sicut opus dei est fortius quam opus diaboli, ita et eius  
 factura, sed maleficium si esset in mundo, esset vtique opus diaboli contra  
 facturam dei: ergo sicut illicitum est asserere facturam supersticiosam  
 diaboli excedere opus dei, ita illicitum est credere vt creature et opera  
 dei in hominibus et iumentis valeant vitiari ex operibus diaboli.<sup>9</sup>

Preterea,<sup>10</sup> id quod subiacet virtuti corporali non habet virtutem  
 imprimendi in corpora, sed demones subduntur virtutibus stellarum,

<sup>3</sup> *Ed. prin.*: a deo

<sup>1</sup> *Start of adaptation of Aq., Sent. 4.34.3.1.Agr*: Huiusmodi enim maleficia fiunt operatione demonum, sed demones non habent potestatem . . . quia sic totum mundum peruerterent . . . ; *and Co.*: . . . quidam dixerunt quod maleficium nihil erat in mundo nisi in estimatione hominum

<sup>2</sup> *End*

<sup>3</sup> *Start of Aq., Sent. 2.7.3.1.Ag3*

<sup>4</sup> adminus veram: *not in Aq.*

<sup>5</sup> *Aq. adds inferioribus*

<sup>6</sup> *Aq.*: facere

<sup>7</sup> *End (Aq. adds: de forma in formam)*

<sup>8</sup> *Start of adaptation of Aq., Sent. 4.34.1.3.Ag2*: Preterea, opus dei fortius est quam opus diaboli. Sed maleficium est opus dei. Ergo non potest impedire matrimonium, quod est opus dei.

<sup>9</sup> *End*

<sup>10</sup> *Start of Aq., Sent. 2.7.3.1.Ag4*

quod patet ex eo quod certi incantatores<sup>11</sup> constellationes determinatas ad inuocandum demones obseruant: ergo non habent virtutem imprimendi aliquid in corpora,<sup>12</sup> et sic multo minus malefice.

7C Jtem, demones<sup>13</sup> non operantur nisi per artem,<sup>14</sup> sed ars non potest dare veram<sup>15</sup> formam, vnde in capitulo *De Mineris*<sup>16</sup> dicitur: "Sciant auctores alchimie species transmutari non posse": ergo et demones per artem operantes veras qualitates sanitatis aut infirmitatis inducere non possunt,<sup>17</sup> sed si vere sunt, habent aliquam aliam causam occultam absque opere demonum et maleficorum.

Sed contra in *Decretis* xxxiiij q. i ("Si per sortiarias atque maleficas artes non nunquam occulto iusto dei iudicio permittente et diabolo preparante" etc.) loquitur de impedimento maleficali quo ad actus coniugales, tria concurrere, scilicet maleficam, diabolum et dei permissionem.

Preterea,<sup>18</sup> fortius agere potest in id quod est minus forte, sed virtus demonis est fortior virtute corporali<sup>19</sup> (*Job* xl: "Non est potestas super terram que ei valeat comparari qui creatus est vt neminem timeret").

Responsio. Hic impugnandi sunt tres errores hereticales, quibus reprobatis veritas patebit. Nam quidam iuxta doctrinam sancti Thome in 7D *Quarto*, (di. xxxiiij), [vbi tractat de impedimento maleficali, conati sunt asserere maleficium<sup>20</sup> nihil esse in mundo nisi in opinione hominum qui naturales effectus quorum cause sunt occulte maleficijs imputabant;<sup>21</sup> alij qui maleficos concedunt sed ad maleficiales effectus illos tantummodo imaginarie et fantasticè concurrere asserunt; tertij qui effectus maleficiales omnino dicunt esse fantasticos et imaginarios, licet demon cum malefica realiter concurrat. Horum errores sic declarantur et reprobantur.

Nam primi omnino de heresi notantur per doctores in *Quarto*, prefata distinctione, precipue per sanctum Thomam in iij articulo et in corpore

<sup>11</sup> quod patet . . . incantatores: vnde etiam malefici in *Aq.*

<sup>12</sup> *End*

<sup>13</sup> *Start of Aq.*, Sent. 4.7.3.1. *Ag*

<sup>14</sup> *Aq.*: modum artis

<sup>15</sup> *Aq.*: substantialem

<sup>16</sup> *Aq.*: numeris

<sup>17</sup> *End*

<sup>18</sup> *Start of Aq.*, Sent. 2.7.3.1. *SC2*

<sup>19</sup> *End*

<sup>20</sup> *Start of Aq.*, Sent. 4.34.1.3. *Ag2*

<sup>21</sup> *End*

questionis dicens<sup>a</sup> illam opinionem esse omnino contra<sup>22</sup> auctoritates sanctorum et procedere ex radice infidelitatis, quia ubi auctoritas scripture sacre dicit quod demones habent potestatem supra corporalia et supra imaginationem hominum quando a deo permittuntur, vt ex multis scripture sacre passibus notatur, ideo illi qui dicunt maleficium nihil esse in mundo nisi in estimatione hominum etiam non | credunt esse demones nisi in estimatione vulgi tantum, vt terrores quos homo sibi-ipsi facit ex sua estimatione imputet demoni, et quod etiam ex imaginatione vehementi alique figure apparent in sensu tales quales homo cogitat, et quod<sup>b</sup> tunc creduntur demones videri,<sup>23</sup> dicamus vel etiam malefici. Et quoniam hec<sup>24</sup> vera fides repudiat, per quam angelos de celo cecidisse et demones esse credimus,<sup>25</sup> ideo et fatemur ipsos ex<sup>26</sup> subtilitate sue nature multa posse que nos non possumus, et illi qui eos ad talia facienda inducunt malefici vocantur.<sup>27</sup> Hec ibi. Quia vero infidelitas in baptizato heresis nominatur, ideo tales de heresi reprehenduntur. 8A

Alij duo errores demones et eorum naturalem potentiam non negantes sed inter se quo ad effectum maleficalem et ipsam maleficam dissidentes, in quantum vnus concedit maleficam realiter cooperari ad effectum, non tamen verum sed fantasticum, alter vero per contrarium effectum realem in leso concedens sed maleficam fantasticè putat cooperari: 8B  
fundamentum erroris ex duobus passibus canonis qui habentur xxvi q. v “Episcopi” sumpserunt, ubi primo reprehenduntur mulieres que credunt se cum Diana vel Herodiade<sup>c</sup> nocturnis horis equitare (inspicitur ibi canon), et quia sepe fantasticè et imaginarie talia solummodo fiunt, ideo et illi errantes de omnibus alijs effectibus ita fieri iudicant; secundo, quia ibi continetur quod qui credit vel asserit posse fieri aliquam creaturam aut in melius deteriusue immutari aut transformari in aliam speciem vel similitudinem quam a deo omnium creatore, infidelis est et pagano deterior, vnde propter hoc quod ibi dicitur, deteriusue immutari, dicunt illum effectum non esse realem in maleficiato sed tantummodo fantasticum.

<sup>a</sup> Sc. -entem

<sup>b</sup> Ed. prin.: quod et [quod not in Aq.]

<sup>c</sup> Ed. prin.: -diana (cf. 11A, 60C, 101A)

<sup>22</sup> Start of Aq., Sent. 4.34.1.3. Co.

<sup>23</sup> Pause

<sup>24</sup> Resume (sed omitted at start)

<sup>25</sup> Pause

<sup>26</sup> Resume (ex omitted at start)

<sup>27</sup> End

Sed quod hi errores heresim sapiant et contra sanum intellectum canonis militant, ostenditur primo tam per legem diuinam quam etiam ecclesiasticam et ciuilem, et hoc in generali, demum in speciali verba canonis  
8C exprimendo, licet etiam in sequenti questione clarius hoc deducetur.

Nam lex diuina in plerisque locis precipit maleficas non solum esse vitandas sed etiam occidendas. Cuiusmodi penas non imponeret si non veraciter et ad reales effectus et lesiones cum demonibus concurrerent. Mors<sup>28</sup> enim corporalis non infligitur sine corporali et graui peccato,<sup>29</sup> licet aliud de morte anime, que ex fantastica illusione seu etiam tentatione oriri potest. Hec est sententia sancti Thome in *Secundo*, distinctione vij in questione, an vti auxilio demonum sit malum. Nam *Deuteronomi* xvij precipitur omnes maleficos et incantatores interfici.<sup>30</sup> *Leuitici*<sup>31</sup> etiam xix dicitur: "Anima que declinauerit ad magos et ad ariolos et fornicata fuerit in<sup>32</sup> eis, ponam faciem meam contra eam et interficiam eam de medio populi mei," et iterum xx: "Vir vel mulier in quibus phitonicus vel diuinus<sup>33</sup> spiritus fuerit moriatur:<sup>34</sup> lapidibus obruentur eos." Et dicuntur phitones in quibus demon operatur miros effectus.

Preterea, hec sunt quod propter hoc pactum Ochozias infirmus mortuus fuit (*iiij Regum i*) et Saul (*i Paralipomenon x*).<sup>35</sup>

8D Diuinorum denique eloquiorum tractatores quid aliud in eorum scriptis super *Secundo* (di. vij et viij) tradiderunt de potestate demonum et magicis artibus eorum? Scripta inspiciantur cuiuscumque doctoris super *Secundum Librum Sententiarum* et inueniet nullo discrepante magos et maleficos virtute demonum permittente deo miros effectus, non fantasticos posse producere. Taceo de varijs alijs locis in quibus sanctus Thomas diffuse de huiusmodi operibus pertractat, vt in *Summa Contra Gentiles* (li. iij, c. <c>i et ij), in *Prima Parte* (q. cxiiij, ar. iiij), et in *Secunda Secunde* (q. lxxxij et lxxxiiij). Inspiciantur denique postillatores et glosatores de magis pharaonis (*Exodi* vij). Inspiciantur et dicta Augustini xvij *De Ciuitate Dei* (c. xvij), et in secundo *De Doctrina Christiana*, similiter aliorum doctorum. Quibus omnibus contradicere valde absurdum est, nec a vitio heresis excusari potest, imo in iure hereticus censetur quicumque errat in expositione sacre scripture (xxiiij q. i "Heresis"), et

<sup>28</sup> *Start of Aq.*, Sent. 2.7.3.2.SC 1

<sup>29</sup> *End*

<sup>30</sup> *Quotation from Aq.*, Sent. 2.7.3.SC 1

<sup>31</sup> *Start of adaptation of Nider*, Praec. 1.9 (C): Vnde Leui. xix: [same quotation]; item ibidem: xx [same quotation with "Sanguis eorum fit super eos"]. Vnde propter hoc pactum Ochozias infirmus mortuus est (iiij Reg. i) et Saul (i Paral. x).

<sup>32</sup> *Vulgate*: cum

<sup>33</sup> *Vulgate*: diuinationis

<sup>34</sup> *So Nider*; *Vulgate*: -atur

<sup>35</sup> *End*

quicumque aliter sentit de his que fidem concernunt quam Romana tenet ecclesia (eodem capitulo et questione, "Hec est fides").

Quod denique contra sanum intellectum canonis militant ostenditur <sup>9A</sup> per legem ecclesiasticam. Nam et canonum doctores super capitulum "Si per sortiarias et maleficas artes" (xxxiiiij q. i) et *Extra*, "De frigidis et maleficiatis" quid aliud pretendunt nisi de maleficali impedimento circa actus coniugales declarare, quo modo dirimit contractum aut contrahendum matrimonium? Dicunt enim, sicut et Thomas in *Quarto* (vbi supra), quod, si maleficium superueniat matrimonio ante carnalem copulam, tunc, si est perpetuum, impedit et dirimit matrimonium contractum, cuiusmodi sententia non daretur super illusorium et fantasticum effectum, vt de se patet. Videatur Hostiensis in *Summa Copiosa*, similiter Gotfridus et Raymundus, qui etiam nullibi leguntur difficultasse, an talis effectus posset censi imaginarius et non realis, sed hoc tamquam per se notum relinquebant, et quo modo posset censi perpetuus vel temporalis declarant si post triennium duraret, nec dubitabant, an imaginarie per maleficam seu illusorie intromitteretur, sed quod vere et realiter potest talis defectus procurari virtute demonis <sup>9B</sup> propter pactum cum eo initum, vel etiam per ipsum demonem absque malefica, licet hoc rarissime fiat in ecclesia, vbi sacramentum matrimonij meritorium existit, sed quod inter infideles hoc contingat, hoc est, quia iusto titulo illos possidere se cernit, vt Petrus de Palude in suo *Quarto* recitat de sponso qui desponsauerat ydolum et nihilominus contraxerat cum quadam iuuenula, quam tamen cognoscere non potuit propter diabolum qui semper se in corpore assumpto interposuerat. Cum tamen in ecclesia diabolus conatur potius per maleficas propter suum lucrum in perditionem animarum tales effectus intromittere, et qualiter hoc facere potest et quibus medijs, inferius declarabitur, vbi de septem modis nocendi hominibus per consimiles effectus tractabitur, et alijs etiam questionibus, quas theologi et canoniste circa hanc materiam mouent, hoc idem patet, discutientes quomodo possit tolli et an licitum sit per aliud maleficium tollere et quid si malefica mortua sit per <sup>9C</sup> quam maleficium est immissum, de quo casu Gotfridus in sua *Summa* mentionem facit. De quibus in questionibus tertie partis patebit.

Cur denique tam diligenter canoniste varias penas promulgassent, distinguendo de occulto et manifesto peccato maleficorum seu potius diuinorum, cum noxia superstitio varias habeat species, vt<sup>36</sup> si

<sup>36</sup> *Start of Nider. Praec. 1.9 (C), which begins:* Item secundum canones si diuinorum et maleficorum peccatum occultum sit, imponitur penitentia xl dierum (*Extra*, eodem capitulo i), si notorium, eucharistia negatur...

notorium sit, eukaristia denegetur; si occultum, penitentia xl dierum (“De Consecratione,” di. ij “Pro dilectione”); item, si clericus, quod deponendus et in monasterio detrudendus; si laycus, excommunicandus (xxvi q. v “Non oportet”); item quod tales infames debeant censi et qui ad eos concurrunt, imo nec ad accusationem debent admitti (ij q. viij “quisquis nec”).<sup>37</sup>

Sed et per legem ciuilem hoc idem ostenditur. Nam Azon in *Summa* super ix libro *Codicis*, rubrica “De Maleficis” post legem Corneliam de siccarijs et homicidijs dicit: “Sciendum quod omnes illi quos vulgus maleficos vocat et etiam illi qui artem diuinandi sciunt patiuntur capitalem penam, vt lege ‘Nemo’ C. ‘De Maleficis;’ item inferunt penam lex ‘Culpa’, lex ‘Nullus.’ He enim leges his verbis vtuntur: ‘Nemini permittitur diuinare; alioquin supplicium capitis gladio vltore feret prostratus,’” et subdit: “Sunt et alij qui arte magica vite innocentum insidiantur, animos mulierum ad libidinem flectunt, et hi bestijs obijciuntur, vt eodem C. lege ‘Multi.’” Decernunt etiam leges quod ad eorum accusationem quilibet admittatur, sicut et canon in c. “In fauorem fidei” (*Libro Sexto*, “De Hereticis”). Vnde subditur ibidem: “Ad hanc accusationem quilibet admittitur quasi in crimine lese maiestatis. Ipsam enim prope modum pulsant maiestatem diuinam.” Jtem quod questionibus ad interrogandum subijciuntur subit: “Et quilibet nulla dignitate obstante questionibus subijcitur, et qui conuincitur, vel si detegat facinus suum, sit eculeo deditus, vngulisque sulcantibus latera perferat penas dignas suo facinori,” vt eodem codice,<sup>a</sup> lege ‘Si ex’ etc. Nota quod olim duplici pena tales<sup>b</sup> plectebantur capitis et vngulis ad dilacerationem corporis seu ad deuorandum bestijs obijciendo. Jam autem cremantur, forte propter femineum sexus.

Jtem prohibent participationem, vnde subditur, “sed nec permittantur tales ad limen alterius accedere; alioquin concremantur bona, nec aliquis debet eos suscipere vel consulere; alioquin deportantur in insulam et omnia bona publicantur.” Hic notatur pena exilij cum amissione omnium bonorum qui tales consulunt aut suscipiunt. Has penas vbi predicatorum populis et rectoribus terrarum publicant, plus aduersus maleficas quam ex alijs scripturarum allegationibus inardescunt.

Preterea, et per leges commendantur qui eorum maleficijs obstant, vnde (vbi supra) lex “Eorum”: “Alij autem, qui faciunt id ne labores hominum ventorum grandinisque lapidatione sternuntur, non pena sed

<sup>a</sup> *Ed. prin.* in pleno; *this is a misunderstanding of the abbreviation C., which instead stands for caput.*

<sup>b</sup> *Ed. prin.*: talis

<sup>37</sup> *End*

premio digni sunt.” Qualiter autem sit licitum talia impedire, inferius patebit, vt prius tactum est. Omnia autem hec negare aut friuole illis 10B resistere quomodo potest scrupulo heretice prauitatis carere, iudicet vnus quisque, nisi fortassis eum ignorantia excusabit. Sed cuiusmodi ignorantia excusat statim inferius patebit.

Concludendo ex omnibus premissis catholicam et verissimam assertionem quod malefici sunt qui demonum auxilio propter pactum cum eis initum maleficiales reales effectus permittente deo procurare possunt, non excludendo quin et prestigiosos effectus et fantasticos etiam per media prestigiosa producere valeant, sed quia presens speculatio super maleficiales effectus versatur, qui plurimum ab aliis differunt, ideo per hoc nihil ad propositum, cum tales potius sortilegi vel incantatores dicuntur quam malefici.

Demum quia fundamentum sui erroris capiunt ex verbis canonis, precipue duo vltimi errores, non loquendo de primo qui seipsum condemnat, dum nimium contra veritatem scripture exorbitat, ideo ad sanum intellectum canonis est procedendum, et primo contra | primum errorem 10C dicentis medium esse fantasticum sed extrema esse realia. Vbi notandum quod dum quattuordecim sunt species capitales in genere superstitionis quas recitare causa breuitatis non expedit, tum quia clare recitantur ab Jsidoro (viiij *Ethimologiarum*) et *Secunda Secunde* per sanctum Thomam (q. xcij), tum etiam quia inferius vbi de grauitate huius heresis tractabitur de ipsis mentio erit, et hoc questione vltima huius prime partis, et species sub qua huiusmodi mulieres continentur vocatur species phitonum, in quibus demon vel loquitur vel mira operatur, et est sepius prima in ordine, species autem sub qua malefici continentur vocatur species maleficorum. Et quia inter se plurimum distant, nec oportet quod qui in vna specie laborat, quod<sup>a</sup> etiam sub alijs comprehendatur, ideo, sicut canon de illis mulierculis mentionem facit et non de maleficis, ita false canonem interpretantur<sup>b</sup> qui huiusmodi imaginarias deductiones corporum ad totum genus superstitionis et omnes species eius reducere velint, vt | sicut<sup>c</sup> ille mulieres imaginarie solum, ita et omnes malefice 10D transferantur, et peramplius canonem falsificat qui ex illo arguere vellet maleficam solummodo imaginarie ad effectum maleficalem egritudinis vel morbi concurrere.

Preterea, tales sic errantes peramplius reprehenduntur dum extrema concedunt realia, scilicet demonem operantem et effectum morbi

<sup>a</sup> *Redundant*

<sup>b</sup> *Ed. prin.: -atur*

<sup>c</sup> *Ed. prin.: sic (in place of sic)*

realem, medium autem instrumenti, scilicet personam malefice,<sup>a</sup> dicunt fantastice concurrere, cum tamen medium super naturam participat extremorum. Nec valet si dicatur quod etiam fantasia sit quid reale, quia sicut fantasia vt talis nil possit efficere nec concurrere ad demonis operationem nisi per pactum inicum cum demone, in quo pacto malefica se totam obtulit et astrinxit diabolo vere et realiter et non fantastice et imaginarie solum, ita etiam oportet quod cooperatur diabolo vere et corporaliter. Nam et ad hoc sunt omnia maleficorum opera, vbi semper aut per tactum<sup>b</sup> aut per visum aut per locutionem seu per aliud maleficij instrumentum<sup>c</sup> repositum<sup>d</sup> sub limine domus operatione sua maleficia exercent, prout in sequenti questione patebit.

11A Preterea, si quis verba canonis diligenter inspiciet, considerabit quatuor que predicatorum et sacerdotum per ecclesias sibi commissas omni cum instantia populo predicare debent, scilicet, quod extra vnum deum nemo arbitretur aliquid esse numinis vel diuinitatis; secundo, quod cum Dyana vel Herodiade equitare est cum diabolo qui se ita fingit et nominat transmeare; tertio quod talis equitatura fit tunc fantastice, quando diabolus mentem per infidelitatem sibi subiectam agitat taliter vt ea que solo spiritu fiant corporaliter fieri creduntur; quarto, quod tali domino habeant in omnibus obedire. Vnde ad maleficiales actus hec verba extendere est absurdum, cum sint diuerse species.

An autem malefici etiam localiter transferantur in sua specie superstitionis vel solum imaginarie sicut phitones, tractabitur de illo in capitulis secunde partis (capitulo tertio quod vtroque modo).

Et sic secundus error cum primo eliditur quo ad fundamentum et sanum intellectum canonis. Tertius insuper qui ex verbis canonis effectum | maleficialem asserit fantasticum, ex verbis canonis etiam eliditur. 11B Nam in eo quod dicit: "qui credit posse fieri aliquam creaturam aut in melius deteriusue transmutari aut in aliam speciem vel similitudinem transformari quam ab ipso omnium creatore" etc. "infideli deterius est," hec tres partes, si nude intelligantur, sunt contra processum scripture et determinationem doctorum.

Nam posse fieri aliquas creaturas a maleficis vtpote vera animalia imperfecta, inspiciatur sequens canon "Nec mirum" post allegatum canonem "Episcopi." Quid Augustinus determinat de magis Pharaonis qui virgas in serpentes verterunt: inspiciatur glosa super illud *Exodi* vij ("Vocauit pharao sapientes"); inspiciatur et alia glosa Strabi, quod

<sup>a</sup> *Ed. prin.*: - ā

<sup>b</sup> *So Snyder (1993) 107 (see 96B, 114D, 116A, 143D, 166B, 183B); ed. prin.*: pactum

<sup>c</sup> *Ed. prin.*: - i

<sup>d</sup> *Ed. prin.*: - i

demones discurrunt per mundum quando per incantationem malefici per eos aliquid efficere conantur et colligunt diuersa semina et ex eorum adaptatione possunt prorumpere diuersae species; inspiciatur et Albertus in *De Animalibus*; inspiciatur et sanctus Thomas (*Prima Parte*, q. cxiiiij, ar. iijj). Quorum dicta breuitatis causa omittuntur. Solum hoc superest 11C vt intelligatur ibi fieri procreari.

Secundum etiam, quod in melius deteriusue valeant transmutari, intelligatur solummodo a deo autoritatiue et ad correctionem seu etiam punitionem. Sepius tamen ista ministerio demonum exercentur. Et sicut de primo dicitur: "Dominus percutit et ipse medetur" et "ego occidam et ego viuere faciam," ita de secundo dicitur "immissionem per angelos malos," vt supra tactum est. In prefato denique canone "Nec mirum" inspiciantur verba Augustini: qui dicuntur malefici et cuiusmodi eorum operationes, quando hominibus interdum non solum infirmitates sed etiam mortem inferunt.

Tertium etiam sane intelligere expedit, cum moderni malefici sepius opere demonum transformantur in lupos et alias bestias. Sed canon loquitur de reali transformatione et essentiali et non de prestigiosa que sepius fit. De qua etiam Augustinus (xviiij *De Ciuitate Dei*, c. xviiij) multa refert, vt de famosissima maga Circes et de sociis Dyomedis et de patre Prestancii. De qua materia in capitulis secunde partis patebit, et an 11D semper sunt presentes vel absentes malefici et an illam formam diabolus assumat vel ipse homo per se videatur talis (capitulo vi et vij).

SED QUIA SECUNDA PARS questionis dicit quod his oppositum asserere pertinaciter sit hereticum, queritur an tales debeant haberi tanquam manifeste deprehensi in heretica prauitate vel solum vt de heresi vehementer suspecti, et videtur quod primo modo. Nam Bernardus<sup>38</sup> in glosa ordinaria in capitulo "Ad abolendam" § "Presenti" et verbo "deprehensi" (*Extra*, "De hereticis": "Presenti nihilominus ordinatione sancimus vt quicumque manifeste fuerint in heresi deprehensi" etc.) declarat quod tribus modis quis censetur manifeste deprehensus: facti videlicet euidentia, puta quia publice predicat heresim, vel legitima probatione per testes vel ex sua confessione.<sup>39</sup> Et quia tales publice predicant seu temere contra prefata omnia se opponunt, asserentes maleficas non esse aut quod nullo modo valeant hominibus nocere, ideo tanquam manifeste deprehensi<sup>a</sup> in tali prauitate sub hac distinctione continentur.

<sup>a</sup> *Ed. prin.*: -ii

<sup>38</sup> *Start of Eym.* 3. 89 (638 col. 1A-B)

<sup>39</sup> *Pause*

12A Ad eundem etiam sensum est eiusdem<sup>40</sup> | Bernardi glossa in capitulo “Excommunicamus” secundo super verbo “Deprehensi publice.” Ad idem etiam facit capitulum “Super quibusdam” (*Extra*, “De verborum significatione”).<sup>41</sup> Inspiciat ibidem lector capitulum: reperiet veritatem.

Sed contra, quia hoc nimis durum videtur, tum propter penam annexam, que notatur in capitulo “Ad abolendam” § “Presenti” (*Extra*, “De hereticis”), vbi in clerico ponitur degradatio, et quod secularis relinquatur arbitrio potestatis secularis animaduersione debita puniendus, tum etiam propter ignorantiam et multitudinem eorum que culpabilis in tali errore cernitur, et ex multitudine tali rigor iustitite est temperandus (di. xl “Vt constitueretur”).

Responsio. Cum nostra sit intentio potius a vitio heresis huiusmodi predicatorum proposse excusare quam incusare, cum, vt dicitur *Extra* “De presumptionibus” c. “Literas” § “Quo circa”: “mandamus quatenus cum propter solam suspicionem quamuis vehementem nolumus illum de tam graui crimine condemnari” etc., vbi glossa super verbo “condemnari”:

12B procedi potest contra talem sic vehementer suspectum sed non debet propterea condemnari nisi assit, vt ibidem declaratur, violenta suspitio, attamen quia suspicionem excludere non possumus, et hoc propter friuolas eorum assertiones contra fidei veritatem, et cum hoc triplex sit suspitio – leuis, vehemens et violenta, de quibus in c. “Accusatus” et c. “Cum contumacia” (*Libro Sexto*, “De hereticis”) et pernotata per Archidiaconum et Johannem Andree super c. “Accusatus” et verbo “Vehemens” et de presunto c. “Litteras,” de violenta etiam loquitur canon distinctione xxxiiij “Quorundam” – ideo querendum cuiusmodi suspitioni talis predicans subiaceret. Et quidem cum talia dogmatizantes non equaliter se ad huiusmodi errores habere noscuntur, eo quod aliqui ex simplici ignorantia iuris diuini, aliqui etiam sufficienter informati adhuc fluctuant facillando et plene assentire nolunt, et cum error in mente hereticum non faciat nisi assit pertinacia voluntatis, oportet etiam dicere quod ad suspicionem super crimen heresis non se equaliter habeant.

12C Attamen quia per ignorantiam putant | se posse euadere, aduertant paululum quam grauius peccant qui ex huiusmodi ignorantia delinquunt. Nam licet multiplex sit ignorantia, tamen in rectoribus animarum ignorantia, quecunque sit, non potest dici ignorantia inuincibilis seu ignorantia particularis secundum philosophos, que a iuristis et theologis dicitur facti, sed censetur in eis ignorantia vniuersalis, que est ignorantia

<sup>40</sup> *Resume* (*Eym. begins*: Et eiusdem Bernardi glossa in c. “Excommunicamus” ij, super verbo “deprehenſi” (*Extra*, “De Hereticis”)... Ad idem videtur facere c. “Super quibusdam” (*Extra*, “De Ver. Sign.”)...) )

<sup>41</sup> *End*

iuris diuini, quia est eorum que quis de iure ex lege diuina scire tenetur (dist. xlij, Nicolaus papa: "Dispensatio celestis seminis nobis iniuncta est: ve si non asperserimus, ve si tacuerimus"). Tenentur enim habere scientiam sacre scripture (dist. xxxvi per totum, et ad hoc ad subditorum animas informandas eadem dist. c. ij § "Ecce" et § "Si quis vult"), licet secundum Raymundum, Hostiensem, Thomam non requiratur quod habeat scientiam eminentem sed quod habeat competentem, id est, sufficientem ad suum officium exequendum. Attamen pro eorum aliquali consolatione, dummodo damna precedentia lucris sequentibus deinceps recompensant, est eis | aduertendum quod hec ignorantia iuris, <sup>12D</sup> licet dicatur interdum affectata, crassa et supina, dicitur tamen affectata, id est, voluntaria, dupliciter, quia interdum cum scientia intentionis, interdum cum ignorantia intentionis:<sup>a</sup> prima licet in nullo excusat sed damnat, de qua psalmus: "noluit intelligere vt bene ageret," secunda tamen sicut diminuit voluntarium, ita et peccatum, quia fit quando quis tenetur aliquid scire, sed nescit quod teneatur, que etiam fuit in Paulo (*i Thimothei* i: "Misericordiam consecutus sum, quia ignorans feci in incredulitate").

Quia tamen dicitur affectata indirecte, quia propter alias occupationes negligit addiscere ea quae scire tenetur nec vult laborare in studio ad sciendum illa, et excusat non a toto sed a tanto, et etiam iuxta Ambrosium super illud *Romanorum* ij ("an ignoras quod benignitas dei ad penitentiam te adducit") dicitur "grauissime peccas si ignoras grauissime," id est, valde periculose, ideo presertim iam in temporibus ad succurrendum animarum periculis omnem ignorantiam repellamus et durissimum iudicium quod nobis imminet super districtam rationem et talentum nobis creditum semper pre oculis habeamus, ne ipsa | ignorantia etiam in nobis <sup>13A</sup> notetur crassa vel supina per methaphoram hominis crassi vel supini, qui non videt etiam ea que coram ipso sunt. Dicit enim Cancellarius in *Floribus Regularium Moralium* et in secunda regula, quod culpabilis ignorantia iuris diuini non cadit in facientem quod in se est: ratio est quia spiritussanctus talem hominem de necessarijs ad salutem que vires eius excedunt docere immediate paratus est.

Ad primum argumentum solutio patet per sanum intellectum canonis.

Ad secundum dicit Petrus de Tharantasia: "Perimeret vtique ex magna sua inuidia qua aduersus hominem agitur, si a deo permitteretur." Quod autem deus permittit sibi aliqua et aliqua non, hoc cedit in maiorem ipsius diaboli contumeliam et diplicentiam, quod deus in

<sup>a</sup> Ed. prin.: ten-

omnibus vitur eo contra suam voluntatem ad manifestationem glorie sue.

Ad tertium dicitur quod alterationem egritudinis aut alterius effectus maleficialis semper precedit aliquis motus localis in quantum demon per maleficam colligit determinata actiua, que videlicet ledere possunt, et  
 13B apponit determinatis<sup>a</sup> passiuis ad inferendum dolorem vel nocumentum aut actum aliquem spurcissimum.

Et si queritur an motus ille rerum a demone localis reducatur in motum celestem, dicendum est quod non, quia<sup>42</sup> non mouentur ex virtute naturali sed mouentur ex obedientia naturali qua subiiciuntur virtuti demonis, qui habet hoc ex virtute nature sue quod potest supra corpora.<sup>43</sup> "Potest" dico non quod possit influere rebus materialibus aliquam formam vel substantialem vel accidentalem absque amminiculo alterius rei naturalis, sed quia potest deo permittente res localiter mouere et ex rebus coniunctis dolorem vel aliquam qualitatem producere. Vnde effectus maleficialis non subiicitur motui celi, sicut nec ipse demon, licet res ille et instrumenta subiiciantur.

Ad quartum dicendum: opus dei potest opere diaboli viciari, prout ad presens loquimur de effectu maleficiali, sed quia hoc non potest nisi diuina permissione, ideo non sequitur quod diabolus sit deo fortior, demum quia non viciat opera dei per violentiam, cum sic etiam destruere posset.

13C Ad quintum simpliciter notum est quod<sup>44</sup> corpora celestia non habent virtutem imprimendi in demones, cum nihil agant<sup>b</sup> vltra suam virtutem. Sed quod a magis aduocati sub certa constellatione veniunt, duplici ex causa hoc facere videntur: primo quia sciunt virtutem illius constellationis iuuare ad effectum quem magi optant; secundo faciunt vt homines inducant ad venerandum aliquod numen in stellis ex qua veneratione etiam ante tempora ritus idolatrie processit.<sup>45</sup>

Ad vltimum quantum ad terminos argumenti super aurum alchimicum, dicendum secundum Sanctum Thomam in *Secundo*,

<sup>a</sup> *Ed. prin.*: -ātis

<sup>b</sup> *Ed. prin.*: -at

<sup>42</sup> *Start of adaptation of Aq., Sent. 2.7.3.1.Ra3*: ... talis motus localis non reducitur in motum celestem, quia non est secundum aliquam virtutem mouentem, sed in quantum obedit virtuti demonis ad motum localem, quod est virtute nature sue que supra corpora est.

<sup>43</sup> *End*

<sup>44</sup> *Start of adaptation of Aq., Sent. 2.7.3.1.Ra4*: ... corpora celestia non habent aliquam impressionem in demones, vt eis subdantur, sed ideo aduocati sub certa constellatione veniunt, quia sciunt virtutem illius constellationis iuuare ad effectum qui requiritur, vel propter hoc, vt homines inducantur ad venerandum aliquod numen in stellis, ex quo idolatrie ritus procedit.

<sup>45</sup> *End*

distinctione vij in solutione vnus argumenti, vbi declarat de virtute demonum in operando, quod licet quedam<sup>46</sup> forme substantiales per artem induci possint virtute naturalis agentis vt quando forma ignis inducitur per artem in lignum, hoc tamen non potest fieri vniuersaliter, eo quod ars non potest inuenire semper seu coniungere propria actiua proprijs passiuis: potest tamen facere aliquid simile et sic alchimiste faciunt aliquid simile auro quantum ad accidentia<sup>a</sup> exteriora, sed tamen non faciunt verum aurum quia forma substantialis auri non est per calorem ignis quo vtuntur alchimiste, sed per calorem solis in loco<sup>13D</sup> determinato, vbi viget virtus mineralis, et ideo tale aurum non habet operationem consequentem speciem, et simile est de alijs eorum operationibus.<sup>47</sup>

Ad propositum: demones operantur per artem circa effectus maleficiales, et ideo absque amminiculo alterius agentis nullam formam substantialem vel accidentalem inducere possunt, et quia non dicimus quod maleficia<sup>b</sup> inferat per artem<sup>c</sup> absque amminiculo alterius agentis, ideo etiam cum tali amminiculo potest veras qualitates egritudinis aut alterius passionis inducere.

Sed qualiter hec amminicula seu amministrationes instrumentorum habent ad effectum maleficalem cum demonibus concurrere vel non patebit per sequentia.

## SECUNDA QUESTIO

AN CATHOLICUM SIT ASSERERE quod ad effectum maleficalem semper habeat demon cum malefico concurrere vel quod vnus sine altero, vt demon sine malefico vel econuerso, talem effectum possit producere.

<sup>a</sup> *Ed. prin.*: -ced-

<sup>b</sup> *Behringer et al. (2000) 158 n. 102 are bothered by the shift to the singular inferat after the earlier demones, and suggest that maleficia is a printing error for malefica. but such a clumsy shift in number occurs elsewhere in connection with the devil and demons (e.g., 52D. where interimere possent follows diabolus, the subject presumably being demones) and logically the subject of inferat has to be the demon and not the sorceress.*

<sup>c</sup> *Ed. prin.*: ꝑꝑꝑꝑ

<sup>46</sup> *Start of adaptation of Aq., Sent. 2.7.3.1.Ras: Ad quintum dicendum, quod ars virtute sua non potest formam substantialem conferre, quod tamen potest virtute naturalis agentis, sicut patet in hoc quod per artem inducitur forma ignis in lignis. Sed quedam forme substantiales sunt quas nullo modo ars inducere potest, quia propria actiua et passiuia inuenire non potest, sed in his potest aliquid simile facere, sicut alchimiste faciunt aliquid simile auro quantum ad accidentia exteriora. Sed tamen non faciunt verum aurum, quia forma substantialis auri non est per calorem ignis quo vtuntur alchimiste, sed per calorem solis in loco determinato, vbi viget virtus mineralis, et ideo tale aurum non habet operationem consequentem speciem. Et similiter in alijs que eorum operatione fiunt.*

<sup>47</sup> *End*

Et arguitur primo quod demon sine malefico (Augustinus in *Libro lxxxij Questionum*): omnia que visibilibus fiunt etiam per inferiores potestates<sup>a</sup> aeris fieri posse creduntur, sed omnia | nocumenta corporalia non sunt inuisibilia sed potius sensibilia: igitur etiam a demonibus fieri possunt.

Preterea, ex scripturis nocumenta Job illata, ubi ignis de celis cecidit et familiam cum gregibus pecorum vno impetu consumpsit et turbo domum deiiciens liberos occidit, demon per se absque maleficis concurrente tantummodo diuina permissione operatus est: ergo, a simili in alijs que maleficis ascribuntur. Patet et de septem viris Sare virginis, quos demon occidit.

Preterea, quicquid potest virtus inferior absque amminiculo virtutis superioris, potest et virtus superior absque amminiculo virtutis inferioris. Sed virtus inferior potest concitare grandines et inducere infirmitates absque auxilio virtutis superioris. Dicit enim Albertus (*De Proprietatibus Rerum*) quod salua putrefacta certis modis, vt ibidem ponit, si proiecta fuerit in fontem, mirabiles concitabit in aere tempestates.

Preterea, si dicatur quod demon vtitur maleficio non propter indigentiam sed propter eius quam querit perditionem, contra Aristoteles (iij *Ethicorum*): "Malicia est voluntarium," quod probat per hoc quod nullus operatur iniuste voluntarie non velle iniustum esse et voluntarie stuprantem non velle incontinentem esse, et per hoc etiam legislatores puniunt malos quasi voluntarie mala operantes.<sup>48</sup> Demon ergo si operatur per maleficiam, operatur tanquam per instrumentum, et cum instrumentum dependet ad voluntatem principalis agentis et non voluntarie agit si concurrat, non erit ei actio imputanda nec per consequens punienda.

Sed contra, quod nihil possit efficere in inferioribus absque maleficis (primo *De Generatione*: "Omnis actio est per contactum"), et quia non est aliquis contactus demonis ad corpora, cum nihil habeat cum eis commune, ergo vtitur aliquo instrumento, illi influendo virtutem ledendi per contactum.

Juxta hoc etiam quod maleficia possint fieri absque opere demonum, probatur per textum et glosam *Ad*<sup>49</sup> *Galatas* iij ("O insensati Gallate,

<sup>a</sup> *Ed. prin.*: -is

<sup>48</sup> Cf. Aristotle, Nic. Eth. (*Lat. version*): Malicia autem voluntarium [13b16]. . . Adhuc autem irrationabile iniusta facientem non velle iniustum esse aut stuprantem incontinentem [14a10] . . . puniunt enim (sc. legislatores) et iniuriuntur operantes male . . . bona autem operantes honorant [13b25].

<sup>49</sup> *Start of Aq.*, Summa 1.117.3. *Ag2*, which begins: Preterea, super illud *Ad Gal* . . .

quis vos fascinavit<sup>a</sup> veritati non obedire?”).<sup>50</sup> Glosa:<sup>51</sup> “Quidam habent oculos vrentes qui solo aspectu inficiunt alios et maxime pueros”.<sup>52</sup> Est ad hoc etiam Auicenna | (*Sexto Naturalium*, li. iij, c. vltimo), ita dicens: <sup>14C</sup> “Multotiens autem anima operatur in corpore alieno, sicut in proprio, quemadmodum est opus oculi fascinantis et estimationis operantis.” Et eandem sententiam etiam ponit Algazel (li. v suo *Phisicorum*, c. ix). Putat etiam Auicenna, licet non teneatur in illo, quod virtus ymaginativa etiam absque visu possit extranea corpora immutare, vbi nimis extendit virtutem ymaginativam, et capimus hic virtutem ymaginativam non inquantum distinguitur contra alias virtutes sensitivas interiores, vt est sensus communis et fantasia et estimatio, sed inquantum includit omnes illas virtutes interiores. Sed bene verum quod talis virtus ymaginativa potest transmutare corpus coniunctum, scilicet illud in quo est, sicut homo potest ambulare supra trabem que est in medio vie, si vero posita fuerit super aquam profundam, non audebit ambulare super eam, eo quod ymaginabitur in eius anima forma cadendi vehementer impressa, cui obedit materia eius et virtus membrorum eius et | non obediunt <sup>14D</sup> eius contrario, scilicet ad directe ambulandum. In hoc ergo conuenit hec immutatio cum oculo fascinantis inquantum immutatur corpus proprium primo, sed non corpus alienum, de qua immutatione iam loquimur.

Preterea, si dicatur quod talis immutatio causatur a corpore viuo mediante anima in aliud corpus viuum, contra: quia ad presentiam interfectoris manat sanguis ex vulneribus occisi, ergo etiam absque virtute anime corpora possunt mirabiles effectus producere. Item homo viuens et prope cadauer hominis occisi transiens etiam non sentiendo illud adhuc terrore concutitur.

Preterea, sicut<sup>53</sup> res naturales habent quasdam virtutes occultas quarum ratio ab homine assignari non potest, sicut quod adamas trahit ferrum et multa que Augustinus enumerat (xxi *De Ciuitate Dei*),<sup>54</sup> ita mulieres ad immutationes faciendas in corporibus alienis certis rebus vti possunt absque auxilio demonum. Que etiam nostram rationem

<sup>a</sup> *Ed. prin:* fast-

<sup>50</sup> *The words veritati . . . obedire do not appear in the Vulgate, but they seem to be treated here as part of the biblical quotation.*

<sup>51</sup> *Start of Glossa ordinaria, which begins:* Dicuntur etiam fascinus vulgo qui nocet infantibus. Dicuntur enim quorundam oculi visu vrentes . . .

<sup>52</sup> *End*

<sup>53</sup> *Start of Aq., Summa 2/2.96.2. Ag1*

<sup>54</sup> *End*

15A excedunt, et quia excedunt, non debemus | propterea demonibus quasi ex maleficis insimul conuersantes ascribere.

Preterea, malefici certi vtuntur imaginibus et rebus instrumenta- libus quas interdum ponunt sub limine ostij domus aut ad certa loca vbi pecudes conueniunt aut etiam homines qui maleficientur et interdum moriuntur. Sed quia huiusmodi effectus possunt euenire ex imaginibus illis inquantum habent quasdam influentias a corporibus celestibus receptas, probatur. Nam sicut corpora naturalia subduntur corporibus celestibus, ita et artificialia, sed corpora naturalia possunt recipere quasdam virtutes occultas: ergo etc. et artificialia. Vnde videtur quod eorum opera possent per tales impressiones practicari et non per demones.

Preterea, si vera miracula possunt fieri ex potestate nature in eo quod operatur, ita et miranda et stupenda opera ex virtute nature. Probatur: nam Gregorius<sup>55</sup> dicit (secundo *Dyalogorum*): “Sancti mira- cula faciunt aliquando ex prece, aliquando ex potestate.” Exemplum 15B datur de vtroque: Petrus orando suscitauit Thabitam mortuam, | Ananiam et Saphiram mentientes morti increpando tradidit absque prece. Ergo et homo per virtutem sue anime poterit materiam corporalem in altero etiam transmutare, seu immutare de sanitate in infirmitatem et econuerso.<sup>56</sup>

Preterea,<sup>57</sup> corpus humanum est nobilius quam alia corpora inferi- ora, sed propter<sup>58</sup> apprehensionem anime humane immutatur corpus humanum ad calorem et frigus, vt patet in irascentibus et timentibus. Jmo etiam hec immutatio pertingit<sup>59</sup> quandoque vsque ad egritudinem et mortem: ergo multo magis potest sua virtute materiam corporalem immutare.<sup>60</sup>

Sed contra est. Substantia spiritualis non potest imprimere aliquam formam nisi amminiculo alterius agentis, vt supra tactum est. Vnde et Augustinus in prefato libro: “Non est putandum istis transgressoribus angelis ad nutum seruire hanc visibilium rerum materiam, sed soli

<sup>55</sup> *Start of adaptation of Aq., Summa 1.117.3.Ag1*: Dicit enim Gregorius, ii Dialog., quod sancti miracula aliquando ex prece faciunt, aliquando ex potestate, sicut Petrus, qui Tabitham mortuam orando suscitauit, Ananiam et Saphiram mentientes morti increpando tradidit. Sed in operatione miraculorum fit aliqua immutatio materie corporalis. Ergo homines virtute sue anime possunt materiam corporalem immutare.

<sup>56</sup> *End*

<sup>57</sup> *Start of Aq., Summa 1.117.3.Ag3*

<sup>58</sup> *Aq.: per*

<sup>59</sup> *Aq.: peruenit*

<sup>60</sup> *End*

Deo":<sup>61</sup> ergo multominus homo ex potestate naturali efficere potest effectus maleficiales.

Respondendo: quia non desunt errantes in hac materia maleficas excusantes et demones | tantammodo aut inculpantes aut quibusdam naturalibus transmutationibus earum facta ascribentes, ideo horum falsitas ostenditur primo per descriptionem maleficorum, de qua Ysidorus (viji *Ethi.* c. ix): "Malefici dicuntur ob facinorum magnitudinem," scilicet, mala pre cunctis malefactoribus efficientes.<sup>a</sup> Vnde subdit: "Hi elementa concutiunt," opere scilicet demonum, "ad grandines et tempestates concitandas." Jtem dicit: "Mentes hominum turbant" (intellige ad amantiam, odium et amorem inordinatum). Jtem subdit: "Ac sine vilo veneni haustu violentia tantum carminis animas interimunt." Ad idem xxvi. q. v c. "Nec mirum," et sunt verba Augustini in *De Ciuitate Dei*, vbi declaratur qui dicuntur magi et malefici: "Magi<sup>62</sup> sunt qui vulgo dicuntur malefici et ob facinorum magnitudinem sic nuncupantur. Hi sunt qui permissu dei elementa concutiunt, hominum turbant mentes minus confidentium in Deo ac sine vilo veneni haustu violentia tantum carminis interimunt homines."<sup>63</sup> Vnde et Lucanus: | 'Mens hausti nulla sanie polluta veneni incantata perit.' Demonibus enim accitis audent ventitare, vt quosque suos perimant malis artibus inimicos."<sup>64</sup> Ex quibus patet quod in huiusmodi operibus semper habent demones cum maleficis concurrere. 15D

Secundo, quia cum quadruplices effectus penales assignare possumus, scilicet ministeriales, noxiales, maleficiales et naturales, et ministeriales dicuntur qui ministerio bonorum angelorum, sicut noxiales malorum spirituum, immittuntur – Moyses enim Egiptum in decem plagis ministerio bonorum percussit, vbi magi in decem tantum per malos spiritus concurrerunt, et triduam pestem propter peccatum Dauid circa numerationem populi commissum, et de lxxij milibus hominum vna nocte prostratis de exercitu Sennacherib: vtique hic per angelos domini, id est, per bonos dominum venerantes et cognoscentes peracta fuerunt – "noxiales" vero effectus cum in scripturis nominantur, immissiones per angelos malos, secundum quas populus ille in deserto | sepe percussus fuit, et maleficiales effectus dicuntur quando demon per maleficos et per magos operatur, sicut et naturales qui ex influentijs corporum celestium 16A

<sup>a</sup> *Ed. Prin.*: -ibus

<sup>61</sup> Quotation from *Aq.*, *Summa* 1.110.2.SC

<sup>62</sup> *Start of Decretum* 26.5.24

<sup>63</sup> *Homines: not in Decretum*

<sup>64</sup> *End*

in istis inferioribus circa mortalitates, sterilitates, fertilitates terrarum, et grandines et his similibus<sup>a</sup> causantur, et inter hos effectus magna sit differentia: ideo cum Job noxiali plaga fuit a demone percussus et non maleficiali, ideo nihil ad propositum.

Si quis vero curiosius instaret, sicut plerumque hec materia curiosas patitur a maleficarum defensoribus instantias, semper in cortice verborum aerem verberantes et medullam veritatis numquam penetrantes,<sup>b</sup> cur Job non maleficiali effectu per demonem sicut noxiali percussus fuit, his curiose etiam responderi potest, quod Job fuit percussus a diabolo solum et non mediante malefico vel malefica, quia hoc genus superstitionis vel nondum erat inuentum vel si erat inuentum, diuina tamen  
 16B prouidentia voluit vt potestas demonis mundo ad precauendum eius insidias pro dei gloria innotesceret, cum nihil nisi a Deo permissus efficere potest.

Et de tempore quidem quo primum genus superstitionis inuentum fuit – et dico primum genus quo ad demonum inuocationem, non quo ad puram ydolatriam – dicit Vincentius in *Speculo Hystorie*, allegans plures doctores, quod primus inuentor artis magice et mathematice fuit Zorastres, qui dicitur fuisse Cham filius Noe. Hic secundum Augustinum (*De Ciuitate Dei*) solus risit nascendo et hoc non nisi opere diaboli. Hic etiam cum esset rex, superatus est a Nino filio Beli, qui edificauit Ninuem, vel amplius sub quo cepit regnum Assyriorum tempore Abrae. Hic etiam Ninus ob inordinatum amorem patris fecit fieri imaginem patri mortuo, ad quam quicumque confugiebant malefactores liberi erant ab omni punitione debita. Et ex hoc ceperunt homines imagines adorare vt deos, sed hoc post primam etatem, quia sub illo tempore non erat idolatria propter recentem memoriam creationis mundi, vt dicit sanctus Thomas  
 16C (*Secunda | Secunde* q. xcvi ar. iiii), vel etiam incepit a Nembroth, qui cogeat homines ignem adorare et sic in secunda etate incepit ydolatria.

Que est primum genus superstitionis, sicut diuinitio secundum et obseruantia tertium. Maleficorum autem ritus reducitur ad secundum genus superstitionis, scilicet ad diuinationem, que fit per expressam demonum inuocationem. Cuius etiam sunt tria genera, scilicet nigromantia, planetarij seu potius mathematici et diuinitio per somnia.

Hec ideo posui vt pius lector intelligat noxias illas artes non subito sed processu temporis fuisse inuentas, nec absonum esse asserere maleficas tempore Job non fuisse. Sicut enim per incrementa temporum, vt Gregorius in *Moralibus* dicit, creuit scientia sanctorum, ita et noxie artes

<sup>a</sup> Sc.: -ia

<sup>b</sup> verberantes and penetrantes are clumsily dependent upon the singular quis.

demoniorum. Et sicut iam repleta est terra scientia domini (*Ysaie xi*), ita iam mundi vespere ad occasum declinante et malicia hominum excrescente et caritate refrigesciente superabundat omnis maleficorum iniquitas. Ipse tamen Zorastres cum esset intentus illis actibus et solummodo <sup>16D</sup> considerationi astrorum, a diabolo succensus est (hec vbi supra).

De tempore autem quo malefici leguntur cum demonibus ad maleficia inferenda conuenisse, tactum est supra et habetur *Exodi vij* quo ad magos Pharaonis, qui in plagis super Egiptum demonum assistentia, sicut Moyses ministerio bonorum angelorum, signa plurima perpetrarunt.

Vnde concluditur veritas catholica, videlicet quod ad effectum maleficalem, licet non ad effectum noxiale, semper habet maleficus cum demone concurrere, et per hec patet responsio ad argumenta.

Nam ad primum non negatur quin effectus noxiales, qui visibiliter cernuntur super homines, iumenta, terre fruges, et qui etiam ex influentijs corporum celestium sepe proueniunt, etiam a demonibus Deo permittente inferuntur. Dicit enim Augustinus (iij *De Ciuitate <Dei>*): “Demonibus subsunt ignis et aer, quantum eis a deo permittitur.” Patet et per glosam super illud: “Immissiones per angelos malos,” que dicit: “Dominus punit per malos angelos.”

Ex quibus etiam patet responsio ad secundum de Job et ex his que prius | tacta sunt de initio artis magice. <sup>17A</sup>

Et ad tertium de saluia putrefacta et in puteum proiecta, dicitur quod licet sequatur effectus noxialis absque auxilio demonis, licet non absque influencia corporis celestis, loquimur autem de effectu maleficali, vnde non est simile.

Ad quartum dicitur verum esse quod demones vtuntur maleficis tantummodo propter eorum perditionem, et cum infertur quod non essent puniendi quia concurrunt tanquam instrumenta que mouentur ad nutum non proprium sed principalis agentis, respondetur quod sunt instrumenta animata et libere agentia, et licet post expressum pactum initum cum demonibus non iam sint sue libertatis, quia, vt ex earum fassionibus accepimus – et loquor de mulierculis combustis ad plurima maleficia – coacte si verbera demonum subterfugere volunt cooperantur, prima tamen professione, qua sponte se demonibus subiecerunt, manent ligatae.

AD ALIA VERO ARGUMENTA in quibus probatur maleficiales effectus posse absque opere demonum a vetulis procurari, | dicendum quod ex vno <sup>17B</sup> particulari concludere varie est dissonum rationi. Et cum in tota, vt videtur, scriptura sacra non inuenitur tale nisi hic vbi agitur de fascinatione

seu inuultatione<sup>a</sup> vetularum,<sup>65</sup> ideo non valet per hoc concludere quod semper habeat ita euenire. Insuper est etiam dubium per glosam, an absque opere demonum talis fascinatio fieri possit, eo quod ex glosis ibi elicitur quod fascinatio capitur tripliciter: vno modo dicitur ludificatio sensuum, que fit per artem magicam, et sic potest fieri ministerio demonum, nisi prohibeantur a deo immediate vel mediante<sup>b</sup> ministerio sanctorum angelorum; secundo modo potest dici inuidia, vt vbi apostolus dixit, “Quis vos fascinauit?”, id est, tanto odio persecutus est; tercio, quod ex tali odio fiat immutatio ad malum in corpore alicuius per oculos alterius aspicientis in eum, et de fascinatione hoc modo dicta communiter loquuntur doctores, secundum quem modum etiam Auicenna et Algazel, vt in argumentis deducitur, locuti sunt. Nam<sup>66</sup> et Sanctus Thomas hanc fascinationem declarat (*Prima Parte*, q. cxvij) per hunc  
 17C modum: “Ex<sup>67</sup> forti,” inquit, “imaginatione anime | immutantur spiritus corporis coniuncti. Que quidem immutatio spirituum maxime fit in oculis, ad quos subtiliores spiritus proueniunt.<sup>68</sup> Oculi enim inficiunt aerem continuum vsque ad determinatum spacium, per quem modum specula, si sint noua et pura, contrahunt quandam impuritatem ex aspectu mulieris menstruate, vt Aristoteles dicit in libro *De Somno et Vigilia*. Sic igitur cum aliqua anima fuerit vehementer commota ad malitiam, sicut maxime vetulis contingit, efficitur secundum modum predictum aspectus eius venenosus et noxius, et maxime pueris, qui habent corpus tenerum et de facili receptiuum impressionis.”<sup>c</sup> Subdit tamen, quod possibile est etiam quod dei permissione vel ex aliquo occulto facto cooperetur ad hoc malignitas demonum cum quibus sortilege vetule pactum<sup>69</sup> aliquod habent.<sup>70</sup>

SED PRO AMPLIORI INTELLECTU solutionum aliqua dubia mouentur ex quorum solutione veritas magis patebit. Videtur enim obstare  
 17D | primo illud quod superius dictum est, quod substantie spirituales non possunt transmutare corpora ad aliquam naturalem formam nisi

<sup>a</sup> *Ed. prin.*: in vul-

<sup>b</sup> *Ed. prin.*: mediante vel

<sup>c</sup> *So Aq.* (cf. 18A); *ed. prin.*: -ē

<sup>65</sup> Cf. the title of *Nider*, *Praec. 1.11.24*: Vtrum fascinationes seu inuultationes habeant efficaciam malam in pueris a vetulis malis

<sup>66</sup> *Start of Nider*, *Praec. 1.11.24 (Et)*, which begins: Quam fascinationem sic declarat (*Parte I q. cxvij*): “Nam,” vt inquit, “ex forti . . .”

<sup>67</sup> *Start of Aq.*, *Summa 1.117.3. Raz*

<sup>68</sup> *Aq.*: per-

<sup>69</sup> *Aq.*: fedus

<sup>70</sup> *End (Aq. and Nider)*

amminiculo alterius agentis: ergo multominus hoc poterit efficere imaginatio quantumcunque fortis in anima.

Preterea, est articulus condemnatus in plerisque vniuersitatibus, precipue tamen Parisiensi, quod incantator aliquis proicit camelum in foueam solo visu, eo quod, sicut intelligentie superiores imprimunt in inferiores, sic anima intellectiua imprimit in aliam et etiam in animam sensitiuam.

Item, ad hoc est articulus condemnatus, quod materia exterior obedi substantie spirituali si intelligatur simpliciter et secundum omnem modum transmutationis, quia sic soli deo, vt prius patuit, obedit.

His visis fascinatio, de qua loquimur, qualiter sit possibilis et qualiter non, declaratur. Non enim est possibile homini quod per naturalem virtutem anime sue per oculos talem virtutem emittat que non mediante transmutatione proprii corporis neque |medij nocumentum inferre possit corpori hominis quod aspicit, maxime cum secundum opinionem communiorem videamus intra suscipientes, nihil extra mittentes. Non est etiam possibile homini quod per virtutem naturalem anime sue pro voluntate sua transmutationem faciat ymaginando in oculis suis que mediante transmutatione medij, scilicet aeris, possit corpus hominis quem aspicit in aliquam transmutare qualitatem secundum quod sibi placuerit. 18A

Et quia secundum hos duos modos predictos non potest vnus homo alium fascinare, cum nulli hominum potest inesse talis virtus per naturalem virtutem anime sue, ideo velle probare quod maleficiales<sup>a</sup> effectus possent prodire<sup>b</sup> ex naturali aliqua virtute super<sup>c</sup> ad infringendum opera maleficiorum, que virtute demonum fiunt, est plurimum alienum a veritate, quia etiam secundum hos duos modos fascinatio reprobatur, sicut et prefati duo articuli.

Qualiter tamen sit possibile, licet superius tactum sit, tamen clarius sic deducitur. Potest enim contingere quod |homo vel mulier aspiciens corpus alicuius pueri moueat ipsum mediante visu et imaginatione, vt aliqua passione sensibili. Et quia passio sensibilis est cum quadam immutatione corporali et oculi sunt tenerrimi, propter quod sunt impressionis multum receptiui, ideo quandoque contingit quod per aliquam passionem interiorem transmutantur oculi in aliquam malam qualitatem, maxime 18B

<sup>a</sup> *Ed. prin.:* mele-

<sup>b</sup> *Ed. prin.:* -iri

<sup>c</sup> *Sic. For the expression virtus super, see 85B; this might lead one to think that something like illum is lacking, but the generalizing aliqua should preclude specification of the sphere over which this virtus operates. Perhaps the word derives from clumsy adaptation of a source.*

cooperante ad hoc aliqua imaginatione, cuius impressio cito redundat in oculos et propter eorum teneritudinem et propter vicinitatem radicis sensuum particularium ad imaginationis organum.

Cum autem oculi sunt transmutati in aliquam qualitatem nociuam, contingere potest quod transmutent aerem sibi contiguum <in> aliquam qualitatem malam et illa pars aliam<sup>a</sup> et sic vsque ad aerem contiguum oculis pueri qui aspicitur<sup>b</sup> et ille aer contiguus poterit quandoque in materiam<sup>c</sup> dispositam<sup>d</sup> quam non dispositam,<sup>e</sup> cui consonat, transmutare oculos ipsius pueri in aliam qualitatem malam et mediantibus  
18C oculis ipsius pueri aliquas alias partes interiores, vnde nec cibum digerere nec in membris fortificari aut augmentari poterit.

Experimentum huius rei manu ductiuum est, quia videmus hominem patientem in oculis quandoque ex aspectu suo ledere oculos eum aspicientis, quod contingit ex hoc quod oculi mala qualitate infecti inficiunt aerem medium et aer infectus inficit oculos directos ad oculos infirmos, eo quod secundum rectam lineam infectio illa deriuatur in directum ad oculos inspicientium cooperante ad hec multum imaginatione eius qui aspiciendo oculos infirmos imaginatur se ledi. Plura possent exempla manu ductiua adduci, que breuitatis causa omittuntur.

Concordat his quedam glosa super<sup>f</sup> illud psalmi “Qui timent te, videbunt me et letabuntur,”<sup>g</sup> dicens: “Magna<sup>71</sup> virtus in oculis est, quod in naturalibus apparet. Animal enim visum prodest ytericis.<sup>72</sup> Prior videns lupis<sup>h</sup> vocem aufert vel sic.<sup>73</sup> Basiliscus, si prior videt occidit; si prior videtur, occiditur.”<sup>74</sup> Et ratio quare basiliscus videndo occidit hominem <non est?> nisi quod ex aspectu et imaginatione<sup>i</sup> excitatur in eius

<sup>a</sup> *Ed. prin.*: aliquā

<sup>b</sup> *Ed. prin.*: -tnt

<sup>c</sup> *Sc.*: -a

<sup>d</sup> *Sc.*: -a

<sup>e</sup> *Cf.* 38D (Omnis enim causa limitate virtutis producere potest effectum intensiorem in materiam dispositam quam non dispositam); since there the *quam* is sensibly generated by the comparative, presumably the present passage has been defectively adapted from the original text from which 38D was copied. Hence, *quam non dispositam* should be ignored here. Defective adaptation also explains in governing the accusative, where the ablative would be expected.

<sup>f</sup> *Ed. prin.*: sn-

<sup>g</sup> *Ed. prin.*: le

<sup>h</sup> So *ed. prin.*; Lombardus: lupus (Behringer et al. (2000) 171 n. 147 call this a printer's error, but the mistake well have been present in an intermediate source)

<sup>i</sup> *Ed. prin.*: -ōz

<sup>71</sup> *Start Petrus Lombardus, Collatio in psalmum xcviij (PL 191 col. 1081D)*

<sup>72</sup> *Lombardus: dicitur*

<sup>73</sup> *vel sic: not in Lombardus*

<sup>74</sup> *End*

corpore materia venenosa per quam oculi primo inficiuntur et demum 18D  
aer contiguus et sic alia et alia pars aeris vsque ad aerem homini contiguum, quem aerem per aspirationem cum homo attraxerit, intoxicatur et moritur; prior autem visus ab homine, vbi homo volens basiliscum occidere circummunit se speculis, ex quibus dum basiliscus inspicit, ex reuerberatione aer inficitur et sic vsque ad basiliscum pertingit et occiditur. Sed dubium cur homo occisor bestie non moritur, et hic occultam quandam causam opinari necesse est.

Hec sine preiuditio et temeraria assertionem dicta sunt: tantummodo dictis sanctorum inherentes catholicam veritatem concludamus quod ad maleficiales effectus, de quibus ad presens loquimur, malefici cum demonibus semper concurrere et vnum sine altero nihil posse efficere.

Ad argumenta.

Patet responsio de fascinatione ad primum.

Ad secundum dicitur iuxta Vincentium in *Speculo Nature* (c. xiiij), quod vulnus infectum spiritibus interficientis ex forti imaginatione illud vulnus trahit aerem infectum, transeunte<sup>a</sup> iam interfecitore sanguis ebuliens extra manat, quia ad presentiam interfectoris aer inclusus in vulnere, sicut ab interfecitore intrauit, ita ad eius presentiam commouetur, ex qua commotione sanguis erumpit. Sunt quidam alias causas allegantes quasi illa ebullitio sanguinis sit eius clamor de terra super homicidam presentem, et hoc propter maledictionem primi<sup>b</sup> homicide Cayn. 19A

Ad illud de horrore dicendum (hoc quod homo transiens prope cadauer hominis occisi horrore concutiatur, licet illud non sentiat): hoc fit ex spiritu quantulumcunque<sup>c</sup> infectionem recipiente et eam anime representante.

Sed hec nihil concludunt aduersus opera maleficorum, cum omnia illa naturaliter, vt dictum est, fieri valeant.

Ad tertium, sicut dictum est supra, maleficorum ritus deducuntur ad secundum genus superstitionis, quod dicitur diuination, rebus vero superstitione vti in obseruantijs quibusdam reducitur ad tertium genus: ideo argumentum non est simile; demum etiam quia reducuntur non ad quamlibet diuinationem | sed ad illam que fit per expressam demonum 19B  
inuocationem, et hoc etiam cum multis modis fieri possit, scilicet per nigromanciam, geomanciam, idromanciam etc. (inspiciatur *Secunda Secunde*, q. xcvi ar. v): ideo hec diuination maleficorum, vbi maleficijs sunt intenti, sicut supremum gradum in flagitijs tenet, ita et aliud iudicium

<sup>a</sup> Ed. prin.: -em

<sup>b</sup> Ed. prin.: -e

<sup>c</sup> Ed. prin.: q̄zumlacūque

de eo existit. Vnde quando arguitur quod quia<sup>a</sup> occultas rerum virtutes cognoscere non possumus et malefici etiam occultis rebus intendunt, dicitur quod si intenderent rebus naturalibus ad aliquos effectus naturales ex naturali virtute procedendos,<sup>b</sup> hoc licitum foret,<sup>c</sup> vt de se patet, vel etiam concedendo quod si intenderent superstitiose rebus naturalibus, vt pote rebus huiusmodi certas characteres vel aliqua nomina ignota inscribendo,<sup>d</sup> et illis pro acquirenda sanitate vel amicitia et pro aliqua vtilitate et non pro nocumento aliquo inferendo vterentur, tunc, licet absque expressa demonum inuocatione, licet non absque tacita, fieri ista possent, et  
 19C illicita iudicantur. Quia tamen hec et his|similia reducuntur ad tertium genus superstitionis, scilicet ad obseruantiam vanitatum, vt dictum est, ideo nihil ad propositum super heresim maleficorum fortificatur.

Etiam solutio, quod huic tercio generi quattuor assignantur species, quia vel vtitur quis obseruantijs ad scientiam acquirendam vel ad coniecturas sumendas fortuniorum vel infortuniorum vel ad suspensiones sacrorum verborum vel ad corpora immutanda in melius, vnde et notanter sanctus Thomas in titulo illo questionis, vbi querit, an obseruationes ordinate ad corporum immutationem sint licite (q. xcvi in *Summa* prefata, ar. ij), addit: “puta ad sanitatem”: obseruationes ergo maleficorum cum hic locum non habent sed, vt dictum est, sub secundo genere continentur superstitionis, ideo nihil ad propositum.

Ex his etiam ad quartum argumentum responderetur, quod quia  
 19D duplices in his obseruantijs fieri possunt imagines: nigromantice<sup>75</sup> et astronomice, et inter hec talis est differentia, quod in nigromanticis semper fiunt expresse inuocationes demonum propter expressa pacta cum|eis inita (inspiciatur solutio secundi argumenti prefate questionis), in astronomicis vero sunt pacta tacita et ideo nulla inuocatio nisi fortassis tacita, puta propter figurarum et characterum signa que eis inscribuntur, et iterum imagines nigromantice vel fiunt sub certis constellationibus ad recipiendum certos influxus et impressiones celestium corporum, etiam certis figuris et characteribus insignitis,<sup>e</sup>76 vt in anulo, lapide vel aliqua

<sup>a</sup> *Seemingly redundant*

<sup>b</sup> procedendos: *presumably error for produc-*

<sup>c</sup> *Ed. prin.:* -at

<sup>d</sup> *Ed. prin.:* in scrib-

<sup>e</sup> *Ed. prin.:* -i

<sup>75</sup> *Start of adaptation of Aq., Summa 2/2.96.3.Ra.2: . . .* Vnde etiam imagines quas astronomicas vocant ex operatione demonum habent effectum, cuius signum est quod necesse est eis inscribi quosdam characteres, qui naturaliter ad nihil operantur: non enim est figura actionis naturalis principium. Sed in hoc distant astronomice imagines a nigromanticis quod in nigromanticis fiunt expresse inuocationes et prestigia quedam, vnde pertinent ad expressa pacta cum demonibus inita, sed in alijs imaginibus sunt quedam tacita pacta per figurarum seu characterum signa.

<sup>76</sup> *End*

preciosa materia, vel fiunt simpliciter absque obseruantia constellationum, sed indifferenter ex quacunque materia, etiam vili, ad inferendum maleficia, vbi et quando ad aliqua loca reponuntur, et de his effectibus cum suis imaginibus iam sermo est et non de alijs, ideo argumentum non facit ad propositum.

Qualiter denique certe imagines superstitiose, de quibus tactum est, nullam habent efficaciam in quantum sunt artificialia solum, licet forte materialia in eis considerata possent habere efficaciam, si et in quantum haberent naturalem aliquam virtutem ex impressione corporum celestium: si cui placet, doctorem ibidem inspiciat.

Semper tamen dicit esse illicitum imaginibus vti, imagines vero maleficarum absque naturali aptitudine ad effectum fiunt, solummodo autem ex iussu demonum reponunt et applicant vt manualiter ad effectum concurrant in maiorem contumeliam creatoris, vt et per amplius irritatus malaque<sup>a</sup> fieri in flagitorum talium vindictam amplius permittat. Vnde et sacratoribus anni temporibus huiusmodi fieri procurant.

Ad<sup>77</sup> quantum dicendum quod Gregorius ibi intellexit potestatem gratie, non nature, vnde et ibidem subdit: "Qui filij dei potestate sunt, vt Johannes dicit, quid mirum si signa ex potestate faciunt?"<sup>78</sup>

Ad vltimum dicendum quod similitudo non valet, quia alia est actio anime circa corpus proprium et alia circa corpus alienum. Nam quia corpori proprio vnitur anima vt forma, et appetitus sensituius est actus alicuius organi corporalis, ideo ad apprehensionem anime humane potest commoueri appetitus sensituius cum aliqua immutatione corporali <ad?> calorem et frigus, vel etiam vsque ad mortem, | ad exteriora vero corpora immutanda nulla apprehensio anime humane sufficit nisi mediante immutatione propriij corporis, sicut de fascinatione dictum est. Vnde et malefici ex nulla potestate naturali sed solummodo auxilio demonum et ipsi demones amminiculo alicuius alterius rei, vt per spinas, ossa, crines, ligna, ferrum et huiusmodi, quando intromittunt aut instrumentum aliquod reponunt, vt successiue patebit, maleficiales effectus procurant.

DEINDE MAGIS IN SPIRITUALI tenori bulle apostolice inherendo considerandum est de origine maleficorum et eorum operum

<sup>a</sup> -que unnecessary.

<sup>77</sup> *Start of adaptation of Ag.*, Summa 1.117.3. *Rat*: Ad primum ergo dicendum quod sancti dicuntur miracula facere ex potestate gratie, non nature. Quod patet per illud quod Gregorius ibidem dicit: Qui filij dei ex potestate sunt, vt dicit Iohannes, quid mirum si signa facere ex potestate valeant?

<sup>78</sup> *End*

multiplicatione, et primo de ipsis maleficis, secundo de eorum operibus. Vbi notandum quod quia huiusmodi effectum tria habent concurrere, scilicet demon, malefica et diuina permissio (xxxiiij q. i “Si per sortiarias”), Augustinus etiam dicit quod ex pestifera societate<sup>a</sup> hominum et demonum hec superstitiosa vanitas adiuuata est, ideo origo et multiplicatio<sup>b</sup> huius heresis ex pestifera hac societate sumitur, | quod etiam  
 20C ex alijs elicatur. Nam attento quod hec heresis maleficorum non solum differt ab alijs heresibus in hoc quod ipsa per pacta nedum expressa verum etiam placita ac federata in omnem creatoris ac sue<sup>c</sup> creaturarum contumeliam et nocumentum insanit, cum tamen omnes alie simplices hereses per nullum pactum tacitum vel expressum cum demonibus initum, licet non absque instinctu satoris omnis infidie, erroribus propter difficultatem credendorum assentiunt, verum etiam differt ab omni noxia et superstitiosa arte in hoc quod super omnia genera diuinationum ipsa maleficorum heresis supremum attinet gradum malitie, quod etiam nomen a malefaciendo seu male de fide sentiendo sibi usurpat, vt prius tactum est, attento etiam quod inter alios actus habent pro augmento illius perfidie quattuor exercere, videlicet fidem catholicam in toto vel in parte ore sacrilego abnegare, seipsos in corpore et anima deuouere, infantes nondum renatos ipsi maligno offerre, spurcitijs diabolicis  
 20D per carnales actus cum incubis et succubis demonibus insistere – que omnia vtinam aliena ab omni veritate et figmenta forent dicenda, dummodo ecclesia<sup>d</sup> a tanta labe infectionis existeret immunis, cui tamen heu obstat et apostolice sedis per bullam determinatio verum et experientia rerum magistra, que nos ex proprijs earum fassionibus ac flagitijs perpetratis intantum certificauit quod absque dispendio proprie salutis iam ab eorum<sup>e</sup> inquisitionibus desistere nequimus – ideo de illorum origine et multiplicatione pestifera tractaturi, quia laboriosum existit, ideo a legentibus sic summa cum diligentia singula sunt perscrutanda, quod et admittenda que rationi consona et scripturarum traditionibus non dissona inueniuntur.

Et quia inter omnes actus ad multiplicationem eorum deseruientibus<sup>f</sup> duo eorum plurimum<sup>g</sup> cooperantur, scilicet incubi et succubi demones et infantium sacrilege oblationes, ideo de ipsis specialiter tractabimus,

<sup>a</sup> *Ed. prin.*: sac-

<sup>b</sup> *Ed. prin.*: -pucat-

<sup>c</sup> *Sc. suarum*

<sup>d</sup> *Ed. prin.*: -e

<sup>e</sup> *Sc. eorum*

<sup>f</sup> *Sc. -es*

<sup>g</sup> *Ed. prin.*: -a

ita tamen vt primo de ipsis demonibus, secundo de ipsis maleficis et tercio de ipsa diuina permissione mentio habeatur. Et quia demones <sup>21A</sup> per intellectum et voluntatem operantur et potius sub vna constellatione quam sub altera ad hoc, vt semen ad proles procreationem vigoretur, inquirendum erit de ipsis constellationibus a demonibus obseruatis. Et ita principaliter queruntur tria: primo, an hec heresis per comparisonem ad demones incubos et succubos possit originaliter multiplicari; secundo, an per comparisonem ad corpora celestia, que etiam cause sunt humanorum actuum, eorum opera possint vigorari; tercio, an per oblationes sacrilegas infantes demonibus offerentes possit ipsa heresis augmentari. Tamen infra secundam et terciam tractabitur secunda questio principalis, scilicet de influentijs corporum celestium, et hoc propter decentem continuationem super opera maleficorum. Circa primum tres erunt difficultates: vna generalis de incubis illis demonibus, altera specialis, a quibus demonibus huiusmodi actus exercentur, tercia singularis quo ad ipsas maleficas demonibus se|subijcientibus.<sup>a</sup> <sup>21B</sup>

#### TERCIA QUESTIO PRIME PARTIS

AD PRIMUM VIDETUR QUOD sit catholicum asserere quod per incubos et succubos demones possint homines procreari. Procreatio hominum instituta est ante peccatum a deo in hoc quod homini mulierem in adiutorium de costa formauit. Quibus et dixit: "Crescite et multiplicamini" (*Genesis* i) et iterum Adam inspiratus dixit: "Erunt duo in carne vna" (*Genesis* iij). Similiter et post peccatum in lege nature dictum est ad Noe: "Crescite et multiplicamini" (*Genesis* ix). In tempore etiam noue legis a Christo hec coniunctio confirmata (*Mathei* xix: "Non legistis quod ab initio qui fecit homines masculum et feminam fecit eos?"). Ergo alij modi homines procreandi non debent assignari.

Si dicatur quod demones concurrunt non vt principia naturalia sed vt artificialia quando studioso cooperantur ad naturales conceptus <sup>21C</sup> hominum semen recipiendo et iterum transfundendo, contra, quia aut hoc posset diabolus in omni statu, videlicet matrimoniali et extra, aut in vno tantum: non primo modo<sup>b</sup> quia tunc opus diaboli esset fortius quam opus dei, qui quemlibet statum instituit aut confirmauit, puta continentium et coniugatorum, nec secundo modo quia de hoc nullubi legitur in scripturis, vt ex vno statu et non ex altero huiusmodi hominum fieret procreatio.

<sup>a</sup> Sc. -es

<sup>b</sup> *Ed. prin.*: mo do

Preterea, procreare hominem est actus viui corporis, sed demones assumptis corporibus non dant vitam, quia illa tantummodo formaliter fluit ab anima, qui<sup>a</sup> est actus corporis phisici organici potentiam vite<sup>b</sup> habentis (ij *De Anima*): ergo per huiusmodi assumpta corpora opera vite exercere non possunt.

Si dicatur quod assumunt corpus non vt vitam tribuant sed vt semen naturale retineant et transfundant, contra: in operibus angelorum bonorum et malorum, sicut nihil est superfluum, nec etiam in operibus nature, <sup>21D</sup> sed cum demon naturali virtute, qua etiam omnem virtutem corporis excedit, possit inuisibiliter et semen colligere et iterum applicare, igitur aut ratio dabitur quod non possit inuisibiliter hoc facere, aut si potest, alterum erit superfluum.

Fortificatur ratio: nam in<sup>79</sup> libro *De Causis* dicitur quod virtus intelligentie est infinita inferius, quamuis sit finita superius, sed omnia corporalia sunt infra intelligentias:<sup>80</sup> ergo et infinitate sue virtutis potest ea qualitercunque vult immutare. Sed intelligentie sunt angeli, siue boni siue mali. Ergo possunt absque hoc quod corpora assumant transmutationes in seminibus facere.<sup>81</sup>

Preterea, semen recipere ab vno et transfundere in alium fieret per motum localem, sed demones non possunt corpora mouere localiter. Probat<sup>82</sup>: anima est substantia spiritualis sicut et demon, sed anima non potest localiter mouere corpus nisi a se viuificatum, vnde si aliquod membrum mortificetur, redditur immobile: ergo et demones aliquod <sup>22A</sup> corpus mouere localiter nisi ab eis viuificatum | non possunt.<sup>83</sup> Dicitur est autem et quasi per se notum quod demones non viuificant aliquod corpus: ergo nec semen poterunt mouere localiter de loco ad locum.

Preterea,<sup>84</sup> omnis actio est per contactum, vt dicitur primo *De Generatione*, non videtur autem quod possit esse aliquis contactus demonis ad corpora, cum nihil habeat cum eis commune: cum ergo semen immittere

<sup>a</sup> *Ed. prin.*: que

<sup>b</sup> *Ed. prin.*: potentia vitam; cf. operatio potentie corporis viuientis (*Aq.*, *Sent.* 4.8.1.4c.Co.)

<sup>79</sup> *Start of Aq.*, *De Malo 16.9.Ag8*

<sup>80</sup> *Aq.*: -am

<sup>81</sup> *End (last clause is possunt ergo corpora formaliter transmutare in Aq.)*

<sup>82</sup> *Start of adaptation of Aq.*, *De Malo 16.10.Ag2*: Probat<sup>82</sup>: anima est substantia spiritualis sicut et demon, sed anima non potest localiter mouere corpus nisi a se viuificatum, vnde si aliquod membrum mortificetur, redditur immobile: ergo non possunt aliquod corpus mouere localiter.

<sup>83</sup> *End*

<sup>84</sup> *Start of adaptation of Aq.*, *De Malo 16.10.Ag3*: Preterea, omnis actio est per contactum, vt dicitur primo de generatione, non videtur autem quod possit esse aliquis contactus demonis ad corpora, cum nihil habeat cum eis commune: cum ergo mouere localiter sit quoddam agere, videtur quod daemones non possint corpora localiter mouere.

et mouere localiter sit quoddam agere, videtur quod demones illa facere non possint.<sup>85</sup>

Preterea,<sup>86</sup> demones non possunt mouere corpora magis propinquiora eis in ordine nature, vt sunt celestia, ergo nec alia magis distantia. Antecedens probatur quia cum mouens et motum sint simul (ij *Physicorum*) sequeretur quod demones mouentes corpora celestia essent in celo, quod neque secundum nos neque secundum platonicos habet veritatem.<sup>87</sup>

Sed<sup>88</sup> contra. Augustinus (iij *De Trinitate*): “Demones colligunt semina que adhibent ad corporales effectus,” hoc autem sine motu locali fieri non potest: ergo demones possunt semina recepta ab aliquibus in | 22B alios transfundere.<sup>89</sup>

Item, glosa<sup>90</sup> Strabi super istud *Exodi* vij (“Vocauit Pharao sapientes” etc.) dicit quod demones discurrunt per mundum et colligunt diuersa semina et ex eorum adaptatione possunt prorumpere<sup>91</sup> diuerse species<sup>92</sup> (videatur etiam glosa ibidem super illa verba “uocauit pharao”).

Item, *Genesis* vi.: super illud: “Videntes filij dei filias hominum” etc. glosa duo dicit: primo, quod per<sup>93</sup> filios dei filij Seth intelliguntur et per filias hominum filie Cayn;<sup>94</sup> secundo dicit quod non<sup>95</sup> est incredibile non ab hominibus sed a quibusdam demonibus qui mulieribus sunt improbi huiusmodi homines, id est, gigantes esse procreatos, de quibus in littera dicitur:<sup>96</sup> “Gigantes autem erant super terram, quia et post diluuium corpora non solum virorum sed etiam mulierum incredibilis pulcritudinis exstiterunt.”<sup>97</sup>

<sup>85</sup> End

<sup>86</sup> *Start of adaptation of Aq.*, De Malo 16.10.Ag4: Preterea, si demones possent aliqua corpora mouere localiter, maxime possent mouere localiter corpora celestia, que propinquiora sunt eis in ordine nature. Sed corpora celestia mouere non possunt: “quia cum mouens et motum sint simul,” vt dicitur in vij *Physicor.*, sequeretur quod demones neque sint in celo, quod neque secundum nos est verum neque secundum Platonicos. Ergo multo minus possunt mouere alia corpora.

<sup>87</sup> End

<sup>88</sup> *Start adaptation of Aq.*, De Malo. 16.10.SC: Sed contra. Augustinus (iij *De Trinitate*): “Demones colligunt semina que adhibent ad corporales effectus,” hoc autem sine motu locali fieri non potest: ergo demones possunt corpora mouere localiter . . .

<sup>89</sup> End

<sup>90</sup> *Start of Nider*, Praec. 1.11.7 (L)

<sup>91</sup> *Nider*: producere

<sup>92</sup> End

<sup>93</sup> *Start of adaptation of Glossa Ordinaria on Gen. 6:2*: Filij Seth religiosi intelliguntur per filios dei, qui victi concupiscentia ex filiabus hominum, id est, ex stirpe Cain, uxores acceperunt.

<sup>94</sup> Pause

<sup>95</sup> Resume

<sup>96</sup> de . . . dicitur: not in Glossa

<sup>97</sup> End

Responsio. Quia de potestate ac operibus diaboli circa maleficiales effectus plura oportet causa breuitatis obmittere, ideo pio lectori tanquam per se nota relinquuntur, vel adminus si noscere velit in scriptis doctorum, super *Secundo Sententiarum*, distinctione v singula ad vnguem elucidata inueniet. Conspiciet enim quod cuncta opera sua per intellectum et voluntatem demones exequantur, item quod hec data naturalia non sunt immutata, sed iuxta Dionisium (iiij ca. *De Diuinis Nominibus*) manserunt integra et splendidissima, quamuis eis vti ad bonum virtutis non valeant.<sup>98</sup> Inueniet etiam quantum ad intellectum quod triplici<sup>99</sup> acumine scientie vigent, scilicet subtilitate nature, experientia temporum et reuelatione supernorum spirituum.<sup>100</sup> Inueniet etiam in quibus et qualiter conditiones<sup>a</sup> et naturales hominum impressiones ex influentijs corporum celestium predominantes agnoscunt, vnde et eliciunt aliquos magis esse dispositos ad maleficia exequenda quam alios, quos etiam pre ceteris ad huiusmodi exequenda magis infestant. Quantum vero ad eius voluntatem reperiet ipsam immobiliter malo inherere, semper peccare peccatis superbie,<sup>b</sup> inuidie et summe displicentie, quod deus pro sui gloria | eo vitur contra suam voluntatem. Cognoscet qualiter ex his duobus, scilicet intellectu et voluntate, mira operatur ita quod non est potestas in terra que eis potest comparari (*Job* xli: “Non est super terram potestas que ei valeat comparari qui factus est vt neminem timet” vbi glosa: “Et licet neminem timet, meritis tamen sanctorum subiacet”). Inueniet etiam qualiter cognoscit cogitationes cordium nostrorum, qualiter etiam possit transmutare corpora adminiculo alterius agentis substantialiter et accidentaliter, qualiter etiam possit mouere corpora localiter, immutare etiam sensus exteriores et interiores ad aliquid cogitandum, qualiter etiam possit immutare hominis intellectum et voluntatem (licet indirecte).

Que omnia licet ad presentem nostram deseruirent speculationem, volumus tamen ex illis solummodo eorum proprietates concludere vt ad questionis discussionem procedatur. Sunt autem proprietates a theologis assignate quod sunt spiritus impuri,<sup>c</sup> licet non immundi ex natura, quia | in eis secundum Dionisium inest<sup>101</sup> furor irrationalis, amens

<sup>a</sup> Sc. -ditiones

<sup>b</sup> Ed. prin.: -bi

<sup>c</sup> Ed. prin.: in|puri

<sup>98</sup> *Aq.*, Sent. 2.7.2.1.SC 2: Item Dionysius dicit: “Data autem angelica dona nequaquam mutata esse dicimus, sed manere integra et splendidissima.” Sed inter alia attributa naturalia angelorum vnum fuit perspicacitas intelligentie. Ergo hoc adhuc in eis manet.

<sup>99</sup> *Start of Aq.*, De Malo 16.7.Ag10

<sup>100</sup> *End (see also Aq.*, Sent. 2.7.2.1, Co, Ra3)

<sup>101</sup> *Start of Aq.*, Sent. 2.7.2.1.Ag1

concupiscentia, fantasia proterua<sup>102</sup> – intellige quo ad peccata eorum spiritualia, scilicet superbiam, inuidiam et iram – vnde sunt humani generis inimici mente rationales, absque tamen discursu intelligentes, in nequitia subtiles, nocendi cupidi, semper in fraude noui; mutant sensus, inquinant affectus, vigilantes turbant, dormientes per somnia inquietant, morbos inferunt, tempestates concitant, in lucis angelos se transformant, semper infernum secum portant, erga maleficos diuinum cultum sibi vsurpant, magice artes per eos fiunt, super bonos dominari appetunt et amplius proposse infestant, electis ad exercitium dantur, semper fini hominis insidiantur, et licet mille nocendi habeant modos et artes<sup>103</sup> (xvi q. ij) vtpote qui conatur<sup>104</sup> a principio ruine sue vnitatem ecclesie rescindere, charitatem vulnerare, sanctorum operum dulcedinem inuidie felle inficere et omnibus modis humanum genus euertere et perturbare,<sup>105</sup> potestas tamen eius in lumbis et vmbelico manet 23B (*Job* penultimo), quia videlicet per luxuriam carnis multum dominantur hominibus. Sedes enim luxurie in viris est in lumbis quia inde deceditur semen, sicut mulieribus ab vmbelico.

His presuppositis ad intellectum questionis de incubis et succubis demonibus, dicendum quod asserere per incubos et succubos demones homines interdum procreari intantum est catholicum quod eius oppositum asserere est nedum dictis sanctorum sed et traditioni sacre scripture contrarium, quod sic deducitur.

Nam Augustinus<sup>106</sup> hanc questionem non quidem quo ad maleficos sed quantum ad ipsas operationes demonum et ad fabulas poetarum in vno loco mouet et sub dubio reliquit, licet postea quantum ad processum sacre scripture determinat. Nam (li. iij *De Ciuitate Dei* ca. ij) dicit: “Vtrum potuerit Venus ex concubitu Anchisis Eneam parere, in medio relinquamus. Nam pene talis questio in scripturis oritur<sup>107</sup> qua queritur, vtrum preuaricatores angeli cum filiabus hominum concubuerunt,<sup>108</sup> 23C vnde natis gigantibus, id est, nimium grandibus et fortibus viris, tunc

<sup>102</sup> *End*

<sup>103</sup> Decretum 2.16.2.1: Habet enim mille nocendi modos.

<sup>104</sup> *Start of Decretum 2.16.2.1 (with namque in place of vtpote qui). The singular verb conatur results from clumsy quotation (versutus hostis is the subj. in Decretum)*

<sup>105</sup> *End*

<sup>106</sup> *Start of adaptation of Nider, Form. 5.9 (228D), which begins: Hanc questionem sanctus Augustinus (de Ci. Dei li. iij, ca. v) quidem mouet sed non determinat, vbi sic dicit: vtrum potuerit Venus ex concubitu Anchisis Eneam parere vel Mars ex concubitu iunioris filie Romulum gignere, in medio relinquimus . . .*

<sup>107</sup> *Nider: nostris aboritur*

<sup>108</sup> *Nider: concuberint*

terra repleta<sup>109</sup> est. Sed (li. v ca. xxij)<sup>110</sup> questionem determinet in hec verba: “Creberrima<sup>111</sup> fama est multique se expertos vel ab eis qui experti erant, de quorum fide dubitandum non est, se<sup>112</sup> audisse confirmant siluanos et faunos,<sup>113</sup> quos vulgus incubos vocant, improbos<sup>a</sup> exstittisse mulieribus ac earum appetisse ac peregisse concubitum, et quosdam demones, quos dusios Galli nuncupant, assidue hanc immundiciam et tentare et efficere plures<sup>b</sup> talesque asseuerant, vt hoc negare impudentie videatur.” Hec ille. Postea ibidem determinat secundam questionem, videlicet quod illud *Genesis*<sup>114</sup> “Videntes filij dei, id est, Seth, filias hominum, id est, Cayn<sup>115</sup> non de incubis solum<sup>116</sup> intellegitur. Quod autem incubos esse non sit incredibile,<sup>c</sup> ad illud (ibidem) est glosa, que sic dicit, vt prius tactum est:<sup>117</sup> Non est incredibile non ab hominibus sed ab angelis vel quibusdam demonibus<sup>118</sup> qui mulieribus sunt improbi  
 23D eiusmodi homines, id est, gigantes esse procreatos, | de<sup>119</sup> quibus in littera dicitur: “Gigantes autem erant super terram, qui<sup>120</sup> et post diluuium” etc. (vt supra).<sup>121</sup> Ad idem est glosa *Esaie* xiiij, vbi propheta desertionem babilonice ciuitatis predicat et monstra in ea habitanda (“Jbi,” inquit, “habitabunt struconnes<sup>d</sup> et<sup>e</sup> pilosi ibi saltabunt” – “demones” intellige loco “pilosus”<sup>122</sup> – vnde glosa dicit: “Pilosus<sup>123</sup> sunt siluestres homines, hispidi, qui incubones vel satiri, certa genera demonum.”);<sup>124</sup>

<sup>a</sup> *Ed. prin.*: -as

<sup>b</sup> *So Nider*, Form. 229A; *ed. prin.*: pluries

<sup>c</sup> *So Nider*; *ed. prin.*: credibile

<sup>d</sup> *So Nider*, Form. 229C; sc. strucones (*so Vulgate Is. 13:21*)

<sup>e</sup> *Ed. prin.*: eet

<sup>109</sup> *Nider*: completa

<sup>110</sup> *Nider*: li. xv, ca. xxij

<sup>111</sup> *Nider*: Et quoniam creberrima

<sup>112</sup> *Not in Nider*

<sup>113</sup> *Nider*: faunos pauos

<sup>114</sup> *Nider*: Genesis vi.

<sup>115</sup> *Nider*: Cham!

<sup>116</sup> *Not in Nider!*

<sup>117</sup> *Clause not in Nider*

<sup>118</sup> *Nider*: non est incredibile ab hominibus, ab angelis, sed quibusdam demonibus. *The gloss itself has ab hominibus non ab angelis vel quibusdam demonibus, which Nider has garbled. The reading here must be an attempt to represent the sense of Nider.*

<sup>119</sup> *Nider*: scilicet de

<sup>120</sup> *Nider* (*and Glossa Ord.*): quia

<sup>121</sup> *Nider*: super terram: quia et post diluuium corpora non solum virorum sed eciam mulierum incredibilis magnitudinis extiterunt. *Here, this clause appears to be the truncated end of the biblical quotation (see 22B; in fact the quotation should end at super terram) but is in fact an explanation of why it is not impossible to believe that the giants were born of humans.*

<sup>122</sup> *Phrase not in Nider*

<sup>123</sup> *Start of Glossa Ordinaria on Is. 13:21*

<sup>124</sup> *End*

et *Esaię* xxxiiij super illo, vbi prophetat desolationem terre Jdumeorum, qui persequebantur Judeos ("Erit," inquit, "cubile draconum et pascua strutionum et occurrent demonia;" glosa interlinearis: "Jd est, monstra demonum adinuicem"); et glosa beati Gregorij ibidem: "Qui alio pilosi nomine figurantur, non hi quos Greci panos, Latini vero incubos vocant?"<sup>125</sup> Ad idem est beatus Jsidorus (li. viij, ca. vltimo) sic dicens: "Pilosus qui Grece Paniti, Latine incubi appellantur, vnde et incubi dicuntur ab incubando, hoc est, stuprando. Sepe enim improbi existunt etiam mulieribus et earum peragunt concubitum, quos demones Galli dusios <sup>24A</sup> nuncupant, quia assidue<sup>a</sup> hanc peragunt immundiciam. Quem autem vulgo incubonem vocant, hunc Romani faunum<sup>b</sup> ficarium dicunt. Ad quem Oratius dixit: 'Faune, nympharum fugientium amator, per meos fines et aprica rura lenis incedas.'" Insuper illud apostoli (*i Corinthiorum* xi): "Mulier debet habere velamen<sup>126</sup> super caput suum propter angelos" multi catholici exponunt quod sequitur: "Propter angelos, id est, incubos." Ad idem est Beda in *Historijs Angelorum*, item Guilielmus in libro *De Vniuerso* (parte vltima tractatus vi<sup>127</sup> multipliciter). Preterea, hoc determinat sanctus doctor (*Prima Parte* q. xv et in *Secundo* scripto dis. viij et *Quodlibeto* vij q. x atque *Super Esaim* capitulis xiiij et xxxiiij). "Vnde talia negare," dicit Thomas, "imprudencie<sup>c</sup> est." Jd enim quod multis videtur non potest omnino falsum esse secundum philosophum in *De Somno et Vigilia* in fine et in ij<sup>128</sup> *Ethicorum*. Sileo de historijs multis et auctenticis tam catholicorum quam ethnicorum, qui incubos esse palam asseuerunt. <sup>24B</sup>

Causa autem quare demones se incubos faciunt vel succubos,<sup>129</sup> non delectationis est causa, cum spiritus carnem et ossa non habeat, sed hec est potissima, vt<sup>130</sup> per luxurie vitium vtriusque hominis naturam ledant, corporis videlicet et anime,<sup>131</sup> vt sic ad omnia vitia homines proniores existant.

<sup>a</sup> *Ed. prin.*: -dne

<sup>b</sup> *Ed. prin.*: -nnm

<sup>c</sup> *So Nider 230A* (Malleus 23C: impudencie)

<sup>125</sup> *The following sentence in Nider is omitted: de demonibus etiam Cassianus (coll. i Abbatis Sereni) passum exponit prefatum.*

<sup>126</sup> *The Vulgate has potestatem, which has been replaced (in Nider) with velamen, which makes much more sense in the context.*

<sup>127</sup> *Nider: parte vl. cir. vi*

<sup>128</sup> *Nider: vij*

<sup>129</sup> *Pause (Nider adds: hoc esse videtur)*

<sup>130</sup> *Resume*

<sup>131</sup> *Pause (Nider continues: qua in lesione precipue delectari videtur)*

Nec dubium quin et sub certis constellationibus semina vigorare sciunt, sub quibus homines etiam concepti semper malitijs existunt deprauati. Vnde<sup>132</sup> et enumeratis per altissimum multis luxurie vitijs a quibus suum populum mundum esse voluit et quibus infideles irretiti erant, ait (*Leuitici* xvij): "Ne polluamini in omnibus his quibus contaminate sunt gentes, quas ego etiam<sup>a</sup> ante conspectum vestrum, e quibus polluta est terra, cuius scelera ego visitabo." Dicit glosa super verbo "gentes": "Demones," inquit, "qui propter multitudinem dicuntur gentes vniuerse,<sup>b</sup> qui cum omni peccato gaudent, precipue tamen fornicatione<sup>c</sup> et idolatria, quia in his et corpus et anima maculatur et totus homo, qui terra dicitur. Omne enim peccatum quodcunque fecerit homo extra corpus est, qui autem fornicatur in corpus suum peccat.<sup>133</sup> Si cui libet intueri historias de incubis et succubis, inspiciat (vt supra) Bedam in *Historijs Angelorum* et Guilhelumum, Thomam denique Brabantinam in libro qui *De Apibus* intitulatur.

Ad argumenta.

Ad primum de naturali propagatione instituta a deo inter marem et feminam dicitur quod sicut dei permissione sacramentum matrimonij potest opere diaboli vitari per maleficia, vt supra patuit, ita a simili et a fortiori in quolibet alio actu venereo inter marem et feminam.

Sed si queritur, quare potius in actu et super actum venereum diabolo permittitur maleficia exercere quam super alios humanos actus, dicitur quod multiplex causa assignatur a doctoribus, de quibus inferius sub illa parte, vbi de permissione diuina discutitur. Ad presens sufficit causa que prius<sup>d</sup> tacta est, scilicet quod potestas demonis est in lumbis hominum, quia in inter omnia certamina duriora sunt prelia certaminis, vbi continua pugna et raro victoria.

Nec valet vbi dicitur quod tunc opus diaboli esset fortius opere dei, cum actus matrimoniales a deo institutos posset vitare, quia non vitiat per violentiam, imo cum nihil valeat inficere nisi a deo permissus, ideo magis per hoc eius impotentia concluditur.

Ad secundum. Verum est quod procreare hominem est actus viui corporis, sed cum dicitur quod demones non possunt dare vitam, quia illa fluit formaliter ab anima, iterum verum est, sed quia

<sup>a</sup> So Nider 230B (and Vulgate Lev. 18:24) (=eiciam); ed. prin.: etiam

<sup>b</sup> So Nider 230B, Glossa Ordinaria; ed. prin.: vniuersi

<sup>c</sup> Ed. prin.: forniatioe

<sup>d</sup> Ed. prin.: -ns

<sup>132</sup> Resume

<sup>133</sup> End (the next sentence is a paraphrase of the end of Nider)

materialiter descenditur<sup>a</sup> a semine et demon incubus illud immittere potest deo permittente per coitum et non tanquam ab eo descisum<sup>b</sup> sed per semen alicuius hominis ad hoc acceptum, vt dicit sanctus doctor in *Prima Parte* (q. li. ar. iij) vtpote<sup>134</sup> quod idem demon qui est succubus ad virum fiat incubus ad mulierem, sicut etiam aliarum rerum semina assumunt ad aliquarum rerum generationem, | vt Augustinus <sup>25A</sup> dicit (iij *De Trinitate*): vnde si queritur, cuius filius sic natus existit, patet quod non<sup>135</sup> est filius demonis sed illius hominis cuius est semen acceptum.<sup>136</sup>

Sed cum instatur quod nihil est superfluum in operibus angelorum, sicut et nature, conceditur, sed cum infertur quod demon potest inuisibiliter semen et recipere et infundere, verum est, hoc autem potius operatur visibiliter vt succubus et incubus, vt sic per talem spurciam inficiat corpus et animam et in vtroque homine, mulieris scilicet et viri, vt in corpore questionis tactum est.

Preterea, plura possent demones inuisibiliter que<sup>c</sup> tamen non permittuntur, etiam si vellent, exercere,<sup>137</sup> permittuntur autem visibiliter vel in exercitium bonorum vel correctionem malorum.

Posset denique contingere quod loco demonis succubi alter semen reciperet ab eo et incubum loco alterius demonis se faceret, et hoc triplici ex causa, puta quia demon deputatus mulieri reciperet semen ab altero demone deputato viro, vt sic vnusquisque circa | sibi a principe <sup>25B</sup> demoniorum commissum habeat maleficium exercere, cum vnique proprius deputetur angelus etiam a malis, vel propter feditatem actus quam demon vnus facere abhorreret, cum, vt in sequenti questione patebit, certi demones ex nobilitate nature certos actus et spurcias facere abhorrent, vel quod inuisibiliter loco viri seminis suum semen, id est, quod incubus recepit, inuisibiliter se interponendo mulieri intro-mittat, quam interpositionem facere non est contra eius naturam aut virtutem, cum etiam in corpore assumpto inuisibiliter et incontrectabiliter se interponere potest, sicut supra de illo iuvene qui idolum desponsauerat patuit.

<sup>a</sup> *Sc. decid- to judge by Aq. (though on 109D the relevant verb is clearly considered to be descendere, not decidere. a confusion no doubt compounded by medieval pronunciation)*

<sup>b</sup> *Sc. decis- (see preceding note)*

<sup>c</sup> *Ed. prin.: qui*

<sup>134</sup> *Start of Aq., Summa 1.51.3. Ra6*

<sup>135</sup> *For vnde si . . . quod non Aq. has: vt sic ille qui nascitur*

<sup>136</sup> *End*

<sup>137</sup> *Cf. Aq., De Malo 16.11. Ra10*

Ad tertium, hoc quod dicitur quod virtus<sup>138</sup> angeli est infinita respectu superiorum,<sup>a</sup> hoc est, quia eius virtus comprehendi non potest ab inferioribus, quin semper superexcedit ea,<sup>b</sup> ita quod non limitatur ad vnum effectum tantum: et hoc ideo quia suprema in entibus habent virtutes  
 25C maxime vniuersales, vnde propter hoc quod est infinita superius<sup>c</sup> non potest dici quod possit indifferenter in omnem effectum illum ad producendum,<sup>139</sup> quia sic etiam diceretur infinita inferius, sicut superius.

Demum quia inter agens et patiens debet esse proportio et nulla potest esse proportio inter substantiam pure spiritualem et corporalem, ideo nec ipsi demones possent in aliquem effectum nisi mediante aliquo alio principio actiuo: inde est quod seminibus rerum vtuntur ad effectos producendos iuxta Augustinum (iij *De Trinitate*).<sup>140</sup> Vnde hoc argumentum redundat in precedens nec per illud fortificatur, nisi quis vellet declarationem eius habere, quare intelligentie asseruntur habere virtutes infinitas superius et non inferius,<sup>d</sup> et daretur sibi ex ordine rerum corporalium et corporum celestium, que<sup>e</sup> secundum se in plures et infinitos effectus influere possent, hoc autem non fit propter debilitatem inferiorum.

Concluditur quod demones, licet absque hoc quod corpora assumant, possint transmutationes in seminibus facere. Hoc nihil arguit contra  
 25D hoc quod hic intenditur de incubis et succubis, quorum actus exercere non possunt nisi in assumptis corporibus secundum quod supra tactum est.

Ad quartum,<sup>141</sup> quod demones non possunt mouere corpora localiter, vnde nec semen etc., probaturque ibi de anima per similitudinem, dicendum quod aliud est loqui de substantia spirituali ipsius angeli aut demonis et aliud de ipsa anima. Hoc enim quod anima<sup>142</sup> non potest mouere corpus localiter nisi sit viuificatum ab ea,<sup>143</sup> vel per contactum corporis ad

<sup>a</sup> *Ed. prin.*: super-: but *Aq.* has inferiorum! Schnyder (1993) 117 and Behringer et al. (2000) 188 n. 222 would restore the latter, but see note to the translation.

<sup>b</sup> *Ed. prin.*: eam

<sup>c</sup> Behringer et al. (2000) 188 n. 223: inferius, but this is directly refuted later in this parag. and in the next.

<sup>d</sup> For superius . . . inferius Schnyder (1993) 117 and Behringer et al. (2000) 189 n. 225 would read inferius . . . superius.

<sup>e</sup> *Ed. prin.*: qui

<sup>138</sup> *Start of adaptation of Aq.*, De Malo 16.9. *Raz*: . . . virtus intelligentie dicitur esse infinita respectu inferiorum, inquantum non potest ab inferioribus comprehendi, sed superexcedit ea, non autem ita quod indifferenter omnem effectum in eis producere possit.

<sup>139</sup> *End*

<sup>140</sup> For this clause, cf. *Aq.*, De Malo 16.9. *Rato*

<sup>141</sup> For the args. of this para., cf. *Aq.*, De Malo 16.10. *Raz*, 3, 4

<sup>142</sup> *Start of Aq.*, De Malo 16.10. *Ag2*

<sup>143</sup> *End*

aliud corpus non viuificatum,<sup>144</sup> hoc est, quia tenet<sup>145</sup> infimum gradum in ordine substantiarum spiritualium,<sup>146</sup> ex quo etiam contingit quod illud corpus quod habet mouere etiam per contactum oportet quod sit proportionatum,<sup>147</sup> non sic autem est de demonibus quorum virtus omnino corporalem virtutem excedit.<sup>148</sup>

Ad quintum. Dicendum quod contactus demonis ad corpus seminis vel cuiuscunque alterius non est contactus corporalis sed virtualis et fit secundum proportionem conuenientem tam mouenti quam mobili ita quod illud corpus quod mouetur non excedat proportionem | uirtutis demonis, vt sunt corpora celestia et etiam tota terra vel elementa mundi.<sup>149</sup> 26A

Et quare illa excedunt dicere possumus, vt dicit sanctus Thomas in *Questionibus De Malo* (q. x "De demonibus") quod hoc est vel propter conditionem nature vel propter damnationem culpe.<sup>150</sup> Est<sup>151</sup> enim ordo rerum, sicut secundum naturam ipsarum, ita et secundum motum, et sicut superiora corpora celestia mouentur a superioribus substantijs<sup>a</sup> spiritualibus, vt sunt angeli boni, ita inferiora corpora moueri possunt a substantijs spiritualibus inferioribus, vt sunt demones. Et siquidem hoc contingit eis secundum conditionem nature secundum quod aliqui ponebant demones non esse ex illis superioribus angelis, sed ex illis que proficiuntur<sup>b</sup> a deo huic terrestri ordini, vt erat philosophorum opinio, vel etiam si contingit ex pena peccati, vt theologorum sententia est, tunc a celestibus sedibus detrusi in hunc aerem tanquam ad penam, non possunt ipsum aut terram commouere.<sup>152</sup>

<sup>a</sup> *Ed. prin.*: sn-

<sup>b</sup> *So Aq.; ed. prin.*: p

<sup>144</sup> *For the sense of this clause cf. Aq., De Malo 16.10.Ag3*

<sup>145</sup> *Start of Aq., De Malo 16.10.Raz*

<sup>146</sup> *End*

<sup>147</sup> *Sense of this clause from Aq., De Malo 16.10.Raz*

<sup>148</sup> *Aq., De Malo 16.10.Raz4 states that demons cannot move the corpora celestia because the latter exceed the proportion of the demons' virtue.*

<sup>149</sup> *Cf. Aq., De Malo 16.10.Raz3: ... demonis ad corpus non est contactus corporalis sed virtualis; qui quidem requirit conuenientiam proportionis mouentis ad mobile.*

<sup>150</sup> *Propter ... culpe: from Aq., De Malo 16.10.Raz4*

<sup>151</sup> *Start of adaptation of Aq., De Malo 16.10.Co.: ... In actionibus virtutum actiuarum considerandus est ordo rerum, qui non solum attenditur secundum naturas ipsarum sed etiam secundum earum motus ... Sicut ergo superiores substantie spirituales mouent superiora celestia corpora, ita etiam inferiores mouere possunt localiter inferiora corpora, quales sunt demones; siue hoc habeant ex conditione nature, siue secundum illos qui dicunt quod demones non fuerunt ex illis superioribus angelis sed ex illis qui proficiuntur a deo huic terrestri ordini secundum proportionem sue nature, siue etiam hoc eis conueniat ex pena peccati propter quam sunt detrusi a celestibus sedibus in hunc aerem, secundum Gregorium, qui ponit aliquos de supremis angelis per peccatum cecidisse.*

<sup>152</sup> *End*

26B Hec addita sunt propter duo argumenta que tacite soluuntur, scilicet de corporibus celestibus, quod illa etiam possent mouere, si possent corpora localiter mouere, quia sunt eis magis propinqua, vt etiam vltimum argumentum pretendit. Respondetur enim quod non valet quia illa corpora excedunt proportionem virtutis eorum, siquidem prima opinio locum habet. Si vero non sed secunda, tunc iterum non possunt mouere propter penam peccati.

Est etiam ad argumentum, vbi quis obijceret quod idem<sup>153</sup> est motus totius et partis, sicut totius terre et glebe (in iij *Phisicorum*), vnde si demones possent mouere partem terre, possent etiam mouere terram.<sup>154</sup> Non valet, vt patet intuenti distinctionem. Colligere autem semina rerum et applicare ad certos effectus non excedit eorum virtutem naturalem deo eis permittente, vt de se patet.

Summarie concludatur quod non obstante quod quidam<sup>155</sup> dicunt demones in assumptis corporibus nullo modo posse generare et quod per filios dei significantur filij Seth et non angeli incubi, sicut et per filias  
26C hominum ille que de stirpe Cayn descenderant, quia tamen contrarium a multis, vt patuit, asseritur, et quod multis videtur non potest omnino esse falsum secundum philosophum<sup>156</sup> in vij *Ethicorum* et in fine *De Somno et Vigilia*, iam etiam modernis temporibus attestantur facta et dicta maleficarum talia vere et realiter exequentium, ideo dicimus tria: primo, quod per tales demones spurcissimi actus venerei non delectationis sed infectionis anime et corporum quibus succubunt aut incubunt causa exercentur; secundo, quod per talem actum completa conceptio et generatio a mulieribus fieri potest,<sup>157</sup> in quantum<sup>158</sup> semen humanum apponere possunt in loco conuenienti ventris mulieris ad materiam proportionatam ibidem preexistentem, a simili sicut et semina aliarum rerum colligere possunt ad complendum aliquos effectus;<sup>159</sup> tercio, quod demonibus attribuitur in talium generatione illud tantum quod est motus localis, non<sup>160</sup> autem ipsa generatio cuius principium non est virtus demonis  
26D aut corporis ab eo assumpti, sed virtus illius | cuius semen fuit, vnde et genitus non demonis sed alicuius hominis filius est.<sup>161</sup>

<sup>153</sup> *Start of Aq., De Malo 16.10. Ag8*

<sup>154</sup> *End*

<sup>155</sup> *Start of Aq., Sent. 2.8.1.4b. Co.*

<sup>156</sup> *Pause*

<sup>157</sup> ... ideo dicimus ... fieri potest *is adaptation of* ideo potest dici quod per eorum actum complerur generatio

<sup>158</sup> *Resume*

<sup>159</sup> *Pause*

<sup>160</sup> *Resume (after omission of vt attribuat id tantum eis quod est motus localis)*

<sup>161</sup> *End*

Et per hec patet responsio ad argumenta, vbi quis arguere vellet quod demones generare non possent propter duo, primo quod<sup>162</sup> generatio completur per virtutem formatiuam que est in semine <ex><sup>163</sup> corpore viuo resoluta, et corpus a demonibus assumptum,<sup>164</sup> quia non est tale, ergo etc. Patet responsio, quia demon virtutem<sup>a</sup> seminis formatiuam reponit ad locum debitum etc.

Secundo, si<sup>165</sup> dicatur quod semen non habet virtutem generandi nisi quamdiu calor anime in eo retinetur quem tamen exhalare necesse est per magnam distantiam delatum<sup>166</sup> – est enim responsio quod demones<sup>167</sup> possunt aliqua reponere ad conseruationem seminis, ne calor vitalis euaporet, vel etiam quia velocissime mouentur propter victoriam mouentis super rem motam.<sup>168</sup> Ideo non poterit euaporari tam faciliter.

QUARTA QUESTIO: A QUIBUS DEMONIBUS HUIUSMODI  
EXERCENTUR

VTRUM CATHOLICUM SIT ASSERERE quod actus incuborum et<sup>27A</sup> succuborum demonum conueniat omnibus spiritibus immundis indifferenter et equaliter.

Et videtur quod sic, quia oppositum asserere esset ordinem quandam bonum inter eos affirmare. Probat: sicut ad rationem boni pertinet modus et ordo (Augustinus in libro *De Natura Boni*), ita ad rationem mali pertinet inordinatio, sed in angelis bonis nihil est inordinatum, ergo et in malis nihil potest esse ordinatum. Vnde indifferenter huiusmodi actibus habent insistere; inde etiam illud, vbi nullus ordo sed sempiternus horror inhabitat, in terra videlicet miserie et tenebrarum (*Job x*).<sup>169</sup>

Preterea, si non omnes indifferenter his actibus insistunt, hoc eis competit vel ex natura vel ex culpa vel pena.<sup>170</sup> Non ex natura, quia post

<sup>a</sup> *Ed. prin.*: -e

<sup>162</sup> *Start of Aq., Sent. 2.8.1.4b.SC 1*

<sup>163</sup> *So Aq.*

<sup>164</sup> *End* (et . . . assumptum is sed corpus assumptum a demonibus et ab angelis non est viuum in Aq.)

<sup>165</sup> *Start of adaptation of Aq., Sent. 2.8.1.4b.SC 2*: Si dicatur quod generant per hoc quod idem demon succubus ad virum est recipiens ab eo quod postmodum in mulierem transfudit, factus incubus ad eam. contra est, quod semen non habet virtutem generandi nisi quamdiu calor anime in eo retinetur, quem oportet exhalare per magnam distantiam delatum.

<sup>166</sup> *End*

<sup>167</sup> *Start of Aq., Sent. 2.8.1.4b.SC2*

<sup>168</sup> *End*

<sup>169</sup> *Quotation from Aq., Sent. 2.6.1.4.Agi* (in terra miserie et tenebrarum. nullus ordo sed sempiternus horror inhabitat)

<sup>170</sup> *Cf. Aq., Summa 1.109.2.Agy*: Preterea, si in eis est aliqua prelatio, aut hoc pertinet ad eorum naturam aut ad eorum culpam vel penam . . .

peccatum omnes indifferenter, vt in precedenti questione tactum est, sunt in natura ipsorum spiritus impuri, licet non immundi, quantum  
 27B ad diminutionem naturalium bonorum ("in nequicia subtiles, nocendi cupidi, per superbiam tumidi" etc.). Ergo competit eis quo ad culpam vel penam.

Tunc sic: vbi est maior culpa, ibi maior pena, sed superiores angeli magis peccauerunt,<sup>171</sup> ergo in eorum penam magis his spurcitijs habent insistere. Si hoc non est, dabitur ratio alia, cur non illis actibus indifferenter insistant.

Preterea,<sup>172</sup> vbi non est subiectio et obedientia, ibi omnes indifferenter operantur, sed in demonibus nulla est subiectio et obedientia. Probat, quia illa sine concordia haberi non possunt, sed in demonibus nulla est concordia (*Proverbiorum* xij: "Inter superbos semper sunt iurgia").<sup>173</sup>

Preterea, sicut equaliter omnes propter culpam post diem iudicij in infernum detrudentur, ita et ante illud tempus in aere caliginoso propter officium eorum detinentur, nec legitur esse inequalitas ex parte mancipationis: ergo nec inequalitas ex parte officij et tentationis.

Sed<sup>174</sup> contra glosa (*i ad Corinthios* xv): quamdiu durat mundus, angeli angelis, homines hominibus, demones demonibus presunt.

27C Item *Job* xl dicitur de squamis | leuiathan per quas membra diaboli significantur, quod vna vni adheret:<sup>175</sup> ergo inter eos est diuersitas et ordinis et actionis.

Incidentaliter queritur, an a bonis angelis ipsi demones ab huiusmodi eorum spurcitijs exequendis interdum impediuntur vel non. Et dicendum quod quia potestates dicuntur angeli quorum ditioni virtutes aduersae subiectae sunt, vt Gregorius dicit et Augustinus (*De Trinitate*: "Spiritus vite desertor atque peccator regitur per spiritum vite rationalem, pium et iustum"),<sup>176</sup> et sicut ille<sup>177</sup> creature super alias influentiam habent que sunt perfectiores et deo propinquiores,<sup>178</sup> eo quod

<sup>171</sup> Cf. *Aq.*, Sent. 2.6.1.4. *Ag4*: Preterea, superiores demones grauius peccauerunt secundum quod naturalia meliora acceperunt per que stare possent. Sed illi qui magis peccauerunt grauius debent puniri.

<sup>172</sup> *Start of adaptation of Aq.*, Summa 1.109.2. *Ag2*: Preterea, vbi non est obedientia et subiectio, non est prelatio. Hec autem sine concordia esse non possunt, que in demonibus nulla est secundum illud *Prou.* 13: "Inter superbos semper sunt iuriga." Ergo in demonibus non est prelatio.

<sup>173</sup> *End*

<sup>174</sup> *Start of Aq.*, Summa 1.109.2. *SC 1*

<sup>175</sup> *End (Aq. continues: et tenentes se nequaquam separabuntur. Ergo videtur quod sit inter eos aliqua concordia et ordo prelationis.)*

<sup>176</sup> *The quotation of Aug. and the mention of Gregory (who is also quoted) come from Aq.*, Summa 1.109.4. *SC*

<sup>177</sup> *Start of Aq.*, Summa 1.109.4. *Co.*

<sup>178</sup> *End (Aq. continues: Maxima autem perfectio et per quam maxime deo appropinquatur est creaturarum fruendum deo, sicut sunt sancti angeli: qua perfectione demones priuantur, et ideo boni angeli super malos prelationem habent et per eos reguntur.)*

totus ordo prelationis primo et originaliter est in deo et participatur a creaturis secundum quod ei magis propinquant, ideo etiam boni angeli qui maxime appropinquant deo propter eius fruitionem qua demones carent super ipsos demones habent prelationem et per eos reguntur.

Et cum instatur quod demones<sup>179</sup> premissis medijs multa mala faciunt aut ergo non impediuntur quia non subsunt bonis angelis qui eos impedire | possent aut si subsunt, tunc cum ad negligentiam presidentis pertinere videntur ea que per subditos male fiunt, videtur quod in angelis bonis sit aliqua negligentia,<sup>180</sup> responderetur quod sancti<sup>181</sup> angeli sunt ministri diuine sapientie, vnde sicut diuina sapientia permittit aliqua mala fieri per malos angelos vel homines propter bona que ex eis elicit, ita et boni angeli non totaliter cohibent malos a nocendo,<sup>182</sup> siue homines siue demones.

Reponso. Catholicum est asserere quandam ordinem actionum interiorum et exteriorum etiam per quandam prelationem esse in demonibus. Vnde et quedam spurcitie ab aliquibus infimis perpetrantur, a quibus superiores propter nobilitatem nature secluduntur.<sup>183</sup> Et declaratur hoc primo generaliter ex triplici congruentia qua talia<sup>184</sup> congruunt eorum nature, diuine sapientie et proprie nequitie,<sup>185</sup> demum magis in speciali ex natura quidem. Nam constat quod a principio creationis semper quidam<sup>186</sup> alijs superiores fuerunt ex natura,<sup>187</sup> cum inter se differant specie, nec duo angeli vnus speciei existant, communiorem opinionem sequendo, que etiam dictis<sup>188</sup> philosophorum concordat et Dionisius<sup>a</sup> qui ponit (x ca. *Celestis Jerarchie*) in eodem ordine esse primos, medios et vltimos, cui etiam necessario oportet assentire,<sup>189</sup> tum ex immaterialitate eorum, tum etiam ex incorporalitate:<sup>190</sup> inspicat qui

<sup>a</sup> Sc. ij (so Aq.)

<sup>179</sup> *Start of adaptation of Aq.*, Summa 1.109.4.Ag2: Preterea, ad negligentiam presidentis pertinere videntur ea que per subditos male fiunt. Sed demones multa mala faciunt. Si igitur subsunt prelationi bonorum angelorum, videtur in angelis bonis esse aliqua negligentia, quod est inconueniens.

<sup>180</sup> End

<sup>181</sup> *Start of Aq.*, Summa 1.109.4.Ra2

<sup>182</sup> End

<sup>183</sup> Cf. *Nider*, Form. 5.5 (213B): Aliquando eciam non vult [sc. demon] propter peccati abominacionem et pudorem, vt angeli mali propter nobilitatem sui in qua creati sunt abominantur temptare de vilibus peccatis et de sodomia vel eciam de fornicacione simplici . . .

<sup>184</sup> *Start of Aq.*, Sent. 2.6.4.Co., which begins: ordinem prelationis in demonibus esse congruit . . .

<sup>185</sup> Pause

<sup>186</sup> Resume

<sup>187</sup> End

<sup>188</sup> *Start of Aq.*, Sent. 2.3.1.4.Co.

<sup>189</sup> *Aq.*: et huic necessarium est consentire

<sup>190</sup> End

vult dicta doctoris in *Secundo*, distinctione ij. Et<sup>191</sup> quia peccatum naturam non tollit et demones post casum data naturalia non amiserunt, vt supra tactum est, et operationes rerum sequuntur naturales earum condiciones, ideo sicut in natura, sic et in operationibus sunt varij et multiplices.

Congruit etiam hoc diuine sapientie, vt ea que ab ipso sint ordinata sint (*Romanorum* xiiij: “que a deo sunt ordinata sunt,” et quia demones sint a deo deputati ad exercendum homines et ad puniendum damnatos, ideo in exercitijs eorum ab extra quo ad homines sunt varij et multiplices.

28B Congruit etiam et nequitie ipsorum. Quia enim humano generi aduersantur, ideo cum ordinate impugnant, ideo magis hominibus nocere estimant, sicut et faciunt.<sup>192</sup>

Vnde constat spurcitijs illis nephandissimis non equaliter insistunt, quod etiam magis specificatur tali ratione. Nam cum operatio sequitur naturam rei, vt dictum est, quorumcunque sunt nature subordinate, oportet quod etiam operationes sibi inuicem subordinentur, sicut patet in rebus corporalibus. Quia enim inferiora corpora naturali ordine sunt infra corpora celestia, actiones et motus eorum subduntur actionibus et motibus celestium corporum, et quia, vt dictum est, demones naturali ordine inter se differunt, ideo etiam naturalibus actionibus intrinsecis et extrinsecis, presertim in huiusmodi spurcitijs peragendis.

28C Ex quibus concluditur quod quia huiusmodi spurcitie plurimum preter nobilitatem angelice nature exercentur, cum etiam in actibus humanis infimi et fetidissimi actus in se quidem considerando, non quantum ad officium nature et procreationis reputantur, demum cum de quolibet ordine aliqui cecidisse creduntur, non est inconueniens asserere quod illi demones qui de infimo choro et iterum illi qui infimi in illo existunt his spurcitijs et ab alijs deputantur et insistunt. Hoc etiam plurimum est aduertendum, quod licet de incubis et succubis mulieribus infestis<sup>a</sup> scriptura tradit, tamen nusquam legitur in vitijs quibuscunque contra naturam (loquendo non solum de sodomitico sed etiam de quocumque alio peccato extra vas debitum) perpere agendo se

<sup>a</sup> *Ed. prin.*: -os

<sup>191</sup> *Start of adaptation of Ag., Sent. 2.6.1.4.Co.*: et quia peccatum naturam non tollit, consequitur post peccatum vt quidam alijs superiores remaneant. Ad sapientiam etiam diuinam pertinet vt que a deo sunt, ordinata sint ab eo a quo omnis potestas est, ut dicitur Rom. 13; et ideo potestas demonum ad exercendum homines, et puniendos damnatos, a deo est; et ideo ordinata per gradus prelationis debet esse. Similiter ex nequitia sua humano generi aduersantur: amicos autem esse eos qui unius inimici sunt, consequitur: et ideo ut magis hominibus noceant, quasi ad inuicem confederantur, ut concorditer et ordinate impugnent.

<sup>192</sup> *End*

incubos et succubos fecisse, in quo maxima illorum peccaminum enormitas ostenditur, cum indifferenter omnes demones cuiuscunque ordinis illa peragere abhorrent et verecundum estimant. Et hoc videtur velle glosa super *Ezechielem* (xix), vbi dicitur, "Dabo te in manus Palestinorum, id est, demonum qui etiam erubescunt de via tua scelerata," vitium contra naturam intelligens, et intuenti patet quod de demonibus oportet auctoritatem intelligere. Nullum enim peccatum tam sepe deus reproba morte in multis condemnauit. Dicunt etiam nonnulli, et veraciter creditur, quod nullus talis vitij, postquam tempus mortalis vite Christi quod ad annos xxxiiij | extenditur in hoc scelere perseuerans excesserit, nisi <sup>28D</sup> speciali gratia redemptoris poterit liberari, quod ex eo patet quod octogenarij<sup>a</sup> et centogenarij<sup>b</sup> isto crimine inueniuntur sepe irretiti, quibus tempus Christi vite quia<sup>c</sup> morum disciplina fuit, et<sup>d</sup> ideo illo spreto vix vnquam sine difficultate permaxima ab hoc scelere continebit.

Sed et quod ordo sit inter eos etiam ad officia exteriora quo ad impugnationes demonstrant eorum nomina. Nam licet vnum et idem nomen, scilicet diabolus, multipliciter exprimitur in scripturis, et hoc propter diuersas eorum proprietates, tamen his immundis operibus vnus presidere in scripturis traditur, sicut etiam et certis alijs vitij. Est enim vsus scripture et locutionis quemlibet immundum spiritum nominare "diabolum" a "dya," quod est "duo," et "bolus," quod est "morsellus," quia duo occidit, scilicet corpus et animam, et secundum ethimologiam, licet Grece interpretatur "diabolus" "clausus ergasculo" et hoc sibi conuenit cum non permittitur sibi nocere quantum vellet, vel diabolus quasi <sup>29A</sup> defluens, quia defluxit, id est, corrui specialiter et localiter. Nominatur etiam "demon," id est, "sapiens super sanguinem" vel "sanguineus," scilicet super peccata que sitit et procurat triplici scientia qua viget, scilicet subtilitate nature, experientia temporum et reuelatione bonorum spirituum. Nominatur etiam "Belial," quod interpretatur "absque iugo" vel "absque dominio," quia proposse pugnat contra eum cui deberet esse subiectus. Vocatur etiam "Beelzebub," quod interpretatur "vir muscarum," id est, "animarum peccantium," que reliquerunt verum sponsum Christum. Jtem "Sathanas," id est, "aduersarius," vnde (*i Petri v*)<sup>e</sup> "Aduersarius vester diabolus circuit" etc. Jtem "Vehemot," id est, "bestia," quia facit homines bestiales. Ipse tamen demon fornicationis et

<sup>a</sup> Ed. prin.: - ijs

<sup>b</sup> Ed. prin.: - ijs

<sup>c</sup> Ed. prin.: quia vite

<sup>d</sup> Unnecessary

<sup>e</sup> Ed. prin.: τ for υ

princeps illius spurcie<sup>a</sup> dicitur “Asmodeus,” quod interpretatur “factura iudicij,” quia propter huiusmodi vitium factum fuit terribile iudicium super Sodomam et quattuor<sup>b</sup> alijs ciuitatibus, sicut et demon superbie dicitur “Leuiathan,” quod interpretatur “additamentum eorum,”  
 29B quia | et Lucifer tentans primos parentes de superbia promisit eis additamentum diuinitatis, de quo et per Esaiam dominus: “Visitabo super Leuiathan serpentem veterem<sup>c</sup> et tortuosum”, et demon auaritie et diuitiarum dicitur “Mammona,” quem et Christus in euangelio expressit (*Mathei* vi: “Non potestis deo seruire” etc.).

Ad argumenta.

Ad primum, quod quia bonum potest inueniri sine malo, sed malum nunquam inuenitur sine bono, quia fundatur super creaturam que in se bona est, et<sup>d</sup> ideo demones, in quantum habent naturam bonam, ordinati sunt et in naturalibus et in eorum actionibus.

Ad illud *Job* x potest dici, quod demones ad exercitium deputati non sunt in inferno sed isto aere caliginoso, vnde hic habent ordinem inter se quem tunc in inferno non habebunt, vel etiam dici potest quod etiam iam omnis ordo in eis cessat quo ad ipsam beatitudinem consequendam, cum a tali ordine irrecuperabiliter ceciderunt. Et dici potest quod etiam  
 29C | aliqui ad affligendum animas deputabuntur et non alij, sed hic ordo magis erit a deo quam ab ipsis, sicut etiam et eorum tormenta.

Ad tertium, cum dicitur quod superiores demones, quia magis peccauerunt et magis puniuntur, etiam his actibus immundis amplius deberent insistere, respondetur: quia culpa ordinatur per penam et non per nature actum seu operationem, ideo non insistunt illis immunditijs propter nobilitatem nature, non propter eorum culpam aut penam. Et licet omnes sint spiritus impuri et ad nocendum cupidi, tamen vnus amplius altero in quantum potiora naturalia sunt obtenebrata.

Ad quartum dicitur quod est concordia inter demones non amicitie sed nequitie ex qua homines odiunt, et dei iusticie repugnant<sup>e</sup> quantum possunt. Talis enim concordia inter impios reperitur, vt eis se adiungant et subijciant ad propriam nequitiam exequendam quos potiores viribus vident.

Ad quintum, licet carceralis mancipatio omnibus equaliter deputetur  
 29D iam in aere | et post in inferno, non tamen ex hoc naturalia in eis sunt

<sup>a</sup> *Ed. prin.*: -ij

<sup>b</sup> *Ed. prin.*: quatuor

<sup>c</sup> *Ed. prin.*: veterem; *Vulgate* (*Is. 27:1*): vectem

<sup>d</sup> *Unnecessary*

<sup>e</sup> *Ed. prin.*: -at

equaliter ad equales penas et officia equalia ordinata, imo quanto sunt nobiliores in natura et potiores in officio, tanto etiam grauiori subiecti tormento, vnde *Sapientie* vi: "Potentes potenter tormenta patientur."

EST ERGO QUESTIO SUPER INFLUENTIAS CORPORUM  
CELESTIUM, IN QUA TRES ALIJ ERRORES REPROBANTUR,  
ET EST QUINTA IN ORDINE

Sed pro ampliori premissorum declaratione etiam obuiandum quibuscunque pretensis obiectionibus. Queritur de maleficorum operibus quo ad quintuplicem causam: quattuor ex illis reprobando ex quibus influere non possunt, quintam vero concludendo, scilicet virtutem intellectiuam ex qua fluere habent, que et<sup>a</sup> licet bona sit secundum naturam, est tamen mala secundum voluntatem. Quattuor autem cause reprobantur contra illos qui aut maleficas aut eorum opera esse negant, et sunt corporum celestium influentie, illorum corporum et orbium motores mouentia, hominum excrescens malitia, et imaginum ac characterum et verborum efficacia.

AN<sup>b</sup> POSSIT QUOQUE<sup>c</sup> MODO catholice censi quod origo et <sup>30A</sup> multiplicatio maleficorum operum processerit ex influentijs corporum celestium seu ex superabundanti malitia hominum et non ex spurcitijs incuborum et succuborum demonum, et videtur quod ex propria malitia. Nam Augustinus in *Libro lxxxiiij Questionum* dicit quod ad hominis voluntatem causa deprauationis eius redit, siue aliquo siue nullo suadente deprauata sit. Sed maleficus deprauatur per peccatum: ergo causa illius non est diabolus sed voluntas humana. Ad idem dicit (*De Libero Arbitrio*) quod quilibet est causa sue malitie, quod etiam probatur ratione: peccatum hominis ex libero arbitrio procedit, sed diabolus non potest liberum arbitrium mouere. Hoc enim libertati repugnaret. Ergo diabolus non potest esse causa illius nec<sup>d</sup> cuiuscunque alterius peccati.

Preterea,<sup>193</sup> in libro *De Ecclesiasticis Dogmatibus* dicitur: "Non omnes cogitationes nostre male a diabolo excitantur, sed aliquotiens ex nostri arbitrij motu emergunt."<sup>194</sup>

<sup>a</sup> Unnecessary. Perhaps etsi was originally intended?

<sup>b</sup> The initial (hand-written) capital was written erroneously as "I" in the Jerouschek facsimile.

<sup>c</sup> Sc. quoquam

<sup>d</sup> Ed. prin.: nec illius

<sup>193</sup> Start of adaptation of *Aq.*, Summa 1.114.3.SC (with praeterea in place of sed contra)

<sup>194</sup> End

Demum quod ex influentijs corporum celestium possint oriri et non  
 30B a demonibus probatur: sicut omnis<sup>195</sup> multitudo reducitur ad vnum, ita  
 omne multiforme reducitur in aliquod vniforme principium. Sed actus  
 humani sunt varij et multiformes tam ad vitia quam ad virtutes: ergo  
 videtur quod reducantur in aliqua principia vniformiter mota et mouentia.<sup>196</sup> Sed talia non possunt assignari nisi ex motibus <corporum> celestium, qui sunt vniformes: ergo illa corpora sunt talium actionum cause.

Preterea,<sup>197</sup> si celestia corpora non essent humanorum actuum ad virtutes et vitia causa, astrologi non adeo frequenter vera predicarent de bellorum euentibus et alijs humanis actionibus. Sunt ergo aliquo modo causa.<sup>198</sup>

Preterea,<sup>199</sup> corpora celestia mouentur a substantijs spiritualibus secundum theologos et philosophos omnes, sed illi spiritus sunt superiores animabus nostris, sicut et corpora celestia corporibus nostris: ergo ambo insimul habent imprimere in animam et corpus hominis ad causandum<sup>a</sup> quoscunque actus humanos.<sup>200</sup>

30C Preterea, corpora celestia possunt imprimere in ipsos demones ad causandum certa maleficia, ergo a fortiori in ipsos homines. Assumptum probatur ex tribus.

Nam certi<sup>201</sup> homines qui lunatici dicuntur infestantur a demonibus plus vno tempore quam alio, quod non facerent sed potius omni tempore molestarent nisi in certis lunationibus etiam ipsi demones inquietarentur ad inferendum huiusmodi.<sup>202</sup> Probatur<sup>b</sup> etiam ex nigromanticis<sup>203</sup> qui

<sup>a</sup> *Ed. prin.*: -ā

<sup>b</sup> *Ed. prin.*: prp-

<sup>195</sup> *Start of adaptation of Aq.*, Summa 1.115.4.Ag2: Preterea, omne multiforme in aliquod uniforme principium. Sed actus humani sunt varij et multiformes. Ergo videtur quod reducantur in uniformes motus celestium corporum, sicut in sua principia.

<sup>196</sup> *End*

<sup>197</sup> *Start of adaptation of Aq.*, Summa 1.115.4.Ag3: Preterea, astrologi frequenter vera annuntiant de euentibus bellorum et alijs humanis actibus quorum principia sunt intellectus et voluntas. Quod facere non possent secundum celestia corpora, nisi essent humanorum actuum causa. Sunt ergo corpora celestia humanorum causa.

<sup>198</sup> *End*

<sup>199</sup> *Start of adaptation of Aq.*, Summa 1.115.4.Ag1: Corpora enim celestia, cum moueantur a spiritualibus substantijs . . . agunt in virtute earum quasi instrumenta. Sed ille substantie spirituales sunt superiores animabus nostris. Ergo videtur quod possint imprimere in animas nostras et sic causare actus humanos.

<sup>200</sup> *End*

<sup>201</sup> *Start of adaptation Aq.*, Summa 1.115.5.Ag1: Demones enim secundum certa augmenta lunae aliquos homines vexant, qui et propter hoc lunatici dicuntur . . . Sed hoc non esset, nisi corporibus celestibus subiacerent. Ergo demones subiacent actionibus celestium corporum.

<sup>202</sup> *End*

<sup>203</sup> *Start of adaptation Aq.*, Summa 1.115.5.Ag2: Preterea, necromantici obseruant certas constellationes ad inuocandos demones. Non autem per corpora celestia inuocarentur, si non eis subiacerent. Ergo demones subiacent actionibus celestium corporum.

certas constellationes obseruant ad inuocandum demones, quod non facerent nisi scirent illos demones corporibus celestibus esse subiectos.<sup>204</sup>

Probatum etiam ex illo quod demones<sup>205</sup> secundum Augustinum in x *De Ciuitate Dei* quibusdam corporibus inferioribus arcentur, scilicet herbis, lapidibus, animantibus, et sonis quibusdam certis et vocibus et figurationibus, sed cum corpora celestia sint virtuosiora quam corpora inferiora, ideo multo magis actionibus corporum celestium,<sup>206</sup> et iterum amplius malefici subiiciuntur, vt eorum opera ex influentijs illorum corporum et non ex assistentia spirituum malorum proueniunt.

Fortificatur argumentum ex *i Regum* capitulo xvi, vbi Saul qui vexa-<sup>30D</sup> batur a demone alleuiabatur quando Dauid cytharam percutiebat coram eo et quod recedebat spiritus malus.

Sed contra. Impossibile est effectum sine causa sua producere, sed opera maleficorum sunt talia quod non possunt nisi opere demonum fieri: patet ex descriptione operum maleficorum ex Jsydori (li. viij *Ethimologiarum*): "Malefici dicuntur ob magnitudinem facinorum. Hi enim elementa concutiunt, mentes hominum turbant et absque vllo veneni haustu sola vi carminum animas interimunt" etc. Huiusmodi effectus autem non possunt ex influentijs corporum celestium mediante homine causari.

Preterea,<sup>207</sup> philosophus in *Ethicis*<sup>208</sup> difficile<sup>209</sup> inquit quid sit principium operationis in anima, et ostendit quod oportet esse aliquod extrinsecum. Omne enim quod incipit de nouo habet aliquam causam. Incipit enim homo operari quia vult. Incipit autem velle quia preconciatur. Si autem preconciatur propter aliquod | concilium precedens,<sup>31A</sup> aut ergo est procedere in infinitum aut oportet ponere aliquod principium extrinsecum quod primo mouet hominem ad conciliandum, nisi forte aliquis dicat quod hoc est a fortuna, ex quo sequeretur omnes actus humanos esse fortuitos, quod est absurdum.<sup>210</sup> Principium ergo in bonis ad bona dicit esse deum, qui non est causa peccati.<sup>211</sup> In malis autem cum homo incipit agere velle et conciliari ad peccandum, oportet quod

<sup>204</sup> End

<sup>205</sup> Start of adaptation Aq., Summa 1.115.5.Ag3: Preterea, corpora celestia virtuosiora sunt quam corpora inferiora. Sed quibusdam inferioribus corporibus demones arcentur, scilicet "herbis et lapidibus et animantibus et quibusdam sonis certis ac vocibus et figurationibus atque figmentis," vt a Porphyrio dictum Augustinus introducit in x De Ciu. Dei. Ergo multo magis demones subduntur actioni celestium corporum.

<sup>206</sup> End

<sup>207</sup> Start of Aq., De Malo 3.3.Ag11

<sup>208</sup> Aq.: Eudemiorum

<sup>209</sup> Not in Aq.

<sup>210</sup> Last clause not in Aq.!

<sup>211</sup> End

huius etiam sit aliqua causa extrinseca et non potest esse alia nisi diabolus, presertim in maleficis, vt supra patuit, quia corpus celeste non potest ad tales actus influere. Ergo patet veritas.

Preterea,<sup>212</sup> cuius potestati subiacet motiuum, eius potestati subiacet et motus qui a motiuo causatur. Motiuum autem voluntantis est aliquid apprehensum per sensum vel intellectum, quorum vtrumque subiacet potestati diaboli. Dicit enim Augustinus in *Libro lxxxij Questionum*: “Serpit hoc malum,” scilicet quod est a diabolo, “per omnes additus sensuales: dat se esse figuris, accommodat se coloribus, adheret sonis, latet in ira et in fallacia sermonis, odoribus se subiicit, infundit saporibus et quibusdam nebulis implet omnes meatus intelligentie.” Ergo videtur quod in potestate diaboli est mouere voluntatem, quod est directe causa peccati.<sup>213</sup>

Preterea,<sup>214</sup> omne quod se habet ad vtrumlibet indiget aliquid determinante ad hoc quod exeat in actum. Sed liberum arbitrium hominis ad vtrumlibet se habet, scilicet ad bonum et malum: ergo ad hoc quod exeat in actum peccati indiget quod ab aliquo determinetur ad malum, maxime autem hoc videtur fieri a diabolo, presertim in operibus maleficorum,<sup>215</sup> cum eius voluntas est determinata ad malum. Ergo videtur quod mala voluntas diaboli est causa<sup>216</sup> male voluntatis, precipue in maleficis.

Et potest fortificari ratio per hoc quod<sup>217</sup> sicut bonus angelus se habet ad bonum, ita malus angelus ad malum. Sed ille reducit homines ad bonum, ergo iste ad malum. “Est enim,” dicit Dionysius, “lex diuinitatis immobiliter stabilita, vt yma a summis perficiantur.”<sup>218</sup>

Responsio. Quia questio quo ad originem maleficorum operum fundatur super influentiam luminarium celestium, ostenditur per reprobationem trium errorum qui hoc asserere conantur, scilicet planetariorum, genetaliorum, et fatalem<sup>a</sup> ordinem ponentium, hoc non esse possibile.

Quo ad primum. Nam si queritur an ex impressione luminarium celestium causetur in hominibus vicium maleficorum, tunc ad

<sup>a</sup> *Ed. prin.*: -ium (cf. 37B)

<sup>212</sup> *Start of Aq.*, De Malo 3.3.Ag12

<sup>213</sup> *End*

<sup>214</sup> *Start of Aq.*, De Malo 3.5.Ags

<sup>215</sup> *Clause not in Aq.*

<sup>216</sup> *End (Aq. finishes with: peccati)*

<sup>217</sup> *Start of adaptation of Aq.*, De Malo 3.3.Ag15: Preterea, sicut angelus bonus se habet ad bonum, ita malus angelus ad malum. Sed angelus bonus reducit homines ad bonum, quia, sicut Dionysius dicit, lex diuinitatis est vltima per media reducere.

<sup>218</sup> *End*

diuersitatem morum attendendo et veritatem fidei saluando, oportet sub distinctione disserere, videlicet quod mores hominum a sideribus causari potest intelligi dupliciter: aut necessario et sufficienter aut dispositiue et contingenter. Si dicatur primo modo, tunc non solum est falsum, imo hereticum, eo quod Christiane religioni adeo repugnat quod etiam veritas fidei in tali errore saluari non potest.

Ratio. Dum enim ponit omnia a sideribus necessario euenire, iam tollit meritum et per consequens demeritum; tum quia honestas morum per hunc errorem preiudicium patitur, dum culpa peccantis in sydera refunditur, licentia malefaciendi sine reprehensione conceditur et homo <sup>31D</sup> ad orandum et colendum sydera incuruatur. Si autem dicatur mores hominum a dispositionibus siderum variari dispositiue et contingenter, sic potest habere veritatem, quia nec rationi nec fidei repugnat. Planum est enim<sup>a</sup> quod dispositio corporis varia multum facit ad variationem affectionum et morum anime. Vt plurimum enim anima complexionem corporis imitatur, vt dicitur in *Sex Principijs*, vnde et colerici sunt iracundi, et sanguinei sunt benigni,<sup>b</sup> et melancolici sunt inuidi, flegmatici pigri. Hoc autem non est necessario. Anima enim dominatur suo corpori et maxime quando est adiuta per gratiam. Multos enim videmus colericos mansuetos et melancolicos benignos. Quoniam ergo virtus corporum celestium operatur admixtionem et qualitatem complexionum, hinc est quod per consequens quodammodo operatur ad qualitatem morum, valde tamen de longinquo. Plus enim | facit ad qualitatem complexionis virtus nature inferioris quam virtus sideris. Vnde Augustinus <sup>32A</sup> (v *De Ciuitate Dei*) in solutione cuiusdam questionis de duobus fratribus qui simul infirmabantur et curabantur, cum querebatur vnde hoc esset, magis commendat rationem Jpocratis quam astronomi. Jpocras enim respondit quod hoc erat propter similitudinem complexionis et astronomus respondit quod erat propter ydemptitatem constellationis. Melius enim respondit phisicus quia causam reddit magis propriam et magis propinquam. Sic ergo dicendum quod impressiones siderum aliquo modo disponunt ad maliciam maleficorum, siquidem aliqua influenza in eorum corporibus predominatur potius ad huiusmodi nephanda quam ad alia opera quecunque vitiosa seu virtuosa, que tamen dispositio non debet dici necessaria, proxima et sufficiens sed remota et contingens.

Nec valet si quis obijceret philosophum libro *De Proprietatibus Elementorum*, vbi dicit quod regna vacua facta sunt et terre depopulate

<sup>a</sup> Ed. prin.: enim

<sup>b</sup> Ed. prin.: -ui

32B apud coniunctionem Jouis et Saturni, arguendo quasi | quia talia ex libero arbitrio dependebant hominum, ergo etiam influentie luminarium super liberum arbitrium haberent efficaciam. Respondetur enim quod philosophus per hoc dictum non vult innuere quod homines illi non poterant resistere illius influentie constellationis ad dissensionem inclinantis, sed quia noluerunt, quia, sicut Ptolomeus in *Almagesti*, sapiens homo dominabitur astris.<sup>219</sup> Quamuis enim coniunctio Jouis et Saturni, eo quod Saturnus habet influentiam melancolicam et malam et Jupiter valde bonam, possit ad rixam vel discordiam homines inclinare, illi tamen inclinationi homines per libertatem arbitrij possunt resistere et valde faciliter cum adiutorio gratie dei.

Nec iterum valet si quis obijceret dictum Damasceni (li. ij, ca. vi), vbi dicit: "Constituuntur multotiens comete et signa quedam mortis regum." Respondetur enim quod etiam sequendo opinionem Damasceni, qui fuit, vt patet in predicto libro, contrarie opinionis vie philosophice siue non, nihil per hoc concluditur quo ad necessitatem actuum  
32C humanorum. Opinatur enim Damascenus quod cometa nec naturaliter | generatur nec est vna de stellis in firmamento positus, vnde nec eius significatio est naturalis nec influentia. Dicit enim quod comete non sunt ex his que<sup>a</sup> a principio genita sunt astra, sed diuina iussione secundum ipsum tempus constituuntur et rursus dissoluuntur. Hec Damascenus. Prenunciat autem deus per tale signum mortem regis magis quam aliorum, tum quia est persona communis, tum quia potest ex hoc oriri turbatio regni, de cuius custodia magis sollicitantur angeli propter commune bonum, quorum etiam ministerio et generantur et dissoluuntur.

Sed nec philosophorum opinio obstat, qui dicunt quod stella cometa sit impressio calida et sicca generata in superiori parte aeris propter ignem, ex cuius vapore calido et sicco et globo illius vaporis adunatus<sup>b</sup> apparet corpus stelle. Partes autem illius vaporis discontinuate circa illum globum et longum protense in suis extremitatibus illi globo coniuncte sunt quasi eius come et secundum hanc positionem significat et causat non per se sed per accidens mortalitatem prouenientem<sup>c</sup> ex  
32D infirmitatibus | calidis et siccis. Et quia vt plurimum diuites nutriuntur

<sup>a</sup> *Ed. prin.*: qui

<sup>b</sup> *Sc.* -um

<sup>c</sup> *Ed. prin.*: -e

<sup>219</sup> *Cited without attribution in Aq., Summa 1.115.4.Ra3*

calidis et siccis, ideo illo tempore multi diuites moriuntur inter quos mors regum et principum est magis notabilis.

Et hec positio nec distat a positione Damasceni, si quis bene considerat, nisi quo ad operationem et cooperationem angeli, quam nec philosophi excludere possunt, imo vbi vapores nunquam in sua siccitate et caliditate ad generandum cometam concurrerent, adhuc operatione angeli sepe concurrere haberent causis predictis, sicut et stella que sancti Thome doctoris transitum indicauit, que vtique non ex superis in firmamento positus prosiliit sed operatione angeli ex materia aliqua preiacente formata et offitio peracto iterum resoluta fuit.

Vnde videmus quod secundum quamcunque istarum opinionum nullum penitus habent celi luminaria dominium<sup>a</sup> super liberum arbitrium, vnde nec consequenter super malitiam et mores hominum.

Nota insuper quare astronomi vt sepius vera predicunt et quod eorum iudicia vt plurimum super vnam prouinciam aut gentem vnus terre eueniunt. Huius ratio est. Quia enim sua iudicia sumunt ex astris, que etiam habent maiorem influentiam, capiendo probabiliorem, non necessitantem, in actibus tam<sup>b</sup> nature quam voluntatis et in actibus hominum generalibus sicut vnus gentis vel prouincie quam in particularibus vnus persone, quia maior effectus stellarum imprimitur in totam vnam gentem quam in vnum hominem et quia maior pars gentis vnus magis sequitur affectus naturales corporis quam vnus singularis homo, ideo etc. Sed hoc incidentaliter est tactum.

Secunda via per quam prefata nostra catholica assertio declaratur est per reprobationem errorum geneticalicorum et deam fortune colentium mathematicorum. De<sup>220</sup> quibus Isidorus (viiij *Ethimologiarum* ca. ix):

<sup>a</sup> *Ed. prin.*: -num

<sup>b</sup> Logically unnecessary (and to be ignored)

<sup>220</sup> *Start of adaptation of Nider, Praec. 1.11.35 (Qq) (based on Aq., Summa Contra Gentiles 3.88, 91, 92, 93):* Questio xxxv de geneticalicis et fortuna: vtrum aliqui homines sint a natura bene vel male fortunari. et quid de fortuna tenendum sit. Dicuntur autem geneticalici, vt dicit Isi. (viiij *Ethimo.* c. ix) propter natalium considerationem syderum, qui vulgo mathematici vocantur. Fortuna vero, vt ibidem dicit (c. ij) a fortuitis nomen habere dicitur, quasi deam quandam res humanas variis casibus et fortuitis illudentem, vnde et cecam appellant, eo quod passim in quoslibet incurrens sine vilo examine meritorum, et ad bonos et malos venit. Hec Isido. Sed talem deam credere idolatria esset, nec ita de fortuna loquitur Aristoteles (ij *Philico.* nec in *De Fortuna*), nec theologi. Vnde questioni prefate respondet sanctus Thomas (li. iij *Summe contra Gentiles*, q. lxxxvij et sequentibus). Pro quorum intellectu notandum secundum eum primo quod alicui tunc bene dicitur a fortuna contingere quando aliquid bonum accidit sibi preter intentionem propriam, sicut qui fodit vineam intentione vites nutriendi, inuenit thesaurum. Potuit tamen talis intentione aliena, videlicet domini sui, qui sciuit ibi thesaurum absconditum

“Genetaliaci dicuntur propter natalium considerationem syderum qui vulgo mathematici dicuntur.” “Fortuna vero,” vt ibidem dicit (ca. ij), “a fortuitis nomen habere dicitur quasi deam quandam res humanas  
 33B varijs casibus et fortuitis illudentem, vnde et cecam appellant, eo quod passim in quoslibet incurrens sine vlllo examine meritorum et ad bonos et ad malos venit.” Hec Isidorus. Sed talem deam credere aut quod lesiones in corporibus et creaturis que ex maleficorum operibus inferuntur non ab ipsis maleficis sed ab ipsa dea fortune prouenirent, sicut est idolatria, ita et asserere maleficas ipsas ad hoc esse natas, vt talia per eas in mundo exerceri possint, similiter a fide alienum existit, imo et a communi philosophorum traditione.<sup>a</sup> Si cui placet, inspiciat doctorem sanctum (li. iij *Summe Fidei Contra Gentiles* q. lxxxvij et sequentibus) et inueniet plura, licet hoc vnicum propter eos qui fortassis copiam librorum non habent non videtur obmittendum, quod quia<sup>b</sup> in homine tria sunt, vt ibi notatur, que a tribus celestibus causis diriguntur, voluntatis actus, intellectus actus et corporis actus, quorum principium a deo tantum et immediate, secundum ab angelo, et tertium a celesti corpore dirigitur. Nam electiones et voluntates immediate a deo in bonis  
 33C operibus diriguntur, dicente scriptura (*Prouerbiorum* xxi): “Cor regis”

<sup>a</sup> *Ed. prin.*: -oine

<sup>b</sup> *Redundant*

(*fn. 220 cont.*) ex intentione dirigi. Male autem fortunari dicitur si fodiendo frangit tibiam. Secundo notat quod in homine sunt tria que a tribus celestibus causis diriguntur: voluntatis actus, intellectus actus, et corporalia. Quorum primum a deo tantum et immediate, secundum ab angelo, et tertium a celesti corpore dirigitur. Nam electiones et voluntates immediate a deo diriguntur, dicente (*Prouer. xxi*) scriptura: “Cor regis in manu domine,” et quocumque voluerit, inclinabit illud; et apostolus: “Deus operatur in nobis et velle et perficere pro bona voluntate.” Cognitione vero humana intellectiua a deo mediantibus angelis ordinatur. Ea vero que ad corporalia pertinent, siue sint exteriora siue interiora, in vsum hominis venientia a deo mediantibus angelis et celestibus corporibus dispensantur. Dicit enim beatus Dionysius (iiij *De Diuinis Nominibus*) quod corpora celestia sunt cause eorum que in hoc mundo fiunt. Cum igitur homo sit ordinatus secundum corpus sub corporibus celestibus, secundum intellectum vero sub angelis, secundum voluntatem autem sub deo, potest contingere aliquid preter intentionem hominis, quod tamen est secundum ordinem celestium corporum vel dispositionem angelorum vel etiam dei. Tertio notat quod nihil prohibet quod etiam aliquis homo habeat ex impressione corporis celestis aliquam efficaciam in aliquibus corporalibus faciendis, quam alius non habet: puta medicus in sanando et agricola in plantando et miles in expugnando. Hanc efficaciam multo perfectius deus hominibus largitur ad sua opera efficaciter exequenda. Hec Thomas. Vnde Guillelmus in *De Vniuerso* dicit quod per experimentationem habetur. Si meretrix nititur plantare oliuam, non efficitur fructifera; que tamen per castam plantata fructifera efficitur. Aduertendum tamen: hic dicit Thomas quod prefata corporis dispositio et etiam angeli persuasio non necessitant hominem ad eligendum, qui liber est. Potest enim homo non sequi inclinationem qualitatis corporalis et angeli persuasionem. Quarto notandum quod aliquid bonum potest accidere homini et preter intentionem propriam et preter inclinationem celestium corporum et preter angelorum illuminationem, non autem preter diuinam prouidentiam, que est factiua et gubernatiua cuiuslibet entis.

supple: quo<sup>a</sup> maiori potentia videtur posse resistere, eo minus alij non possunt, quia "in manu domini et quocunque voluerit inclinabit illud"; et apostolus: "Deus est qui operatur in nobis velle et perficere pro bona voluntate."

Cognitio vero humana intellectiua a deo mediantibus angelis ordinatur. Ea vero que ad corporalia pertinent, siue sint exteriora siue interiora, in vsum hominis venientia a deo mediantibus angelis et celestibus corporibus dispensantur. Dicit enim beatus Dionisius (iiij *De Diuinis Nominibus*) quod corpora celestia sunt cause eorum que in hoc mundo fiunt, non tamen necessitatem inferentia. Et cum homo sit ordinatus secundum corpus sub corporibus celestibus, secundum intellectum vero sub angelis, secundum voluntatem autem sub deo, potest contingere quod homo sprete inspiratione dei ad bonum et illuminatione boni angeli ducatur affectione corporali ad ea ad que influentie<sup>b</sup> luminarium celi inclinant, vt et sic tam voluntas quam intellectus malitia et erroribus inuoluantur. Non est autem possibile huiusmodi erroribus quibus malefici irretiti sunt ex influentijs luminarium celi inuolui, licet ad fundendum sanguinem vel furta aut latrocinia vel etiam incontinentias pessimas perpetrare possit quis exilis inclinari, sicut etiam ad alia quedam naturalia. Etiam, vt Guilhelmus in *De Vniuerso* dicit, quod per experientiam habetur, si meretrix nititur plantare oliuam, non efficitur fructifera, que tamen per castam plantata fructifera efficitur. Et aliquis etiam medicus in sanando et agricola in plantando et miles in expugnando aliqua ex impressione celestis corporis efficiunt que alij etiam easdem artes habentes efficere non possunt.<sup>221</sup>

Tercia via sumitur ex reprobatione fatalium effectuum, vbi notandum quod fatum esse aliquid vno modo catholice asseritur, alio modo asserere est omnino hereticum. Si enim fatum<sup>c</sup> estimetur esse secundum estimationem quorundam | gentilium et etiam quorundam mathematicorum, qui putabant quod ex vi positionis syderum causaretur infallibiliter diuersitas morum, ita quod talis efficeretur necessario maleficus vel virtuosus in moribus quia talem eum<sup>d</sup> esse causaret vis que in dispositione syderum sub qua talis vel conceptus vel natus esset comprehenderetur et istam vim vocauerunt nomine fati. Sed quia ista opinio non tantum

<sup>a</sup> *Ed. prin.*: quod

<sup>b</sup> *Ed. prin.*: -a

<sup>c</sup> *Ed. prin.*: fact-

<sup>d</sup> *Ed. prin.*: cum

<sup>221</sup> *End*

est falsa imo heretica et omnino detestanda propter inconuenientia que necessario sequerentur, vt supra tactum est circa reprobationem primi erroris, quia videlicet tolleretur ratio meriti et demeriti, imo gratie et glorie et quod deus malorum nostrorum auctor esset et plura alia, ideo fatum sic omnino refutatur quia nihil est, secundum quam acceptionem etiam Gregorius<sup>222</sup> dicit in *Omeleticis Epiphaniæ*: “Absit a fidelium cordibus vt fatum aliquid esse dicant.”<sup>223</sup> Et licet hec opinio videatur eadem esse cum prima, que est planetariorum, et hoc propter eadem inconuenientia que vtrouique cernuntur, tamen sunt diuerse quantum inter se diuersificantur vis syderum et influxus generalis septem planetarum. Si autem estimetur fatum esse quandam dispositionem siue ordinationem causarum secundarum ad producendum effectus diuinitus prouisos, hoc modo fatum vere est aliquid, eo quod prouidentia dei per causas medias exequitur suos effectus, in illis videlicet que secundis<sup>a</sup> causis subduntur, licet in alijs non vt est creatio, animarum glorificatio et gratie collatio, licet etiam angeli ad gratie infusionem cooperari possunt, intellectum et voluntatis capacitatem illuminando et disponendo, et sic quedam ordinatio effectuum vna et eadem dicitur prouidentia et etiam fatum. Si<sup>224</sup> enim consideratur, vt est, in deo, sic dicitur prouidentia. Si autem secundum quod<sup>b</sup> est in causis medijs ordinatis a deo ad effectus aliquos producendos, sic habet rationem fati,<sup>225</sup> et hoc modo Boetius,<sup>226</sup> loquens de fato (iiiij *De Consolatione*), dicit: “Fatum est rebus mobilibus inherens dispositio per quam prouidentia suis queque nectit ordinibus.”<sup>227</sup> Sed tamen sancti<sup>228</sup> doctores hoc nomine vti recusauerunt propter eos qui illud ad vim positionis syderum retorquebant. Vnde Augustinus (v *De Ciuitate Dei*) dicit: “Si propterea quisque res humanas fato tribuit quia ipsam dei voluntatem vel potestatem fatum vocat, sententiam teneat et linguam corrigat.”<sup>229</sup>

<sup>a</sup> *Ed. prin.*: scd'm

<sup>b</sup> *The phrase secundum quod is pointlessly borrowed from Aq. and signifies nothing in the adaptation here.*

<sup>222</sup> *Start of Aq., Summa 1.116.1.Ag1*

<sup>223</sup> *End*

<sup>224</sup> *Start of adaptation of Aq., Summa 1.116.2.Co: . . . diuina prouidentia per causas medias suos effectus exequitur. Potest ergo ipsa ordinatio effectuum dupliciter considerari: vno modo secundum quod est in ipso deo, et sic ipsa ordinatio effectuum vocatur prouidentia; secundum vero quod predicta ordinatio consideratur in medijs causis a deo ordinatis ad aliquos effectus producendos, sic habet rationem fati.*

<sup>225</sup> *End*

<sup>226</sup> *Start of Aq., Summa 1.116.1.SC (also quoted in 1.116.2.SC, 1.116.4.SC)*

<sup>227</sup> *End*

<sup>228</sup> *Start of Aq., Summa 1.116.1.Co.*

<sup>229</sup> *End*

Patet etiam ex premissis tacita responsio ad questionem an omnia fato subdantur et an etiam maleficorum opera illi subdantur, quia si<sup>230</sup> fatum ducitur ordinatio causarum secundarum ad effectus diuinitus prouisos, id est, ubi deus disposuit per causas secundas producere effectus tales, sic, inquam, subduntur fato, id est, subduntur causis secundis, sic a deo ordinatis, ut sunt influentie corporum celestium; ea vero que immediate a deo fiunt, ut est creatio rerum, glorificatio substantiarum spiritualium et alia huiusmodi non subduntur. Et hoc est quod dicit Boetius, ubi supra, quod ea que sunt prime deitati propinqua fatalis ordinis mobilitatem excedunt.<sup>231</sup> Vnde] maleficorum opera quia non subsunt secundis causis, <sup>34D</sup> cum talia preter cursum communem et ordinem nature eueniunt, ideo nec fato nec causis alijs quo ad eorum originem necessario subduntur.

CONSEQUENTER QUOD NEC HUIUSMODI maleficorum opera possint oriri aut causari a substantijs separatis, que sunt motores orbium, seu corporibus celestibus,<sup>a</sup> cuius<sup>232</sup> opinionis fuit Auicenna et sui sequaces, hac ratione moti. Quia enim<sup>b</sup> substantie ille separate altioris sunt virtutis animabus nostris et ab ipsa anima interdum, cum fuerit <fortis><sup>c</sup> in sua imaginatione, ad solam quandam apprehensionem interiorum circa aliquod extrinsecum, immutatur corpus proprium interdum etiam alienum seu extrinsecum:<sup>233</sup> verbi gratia, aliquis<sup>234</sup> ambulans supra trabem in alto positam cadit de facili, quia imaginatur casum ex timore, non autem caderet si esset traves illa posita super terram, ubi casum timere non possit. Item ad solam apprehensionem anime incalescit corpus, <sup>35A</sup> ut in concupiscentibus vel iratis, aut etiam infrigidatur, sicut in timentibus. Potest etiam immutari ad aliquam egritudinem, puta febrem vel lepram, ex forti imaginatione et apprehensione ad tales egritudines.<sup>235</sup> Et sicut circa corpus proprium, ita et circa alienum, ut illud immutetur

<sup>a</sup> *Ed. prin.:-ium*

<sup>b</sup> *Either quia or enim is redundant*

<sup>c</sup> *So Aq.*

<sup>230</sup> *Start of adaptation of Aq., Summa 1.116.4.Co.: ... fatum est ordinatio secundarum causarum ad effectus diuinitus prouisos. Quecumque igitur causis secundis subduntur, ea subduntur et fato. Si qua vero sunt que immediate a deo fiunt, cum non subdantur secundis causis, non subduntur fato, sicut creatio rerum, glorificatio spiritualium substantiarum, et alia huiusmodi. Et hoc est quod [quotation follows].*

<sup>231</sup> *End*

<sup>232</sup> *Start of adaptation of Aq., Summa 1.117.3.Rn2: ... fascinationis causam adsignauit Auicenna ex hoc quod materia corporalis nata est obedire spirituali substantie magis quam contrarijs agentibus in natura. Et ideo quando anima fuerit fortis in sua imaginatione, corporalis materia immutatur secundum eam.*

<sup>233</sup> *End*

<sup>234</sup> *Start of Aq., Summa Contra Gentiles 3.103.2*

<sup>235</sup> *End*

ad sanitatem vel egritudinem. Et hic ponit causam etiam fascinationis, de qua superius tactum est. Et quia secundum istam positionem effectus maleficarum haberent reduci ad motores orbium, licet non precise ad ipsa corpora celestia, ideo vltra illa que ibi tacta sunt dicamus adhuc quod talia sic contingere est impossibile quia cum motores orbium sint substantie intellectuales et bone, non tam secundum naturam quam et secundum voluntatem, quod patet ex earum operationibus ad bonum totius vniuersi, illa autem creatura, cuius ope magice operationes fiunt, etsi sit<sup>a</sup> bona secundum naturam, non tamen potest esse bona secundum voluntatem, ideo non potest esse idem iudicium de ambabus substan-  
 35B tijs. Et quod non potest esse bona secundum voluntatem | probatur: nam<sup>236</sup> prestare patrociniū aliquibus in his que sunt contraria virtuti non est alicuius intellectus bene dispositi,<sup>237</sup> talia autem fiunt in huiusmodi operationibus maleficorum. Fiunt<sup>238</sup> enim, vt<sup>239</sup> in secunda parte operis patebit,<sup>b</sup> plurima<sup>240</sup> homicidia, fornicationes, puerorum et iumentorum occisiones et alia maleficia procurantur. Vnde vtentes his artibus malefici a malefaciendo vocantur. Non est ergo bene disposita secundum virtutem talis<sup>241</sup> intellectualis natura cuius auxilio huiusmodi artes maleficarum innituntur,<sup>242</sup> licet sit bona secundum naturam, quia habet esse et illud omnia appetunt, vt cuilibet intuenti patet.

Item, non est intellectus bene dispositi familiarem esse sceleratis et eis patrociniū exhibere et non quibusdam virtuosis. Huiusmodi<sup>c</sup>,<sup>243</sup> autem operibus maleficorum vtuntur<sup>244</sup> homines scelerati<sup>245</sup> quia a fructibus<sup>d</sup> eorum cognoscuntur. Auxilio autem substantiarum orbis mouentium in bonum quelibet creatura inclinatur a natura, licet cor-  
 35C rumpatur per accidens sepe. Ergo ille substantie non possunt esse | originalis causa maleficarum.

<sup>a</sup> *Ed. prin.*: sint

<sup>b</sup> *Ed. prin.*: pateibit

<sup>c</sup> *Ed. prin.*: huius

<sup>d</sup> *Ed. prin.*: rfu-

<sup>236</sup> *Start of Aq.*, Summa Contra Gentiles 3.106.2

<sup>237</sup> *Pause (Aq. continues: hoc autem fit in huiusmodi artibus)*

<sup>238</sup> *Resume (Aq. has: fiunt enim plerumque ad adulteria, furta, homicidia et alia huiusmodi maleficia procuranda)*

<sup>239</sup> *Pause*

<sup>240</sup> *Resume*

<sup>241</sup> *Not in Aq.*

<sup>242</sup> *End*

<sup>243</sup> *Start of Aq.*, Summa Contra Gentiles 3.106.3

<sup>244</sup> *Aq.*: plerumque vtuntur

<sup>245</sup> *End*

Præterea, intellectus<sup>246</sup> bene dispositi est reducere homines in ea que sunt homini propria bona, que quidem sunt bona rationis. Abducere ergo ab istis et pertrahere<sup>247</sup> ad alia<sup>248</sup> minima bona est intellectus indecenter dispositi. Per huiusmodi<sup>a</sup> autem artes non adipiscuntur homines aliquem profectum in bonis rationis, que sunt scientie et virtutes, sed in quibusdam minimis, vt sunt deprehensiones et exercitia latronum et mille nocumentorum.<sup>249</sup> Ergo origo non est a substantijs separatis sed ab aliqua alia virtute non bene disposita secundum virtutem.

Præterea,<sup>250</sup> non est bene dispositus secundum intellectum qui per aliqua scelera commissa prouocatur ad auxilium alicui ferendum. Hoc autem fit in istis artibus maleficorum.<sup>251</sup> Nam, vt patebit, in executione harum fidem abnegant, innocentes pueros occidunt. Substantie enim separate, que sunt orbium motores, propter suam bonitatem non his maleficijs auxilium prestant.

Concludendo quod huiusmodi artes sicut non possunt a corporibus celestibus, ita nec ab eorum motoribus oriri, et cum necesse habent oriri<sup>35D</sup> ex aliqua virtute alicui creature collata<sup>b</sup> et illa etiam non potest esse bona secundum voluntatem, licet sit bona secundum naturam, et huiusmodi creature sint ipsi demones, relinquitur quod eorum virtute huiusmodi fiant, nisi fortassis adhuc obstat friuola estimatio quod ex hominum malitia concurrente super maleficorum verba comminatoria et imagines repositas ad certum locum virtute quadam stellarum sequerentur, vt verbi gratia quando maleficus diceret imaginem aliquam reponendo, “Faciã te cecam” aut “Claudam,” et hoc eueniret, tunc ideo eueniret quod talis<sup>252</sup> a sua natiuitate ex virtute stellarum sortiretur pre ceteris hominibus talem virtutem: quantumcumque alij talia verba proferrent et essent instructi per disciplinam ad proferendum, adhuc tamen efficaces in huiusmodi operibus esse non possent.<sup>253</sup>

<sup>a</sup> *Ed. prin.*: huius

<sup>b</sup> *Ed. prin.*: -e

<sup>246</sup> *Start of Aq.*, Summa Contra Gentiles 3.106.4

<sup>247</sup> *Aq.*: pertrahendo *without* et

<sup>248</sup> *Aq.*: aliqua

<sup>249</sup> *End* (for vt sunt . . . nocumentorum *Aq. his* sicut in inuentione furtorum et deprehensione latronum et his similibus)

<sup>250</sup> *Start of Aq.*, Summa Contra Gentiles 3.106.6

<sup>251</sup> *End* (*Aq. continues*: Nam aliqui in executione earum leguntur innocentes pueros occidisse. Non igitur sunt boni intellectus quorum auxilio ista fiunt.)

<sup>252</sup> *Start of adaptation of Aq.*, Summa Contra Gentiles 3.105.4: Si quis autem dicat quod huiusmodi homines sua natiuitate ex virtute stellarum sortiuntur pre ceteris virtutem predictam, ita quod quantumcumque alij instruuntur qui hoc ex natiuitate non habent efficaces in huiusmodi operibus esse non possunt, primo quidem dicendum est quod corpora celestia super intellectum imprimere non possunt . . .

<sup>253</sup> *End*

Ad que singula respondendo declarabitur primo quod ex malitia hominum huiusmodi effectus causari non possunt, secundo quod nec  
 36A ex vocibus quorumcunque hominum | concurrente quacunque constel-  
 latione etiam ad quascunque imagines.

ET PRIMO QUOD NON ex malitia quantacunque<sup>a</sup> humana possint oriri huiusmodi maleficorum opera, sic declaratur. Nam malitia hominis, siue sit habitualis in quantum quis ex frequentatis actibus acquirit habitum inclinantem ad perpetrandum peccata non ex ignorantia nec infirmitate, vnde censetur peccare ex malitia, vel sit actualis malitia que dicitur ipsa mali electio, que etiam ponitur peccatum in spiritus sanctum, nunquam potest circa ipsum maleficum tantum efficere quod talia opera vt sunt immutationes elementorum et lesiones circa corpora indifferenter hominum et iumentorum absque assistentia alicuius altioris virtutis proueniant, quod declaratur primo ex parte cause, secundo ex parte effectus maleficialis. Nam hoc quod non potest homo efficere absque malitia, puta per sua naturalia imminuta, minus potest per ipsa naturalia iam diminuta, patet cum iam sit virtus actiua etiam diminuta. Sed  
 36B homo per peccata qualitercunque per malitiam commissa diminuitur in bonis naturalibus. Probatum auctoritate et ratione. Nam Dionysius (iiiij ca. *De Diuinis Nominibus*) dicit: “Malum est defectus naturalis habitudinis” – et loquitur de malo culpe – “vnde et nemo noscens malum operatur, illud quod si operatur ex defectu operatur.”<sup>254</sup> Ratio sic. Sicut<sup>255</sup> se habet bonum gratie ad malum nature, ita se habet malum culpe ad bonum nature, sed per gratiam diminuitur malum nature, vt fomes qui est inclinatio ad culpam. Ergo per culpam a fortiori diminuitur bonum nature.<sup>256</sup> Nec obstat si dicatur de fascinatione, que interdum procuratur ex inuultuatione seu inspectione alicuius vetule malitiose puerum aspicientis, vnde puer immutatur et fascinatur, quia, sicut supra tactum est, hoc tantummodo contingere potest circa pueros propter teneram complexionem. Hic autem loquimur de corporum quorumcunque hominum et iumentorum ac etiam elementorum ad grandines

<sup>a</sup> *Ed. prin.*: quā|tum-

<sup>254</sup> *Cf. Aq.*, De Malo 16.2. *Ag12*: Si autem voluntate deficiente ipse defectus boni est quoddam malum, vt dicit Dionysius iv cap. de diuinis nominibus; De Malo 3.2. *Ag1*: Nihil enim ad malum intendens operatur, vt Dionysius dicit iv cap. de diu. nom.

<sup>255</sup> *Start of adaptation of Aq.*, De Malo 2.12. *Ag5*: Preterea, sicut se habet bonum gratie ad malum nature, ita se habet malum culpe ad bonum nature. Sed per gratiam excludi potest totum malum nature, id est, fomes, qui est inclinatio ad culpam, vt patet in beatis. Ergo per malum culpe potest tolli totum bonum nature, quod est habitus ad gratiam.

<sup>256</sup> *End*

immutationibus.<sup>a</sup> Si | quis velit latius intelligere, inspiciat<sup>b</sup> doctorem 36C sanctum in *Questionibus de Malo*, vtrum peccatum possit corrumpere totum bonum nature.

Ex parte denique effectuum maleficialium declaratur. Nam ex effectibus deuenit in cognitionem cause, vnde sicut illi<sup>257</sup> effectus quo ad nos qui fiunt preter ordinem nature create nobis note per virtutem creature nobis ignote, licet non sint proprie miracula sicut illa que fiunt preter ordinem totius nature create, qualia secundum potestatem operatur ille qui est supra omnem ordinem totius nature create, qui est deus benedictus, secundum quam acceptionem dicitur: "Tu es qui facis mirabilia magna solus,"<sup>258</sup> ita et maleficiales effectus dicuntur miraculosi inquantum fiunt ab aliqua causa nobis ignota et preter ordinem nature create nobis note.<sup>259</sup>

Ex quibus elicitur quod virtus corporalis hominis ad huiusmodi opera causanda non se extendere potest, que semper hoc habet, vt causa cum suo effectu naturali nota sit naturaliter absque admiratione. Et quod effectus maleficiales possunt aliquo modo dici miracula inquantum 36D noticiam humanam excedunt, patet ex seipsis cum naturaliter non fiunt, patet et per omnes doctores, presertim Augustinum in *Libro lxxxiiij Questionum*, vbi dicit quod magicis artibus fiunt miracula plerumque similia illis miraculis que fiunt per seruos dei.<sup>260</sup> Et iterum in eodem dicit: "Magi faciunt miracula per priuatos contractus, boni christiani per publicam iusticiam, mali christiani per signa publice iustitie."<sup>261</sup> Nam iusticia<sup>262</sup> diuina est in toto vniuerso sicut lex publica in ciuitate, virtus autem creature cuiuslibet in vniuerso se habet vt virtus alicuius priuate persone in ciuitate. Ideo boni christiani, inquantum per diuinam iusticiam miracula faciunt, dicuntur facere miracula per publicam iusticiam.<sup>263</sup> Magus autem, quia operatur ex pacto inito cum demone, dicitur operari

<sup>a</sup> Ed. prin.: -es

<sup>b</sup> Ed. prin.: -et

<sup>257</sup> Start of adaptation of Aq., Summa 1.110.4.Ra2: ... aliqua fiunt preter ordinem totius nature create. Sed quia non omnis virtus nature create est nota nobis, ideo cum aliquid fit preter ordinem nature create nobis note, per virtutem creatam nobis ignoram, est miraculum quo ad nos, et hoc modo magi per demones miracula faciunt.

<sup>258</sup> Quoted in the correct form qui facit mirabilia magna solus in Aq., Summa 1.110.4.SC. The quote derives from Ps. 71:18, where the clause modifies the phrase benedictus dominus deus deus Israel (cf. Ps. 135:4).

<sup>259</sup> End

<sup>260</sup> Quotation from Aq., Summa 1.114.4.SC

<sup>261</sup> Quotation from Aq., Summa 1.110.4.Ag2

<sup>262</sup> Start of Aq., Summa 1.110.4.Co.

<sup>263</sup> Pause

per priuatum contractum, quia operatur per demonem qui sua naturali  
 37A virtute potest facere aliquid preter ordinem nature create nobis | note  
 per virtutem creature nobis ignote, et erit miraculum quo ad nos  
 sed non simpliciter, quia non potest operari preter ordinem totius  
 nature create et per omnes virtutes creaturarum nobis ignotarum. Sic  
 enim solus dicitur facere miracula iuxta illud: “Tu es, deus, qui facis  
 mirabilia magna solus.” Mali<sup>264</sup> autem christiani faciunt per signa pub-  
 lically iusticie, sicut inuocando nomen Christi vel exhibendo aliqua sacra-  
 menta.<sup>265</sup> Si cui placet, inspiciat sanctum Thomam in *Prima Parte* (q. cxi  
 ar. iiiij). Potest etiam attendere ea que in secunda parte operis capitulo vi  
 deducuntur.<sup>a</sup>

*Consequenter quod nec per voces et verba concurrente virtute stellarum*

DEMUM QUOD NEC EX VOCIBUS quorumcunque<sup>b</sup> hominum con-  
 currente quacumque constellatione super quascunque imagines. Nam  
 cum intellectus hominis huius dispositionis est quod eius cognitio ex  
 rebus causatur, cum intelligentem necesse sit fantasmata speculari, non  
 37B est eius conditio quod ex sua conceptione seu | intellectuali operatione  
 intrinseca, vbi illam solum<sup>c</sup> per verba exprimeret, res ab extra habeat  
 causare, aut quod conceptio intellectus expressa per verba haberent cor-  
 pora immutare. Tales enim homines qui talem haberent virtutem non  
 essent nobiscum vnus speciei, sed equiuoce dicerentur homines.

Preterea, si dicatur quod illa efficiunt per verba concurrente virtute  
 stellarum a natiuitate, vnde contingit quod pre ceteris hominibus dum  
 proferunt verba, quod per illa aliquid efficiunt, cum tamen alij etiam  
 presentes eadem <dum proferrent><sup>d</sup> non possent aliquam transmuta-  
 tionem efficere, quia virtus stellarum a natiuitate eis non deseruit, patet  
 ex precedentibus illa esse falsa ex reprobatione trium errorum, planetari-  
 orum, geneticaliorum et fatalem ordinem ponentium.

Preterea, cum verba exprimunt mentis conceptum et corpora celestia  
 non possunt imprimere intellectum, nec etiam eorum motores nisi per  
 se absque motione corporum celestium intellectum vellent illuminare,  
 37C et hoc solummodo fieret ad opera bona, quia | ad mala perpetranda non  
 illuminatur intellectus sed obumbratur, quod non est officium bonorum

<sup>a</sup> *Ed. prin.*: -etur

<sup>b</sup> *Ed. prin.*: quorum-

<sup>c</sup> *Ed. prin.*: -ā

<sup>d</sup> *See the preceding clause and 37B*

<sup>264</sup> *Resume*

<sup>265</sup> *End*

spirituum sed malorum, ideo patet quod si verba eorum aliquid efficiunt, hoc non est vigore alicuius corporis celestis sed assistentia alicuius virtutis intellectiue, que etiam, etsi sit bona secundum naturam, non tamen potest esse bona secundum voluntatem in quantum semper ad malum machinatur, et talis erit demon, vt supra ostensum est.

Et quod nec per imagines possint talia efficere, quasi corpora celestia super ipsas aliquid influerent, quia huiusmodi imagines, quantumcunque characteribus et figuris sint insignite, sunt effectus hominis operantis per artem, celestia autem corpora effectus causant naturales cuiusmodi non sunt effectus maleficorum qui dicuntur maleficiales, vtpote in malum creaturarum preter consuetum ordinem nature prosilientes, vnde nihil ad propositum.

Preterea, supra ostensum est etiam quod duplices sunt imagines astrologice et magice, que etiam ad bonum aliquid priuatum obtinendum et non ad corruptionem ordinantur. Maleficorum autem imagines sunt omnino alterius <speciei?><sup>a</sup> cum semper ad nocumentum creaturarum et ex demonum iussu ad aliquem locum occulte reponuntur, vt desuper ambulantes aut dormientes ledantur, vt ipse malefice fatentur. Vnde et ab ipsis demonibus efficiunt quicquid causant et non ex corporum celestium influentijs.

Ad argumenta.

Ad primum. Dictum Augustini est intelligendum quod causa deprauationis hominis redit ad hominis voluntatem,<sup>266</sup> sicut ad causam effectum perficientem, que proprie dicitur esse causa, non sic autem est causa effectum permittentem<sup>b</sup> vel disponentem<sup>c</sup> vel conciliantem<sup>d</sup> aut precipientem,<sup>e</sup> quibus modis<sup>f</sup> (scilicet conciliatiue, dispositiue et precipiue) diabolus dicitur causa peccati et deprauationis,<sup>267</sup> deus autem

<sup>a</sup> Cf. 42B

<sup>b</sup> Sc. -ens. *This and the following erroneous accusative forms derive from a clumsy adaptation of Aq., perhaps motivated by the preceding phrase ad causam effectum perficientem.*

<sup>c</sup> Sc. -ens

<sup>d</sup> Sc. -ans

<sup>e</sup> Sc. -ens

<sup>f</sup> Ed. prin.: -um

<sup>266</sup> Aq., De Malo 3.3. *ScI*: Augustinus dicit in lib. lxxxiiiij questionum quod ad hominis voluntatem causa deprauationis redit, siue aliquo siue nullo suadente deprauatus est.

<sup>267</sup> Cf. Aq., De Malo 3.3. *Co.*: Dicendum quod causa aliquid mouens multipliciter dicitur. Quandoque enim dicitur causa id quod est disponens, vel quod est consilians, vel quod est precipiens; quandoque vero dicitur causa id quod est perficiens, et hec proprie et vere causa dicitur, quia causa est ad quam sequitur effectus... sic ergo dicendum est quod diabolus humani peccati causa esse potest per modum disponentis vel persuadentis interius aut exterius; aut etiam per modum precipientis, vt apparet in his qui se manifeste diabolo subdiderunt, sed per modum perficientis causa peccati esse non potest.

solummodo permissiue, qui mala permittit propter bona iuxta Augustinum in *Enchiridio*: “Diabolus autem disponit interius suggerendo, persuadit interius et exterius acrius stimulando.”<sup>268</sup> Precepit<sup>a</sup> autem his | qui ei totaliter se subdiderunt, vt sunt malefici, quibus non est opus interius instigari sed tantum exterius, etc.

Et per hoc etiam ad secundum, quod quilibet est causa sue malitie, directe intelligendo. Et ad probationes patet eadem responsio, quia licet repugnat libero arbitrio moueri per modum precipientis, non autem per modum disponentis.

Ad tertium. Motus ad virtutes aut ad vitia dispositiue possunt causari ab influentijs corporum celestium, et capitur motus pro quadam naturali inclinatione ad virtutes humanas et vitia, opera autem maleficorum, quia excedunt communem ordinem nature, ideo illis influentijs subiacerere non possunt.

Ad quartum idem patet, quia sunt cause humanorum actuum corpora celestia, sed illa opera non sunt humanitus adinuenta.<sup>b</sup>

Ad quintum, quod motores orbium possint imprimere in animas, si intelligatur immediate, sic imprimunt illuminando ad bonum et non ad maleficia, vt supra tactum est, si autem intelligatur mediate, tunc iuxta influentiam corporum celestium imprimunt indirecte et dispositiue.

Ad sextum, hoc quod<sup>269</sup> demones secundum certa augmenta lune homines vexant, contingit propter duo: primo quidem ad hoc vt infament creaturam dei, scilicet lunam, vt Jeronymus et Crisostomus dicunt; secundo quia cum non possint operari nisi mediantibus naturalibus virtutibus, vt supra dictum est,<sup>270</sup> ideo considerant corporum aptitudines ad effectus<sup>c</sup> inducendos,<sup>271</sup> et quia cerebrum est humidissimum omnium partium corporis, vt Aristoteles dicit et naturales omnes, ideo maxime subijcitur operationi lune, que ex sua proprietate habet mouere humores.

<sup>a</sup> *Ed. prin.*: per-

<sup>b</sup> *Ed. prin.*: -i

<sup>c</sup> *Ed. prin.*: -os

<sup>268</sup> *This quote seems implicit in Aq. but is not cited directly. Cf. De Malo 3.4.Co.*: Sic ergo patet quod diabolus interius instigat ad peccatum persuadendo et disponendo, non autem perficiendo peccatum; and *Summa 2/2.165.2.Rat*: ... suggestio qua spiritualiter diabolus aliquid homini suggerit ostendit diabolum plus habere potestatis in homine quam suggestio exterior, quia per suggestionem interiorum immutatur a diabolo saltem hominis phantasia sed per suggestionem exteriorum immutatur sola exterior creatura. Diabolus autem minimum potestatis habebat in homine ante peccatum, et ideo non potuit cum interiori suggestionem sed solum exteriori tentare.

<sup>269</sup> *Start of Aq., Summa 1.115.5.Rat*

<sup>270</sup> *So Aq.!*

<sup>271</sup> *Aq.*: intentos

In cerebro autem perficiuntur vires animales, et ideo demones secundum certa augmenta lune perturbant hominis fantasiam quando considerant cerebrum ad hoc dispositum.<sup>272</sup>

Ad aliud, quod demones<sup>273</sup> aduocati in certis constellationibus adueniunt, faciunt propter duo: primo, vt homines in hunc errorem inducant, quod credunt aliquod numen esse in stellis; secundo, quia considerant secundum aliquas constellationes materiam corporalem magis esse dispositam ad effectus pro quibus aduocantur.<sup>274</sup> 38C

Ad<sup>275</sup> tertium, quod, sicut dicit Augustinus (xxxvi<sup>276</sup> *De Ciuitate Dei*), per varia genera lapidum, herbarum, lignorum, aliorum<sup>a</sup> carminum et instrumentorum musicorum demones alliciuntur, non vt animalia cibis, sed vt spiritus signis, in quantum scilicet hec eis exhibentur in signum diuini honoris, cuius ipsi sunt cupidi.<sup>277</sup>

Tamen quia sepe obijcitur quod demones possunt impediri per herbas et armonias a vexatione hominum, vt in argumento allegatur de Saul per armoniam citharis, vnde nituntur defendere quod aliqui possent effectus maleficiales producere per certas herbas et occultas causas absque auxilio demonum tantummodo ex influenza corporum celestium, que plus possunt imprimere in huiusmodi res corporales ad effectus corporales quam in ipsos demones ad producendum huiusmodi effectus maleficiales, ideo latius cum sit respondendum, est aduertendum quod herbe vel armonie non possunt sua naturali virtute totaliter excludere vexationem qua diabolus possit hominem vexare, si sibi permetteretur a deo vel angelis bonis. Possunt tamen illam vexationem mitigare, et ita parua posset esse vexatio illa quod possent eam penitus excludere, sed hoc facerent non agendo in ipsum demonem, cum sit spiritus separatus in quem non potest naturaliter agere quodcunque corpus, sed agendo in ipsum vexatum a demone. Omnis enim causa limitate virtutis producere potest effectum intensiorem in materiam dispositam quam non dispositam, cui et consonat illud philosophi (ij *De Anima*): “Actus actiuorum sunt in patiente predisposito.” Demon autem est agens limitate virtutis, ergo vexationem intensiorem facere potest diabolus in homine disposito ad illam vexationem siue ad illud ad quod diabolus intendit adducere quam 38D

<sup>a</sup> *Ed. prin.*: alium

<sup>272</sup> *End*

<sup>273</sup> *Start of Aq.*, Summa 1.115.5.Ra2

<sup>274</sup> *End*

<sup>275</sup> *Start of Aq.*, Summa 1.115.5.Ra3

<sup>276</sup> *Aq.*: xxi

<sup>277</sup> *End*

in homine dispositionis contrarie. Puta diabolus potest vexare intensius passione melancolica hominem dispositum ad illam quam hominem  
 39A contrarie dispositionis.

Certum est autem quod herbe et armonie multum possunt immutare dispositionem corporis et ex consequenti motus sensualitatis. Hoc patet de herbis, cum quedam inclinant ad leticiam, quedam ad tristiciam, et sic de alijs. Hoc etiam patet de armonijs per philisophum viij *Politicorum*, vbi vult quod diuerse armonie habent prouocare diuersas passiones in homine.<sup>a</sup> Hoc etiam refert Boecius in *Musica* sua et autor *De Ortu Scientiarum*, vbi loquens de vtilitate musice dicit quod valet ad curandum vel alleuiandum diuersas infirmitates, et ita patere potest quod ceteris paribus sit vexatio debilior.

Non autem video quomodo herbe vel armonie possint in homine dispositionem aliquam causare propter quam homo nullo modo posset a demone vexari, si tamen permetteretur, quia diabolus mouendo solum motu locali vapores et ipsos spiritus inordinato motu posset hominem multum vexare. Herbe autem vel armonie nullam dispositionem causare  
 39B possent in homine sua naturali virtute per quam prohibetur demon predictam commotionem facere. Contingit tamen quandoque quod diabolo non permittitur hominem vexare nisi vexatione ita parua quod per aliquam fortem dispositionem ad contrarium tolleretur totaliter, et tunc alique herbe vel armonie possent corpus hominis ita ad contrarium disponere quod illa vexatio totaliter ammoueretur. Verbi gratia, diabolus quandoque posset hominem vexare vexatione tristicie ita debiliter quod per aliquas herbas vel armonias que haberent<sup>b</sup> causare dilatationem et diffusionem spirituum qui sunt motus contrarij tristicie totaliter ammoueretur illa tristicia. Contra autem Augustinus (li. ij *De Doctrina Christiana*) condemnat ligaturas et quedam alia de quibus ibi diffusius scribit, hoc attribuens arti magice, hoc est quantum ad illud quod non possunt ex sua naturali virtute, quod patet ex hoc quod dicit sic: “Ad hoc genus pertinent omnes ligature atque remedia que medicorum condemnat disciplina,” in quo satis patet quod illa condemnat  
 39C quantum ad vsum respectu cuius non habent aliquam efficaciam ex sua naturali virtute.

Quantum autem ad illud quod *i Regum*, capitulo xvi habetur quod Saul, qui vexabatur a demone, alleuiabatur quando Dauid cytharam percutiebat coram eo et quod spiritus malus recedebat etc., sciendum

<sup>a</sup> Ed. prin.: -ē

<sup>b</sup> Ed. prin.: -et

quod bene verum est quod per tactum cythare virtute naturali illius armonie alleuiabatur aliquantulum afflictio Saulis in quantum illa armonia aliquantulum dulcorabat appetitum eius per auditum, per quam dulcorationem reddebatur minus aptus ad illam vexationem, sed quod spiritus malus recederet quando Dauid cytharizabat, hoc erat propter vim crucis, quod satis expresse dicitur in glosa, vbi sic dicitur: "Erat Dauid in canticis musicis eruditus. Diuersorum sonorum rationabilis moderatusque concentus vnitatem essentie<sup>278</sup> significat que varijs modis quotidie resonat. Dauid malignum spiritum in cythara compescuit, non quia tanta esset vis in cythara sed in signo crucis qui<sup>a</sup> in ligno crucis<sup>b</sup> et cordarum extensione, id est, ve|narum, gerebatur, que iam tunc demones effugabat."<sup>c</sup> 279

SEQUITUR QUO AD IPSAS MALEFICAS DEMONIBUS SE  
SUBIICIENTIBUS,<sup>d</sup> ET EST SEXTA QUO AD QUESTIONEM ET  
SECUNDUM MEMBRUM

PRO TERTIA ET ANNEXA difficultate quo ad ipsas maleficas demonibus se subiicientibus<sup>e</sup> plura super modum aggrediendi huiusmodi spurcicias possunt difficultari, primo ex parte demonis et corporis ab eo assumpti: ex quo elemento sit illud formatum; secundo, ex parte actus: an semper cum infusione seminis ab altero recepti,<sup>f</sup> tertio ex parte temporis et loci: an potius in vno tempore quam in altero exercent; quarto: an visibiliter quo ad circumstantes se agitat; ex parte mulierum: an tantummodo ille que ex huiusmodi spurcicijs procreantur a demonibus frequentantur, secundo: an ille que ab obstetricibus tempore 40A

<sup>a</sup> Given the clumsiness of the adaptation, it is hard to know what to make of this, but it seems that quod is to be expected.

<sup>b</sup> Not in the gloss and obstructive of the sense. Lignum should refer to the material of the harp, but here it is confused this with the common expression lignum crucis used to signify the Crucifix.

<sup>c</sup> Ed. prin.: -ebat

<sup>d</sup> Sc.-es (cf. 21B)

<sup>e</sup> Sc.-es (cf. 21B)

<sup>f</sup> Ed. prin.: -o

<sup>278</sup> So ed. prin.; Glossa: ecclesie. Presumably, the mistake derives from misreading "el" as two upright "i"s (i.e., "ff").

<sup>279</sup> Cf. Rabanus Maurus ad loc. (quoting Isidore): Erat autem Dauid in canticis musicis eruditus. Diuersorum enim sonorum rationabilis moderatusque concentus concordie varietate compacta ordinate ecclesie insinuat vnitatem, que varijs modis quotidie resonat, et suavitate modulatur. Iste adhuc puer in cithara suaviter imo fortiter canens malignum spiritum qui operabitur in Saule compescuit; non quod cithare illius tanta vis erat, sed quod figura crucis Christi, que de ligno et extensione neruorum mystice gerebatur, ipsaque passio que cantabatur iam tunc spiritus demoniacos opprimebat.

“Simpliciter fateor charitati vestre coram domino deo nostro, qui testis est super animam meam ex quo deo seruire cepi, quoniam difficile sum expertus peiores sicut et non meliores quam qui in monasterijs defecerunt aut profecerunt.”

De mulierum vero malitia disseritur (*Ecclesiastici* xxv): “Non est caput  
 41B nequius super caput colubri et non est ira super iram mulieris. Com-  
 morari leoni et draconi placebit quam habitare cum muliere nequam.” Et  
 inter plura que sequuntur et precedunt, ibidem de muliere nequam con-  
 cludit: “Breuis est omnis malitia super malitiam mulieris.” Hinc Crisotomus  
 super *Matthei* xix (“non expedit nubere”): “Quid aliud est mulier nisi  
 amicicie inimica, ineffugabilis pena, necessarium malum, naturalis  
 tentatio, desiderabilis calamitas, domesticum periculum, delectabile  
 detrimentum, malum nature, bono colore depicta? Ergo, si dimittere  
 illam peccatum est, cum oportet tenere, iam vere tormentum neces-  
 sarium est, vt aut dimittentes adulteria faciamus aut quotidianas pug-  
 nas habeamus.” Tullius denique (ij *Rethorice*)<sup>a</sup> dicit: “Viros ad vnum  
 quodque maleficium singule” – id est, plures – “cupiditates impellunt.  
 Mulieres ad omnia maleficia cupiditas vna ducit. Muliebrium enim vitio-  
 rum omnium fundamentum est auaricia.” Et Seneca in suis tragedijs:  
 41C “Aut amat aut odit mulier. Nihil tercium dedisse est.<sup>286</sup> Flere feminam est  
 mendacium. | Duo genera lachrymarum habentur in oculis feminarum,  
 veri doloris vnum, insidiarum aliud. Mulier cum sola cogitat, mala  
 cogitat.”

De bonis autem mulieribus tanta laus est vt etiam beatificasse viros  
 legantur et saluasse gentes, terras et vrbes. Patet de Judith, Delbora  
 et Hester. Hinc apostolus (i *Corinthorum* vij): “Siqua mulier habet  
 virum et hic consentit habitare cum illa, non dimittat virum. Sancti-  
 ficatus est enim vir infidelis per mulierem fidelem.” Jdeo *Ecclesiasti-  
 tici* xxvi dicitur: “Mulieris bone beatus vir. Numerus enim annorum  
 duplex.” Multa ibi narrat laudabilissima per totum pene capitulum de  
 excellentia bonarum et *Prouerbiorum* vltimo de<sup>b</sup> “muliere forti.”<sup>287</sup> Que  
 omnia etiam in nouo testamento in feminis claruerunt, vt in virginibus  
 et alijs sanctis feminis que perfidas gentes et regna ab idolatrie cultu  
 ad christianam religionem deduxerunt. Si quis inspicere velit Vincen-  
 tium in *Speculo Historie* (li. xxvi ca. ix) de regno Vngarie per Gillam

<sup>a</sup> Sc. Rhetor-

<sup>b</sup> Ed. prin.: vc

<sup>286</sup> So ed. prin. (Presumably est comes from misreading of efl in ... dedisseflere ...)

<sup>287</sup> *Prouerbia* 31:10: Mulierem fortem quis inueniet?

christianissimam, et de regno Francorum per Lothlidem virginem et Clodoueo | desponsatam, inspiciat et mira inueniet.<sup>288</sup> Vnde quecumque 41D  
vituperationes leguntur in concupiscentiam carnis interpretari possunt, vt semper mulier pro carnis concupiscentia intelligatur iuxta illud: "Inueni amariorem morte mulierem" et "Bona mulier subiecta carnis concupiscentia."

Sunt et alij alias rationes assignantes, cur in<sup>289</sup> maiore multitudine reperiantur femine superstitiose quam viri, et dicunt esse tres causas. Prima est: quia prone sunt ad credendum, et quia principaliter demon querit corrumpere fidem, ideo potius eas aggreditur, vnde et *Ecclesiastici* xix: "Qui cito credit, leuis est corde et minorabitur." Secunda causa est quia a natura propter fluxibilitatem complexionis facillioris sunt impressionis ad reuelationes capiendas per impressionem separatorum spirituum,<sup>290</sup> qua complexione etiam cum bene vtuntur, multum bone sunt, cum male, peiores sunt. Tertia causa, quia lubricam habent linguam<sup>291</sup> et ea que mala arte sciunt eis<sup>a</sup> comparibus feminis vix celare possunt, seque occulte, cum vires non habeant, per maleficia vindicare | 42A  
querunt facilliter, vnde *Ecclesiastici* xxv (ut supra) "Commorari leoni et draconi plus<sup>b</sup> placebit quam habitare cum muliere nequam. Breuis omnis malitia super malitiam mulieris."<sup>292</sup> Jtem potest et addi: ille<sup>c</sup> cum fluxibiles sunt, ideo citius pueros demonibus offerre possunt, sicut et faciunt.

Sunt et tertij alias rationes assignantes, quas predicatorum caute debent proponere et dicere, quod licet in veteri testamento scripture vt plurimum mala loquantur de mulieribus et hoc propter primam preuaricatricem mulierem, scilicet Euam, et imitatrices eius, tamen exposit in nouo testamento propter mutationem nominis, vt Eua in Aue, et vt ait Jeronimus, "Totum quod intulit mali maledictio Eue, totum abstulit benedictio Marie," vnde plurima et semper laudabilia sunt de ipsis predicanda. Sed quia adhuc modernis temporibus hec perfidia amplius in mulieribus quam in viris inuenitur, vt ipsa experientia docet, curiosius causam inuestigando vltra premissa dicere possumus: quod in omnibus 42B

<sup>a</sup> So *Nider* (perhaps using the form erroneously for suis)

<sup>b</sup> So *Nider* (added to the Vulgate text of Eccl. 25:23)

<sup>c</sup> *Ed. prin.*: -a

<sup>288</sup> *End*

<sup>289</sup> *Start of Nider, Praec. 1.11.21 (Ba), which begins: Questio xxi: vnde prouenit quod femine sepe in maiori multitudine reperiuntur superstitiose et malefice quam viri. Respondetur: triplici de causa. Primo quia prone sunt . . .*

<sup>290</sup> *Here Nider adds: vt Guilielmus dicit (vbi supra)*

<sup>291</sup> *For lubricam habent linguam Nider has linguam lubricam habent.*

<sup>292</sup> *End*

partus demonibus offeruntur, tertio: an remissior sit in talibus ipsa venerea delectatio. Ad que omnia ad presens cum non sit respondendum, eo quod tantummodo generalitati studemus, et in secunda parte operis illa singula per eorum opera explanantur, vt patebit in quarto capitulo, vbi de singulis modis fiet mentio, ideo ad secundum principale tendamus, et primo cur in tam fragili sexu hoc genus perfidie inuenitur amplius quam in viris. Et erit questio prima generalis quo ad conditiones generales mulierum; secunda specialis: cuiusmodi mulieres amplius inueniuntur superstitiose et malefice; tertia singularis quo ad ipsas obstetrices que omnes alias in malitia excedunt.

40B QUO AD PRIMUM, CUR in sexu tam fragili mulierum maior multitudo maleficarum reperitur quam inter viros – et quidem in contrarium [in] argumenta deducere non | expedit cum ipsa experientia preter verborum et fidedignorum testimonia talia facit credibilia – dicamus sexum non despiciendo in quo deus semper magna fecit fortia vt confundet, quod diuerse a diuersis super hec assignantur rationes, semper tamen in principali concordantes. Vnde et pro mulierum auisamento ipsa materia bene est predicabilis affectantque audire, vt experientia sepe docuit, dummodo discrete proponatur.

Nam aliqui doctores hanc rationem tradunt. Dicunt<sup>280</sup> enim tria esse in rerum natura, lingua,<sup>a</sup> ecclesiasticus<sup>b</sup> et femina,<sup>c</sup> que medium in bonitate aut malitia tenere nesciunt, sed vbi limites sue conditionis excedunt, ibi quendam apicem et supremum gradum in bonitate aut malitia vindicant: in bonitate quidem quando a bono reguntur spiritu, vnde et optima sunt, in malitia vero quando a malo spiritu reguntur, vnde et pessima efficiuntur.

40C De lingua enim patet cum eius ministerio plurima regna fidei christiane sunt subiugata, vnde<sup>281</sup> et apostolis Christi in igneis linguis spiritus sanctus visus est. Patet et in alijs sapientibus predicatoribus quotidie lingua canum vulnera et vlcera languentis Lazari lingentes<sup>d</sup> iuxta illud: “Lingua canum tuorum ex inimicis” animas eripientes,<sup>e</sup> vnde et dux et pater predicatorum ordinis in figura cattuli latrantis et accensam faculam

<sup>a</sup> Sc. -am

<sup>b</sup> Sc. -um

<sup>c</sup> Sc. -am

<sup>d</sup> Sc. -ibus

<sup>e</sup> Sc. -ium

<sup>280</sup> *Start of Nider, Form. 5.8 (224D–226A).*

<sup>281</sup> *Start of an extensive addition; Nider has only: vt in sanctis Christi apostolis et in sapientibus patet predicatoribus. Prudentis eciam viri lingua nonunquam infinitorum . . .*

in ore gestantis premonstratus est, vt suo latratu vsque in presens habeat lupos hereticos arcere a gregibus ouium Christi. Patet et ex quotidiana experientia quod vnus viri<sup>282</sup> prudentis lingua interdum infinitorum hominum strages prepeditur, propter que non immerito in eius commendationem Salomon (*Proverbiorum* x) plura cecinit: "In labijs sapientis inuenitur sapientia." Et iterum: "Argentum electum lingua iusti, cor impiorum pro nihilo." Iterum "Labia iusti erudiunt plurimos, qui autem indocti sunt in cordis egestate moriuntur." Cuius causa (ibidem xvi) subditur, quia "hominis est preparare alnimum et domini<sup>a</sup> gubernare. 40D linguam."

De mala vero lingua inuenies *Ecclesiastici* xxviii: "Lingua tertia multos commouit et dispersit illos a gente in gentem, ciuitates munitas destruxit et domos magnatorum effodit," et dicitur lingua tertia eorum qui inter duas partes contrarias incaute vel maculose loquuntur.<sup>b</sup>

De secundo, scilicet ecclesiasticis, intellige clericos et religiosos in vtroque sexu. Crisostomus super illud: "Eiecit vendentes et ementes de templo": "Sicut omne bonum a sacerdotio, ita omne malum ab eo egreditur,"<sup>283</sup> Jeronimus in *Epistola ad Nepocianum*: "Negociatorem clericum ex inope diuitem, ex ignobili gloriosum, quasi quandam pestem fuge," et beatus Bernardus (*Omel. xxiiij super Cantica*) loquens de clericis dicit: "Si insurgeret apertus hereticus, mitteretur foras et aresceret, si violentus inimicus, absconderent<sup>c</sup> se forsitan ab eo boni. Nunc vero quomodo abijcient aut quo abscondent<sup>284</sup> se? Omnes amici et tamen omnes inimici, 41A omnes domestici et nulli pacifici, omnes proximi et omnes que sua sunt querunt." Et alibi: "Nostri prelati facti sunt Pilati, nostri pastores facti sunt tonsores," et loquitur etiam de prelatiis religiosorum qui onera grauia inferioribus imponunt, "Digito autem suo minima<sup>d</sup> non tangerent."<sup>285</sup> Et Gregorius in *Pastorali* dicit: "Nemo amplius in ecclesia nocet quam qui peruerse agens nomen vel ordinem sanctitatis habet. Delinquentem namque hunc redarguere nullus presumit et in exemplum culpa vehementer extenditur quando pro reuerentia ordinis peccator honoratur." De religiosis etiam dicit beatus Augustinus (*Ad Vincentium Donatistam*):

<sup>a</sup> So Nider 225A; ed. prin.: deum, which reading probably derives from a misreading of the abbreviation dni.

<sup>b</sup> So Nider 225B; ed. prin.: -itur

<sup>c</sup> So Nider; ed. prin.: -det

<sup>d</sup> Ed. prin.: -o

<sup>282</sup> End of the addition

<sup>283</sup> This quotation not in Nider

<sup>284</sup> Nider: quem cicient aut a quo abscondent

<sup>285</sup> This quotation not in Nider

viribus tam anime quam corporis cum sint defectuose, non mirum si plura maleficia in eos quos emulantur fieri procurant. Quantum enim ad intellectum seu ad intelligendum spiritualia alterius videntur esse speciei a viris, cui auctoritas et ratio cum varijs scripture exemplis alludit. Terentius<sup>293</sup> ait: "Mulieres<sup>a</sup> ferme vt pueri leui sententia sunt." Et Lactantius (iij *Institutionum*): nunquam aliquam mulierem philosophiam sciuisse nisi Temestes.<sup>b</sup> Et *Prouerbiorum* xi quasi describens mulierem dicit: "Est circulus aureus in naribus suis mulier pulcra et fatua." Ratio naturalis est, quia plus carnalis viro existit,<sup>294</sup> vt patet in multis carnalibus spurcitijs, qui etiam defectus notantur in formatione prime mulieris, cum<sup>295</sup> de costa curua formata fuit, id est, de costa pectoris que est torta et quasi contraria viro.<sup>296</sup> Ex<sup>297</sup> quo defectu etiam procedit quod cum sit animal imperfectum, semper decipit,<sup>298</sup> propter quod semper decipit; 42C Catho: "Instruit insidias lachrimis," et illud: "Dum femina plorat, virum decipere laborat."<sup>299</sup> Patet<sup>300</sup> in vxore Sampsonis, que, multum infestans eum ad declarandum sibi probleuma propositum sodalibus, ab eo expositum eis reuelauit et sic decipit.<sup>301</sup> Patet<sup>302</sup> et in prima muliere quod ex natura minorem habent fidem, cum dixit<sup>303</sup> serpenti interroganti, quare non ederent de omni ligno paradisi, respondit: "De omne" etc. "ne forte moriamur," in quo ostendit se dubitare et non fidem habere ad verba dei. Que omnia etiam ethimologia nominis demonstrat. Dicitur enim femina "fe" et "minus," quia semper minorem habet et seruat fidem<sup>304</sup> et hoc ex natura quo ad fidelitatem, licet ex gratia simul et natura fides

<sup>a</sup> *Ed. prin.*: -Ieres

<sup>b</sup> *So Ant.*: sc. -em

<sup>293</sup> *Start of adaptation of Ant.*, Summa 3.1.25 (118A-B), which begins: Quid est mulier? Dicitur enim Prouerb. xi: "Circulus . . . fatua." Et Terentius . . . Temestes.

<sup>294</sup> *End (Ant. ends with)*: quia mulier plus carnalis existens minus ad spiritum seu spiritualia attendere potest)

<sup>295</sup> *Start of adaptation of Ant.*, Summa 3.1.25 (118E): . . . contrariatur viro, vnde de costa curua formata est mulier, id est, de costa pectoris, que est torta et quasi contrariatur viro.

<sup>296</sup> *End*

<sup>297</sup> *Start of Ant.*, Summa 3.1.25 (119C-D), which begins: Hoc quasi ex defectu . . .

<sup>298</sup> *Ant.*: se credit decipi

<sup>299</sup> *Ant.* (correctly) attributes to Cato the phrase instruit insidias lacrymis, dum femina plorat. Here this has been truncated and the second aphorism, which is of similar meaning and indeterminate origin, is added along with the transition et illud.

<sup>300</sup> *Ant.*: vt patet.

<sup>301</sup> *End*

<sup>302</sup> *Start of adaptation of Ant.*, Summa 3.1.25 (119C): Forsan ipsa nominis etymoliga hoc [that women have falsa fides] ostendit: femina "femeno," id est, minus fide. Patet in prima muliere Eua, que serpenti interroganti quare non ederent de omni ligno paradisi respondit: "De omni" etc. "ne forte moriamur," et sic ostendit dubitare, non fidem habere ad verba dei.

<sup>303</sup> *Not in Ant. and here superfluous*

<sup>304</sup> *End*

in beatissima virgine nunquam defecerat, cum tamen in omnibus viris defecisset tempore passionis Christi. Mala ergo mulier ex natura, cum citius in fide dubitat. Eiam citius fidem abnegat, quod est fundamentum in maleficis.

Quantum denique ad aliam potentiam anime, scilicet voluntatem, ex natura, cum<sup>305</sup> odit aliquem quem prius amavit, tunc estuat per iram, <sup>42D</sup> et impatientiam et sicut maris estus semper bullit et currit, sic talis est tota impatiens. Alludit huic rationi auctoritas diuersa: *Ecclesiastici* xxv: “Non est ira super iram mulieris,” et Seneca (tragedia viii): “Nulla vis flamme tumidique venti tanta nec teli metuenda torti quanta cum coniunx viduata tedis ardet et odit.” Patet in muliere que false accusauit Joseph et incarcerare fecit, quia nolit sibi in scelus consentire adulterij (*Genesis* xxx).<sup>306</sup> Et reuera potissima causa deseruens in augmentum maleficarum est dolorosum<sup>307</sup> duellum inter maritatos et non maritatas feminas et viros,<sup>308</sup> imo et inter<sup>309</sup> ipsas feminas etiam sanctas: quid tunc de ceteris? Vides enim in *Genesi* quanta fuit impatientia et inuidia<sup>310</sup> Sare ad Agar postquam concepit (*Genesis* xxi), quanta Rachel ad Lyam propter filios quos non habebat Rachel<sup>311</sup> (*Genesis* xxx), quanta Anne ad Fenennam fecundam ipsa sterili existente (i *Regum* i), quanta Marie ad Moisen<sup>312</sup> (*Nume.* xij), vnde murmurauit et detraxit Moisi, propter <sup>43A</sup> quod et lepra percussa,<sup>313</sup> quanta Marthe ad Magdalenam ipsa sedente<sup>314</sup> et Martha ministrante (*Luce* x), vnde et *Ecclesiastici* xxxvij: “Tracta cum muliere de his que emulatur,” quasi dicat, “Non est tractandum cum ea quia semper emulatio, id est, inuidia est in mala muliere.”<sup>315</sup> Et que inter se sic agitantur, quanto magis aduersus viros! Quare etiam, vt narrat<sup>316</sup>

<sup>305</sup> *Start of adaptation of Ant.*, Summa 3.1.25 (119B–C): . . . est estuans estus per iram et impatientiam. Sicut enim maris estus semper bullit et currit, sic mulier tota est impatiens, et maxime cum odit quem amavit, vt patet in muliere que falso accusauit Ioseph et incarcerare fecit. quia nolit sibi in scelus consentire adulterij (*Genes.* xxxix). “Non est ira supra iram mulieris” (*Ecclesiastic.* xxv). Et Seneca (Tragedia vij): “Nulla uis flamme tumidique venti tanta, nec teli metuenda torti, quanta cum coniunx viduata tedis ardet et odit.”

<sup>306</sup> *End*

<sup>307</sup> *Start of adaptation of Ant.*, Summa 3.1.25 (118E): . . . dolorosum duellum, scilicet inter virum et uxorem . . .

<sup>308</sup> *End*

<sup>309</sup> *Start of Ant.*, Summa 3.1.25 (120A–B), which begins: Hoc de sanctis mulieribus crede, et de ceteris magis. Vides enim . . .

et inuidia not in *Ant.*

<sup>311</sup> . . . propter . . . Rachel: quia filios non habebat Rachel vt Lia in *Ant.*

<sup>312</sup> *Ant.*: Moysen propter Ethyopissam

<sup>313</sup> *This clause not in Ant.*

<sup>314</sup> ipsa sedente: cum sedens ad pedes domini audiebat verbum illius in *Ant.*

<sup>315</sup> *End*

<sup>316</sup> *Start of Ant.*, Summa 3.1.25 (122C)

Valerius, Foroneus rex Grecorum die qua mortuus est dixit Leoncio fratri suo: “Ad summam felicitatem nihil mihi deesset si mihi semper vxor defuisset,” cui Leoncius “Et quomodo vxor obstat felicitati?” et ille “Mariti hoc omnes sciunt.”<sup>317</sup> Et Socrates<sup>318</sup> philosophus interrogatus si ducenda esset vxor respondit: “Si non capies, solitudo arbitrans excipiet. Hic generis interitus,<sup>a</sup> hic heres alienus. Sed si ceperis, illic perpetua sollicitudo: conquestus querularum, dotis exprobratio, affinium graue supercilium, garrula socrus lingua, successor alieni matrimonij, incertus liberorum euentus.” Hec|dixit vt expertus. Nam, vt ait Jeronimus (*Contra Jouinianum*), hic Socrates duas habuit vxores, quas ingenti patientia sustinens non potuit tamen ab earum contumelijs, clamoribus et vituperationibus liberari, vnde quadam die ipsis querulantibus contra eum et ipse domum egressus vt earum molestias euitaret et ante domum sederet proiecerunt ille mulieres super eum aquam immundam, super quo ipse non perturbatus quia philosophus ait: “Sciebam quod post tonitrua pluuie sequerentur.”<sup>319</sup> Et de<sup>320</sup> quodam legitur cuius vxor submersa erat in fluuio quod cum quereret cadauer eius ad educendum de aqua, ibat per fluuium contra aquam et interrogatus causam, cum res graues descendant infra et non supra, quare quereret contra aquam, respondit: “Mulier ista in vita semper fuit contraria dictis et factis siue mandatis meis: ideo quero contrario modo, si forte etiam mortua contrariam voluntatem vltra consuetum tenuisset.”<sup>321</sup> Et quidem sicut ex primo defectu intelligentie abnegationem fidei facilius viris incurrunt, ita et ex secundo, scilicet ex inordinatis affectionibus et passionibus, varias vindictas querunt, excogitant et infligunt, siue per maleficia siue alijs quibuscunque medijs, vnde non mirum tantam multitudinem maleficarum in hoc genere existere.

Quantum insuper defectum in memoratiua potentia, cum hoc sit in eis ex natura vitium nolle regi sed suos sequi impetus sine quacunque pietate! Ad hoc studet et cuncta memorata disponit. Vnde<sup>322</sup> Theophrastus: “Si totam domum ei commiseris, seruiendum est. Si aliquid tuo arbitrio reseruaueris etiam minimum vel magnum, fidem sibi adhiberi non putabit et iurgia concitet, et nisi cito consuleris, parat venena,

<sup>a</sup> *So Ant.; ed. prin.: -terius*

<sup>317</sup> *End*

<sup>318</sup> *Start of Ant., Summa 3.1.25 (119AB)*

<sup>319</sup> *End*

<sup>320</sup> *Start of Ant., Summa 3.1.25 (118E–119A)*

<sup>321</sup> *End*

<sup>322</sup> *Start of Ant., Summa 3.1.25 (122A)*

auruspices et ariolos consulit."<sup>323</sup> Ecce maleficia! Sed<sup>324</sup> quale sit dominium mulierum, audi Tullium in *Paradoxia*:<sup>325</sup> "Nunquid ille liber est cui mulier imperat, leges imponit, prescribit, iubet, vetat quod ei videtur, nec ille imperanti aliquid negare potest vel audet? Ego istum non modo seruum | sed nequissimum seruorum appellandum puto, licet <sup>43D</sup> amplissima familia natus sit."<sup>326</sup> Vnde et Seneca<sup>327</sup> in persona furiose Medee: "Quid amodo<sup>328</sup> cessas? Sequere felicem impetum. Pars ista vltionis qua gaudes quotta est" etc.,<sup>329</sup> vbi multa ponit ostendens quod mulier non vult regi sed suo impetu procedere, etiam in damnum suum, sicut de multis legitur mulieribus que vel ob amorem vel dolorem quia vindictas facere non potuerunt, seipsas occiderunt,<sup>330</sup> sicut<sup>331</sup> et de Laodice narrat Jeronimus (*Super Danielelem*), que existens vxor regis Anthiochi regis Syrie, zelans ne plus amaret Beronicem, quam etiam habebat vxorem, Beronicem et filium eius ex dicto Anthiocho prius fecit occidi et post seipsam veneno occidit.<sup>332</sup> Vnde quia non vult regi et suo impetu procedere, ideo Crisostomus<sup>333</sup> non immerito dicit: "O malum omni malo peius mulier mala, siue illa pauper sit siue diues! Si enim vxor diuitis sit, non cessat nocte et die virum calidis<sup>a</sup> | stimulare sermonibus blanda <sup>44A</sup> nequiter et importuna violenter. Si vero pauperem virum habet, ipsum quoque ad iracundiam et rixas incitare non desinit. Et si vidua sit, ipsa per semet ipsam omnes despicit passim et ad omnem audaciam spiritu superbie inflammat.<sup>334</sup>

Queramus:<sup>335</sup> inuenimus fere omnia mundi regna propter mulieres fuisse euersa. Primum enim quod fuit regnum felix, scilicet Troye, propter raptum vnus femine, scilicet Helene, destructum est, multis milibus Grecorum occisis.<sup>336</sup> Regnum Judeorum multa mala et

<sup>a</sup> So Ant.: ed. prin.: calidum

<sup>323</sup> Pause

<sup>324</sup> Resume

<sup>325</sup> Ant.: Paradoxia

<sup>326</sup> End

<sup>327</sup> Start of Ant., Summa 3.1.25 (122C)

<sup>328</sup> Ant.: anime

<sup>329</sup> etc. not in Ant.

<sup>330</sup> End

<sup>331</sup> Start of adaptation of Ant., Summa 3.1.25 (122E), which has after vxorem: seipsam occidit, Beronicem vero et filium eius ex Antiocho etiam fecit occidi.

<sup>332</sup> End

<sup>333</sup> Start of Ant., Summa 3.1.25 (121E), which begins with merely: Vnde Chysostomus: "O ...

<sup>334</sup> End

<sup>335</sup> Start of adaptation of Ant., Summa 3.1.25 (121D-E), which begins: ... Si est ex hominum memoria, queramus et inueniemus fere omnia mundi regna propter mulieres fuisse subuersa. Primum enim ...

<sup>336</sup> Ant.: et multa millia Grecorum occisa

exterminia habuit propter pessimam reginam Jezabel et filiam eius Athaliam reginam in regno Jude, que occidi fecerat filios filij vt eo mortuo ipsa regnaret, sed vtraque occisa.<sup>337</sup> Regnum Romanorum multa mala sustinuit propter Cleopatram reginam Egipti, pessimam mulierem. Et sic de alijs.<sup>338</sup> Vnde non mirum si mundus iam patitur ob malitiam mulierum.

Demum inspiciendo corporis ipsius carnalia desideria, vnde innumera nocumenta vite humane contingunt, vt merito cum Cathone<sup>339</sup> Vticensi dicere possimus: “Si absque femina possit esse mundus, conuersatio nostra non esset absque dijs,”<sup>340</sup> cum reuera si mulierum non essent nequitie, etiam tacendo de maleficijs, adhuc ab innumeris periculis mundus remaneret exornatus. Valerius<sup>341</sup> *Ad Rufinum*: “Chimeram mulierem esse nescis, sed scire debes quod monstrum illud triforme insigni venustetur facie leonis, olentis maculetur ventre capre, virulente cauda vippere armetur.” Vult dicere quod est aspectus eius pulcher, tactus fetidus, conuersatio pestifera.<sup>342</sup>

Audiamus et aliam proprietatem per vocem. Nam sicut<sup>343</sup> est mendax in natura, sic et in loquela.<sup>344</sup> Nam<sup>345</sup> pungit et tamen delectat, vnde et earum vox cantui Syrenarum assimilatur, que dulci melodia transeuntes attrahunt et tandem occidunt. Occidunt quidem quia et marsupia euacuant, vires auferant et deum perdere cogunt. Iterum<sup>346</sup> Valerius *Ad Rufinum*, hec loquens: “Placet delectatio et pungit delictum. Flos Veneris rosa est, quia sub eius purpura multi latitant aculei.” *Prouerbiorum* v: “Nitidius oleo guttur eius,” id est, “locutio nouissima eius amara quasi absinthium.”<sup>347</sup>

Audiamus et aliam: In eius incessu, statu et habitu – ibi est vanitas vanitatum. Non<sup>348</sup> est homo in mundo qui tantum studet placere deo benigno quantum mulier etiam mediocris suis vanitatibus studet hominibus placere. De quo exemplum in vita Pelagie, quando dedita mundo discurrebat per Anthiochiam ornata nimis, quam sanctus pater

<sup>337</sup> *Ant. adds: est*

<sup>338</sup> *End*

<sup>339</sup> *Start of Ant., Summa 3.1.25 (121C), which begins: Et Cato Vticensis dixit: “Si . . .”*

<sup>340</sup> *End*

<sup>341</sup> *Start of Ant., Summa 3.1.25 (120D)*

<sup>342</sup> *Pause (for pestifera Ant. has mortifera)*

<sup>343</sup> *Resume Ant. 120E, which has Et in place of Nam.*

<sup>344</sup> *End*

<sup>345</sup> *Start of Ant., Summa 3.1.25 (120C–D)*

<sup>346</sup> *Not in Ant.*

<sup>347</sup> *End*

<sup>348</sup> *Start of Ant., Summa 3.1.25 (122B), which begins: Vigesima littera est V, quia si mulier est vanitas vanitatum (hoc satis notum est omnibus, fere non est homo in mundo . . .*

Nomius<sup>349</sup> nomine videns flere cepit et dixit socijs quod toto tempore vite sue tantam diligentiam nunquam adhibuerat deo placere etc.,<sup>350</sup> que demum orationibus eius conuersa est.<sup>351</sup> Hec est de qua *Ecclesiaste* vij et de qua iam ecclesia lamentatur propter ingentem multitudinem maleficarum: “Inueni<sup>352</sup> amariorem morte mulierem, que laqueus est venatorum, sagena cor eius, vincula sunt manus eius. Qui placet deo, fugiet illam; qui autem peccator est, capietur ab ea.” Amarior est morte, id est, diabolo: (*Apocalysis* vi) “Nomen illi | mors.” Nam licet diabolus induxit<sup>44D</sup> Eua ad peccandum, Eua tamen seduxit Adam, et sicut peccatum Eue non induxisset nobis mortem anime et corporis nisi subsecuta fuisset culpa in Adam ad quam induxit Eua et non diabolus, ideo “amarior morte.” Iterum “amarior morte” quia hec naturalis et interimit tantum corpus, sed peccatum a muliere inchoatum occidit animam priuando gratiam<sup>a</sup> et corpus similiter in penam peccati. Iterum “amarior morte” quia mors corporalis est inimicus manifestus et terribilis, sed mulier inimicus blandus et occultus, et ideo amarior et periculosior. Laqueus iam dicitur venatorum scilicet<sup>b</sup> demonum, quia iam capiuntur homines non solum per carnalia desideria eas videndo, audiendo, cum earum facies sit ventus vrens et vox serpentis sybulus iuxta Bernardum, verum etiam innumeros maleficiendo homines et iumenta. Sagena dicitur cor eius, id est, inscrutabilis malitia que in cordibus earum regnat. Et manus

<sup>a</sup> *Ed. prin.*: -a

<sup>b</sup> *So Ant.*: *ed. prin.*: sed, probably from a confusion of the abbreviation *sc̄z* (=scilicet) with *s̄z* (=sed).

<sup>349</sup> *Ant.*: Nonus

<sup>350</sup> etc. not in *Ant.*

<sup>351</sup> *End*

<sup>352</sup> *Start of adaptation of Ant.*, *Summa* 3.1.25 (117A-C): *Ecclesiasticus*, Salomon filius Dauid, (cap. vij) dicit de muliere: “Inueni amariorem morte mulierem, que laqueus est venatorum, sagena cor eius, vincula sunt manus eius. Qui placet deo fugiet illam; qui autem peccator est capietur ab ea.” Ideo dicitur mulier “amarior morte,” quia mors naturalis interimit corpus, sed culpa que primo habuit ortum a muliere Eua occidit animam priuando gratiam, et causa prima fuit mortis corporalis. “Amarior” est “morte,” que etiam denominat diabolus (*Apoc.* vi: “Nomen illi mors.”), quia diabolus induxit Eua ad peccandum, sed Eua Adam. Sed peccatum Eue solum non induxisset nobis mortem anime et corporis nisi subsecuta fuisset culpa Adam, ad quam induxit Eua. In eo enim completa est infectio totius humani generis. Ideo etiam quia mors corporalis est inimicus manifestus et terribilis, sed mulier est inimicus blandus et occultus, et ideo amarior et periculosior. Laqueus dicitur venatorum, scilicet demonum, quibus capiunt aues et feras siluestres, id est, contemplatiuos et solitarios per visum, vt Dauid et plures eremitas, vel per auditum, vt Eua Adam. Bernardus dicit quod vox mulieris est serpentis sibilus, et propheta (*Abachus* i): “Facies eorum ventus vrens.” Per visum ergo et auditum ad mulieres venator diabolus capit sanctos viros. “Sagena” dicitur “cor eius,” id est, affectio ad mulierem: hac capiuntur pisces, homines natantes in aquis deliciarum (*Abachus* i: “Totum in hamo subleuauit,” scilicet diabolus). Affectio nimia Amon ad germanam suam Thamar induxit ad stuprandam eam inuitam (*ij Regum* xij). Manus sunt munuscula vel ipsa commixtionis opera, que ita detinent homines alligatos, vt vix valeant dimittere.

45A sunt vincula | ad detinendum:<sup>353</sup> vbi manum ad malefaciendum creaturam apponunt, tunc diabolo cooperante hoc efficiunt quod pretendunt.

Concludamus. Omnia per carnalem<sup>354</sup> concupiscentiam que quia in eis est insatiabilis (*Prouerbiorum* penulto: “Tria sunt insatiabilia” etc. “et quartum quod nunquam dicit ‘sufficit,’” scilicet os vulue)<sup>355</sup> – vnde et cum demonibus causa explende libinidis se agitant. Plura hic deduci possent, sed intelligentibus satis apparet non mirum quod plures reperiuntur infecti<sup>a</sup> heresi maleficorum mulieres quam viri. Vnde et consequenter heresis dicenda est non maleficorum sed maleficarum, vt a potiori fiat denominatio. Et benedictus altissimus qui virilem speciem a tanto flagitio vsque in presens sic preseruat,<sup>356</sup> in quo<sup>b</sup> vtique cum pro nobis nasci et pati voluit, ideo et ipsum priuilegiauit.

*Cuiusmodi mulieres amplius inueniuntur superstitiose et malefice*

- 45B QUO AD SECUNDUM, CUIUSMODI | mulieres pre ceteris inueniuntur superstitiose et maleficijs infecte, dicendum, vt ex precedenti questione patuit, quod quia tria generalia vitia, scilicet infidelitas, ambitio et luxuria, precipue in malis mulieribus regnare videntur, ideo ille pre ceteris maleficijs intentunt que pre ceteris illis vitijs dedite sunt. Jterum quia inter illa tria vltimum amplius predominatur, ideo quia insatiabile etc., ideo et ille inter ambitiosas amplius infecte sunt que pro explendis suis prauis concupiscentijs amplius inardescunt, vt sunt adultere, fornicarie et magnatorum concubine, et hoc ex septemplici maleficio, vt in bulla tangitur, venereum actum et conceptus in vtero varijs inficiendo maleficijs: primo, mentes hominum ad inordinatum amorem etc. immutando; secundo, vim generatiuam impediendo; tercio, membra illi actui accommoda auferendo; quarto, homines prestigiosa arte in bestiales formas
- 45C mutando; quinto, vim generatiuam quo ad femellas destruendo; sexto, aborsum procurando; septimo, infantes demonibus offerendo, absque alijs animalibus et terre frugibus, quibus varia nocumenta inferunt, de quibus in sequentibus tractabitur, sed ad presens de nocumentis hominum demus rationes. Et primo conclusio super eos quos maleficiunt

<sup>a</sup> Sc. -e

<sup>b</sup> *One would expect -a, but the antecedent is conceived of as vir instead of virilis species.*

<sup>353</sup> *End*

<sup>354</sup> *Start of Ant., Summa 3.1.25 (118B)*

<sup>355</sup> *End*

<sup>356</sup> *Cf. William of Auvergne, De universo 2.3.25* : Benedictus autem altissimus, qui virilem speciem in hominibus a flagitiis eorum [sc. demonum] vsque hodie ita seruaui, vt nullus virorum ista nefaria libidine pollutus adhuc auditus fuit.

ad amorem vel odium inordinatum et post eadem materia pro maiori intelligentia sub difficultate est discutienda.

Conclusio autem hec est. Nam sanctus Thomas in *Quarto* (di. xxxiiij) de impedimento maleficali tranctans, sicut ostendit quare permittitur diabolo a deo maior potestas maleficij super actus<sup>a</sup> venereos hominis quam super alios rationes assignando, ita dicere a simili oportet quod he mulieres amplius infestantur que his actibus amplius deseruiunt. Dicit enim quod<sup>357</sup> quia corruptio peccati prima per quam homo factus est seruus diaboli in nos per actum generantem deuenit, ideo maleficij potestas permittitur diabolo a deo in hoc actu magis quam in alijs, sicut etiam <sup>45D</sup> in serpentibus magis ostenditur virtus maleficiorum, vt dicitur, quam in alijs animalibus, quia per serpentem diabolus tanquam per suum instrumentum mulierem tentauit.<sup>358</sup> Vnde etiam vt postea subdit, licet<sup>359</sup> matrimonium sit opus dei tanquam ab eo institutum, adhuc per opera diaboli interdum destruitur, non quidem per violentiam, quia censeretur sic fortior deo, sed ex diuina permissione procurando impedimentum<sup>360</sup> actus coniugalis vel temporale vel perpetuum. Ex quibus hoc quod experientia docet, dicamus quod propter huiusmodi spurcicias explendas tam erga se quam et seculi potentes cuiuscumque etiam status et conditionis innumera maleficia pertractant, eorum animos ad amorem hereum vel philocaptionem adeo immutando vt nulla confusione aut persuasione ab eis desistere valeant. Ex quibus etiam [et] exterminium fidei seu periculum intolerabile quotidie imminet, quod eorum animos immutare taliter sciunt quod | eis nullum nocumentum siue per se siue ab alijs fieri <sup>46A</sup> permittant sicque quotidie crescunt. Et vtinam experientia nos minime edocuisset, imo et odia<sup>361</sup> talia etiam in sacramento matrimonij coniunctis suscitata per maleficia et similiter in frigidationes generatiue potentie, vt nec redditionem nec exactionem debiti matrimonialis locum<sup>b</sup> pro prole habere valeant.

<sup>a</sup> *Ed. prin.*: -os

<sup>b</sup> *So ed. prin.*: *Nider 210A has loco but the edition of Nider printed in Lyon in 1669 also has locum (321C). (This passage must have been obscure to the author, as it appears as vt nec redditionis nec exactionis debiti matrimonialis locum pro prole habere valeant in 49C.)*

<sup>357</sup> *Start of Aq., Sent. 4.34.1.3. Rat*

<sup>358</sup> *End*

<sup>359</sup> *Start of adaptation of Aq., Sent. 4.34.1.3. Ra2: ... opus dei potest opere diaboli impediri diuina permissione: non quod diabolus deo sit fortior, vt per violentiam opera eius destruat.*

<sup>360</sup> *End*

<sup>361</sup> *Start of adaptation of Nider, Form. 5.5 (210A): ... experti sumus odia talia suscitari per maleficia et similiter in frigidationes generatiue potentie, vt nec redditionem nec exactionem debiti matrimonialis loco pro prole habere. Cum igitur amor et odium in anima existant, animam ... demon intrare nequid.*

Sed quia amor et odium in anima existunt, quam etiam demon intrare nequit,<sup>362</sup> ne alicui hec quasi incredibilia videantur, sub questione sunt discutienda, cum etiam opposita iuxta se posita magis elucescunt.

QUESTIO AN MALEFICE MENTES HOMINUM AD AMOREM  
VEL ODIUM VALEANT IMMUTARE, ET EST SEPTIMA  
IN ORDINE

QUERITUR AN DEMONES PER ipsas maleficas mentes hominum ad amorem vel odium inordinatum immutare et incitare valeant

Et arguitur quod non secundum premissa. Tria sunt in homine, vol-  
46B untas, intellectus et | corpus. Primum deus sicut habet per se regere, quia cor regis in manu domini, ita secundum per angelum illustrare et ipsum corpus per influxus celestium corporum dirigere.

Preterea, intra corpora demones non possunt esse illa immutando, ergo minus infra animam eius potentijs odium vel amorem immittendo. Patet consequentia, quia ex natura maiorem habent potestatem supra corporalia quam supra spiritualia, et quidem quod non possunt immutare, supra patuit in plerisque locis, quia nullam formam substantialem vel accidentalem inducere possunt nisi adminiculo alicuius alterius agentis, sicut etiam quilibet alius artifex. Est etiam ad idem causa xxvi, questio "Episcopi" in fine: "Qui credit aliquam creaturam posse transmutari in melius vel in deterius nisi ab ipso omnium creatore infideli et pagano deterius est."

Preterea,<sup>363</sup> omne agens ex proposito cognoscit suum effectum. Si igitur diabolus posset mentes hominum immutare ad odium vel amorem,  
46C posset internas cogitationes anime videre, | quod est contra illud quod in libro *De Ecclesiasticis Dogmatibus* dicitur: "Diabolus internas cogitationes non potest videre."<sup>364</sup> Et iterum ibidem: "Non omnes cogitationes nostre male a diabolo excitantur, sed aliquotiens ex nostri arbitrij motu emergunt."<sup>365</sup>

Preterea, amor et odium sunt circa voluntatem, que radicitur in anima: ergo non possunt causari a diabolo quacunque arte. Tenet

<sup>362</sup> *End*

<sup>363</sup> *Start of adaptation of Aq., De Malo 3.4.Ag.1: Omne enim agens a proposito cognoscit suum effectum. Sed diabolus internas cogitationes non potest videre, vt dicitur in lib. de Eccles. Dogmatibus. Ergo non potest interius suadere cogitationes interiores causando.*

<sup>364</sup> *End*

<sup>365</sup> *Quotation from Aq., De Malo 3.5.SC*

consequentia, quia illabi anime, vt dicit Augustinus, illi soli est possibile qui eam creauit.<sup>366</sup>

Preterea,<sup>367</sup> si dicatur quod potest mouere sensitiuas interiores et sic consequenter voluntatem, non valet, quia vis sensitiua est dignior quam vis nutritiua, sed diabolus non potest formare actum virtutis nutritiue, vt formet carnem aut os, ergo etiam non potest causare aliquem actum interiorum virium anime.<sup>368</sup>

Sed<sup>369</sup> contra. Diabolus non solum visibiliter sed etiam inuisibiliter homines tentare dicitur. Hoc autem falsum esset, nisi interius circa animam et eius potentias aliquid causare posset.<sup>370</sup>

Preterea, Damascenus in suis *Sentenitijs*: “Omnis malitia et omnis<sup>46D</sup> immuniditia a diabolo excogitata sunt” et Dionisius (iiii ca. *De Diuinis Nominibus*): “Multitudo demonum causa omnium malorum et sibi et alijs est.”<sup>371</sup>

Responsio. Hic primo danda est distinctio de causa et secundo qualiter potest interiores potentias anime immutare, que dicuntur sensitiue interiores, et sic tercio concludetur propositum.

Quo ad primum considerandum est quod<sup>372</sup> causa alicuius potest aliquid dici dupliciter: vno modo directe, alio modo indirecte. Indirecte quidem sicut cum aliquod agens causat aliquam dispositionem ad aliquem effectum dicitur esse occasionaliter et indirecte causa illius effectus, sicut si dicatur quod ille qui secat ligna est occasio combustionis ipsorum. Et hoc modo dicere possumus quod diabolus est causa omnium peccatorum nostrorum, quia ipse instigauit primum hominem ad peccandum ex cuius peccato consecuta est in toto genere humano quedam pronitas ad omnia peccata. Et sic intelligenda sunt verba Damasceni et Dionisij.

Directe autem dicitur aliquid esse causa alicuius in quantum operatur directe ad illud, et hoc modo diabolus non est causa omnis peccati. Non enim omnia peccata committuntur diabolo instigante sed quedam ex libertate arbitrij et carnis corruptione, quia, vt Origenes dicit, etiam si<sup>47A</sup>

<sup>366</sup> Not, apparently, a quote from Aug.; cf. *Aq.*, *Sent.* 2.8.1.5. *Rat3*: ... et ideo in ipsam [sc. animam] non intrat nisi ille qui dat esse, scilicet deus creator ...; and *Summa* 1.111.2. *Co.*: solius dei est sic [sc. ab interiori] immutare voluntatem, qui dat nature intellectuali virtutem talis inclinationis.

<sup>367</sup> *Start of adaptation of Aq.*, *De Malo* 3.4. *Ag7*: Preterea, vis sensitiua est dignior quam vis nutritiua. Sed diabolus non potest causare actum virtutis nutritiue, vt formet carnem et os. Ergo diabolus non potest causare actum alicuius interiorum virium anime.

<sup>368</sup> End

<sup>369</sup> *Start of adaptation of Aq.*, *De Malo* 3.4. *SC*: Sed contra est quod diabolus non solum visibiliter sed etiam inuisibiliter hominem tentare dicitur, quod non esset nisi aliquid interius homini persuaderet: ergo diabolus interius incitat ad peccatum.

<sup>370</sup> End

<sup>371</sup> Both quotations from *Aq.*, *De Malo* 3.5. *Ag1*

<sup>372</sup> *Start of Aq.*, *De Malo* 3.5. *Co* (= *Summa* 1.114.3. *Co.*)

diabolus non esset, homines haberent appetitum cibi et venereorum et huiusmodi, circa que inordinationes multe contingunt nisi per rationem talis appetitus refrenetur, et maxime presupposita corruptione nature. Refrenare autem et ordinare huiusmodi appetitum subiacet libero arbitrio,<sup>373</sup> super quem etiam diabolus minus habet potestatem.

Sed quia per hanc distinctionem non possumus discernere qualiter interdum amor hereos seu philocaptio ex maleficio procurari potest, est vltius aduertendum quod diabolus, licet non possit esse causa illius inordinati amoris directe cogendo hominis voluntatem, potest tamen esse per modum persuadentis, et hoc iterum dupliciter, scilicet visibiliter et inuisibiliter: visibiliter sicut cum in aliqua specie hominis sensibiliter  
 47B apparet etiam ipsis maleficis et<sup>374</sup> eis sensibiliter loquitur et | persuadet peccatum, sicut tentauit primos parentes in paradiso<sup>a</sup> in specie serpentis, Christum in deserto in aliqua specie visibiliter ei apparens.

Et quia non est putandum quod solum sic persuadeat hominem, quia sequeretur quod nulla alia peccata fierent ex instructione diaboli nisi que diabolus visibiliter apparens persuaderet, ideo dicendum est quod etiam inuisibiliter instigat hominem ad peccandum, quod quidem fit dupliciter per modum persuasionis et per modum dispositionis. Per modum persuasionis, sicut cum proponitur aliquid virtuti<sup>b</sup> cognitiue vt bonum, et hoc potest fieri tripliciter, quia vel proponitur quantum ad intellectum vel quantum ad sensum interiorem vel quantum ad sensum exteriorem. Quantum ad intellectum quidem,<sup>c</sup> quia intellectus humanus potest adiuuari ab angelico intellectu bono vel <malo ad><sup>d</sup>.<sup>375</sup> aliquid cognoscendum per modum illuminationis cuiusdam, vt Dionysius dicit.<sup>376</sup> Ratio, quia sicut intelligere secundum philosophum est quoddam pati, ideo potest imprimere in intellectum aliquam speciem,  
 47C vnde actus | intelligendi elicitur.<sup>377</sup>

<sup>a</sup> *Ed. prin.*: padiso

<sup>b</sup> *Ed. prin.*: -e

<sup>c</sup> *Quidem: so Aq.; ed. prin.*: -dā

<sup>d</sup> *These words inadvertently dropped out in the process of adapting Aq. Schwyder (1993) 134 suggests replacing vel with ad.*

<sup>373</sup> *End*

<sup>374</sup> *Start of Aq., De Malo 3.4. Co.*

<sup>375</sup> *The words bono vel Malo are an addition to the text of Aq. borrowed from elsewhere in him (see 47D).*

<sup>376</sup> *End of direct quotation*

<sup>377</sup> *Aq. continues from end of last quote: Quamuis enim angelus non possit directe causare actum voluntatis, eo quod actus voluntatis nihil est aliud quam inclinatio quedam ab interiori procedens, potest tamen imprimere in intellectum, cuius actus consistit in recipiendo ab exteriori, vnde dicitur quod intelligere est pati quoddam. Quamuis autem diabolus secundum ordinem sue nature posset homini aliquid persuadere intellectum eius illuminando, sicut facit bonus angelus, non tamen hoc facit, quia intellectus quanto magis illuminatur, tanto magis potest sibi*

Et si dicatur quod etiam diabolus hoc facere posset sua virtute naturali, que non est diminuta, vt patet ex precedentibus, dicendum quod non potest per modum illuminationis sed per modum persuasionis. Ratio: quia intellectus hominis est istius conditionis quod quanto magis illuminatur, tanto magis cognoscit verum et quanto magis cognoscit verum, tanto magis potest sibi cauere a deceptione, et quia hanc deceptionem diabolus finaliter intendit, ideo quecunque eius persuasio non potest dici illuminatio, licet possit dici reuelatio in quantum per impressionem quandam in vires sensitivas interiores aut exteriores, vbi visibiliter persuaderet, aliquid imprimeret, vnde intellectualis cognitio persuaderetur ad aliquem actum exercendum.

Quod qualiter fieri potest, videlicet vt in vires interiores aliquid imprimere possit, aduertendum est quod quia corporalis<sup>378</sup> natura nata est naturaliter moueri localiter a spirituali<sup>379</sup> – patet hoc in corporibus nostris que ab animabus mouentur, similiter et in corporibus celestibus – non<sup>380</sup> est autem apta nata formari ab ea immediate,<sup>381</sup> et loquimur precipue de formis a foris manendo, non ab informando, vnde oportet quod concurrat aliquid corporale agens, vt<sup>382</sup> probatur in vij. *Methaphisicorum*, materia corporalis naturaliter obedit bono vel malo angelo ad motum localem.<sup>383</sup> Quo stante quia demones sic per modum localem semina colligere possunt et coniungere seu adhibere aliquibus effectibus mirabiliter faciendis, vt de magis pharaonis contigit, vbi produxerunt serpentes et vera animalia, vbi debita actiua debitis passiuis coniungebant, ideo quecunque ex motu locali materie corporali accidere possunt, nihil prohibet per demones fieri nisi diuinitus impediuntur.<sup>384</sup>

Quo iterum stante si volumus intelligere quomodo potest fantasiam hominis et interiores potentias sensitivas incitare ad apparitiones et

cauere a deceptione quam diabolus intendit. Vnde relinquitur quod persuasio interior diaboli et quecumque eius reuelatio non fit per illuminationem intellectus sed solum per impressionem quandam in vires sensitivas interiores aut exteriores. Ad videndum autem qualiter in vires interiores imprimere possit, considerandum est quod corporalis natura . . .

<sup>378</sup> *Direct quotation resumed*

<sup>379</sup> *Pause*

<sup>380</sup> *Resume*

<sup>381</sup> *Pause (Aq. continues: sed ab aliquo corporali agente)*

<sup>382</sup> *Resume*

<sup>383</sup> *End direct quotation. Aq. continues: et per hunc modum demones semina colligere possunt, que adhibent aliquibus effectibus miraculis faciendis, vt Augustinus dicit in vi de Trin. Sed quantum ad formationem, materia corporalis creature spirituali non obedit ad nutum, vnde demones non possunt materiam corporalem formare nisi virtute corporalium seminum, vt Augustinus dicit. Quecunque ergo ex motu locali materie corporali accidere possunt, nihil prohibet per demones fieri nisi diuinitus impediuntur. Apparitio autem siue representatio specierum sensibilium in organo interioribus conseruatorum potest fieri per aliquem motum localem materie coporalis, sicut philosophus dicit in lib. De Somno et Vigilia, assignans causam . . .*

<sup>384</sup> *Pause*

impetuosos actus per motum localem, notandum quod sicut philosophus in libro *De Somno et Vigilia* assignat causam<sup>385</sup> apparitionis somniorum per motum localem ex eo quod cum animal dormit, descendente  
 48A plurimo sanguine ad principium sensituum simul descendunt | motus  
 siue impressiones relicte ex sensibilibus motionibus preteritis et<sup>386</sup> que  
 conseruate fuerunt in spiritibus siue virtutibus<sup>387</sup> sensibilibus<sup>388</sup> interioribus, que sunt fantasia<sup>389</sup> seu imaginatio, que idem sunt<sup>390</sup> secundum  
 sanctum Thomam, vt patebit – est<sup>391</sup> enim<sup>a</sup> fantasia seu imaginatio quasi  
 thesaurus quidam formarum per sensum acceptarum<sup>392</sup> – vnde<sup>b</sup> contingit  
 quod ita<sup>393</sup> mouent principium apprehensuum,<sup>394</sup> id est, potentiam  
 conseruatoriam specierum, quod<sup>395</sup> apparent in fantasijs<sup>396</sup> ita recent  
 ter ac si tunc principium sensituum a rebus ipsis exterioribus recent  
 immutaretur.<sup>397</sup>

Verum est quod non omnes hec intelligunt, sed si quis se occupare vellet, considerare haberet numerum et officium sensuum interiorum, qui secundum Auicennam in libro *De Anima*, licet dicat esse quinque, scilicet sensum communem, fantasiam, imaginatiuam, estimatiuam,<sup>c</sup> memoriam, tamen<sup>d</sup> secundum beatum Thomam in *Prima Parte* (q. lxxix) dicit esse quattuor tantum eo quod potentiam imaginatiuam et fantasiam ponit vnā.<sup>398</sup> Timetur prolixitas: ideo obmittitur declaratio, eo quod  
 48B etiam quia in plerisque locis de his pertractatur, tantummodo hoc quod dictum est, fantasiam esse thesaurum formarum.

<sup>a</sup> *So Aq.; ed. prin.:* in

<sup>b</sup> *This sentence is muddled, and the main clause after sicut philosophus begins here.*

<sup>c</sup> *Sc. es- (The same spelling in a similar context appears on 116A, and both presumably go back to a common source.)*

<sup>d</sup> *Ed. prin.:* tu-

<sup>385</sup> *Direct quotation resumed*

<sup>386</sup> *pr. et: not in Aq.*

<sup>387</sup> *siue virtutibus: not in Aq.*

<sup>388</sup> *End (passage resumes after the subsequent quotation of Summa 1.78.4.Co.)*

<sup>389</sup> *Start of Aq., Summa 1.78.4.Co.*

<sup>390</sup> *Pause*

<sup>391</sup> *Resume*

<sup>392</sup> *End*

<sup>393</sup> *Resume Aq., De Malo 3.4.Co., which begins: et mouent principium apprehensuum, ita quod apparent ac si . . .*

<sup>394</sup> *Pause*

<sup>395</sup> *Resume*

<sup>396</sup> *in fantasijs: not in Aq.*

<sup>397</sup> *End*

<sup>398</sup> *Cf. Ant., Summa 1.2.5: De sensibus interioribus, quos Avicenna in lib. De Anima dicit esse quinque, scilicet sensum communem, phantasiam, immaginatiuam, estimatiuam, memoratiuam, sed B. Thomas in i parte, quest. 79 dicit esse quattuor tantum – nam potentiam immaginatiuam et phantasiam pro vna ponit . . .*

Et alicui videretur memoratiuam esse huiusmodi: distingue quia fantasia est thesaurus seu conseruatorium formarum per sensum acceptarum, memoria autem thesaurus intentionum que per sensum non accipiuntur.<sup>399</sup> Ouis<sup>400</sup> enim videns lupum<sup>401</sup> fugit non propter indecentiam coloris aut figure,<sup>402</sup> que sunt forme recepte a sensibus exterioribus et reposita in fantasia, sed fugit quia inimicus<sup>403</sup> nature<sup>404</sup> et hoc habet per quandam intentionem et apprehensionem ex estimatiua, que apprehendit vt nociuum et canem vt amicum. Sed conseruatorium illarum intentionum est memoria, quia recipere<sup>405</sup> et retinere in corporalibus reducuntur ad diuersa principia. Nam humida bene recipiunt et male retinent, e contrario autem est de siccis.<sup>406</sup>

Ad propositum hoc<sup>407</sup> quod contingit in dormientibus de apparitionibus somniorum ex spiritu, id est, specierum in conseruatorijs repositarum, et hoc lex naturali motu locali propter commotionem sanguinis et humorum ad principia illa,<sup>408</sup> id est, ad virtutes sensitivas interiores, et dicimus motu locali intrinseco in capite et in cellulis capitis. Hoc<sup>409</sup> etiam potest accidere ex consimili motu locali per demones procurato et non tantum in dormientibus sed et in vigilantibus, in quibus demones possunt admouere et commouere interiores spiritus et humores, vt species conseruate in conseruatorijs educantur de thesauris ad principia sensitiva,<sup>410</sup> id est, ad virtutes illas imaginatiuam et fantasticam, vt<sup>411</sup> res aliquas habeat talis imaginare.<sup>412</sup> Et talis dicetur interior tentatio, et non mirum quod demon hoc possit sua naturali virtute, cum

<sup>399</sup> Cf. *Aq.*, Summa 1.78.4. Co.: Ad harum autem formarum retentionem aut conseruationem ordinatur phantasia siue imaginatio. que est idem. Est enim phantasia siue imaginatio quasi thesaurus quidam formarum per sensum acceptarum . . . Ad conseruandum autem eas vis memoratiua, que est thesaurus quidam huiusmodi intentionum.

<sup>400</sup> Earlier passage in the same section of *Aq.*

<sup>401</sup> *Aq.* adds: venientem

<sup>402</sup> Pause

<sup>403</sup> Resume (sed quasi omitted at start)

<sup>404</sup> End

<sup>405</sup> Start of an even earlier part of same section of *Aq.*

<sup>406</sup> End

<sup>407</sup> Start of adaptation of *Aq.*, De Malo 3.3. Co.: Quod ergo accidit in dormientibus de apparitionibus somniorum ex naturali motu locali spiritu et humorum potest accidere ex consimili motu locali per demones procurato, aliquando quidem in dormientibus, aliquando autem in vigilantibus. in quibus demones mouere possunt interiores spiritus et humores, aliquando quidem vsque ad hoc quod totaliter vsus rationis ligetur, vt apparet in arreptitijs . . . aliquando autem absque ligamine rationis, sicut et homines vigilantes et vsum rationis habentes, per voluntariam commotionem spiritu et humorum, species interius conseruatas quasi de quibusdam thesauris educunt ad principium sensitium, vt res aliquas immaginentur.

<sup>408</sup> Pause

<sup>409</sup> Resume

<sup>410</sup> Pause

<sup>411</sup> Resume

<sup>412</sup> Pause

quilibet homo per se vigilans<sup>413</sup> et vsum rationis habens per voluntariam commotionem specierum conseruatarum educere potest de suis thesauris, scilicet conseruatorijs, huiusmodi species, vt res aliquas ad suum placitum imaginetur.<sup>414</sup>

48D Quo stante [vt] iam clare intelligitur materia de amore hereos. Nam quia | demones, vt dictum est, commouere possunt huiusmodi species etc., faciunt ista dupliciter, aliquando absque ligamine vsus rationis, vt de tentatione dictum est et per exemplum de voluntaria adhesionem que interdum fit, aliquando autem quod totaliter vsus<sup>a</sup> rationis ligetur.<sup>415</sup> Et hoc etiam possumus exemplificare per naturales quosdam defectus vt in freneticis et ebrijs: ergo non mirum quod demones sic ligare possunt deo permittente vsum rationis, et tales dicuntur arreptitij et inde arrepticus ab "arripio, -pis," quia arreptum a demone. Et hoc dupliciter: vel absque malefica et maleficio vel cum ea absque maleficio, quia<sup>416</sup> vt philosophus in prefato libro dicit quod aliquis in passione existens a modica similitudine mouetur, sicut amans ex modica similitudine amati et sic etiam odium habenti, ideo demones, qui per actus hominum experiuntur, quibus passionibus magis subduntur, illos ad huiusmodi amorem vel odium inordinatum instigant, eo fortius in eorum imaginationem et efficacius imprimendo hoc quod intendunt, quanto etiam id facilius  
49A possunt.<sup>417</sup> | Facilius autem possunt quanto etiam amans facilius speciem<sup>b</sup> reseruatam ad principium sensitium, id est, imaginationem educit et in eius cogitatione delectabilius<sup>c</sup> moratur.

Cum maleficio vero quando talia per maleficas et ad maleficarum instantiam propter pactum initum cum eis procurant, de quibus enumerare pre multitudine tam in spiritualibus quam in secularibus non est possibile. Quot enim adulteri pulcherrimas vxores dimittentes in fetidissimas alias inardescunt! Nouimus vetulam tres successiue abbates, vt publica omnium fratrum fama in illo monasterio etiam in hodieum diem refert, non solum in his maleficiasse sed et interemisse et quartum

<sup>a</sup> So *Jerouschek's facsimile*; *Schnyder's has v us (worn piece of type)*.

<sup>b</sup> *Ed. prin.:* spem

<sup>c</sup> So *Jerouschek's facsimile*; *Schnyder's has deie- (worn piece of type)*.

<sup>413</sup> *Resume*

<sup>414</sup> *End*

<sup>415</sup> For aliquando . . . rationis and aliquando . . . ligetur, see n. 407.

<sup>416</sup> *Start of adaptation of Aq., De Malo 3,3.Co.:* . . . quia philosophus in prefato libro dicit quod aliquis in passione existens a modica similitudine mouetur, sicut amans ex modica similitudine amati et sic etiam odium habenti, et ideo demones tentatores dicuntur, quia experiuntur per actus hominum, quibus passionibus magis subduntur, vt secundum hoc in eorum imaginatione efficacius imprimant quod intendunt.

<sup>417</sup> *End*

iam simili modo dementasse, quod et ipsa publica voce fatetur, nec veretur dicere: "Feci et facio, nec desistere a meo amore poterunt quia tantum de meis stercoribus comederunt," quantitatem per extensum brachium demonstrando. Fateor autem quia nobis non aderat vliscendi et inquirendi super eam facultas, ideo adhuc superest.

Et quia dictum fuit in principio distinctionis quod inuisibiliter|instigat<sup>49B</sup> diabolus hominem ad peccandum non solum per modum persuasionis, vt dictum est, imo etiam per modum dispositionis, licet non deseruit ad propositum, tamen sic declaratur. Per<sup>418</sup> consimilem enim admotionem spirituum et humorum facit aliquos magis dispositos ad irascendum vel concupiscendum vel ad aliquid huiusmodi.<sup>3</sup> Manifestum est enim quod corpore aliquo modo disposito est homo magis pronus ad concupiscentiam et iram et huiusmodi passiones, quibus insurgentibus homo disponitur ad consensum.<sup>419</sup>

Sed quia precedentia difficile est predicare, ideo faciliiori modo pro populi auisamento sunt declaranda. Et quibus remedijs possint tales maleficiati liberari tractatur in tertia parte.

*Modus proponendi premissa de amore hereos in sermonibus ad populum*

PREDICATOR DE SUPRA DICTIS sic mouet questionem, an catholicum sit asserere quod malefice<sup>420</sup> valeant ad amorem alienarum feminarum inordinatum mentes hominum immutare et eorum corda sic succendere vt nulla confusione, plagis, verbis aut factis ad desistendum<sup>49C</sup> valeant cogi, et similiter ad odium inter matrimonialiter coniunctos incitare vt nec redditionis nec exactionis debiti matrimonialis locum pro prole habere valeant,<sup>421</sup> quin imo interdum eos oportet currere ad amasias intempeste<sup>b</sup> noctis silentio per multa terrarum spacia. Super que, si voluerit, argumenta aliqua ex precedenti questione sumat; si non, dicat tantummodo quod questiones iste patiuntur difficultates propter amorem et odium, que<sup>c</sup> cum fundantur in voluntate, que in suo actu semper libera est nec cogi potest per aliquam creaturam nisi a deo qui

<sup>3</sup> *Ed. prin.:* huius

<sup>b</sup> *Ed. prin.:* in tem-

<sup>c</sup> *Ed. prin.:* qui

<sup>418</sup> *Start of Aq., De Malo 3.3.Co.*

<sup>419</sup> *End*

<sup>420</sup> *Start of adaptation of Nider, Form. 5.5 (210A):* Multos audiuius nostris temporibus per maleficos ad amorem alieanarum feminarum adeo succendi vt nulla confusione, plagis, verbis aut factis ad desistendum cogi valerent.

<sup>421</sup> *End*

eam regere potest, vnde nec demon vel malefica eius virtute ad amorem vel odium voluntatem cogere videtur.

Item quia voluntas sicut et intellectus subiectiue existunt in anima et illabi anime illi soli est possibile qui eam creauit, ideo difficultatem patitur questio quo ad veritates enuclandias in suis partibus. His tamen non obstantibus dicendum est primo super philocaptionem et odium, secundo super maleficium generatiue potentie.

49D De primo quod licet<sup>422</sup> in intellectum et voluntatem hominis immediate demon nequeat operari, tamen secundum omnes doctores theologos (in *Secundo Sententiarum* de virtute demonis) in operando in corpus et in potentias corporis siue<sup>a</sup> corpori alligatas, siue sint sensus interiores siue exteriores, permittente deo agere valent.

Hoc probatur auctoritate et ratione ex precedenti questioni. Si placet, inueniet, si non, dicat auctoritatem et rationem. *Job* ij: “Demoni dixit deus: ‘Ecce in manu tua,’” id est, in potestate, “‘est Job,’” et hoc erat quo ad corpus, quod patet quia in animam noluit dare. Vnde dixit, “Verum tamen animam eius serua”, id est, “illesam serua.”<sup>423</sup> Ratio. Quia enim dedit in corpus, dedit etiam super omnes potentias corpori alligatas, vt sunt quinque exteriores et quattuor interiores, scilicet sensus communis, fantasia siue imaginatiua, estimatiua et memoratiua.

50A Si non potest aliter declarari, detur de porcis et ouibus exemplum, vbi porci per memoratiuam redire sciunt et oues lupum et canem discernunt ex naturali imaginatione, vnum tanquam inimicum, alterum tanquam amicum sue nature. | Consequenter cum omnis nostra cognitio intellectiua ortum habet a sensu, cum intelligentem iuxta philosophum in secundo *De Anima* necesse sit fantasmata speculari, ideo sicut demon potest interiorem fantasiam immutare, sic etiam intellectum obtenebrare. Et hoc quidem non erit immediate agere in animam sed median- tibus fantasmatis.

Item, quia nihil amatur nisi cognitum, dentur exempla ad placitum de auro quod amat avarus, quia intelligit eius virtutem etc.: ideo obtenebrato intellectu obtenebratur et voluntas in suis affectionibus.

<sup>a</sup> *Seemingly otiose; cf.* potentias corpori alligatas, vt sunt quinque exteriores et quattuor interiores in the next paragraph.

<sup>422</sup> *Start of adaptation of Nider, Form. 5.5 (210B):* Quamuis secundum concordem nostrorum doctrinam demon in intellectum vel voluntatem hominis operari immediate nequiat, tamen secundum eosdem in corpus et in potentias alligatas corpori deo permittente agere valet, siue sint sensus interiores siue exteriores. Vnde *Job*: “Et demoni deus ait: ‘Ecce in manu tua,’ id est, in potestate, ‘est Job’ quoad corpus, ‘verumtamen animam eius serua.’”

<sup>423</sup> *End*

Hec autem potest facere demon et absque malefica et cum malefica, imo et accidere possunt ex sola incautela oculorum.

De singulis trademus exempla. Nam vt *Jacobi*<sup>424</sup> primo dicitur: "Vnusquisque tentatur a concupiscentia sua abstractus et illectus. Deinde concupiscentia cum conceperit, parit peccatum, peccatum vero cum consummatum fuerit, generat mortem." Sic Sychem cum vidisset Dinam exeuntem ad videndum mulieres regionis, adamauit eam et rapuit et dormiuit cum illa et conglutinata est anima eius cum ea (*Genesis* <sup>50B</sup> xxxiiij), et secundum glosam: "Jnfirmo anime sic accidit: quando postpositis proprijs, vt Dina, aliena negocia curat, seducitur<sup>425</sup> consuetudine et fit vna vnitate sensus<sup>426</sup> cum illicitis."

De secundo quod etiam absque maleficis<sup>427</sup> oriatur interdum ex tentatione demonum principaliter sic declaratur. Nam "Amon<sup>428</sup> sororem suam Thamar speciosissimam adamauit et deperierat in ea valde, ita vt propter eius amorem egrotaret" (ij *Regum* xiiij). Non enim in tantum facinus stupri quis prosiliret nisi in toto corruptus et a diabolo grauius tentatus. Vnde et glosa ibidem: "Hoc monet nos, et ideo deus permisit,<sup>429</sup> vt semper caute agamus ne vicia in nobis dominantur, et princeps peccati qui falsam pacem periclitantibus spondet nos paratos<sup>430</sup> inueniens improuise trucidet."

De hoc secundo genere amoris refertus est *Liber Sanctorum Patrum*, qui refert quod licet omnem tentationem carnalis concupiscentie sibi subtraxissent, tamen vltra quam credi potest, tentabantur aliquotiens amore mulierum. Vnde et ij *Ad Corinthios* xij apostolus dicit: "Datus est <sup>50C</sup> mihi stimulus carnis mee angelus Sathane qui me colaphiset," vbi glosa: "Tentando per libidinem datus est mihi. Tentatio autem cui non consentitur non est peccatum sed materia exercende virtutis, et hoc intelligitur de tentatione que <est><sup>431</sup> ab hoste, non a carne, que semper est adminus peccatum veniale, etiam si ei non consentiatur." Poterit predicator aliqua exempla deducere si placuerit.

De tercio, quod amor hereos proueniat ex maleficijs demonum,<sup>432</sup> discussum est supra, et de hac loquimur tentatione.

<sup>424</sup> *Start of Nider*, Form. 5.5 (210C)

<sup>425</sup> *Nider*: seduci

<sup>426</sup> *Nider*: consensus

<sup>427</sup> absque m.: *not in Nider*

<sup>428</sup> *So Nider*; *Vulgate*: Amnon

<sup>429</sup> *This clause not in Nider*

<sup>430</sup> *So Nider*; *Glossa Ord.*: *imparatos*

<sup>431</sup> *So Nider*

<sup>432</sup> *End*

Et si quis diceret quomodo posset discerni quod non ex diabolo sed solum ex maleficio talis amor inordinatus procedit, dicendum quod ex multis: primo si taliter tentatus pulchram et honestam habeat vxorem, et oppositum constat de altera etc.; secundo, si iudicium rationis omnino ligatur, quod nullis plagis seu verbis aut factis aut etiam confusionibus ad desistendum ab ea induci valeat; et tercio, potissime quando se  
 50D continere non potest quin interdum | inopinate se etiam per longum spacium non obstante asperitate itineris, prout ex talium confessione quisque sentire potest, se transferre habeant siue de die siue de nocte. Nam sicut<sup>433</sup> dicit Crisostomus *Super Mattheum* (xx) de asina quam Christus equitavit, quod cum demon voluntatem hominis peccato possidet quasi ad libitum trahit quo placet, exemplum dans de naui in mari perditto gubernaculo que ad libitum venti proijcitur, et sicut qui equo potenter insidet et rex tyranni habens possessionem.<sup>434</sup> Quarto discernitur in eo quod inopinate et subito vehuntur et immutantur interdum vt nihil eis obstare possit. Elicitur etiam ex ipsius persone infamia.

Et antequam ad vltiorem questionem de maleficijs circa potentiam generatiuam procedamus, que etiam annexa est, primo soluenda sunt argumenta.

*Sequuntur solutiones argumentorum*

AD ARGUMENTA AUTEM RESPONDENDO.

51A Ad primum, quod voluntas hominis | regatur a deo, sicut intellectus ab angelo bono, patet solutio. Intellectus enim sicut tantummodo illustratur ab angelo bono ad cognitionem veri, vnde sequitur amor boni, quia verum et ens conuertuntur, ita etiam intellectus potest a malo obteneri in cognitionem veri apparentis, et hoc per confusionem specierum principijs sensitiuis, id est, virtutibus et potentijs sensitiuis interioribus representatarum,<sup>a</sup> vnde sequitur amor inordinatus apparentis boni, puta corporalis delectationis quam etiam tales querunt.

Ad secundum argumentum, quod intra corpora non possunt esse illa immutando, partim est verum, partim non, et hoc quo ad triplicem immutationem. Non enim possunt illa immutare quantum ad educationem alicuius forme siue substantialis siue accidentalis, que etiam potius dicenda est productio quam immutatio, sine adminiculo alicuius<sup>b</sup> alterius agentis aut etiam sine diuina permissione. Si autem loquamur

<sup>a</sup> *Ed. prin.:* -is

<sup>b</sup> *Ed. prin.:* -cnius

<sup>433</sup> *Start of Nider, Praec. 1.11.13 (R), which begins with sic*

<sup>434</sup> *End*

de immutatione quallificatiua, vt de sanitate et infirmitate, sicut ex prece-  
 dentibus patet, possunt varias infirmitates etiam vsque ad ligamen ratio- 51B  
 nis immittere<sup>a</sup> et sic odium et amorem inordinatum procurare. Potest  
 etiam addi tertia immutatio que fit quando angelus<sup>435</sup> bonus vel malus  
 illabatur corpori, sicut dicimus quod deus tantummodo illabatur anime,  
 id est, essentie anime. Sed vbi dicimus quod angelus illabatur corpori,  
 precipue malus vt in obsessis, ibi non illabatur infra terminos essentie  
 corporis, quia sic ille solummodo qui dat esse, scilicet deus creator, il-  
 labi potest, et continetur tanquam qui habet intrinsecam operationem  
 anime: dicitur tamen illabi corpori quando aliquid operatur circa cor-  
 pus, quia ibi est vbi operatur, vt dicit Damascenus, et tunc operatur  
 infra terminos corporalis quantitatis et <non> infra terminos essentie  
 corporis, vnde elicitur quod corpus habet terminos duplicis rationis:  
 quantitatis et essentie<sup>436</sup> – et est distinctio sicut inter suppositum et na-  
 turam – vnde sicut<sup>437</sup> corpori illabi possunt, ita et potentijs affixis organis 51C  
 corporalibus et per consequens possunt impressiones facere in potentias,  
 vnde per accidens talis operatio et impressio resultat in intellectum cum  
 eius obiectum sit fantasma, sicut color visus, vt dicitur in iij *De Anima*,  
 et consequenter per accidens vsque ad voluntatem, quia voluntas suum  
 obiectum recipit ab intellectu sub ratione boni,<sup>438</sup> secundum quod intel-  
 lectus apprehendit aliquid in ratione boni veri et apparentis.

Ad tertium argumentum, cognoscere cogitationes cordis est  
 dupliciter, vel in suo effectu vel vt sunt in intellectu. Primo modo non  
 solum angelus sed etiam homo cognoscere potest, licet angelus subtilius,  
 vt patebit. Nam<sup>439</sup> interdum cogitatio cognoscitur non solum per actum  
 exteriorem sed etiam per immutationem vultus, et etiam medici aliquas  
 affectiones animi per pulsum cognoscere possunt,<sup>440</sup> vnde<sup>441</sup> Augusti-  
 nus in libro *De Diuinatione Demonum* dicit quod aliquando hominum

<sup>a</sup> *Ed. prin.*: -mittere

<sup>435</sup> *Start of adaptation Aq.*, Sent. 2.8.1.5. *Ra3*: Corpus autem habet terminos duplicis rationis, scilicet quantitatis et essentie, et ideo angelus operans intra terminos corporalis quantitatis corpori illabatur, non autem ita quod sit intra terminos essentie suae, nec sicut pars nec sicut virtus dans esse, quia esse est per creationem a deo, substantia autem spiritualis non habet terminos quantitatis sed tantum essentie, et ideo in ipsam non intrat nisi ille qui dat esse, scilicet deus creator qui habet intrinsecam essentie operationem.

<sup>436</sup> *End*

<sup>437</sup> *Start of Aq.*, Sent. 2.8.1.5. *Co*.

<sup>438</sup> *End*

<sup>439</sup> *Start of adaptation of Aq.*, Sent. 2.8.1.5. *Ra3*: ... possunt tamen angeli aliquas earum [*sc.* cogitationes cordium] conijcere ex signis corporalibus exterioribus, scilicet ex immutatione vultus ... et ex motu cordis, sicut per qualitatem pulsus etiam a medicis passiones anime cognoscuntur.

<sup>440</sup> *End*

<sup>441</sup> *Start of Aq.*, Summa 1.57.4. *Co*.

51D dispositiones non solum voce prolatas sed etiam cogitatione conceptas, cum signa quedam ex animo exprimuntur in corpore, tota facilitate perdiscunt, quamuis in *Libro Retractationum* hoc dicat non esse asserendum, quomodo hoc fiat.<sup>442</sup> Estimo quod retractat, si quis diceret eum sensisse quod cogitationes demon cognosceret in intellectu.

Alio<sup>443</sup> modo possunt cognosci cogitationes, prout sunt in intellectu, et affectiones, prout sunt in voluntate, et sic solus deus cogitationes cordium et affectiones voluntatum cognoscere potest. Cuius ratio est quia voluntas creature rationalis soli deo subiacet, et ipse in eam solus operari potest qui est principale eius obiectum et vltimus finis, et ideo ea, que in voluntate sunt vel ex voluntate sola dependent, soli deo sunt nota. Manifestum est autem quod ex sola voluntate dependet quod actu aliquis aliqua consideret, quia cum aliquis habet habitum scientie vel species intelligibiles in eo existentes, vtitur eis cum vult.<sup>444</sup> Probatum etiam ex his  
52A que dicta sunt, quia angelus non potest illabi anime: ergo non potest per naturam videre ea que sunt in anima, et quandiu sunt in intimo anime. Vnde quando arguitur, demon non potest videre cogitationes cordium: ergo non potest corda seu mentes hominum ad amorem vel odium incitare, dicitur quod sicut cognoscit, scilicet per effectus et subtiliori modo quam homo, ita etiam subtiliori modo potest immutare ad odium vel amorem commouendo fantasmata et intellectum obtenebrando.

Est etiam aliquid timorosis conscientijs et virtuosjs pro eorum consolatione aduertendum, quod immutatio sensibilis exterior et corporalis, que concomitatur cogitationes hominis, quandoque est ita exilis et indeterminata quod diabolus per eam in certam cognitionem cogitationis venire non potest, presertim quando studijs aut bonis operibus vacant interpellatim, et tales tunc in somnis plus vexat. Experientia hec docet. Quandoque est ita fortis et determinata quod per illam potest cognoscere cogitationem quantum ad speciem, vt quod cogitat de inuidia vel de  
52B luxuria, sed an per eam possit certitudinaliter cognoscere quantum ad omnes circumstantias, vt videlicet super talem vel talem, sub dubio dimittamus, sicut et reperimus, nisi quod verum est quod tales circumstantias ex actibus post modum cognoscere potest.

Ad quartum patet quia licet illabi<sup>a</sup> anime tantum conueniat deo, tamen illabi corpori et per consequens potentijs affixis corpori modo

<sup>a</sup> *Ed. prin.*: alibi

<sup>442</sup> *Pause*

<sup>443</sup> *Resume*

<sup>444</sup> *End*

supra tacto, hoc<sup>a</sup> potest couenire angelo siue bono siue malo, vnde amor et odium in tali homine causari possunt.

Ad illud quod virtus sensitua sit dignior quam nutritua, que tamen non potest immutari ab eo, dicendum quod imo super vim nutritiuam etiam posset ita vt aliquid citius vel tardius dirigeretur in os vel in carnem, sed ad illud non cooperatur, sicut ad impediendum vel agitandum vires sensitivas interiores vel exteriores, et hoc propter suum lucrum quod ex sensuum deceptione et intellectus illusionem plurimum procurat.<sup>445</sup>

QUESTIO OCTAUA. AN GENERATIUM POTENTIAM SEU  
ACTUM VENEREUM MALEFICE | IMPEDIRE POSSUNT, 52C  
QUOD MALEFICIUM IN BULLA CONTINETUR

SECUNDO, EADEM VERITAS, SCILICET quod adultere, fornicarie etc. amplius existunt malefice, ostenditur per impedimentum maleficiale super actum generatiue potentie.

Et vt veritas magis elucescat, arguitur primo quod non sit possibile, quia si tale maleficium esset possibile, posset etiam maritatis contingere, quod si conceditur, tunc cum matrimonium sit opus dei et maleficium opus diaboli, fortius erit opus diaboli opere dei.<sup>446</sup> Si vero conceditur quod tantummodo fornicarij et non maritatis, tunc redibit opinio quod maleficium nihil sit in re, sed tantum in opinione hominum, cuius oppositum in prima questione tactum est, aut dabitur ratio cur istis et non illis contingere possunt. Et cum non videtur subesse alia ratio nisi quia opus dei matrimonium existit – et illa ratio secundum theologos non concludit, vt patet in *Quarto* (di. xxxiiij) de impedimento maleficiale – manet adhuc argumentum quod opus diaboli erit fortius opere dei et cum | hoc sit inconueniens asserere, ergo etiam inconueniens est asserere 52D quod<sup>b</sup> per maleficium posse impediri actum venereum.

Item diabolus<sup>447</sup> non potest impedire actus aliarum virium naturalium, vt comedendi, ambulandi, erigendi, quod videtur esse verum ex eo quia interimere possent totum mundum.<sup>448</sup>

<sup>a</sup> *Ed. prin.*: hec

<sup>b</sup> *Grammatically unnecessary*

<sup>445</sup> *This parag. seems to be an extensive elaboration of Aq., Sent. 2.8.4.Aq4a*

<sup>446</sup> *Cf. Aq., Sent. 4.34.1.3.Aq2 (quoted at end of n. 8)*

<sup>447</sup> *Start of adaptation of Aq., Sent. 4.34.1.3.Aq1: . . . Sed demones non habent potestatem impediendi matrimonij actum magis quam alios corporales actus, quos impedire non possunt, quia sic totum mundum peruerterent, si comestionem et gressum et alia huiusmodi impedirent.*

<sup>448</sup> *End*

Preterea,<sup>449</sup> cum actus venereus equaliter se habet ad omnem mulierem, si impeditur, impeditur etiam ad omnem mulierem.<sup>450</sup> Sed hoc est falsum, ergo et primum.

Quod falsum sit docet experientia, cum tales qui dicunt se maleficiatos sunt potentes ad alias, licet non ad illas quas cognoscere non potest, quia videlicet non vult, vnde nihil potest in re.

In contrarium et pro veritate est capitulum “Si per sortiarias” (xxxiiij q. viij), item omnium theologorum et canonistarum sententia, vbi tractant de maleficali impedimento matrimonij.

Item ratio alludit, cum maior sit potestas demonis quam hominis, et homo impedire potest potentiam generatiuam, siue per herbas frigidissimas siue per alia impedimenta etc., | ut quisque imaginari potest, ergo  
53A et demon, qui acutioris scientie existit, hoc facere per amplius potest.

Responsio. Ex duobus que supra tacta sunt veritas satis patere potest, licet modus impediendi non sit speculatiue declaratus. Nam tactum est quod maleficium non est solum in opinione hominum quasi nihil in re, imo effectus innumeri maleficiales accidere possunt vere et realiter deo permittente. Ostensum est etiam quod deus amplius permittit super vim generatiuam propter maiorem eius corruptionem quam super alios actus humanos.

Sed de modo quo tale impedimentum procuratur est aduertendum quod non procurat solum circa vim generatiuam sed etiam circa vim imaginatiuam seu fantasiam, et super hoc notat<sup>451</sup> Petrus de Palude in suo *Quarto* (di. xxxiiij) quinque modos. Dicit enim quod quia demon ex hoc quod est spiritus habet potestatem super creaturam corporalem ad motum localem prohibendum vel faciendum, ideo potest corpora impedire ne sibi appropinquant directe vel indirecte interponendo se  
53B quandoque<sup>452</sup> in corpore assumpto, sicut accidit sponso qui desponsauerat idolum et nihilominus contraxerat cum iuuenula nec propter hoc poterat eam cognoscere; secundo modo hominem inflammare ad actum illum vel etiam refrigerare ab actu illo adhibendo occulte virtutes rerum quas optime nouit ad hoc validas; tercio modo turbando estimationem et imaginationem qua<sup>a</sup> reddit mulierem exosam, quia potest, vt

<sup>a</sup> Sc. -o

<sup>449</sup> *Start of adaptation of Aq.*, Sent. 4.34.1.3.Aq4: Preterea, carnalis copula non potest impedi nisi impediatur potentia generandi, que est principium eius. Sed vnus viri potentia generatiua se habet ad omnes mulieres equaliter. Ergo per maleficium non potest esse impedimentum respectu vnus viri [sic; surely mulieris] nisi sit respectu omnium.

<sup>450</sup> *End*

<sup>451</sup> *Start Nider*, Form. 5.5 (211B–212A).

<sup>452</sup> *Not in Nider*

dictum est, in imaginationem imprimere; quarto reprimendo directe rigorem membri fructificationi congruentis,<sup>453</sup> sicut etiam motum localem reprimere potest; quinto prohibendo missionem spirituum ad membra in quibus est virtus motiua, quasi intercludendo vias seminis ne ad vasa generationis descendat vel ne ab eis recedat vel ne excidat vel ne emittatur et multis alijs modis.<sup>454</sup>

Et subdit hoc quod supra actum est ab alijs doctoribus, concordando dicens. Plus<sup>455</sup> enim permittit deus super hunc actum per quem primum peccatum diffunditur quam super alios actus humanos, sicut et super serpentes qui magis incantationibus deseruiunt quam alia animalia.<sup>456</sup>

Et post pauca dicit: Jdem<sup>457</sup> etiam de muliere est quia potest imaginationem eius sic dementare vt exosum habeat virum, quod pro toto mundo non permittit se cognosci.<sup>458</sup> Post vult dare rationem quare plus maleficiuntur viri circa talem actum quam mulieres, et dicit quod quia tale<sup>459</sup> impedimentum fit interdum per obstructionem vasis vel etiam per motum localem reprimendo rigorem membri, que potius et facilius in viris contingere possunt, ideo plures viri maleficiantur quam mulieres.<sup>460</sup>

Posset etiam quis dicere quod ideo quia plures mulieres supersticiose sunt quam viri et potius allicere cupiunt viros quam mulieres, vel etiam in despectum hoc faciunt mulieris coniuncte, vt vtrouique faciant occasionem adulterandi, dum vir alias cognoscere potest et non propriam, et similiter vxor etiam alios habeat querere amatores. Addit etiam quod deus<sup>461</sup> permittit amplius seuire in peccatores quam in iustos. Vnde angelus dixit Thobie: “In illos qui libidini vacent accipit demonium potestatem,”<sup>462</sup> licet aliquando etiam in iustos, sicut in Job, sed non circa vim generatiuam, propter que<sup>463</sup> debent facere confessiones et alia 53C

<sup>2</sup> Ed. prin.: -i

<sup>453</sup> *Nider*: accomodi for congruentis

<sup>454</sup> *Pause*

<sup>455</sup> *Resume*

<sup>456</sup> *Pause*

<sup>457</sup> *Resume*

<sup>458</sup> *Pause*

<sup>459</sup> *Resume* (... per motum localem corpore interposito vel vase obstructo potest demon per maleficium impedire mulierem, licet virum in pluribus modis ...)

<sup>460</sup> *Pause*

<sup>461</sup> *Resume*

<sup>462</sup> *Tobias 6:17*: Et sue libidini ita vacent sicut equus et mulus in quibus non est intellectus: habet potestatem demonium super eos.

<sup>463</sup> *Nider*: quod

bona, ne ferro manente in vulnere frustra sit medicinam<sup>464</sup> apponere. Hec Petrus.<sup>465</sup>

Sed de ammotione talis effectus patebit in tercia parte operis.

*Incidentaliter aliqua dubia declarantur*

JNCIDENTALITER VERO SI QUERITUR quare actus ille aliquando impeditur respectu vnus mulieris et non respectu alterius, responsio secundum Bonauenturam hec est: vel quia sortilegus seu malefica ad hoc respectu persone determinate diabolus immutauit, vel quia deus respectu persone cuiuslibet impedire non permittit. Occultum enim dei iudicium hic latet, vt patet in vxore Thobie. Et addit, si queritur quomodo diabolus hoc facit, dicendum quod impedit generatiuam non impedimento extrinseco ledendo organum sed extrinseco impediendo vsum. Vnde quia est impedimentum artificiale, non naturale, ideo potest impedire ad vnam quod non ad alias vel tollendo excitationem concupiscentie ad illam et non aduersus | aliam et hoc per virtutem propriam vel per herbam vel per lapidem vel per aliquam naturam occultam. Et hec conueniunt cum dictis Petri de Palude.

Preterea, cum in potentia talis actus quandoque<sup>3</sup> ex frigiditate nature seu naturali defectu contingit, si queritur quomodo potest discerni quod ex maleficio vel non maleficio contigerit, respondit Hostiensis in *Summa* – licet hoc non predicandum publice – quando virga nullatenus mouetur et nunquam potuit cognoscere, hoc est signum frigiditatis, sed quando mouetur et erigitur, perficere autem non potest, est signum maleficij.

Notandum insuper quod non solum fit maleficio ne quis actum illum exercere valeat, sed etiam aliquando fit ne mulier concipiat vel vt aborsum faciat. Sed nota secundum canonum sanctiones, quod quicumque propter vindicte libidinem explendam vel propter odium aliquid fecerit viro vel mulieri, propter quod non posset generare vel concipere, reputatur homicida (*Extra*, “De homicidio” “Si aliquis”). Et nota quod  
54B communiter loquitur capitulum de amatoribus seculi qui suis | amasijs per pocula, ne confusionem incurrant, talia procurant, vel etiam per certas herbas naturam nimium infrigidantes absque auxilio demonum,

<sup>3</sup> *Ed. prin.*: bñque

<sup>464</sup> *Nider.*: malaginam

<sup>465</sup> *End*

vnde penitentes sicut homicide sunt puniendi. Malefice<sup>a</sup> autem per maleficia talia procurantes sunt secundum leges vltimo supplicio puniende, vt supra in prima questione tactum est.

Et pro solutione argumentorum, vbi difficultatur an matrimonialiter coniunctis talia contingere possint, est vltius aduertendum quod licet ex his que tacta sunt non pateat super hoc veritas, tamen vere et realiter illis in matrimonio sicut et extra contingere possunt. Et prudens lector qui copiam librorum habet inueniet tam apud theologos quam canonicistas (precipue *Extra* et<sup>b</sup> in materia “De frigidis et maleficiatis” et in *Quarto* (di. xxxiii)) mutuo concordantes et duos errores reprobantes, presertim circa matrimonialiter coniunctos, qui sentire videbantur quod tale maleficium non posset contingere inter matrimonialiter coniunctos, moti<sup>c</sup> illis rationibus quod diabolus non posset opera dei destruere.

Et primus error qui ab eis reprobat<sup>d</sup> est contra illos qui dicebant<sup>466</sup> maleficium nihil esse in mundo, sed tantum esset in opinione hominum, qui ex ignorantia causarum occultarum et quas etiam nullus hominum scire potest, aliquos effectus naturales maleficijs imputabant<sup>467</sup> quasi illos efficerent non occulte cause sed demones per se vel maleficos. Et hic error licet ab omnibus alijs doctoribus sub simplici falsitate reprobat<sup>d</sup>, tamen a sancto Thoma acrius impugnat<sup>d</sup>, vbi ipsum tanquam heresim condemnat, dicens quod hic error ex radice infidelitatis procedit,<sup>468</sup> et quia infidelitas in christiano heresis dicitur, ideo tales vt heretici merito sunt suspecti. De qua tamen materia etiam in prima questione tactum est, licet ibi non taliter sit declaratum. Nam si quis alia dicta doctoris sancti in alijs locis considerat, rationes inuenit quare asserit talem errorem ex radice infidelitatis procedere. Nam in *Questionibus de Malo*, vbi tractat de demonibus, et in questione prima (an demones habeant corpora naturaliter silbi vnita inter alia que ibi recitan-<sup>54D</sup> tur) mentio fit de illis qui singulos effectus <attribuerunt> ad virtutes celestium corporum, quibus et subesse dicebant occultas causas effectuum inferiorum, dicens:<sup>d</sup> considerandum<sup>469</sup> est quod peripatetici,

<sup>a</sup> *Ed. prin.*: -i

<sup>b</sup> *Seemingly unnecessary*

<sup>c</sup> *Ed. prin.*: - is (cf. 34D, 153D, 154A)

<sup>d</sup> *Dangling participle*

<sup>466</sup> *Start of adaptation of Aq., Sent. 4.34.1.3.Co.*: . . . quidam dixerunt quod maleficium nihil erat in mundo nisi in estimatione hominum, qui effectus naturales quorum cause occulte sunt maleficijs imputabant.

<sup>467</sup> *End*

<sup>468</sup> *Aq., Sent. 4.34.1.3.Co.*: procedit autem hec opinio ex radice infidelitatis siue incredulitatis.

<sup>469</sup> *Start of Aq., De Malo 16.1.Co.*

Arestotilis sectatores, non posuerunt demones esse, sed ea que attribuntur demonibus dicebant prouenire ex virtute celestium corporum et aliarum naturalium rerum, vnde Augustinus dicit (x *De Ciuitate Dei*), Porphirio visum fuisse quod herbis et lapidibus et animantibus ac sonis certis et vocibus ac figurationibus atque figmentis, quibusdam etiam obseruatis in celi conuersione motibus siderum fabricari in terra ab hominibus potestates siderum idoneas varijs effectibus exequendas.<sup>a.470</sup> Ex quibus apparet error quod omnia reducebant in causas occultas siderum et demones tantummodo fabricarentur ex opinione hominum. Sed quod hec positio sit falsa manifeste probat sanctus Thomas ex hoc (ibidem) quod<sup>471</sup> reperiuntur aliquae operationes demonum, que nullo modo | possunt ex aliqua naturali causa procedere, puta quod aliquis obsessus a demone loquatur linguam ignotam, et multa alia inueniuntur opera demonum tam in arreptitijs quam nigromanticis artibus, que nullo modo possunt nisi ex aliquo intellectu procedere,<sup>472</sup> ad minus bona secundum naturam, licet mala secundum voluntatem. Et<sup>473</sup> ideo coacti fuerunt<sup>474</sup> propter inconuenientiam<sup>b</sup> tactam<sup>c</sup> alij<sup>475</sup> philosophi ponere demones esse,<sup>476</sup> licet post in varios errores inciderunt, alijs putantibus animas hominum a corporibus exeuntes<sup>d</sup> demones fieri, vnde et multi aurspices pueros occiderunt, vt animas eorum suos cooperatores haberent,<sup>477</sup> et plures alij ibi errores recitantur. Vnde patet quod non immerito doctor sanctus dicit talem opinionem ex radice infidelitatis procedere. Si cui placet, legat Augustinum in viij et ix *De Ciuitate Dei*<sup>478</sup> super varios errores infidelium circa naturam demonum. Quare etiam communis ratio omnium doctorum, que in prefata distinctione allegatur contra huiusmodi errantes, scilicet qui maleficium aliquid esse negantes, magne

<sup>a</sup> Sc. -is (so Aq.)

<sup>b</sup> Ed. prin.: -a

<sup>c</sup> Ed. prin.: -a

<sup>d</sup> Ed. prin.: -ibus

<sup>470</sup> *Pause (Aq. continues: Sed hoc apparet manifeste falsum per hoc quod inueniuntur aliquae operationes demonum . . .)*

<sup>471</sup> *Resume*

<sup>472</sup> *Pause*

<sup>473</sup> *Resume*

<sup>474</sup> *Pause*

<sup>475</sup> *Resume*

<sup>476</sup> *End*

<sup>477</sup> *Aq., Summa Contra Gentiles 3.106.6 notes: . . . aliqui in executione earum [sc. artibus magicis] leguntur innocentes pueros occidisse, but no mention of this is made in the description of haruspices in Summa 2/2.95.3. Co.*

<sup>478</sup> *Two passages from these books are cited explicitly in Aq., De Malo 16.1. Co.*

est efficacie in sententia, licet brevis sit in verbis, vbi dicunt quod qui maleficium nihil esse in mundo asserunt contrariantur omnium doctorum sententijs et sacre scripture declarantis demones esse et demones habere potestatem supra corpora et supra imaginationes hominum deo permittente, vnde et per eos malefici mira operari possunt circa creaturas. Vnde et merito ipsorum demonum instrumenta et ad quorum instantiam demones interdum ad creaturarum nocumenta operantur malefici dicuntur.

Et quidem quamuis<sup>a</sup> per reprobationem huius primi erroris a doctoribus non fiat mentio de matrimonialiter coniunctis, tamen per reprobationem secundi erroris hoc patet. Dicunt enim quod aliorum error erat quod licet<sup>479</sup> maleficium esset et abundaret in mundo etiam contra carnalem copulam, tamen quia nullum tale maleficium potest censi perpetuum, ideo nunquam dirimeret matrimonium iam contractum.<sup>480</sup> Ecce quod mentio fit de matrimonialiter coniunctis!

Improbando autem hunc errorem: licet hoc declarare non deseruiat ad propositum, tamen propter eos qui copiam | librorum non habent, notandum quod improbant per hoc quod talia asserere dicunt<sup>481</sup> esse contra experimentum et contra iura antiqua et noua, vnde dant talem catholici doctores distinctionem quod impotentia ex maleficio procurata aut est temporalis aut perpetua. Si temporalis, tunc non impedit. Tunc autem presumitur esse temporalis quando infra spacium trium annorum<sup>482</sup> cohabitantes et quantum possunt operam dantes siue per ecclesiastica sacramenta siue per alia remedia sanari possunt. Si vero non sanentur aliquo remedio, extunc presumitur esse perpetua, et tunc aut precedit matrimonij contractionem et consummationem et sic impedit matrimonium contrahendum et dirimit iam contractum, aut sequitur matrimonij contractionem sed non consummationem et sic etiam, vt dicunt aliqui, dirimit matrimonium iam contractum – dicitur enim (xxxiiij q. i c. i) quod coniugium confirmatur officio, scilicet carnis, vt

<sup>a</sup> *Ed. prin.*: q̄3 (=quod) in place of q̄3uis

<sup>479</sup> *Start of adaptation of Aq.*, Sent. 4.34. r.3. Co.: . . . dixerunt alii quod per maleficia prestari potest impedimentum carnali copule, sed nullum tale est perpetuum, vnde non dirimit matrimonium contractum.

<sup>480</sup> *Pause*

<sup>481</sup> *Resumed adaptation of Aq.*: et dicunt iura que hoc dicebant esse reuocata, sed hoc est contra experimentum et contra noua iura que antiquis concordant. Et ideo distinguendum est quia impotentia coeundi ex maleficio aut est perpetua, et tunc matrimonium dirimit, aut non est perpetua, et tunc non dirimit. Et ad hoc experiendum eodem modo ecclesia tempus prefixit, triennium scilicet . . .

<sup>482</sup> *End*

dicit glosa – aut sequitur matrimonium consummatum et tunc vinculum  
 55D | matrimoniale non dirimit. Plura ibi notantur (*Extra*, “De frigidis” etc.)  
 per Hostiensem et Gofridum et doctores, etiam theologos (ubi supra).

Ad argumenta.

Ad primum satis patet ex his que dicta sunt. Nam primo quod<sup>483</sup>  
 dei opera possunt destrui per opera diaboli si maleficium posset inter  
 coniugatos contingere non valet instantia, imo oppositum patet cum  
 nihil possit diabolus nisi deo permittente. Item, quia non per violentiam  
 destruit,<sup>484</sup> vti tyrannus, sed per quamdam artem extrinsecam, vt supra  
 patuit.

Ad secundum patuit supra quare potius deus permittit super hunc  
 actum venereum quam super alios actus, potest etiam super alios quando  
 deus permittit, vnde non valet quod perimat mundum.

Ad tertium similiter patet ex dictis.

QUESTIO NONA. AN MALEFICE PRESTIGIOSA ILLUSIONE  
 OPERANTUR CIRCA MEMBRA VIRILIA QUASI ILLA OMNINO  
 SINT A CORPORIBUS EUULSA

56A TERCIO EADEM VERITAS DECLARATUR per diabolicas operationes  
 circa membrum virile, cuius rei veritas vt magis elucescat, queritur an  
 malefice valeant membra virilia virtute demonum vere et realiter vel  
 solummodo prestigiosa apparitione auferre.

Et arguitur quod vere et realiter per argumentum a fortiori. Maiora  
 possunt demones, vt homines occidere vel localiter transferre, vt supra  
 patuit de Job et Thobie vij viris occisis: ergo etiam possunt membra  
 hominis vere et realiter auferre.

Preterea, glosa super illud psalmi “immissiones per angelos malos”:<sup>485</sup>  
 “Deus punit per malos angelos, sicut populum Jsraeliticum sepe puniuit  
 varijs languoribus vere et realiter corporibus immissis.” Ergo et huius-  
 modi infirmitates circa membrum tale immittere potest. Si dicatur quod  
 potest diuina permissione, tunc sic in precedentibus dictum est quod  
 deus amplius permittit vim generatiuam maleficiari propter primam  
 corruptionem peccati, que per actum generantem in nos deuenit: ergo

<sup>483</sup> *Start of adaptation of Aq., Sent. 4.34.1.3.Ra2: Ad secundum dicendum quod opus dei potest  
 opere dei impediri diuina permissione, non quod diabolus deo sit fortior, vt per violentiam  
 opera eius detruat.*

<sup>484</sup> *End*

<sup>485</sup> *Quotation from Aq., De Malo 16.9.A3*

etiam amplius permittit super membrum illius potentiae generatiue, vt 56B  
ipsum totaliter auferat.

Preterea, maior fuit conuersio vxoris Loth in statuam salis<sup>486</sup> (*Genesis* xix) quam auferre membrum virile, sed illa fuit vera et realis et non apparens conuersio, quia adhuc visibiliter vt dicitur superest illa statua, et facta fuit per malum angelum, vt coacti a bonis qui prius cecitate eos percusserant, vt ostium domus inuenire non possent,<sup>487</sup> sicut etiam alie punitiones Sodomitarum, quia et glosa (ibidem) asserit ipsam etiam illo vicio infectam: ergo et ista facere possunt.

Preterea,<sup>488</sup> quicumque potest inducere formam naturalem potest et illam auferre. Sed demones formas naturales pluries induxerunt, vt patet de magis pharaonis qui virtute demonum ranas et serpentes fecerunt.<sup>489</sup>

Jtem, Augustinus<sup>490</sup> in *Libro lxxxij Quaestionum* dicit quod omnia que visibiliter fiunt etiam per inferiores potestates aeris, hec<sup>491</sup> non absurde fieri posse creduntur.<sup>492</sup> Sed hoc possunt facere homines, vt aliqua arte vel incisione membrum auferatur: ergo et demones ista facere inuisibiliter que<sup>a</sup> alij visibiliter | possunt.

56C

Sed<sup>493</sup> contra Augustinus (xviiij *De Ciuitate Dei*): "Non est credendum etiam hominis corpus demonum arte vel potestate in bestialia<sup>b</sup> lineamenta posse conuerti":<sup>494</sup> ergo etiam a simili non potest auferre hoc quod ad veritatem corporis humani deseruit. Jtem iij *De Trinitate* dicit: "Non est putandum istis transgressoribus angelis ad nutum seruire hanc visibilium rerum materiam sed soli Deo."<sup>495</sup>

Responsio. Nulli dubium quin malefice quedam mira operantur circa membra virilia, vt ex visis et auditis plurimorum, imo et ex ipsa

<sup>a</sup> *Ed. prin.*: qd' (=quod)

<sup>b</sup> *Ed. prin.*: -i

<sup>486</sup> *Quotation from Aq.*, De Malo 16.9.Ag3

<sup>487</sup> *Gen. 19:11*: Eos qui erant foris percusserunt cecitate a minimo vsque ad maximum, ita vt ostium inuenire non possent.

<sup>488</sup> *Start of adaptation of Aq.*, De Malo 16.9.3.Ag10: Preterea, quicumque inducit formam, formaliter transmutat. Sed demones possunt inducere formas non solum accidentes verum etiam substantiales. Nam magi pharaonis virtute demonum ranas fecerunt. Ergo videtur quod demones possint corpora formaliter transformare.

<sup>489</sup> *End*

<sup>490</sup> *Start of Aq.*, De Malo 16.9.Ag1, which begins: Dicit enim Augustinus in lib. lxxxij quae: "Omnia ..."

<sup>491</sup> *Aq.*: huius

<sup>492</sup> *End*

<sup>493</sup> *Start of adaptation of Aq.*, De Malo 16.9.SCr: Sed contra est quod Augustinus dicit (xviiij De Ciui. Dei): "Non solum animum sed nec corpus quidem nulla ratione crediderim demonum arte vel potestate in bestialia lineamenta posse conuerti."

<sup>494</sup> *End*

<sup>495</sup> *Quotation from Aq.*, Summa 1.110.2.SC

publica fama constat de hoc quod per sensum visus aut tactus veritas illius membri cognoscebatur.

Quod qualiter fieri potest, dicendum quod licet dupliciter fieri possit, scilicet vere et realiter, vt argumenta prima tetigerunt, et prestigiosa operatione, ea tamen que a maleficis fiunt circa huiusmodi non fiunt nisi prestigiosa illusionem, que tamen illusio non habet locum in imaginatione patientis, quia imaginatio eius potest vere et realiter estimare aliquam  
56D rem non esse presentem, licet per nullam operationem sensus exterioris, scilicet visum aut tactum, percipit esse presentem. Vnde potest dici vera ablatio membri ex parte imaginationis patientis, licet non ex parte rei.

Quod qualiter fit, sunt plura notanda. Primo, duo modi quibus ista fieri possunt. Non<sup>496</sup> mirum quod diabolus sensus humanos exteriores decipere potest, qui interiores, de quibus supra tactum est, illudere potest, formas reseruatatas educendo ad principia sua sensitiva. Decipit autem eos in sua naturali operatione, vt quod visibile est sit illi inuisibile, tangibile intangibile, audibile inaudibile, et sic de alijs. Hec autem veritas ita nihil ponit ex parte rei, quod omnia fiunt ex immutatione organorum deseruentium<sup>a</sup> ad visum, auditum etc., vt sunt oculi et manus, quibus immutatis iam fallitur sensus iudicium.

Possumus ista ex naturalibus quibusdam demonstrare. Nam sicut vinum dulce propter infectionem lingue in febricitante videtur amarum, vnde gustus decipitur, non ex parte rei sed ex parte humorum,<sup>497</sup> ita et  
57A ibi nulla deceptio ex parte rei, quin ibi sit virga | adherens, sed deceptio ex parte organi sensus.

Iterum, sicut supra dictum est de vi generatiua, illam impediendo per interpositionem alicuius alterius corporis eiusdem coloris et apparentie, ita et aliquod corpus planum figuratum colore carneo interponere possunt inter visum et tactum oculorum et manuum et inter ipsum verum corpus patientis, ita quod suo iudicio nihil valeat videre et sentire nisi corpus planum et nullo membro interruptum. Videantur dicta sancti Thome in *Secundo* (di. viij, arti. v) de prestigiosis illusionibus et similiter

<sup>a</sup> *Ed. prin.*: destruentium (cf. 49B)

<sup>496</sup> *Cf. Aq., Sent. 2.8.1.5.Ra4*: . . . forme que videntur in istis prestigijs non sunt nisi in sensu. Hoc autem potest dupliciter contingere per demonum operationem. Vno modo vt species que sunt in imaginatione servate operatione demonum ad organa sensuum fluant, sicut contingit in somno, et ideo quando ille species contingunt organa sensus exterioris, videntur ac si essent res presentes extra, et actu sentirentur. Alius modus potest esse ex immutatione organorum, quibus immutatis fallitur sensus iudicium, sicut in eo qui habet gustum corruptum, cui omnia videntur amara . . .

<sup>497</sup> *Cf. Aq., Summa 1. 85.6.Co*: sicut cum gustus febricentium dulcia iudicat amara propter hoc quod lingua malis humoribus est repleta.

*Secunda Secunde* (q. xci) et in *Questionibus de Malo*, frequenter allegans<sup>a</sup> illud Augustini in *Libro lxxxij Questionum*: “Serpit hoc malum demonis per omnes additus sensuales, dat se figuris, accomodat se coloribus, adheret sonis, odoribus se subijcit, infundit se saporibus.”<sup>498</sup>

Preterea, alludit ratio, quod non solum per interpositionem alicuius corporis plani non membrati<sup>b</sup> talis illusio prestigiosa in vidente et tangente fiat, imo et per modum quo certi spīritus seu species reseruari edu- 57B  
cuntur ad sua principia sensitua interiora, scilicet ad imaginationem et fantasiam, vnde contingit aliquid imaginari ac si primo eliciatur ex sensu exteriori. Nam vt in precedenti questione tactum est, demones virtute propria possunt localiter corpora mutare, ex transmutatione autem spīrituum et humorum etiam secundum nature operationem contingunt. Aliqua secundum imaginationem vel sensum videri naturaliter dico quia et philosophus<sup>499</sup> in *De Somno et Vigilia*, assignans causam apparitionis somniorum dicit quod cum animal dormierit descendente plurimo sanguine ad principium sensituum simul descendunt motus siue impressiones relicte ex sensibilibus motionibus, que in spīritibus sensibilibus conseruantur (termini fuerunt superius declarati),<sup>500</sup> ita quod tunc aliqua appareant ac si tunc primo a rebus exterioribus sensus immutarentur,<sup>501</sup> et quia hoc natura facere potest, a fortiori diabolus formas seu species corporis plani | et non membro virili organisati<sup>c</sup> educere potest ad 57C  
vim fantasticam et imaginatiuam, vt inde sensus iudicent ac si in rerum veritate ita esset. Per hunc etiam modum, vt patebit inferius, homines videntur animalia, cum tamen non sint in rerum veritate.

SECUNDO, NOTANDI SUNT ALIJ modi faciliores ad intelligendum et predicandum. Nam quia prestigium<sup>502</sup> nihil aliud est secundum Isidorum (viiij *Ethimologiarum* c. ix) quam sensuum quedam delusio et presertim oculorum, vnde et dicitur a “prestringo,” quia aciem oculorum prestringit, ita vt res videantur aliter esse quam sint, et vt Alexander de Halis dicit (*Parte ij*): “Prestigium proprie sumptum est illa illusio

<sup>a</sup> Sc. -antis

<sup>b</sup> Ed. prin.: -o

<sup>c</sup> Ed. prin.: -o

<sup>498</sup> Quotation from *Aq.*, De Malo 3.3. Rat2

<sup>499</sup> Start of *Aq.*, De Malo 16.11. Co.

<sup>500</sup> Parenthesis not in *Aq.*

<sup>501</sup> End

<sup>502</sup> Start of adaptation of *Nider*, Praec. 1.11.1 (C–D), which begins: Primo igitur queritur de prestigij: quot modis oculi hominum possint deludi. Est autem prouidendum quod prestigium est sensuum quedam delusio, oculorum presertim. Et dicitur a “prestringo,” quia aciem oculorum prestringit, vt dicit Isidorus (viiij *Ethi.* c. ix), ita quod res videantur “... quantum ad exteriores.”

demonis que non habet causam ex parte mutationis rei sed solummodo ex parte cognoscentis qui deluditur siue quantum ad interiores sensus siue quantum ad exteriores,<sup>503</sup> vnde<sup>a</sup> in genere loquendo etiam de  
 57D humana prestigijsiosa arte dicamus tribus<sup>504</sup> modis potest fieri: vno absque demonibus, et illa potius dicitur delusio, quia artificialiter fit agitatione hominum ostendentium vel occultantium aliquas res, sicut fit in traiectionibus per ioculatores vel per mimos.

Alius modus fit etiam sine virtute demonum, vtpote naturaliter virtute corporum naturalium vel etiam mineralium, que qui habent possunt secundum quandam virtutem huiusmodi rebus inditam rem ostendere vel facere apparere non sicut est. Vnde Thomas (*Prima Parte*, q. cxiiij, ar. iiij) et secundum alios plures quedam herba succensa seu accensa fumigans facit trabes apparere serpentes.<sup>505</sup>

Tercius modus delusionis est qui fit per demones deo tamen permittente. Habent enim demones ex natura, vt patuit, quandam potestatem<sup>506</sup> super quasdam res inferiores quam<sup>b</sup> possunt exercere circa illas quando deus sinit, vt tunc etiam res appareant aliter quam sint.<sup>507</sup>

58A Pro quo notandum |tercio quod demon<sup>508</sup> potest quinque modis illudere aliquem, quod iudicat rem aliter quam est: primo artificiali traiectionie, vt dictum est, quia quicquid homo scit per artem, melius ipse scire potest; secundo modo naturali applicatione alicuius rei, prout dictum est, per interpositionem alicuius corporis, vt alterum occultetur, vel etiam ex fantasijs hominum illas perturbando; tercio modo, vt quando in assumpto corpore ostendit se esse aliquam rem que non est, sicut<sup>509</sup>

<sup>a</sup> Sc. ideo

<sup>b</sup> So *Nider*; ed. *prin.*: quas

<sup>503</sup> *Pause*

<sup>504</sup> *Resume (Nider begins: Respondet ergo Alexander de Halis (parte ij) quod tribus modis ...)*

<sup>505</sup> *Aq., Summa 2.8.1.5.Ra4*: sicut ad vaporationem cuiusdam fumi trabes domus videntur serpentes.

<sup>506</sup> ex natura ... potestatem: quandam potestatem ex ordine nature in *Nider*

<sup>507</sup> *Pause*

<sup>508</sup> *Resume (Nider begins: Potest enim demon quinque modis ...)*

<sup>509</sup> *Here the extended direct quotation of Nider ends and the remainder is adaptation: ... vt lactucam, sicut accidisse videtur moniali, de qua refert Gregorium (i li. Dialogorum), vel in massa auri, vt de beato Antonio factum legitur, vel lupum, vt infra dicitur se ostendere potest et sic rem alienam suo assumpto corpore. Quarto potest turbare organum visus, vt videatur res nubilosa que est clara, et huiusmodi. Quinto modo in imaginatiuam potentiam operando transmutatione speciem sensibilibum secundum Thomam, vel humores varios mouendo, ut appareant ignea vel aquea vel huiusmodi. For the story of the nun, cf. *Nider*, Form. 5.11 (238B): primo Dyalogorum refert beatus Gregorius de quadam dei famula in monasterio virginum que ortum ibidem ingressa lactucam conspiciens et concupiscens, quam signo crucis benedicere oblita momordit: arrepta a demone cecidit et vexabatur quousque statim vocato ibi beato patre Equitio per eundem liberata est.*

Gregorius in primo *Dialogorum* narrat de moniali que comedit lactucam, que tamen, vt ipse demon fassus fuerat, lactuca non sed demon in lactuce specie aut in ipsa lactuca erat, vel etiam contingit Anthonio in massa auri quam in deserto repperit, vel etiam quando hominem verum tegit et facit vt brutum animal videatur, prout iam dicitur; quarto modo vt quando turbat organum visus, vt videatur res nubilosa, que est clara vel econuerso vt vetula appareat iuuenula (nam et post fletum apparet aliter lumen quam ante); quinto modo vt in imaginatiuam potentiam operando et transmutationem specierum sensibilium per commotionem humorum, vt supra tactum est, faciendo,<sup>510</sup> vt tunc quasi recentes et noue apparitiones in ipsis potentijs sensitiuis causentur. 58B

Et sic tribus vltimis modis demon illudere potest prestigiosa arte sensus hominis, et etiam secundo modo, vnde nulla difficultas quin membrum virile occultare prestigiosa arte velit. Euidens indicium siue experimentum quod nobis in officio inquisitionis existentibus reuelatum fuit infra ponatur, vbi de his et alijs factis plura recitantur in secunda parte tractatus.

*Quomodo maleficium a defectu naturali potest discerni*

INCIDENTALIS QUESTIO CUM CERTIS alijs difficultatibus.

Quod si queritur, “Petro ablatum est membrum, ignorat autem an per maleficium seu alias diuina permissione per demonis potentiam sit ablatum: suntne modi cognoscendi et discernendi inter ista?” responderi potest quod sic.

Primo quod tales quibus accidunt vt plurimum sunt adulteri seu alias fornicarij, vnde dum amasijs | non ad nutum seruiunt seu eas relinquere volunt, alijs adherendo, tunc in vindictam talia procurant aut alias potentiam illius membri amputant. Secundo cognoscitur per hoc quod non est durable. Nam si non sit ex maleficio, tunc non est durable sed quandoque redibit. 58C

Sed hic iterum suboritur dubitatio an hoc fit ex natura maleficij quod non sit durable. Respondetur quod potest esse perpetuum et durare vsque ad mortem, sicut etiam de impedimento maleficali in matrimonio. Judicant canoniste et theologi quod reperitur temporale et perpetuum. Nam dicit Gofredus in *Summa*: “Maleficium non potest solui semper per illum qui fecit, vel quia est mortuus vel quia nescit delere ipsum, vel quia maleficium est perditum” – unde a simili dicere possumus

quod maleficium Petro illatum erit perpetuum – “uel quia illa malefica que fecit non potest eum sanare.” Sunt enim malefice in triplice genere. Nam quedam sanant et ledunt, quedam ledunt sed sanare<sup>a</sup> nequeunt, 58D quedam tantummodo sanare videntur, id est, lesiones ammouere, vt inferius patebit. Sic enim nobis contigit. Nam due malefice mutuo rixantes, dum vna alteri improperearet, vna dixit: “Non sum tam pessima sicut tu, quia quos ledo sanare scio.” Vel etiam durabit vbi ante eius sanationem malefica discederet,<sup>b</sup> vel locum mutando vel ab hac vita discedendo. Nam et sanctus Thomas dicit: “Maleficium<sup>511</sup> quodlibet ita potest esse perpetuum quod non potest habere humanum remedium, quia etsi habet remedium, non est tamen hoc homini notum vel licitum, licet deus possit prestare remedium per sanctum angelum, demonem, licet non maleficam, cogendo.”<sup>512</sup>

Verum tamen summum remedium contra maleficium est penitentie sacramentum (*Extra*, “De Frigidis”). Nam et infirmitas corporalis sepe prouenit ex peccato (*Extra*, “De Penitentijs” “Cum infirmitas”). Qualiter etiam maleficia sint auferenda, patebit in tercia parte tractatus, et in secunda parte capitulo sexto tres alie differentie tanguntur.

59A

*Solutiones argumentorum*

PATET AD PRIMUM QUOD nulli dubium quin sicut deo permittente occidere possunt homines, ita et membrum illud seu alia auferre possunt vere et realiter. Sed tunc demones non operantur per maleficas, de quibus iam mentio habetur.

Et per hec etiam ad secundum patet solutio.

Sed ad illud quod quia deus amplius permittit vim generatiuam maleficiari propter etc., ergo etiam permittitur vt illud membrum vere et realiter auferatur, non valet vt semper hoc fiat, quia non esset per modum maleficij hoc fieri, nec etiam malefice hoc affectant dum talia operantur, quod non habeant potestatem restituendi membrum, quando volunt et sciunt. Ex quo patet quod non vere sed prestigiosa arte aufertur.

Ad tercium, de conuersione vxoris Loth, dicimus, vera fuit et non prestigiosa arte, nunc autem loquimur de arte prestigiosa.

<sup>a</sup> *Ed. prin.*: -i

<sup>b</sup> *Ed. prin.*: discede|deret

<sup>511</sup> *Start of adaptation of Aq., Sent. 4.34.1.3, Ra3*: . . . maleficium est ita perpetuum quod non potest habere remedium humano opere, quamuis deus posset remedium prestare demonem cogendo vel etiam demon desistendo.

<sup>512</sup> *End*

Ad quartum, quod demones possunt inducere aliquas formas substantiales, | ergo etiam auferre, dicitur quantum ad magos pharaonis quod <sup>59B</sup> fecerunt veros serpentes et possunt demones circa aliquas imperfectas creaturas adminiculo alicuius alterius agentis aliquos effectus producere, que<sup>a</sup> non possunt circa homines, de quibus deo magis est cura iuxta illud: “Numquid deo cura est de bobus?” Possunt tamen semper, vt dictum est, deo permittente hominibus etiam nocere vere et realiter aut etiam prestigiosa arte.

Et per hec etiam patet solutio ad vltimum argumentum.

QUESTIO DECIMA. AN MALEFICE OPERANTUR CIRCA  
HOMINES IN BESTIALES FORMAS PRESTIGIOSA ARTE ILLOS  
TRANSMUTANDO

QUARTO IPSA VERITAS DECLARATUR, vbi etiam homines transformant in bestias.

Quod qualiter fiat, arguitur quod non sit possibile hoc fieri: (xxvi q. v “Episcopi” ex consilio Acquirensi) “Quisquis credit posse fieri aliquam creaturam aut in melius aut in deterius immutari aut transformari in <sup>59C</sup> aliam speciem vel in aliam similitudinem nisi ab ipso creatore qui omnia fecit et per quem omnia facta sunt procul dubio infidelis est et pagano deterior,” et vtamur argumentis sancti Thome in *Secundo Sententiarum* (dis. viij, “An demones possint imprimere in sensus corporales prestigijs deludendo”),<sup>513</sup> vbi primo arguit quod non. Nam illa forma bestie<sup>514</sup> que videtur oportet quod sit alicubi, sed non potest esse tantum in sensu, quia sensus non habet aliquam speciem nisi a rebus acceptam,<sup>515</sup> et ibi non est vera bestia per auctoritatem canonis allegatam, nec<sup>516</sup> iterum potest esse in re que videtur, sicut<sup>517</sup> quod mulier videatur bestia,<sup>518</sup> quia due forme substantiales non possunt esse in eodem<sup>519</sup> simul et semul.<sup>b</sup> Ergo, cum illa forma bestie que videtur nullibi possit esse, ideo nulla

<sup>a</sup> Sc. quos

<sup>b</sup> Sc. semel (*same error in 68A*)

<sup>513</sup> *Start of Aq., Sent. 2.8.1.5. Ag4, which begins: Pretera videtur quod in sensus corporales imprimere non possit prestigijs deludendo. Illa enim forma . . .*

<sup>514</sup> *Not in Aq.*

<sup>515</sup> *Pause*

<sup>516</sup> *Resume*

<sup>517</sup> *Aq.: sic*

<sup>518</sup> *Aq.: equa*

<sup>519</sup> *End of direct quotation*

prestigiosa illusio in oculo videntis fieri potest, cum visio per aliquam formam necessario habeat terminari.

59D Preterea,<sup>520</sup> si dicatur quod forma illa sit in aere circumstante, hoc non potest esse, tum quia aer non est susceptivus alicuius forme seu figure, tum etiam quia non semper vnus et idem aer circa illam personam propter fluxibilitatem manere potest, precipue quando mouetur, tum etiam quia sic videretur ab omnibus talis transformatio, quod tunc non fit, quia demones non videntur adminus sanctorum virorum visiones decipere.<sup>521</sup>

Preterea,<sup>522</sup> sensus visiuus seu potentia visiuus<sup>523</sup> est potentia passiuus, sed omne passiuum mouetur ab actiuo sibi proportionato, actiuum autem proportionatum sensui est duplex: vnum quasi originans actum, scilicet obiectum, aliud autem quasi deferens sicut medium,<sup>524</sup> sed forma illa que videtur non potest esse obiectum sensus neque etiam medium quasi deferens.

De primo, scilicet quod non potest esse obiectum, quia a nulla re sumi potest, vt in precedenti argumento tactum est, cum non sit in sensu a re accepta, nec in ipsa re nec etiam in ipso aere quasi in medio deferente, vt prius tactum est in tercio argumento.

60A Preterea,<sup>525</sup> si demon mouet vim cognitiuam interiorem, aut hoc facit se obijciendo | virtuti cognitiue aut hoc facit immutando ipsam. Non autem hoc facit se ei obijciendo quia oporteret quod vel assumeret corpus et sic non posset interius ingredi ad organum imaginationis, cum<sup>a</sup> duo corpora non sint simul in eodem loco, neque [in] assumendo fantasma, quod etiam esse non potest quia fantasma non est sine quantitate, demon autem omni quantitate caret. Similiter etiam non potest hoc facere immutando,<sup>b</sup> quia aut immutaret alterando, quod videtur non posse facere quia omnis alteratio fit per qualitates actiuas quibus demones carent,<sup>c</sup> aut immutaret transmutando siue localiter mouendo, quod videtur esse inconueniens duobus rationibus: primo quidem quia transmutatio organi non posset fieri sine sensu doloris, secundo quia

<sup>a</sup> *Ed. prin.*: *cnm*

<sup>b</sup> *Ed. prin.*: *in mut-*

<sup>c</sup> *Ed. prin.*: *-et*

<sup>520</sup> *Resumed as adaptation.*: Et preterea res illa videretur talis ab omnibus, nec iterum in aere circumstante qui susceptibilis figure non est, nec semper vnus et idem circa rem illam manet, precipue quando mouetur.

<sup>521</sup> *End*

<sup>522</sup> *Start of Aq.*, De Malo 16.11. Ag8

<sup>523</sup> seu potentia visiuus: *not in Aq.*

<sup>524</sup> *End (Aq. continues)*: Sed demon, cum sit incorporeus, non potest esse obiectum sensus, neque etiam medium. Ergo videtur quod nullo modo possit mouere sensum.)

<sup>525</sup> *Start of Aq.*, De Malo 16.11. Ag9

secundum hoc demon non ostenderet homini nisi nota, cum tamen Augustinus dicit quod ostendit homini formas et notas et ignotas. Ergo videtur quod demones nullo modo possunt imaginationem vel sensum hominis decipere.<sup>526</sup>

Sed contra Augustinus<sup>527</sup> (xviiij *De Ciuitate Dei*) dicit quod transmutationes hominum in animalia bruta, que dicuntur arte demonum facte, non fuerunt secundum veritatem sed solum secundum apparentiam. Hoc autem fieri non posset si demones humanos sensus transmutare non possent.<sup>528</sup>

Preterea, alludit et autoritas Augustini in *Libro lxxxiiij Questionum*, que etiam prius allegata fuit: "Serpit hoc malum demonis per omnes additus sensuales"<sup>529</sup> etc.

Responsio. Si lector voluerit super modum transmutandi inspicere, inueniet in secunda parte operis (ca. vi) varios modos. Ad presens tantummodo scolastice procedendo dicamus trium doctorum sententias concordantes in eo quod diabolus potest fantasiam hominis decipere vt homo verus animal videatur. Inter quas etiam vltima subtilior ceteris, que et sancti Thome est.

Et prima est domini Anthonini in prima parte *Summe* (ti. v, ca. vi §v) declarantis quod diabolus<sup>530</sup> fantasiam hominis ad decipiendum quandoque operatur et precipue circa illusionem sensuum et declarat naturali ratione, canonis auctoritate et experimentorum multiplicitate. Primum sic.<sup>531</sup> "Corpora naturaliter subduntur et obediunt nature angelice quantum ad motum localem. Angeli autem mali, etiam si amiserint gratiam, non tamen virtutem naturalem, vt sepius supra tactum est. Cum autem potentia fantastica siue imaginatiua sit corporalis, id est, affixa organo corporeo, naturaliter subditur etiam malis, vt possint eam transmutare causando varias fantasias ex descensione<sup>a</sup> humorum et spirituum ad principium sensitium procurata ab eis." Hec ille et subdit:<sup>532</sup> "Patet et hoc ex canone<sup>533</sup> (xxvi q. v 'Episcopi'): 'Illud non est obmittendum quod quedam scelerate mulieres post Sathan retro conuerse demonum illusionibus et fantasmatibus seducte credunt se et profitentur cum

<sup>a</sup> So *Ant.*; *ed. prin.*: descen-

<sup>526</sup> *End*

<sup>527</sup> *Start of Aq.*, *De Malo* 16.11.SC2

<sup>528</sup> *End*

<sup>529</sup> *Quotation from Aq.*, *De Malo* 16.11.Ag8 (also 3.3.Ag12)

<sup>530</sup> *Start of Ant.*, *Summa* 1.2.6.5, which begins: Operatur etiam angelus malus, id est diabolus, circa phantasiam hominis, sed ad decipiendum. Quod declaratur naturali ratione . . .

<sup>531</sup> *Ant. adds:* declaratur.

<sup>532</sup> *This clause not in Ant.*

<sup>533</sup> *Ant. adds:* dicitur enim.

Dyana horis nocturnis, dea paganorum, vel cum Herodiade et cum innumera multitudine mulierum equitare super quasdam bestias et multa terrarum spacia intempeste noctis silentio pertransire.’ Et infra: ‘Quapropter sacerdotes predicare debent populo dei, vt nouerint omnino  
 60D hec falsa esse et non a diuino sed a maligno spiritu talia fantasmata mentibus fidelium irrogari, siquidem ipse Sathanas transformat se in diuersarum personarum species atque similitudines et mentem quam captiuam tenet in somnijs deludendo per deuia queque deducit.’<sup>534</sup>

Et quidem intellectus huius canonis in prima questione tactus est quo ad quatuor que predicanda sunt, sed quod non valeant etiam vehi vbi hoc affectant et non impediuntur diuina virtute, sic non esset verus intellectus, quia sepiissime homines inuiti et non malefici per multa terrarum spacia corporaliter transferantur, sed quia vtroque modo potest fieri, sequitur in prefata *Summa*, et<sup>535</sup> in c.<sup>536</sup> “*Nec mirum*” (eadem q.)<sup>537</sup> Augustinus narrat quod in libris gentilium legitur de quadam maga dicta Cyrces que socios Vlixis mutauerat in bestias, quod magicis prestigijs potius fingebatur quam in rerum veritate compleretur, alterando fantasias hominum.

Patet hoc etiam per plura exempla. Legitur enim in *Vitas Patrum* quod  
 61A quedam iuuenula quia assentire noluit | cuidam iuueni de turpitudine eam sollicitanti, ipse iuuenis turbatus ex hoc a quodam Iudeo procurauit maleficium fieri contra illam, quo peracto mulier conuersa est in equam, que conuersio non fuit secundum rei veritatem sed secundum ludificationem demonis immutantis fantasiam et sensum ipsius mulieris et aspicientium eam, vt videretur equa que erat vera mulier. Vnde ducta ad beatum Macharium non potuit diabolus ita operari quod illuderet sensus eius sicut aliorum propter suam sanctitatem. Nam sibi videbatur mulier vera, non equa, cuius tandem oratione liberata est ab illa illusionem, dicens hoc sibi accidisse quia non vacabat diuinis nec frequentabat sacramenta, vt dicebat. Ideo diabolus potestatem habuerat super eam, etsi alias esset honesta. Potest igitur diabolus per commotionem interiorum spirituum et humorum operari ad immutandum actum et potentiam nutritiue, sensitiue et appetitiue et cuiuscunque potentie corporalis organo vten-  
 61B tis secundum beatum Thomam (*Prima Parte*, q. cxi), sicut credi potest fuisse gestum super Simonem magum in incantationibus suis que de eo narrantur.

<sup>534</sup> *Pause (Ant. ends with: haec ibi)*

<sup>535</sup> *Resume*

<sup>536</sup> *Presumably this is meant here as an abbreviation for capitulo, but Ant. has can(one).*

<sup>537</sup> *Ant.: quidem for q. (with eadem going with can.)*

Sed nihil horum potest diabolus facere nisi deo permittente, qui cum angelis suis bonis frequenter reprimat maliciam eius decipere nos et nocere querentis. Vnde dicit Augustinus loquens de maleficis: “Hi sunt qui permissu dei elementa concutiunt, hominum mentes perturbant minus confidentium in Deo” (xxvi q. v “*Nec mirum*”).

Horum etiam operatione per maleficam arte<sup>a</sup> fit quandoque ut vir non possit videre uxorem et econverso, et hoc per immutationem fantasie representando ei talem ut rem odibilem et horribilem. Ipse etiam diabolus vigilantibus et dormientibus suggerit representationes turpium fantasie ad decipiendum et inducendum ad malum. Verum quia peccatum non consistit in imaginatione sed in voluntate, ideo ex huiusmodi fantasij per diabolum suggestis et alterationibus varijs homo non peccat nisi voluntate propria peccato assentiat.<sup>538</sup>

Secunda sententia ad idem modernorum doctorum declarantes<sup>b</sup> primo quid sit prestigium et quot modis demon potest huiusmodi illusiones causare. Hic nota quod Anthoninus<sup>c</sup> allegat ea que in precedenti questione (ix) tacta sunt, vnde non est opus illa renouare. 61C

Tercia sententia est sancti Thome, et est responsiva super argumentum quo queritur ubi sit illa forma bestie que videtur, aut in sensu aut in re aut in aere circumstante, et est talis: quod illa<sup>539</sup> forma bestie que videtur non est nisi in sensu<sup>540</sup> primo interiori et per fortem imaginationem resultat in sensum exteriorem quodam modo et quod ibi sit potest<sup>541</sup> per demonis operationem contingere dupliciter. Vno modo ut species, animalium dicamus,<sup>542</sup> que sunt in thesauro imaginationis reseruate fluant operatione demonum ad organa sensuum interiorum – sic etiam in somno contingit prout supra declaratum est<sup>543</sup> – et ideo quando ille species contingunt, organa sensus exterioris, puta visus, videntur ac si essent res presentes extra et actu sentirentur. Alius modus potest esse ex immutatione organorum interiorum quibus mutatis fallitur sensus 61D iudicium, sicut patet in eo qui habet gustum corruptum cui omnia dulcia videntur amara, et parum differt a primo.<sup>544</sup> Hoc autem facere possunt etiam homines virtute quarundam rerum naturalium, sicut ad

<sup>a</sup> *So Ant.; ed. prin.: -ē*

<sup>b</sup> *Sc. -ium*

<sup>c</sup> *Ed. prin.: -ius*

<sup>538</sup> *End*

<sup>539</sup> *Start of Aq., Sent. 2.8.1.5. Ag4*

<sup>540</sup> *Pause*

<sup>541</sup> *Resume*

<sup>542</sup> *Phrase not in Aq.*

<sup>543</sup> *Aq.: sicut contingit in somno*

<sup>544</sup> *Phrase not in Aq.*

vaporationem cuiusdam fumi trabes domus videntur serpentes, et multa experimenta huius inueniuntur,<sup>545</sup> vt etiam supra tactum est.

*Solutiones argumentorum*

AD ARGUMENTA.

Patet ad primum, quod textus ille sepe allegatur et male intelligitur. Nam quo ad hoc quod loquitur de transformatione in aliam speciem vel similitudinem declaratum est qualiter hoc fieri potest prestigiosa arte, sed quo ad hoc quod dicit quod non possit fieri aliqua creatura virtute demonis, si capitur “fieri” pro “creari” manifestum est quod non. Si vero capitur “fieri” pro “naturali productione,” sic certum est quod possunt facere aliquas creaturas imperfectas. Quod qualiter fit declarat<sup>546</sup> sanctus Thomas (ubi supra). Nam dicit quod omnes<sup>547</sup> transmutationes corporalium rerum que possunt fieri per aliquas virtutes naturales ad quas  
62A pertinent semina que in elementis | huius mundi inueniuntur, puta in terra vel in aquis, sicut relinquunt sua semina serpentes et rane et his similia, possunt fieri per operationes demonum huiusmodi seminibus adhibitis, sicut cum aliqua res transmutatur in serpentes vel ranas, que per putrefactionem generari possunt. Ille vero transmutationes corporaliū rerum que non possunt virtute nature fieri nullo<sup>a</sup> modo operatione demonum secundum rei veritatem perfici possunt, sicut quod corpus humanum mutetur in corpus bestie aut quod corpus hominis mortui reuiuiscat.<sup>548</sup> Quod si fieri videatur, apparentia est<sup>549</sup> prestigiosa aut diabolus in assumpto corpore se agitat coram hominibus.

Fortificantur ista. Nam Albertus<sup>550</sup> in libro *De Animalibus*, vbi querit an demones, seu etiam dicamus malefici, possint facere vera animalia,

<sup>a</sup> *Ed. prin.*: nollo

<sup>545</sup> *End*

<sup>546</sup> *Start of Nider, Praec. 1.11.8 (M), which begins*: Dicit tamen Thomas (Parte Prima q. cxiii, ar. iiii) quod omnes . . .

<sup>547</sup> *Start of Nider's quotation of Aq., Summa 1.114.4. Raz*

<sup>548</sup> *End of Aq.*

<sup>549</sup> *End (Nider adds: sicut ostensum est questione prima)*

<sup>550</sup> *Start of adaptation of Nider, Praec. 1.11.7 (L):* Questio septima, an verum sit quod malefici possint facere vera animalia arte sua. Respondetur secundum Albertum (ubi supra) quod sic, deo permittente: aliquando imperfecta quedam animalia procurare possunt fieri, non in instanti, sicut deus facere potest, sed motu quodam, licet subito, sicut patet de maleficis secundum Augustinum et Exo. viij, vbi glosa Strabi super isto: “Vocauit pharao sapientes” dicit quod demones discurrunt per mundum et colligunt diuersa semina et ex eorum adaptatione possunt producere diuersas species. Et glosa ibidem sic dicit: “Dum per incantationem demonum malefici aliquid efficere conantur, discurrunt per mundum et semina subito eorum de quibus hoc agitur afferunt, et sic ex illis permittente deo nouas species rerum producant.” Licet ergo demonum opere fieri possunt deo permittente vera talia, non illusoria, id est, solum apparentia.

respondit quod sic deo permittente, et hoc quo ad imperfecta animalia, sed non possunt in instanti, sicut deus, facere, sed motu quodam, licet subito, sicut patet de maleficis. *Exodi viij* super isto: “Vocavit pharao sapientes” dicit: “Demonnes discurrunt per mundum et colligunt diuersa 62B semina et eorum adaptatione possunt prorumpere diuerse species.” Et glosa ibidem sic dicit: “Dum per incantationem demonum malefici aliquid efficere conantur, discurrunt per mundum et semina subito eorum de quibus hoc agitur afferunt, et sic ex illis permittente deo nouas species rerum producant.” Hec etiam superius tacta sunt.

At ubi si difficultas suboriretur an talia facta demonum essent opera miraculosa dicenda, reponso patuit ex precedentibus, quod etiam demonnes aliqua vera miracula facere possunt, ad que virtus nature particularis se extendere potest. Et licet talia sint vera, non tamen ad veri cognitionem ab eo fiunt, secundum quem sensum opera Antichristi possunt dici signa mendacia, quia ad seductionem hominum fiunt.<sup>551</sup>

Patet et solutio ad aliud argumentum. De subiecto forme dicamus. Bestie forma que videtur non est in aere nec in ipsa re, vt patuit, sed in ipso sensu, prout ex sententia sancti Thome (ut superius) declaratum 62C est.

Ad illud, quod omne passiuum mouetur ab actiuo sibi proportionato, conceditur, et quando subinfertur quod forma illa que videtur non potest esse obiectum originans actum seu eliciens, eo quod a nulla re sumatur, dicitur quod imo a re, quia a specie sensibili in imaginatione reseruata quam educere potest et imaginationi seu etiam sensitiue potentie offerre potest, vt supra dictum est.

Ad<sup>552</sup> vltimum dicendum quod demon non immutat potentiam sensitiuam et imaginatiuam se ei obijciendo, vt ostensum est,<sup>553</sup> sed eam transmutando, non quidem alterando nisi quantum ad motum localem, quia non potest de se imprimere nouas species, vt dictum est. Immutat autem transmutando, id est,<sup>554</sup> localiter mouendo, et hoc iterum facit

tamen talia dicuntur signa mendacia semper, quia demonnes talia solum et principaliter faciunt ad seducendum homines videntes, propter quod (ij Thessal. ij) dicit apostolus de antichristo, quod aduentus eius erit secundum operationem Sathane in omni virtute et signis et predigijs mendacibus. Sancti autem miracula dei virtute increata impetrant vilia fidei et instantanee, cum placet altissimo.

<sup>551</sup> *End*

<sup>552</sup> *Start of Aq., De Malo 16.11. Ra9, which begins: Ad nouum . . .*

<sup>553</sup> *This clause in Aq.!*

<sup>554</sup> *Aq.: siue*

non substantiam<sup>555</sup> organi diuidendo, vt sic consequatur sensus doloris, sed mouendo spiritus et humores.

62D Quod autem vltcrius obijcitur quod sequeretur quod secundum hoc demon non possit aliquid noui homini demonstrare | secundum imaginatiuam visionem, dicendum est quod nouum aliquid potest intelligi dupliciter: vno modo totaliter nouum et secundum se et secundum sua principia, et secundum hoc demon non potest aliquid nouum homini secundum visionem imaginariam demonstrare. Non enim potest facere quod cecus natus imagnetur colores vel quod surdus natus imagnetur sonos. Alio modo dicitur aliquid nouum secundum speciem totius. Puta si dicamus esse nouum in imaginatione quod aliquis imagnetur montes aureos quos nunquam vidit, quia tamen vidit et aurum et montem, potest naturali motu imaginari fantasmata aurei montis. Et hoc modo potest demon aliquid noui imaginationi offerre.<sup>a. 556</sup>

*Quid de lupis interdum homines et pueros ex cunabulis rapientes<sup>b</sup> et comedentes<sup>c</sup> sentiendum sit, an etiam prestigiosa arte per maleficas*

63A JNCIDENTALIS questio de lupis interdum homines et pueros e domibus rapientes<sup>d</sup> et comedentes<sup>e</sup> et cum magna astucia discurrentes,<sup>f</sup> ita vt neque aliqua arte aut potentia ledi aut capi valeant. Dicendum est quod hoc interdum habet naturalem causam, interdum vero prestigiosam artem dum per maleficas contingunt.<sup>g</sup>

De primo Albertus<sup>557</sup> in *De Animalibus* dicit quod ex quinque causis prouenire potest. Aliquando propter famis augmentum, sicut et cerui aliquando et alie bestie hominibus appropinquant, aliquando propter ferocitatem virium et hoc in regionibus frigidis, et etiam quando habent

<sup>a</sup> *So Ag.; ed. prin.: -i*

<sup>b</sup> *Sc. -ibus*

<sup>c</sup> *Sc. -ibus*

<sup>d</sup> *Sc. -ibus*

<sup>e</sup> *Sc. -ibus*

<sup>f</sup> *Sc. -ibus*

<sup>g</sup> *Sc. -it*

<sup>555</sup> *Ag.: simply mouendo, non quidem substantiam . . .*

<sup>556</sup> *End*

<sup>557</sup> *Start of adaptation of Nider, Praec. 1.11.9 (N), which begins: Questio nona: vnde ergo prouenit quod quidam lupi tam crudeliter, astute et particulariter homines comedunt? Respondetur secundum Albertum in iij De Animalibus et secundum alios quod ex septem causis prouenire potest. Aliquando propter famis argumentum, sicut et cerui aliquando et alie bestie hominibus appropinquant. Aliquando propter ferocitatem virium. In frigidis enim regionibus sunt corpore minores et magis asperi et feroces, sicut etiam tempore coitus, et quando habent catulos . . .*

catulos.<sup>558</sup> Sed quia de his nihil ad propositum, dicimus quod demonum illusionem fiunt quando deus<sup>559</sup> propter peccata punit aliquem populum iuxta illud (*Leuitici* xvi): “Si non feceritis mandata mea, mittam in vos bestias agri que consumant vos et pecora vestra,” et (*Deuteronomi* xxxij): “Dentes bestiarum immittam in eos cum furore” etc. Per quem autem modum, an sint veri lupi vel demones in formis | sic apparentibus, dicitur quod sunt veri lupi sed obsidentur a demonibus vel agitantur duplici modo: vno modo absque maleficorum operatione, sicut quadragintaduobus pueris contingit a duobus vrsis de silua exeuntibus, quos iugulauerunt propter irrisionem factam Heliseo prophete dicendo: “Ascende, calue” etc., et de leone qui prophetam dei iussum non implentem occidit (*tercio<sup>a</sup> Regum* xiiij) et historia de episcopo Vieuensi, qui letanias minores instituerat ante ascensionem domini, eo quod lupi ciuitates intrantes homines vorauerunt publice. Alio modo etiam maleficorum illusionem, sicut Guilhelmus (ubi supra) narrat de quodam viro qui se conuerti putabat in lupum certis temporibus quibus in antris latitabat. Illuc enim certo tempore iuit et sibi interim, cum fixus maneret, videbatur quod lupus ipse factus circumiret pueros deuorando, et cum illud realiter solum demon quendam lupum possidens faceret, putabat falso se somnians circumire, | et sic tamdiu dementatus fuit quousque inuentus est iacere in silua raptus. 63B

Delectatur in his demon, vt paganorum errorem, qui homines et vetulas in bestias mutari credebant, inducat. Vnde discernitur quod ex singulari dei permissione et demonum opere talia eueniunt et non ex

<sup>a</sup> Sc. -i

<sup>558</sup> End

<sup>559</sup> *Start of adaptation of Nider. Praec. 1.11.9 (N)*: Vnde demonis opere potuit illud fieri quod refert Vincentius in Speculo Hystoricali (li. vi c. xl): “In Galli,” inquit, “ante Christi incarnationem et ante bellum punicum lupus vigili e vagina gladium abstulit.” Et Guillelmus (ubi supra) refert de quodam viro qui se conuerti putabat in lupum certis temporibus, quibus in antris latitabat. Illuc enim certo tempore iuit et opere demonis velud dormiens iacuit, et sibi interim, cum fixus maneret, videbatur quod lupus ipse factus circumiret pueros deuorando. Et cum illud realiter solum demon quendam lupum possidens faceret, putabat falso se somnians circumire, quomodo tam diu demantatus est vir ille, quousque inuentus est iacere in silua raptus mentaliter. Aliquando etiam fit propter occultum vel manifestum dei iudicium, quod de monitu vel diuino instinctu lupi propter peccata parentum vel puerorum tales damnificantur, sicut factum esse legimus xliij pueris qui deridendo Heliseum, dicendo: “Ascende, calue, ascende, calue,” a duobus vrsis de silua exeuntibus statim iugulati sunt (iiiij Reg, ij), et de leone qui prophetam dei iussum non implentem occidit (iiij Re. xiiij). Sic etiam, vt in hystorijs legimus: tempore Mamertini episcopi Veniensis letanie minores, que ante ascensionem domini celebrantur triduo, inuente sunt, quando lupi ciuitates intrantes ibi homines vorarunt publice. Hec deus comminatus est Leuit. xvi, dicens: [*same quote*] et Deu. xxxij: “Dentes bestiarum immittam in eos cum furore trahentium super terram atque serpentium.”

naturali aliquo defectu, quando nulla arte aut potentia ledi aut capi possunt, sicut etiam Vincentius in *Speculo Historie* (li. vi c. xl) narrat: “In Gallia,” inquit, “ante Christi incarnationem et ante bellum Punicum lupus vigili<sup>a</sup> vagina gladium abstulit.”<sup>560</sup>

QUESTIO VNDECIMA.<sup>b</sup> QUOD OBSTETRICES MALEFICE  
CONCEPTUS IN VTERO DIUERSIS MODIS INTERIMUNT,  
ABORSUM PROCURANT, ET VBI HOC NON FACIUNT,  
DEMONIBUS NATOS INFANTES OFFERUNT

63D QUINTO, SEXTO ET SEPTIMO insimul veritas supradicta probatur per quatuor horrendos actus quos circa | infantes in vtero et ex vtero matris exercent, que cum per mulieres demones exercere habent et non per viros, ideo potius mulieres quam viros sibi associare ille insatiabilis homicida satagit.

Et sunt huiusmodi opera. Nam canoniste plus quam theologi de maleficali impedimento tractantes (ubi supra) dicunt quod maleficium fit non solum ne quis actum carnalem exercere valeat, de quo supra tactum est, sed etiam fit ne mulier concipiat vel si concipit quod tunc aborsum faciat, et additur tercius modus cum quarto, quod vbi aborsum non procurant, quod tunc infantem consumunt vel demoni offerunt. De primis duobus modis non est dubium, cum per naturalia homo absque demonum auxilio, vt per herbas vel alia impedimenta, procurare posset, quod mulier non posset generare vel concipere, vt supra tactum est, sed de alijs duobus, quod etiam a maleficis procurantur, disserendum est, nec opus est argumenta deducere, vbi euidentissima indicia et experimenta hec reddunt credibilia.<sup>c</sup>

64A Et de primo, quod certe<sup>561</sup> malefice contra humane nature inclinationem, imo aduersus omnium bestiarum condiciones, lupina dumtaxat specie excepta, infantes deuorare et comedere solent,<sup>562</sup> est inquisitor Cumanus, de quo supra mentio habita est, qui hec nobis retulit, quod ea de causa ab incolis comitatus Burbie vocatus ad inquisitionem faciendam, eo videlicet quod quidam cum puerum ex cunis amisisset

<sup>a</sup> So Nider; ed. prin.: -e

<sup>b</sup> Ed. prin.: ix

<sup>c</sup> Ed. prin.: -ius (cf. incredibilia in next parag.)

<sup>560</sup> End

<sup>561</sup> *Start of adaptation of Nider, Form. 5.3 (202B–C):* . . . quidam malefici vtriusque sexus, qui contra humane nature inclinationem, ymo aduersus condiciones specierum omnium bestiarum, lupina specie excepta tantaummodo, proprie speciei infantes vorant et comedere solent.

<sup>562</sup> End

et explorando conuentionem mulierum nocturno tempore vidisset et perpendisset infantem occidi et liquore ebibito deuorare, ideo, vt prius tactum est, vnico anno, qui et fuit annus proxime elapsus, quadraginta et vnam maleficas igni tradidit, certis alijs ad dominium archiducis Austrie Sigismundi fugam capientibus. Assunt pro confirmatione huius scripta quedam Johannis Nider in suo *Formicario*, cuius vtique et eorum que scripsit recens memoria superest, vnde non incredibilia, sicut apparent, existunt.

Sed et hoc quod maiora damna in his omnibus obstetrices malefice procurant, prout malefice penitentes nobis et alijs sepius retulerunt, <sup>64B</sup> dicentes, “Nemo fidei Catholice amplius nocet quam obstetrices.” Vbi enim pueros non interimunt, tunc quasi aliquid acturi<sup>a</sup> foris extra cameram infantem<sup>b</sup> deferunt et sursum in aere eleuantes demonibus offerunt.

Modus autem in huiusmodi flagitijs qui obseruatur in secunda iam parte patebit et capitulo septimo, quam et aggredi necesse est prius, vnica dumtaxat decisione questionis de permissione diuina premissa. Dictum est enim a principio tria necessario ad maleficalem effectum concurrere: demonem cum malefica et diuinam permissionem.

DEINDE CONSIDERANDUM EST DE ipsa permissione diuina, circa quam quattuor queruntur: primo, an necessarium sit ipsam permissionem ad maleficalem effectum concurrere; secundo, quod deus iuste permittit creaturam ex natura peccabilem etiam actum maleficalem et alia horrenda flagicia perpetrare, alijs duabus permissionibus presuppositis; tercio, quod maleficiorum flagitia cuncta mala que deus fieri permittit excedunt; quarto, qualiter hec materia sit | populo publicanda. <sup>64C</sup>

CIRCA TERCIVM PRINCIPALE HUIUS prime partis tangens diuinam permissionem queritur, an diuinam permissionem in his operibus maleficorum commendare ita sit catholicum, quod eius oppositum, scilicet redarguere illam, omnino sit hereticum.

Et arguitur quod non sit hereticum asserere quod deus tantam potestatem non permittat diabolo in huiusmodi maleficijs. Refutare enim illa que in contumeliam creatoris possunt cedere est catholicum et non hereticum, sed asserere quod diabolo non permittatur talis potestas nocendi hominibus est catholicum. Probatur, quia oppositum asserere videtur cedere in contumeliam creatoris. Nam sequitur quod non omnia

<sup>a</sup> Sc. -e

<sup>b</sup> Ed. prin.: -e

sint subiecta diuine prouidentie, eo quod omnis<sup>563</sup> sapiens prouisor excludit defectum et malum, quantum potest, ab his quorum curam gerit. Cum autem ea que per maleficia fiunt, si a deo permittuntur, ab eo non excluduntur, et si ab eo non excluduntur, non erit sapiens prouisor ipse deus et sic non subsunt omnia sue prouidentie,<sup>564</sup> quod  
64D quia falsum est: ideo et hoc | falsum quod deus permittat.

Preterea, ille<sup>565</sup> aliquid permittit fieri quod posset impedire si vellet aut quod non potest impedire etiam si vellet. Sed neutrum illorum deo potest conuenire: non primum quia talis iudicatur inuidus, non secundum quia talis iudicatur impotens.

Tunc queritur incidentaliter: “Hoc maleficium Petro accidit et deus potuit impedire et non fecit: ergo deus est inuidus seu non habet curam de omnibus. Si vero non potuit impedire etiam si vellet, tunc non est omnipotens.”<sup>566</sup> Que omnia sicut inconueniens est asserere, scilicet deum non habere curam omnium etc., ergo et hoc quod maleficia ex dei permissione contingunt.

Preterea,<sup>567</sup> quicumque dimittitur sibi et est dominus actuum suorum non subest permissioni aut prouidentie alicuius gubernantis, sed homines sibiipsis dimittuntur a deo secundum illud (*Ecclesiastici xv*): “Deus ab initio constituit hominem et reliquit eum in manu consilij sui.” Specialiter mali in suis operibus relinquuntur secundum illud: “Dimisit eos secundum desideria cordis eorum.” Jgitur non omnia mala diuine permissioni subduntur.<sup>568</sup>

65A Preterea,<sup>569</sup> Augustinus dicit in | *Encheridio*, sicut etiam philosophus in ix *Methaphisicorum*:<sup>570</sup> “Melius est quedam nescire quam scire,” vt vilia. Sed omne quod est melius est deo attribuendum.<sup>571</sup> Ergo deus non impedit se de istis vilissimis maleficorum operibus, vt illa permittat vel non.

<sup>563</sup> *Start of adaptation of Aq.*, Summa 1.22.2.Ag.2: Omnis sapiens prouisor excludit defectum et malum, quantum potest, ab his quorum curam gerit. Aut igitur deus non potest ea impedire, et sic non est omnipotens, aut non de omnibus curam habet.

<sup>564</sup> *End*

<sup>565</sup> *Start of adaptation of Aq.*, Summa 1.22.2.Ag.2: . . . Videmus autem multa mala in rebus esse. Aut igitur deus non potest ea impedire, et sic non est omnipotens, aut non de omnibus curam habet.

<sup>566</sup> *End*

<sup>567</sup> *Start of Aq.*, Summa 1.22.2.Ag.4

<sup>568</sup> *End (Aq. ends with: Non igitur omnia diuine prouidentie subsunt.)*

<sup>569</sup> *Start of Aq.*, Summa 1.22.3.Ag.3

<sup>570</sup> *This clause is placed in Aq. after the quotation from Augustine (et idem dicit philosophus . . .).*

<sup>571</sup> *End (Aq. ends with: Ergo deus non habet immediate prouidentiam quorundam vilium et malorum.)*

Ad idem apostolus (ij *Ad Corinthios* ix): "Non est deo cura de bobus?"<sup>572</sup> et eadem ratione de alijs irrationalibus creaturis, vnde quando maleficiantur vel non, non est deo cura, nec etiam eius permissioni, que ex eius prouidentia procedit, subduntur.

Preterea,<sup>573</sup> que ex necessitate contingunt, prouidam permissionem non requirunt, sicut nec prudentiam. Patet hoc per philosophum in vi *Ethicorum*: "Prudentia est recta ratio contingentium, de quibus est consilium et electio."<sup>574</sup> Sed plures effectus maleficiales ex necessitate contingunt, puta quando ex aliqua causa et influencia corporum celestium accidunt infirmitates vel aliqua alia que nos iudicamus maleficia, vnde non semper subduntur diuine permissioni.

Preterea, si permissione diuina homines maleficiantur, tunc queritur, <sup>65B</sup> cur potius super vnum quam super alium. Si dicatur quod propter peccata que magis abundant in vno quam in altero, hoc videtur esse falsum, quia tunc maiores peccatores amplius maleficiarentur, cuius contrarium dum apparet eo quod minus in mundo, sicut puniuntur iuxta illud: "Bene est omnibus qui preuaricantur," ita etiam minus maleficiuntur. Patet denique ex eo quod innocentes pueri et alij iusti amplius maleficiuntur.

Sed contra deus<sup>575</sup> permittit, licet non velit, malum fieri, et hoc propter perfectionem vniuersi. Dionisius (iij c. *De Diuinis Nominibus*): "Erit malum ad omnes, id est, perfectionem vniuersi conferens" et Augustinus in *Encheridio*: "Ex omnibus bonis et malis consistit vniuersitatis admirabilis pulcritudo. In quantum etiam illud quod malum dicitur bene ordinatum et in loco suo positum eminentius commendat bona vel illa magis placeant et laudabiliora sint, dum comparantur malis."<sup>576</sup>

Item sanctus Thomas improbat opinionem illorum, | quod<sup>577</sup> licet <sup>65C</sup> deus non velit mala, quia neque creatura aliqua appetit malum, siue

<sup>a</sup> So *Aq.*: ed. *prin.*: et

<sup>572</sup> Quotation from *Aq.*, Summa 1.22.2.Ag5

<sup>573</sup> Start of adaptation of *Aq.*, Summa 1.22.2.Ag3: Preterea, que ex necessitate eueniunt prouidentiam seu prudentiam non requirunt, vnde secundum philosophum in vi *Ethic.* prudentia est recta ratio contingentium, de quibus est consilium et electio.

<sup>574</sup> End

<sup>575</sup> Start of adaptation of *Aq.*, Summa 1.19.9.Ag2: Preterea dicit Dionysius [*both quotations follow, then:*] Sed deus vult omne illud quod pertinet ad perfectionem et decorem vniuersi, quia hoc est quod deus maxime vult in creaturis. Ergo deus vult mala.

<sup>576</sup> End

<sup>577</sup> Start of adaptation of *Aq.*, Summa 1.19.9.Rat: ... quidam dixerunt quod licet deus non velit mala, vult tamen mala esse vel fieri, quia licet mala non sint bona, bonum tamen est mala esse vel fieri. Quod ideo dicebant quia ea que in se mala sunt ordinantur ad aliquod bonum, quem quidem ordinem importari credebant in hoc quod dicitur: mala esse vel fieri. Sed hoc non recte dicitur, quia malum non ordinatur ad bonum per se sed per accidens. Preter intentionem

appetitu naturali siue animali siue intellectuali, qui est voluntas, cuius obiectum est bonum, vult tamen mala esse vel fieri. Hoc dicit esse falsum, quia deus neque vult mala fieri neque vult mala non fieri, sed vult permittere malum fieri, et hoc est bonum propter perfectionem vniuersi.

Quare autem sit erroneum dicere: “Deus vult mala esse vel fieri propter bonum vniuersi,” dicit quia nihil est iudicandum bonum nisi secundum id quod competit ei per se et non per accidens, sicut virtuosus iudicatur bonus in intellectuali creatura et non animali. Malum autem non ordinatur ad bonum per se sed per accidens, quia preter intentionem eorum qui malum operantur resultat bonum, sicut preter intentionem tyrannorum fuit quod ex eorum persecutione claresceret patientia martirum.<sup>578</sup>

65D Responsio. Questio quanto<sup>a</sup> vtilior ad predicandum, tanto etiam difficilior ad intelligendum existit. Est enim inter argumenta hoc precipuum non tam laicorum quam et quorundam sapientium, maleficia tam horrenda, vt superius tacta sunt, non permitti a deo, causas diuine permissionis huius ignorantes,<sup>b</sup> ex qua etiam ignorantia quia malefice non supprimuntur per vltionem debitam, iam totam christianitatem depopulare videntur. Vt ergo ad vtranque viam iuxta theologorum sententiam docto et indocto satisfiat,<sup>c</sup> per discussiones duarum difficultatum est respondendum, et primo quod mundus diuine prouidentie ita subiacet quod ipse immediate omnibus prouidet, secundo quod vniuersitatem malorum que fiunt siue in malis culpe siue pene siue damni ex duabus primis permissionibus circa casum angelorum et primorum parentum iuste permittit, vnde et patebit quod in his diffidere pertinaciter heresim sapit, cum erroribus infidelium talis se implicat.

66A Quod ad primum notandum quod presupposito illo quod | prouidentia deo conueniat iuxta illud (*Sapientie* xiiij): “Tu<sup>579</sup> autem pater gubernas omnia prouidentia,”<sup>580</sup> oportet etiam asserere quod omnia sint ita subiecta sue prouidentie quod etiam omnibus immediate prouideat. Quod vt pateat, ostendamus primo per reprobationem cuiusdam contrarij erroris.

<sup>a</sup> *Ed. prin.*: -a

<sup>b</sup> *Sc.* -ium

<sup>c</sup> *Ed. prin.*: -ia

(*fn. 576 cont.*) enim peccantis est quod ex hoc sequatur aliquod bonum, sicut preter intentionem tyrannorum fuit quod ex eorum persecutionibus claresceret patientia martyrum . . .

<sup>578</sup> *End*

<sup>579</sup> *So Aq.; Vulgate:* tua

<sup>580</sup> *Quotation from Aq., Summa 1.22.1.SC*

Nam super illud (*Job* xxij): “Nubes latibulum eius, et circa cardines celi perambulat, nec nostra considerat”<sup>581</sup> quidam<sup>582</sup> fuerunt iuxta doctrinam sancti Thome (*Prima Parte*, q. xxij) ponere tantummodo incorruptibilia subiacere diuine prouidentie, prout sunt substantie separate, et corpora celestia cum speciebus rerum inferiorum, que etiam sunt incorruptibilia. Indiuuidua vero specierum, quia sunt corruptibilia, dicebant non subiacere.<sup>583</sup> Vnde sic diuine prouidentie dicebant subiacere omnia inferiora que in mundo aguntur, in vniuersali tantum et non in particulari seu singulari.

Sed quia hoc alijs videbatur inconueniens, vt de homine non esset amplior deo cura quam de alijs animalibus, ideo | rabbi Moyses,<sup>584</sup> volens 66B medium tenere, dixit concordando cum primis, corruptibilia omnia, sicut sunt indiuuidua rerum, omnino non subiacere diuine gubernationi sed tantummodo vniuersalia et alia que tacta sunt. Hominem vero ab illa generalitate corruptibilium excepit, et hoc propter splendorem intellectus, quo participant<sup>585</sup> cum substantijs separatis.

Et sic secundum istam opinionem, quicquid hominibus accideret in maleficijs, esset ex permissione dei, non autem quicquid animalibus aut alijs terre frugibus eueniret. Et hec opinio, licet sit veritati propinquior quam illa que omnino<sup>586</sup> prouidentiam dei de rebus mundi negabat, asserens mundum casu esse factum, sicut fuerunt Democritus et Epicurei,<sup>a</sup><sup>587</sup> tamen etiam non caret magna falsitate, eo quod necesse est dicere omnia diuine prouidentie subiacere, non in vniuersali tantum, sed etiam in particulari, vt non solum maleficia hominum sed et iumentorum et terre frugum ex diuina et prouida permissione eueniunt.

Quod sic patet. Ad<sup>588</sup> tantum se | extendit prouidentia et ordinantia 66C rerum in finem quantum ipsa causalitas se extendit, sicut a simili in

<sup>a</sup> *So Aq.; ed. prin.:* -curi

<sup>581</sup> *Quotation from Aq., Summa 1.22.2.Co.*

<sup>582</sup> *Start of adaptation of Aq., Summa 1.22.2.Co.:* Quidam vero posuerunt incorruptibilia tantum prouidentie subiacere; corruptibilia vero non secundum indiuuidua sed secundum species; sic enim incorruptibilia sunt.

<sup>583</sup> *End*

<sup>584</sup> *Start of adaptation of Aq., Summa 1.22.2.Co.:* A corruptibilium autem generalitate excepit rabbi Moyses homines propter splendorem intellectus quem participant; in alijs autem indiuuiduis corruptibilibus aliorum opinionem est secutus.

<sup>585</sup> *End*

<sup>586</sup> *Start of adaptation of Aq., Summa 1.22.2.Co.:* . . . quidam totaliter prouidentiam negauerunt, sicut Democritus et Epicurei, ponentes mundum factum esse casu.

<sup>587</sup> *End*

<sup>588</sup> *Start of adaptation of Aq., Summa 1.22.2.Co.:* Cum enim omne agens agat propter finem, tantum se extendit ordinatio effectuum in finem quantum se extendit causalitas primi agentis. Ex hoc enim contingit in operibus alicuius agentis aliquid prouenire non ad finem ordinatum, quia

rebus alicuius dominio subiectis, que intantum subiacent eius prouidentie inquantum sibi existunt subiecte. Cum autem causalitas dei, que est primum agens, extendit se ad omnia entia non solum quantum ad principia speciei sed etiam quantum ad principia indiuidualia, et non solum incorruptibilem sed etiam corruptibilem, ideo sicut omnia habent esse a deo, ita omnia sunt prouisa ab eo, id est, ad aliquem finem ordinata. Et hoc tangit apostolus (*Ad Romanos* xiiij): “Que a deo sunt ordinata sunt,” quasi dicat: “Sicut omnia a deo sunt, ita etiam omnia ab ipso ordinata sunt et per consequens prouidentie eius subiecte,” quia prouidentia dei nihil aliud esse noscitur quam ratio, id est, causa ordinis rerum in finem. Omnia ergo, inquantum participant de esse, intantum etiam subduntur diuine prouidentie.

Item, deus omnia cognoscit non solum in vniuersali seu vniuersalia, 66D imo et in particulari seu particularia, et cum dei cognitio comparatur ad res creatas, sicut cognitio artis ad artificata, ideo sicut omnia artificata subduntur ordini et prouidentie artis, ita omnia subduntur ordini et prouidentia dei.<sup>589</sup>

Sed quia per hec non satis fit vt intelligatur quod deus iuste permittat mala fieri et maleficia in mundo, licet intelligamus hoc quod ipse sit prouisor omnia gubernans, quod quia conceditur, ideo etiam deberet omne malum ab his quorum curam gerit excludere, inter homines enim videmus ita fieri quod sapiens prouisor excludit defectum et malum quantum potest ab his quorum curam gerit: ideo ad intelligendum ista cur non omnia mala deus excludit, notandum quod aliud<sup>590</sup> est loqui

effectus ille consequitur ex aliqua alia causa preter intentionem agentis. Causalitas autem dei, qui est primum agens, se extendit vsque ad omnia entia, non solum quantum ad principia speciei sed etiam quantum ad indiuidualia principia, non solum incorruptibilem sed etiam corruptibilem. Vnde necesse est omnia que habent quocumque modo esse ordinata esse a deo in finem secundum illud apostoli (*Ad Rom. xiiij*): “Quae a deo sunt ordinata sunt.” Cum ergo nihil aliud sit dei prouidentia quam ratio ordinis rerum in finem, vt dictum est, necesse est omnia, inquantum participant esse, intantum subdi diuine prouidentie. Similiter etiam supra ostensum est quod deus omnia cognoscit, et vniuersalia et particularia. Et cum cognitio eius comparetur ad res, sicut cognitio ad artificata, vt supra dictum est, necesse est quod omnia supponantur suo ordini, sicut omnia artificata subduntur ordini artis.

<sup>589</sup> *End*

<sup>590</sup> *Start of adaptation of Ag., Summa 1.22.2. Raz: . . . aliter de eo est qui habet curam alicuius particularis et de prouisore vniuersali, quia prouisor particularis excludit defectum ab eo quod eius cure subditur quantum potest, sed prouisor vniuersalis permittit aliquem defectum in aliquo particulari accidere ne impediatur bonum totius . . . Cum igitur deus sit vniuersalis prouisor totius entis, ad ipsius prouidentiam pertinet vt permittat quosdam defectus esse in aliquibus particularibus rebus ne impediatur bonum vniuersi perfectum. Si enim omnia mala impediuntur, multa bona deessent vniuerso: non enim esset vita leonis si non esset occisio animalium, nec esset patientia martyrum si non esset persecutio tyrannorum. Vnde dicit Augustinus in *Enchirid.*: Deus omnipotens nullo modo sineret malum aliquod esse in operibus suis nisi vsque adeo esset omnipotens et bonus vt bene faceret etiam de malo.*

de prouisore particulari et aliud de prouisore vniuersali. Prouisor enim particularis necesse habet malum excludere quantum potest, quia non potest ex malo elicere bonum. Deus autem cum sit vniuersalis prouisor totius mundi et possit ex particularibus malis plurima bona elicere, sicut ex persecutione tyrannorum patientiam<sup>a</sup> martirum et | ex operibus 67A maleficorum purgationem seu probationem fidei et iustorum, vt patebit, ideo non habet deus omnia mala impedire, ne multa bona deesse contingat vniuerso. Vnde Augustinus in *Encheridio*: “Adeo misericors est omnipotens deus quod non sineret aliquod malum esse in operibus suis nisi adeo esset omnipotens et bonus vt beneficeret etiam de malo.”<sup>591</sup>

Et huius exemplum etiam habemus in actionibus rerum naturalium. Nam corruptiones<sup>592</sup> et defectus qui accidunt in rebus naturalibus, licet sint contra intentionem nature particularis illius, videlicet cui talis corruptio contingit vt quod fur suspendatur vel quod animalia in cibum hominis occidantur, sunt tamen de intentione nature vniuersalis, vt videlicet conseruantur homines in vita et in bonis, vt et sic bonum vniuersi conseruetur. Vt enim species rerum conseruantur oportet vt corruptio vnus sit conseruatio alterius.<sup>593</sup> Occisiones enim animalium conseruant<sup>b</sup> vitam leonum.

*Declaratur super permissionem diuinam, quod deus non potuit conferre 67B  
creature vt ex natura esset impeccabilis*

QUO AD SECUNDUM, QUOD vniuersitatem malorum, siue in culpis siue in penis, iuste deus permittat et presertim iam refrigescente et mundo ad occasum declinante, declaratur ex duabus propositionibus necessario presupponendum,<sup>c</sup> quarum prima quod deus non potest facere, siue melius, vt cum timore dei loquamur, non est possibile vt natura creata, vt est homo vel angelus, haberet hoc quod ex conditione sue nature peccare non posset; secunda quod deus iuste permisit hominem peccare vel tentari, quibus stantibus cum ad diuinam

<sup>a</sup> *Ed. prin.*: -a

<sup>b</sup> *Ed. prin.*: -at

<sup>c</sup> *Sc.* -is

<sup>591</sup> *End*

<sup>592</sup> *Start of adaptation of Aq.*, Summa 1.22.2. *Ra2* (this passage is the ellipsis in n. 598): Vnde corruptiones et defectus in rebus naturalibus dicuntur esse contra naturam particularem, sed tamen sunt de intentione nature vniuersalis in quantum defectus vnus cedit in bonum alterius vel etiam totius vniuersi, nam corruptio vnus est generatiua alterius per quam species conseruatur.

<sup>593</sup> *End*

prouidentiam pertinet vt vna queque creatura in sua natura relinquatur, dicere oportet quod ex premissis impossibile est quod deus non permittat maleficia fieri virtute demonum.

Et primum quidem quod non fuit possibile creature communicare  
 67C quod peccare non posset ex conditione | nature, ostenditur a doctore sancto in *Secundo* (di. xxij, ar. i) quia si hoc fuisset communicabile alicui creature, deus vtique communicasset, eo quod omnes alie communicabiles bonitates et perfectiones creaturarum sunt communicate, saltim in genere, vt vnio personalis duarum naturarum in Christo, maternitas et virginitas in Maria, vnio gratuita in viatoribus, vnio beatifica in electis, et sic de alijs. Cum ergo non legimus hoc alicui creature communicatum, quia nec homini nec angelo iuxta illud: “Et in angelis suis repperit prauitatem,”<sup>594</sup> certum est quod homini adeo non potest communicari hoc quod ex natura sit impeccabilis, licet hoc per gratiam inueniant.

Secundo ad idem quia si esset communicabile et non communicaretur, vniuersum non esset perfectum, cuius<sup>595</sup> perfectio in hoc consistit vt omnes bonitates creaturarum communicabiles in genere sint communicate.<sup>596</sup> Nec valet argumentum quod deus<sup>597</sup> cum sit summe potens et alias ad suam similitudinem homines et angelos creauit, quod etiam  
 67D hoc conferre potuerit quod creatura ex conditione sue nature haberet quod peccare non posset,<sup>598</sup> vel etiam quod faceret<sup>599</sup> vt habitus ille gratie qui confirmationem in bono causat esset pars essentialis nature angeli vel hominis, vt sic secundum naturale suum principium et naturalem conditionem haberet confirmationem in bono, vt peccare non posset.<sup>600</sup>

Nam primum argumentum non concludit, quia licet deus sit summe potens, sicut et summe bonus, non<sup>601</sup> tamen hoc conferre potest, non ex imperfectione sue potentie sed ex imperfectione creature, que imperfectio consideratur primo quod hoc recipere non potest nec potuit homo

<sup>594</sup> Quotation from *Aq.*, Summa 1.63.1.SC

<sup>595</sup> Start of *Aq.*, Sent. 2.23.1.1.SC1, which begins: Sed contra perfectio vniuersi . . .

<sup>596</sup> End

<sup>597</sup> Start of adaptation of *Aq.*, Sent. 2.23.1.1.Aq4: Cum ergo ipse sit summe bonus et summe potens, videtur quod alicui creature contulerit vel conferre potuerit suam similitudinem vt per naturam suam non possit peccare.

<sup>598</sup> End

<sup>599</sup> Start of adaptation of *Aq.*, Sent. 2.23.1.1.Aq5: Sed potuit deus facere vt ille habitus gratie qui confirmationem in bono creat alicui nature pars essentialis esset. Ergo videtur quod si esset talis natura, secundum naturale sibi principium haberet confirmationem in bono. Ergo videtur quod alicui creature conferri potuit vt peccare non posset.

<sup>600</sup> End

<sup>601</sup> Start of adaptation of *Aq.*, Sent. 2.23.1.1.Ra4: Ad quartum dicendum quod non est ex imperfectione potentie diuine vt creature conferre non possit quantum ad hoc suam similitudinem sed ex imperfectione creature, partim ex hoc quod recipere non possit. . .

vel angelus.<sup>602</sup> Ratio:<sup>603</sup> quia cum sit creatura, esse suum dependet a creatore, sicut causatum a causa sui esse, et creare est aliquid ex nihilo facere, ideo si sibi relinquitur, deficit, conseruatur autem quamdiu cause influentiam recipit.<sup>604</sup> Exemplum, si vis, de candela, que tam diu lucet quam diu habet ceram. Quo stante notum est quod deus “creauit hominem et reliquit eum in manu consilij sui” (*Ecclesiasti xvi*)<sup>605</sup> et similiter angelum a principio creationis.

Et hoc factum est per liberum<sup>606</sup> arbitrium, cuius sicut proprium est 68A facere vel obmittere, ita proprium est a sua causa recedere et non recedere, et quia hoc est posse peccare posse ex libertate arbitrij a deo recedere,<sup>607</sup> ideo non potuit hoc homo vel angelus recipere, nec ei potuit a deo communicari vt ex natura haberet libertatem arbitrij et etiam ex natura haberet non posse peccare.

Alia imperfectio ex qua hoc non potuit homini vel angelo communicari est quia implicat contradictionem, que quia in se non sunt factibilia, dicimus: deus non potest illa facere, sed potius dicendum quod creature non possunt ista recipere, vt videlicet aliquid sit viuum et mortuum simul et semul.<sup>a</sup> Ita<sup>608</sup> etiam implicat vt aliquis habeat liberum arbitrium, ex quo<sup>b</sup> possit cause sue inherere vel non inherere, et quod possit non peccare, quia si non potest peccare, non potest cause sue non inherere,<sup>609</sup> cum peccatum sit spreto incommutabili bono rebus mutabilibus inherere, spernere autem vel non spernere est ex libertate arbitrij.

Secundum etiam | argumentum non valet, quia si gratia confirmatio- 68B nis verteretur creature in naturam, ita quod ex principijs essentialibus

<sup>a</sup> Sc. semel (*same error in 59C*)

<sup>b</sup> Ed. prin.: -a

<sup>602</sup> End

<sup>603</sup> *Start of adaptation of Aq., Sent. 2.23.1.1Co.*: Cuius ratio est: quia cum omne creatum dependeat sicut a causa sui esse a deo, oportet quod si sibi relinquatur, deficiat, quamdiu autem cause influentiam recipit, conseruetur.

<sup>604</sup> End

<sup>605</sup> *Quotation from Aq., Sent. 2.23.1.1Ra3; Vulgate*: Deus ab initio constituit hominem et reliquit illum in manu consilij sui.

<sup>606</sup> *Start of adaptation of Aq., Sent. 2.23.1.1Co.*: Sed applicatio causati ad causam suam potest esse dupliciter: vel ita quod sit in potestate causati a causa sua recedere quantum ad aliquid vel non recedere, vel ita quod sit in potestate eius, et primum pertinet ad liberum arbitrium, quia hoc est essentialiter libero arbitrio, vt possit facere vel non facere.

<sup>607</sup> End

<sup>608</sup> *Start of adaptation of Aq., Sent. 2.23.1.1Co.*: Est enim quasi quedam contradictionis implicatio, quia si est liberum arbitrium, oportet quod cause sue possit inherere vel non inherere, et si non potest peccare, non potest cause sue inherere.

<sup>609</sup> End

haberet non posse peccare, tunc non haberet ex aliquo dono accidentali et gratia non posse deficere et peccare, sed haberet hoc per naturam, et tunc esset deus, quod est absurdum. Hanc solutionem tangit sanctus Thomas (ubi supra in solutione ultimi argumenti), cum dicit quod<sup>610</sup> quodcumque alicui nature conuenit aliquod accidens quod ex influentia superioris tantummodo inest, non potest inferior natura illud accidens per se habere nisi efficeretur nature superioris, sicut si aer illuminatur in actu per ignem, non potest esse quod sit de natura sua lucidus in actu nisi fiat ignis. Dico ergo quod cum confirmatio insit creature rationali solum per gratiam, que est quoddam spirituale lumen et similitudo increati luminis, non potest esse quod aliqua creatura ex natura sua confirmationem habeat vel gratiam nisi efficeretur diuine nature per esse, dicamus, eiusdem nature, quod est omnino impossibile.<sup>611</sup>

- 68C Concludamus quod non posse peccare per naturam deo tantummodo conuenit, eo quod sicut ab esse deficere non potest cum dat omnibus esse, ita nec a rectitudine bonitatis deficere, cum hoc ei conueniat per conditionem sue nature. Omnibus autem alijs qui hoc habent ut peccare non possint confertur ex hoc quod confirmantur per gratiam in bono, ex qua filij dei efficiuntur et quodammodo diuine nature consortes.

DECLARATUR QUESTIO SUPER DUAS PERMISSIONES  
DIUINAS QUAS DEUS IUSTE PERMISIT, VIDELICET  
DIABOLUM ACTOREM OMNIS MALI PECCARE, SIMUL ET  
PRIMOS PARENTES CADERE, EX QUIBUS MALEFICORUM  
OPERA IUSTE PERMITTUNTUR, ET EST TREDECIMA IN  
ORDINE PRIME PARTIS

- 68D SECUNDA QUESTIO SIMUL ET propositio quod deus iuste permisit quasdam creaturas angelicas, quas aliter condere non potuit nisi quod peccare possent, etiam actu peccare, et | quasdam simili modo creatas per gratiam preseruare,<sup>3</sup> et hoc absque preuia tentatione, hominem uero iuste permisit et tentari et peccare, que omnia sic declarantur.

<sup>3</sup> Sc. preseruauit

<sup>610</sup> *Start of Aq., Sent. 2.23.1.1.Ra.5*

<sup>611</sup> *End*

Nam ad<sup>612</sup> prouidentiam diuinam pertinet vt vnumquodque in sua natura relinquatur et in suis naturalibus operibus non omnino impediatur, quia vt Dionisius dicit (iiij c. *De Diuinis Nominibus*): “Prouidentia non est corruptiua nature sed saluatiua.”<sup>613</sup> Quo stante cum manifestum sit quod sicut<sup>614</sup> bonum gentis diuinius quam bonum vnius (primo *Ethicorum*), ita et bonum vniuersi excedit bonum particulare cuiuscunque nature create in particulari, ideo etiam attendere oportet quod si peccatum omnino impediretur, per hoc multi gradus tollerentur perfectionis. Tolleretur enim natura illa que potest peccare et non peccare,<sup>615</sup> quod si dicatur, tamen habuisset homo ex conditione nature, vt prius tactum est.

Respondetur. Si nullum peccatum fuisset subsecutum in actu sed stantim confirmatio, tunc semper lateret quid gratie deberetur in bonis erga deum et quid potestas peccandi potuisset | et plura alia<sup>616</sup> quibus ablati<sup>69A</sup> vtique<sup>617</sup> vniuersi<sup>618</sup> multum detraheretur.<sup>619</sup> Decuit etiam vt nullo suggerente ab extra peccaret sed occasionem peccandi ex seipso susciperet, quod et fecit, vbi deo equalis esse voluit. Quod est intelligendum non<sup>620</sup>

<sup>612</sup> *Start of adaptation of Aq. Sent. 2.23.1.2.Co.*: ... ad prouidentiam diuinam pertinet vt vnumquodque in sua natura relinquatur, quia, vt Dionysius dicit, prouidentia non est corruptiua nature sed saluatiua. Cuius ratio est quia bonum vniuersi excedit bonum particulare cuiusque nature create, sicut etiam bonum gentis excedit bonum hominis, vt in i *Ethic.* dicitur ... Dico ergo quod si peccatum omnino impediretur, per hoc multi gradus bonitatis tolleretur. Tolleretur enim natura illa que potest peccare et non peccare.

<sup>613</sup> *Pause*

<sup>614</sup> *Resume*

<sup>615</sup> *Pause*

<sup>616</sup> *Resume.*

<sup>617</sup> *Not in Aq.*

<sup>618</sup> *Aq.*: bonitati vniuersi

<sup>619</sup> *End*

<sup>620</sup> *Start of adaptation of Aq. Sent. 2.5.1.2.Co.*: Respondeo dicendum, quod circa hoc triplex est opinio. Quidam namque simpliciter et absolute concedunt quod peccatum angeli fuit ex hoc quod deo impliciter equalis esse voluit. Nec obstat quod hoc est impossibile est ... Et ideo aliter alii dicunt, quod dei equalitatem directe non appetijt, sed indirecte: quia appetijt aliquid, quo habito sequeretur quod deo esset equalis, scilicet nulli subesse. Hoc etiam non videretur conueniens, quia totum bonum angeli est in hoc quod deo subest, sicut tota claritas aeris est in hoc quod subiicitur radijs solis, et ideo hoc ab angelo non potuit appeti. Et ideo aliter est dicendum, quod non appetijt equalitatem simpliciter quantum ad substantiam desiderati, vt scilicet vellet tantam bonitatem habere quantum deus habet, sed tamen appetijt equalitatem secundum quid, scilicet quantum ad modum habendi. Bonitas autem siue beatitudo est in deo, quam habet per suam naturam, et a qua omnis creature beatitudo et bonitas transfunditur. Videns ergo angelus dignitatem nature sue, qua creaturis ceteris preminebat, voluit etiam per sua naturalia in omnia inferiora derivari; voluit etiam per sua naturalia in perfectionem beatitudinis peruenire ...

simpliciter et directe nec indirecte<sup>a</sup> sed solum secundum quid, et hoc declaratur propter autoritatem (*Esaie* xiii): “In celum ascendam et similis ero altissimo.”<sup>621</sup> Non enim simpliciter et directe, quia sic habuisset intellectum ligatum et erroneum appetendo aliquid quod sibi erat impossibile. Cognouit enim se esse creaturam et a deo creatum, et ideo equalem fieri creatori cognouit hoc sibi esse impossibile. Nec etiam indirecte, quia cum totum bonum angeli et creature est in hoc quod deo subest, sicut tota claritas aeris est in hoc quod subiicitur radijs solis, ideo hoc ab angelo non potuit appeti, quia appetijisset contra bonum nature, sed appetijt dei equalitatem non absolute sed secundum quid. Hoc sic est, cum deus habet per naturam suam duo, beatitudinem et  
 69B bonitatem, et aliud et quod<sup>b</sup> ab ipso omnis creature | beatitudo et bonitas transfunditur, videns angelus dignitatem nature sue qua creaturis cunctis preeminebat voluit et appetijt a se in omnia inferiora beatitudinem et bonitatem deriuari, et hoc per sua naturalia, ita quod ipse primo illa ex natura haberet et sic alie creature ex nobilitate sue nature acciperent, et quia etiam illa appetijt a deo et sub deo volens esse dummodo ista haberet, ideo nec etiam quantum ad modum habendi deo equiparari voluit, sed tantummodo secundum quid.<sup>622</sup>

Nota insuper quod quia suum<sup>623</sup> desiderium attentauit vt ad actum perduceret, ideo subito suum desiderium alijs exposuit, et quia subito etiam fuit aliorum angelorum visio desiderij et consensus peruersus sui desiderij, ideo peccatum primi angeli aliorum peccata excessit et processit quantitate culpe et causalitate, non tamen duratione,<sup>624</sup> ita quod illud (*Apocalipsis* xij): “Draco de celo cadens traxit terciam partem stellarum.”<sup>625</sup> Et in<sup>626</sup> figura Leuiathan habetur: ipse est rex super omnes filios superbie, et rex secundum philosophum (v *Methaphisicorum* dicitur principium in quantum mouet per suam | uoluntatem et imperium sibi subiectos).<sup>627</sup> Ideo et suum peccatum aliorum occasio peccandi fuit, ita quod ipse primus a nullo extrinseco tentatus alios extrinsece tentauit.

<sup>a</sup> *Ed. prim.*: -der-

<sup>b</sup> et aliud quod: *a clumsy attempt at rewording Aq. that is best ignored*

<sup>621</sup> *Quotation from Aq.*, Summa 1.63.3.SC; in celum ascendam *only in* Sent. 2.5.1.2.SC 2

<sup>622</sup> *End*

<sup>623</sup> *Start of adaptation of Aq.*, Sent. 2.6.1.2.Co.: Et dicendum quod peccatum primi angeli aliorum peccata non tantum quantitate culpe sed etiam causalitate, non tamen duratione . . . hoc quod desiderauit attentauit vt ad actum perduceret alijs suum desiderium exponendo; et simul cum hoc fuit aliorum visio et peruersus desiderij consensus.

<sup>624</sup> *End*

<sup>625</sup> *Quotation from Aq.*, Sent. 2.6.1.2.SC 1

<sup>626</sup> *Start of Aq.*, Sent. 2.6.1.2.SC 2

<sup>627</sup> *End*

Et quidem quod dictum est quod instantanea<sup>628</sup> operatio in omnibus illis fuit, exemplificatur hoc ex sensibilibus. Nam simul tempore sunt illuminatio aeris, visio coloris et discretio rei vise.<sup>629</sup>

Hec ad longum posui, vt considerando tam stupendam permissionem diuinam super nobilissimas creaturas propter vnum dumtaxat peccatum ambitionis, quomodo non particulares permissiones super maleficorum opera propter maiora peccata quantum ad aliquas circumstantias admitret? Nam maleficorum peccata in varijs circumstantijs peccatum angeli et primorum parentum excedunt, vt iam in secunda questione patebit.

Sed et hoc quod prouidentia dei iuste permisit primum hominem tentari et peccare, ex his que dicta sunt de transgressoribus angelis satis patere potest. Sicut<sup>630</sup> enim ad eundem finem homo et angelus creati fuerunt et in libertate arbitrij relecti, ideo vt beatitudinis premiū non<sup>69D</sup> absque merito perciperent,<sup>631</sup> ideo sicut angelus a casu non fuit perseruatus, vt potestas peccandi ex vno et potestas gratie confirmationis ex altero ad decorem vniuersi patesceret, ita et circa hominem seruaria<sup>a</sup> oportuit. Vnde et sanctus Thomas in *Secundo*, distinctione xxij, articulo ij: “Jllud<sup>632</sup> ex quo deus apparet laudabilis non debet penitus impediri, sed in peccatis etiam deus apparet laudabilis, cum per misericordiam parcit et per iusticiam punit, vnde non debuit peccatum impedire.”<sup>633</sup>

Tantummodo breuiter et recapitulando ad propositum redeamus. Dicamus quod iusta dei prouidentia homo in his permissus est multis rationibus: prima, vt ostendatur dei potentia, qui solus inuertibilis est, omnis autem creatura mutabilis; secunda autem ratio, vt declaretur dei sapientia, que ex malo scit elicere bonum, quod non potuit fieri nisi deus creaturam peccare permisisset; tertia, vt manifestetur dei clementia, in qua Christus per mortem suam hominem perditum liberauit; quarta, vt ostendatur dei iusticia, que non solum reddit bonis premia sed et malis supplicia; | quinta, vt homo non sit peioris conditionis quam alie<sup>70A</sup> creature, quas omnes sic deus administrat vt eas agere proprijs motibus sinat, vnde et hominem proprio arbitrio relinquere debuit; sexta est laus

<sup>a</sup> Sc. seruandum, it seems

<sup>628</sup> *Start of adaptation of Aq., Sent. 2.6.1.2.Co.*: Et simile contingit in omnibus operationibus instantaneis, quarum vna est causa alterius, quod sunt simul tempore, sicut illuminatio aeris et visio coloris et discretio rei vise, etiam quantum ad sensibilia per accidens.

<sup>629</sup> *End*

<sup>630</sup> *Start of Aq., Sent. 2.23.1.2.Ag2, which begins*: . . . homo et angeli propter vnum finem creati sunt, scilicet propter beatitudinem participandam . . .

<sup>631</sup> *End*

<sup>632</sup> *Start of Aq., Sent. 2.23.1.2.SC 1*

<sup>633</sup> *End*

humana—laus enim viri iusti quod potuit transgredi et non est transgressus; septima est decor vniuersi, quia sicut triplex malum culpe, pene et damni inuenitur, ita ex opposito triplex bonum, scilicet honestum bonum, delectabile et vtile, decoratur. Nam culpa decoratur honestas, per penam delectabilitas, per damnum summa vtilitas.

Et per hec patet responsio ad argumenta.

### *Solutiones argumentorum*

NAM AD PRIMUM, VBI dicitur asserere quod diabolo permittatur potestas nocendi hominibus sit<sup>a</sup> hereticum, oppositum potius patet, quia sicut asserere quod deus non permittat hominem ex libertate arbitrij peccare quando vult est hereticum, ita asserere quod deus peccatum dimittat inultum. | Hoc autem<sup>b</sup> fit per potestatem nocendi hominibus in vindictam malorum et ad decorem vniuersi iuxta illud Augustini in libro *Soliloquiorum* “Jussisti, domine,” et ita est vt numquam dedecus culpe sit sine decore vindicte. Probatio denique argumenti non valet de sapiente prouisore qui excludit defectum et malum quantum potest, quia aliud<sup>634</sup> est de eo qui habet curam particularem et de prouisore vniuersali.<sup>635</sup> Nam primus ex malo non potest elicere bonum, sicut vniuersalis prouisor facit, vt per precedentia patuit.

Ad secundum patuit quod tam potentia quam bonitas et iusticia diuina patescunt in hoc quod mala permittit,<sup>c</sup> vnde quando dicitur: “Aut deus potest mala impedire aut non,” dicitur quod potest impedire sed non debuit rationibus preactis.<sup>d</sup> Nec valet instantia si dicatur, “Ergo vult mala fieri cum potest impedire et non vult,” quia, vt in argumentis pro veritate tactum est, deus non potest velle mala fieri, neque vult malum fieri neque vult malum non fieri, sed vult permittere malum fieri et hoc propter perfectionem vniuersi.

Ad tertium, Augustinus et philosophus loquuntur de cognitione  
70C humana, cui<sup>636</sup> | melius est non cognoscere mala et vilia duplici de causa:

<sup>a</sup> Sc. esse

<sup>b</sup> Ed. prin.: aut

<sup>c</sup> Ed. prin.: -mittit

<sup>d</sup> Ed. prin.: pre actis (see 109A, 125B, 176C)

<sup>634</sup> Start of *Aq.*, Summa 1.22.2.Raz

<sup>635</sup> End

<sup>636</sup> Start of adaptation of *Aq.*, Summa 1.22.3.Raz: . . . nobis melius est non cognoscere mala et vilia inquantum per ea impedimur a consideratione meliorum, quia non possumus simul multa intelligere, et inquantum cogitatio malorum peruertit interdum voluntatem in bonum.

primo, quia per ea impedimur interdum a consideratione malorum, et hoc contingit quia non possumus simul multa intelligere; etiam et ea de causa quod cogitatio malorum peruertit interdum voluntatem in malum.<sup>637</sup> Hec autem in deo locum non habent, qui intelligit omnia opera hominum et maleficorum absque aliquo defectu.

Ad quartum. Apostolus<sup>638</sup> curam dei a bobus remouit, vt ostendat quod quia creatura rationalis habet per liberum arbitrium dominium sui actus, vt dictum est, ideo vt ei imputetur aliquid ad culpam vel ad meritum et reddatur ei iuxta hoc pena vel premium, habet deus specialem de eo prouidentiam,<sup>639</sup> secundum que irrationalia non prouidentur. Velle autem asserere quod indiuidua<sup>640</sup> irrationalium creaturarum ex illa auctoritate<sup>641</sup> non pertinerent ad diuinam prouidentiam<sup>642</sup> esset hereticum, quia esset asserere quod non omnia subiecta essent diuine prouidentie contra scripture sacre commendationem super diuinam sapientiam, que "attingit a fine vsque ad finem fortiter et disponit | omnia <sup>70D</sup> suauius,"<sup>643</sup> et esset error rabbi Moises, vt in argumentis pro veritate patuit.

Ad quintum. Quia homo<sup>644</sup> non est institutor nature sed vtitur naturalibus operibus artis et virtutis ad suum vsum: ideo prouidentia humana non se extendit ad necessaria, que ex natura proueniunt,<sup>645</sup> vt quod cras sol oriatur, ad<sup>646</sup> que tamen se extendit prouidentia dei eo quod ipse est actor nature.<sup>647</sup> Vnde et defectus naturales, etiam si ex cursu rerum naturalium prouenirent, adhuc diuine prouidentie subiacerent, quare<sup>648</sup> et Democritus et alij philosophi naturales errauerunt attribuentes soli necessitati<sup>a</sup> materie quidquid inferioribus accideret.<sup>649</sup>

<sup>a</sup> *Ed. prin.*: -e

<sup>637</sup> *End*

<sup>638</sup> *Start of adaptation of Aq.*, Summa 1.22.2. *Ras*: Ad quintum dicendum quod quia creatura rationalis habet per liberum arbitrium dominium sui actus, vt dictum est, speciali quodam modo subditur diuine prouidentie, vt scilicet ei imputetur aliquid ad culpam vel ad meritum, et redditur ei aliquid vt pena vel premium.

<sup>639</sup> *End*

<sup>640</sup> *Start of Aq.*, Summa, 1.22.2. *Ras*

<sup>641</sup> *ex . . . auc.: not in Aq.*

<sup>642</sup> *End*

<sup>643</sup> *Quotation from Aq.*, Summa 1.22.2. *SC*

<sup>644</sup> *Start of Aq.*, Summa 1.22.2. *Ras*

<sup>645</sup> *Pause*

<sup>646</sup> *Resume*

<sup>647</sup> *End*

<sup>648</sup> *Start of adaptation Aq.*, Summa 1.22.2. *Ras*: Et ex hac ratione videntur moti fuisse qui cursum rerum naturalium subtraxerunt diuine prouidentie, attribuentes ipsum necessitati materie, vt Democritus et alij naturales antiqui.

<sup>649</sup> *End*

Ad vltimum. Licet omnis pena infligitur a deo propter peccata, non tamen semper maioribus peccatoribus maleficia infliguntur, vel quia hoc diabolus non vult vt illos affligat et tentat quos iusto titulo possidere se cernit, vel ideo vt non ad deum accelerant iuxta illud: “Multiplicate sunt infirmitates, postea accelerauerunt” etc.

Et quod omnis pena infligitur a deo propter<sup>a</sup> peccata patet ex sequen-  
71A tibus, quia | iuxta Hieronimum quicquid patimur, peccatis nostris mere-  
mur.<sup>650</sup>

DECLARATUR QUOD PECCATA MALEFICORUM GRAUIORA  
SUNT PECCATIS MALORUM ANGELORUM ET PRIMORUM  
PARENTUM, VNDE<sup>b</sup> SICUT INNOCENTES PUNIUNTUR EX  
CULPIS PARENTUM, ITA ET IAM PLURES INNOXIJ  
DAMNIFICANTUR ET MALEFICIUNTUR PROPTER PECCATA  
MALEFICORUM. QUESTIO DECIMAQUARTA, ET EST TOTA  
MATERIA PREDICABILIS

SED SUPER ENORMITATEM CRIMINUM queritur an maleficorum flagicia cuncta mala que deus fieri sinit et vsque in presens a principio mundi fieri permisit tam in culpis quam in penis et damnis excedunt.

Et videtur quod non, precipue quo ad culpam. Nam peccatum<sup>651</sup> quod quis committit quod faciliter vitare potuisset excedit peccatum quod alter  
71B committit quod ita faciliter vitare non potuit. Patet | per Augustinum in  
*De Ciuitate Dei*: “Magna est in peccando iniquitas, vbi est tanta in non peccando facilitas.” Sed Adam et plures qui ex aliquo statu perfectionis seu etiam gratie peccauerunt facilius propter assistentiam gratie peccata vitare potuissent, presertim Adam qui in gratia creatus fuerat, quam plures malefice<sup>c</sup> qui huiusmodi dona non perceperunt. Ergo illorum peccata omnia maleficorum flagicia excedunt.<sup>652</sup>

<sup>a</sup> *Ed. prin.*: -et

<sup>b</sup> *Ed. prin.*: vnde de

<sup>c</sup> *So ed. prin.*; the context indicates that malefici is to be expected.

<sup>650</sup> *Cf. Ag., Sent. 4.15.4.7c. Co.*: Sed contra Hieronymus dicit: “Quicquid patimur, peccata nostra meruerunt.”

<sup>651</sup> *Start of adaptation of Ag., Sent. 2.21.2.2. Agt.*: Videtur quod peccatum Ade grauius fuerit omnibus alijs peccatis, quia sicut dicit Augustinus in lib. xiv *De Ciuitate Dei*, magna est enim in peccando iniquitas, cui tanta est in non peccando facilitas. Sed Adam facilius potuit vitare peccatum quam aliquis sequentium. Ergo ipse grauius peccauit.

<sup>652</sup> *End*

Preterea,<sup>653</sup> quo ad penam maiori culpe maior pena debetur, sed peccatum Ade grauissime punitum fuit in hoc quod, vt patet, in omnes posteros eius pena cum culpa ostenditur in transfusione originalis peccati. Ergo eius peccatum grauius est omnibus alijs peccatis.<sup>654</sup>

Preterea,<sup>655</sup> quo ad damnum. Nam iuxta Augustinum: “Et hoc aliquid est malum, quia adimit bonum.” Ergo vbi plus de bono amittitur, ibi maior culpa precessit. Sed peccatum primi parentis maius damnum tam in naturalibus quam in gratuitis intulit, vbi nos innocentia et immortalitate priuauit, quod | nullum aliorum sequentium peccatum<sup>a</sup> intulit. 71C Ergo<sup>656</sup> etc.

Sed<sup>657</sup> contra. Id quod plures rationes mali includit magis est malum, sed peccata maleficarum sunt huiusmodi.<sup>b</sup> Nam omnia mala in bonis nature et fortune procurare possunt deo permittente, vt ex bulla pape deducitur.

Preterea, Adam peccauit solummodo faciendo illud quod est vno<sup>c</sup> modo malum, quia prohibitum et quod non erat malum secundum se, sed malefici et alij peccatores peccant faciendo illud quod est vtroque modo malum, et secundum se et prohibitum, vt homicidia et alia multa inhibita, vnde eorum peccata grauiora sunt alijs peccatis.<sup>658</sup>

Preterea,<sup>659</sup> peccatum quod est ex certa malicia est grauius peccato quod est per ignorantiam.<sup>660</sup> Sed malefice ex magna malicia contemnunt fidem et sacramenta fidei, prout plures confesse sunt.

<sup>a</sup> So Aq.; ed. prin.: -a

<sup>b</sup> Ed. prin.: huius

<sup>c</sup> So Schnyder (1993) 152 n; ed. prin.: vtroque (either very clumsy adaptation of Aquinas or an error imported from the following clause during transcription)

<sup>653</sup> Start of adaptation of Aq., Sent. 2.21.2.2.Ag3: Preterea, maiori culpe major pena debetur. Sed peccatum Ade grauissime punitum fuit a deo, quia ad omnes posteros eius pena extenditur. Ergo grauius alijs peccauit.

<sup>654</sup> End

<sup>655</sup> Start of adaptation of Aq., Sent. 2.21.2.2.Ag2: Preterea, Augustinus dicit quod ex hoc aliquid est malum quod adimit bonum. Sed peccatum primi hominis plus de bono ademit, totam naturam humanam corrumpens, quam aliquod peccatorum sequentium. Ergo peius alijs fuit.

<sup>656</sup> End

<sup>657</sup> Start of adaptation of Aq., Sent. 2.21.2.2.SC1: Sed contra, illud quod habet plures rationes mali magis est malum. Sed Adam peccauit faciendo illud quod erat malum solum quia prohibitum, multi autem peccant faciendo illud quod est vtroque modo malum, et secundum se et quia prohibitum. Ergo videtur quod multorum peccata grauiora sint peccato Ade.

<sup>658</sup> End

<sup>659</sup> Start of Aq., Sent. 2.21.2.2.SC2

<sup>660</sup> End (Aq. continues: Sed peccatum primi hominis fuit quodammodo per ignorantiam... Ergo videtur quod eo multa grauiora sint que ex certa malitia perpetrantur.)

Responsio. Quod mala que a modernis maleficis perpetrantur cuncta alia mala que deus vnquam fieri permisit secundum quod in titulo  
 71D questionis | tangitur excedunt, et hoc quo ad peccata que contingunt in peruersitate morum, licet secus sit de peccatis que opponuntur alijs virtutibus theologicis, potest ostendi triplici via: primo in generali comparando eorum opera indifferenter ad quecunque flagicia mundi; secundo in speciali comparando ad species superstitionis ex quocunq[ue] pacto cum demonibus inito; tercio comparando illa ad peccata malorum angelorum aut etiam primorum parentum.

Primum sic. Nam cum triplex sit malum, videlicet culpe, pene, damni, eo quod triplex sit bonum cui illa opponuntur, scilicet honestum, delectabile et vtile, et culpe opponitur honestum, pene delectabile, damno vtile, quod culpa maleficarum excedit cuncta alia peccata sic apparet. Nam iuxta doctrinam sancti Thome in *Secundo* (di. xxij, arti. ij) licet in peccato multa<sup>661</sup> possint considerari ex quibus peccati grauitas vel etiam leuitas trahi potest, vnde et contingit quod idem peccatum  
 72A quod secundum | vnum eorum est grauius, secundum aliud leuius inueniatur, prout dicere possumus: in fornicatione iuuenis peccat, senex insanit, tamen illa simpliciter grauiora sunt que plures et potentiores habent non dico circumstantias solum sed in specie et quantitate peccati essentiali peccati grauitatem. Et sic dicere possumus quod licet peccatum Ade quantum ad aliquas circumstantias grauius sit omnibus alijs peccatis quantum ad hoc quod minori temptatione pulsatus cecidit, quia videlicet tantum ab extrinseco, et etiam quia facilius resistere potuisset propter originalem iusticiam in qua creatus erat, tamen quantum ad speciem et quantitatem peccati et etiam quantum ad alias circumstantias que peccatum magis aggrauant, sicut multa grauiora peccata sunt secuta,<sup>662</sup> ita et inter illa omnia maleficorum excedunt, quod etiam clarius ex duobus deducitur.

Nam sicut vnum peccatum dicitur maius altero vel causalitate vt  
 72B peccatum Lucifefri, vel generalitate vt peccatum Ade, vel deformitate vt peccatum Jude, vel difficultate remittendi vt peccatum in

<sup>661</sup> *Start of adaptation of Aq., Sent. 2.21.2.2.Co.: . . . in peccato possunt multa considerari ex quibus peccatum grauitatem trahere potest, et contingit quod illud peccatum quod secundum vnum est grauius secundum aliud leuius inueniatur. Illud tamen simpliciter grauius considerandum est quod secundum plura et potentiora grauius inuenitur, precipue secundum speciem peccati, quia quantitas consequens speciem peccati est peccato essentialior quam que circumstantias peccati sequitur. Secundum hoc ergo dicendum quod peccatum Ade quantum ad hoc grauius alijs fuit quod minori temptatione pulsatus cecidit, et quod facilius resistere potuisset, sed quantum ad speciem peccati et quantum ad alias circumstantias que peccatum magis exaggerant multa grauiora peccata sunt secuta.*

<sup>662</sup> *End*

spiritus sanctum, vel periculo vt peccatum ignorantie, vel inseparabilitate vt peccatum cupiditatis, vel pronitate vt peccatum carnis, vel diuine maiestatis offensione vt peccatum idolatrie et infidelitatis, vel expugnandi difficultate vt superbia, vel mentis cecitate vt ira, ita et post peccatum Luciferi omnia alia peccata maleficorum opera excedunt tam in deformitate crucifixum abnegantes<sup>a</sup> quam et pronitate spurcitas carnis cum demonibus exercentes,<sup>b</sup> ac mentis cecitate in omne nocumentum tam animarum quam corporum hominum et iumentorum toto malignitatis spiritu debachantes,<sup>c</sup> prout ex supra dictis patuit. Quod etiam iuxta Isidorum nomen ostendit. Dicuntur enim malefici ob facinorum magnitudinem etc., vt supra patuit.

72C

Deducitur et ex isto. Nam cum duo sunt in peccato, auersio et conuersio, iuxta illud Augustini: "Peccatum est spreto incommutabili bono rebus mutabilibus inherere,"<sup>663</sup> et ipsa<sup>664</sup> etiam auersio a deo sit tanquam formale, sicut ipsa conuersio tanquam materiale, ideo tanto aliquod peccatum est grauius, quanto magis homo per ipsum a deo separatur, et quia per infidelitatem homo maxime a deo elongatur,<sup>665</sup> ideo et maius omnibus peccatis maleficium infidelitatis existit. Et hoc declaratur per nomen heresis, quod est etiam apostasia a fide, simul et quod tota earum vita peccatum est.

De primo. Nam<sup>666</sup> cum peccatum infidelitatis consistat in renitendo fidei, et hoc potest dupliciter fieri, vel quia renititur fidei nondum suscepte aut suscepte, si primo modo, tunc est infidelitas paganorum seu gentilium, si secundo modo, tunc iterum dupliciter, quia aut renititur christiane fidei suscepte in figura aut in ipsa manifestatione veritatis. | 72D

<sup>a</sup> Sc. -ium<sup>b</sup> Sc. -ium<sup>c</sup> Sc. -ium

<sup>663</sup> Cf. Peccare nihil est aliud quam neglectis rebus eternis temporalia sectari (*Aug.*, De Lib. Arb. quoted in *Aq.*, Summa 1/2.71.6.Ag3)

<sup>664</sup> *Start of confusion of Aq.*, Summa 2/2.10.3.Co.: . . . omne peccatum formaliter consistit in auersione a deo, vt supra dictum est, vnde tanto aliquod peccatum est grauius, quanto per ipsum homo magis a deo separatur. Per infidelitatem autem maxime homo a deo elongatur; and Summa 1/2.71.6.Co.: Et ideo Augustinus in definitione peccati posuit duo: vnum quod pertinet ad substantiam actus humani, quod est quasi materiale in peccato . . . aliud autem quod pertinet ad rationem mali, quod est quasi formale in peccato . . .

<sup>665</sup> End

<sup>666</sup> *Start of adaptation of Aq.*, Summa 2/2.10.5.Co.: Cum enim peccatum infidelitatis consistat in renitendo fidei, hoc potest contingere dupliciter: quia aut renititur fidei nondum suscepte, et talis est infidelitas paganorum siue gentilium, aut renititur fidei christiane suscepte: vel in figura, et sic est infidelitas Iudeorum, vel in ipsa manifestatione veritatis, et sic est infidelitas hereticorum.

Primo modo est infidelitas Judeorum, secundo modo infidelitas hereticorum.<sup>667</sup>

Vnde patet quod heresis maleficarum inter tres species infidelitatis grauissima existit, quod etiam ratione et autoritate comprobatur. Nam *Secunda Petri* secundo dicitur: “Melius erat illis viam veritatis non cognoscere quam post cognitam retrorsum conuerti.”<sup>668</sup> Ratione. Nam sicut<sup>669</sup> grauius peccat qui non implet quod promisit quam ille qui non implet hoc quod nunquam promisit, ideo infidelitas hereticorum qui profitentur fidem euangelij et tamen ei renituntur, corrumpentes ipsam, grauius peccant quam Iudei et pagani. Et iterum, Iudei grauius peccant quam pagani, quia susceperunt fidei christiane figuram in veteri lege, quam male interpretantes corrumpunt, quod pagani non faciunt. Ideo etiam ipsorum infidelitas est grauius peccatum quam infidelitas gentilium, qui nunquam fidem euangelij susceperunt.<sup>670</sup>

De secundo, quod et apostate nuncupantur. Nam secundum Thomam (*Secunda Secunde*, q. xij) apostasia<sup>671</sup> importat quandam retrocessionem a deo et religione, que fit per diuersos modos, quibus homo coniungitur deo<sup>672</sup> vel per fidem vel per subiectam ad obediendum voluntatem vel per religionem et clericatum. Secundum quod etiam dicit Raymundus et Hostiensis, quod apostasia est temerarius a fidei statu vel obedientie vel religionis excessus, et cum remoto priori remouetur posterius, sed non econuerso, ideo et prima alias duas excedit, scilicet apostasia a fide precedit a religione vel a clericatus ordine (de qua xlviij, di. “Quantumlibet” et xvi q. i “Legi non debet”).<sup>673</sup> Tamen secundum Raymundum non iudicatur apostata seu fugitiuus etiam si ad longinqua diu euagetur, nisi postquam sic viuuit quod animum redeundi se deposuisse ostendit (ff. “De re militari”<sup>a</sup> l. “Desertorem”), et hoc fieret

<sup>a</sup> *Ed. prin.: -e*

<sup>667</sup> *End*

<sup>668</sup> *Quotation from Aq., Summa 2/2.10.6.SC*

<sup>669</sup> *Start of adaptation of Aq., Summa 2/2.10.6.Co.: ... sicut grauius peccat qui non implet quod promisit quam ille qui non implet hoc quod nunquam promisit. Et secundum hoc infidelitas hereticorum qui profitentur fidem euangelij et tamen ei renituntur, corrumpentes ipsam, grauius peccant quam Iudei, qui fidem euangelij nunquam susceperunt. Sed quia susceperunt eius figuram in veteri lege, quam male interpretantes corrumpunt, ideo etiam ipsorum infidelitas est grauius peccatum quam infidelitas gentilium, qui nullo modo fidem euangelij susceperunt.*

<sup>670</sup> *End*

<sup>671</sup> *Start of Aq., Summa 2/2.12.1.Co.*

<sup>672</sup> *End (Aq. continues: primo ... per fidem, secundo per debitam et subiectam voluntatem ad obedientiam preceptis eius, tertio per aliqua specialia ad supererogationem pertinentia, sicut per religionem et clericatum vel sacrum ordinem.)*

<sup>673</sup> *Perhaps some sort of mistake in adaptation; at any rate, Decretum 2.16.1.26 “Legi epistolam” may be meant.*

si vxorem duceret vel simile tale. Similiter et apostasiam inobedientie, <sup>73B</sup> vbi quis sponte contemnit precepta ecclesie et prelatorum (de qua iij q. iij “Alieni”). Qui etiam infamis efficitur repellitur a testimonio et debet excommunicari (xi q. iij “Si autem”). Vnde et apostasia de qua loquimur super apostasiam maleficarum dicitur apostasia perfidie.

Que et tanto grauior, quanto et cum inimico fidei, rationis, salutis per pactum expressum peragitur. Hoc enim habent facere malefice et hoc inimicus ille exigit vel in toto vel in parte. Reperte sunt enim per nos inquisitores que omnes fidei articulos abnegauerant, quasdam vero certos<sup>a</sup> in numero; semper tamen confessionem veram et sacramentalem habeant abnegare. Vnde et Juliani apostate perfidia non videtur tanta fuisse, licet in alijs aduersus ecclesiam maiora exercuisset (de qua et ij q. vij “Non potest”).

Si quis vero incidentaliter quereretur: “Quid si mente et | corde fidem <sup>73C</sup> tenerent,” quorum scrutator solus deus est et non quecunque angelica creatura, vt supra patuit, “facerent tamen reuerentiam et obedientiam diabolo per actus exteriores?” dicendum videtur quod cum apostasia perfidie dupliciter potest fieri, per actus infidelitatis exteriores absque expresso pacto cum demone inito, sicut qui in terris infidelium mahumeticam vitam assumerent<sup>b</sup> aut in terris christianorum cum expresso pacto etc., primi vbi mente retinent fidem, actu tamen exteriori negant, licet non sint apostate nec heretici, tamen mortaliter peccant. Sic enim Salomon dijs suarum vxorum reuerentiam exhibuit. Nec enim aliquis excusatur si ex metu hoc faceret, quia secundum Augustinum sanctius est mori fame quam vesci idoloticis (aliqui habent “satijs”)<sup>c</sup> (xxxij q. iij “Sacijs”). Malefice autem quantumcunque fidem retinent corde et abnegant ore, apostate tamen iudicantur eo quod fedus cum morte et pactum cum inferno pepigerunt.

Vnde sanctus Thomas in *Secundo* (di. vij, arti. vltimo) loquens de <sup>73D</sup> similibus operibus magicis et qui quocunque modo auxilium petunt a demonibus, dicit: “In omnibus est apostasia a fide propter pactum initum cum demone vel verbotenus, si inuocatio intersit, vel facto aliquo, etiam si sacrificia desint. Non enim potest homo duobus dominis seruire.”<sup>674</sup> Ad idem Albertus (ubi supra, di. viij), vbi queritur vtrum magicis et mathematicis intendere sit peccatum et apostasia a fide, ita

<sup>a</sup> Ed. prin.: -as

<sup>b</sup> Ed. prin.: -et

<sup>c</sup> Ed. prin.: -ins

<sup>674</sup> Quotation from *Aq., Sent. 2.7.3.2.Ca.*

respondit: “In talibus est semper apostasia verbi vel operis. Si enim inuocationes fiant, tunc apertum pactum initur cum demone et tunc est aperta apostasia verborum. Si autem non fit nisi opere simplici, tunc est apostasia operis. Et quia in his omnibus semper est fidei contumelia quia expectatur a demone quod expectandum est a deo, ideo semper  
74A apostasia iudicatur.” Ecce quam clare duplicem | apostasiam ponunt, terciam subintelligentes scilicet cordis, que si desit, tamen malefice verbis et operibus apostatrices iudicantur. Penis ergo, vt patebit, et hereticorum et apostatarum subiacere debent.

Est et tercia criminis enormitas pre cunctis alijs heresibus in eis. Nam si iuxta Augustinum omnis infidelium vita peccatum est (xxviii q. i § ij et est glosa super illud *Romanorum* xiii: “Omne quod non est ex fide peccatum est”), quid iudicandum est de tota vita, id est, de omnibus alijs operibus maleficarum, que tamen non ad complacentiam demonum fiant, sicut ieiunare, ecclesias frequentare, communicare et sic de alijs? In omnibus enim peccant mortaliter, quod sic declaratur.

Tanta est enim labes huius peccati quod facultatem resurgendi licet non ex toto amputat, eo quod peccatum non corrumpit totum bonum nature et lumen naturale in eis remaneat, tamen propter prestitum  
74B homagium, nisi ab illo absoluantur omnia eorum opera, etiam | de genere bonorum, sunt potius de genere malorum, quod in alijs infidelibus non cernitur. Nam secundum Thomam (*Secunda Secunde*, q. x, “an omnis actio infidelis sit peccatum”) dicit quod quamuis<sup>675</sup> opera infidelium, que sunt de genere bonorum, vt ieiunia, elemosine et huiusmodi, non sint eis meritoria propter infidelitatem, que est grauissimum peccatorum, tamen quia peccatum non corrumpit totum bonum nature sed remanet in eis lumen naturale, ideo non omnis actus eorum est mortale peccatum,<sup>676</sup> sed actus procedens ex ipsa infidelitate vel relatus ad ipsam, etiam si sit de genere bonorum, puta Sarracenus ieiunat vt seruat legem Mahumeti de ieiunio mandantem, Judeus celebrat suas festiuitates et huiusmodi, in his est mortale. Et sic intelligitur illud Augustini (supra allegatum): “Omnis infidelium vita peccatum est.”

<sup>675</sup> *Start of adaptation of Aq., Summa 2/2.10.4. Co: . . . sicut . . . peccatum mortale tollit gratiam gratum facientem, non autem totaliter corrumpit bonum nature. Vnde cum infidelitas sit quoddam mortale peccatum, infideles quidem gratia carent, remanet tamen in eis aliquod bonum naturale, vnde manifestum est quod infideles non possunt operari opera bona que sunt ex gratia, scilicet opera meritoria, tamen opera bona ad que sufficit bonum nature aliquantulum operari possunt.*

<sup>676</sup> *End*

*Quod malefice grauissimas merentur penas ultra omnes  
flagiciosos mundi*

74C

DENIQUE QUOD EORUM<sup>a</sup> FLAGICIA cuncta aliorum peccata excedunt quantum ad demeritum pene, declaratur primo quo ad penam hereticis infligendam, secundo quo ad penam apostatis inferendam.

Nam heretici quadruplici pena puniuntur secundum Raymundum, scilicet excommunicatione, depositione, rerum ablatione et corporali morte, de quibus omnibus lector inueniet super primum "De Sententia Excommunicationis," "Nouerit," et super secundum xxiiij q. i "Qui contra pacem," et <super> tercium di. viij "Quo iure," et xxiiij q. viij c. i et sequenti, super quartum eodem titulo, scilicet "De hereticis," "Excommunicamus" primo et secundo.

Imo et grauissimas incurrunt penas credentes, receptores, fautores et defensores. Nam vltra penam excommunicationis illis inflictam heretici cum fautoribus et defensoribus suis et receptoribus et ipsorum filij<sup>74D</sup> vsque ad secundam generationem per lineam paternam, per lineam vero maternam vsque ad primum gradum ad nullum beneficium vel officium ecclesiasticum admittuntur (ut eodem titulo "Quicumque" et c. "Statutum," *Libro Sexto*). Sed et super terciam penam, si heretici habent filios Catholicos, priuantur paterna hereditate in derestationem criminis, et super quartam penam, si post deprehensionem erroris continuo non velit reuerti et heresim abiurare, subito debet comburi si laicus est. Falsarij enim pecunie statim morti traduntur: quanto magis falsarij fidei!<sup>677</sup> Si vero clericus, post solennem degradationem relinquitur curie seculari occidendus. Si autem reuertantur ad fidem, detrudi debent in perpetuum carcerem ("De hereticis" "Excommunicamus" primo et secundo). Et hoc de rigore iuris. Mitius tamen agitur cum eis post abiurationem quam ad arbitrium episcopi et inquisitoris facere debent, prout in tercia parte operis patebit, vbi de varjis | modis sentendiandi tales tractatur (quis etiam dicatur deprehensus et conuictus seu etiam relapsus).<sup>75A</sup>

His autem modis mulctare maleficas non videtur sufficere, cum non sint simplices heretice sed et apostate, et vltra hoc quod in ipsa apostasia non hominibus propter metum aut carnis oblectamenta fidem abnegant, vt supra tactum est, sed ipsis demonibus vltra abnegationem etiam homagium, corpora et animas offerendo, prestant, ex quibus satis

<sup>a</sup> Sc. earum

<sup>677</sup> Cf. *Aq.*, *Summa 2/2.11.3.Co.*: . . . si falsarij pecunie . . . statim per seculares principes iuste morti traduntur, multo magis heretici, statim cum de heresi conuincuntur, possent non solum excommunicari sed et iuste occidi.

probabile videtur quod quantumcunque peniteant et ad fidem reuertantur, non debent<sup>a</sup> sicut alij heretici carceribus perpetuis mancipari sed vltimo supplicio puniri, et hoc etiam propter damna temporalia hominibus et iumentis varjis modis illata leges imperant, vt patet C. “De maleficis,” lege “Nullus,” lege “Nemo,” lege “Culpa.” Et est similis culpa prohibita discere et docere, et loquuntur leges super sortilegos: quanto magis super maleficos, vbi dicunt quod pena illorum est bonorum publicatio et decapitatio! Et si quis | tali arte mulierem ad luxuriam prouocauerit vel econuerso, bestijs exponitur, vt dicitur ibidem (l. “Multi”), et de his in prima questione tactum est.

QUESTIONE DECIMAQUINTA DECLARATUR QUOD PROPTER  
PECCATA MALEFICARUM INNOXIJ SEPE MALEFICIENTUR,  
LICET ETIAM INTERDUM PROPTER PECCATA PROPRIA

SED ET HOC QUOD diuina permissione plures innoxij damnificantur et puniuntur in premissis nocumentis propter aliena peccata maleficarum et non propter culpas proprias, ne alicui hoc videatur inconueniens, ostendit sanctus Thomas (*Secunda Secunde*, q. cvij) hoc fieri iuste a deo (loquendo de penis presentis vite) triplice ratione: primo<sup>678</sup> quidem quod vnus homo est res alterius, et sicut quis punitur in rebus, ita et in penam alterius aliquis puniri potest – nam filij secundum corpus sunt quedam res patris, et serui et animalia res dominorum,<sup>679</sup> et sic filij puniuntur quandoque pro parentibus, sicut filius natus ex adulterio Dauid mortuus fuit quamcitijs, et animalia Amelechitarum iussa sunt interfici, quamuis et in huiusmodi sit ratio mistica, vt habetur i. q. iiii § “Paruulos” – secundo<sup>680</sup> quia peccatum vnus deriuatur in alterum et hoc dupliciter, per imitationem, sicut filij imitantur peccata parentum et serui et subditi peccata dominorum, vt audacius peccent,<sup>681</sup> vt fit in rebus male acquisitis in quibus filij succedunt, serui in latrocinijs et guerris iniustis, vnde sepius interficiuntur, et subditi prelatorum audacius peccant, dum eos peccare cernunt, etiam si eadem peccata non committunt, vnde et iuste puniuntur.

<sup>a</sup> *Ed. prin.*: -eunt

<sup>678</sup> *Start of Aq.*, Summa 2/2.108.4. *Rat.*, which begins: Ad primum ergo dicendum quod vnus ...

<sup>679</sup> *End of direct quotation*

<sup>680</sup> *Resumed adaptation*: Alio modo in quantum peccatum vnus derivatur in alterum, vel per imitationem, sicut filij imitantur peccata parentum, et serui peccata dominorum, vt audacius peccent.

<sup>681</sup> *Pause*

Deriuatur<sup>682</sup> etiam peccatum vnius in alterum per modum meriti, vt subditorum in malum prelatum, id est, quod peccata subditorum merentur peccatorem prelatum, secundum illud *Job*: "Regnare facit hypocritam propter peccata populi." Deriuatur etiam peccatum<sup>75D</sup> et consequenter pena per aliquem consensum vel dissimulationem. Hoc est, quando superiores peccata non redarguunt, tunc sepiissime boni cum malis puniuntur, vt dicit Augustinus in primo *De Ciuitatis Dei*.<sup>683</sup>

Exemplum: vbi inter nos inquisitores vnus repperit quoddam oppidum mortalitate hominum quasi destitutum et vbi fama volabat quod quedam mulier sepulta lintheamen in quo sepulta erat successiue deglutiret et quod pestis cessare non posset nisi ex integro lintheamen deglutendo<sup>a</sup> ad ventrem consumpsisset, habito consilio desuper sculterus cum prefecto ciuitatis sepulcrum effodientes inuenerunt quasi dimidietatem lintheaminis per os et collum vsque in ventrem immisam et consumptam, quo viso motus sculterus gladium extraxit et caput amputando extra foueam proiecit, sicque subito pestis cessauit. Ex quibus vtique diuina permissione peccata illius vetule super innocios propter dissimulationem presidentium | punita fuerunt. Nam prehabita<sup>76A</sup> inquisitione repertum fuit ipsam longo tempore vite sue sortilegam et magam fuisse.

Exemplum de punitione Dauid in enumeratione populi per pestem.<sup>684</sup>

Tercio<sup>685</sup> fit diuina permissione vt humane societatis vnio commendetur, ex qua vnus homo debet pro alio sollicitus esse vt non peccet et ad detestationem peccati, dum scilicet pena vnius redundat in omnes quasi omnes sint vnum corpus. Exemplum de peccato Achor<sup>686</sup> (*Josue vij*).

Possumus adhuc addere duos modos prout puniuntur mali interdum per bonos, interdum etiam per alios malos. Nam vt Gratianus dicit

<sup>a</sup> *Ed. prin.*: -gluitendo

<sup>682</sup> *Resumed adaptation*: Vel per modum meriti, sicut peccata subditorum merentur peccatorem prelatum secundum illud *Job xxxiiij*: Qui regnare facit hominem hypocritam propter peccata populi, vnde et pro peccato David populum mermerantis populus Jsrael punitus est, vt habetur ij *Reg. ult.*: siuc etiam per aliquem consensum seu dissimulationem, sicut etiam interdum boni simul puniuntur temporaliter cum malis, quia eorum peccata non redarguerunt, vt Augustinus dicit in i *De Ciu. Dei*.

<sup>683</sup> *Pause*

<sup>684</sup> *Example from Aq. (see n. 692).*

<sup>685</sup> *Resumed adaptation*: Tertio, ad commendandum vnitatem humane societatis, ex qua vnus debet pro alio sollicitus esse ne peccet, et ad detestationem peccati, dum pena vnius redundat in omnes, quasi omnes essent vnum corpus, vt Augustinus dicit de peccato Achar.

<sup>686</sup> *End*

(xxiii q. v. § vlti.), aliquando deus<sup>687</sup> punit malos per legitimam potestatem gerentes ex mandato suo, et hoc dupliciter: interdum cum merito punientium, sicut puniuit peccata Chananeorum per populum suum, interdum absque merito punientium sed etiam in ipsorum penam, sicut tribum Benjamin puniuit et deleuit vsque ad paucos. Aliquando punit etiam per populos suo<sup>a</sup> iussu seu permissione excitatos, non tamen intendentes deo obsequi sed sue satisfacere cupiditati, et ideo cum sui damnatione, sicut iam punit populum suum per Thurcos et sepius ante per alienigenas etiam in vetere lege.

Sed nota quod quacumque de causa quis puniatur, si non sustinet patienter penas, tunc sunt flagella non ad satisfactionem sed ad vindictam tantum, id est, punitionem iuxta illud (*Deuteronomi* xxxij): “Jgnis,” scilicet pene temporalis, “succensus est in furore meo,” id est, in punitione, quia alias non est in deo furor, “et ardebit vsque ad inferni nouissima,” id est, vindicta hic incipiet et ardebit vsque ad extremam damnationem, vt exponit Augustinus et habetur “De Penis,”<sup>688</sup> distinctione iij § “Auctoritas.” Sed si patienter ferantur ipsa flagella et sit patiens, in statu gratie habent locum satisfactionis,<sup>689</sup> vt dicit Thomas in *Quarto*, etiam si quis puniretur a iudice propter maleficium commissum vel etiam malefica et hoc secundum plus et minus secundum deuotionem patientis et qualitatem criminis. Mors autem naturalis, cum sit vltimum terribilium, non tamen est satisfactoria, quia per naturam inoleuit in penam originalis peccati, licet secundum Scotum etiam voluntarie et cum deuotione expectata et deo oblata in sua amaritudine possit fieri aliquo modo satisfactoria. Mors tamen violenta, siue quis eam meruit siue non, semper est satisfactoria si patienter sustineatur et in gratia. Et hec quidem quo ad penas propter aliorum peccata inflictas.

Propter propria autem etiam deus flagellat in vita presenti, et specialiter circa maleficia inferenda. Nam (*Thobie* vij) super illos qui libidini deseruiunt diabolus accipit potestatem, quod etiam ex precedentibus patuit, declarando maleficia circa membra et potentias generatiue potentie, que amplius deus permittit maleficari. Attamen ad predicandum populo notandum quod premissis punitionibus non obstantibus

<sup>a</sup> *Ed. prin.*: suos; cf. *Decretum* 2.23.5.49 quoted in n. 687 and the title to that section (per populos diuino diusso excitato).

<sup>687</sup> Cf. *Decretum* 2.23.5.49. *Comm.* § 8: . . . aliquando per legitimam potestatem gerentes, aliquando per populos diuino iussu excitatos mali pro peccatis non solum flagellantur sed etiam perduntur.

<sup>688</sup> *Sc. penitentijs* (*misunderstood abbreviation?*)

<sup>689</sup> *Aq., Sent.* 4.15.1.4b. *Co.*: Vnde si flagella que pro peccatis a deo infliguntur fiant aliquo modo ipsius, rationem satisfactionis habent.

secundum quas deus pro culpis|alienis siue proprijs punit, hanc regulam <sup>76D</sup> iuris pro fundamento teneat et populo proponat, que dicat: “Sine culpa nisi subsit causa non est aliquis puniendus” (*Extra*, “De regulis iuris”), et hec regula locum habet in iudicio poli, id est, dei, et in iudicio fori, id est, in foro humano, siue seculari siue ecclesiastico.

Declara de iudicio poli. Nam cum deus duplici pena, spirituali et temporali, punit, in prima inuenitur quod nunquam sine culpa, in secunda inuenitur quod interdum bene sine culpa sed non sine causa. De prima spirituali pena, que cum est triplex, scilicet subtractio gratie, vnde sequitur obduratio in prestitis, non fit sine culpa propria. Secunda pena damni, id est, priuationis glorie – hoc etiam nunquam infligitur sine culpa propria, vt in adultis, vel contracta, vt in paruulis in originali decedentibus. Tertia pena sensus, id est, cruciatio ignis infernalis, etiam patet, vnde quod dicitur *Exodi xx* (“Ego dominus zelotes visitans peccata parentum in filios vsque in terciam et quartam generationem”) intelligitur|de imitatoribus paternorum scelerum, vt exponit Gratianus <sup>77A</sup> i q. iij § “Quibus,” vbi etiam dat alias expositiones.

De secunda autem pena temporali punit deus, primo propter culpam alterius, vt supra tactum est triplici ratione, vel etiam sina culpa aliena et propria sed non sine causa, vel etiam ex culpa propria et non aliena. Quod si vis scire causas propter quas deus punit et tamen absque culpa aliena et propria, videas quinque modos quos ponit magister in *Quarto* (di. xv, c. ij), et recipe tres primas causas, reliquas duas accipe pro culpis proprijs. Nam dicit: Quinque de causis deus hominem flagellat in vita presenti siue penas infert: primo, vt deus glorificetur, et hoc fit quando miraculose remouetur pena siue flagellum (exemplum de ceco nato (*Johannis ix*), de Lazaro resuscitato (*Johannis xi*)); secundo, si primum desit, immittitur tamen vt meritum cumuletur per exercitium patientie, ac etiam vt virtus latens intus alijs manifestetur (exempla in *Job i* et *Thobie ij*); tercio, vt virtus conseruetur per humiliationem flagellorum (exemplum in <sup>77B</sup> Paulo, qui de se dicit (*ij Ad Corinthos xij*): “Ne magnitudo reuelationum extollat me, datus est mihi stimulus carnis mee, angelus Sathane” etc., qui stimulus secundum Remigium fuit quedam infirmitas corporalis) – he sunt cause sine culpa; quarto vt eterna damnatio hic inchoetur, vt scilicet aliquo modo ostendatur quid in inferno patietur (exemplum in Herode (*Actorum xij*) et in Antiocho (*ij Machabeorum ix*)); quinto vt homo purificetur, vel per expulsionem culpe, cum scilicet ex flagellis conteritur (exemplum de Maria sorore Aaron (*Numeri<sup>3</sup> xij*) a lepra

<sup>3</sup> So ed. prin.; sc. Numerorum.

infecta et Jsraelitis prostratis in deserto secundum Jeronimum (xxiiij q. iiij “Quid ergo”) vel ad satisfactionem pene (exemplum in Daudid, qui post remissionem adulterij commissi quo ad culpam in penam fuit expulsus de regno, vt patuit in *ij Regum*, quod notat Gregorius (“De Penitentia,” di. i “Si peccatum Daudid”). Posset etiam dici omnem penam quam patimur procedere ex culpa nostra, saltim originali cum qua nascimur, quia ipsum<sup>a</sup> est causa omnium causalitatum (arguitur di. v “Ad eius”).

77C Sed et |tercia pena que est<sup>b</sup> damni: loquendo de illa quo ad eternam damnationem quam in futuro sustinebunt, nemo ambigat quin super omnes damnatos in penis sensibilibus cruciabuntur. Sicut enim gratie visio in patria, ita et mortali culpe pena in inferno succedit, et sicut gradus beatitudinis in patria commensuratur iuxta gradus charitatis et gratie in via, ita et mensura suppliciorum in inferno iuxta mensuram criminum in via. Hoc est quod *Deuteronomi* xxv dicitur: “Pro mensura peccati erit et plagarum modus.” Et si hoc in alijs peccatis omnibus, tamen in speciali maleficis hoc conuenit, quod *Ad Hebreos* x tangitur: “Quanto magis putatis deteriora mereri supplicia, qui filium dei conculcauit<sup>690</sup> et sanguinem testamenti pollutum duxerit, in quo sanctificatus est?” Hec sunt propria maleficarum fidem abnegantium et per diuinissimum sacramentum plurima maleficia, vt iam in secunda parte patebit, exercentium.

77D           SEXTADECIMA. DECLARATUR IN SPECIA|LI VERITAS  
PREMISSA COMPARANDO OPERA MALEFICARUM AD ALIAS  
SUPERSTITIONIS SPECIES

PREMISSA DENIQUE VERITAS QUO ad enormitatem criminum in maleficis probatur per comparisonem ad alia opera magorum et diuinorum. Nam cum quattuordecim sint species circa opera superstiosa ex triplici genere diuinationum, quorum primum fit per manifestam demonum inuocationem, secundum per tacitam solam considerationem dispositionis vel motus alicuius rei, vt siderum, dierum, aurarum, et huiusmodi, tertium per considerationem alicuius actus humani ad inquirendum aliquid occultum, que sortium nomen habent.

<sup>a</sup> *Should be ipsa, but presumably agrees with peccatum*

<sup>b</sup> *Ed. prin.: et*

<sup>690</sup> *Vulgate: -aucrit*

Et species primi generis diuinationis, que fit per expressam demonum inuocationem, sunt<sup>a</sup> prestigium, diuination somniorum, nigromancia, diuination phitonica, geomancia, idromancia, aeromancia, piromancia et ariolorum cultus (Thomas, *Secunda Secunde* q. xcvi | et xxvi q. iij “Jgitur”<sup>78A</sup> et q. v “Nec mirum”). Species denique secundi generis: genealiticus,<sup>b</sup> aurspices,<sup>c</sup> augures, omen seruantibus,<sup>d</sup> chyromantia et spatulamancia. Species etiam tercij generis variantur secundum omnia illa que sortium nomen habent ad inquirendum aliquid occultum, scilicet per considerationem punctorum, festucarum, figurarum in plumbo liquefactarum, et de his Thomas (ubi supra) et xxvi q. iij et iiii per totum.

Tamen hec omnia crimina maleficarum flagicia excedunt, quod de prestantioribus speciebus deducitur, vnde et de minoribus non difficultatur. Nam in prima specie, vbi<sup>691</sup> aliqui prestigiosis quibusdam apparitionibus sensus humanos decipiunt, vt res corporalis aliter sentiat per sensum visus aut tactus, vt in precedentibus tactum est de modo prestringendi, malefice his non contente circa membra generatiue potentie illa interdum prestigiosa apparitione auferendo, licet non in rerum veritate, etiam ipsam generatiuam | potentiam pluries auferunt, ne mulier<sup>78B</sup> concipere aut vir actum exercere valeat, etiam remanente membro absque prestigiosa illusionem; post conceptum etiam aborsum procurant; sepe procurant cum innumeris alijs malis; in diuersis etiam formis bestiarum apparent, vt in superioribus patuit.

In secunda denique specie, que<sup>692</sup> et nigromancia dicitur et fit per mortuorum apparitionem vel locutionem, cum, vt dicitur tercio libro *Ethimologiarum*, nigros Grece mors dicitur Latine, mancia vero diuination, faciunt autem talia per sanguinem hominis aut alicuius animalis super quibusdam characteribus, scientes demones sanguinem amare, id est, eius effusionem et peccata. Vnde fit vt vbi mortuos ab inferis se vocare putant ad respondendum ad interrogata, demones in eorum similitudinibus apparentes talia exercent, et huiusmodi artis erat illa

<sup>a</sup> *Ed. prin.*: sint

<sup>b</sup> *Sc.*: geneathlici

<sup>c</sup> *Sc.*: harus-

<sup>d</sup> *Sc.*: -es

<sup>691</sup> *Cf. Aq., Summa 2/2.95.3.Co.*: Quandoque quidem prestigiosis quibusdam apparitionibus se aspectui et auditui hominum ingerentes ad prenuntiandum futura, et hec species vocatur prestigium ex eo quod oculi hominum prestringuntur.

<sup>692</sup> *Cf. Aq., Summa 2/2.95.3.Co.*: Quandoque autem per somnia, et hec species vocatur nigromantia: “nigrum” grece “mortuus”, “mantia” “diuination” nuncupatur: quia quibusdam precantationibus, adhibito sanguine, videntur resuscitati mortui diuinare et ad interrogata respondere.

maga et phitonissa, de qua *primo Regum* xxviii, que ad instantiam Saulis  
 78C Samuelem suscitauit. Nec ex hoc putet<sup>a</sup> quis talia esse licita, quod scrip-  
 tura commemorat animam iusti prophete ab inferis vocatam Sauli euen-  
 tum futuri belli etiam per mulierem phitonissam aperuisse,<sup>693</sup> quia, vt  
 Augustinus<sup>694</sup> dicit (*Ad Simplicianum*), non est absurdum credere ali-  
 qua dispensatione permissum fuisse vt non dominante arte magica vel  
 potentia, sed dispensatione occulta, que phitonissam et Saulem latebat,  
 se iusti spiritus ostenderet regis aspectibus diuina eum sententia per-  
 cussurus, vel non vere spiritus Samuelis a sua requie est excitatus, sed  
 aliquod fantasma et illusio demonum imaginaria diaboli machinationi-  
 bus est facta, quam appellat Samuelem scriptura, sicut imagines solent  
 suarum rerum nominibus appellari.<sup>695</sup>

Hec ex responsione cuiusdam argumenti super questionem an diuina-  
 tio que fit inuocatione demonum sit illicita (*Secunda Secunde* q. xcv arti.  
 iiii “Ad secundum”). Sed si lectori placet, videat responsionem super  
 78D vltimum argumentum questionis an gradus prophetie sint in beatis in  
 eadem *Summa* q. clxxiii. Inspiciat etiam dictum<sup>b</sup> Augustini (xxvi q. v  
 “Nec mirum”). Sed hec parum ad maleficarum opera, que nullam in  
 se retinent speciem pietatis, vt intuenti eorum<sup>c</sup> opera patet, sanguinem  
 innocentem fundere non cessantes, occulta queque diabolicis instruc-  
 tionibus manifestantes, nec viuis aut mortuis parcunt, vbi animas cum  
 corporibus interimunt.

In tertia denique specie, que et somniorum diuiniatio dicitur,  
 dupliciter obseruatur: primo quando quis vtitur somnijs vt valeat<sup>d</sup>  
 aliquod occultum inuestigare<sup>696</sup> ex<sup>697</sup> reuelatione malorum spirituum  
 cum quibus habentur pacta expressa, quando scilicet ad hoc inuocan-  
 tur; secundo vero quando quis vtitur somnijs ad cognoscendum futura  
 secundum quod somnia procedunt ex reuelatione diuina vel ex causa

<sup>a</sup> *Ed. prin.*: -at

<sup>b</sup> *Ed. prin.*: -i

<sup>c</sup> *Sc. earum*

<sup>d</sup> *Ed. prin.*: ve-

<sup>693</sup> *Cf. Aq., Summa 2/2.95.3.Ag2.* Sed Saulo interroganti de euentu futuri belli a muliere habente spiritum pythonis apparuit Samuel, et ei futurum euentum pre dixit.

<sup>694</sup> *Start of Aq., Summa 2/2.95.4.Raz*

<sup>695</sup> *End*

<sup>696</sup> *Cf. Aq., Summa 2/2.95.3.Co. (re the kind of divination called sortes):* pertinet ... ad aliquod occultum inquirendum.

<sup>697</sup> *Start of adaptation of Aq., Summa 2/2.95.6.Co.:* ... si quis vtatur somnijs ad precognoscenda futura secundum quod somnia procedunt ex reuelatione diuina, vel ex causa naturali intrinseca siue extrinseca, quantum se potest virtus talis cause extendere, non erit illicita diuiniatio. Si autem huiusmodi diuiniatio causetur ex reuelatione demonum cum quibus pacta habentur expressa, quia ad hoc inuocantur, siue tacita, quia huiusmodi diuiniatio extenditur ad quod se non potest extendere, erit diuiniatio illicita et superstitiosa.

naturali intrinseca vel extrinseca. Quantum potest se extendere, talis virtus non erit illicita diuinatione.<sup>698</sup> Hec Thomas (ubi supra).

Pro cuius intelligentia, vt predicatorum nucleum ad minus habent, notandum ad primum de angelis, quod cum angelus | sit limitate vir-<sup>79A</sup> tutis, efficacius reuelare potest aliquod futurorum anime disposite quam indisposite.<sup>699</sup> Dispositio autem fit post sedationem motuum exteriorum et interiorum, vt quando silentes sunt noctes et sedati sunt motus fumositatum, et hoc fit circa auroram quando digestio est completa, et hoc dico de nobis peccatoribus similibus quibus angeli ex diuina pietate ad prosecutionem officij aliqua reuelant, aut tempore studij in aurora intellectum de occultis scripturarum informant.<sup>a</sup> Presidet enim angelus bonus intellectui sicut deus voluntati, et corpora celestia nostris corporibus, alijs autem perfectioribus<sup>b</sup> quibuscunque potest et quacunque hora reuelare vigilando et dormiendo, quamuis et iuxta philosophum in *De Somnio et Vigilia* sunt magis apte recipere reuelationes, vt dictum est, vno tempore quam altero, prout ceteri magi facere consueuerunt.

Ad secundum. Nota<sup>700</sup> quod ex naturali sollicitudine nature de regimine corporis contingit quod quedam futura habent causam naturalem in homine somniante, et tunc illa somnia seu visiones sunt tan-<sup>79B</sup> tummodo signa et non cause, sicut ex parte angeli dictum est, et hoc

<sup>a</sup> *Ed. prin.*: -ante

<sup>b</sup> *Ed. prin.*: -toribus

<sup>698</sup> *End*

<sup>699</sup> *For the whole parag. cf. Aq., Sent. 2.7.2.2. Rab.*: Quandoque tamen somnium est signum euentus futuri. Hoc autem contingit dupliciter, vno modo ex parte illa qua cognitionem a corpore accipit, in quantum imprimitur in ipsum virtus corporis celestis. Ex motibus enim corporum celestium relinquuntur quedam impressiones et motus, que sunt signa motuum celestium in corporibus inferioribus, et secundum quod isti motus perueniunt ad imaginationem, figurantur imagines illorum effectuum ad quos disponunt motus celestes, secundum similitudinem magis vel minus expressam, secundum quod virtus imprimens est fortior vel debilior, et secundum quod virtus recipiens est magis disposita vel minus et magis quieta ab alijs occupationibus: et propter hoc huiusmodi sentiuntur in dormiendo, quia anima vacat ab exterioribus motibus, et precipue in nocte et circa horam digestionis complete. . . . Alio modo secundum quid anima cognitionem accipit ex influentia luminis substantie separate, vel dei vel angeli, cui vehementius coniungitur quanto magis ab occupatione corporis cessat, et propter hoc reuelationes in somnijs fiunt et in illis precipue quorum anima corporis affectionibus non subditur, et quanto eorum imaginatio magis obedit intellectui, tanto figurantur in ea expressiores similitudines, et propter hoc virtutes morales multum faciuntur ad scientiam, et precipue virtus castitatis. . . . *See also Aq., Summa 1.84.8. Ruz., and 2/2.95.6. Co.*

<sup>700</sup> *Cf. Aq., Sent. 2.7.2.2. Rab.*: . . . diuinationes, etiam que in somnijs sunt, reducuntur in aliqua signa vel causas naturales. Hoc autem contingit dupliciter: vno modo in his quorum causa est in ipso somniante, et hoc contingit dupliciter: vel ita quod ipsum somnium est causa euentus futuri, sicut quando quis propter hoc quod in somno videt mouetur ad aliquid faciendum, vel est signum futuri cuius causa in ipso est, sicut quando quis somniat se comedere dulcia, significatur quod phlegma dulce in eo dominetur, ex quo medicus potest aliquem euentum futurum conijcere vel morbi vel salutis. . . .

accidentium futurorum in homine vt sanitatis vel egritudinis vel periculi etc. Et hec est sententia Aristotelis<sup>a</sup> (vbi supra), quia natura representat in somnis anime aliquas dispositiones que sunt in corpore ex quibus postea contingit infirmitas vel aliud, vt si quis somniet de occupationibus igneis, signum est quod predominatur in eo colera, si de aeris, vt de volatu et huiusmodi, signum est sanguinis, si aque vel alterius liquoris aquei, signum est flegmatis, si de terreis, signum est melancolie, et ideo per somnia quandoque iuuantur medici ad cognoscendum dispositiones corporis, vt etiam dicit philosophus in eodem libro.

Sed hec iterum leuia sunt per comparationem ad somnia a maleficis superstitiose obseruata. Nam si corporaliter, vt supra tactum est, nolunt transferri sed tantum imaginarie cernere que a consodalibus maleficis perpetrantur, reponere se habent | ad sinistrum latus in nomine  
79C sui diaboli et omnium demoniorum, vnde fit vt ei singula imaginaria visione representantur. A simili si aliqua occulta scire pro se vel alijs hominibus volunt, a demonibus per somnia instruuntur non per tacita sed per expressa cum eis pacta inita, nec iterum per quodcunque pactum quocunque modo per aliquod sacrificium alicuius animalis seu sacrilege deprecationis<sup>b</sup> aut cultus etiam latræ exhibitionis<sup>c</sup> sed seipsas in anima et corpore demonibus offerentes, fidem penitus sacrilego ore abnegando. Nec his contente etiam proprios aut alienos infantes demonibus offerunt aut interimunt, de quibus supra habitum est.

In quarta denique specie, que<sup>701</sup> per phitones (a “Phiton Appolline” iuxta Isidorum, qui auctor diuinandi dicitur fuisse) exercetur non per somnia aut per mortuorum allocutionem, sed per viuos, vt in arreptitijs, qui sic arrepti a demonibus vel voluntarie aut inuoluntarie ad  
79D predicendum tantummodo futura,<sup>702</sup> et non ad alia flagicia perpetrando agitantur. Qualis fuit illa puella de qua *Actuum* xvi clamando post apostolos quod essent veri serui dei, vnde indignatus Paulus imperauit spiritui exire ab ea. Patet quod modica sit comparatio per respectum ad maleficas et eorum<sup>d</sup> opera, que vtique sic ob magnitudinem facinorum et enormitatem criminum iuxta Isidorum, vt supra habitum est, nuncupantur. Vnde causa breuitatis de alijs minoribus speciebus diuinationum hec

<sup>a</sup> *Ed. prin.*: -til-

<sup>b</sup> *Sc.* sacrilegam deprecationem

<sup>c</sup> *Sc.* exhibitionem

<sup>d</sup> *Sc.* earum

<sup>701</sup> *Start of adaptation of Aq., Summa 2/2.95.3.Co.*: Quandoque vero per mortuorum aliquorum appationem vel locutionem . . . quandoque vero futura pronuntiant per homines viuos, sicut in arreptitijs patet, et hec est diuinatio per pythones. Et vt Isidorus dicit, pythones a Pythone Apolline sunt dicti, qui dicebatur esse auctor diuinandi.

<sup>702</sup> *End*

probare non expedit, vbi maiores excedere noscuntur. Nam vbi predicatori placet applicare alias species, vt geomantiam,<sup>703</sup> que fit circa corpus terrestre vt in vngue vel in ferro vel lapide polito, idromantiam, que fit in aqua vel crystallo, aremantiam,<sup>a</sup> que fit in aere, piromantiam, que fit in igne, ariolorum, que in visceribus animalium imolatorum in aris demonum,<sup>704</sup> licet he omnes per expressam demonum inuocationem fiant, nulla tamen est comparatio | ad maleficia maleficarum, cum ad <sup>80A</sup> nullum nocumentum hominum, iumentorum et terre frugum tendunt directe, sed ad futurorum precognitionem. De alijs etiam speciebus diuinationum, que<sup>705</sup> cum tacita inuocatione et etiam per tacitum, vt sic, pactum erga demones practicantur, vt sunt generalitici<sup>b</sup> seu astrologi sic dicti propter natalium considerationes, aruspices, qui dies et horas obseruant, augures, qui gestus vel garritus auium <obseruant>, et omen <seruantes>,<sup>c</sup> qui verba hominum obseruant, et chyromantici, qui ex lineamentis manuum aut spatulis animalium diuinant,<sup>706</sup> si cui placet, inspiciat *Preceptorium* Nider circa secundum preceptum, et plura inueniet quomodo sint licita et quomodo non. Maleficarum vero opera nunquam sunt licita.

DECIMASEPTIMA EST DECLARATIUA QUARTEDECIME  
GRAUITATEM CRIMINIS AD PECCATA QUECUNQUE  
DEMONUM COMPARANDO

SED ET TANTA EST earum facinorum | magnitudo quod etiam malo- <sup>80B</sup>  
rum angelorum peccata et ruinam excedunt, et si in culpis, quomodo non

<sup>a</sup> Sc. areo- (so Aq.)

<sup>b</sup> Sc.: geneathlici

<sup>c</sup> Cf. 78A, though the lack of the word may reflect clumsy adaptation.

<sup>703</sup> *Start of adaptation of Aq.*, Summa 2/2.95.3.Co.: Que [sc. signa] quidem si appareant in aliquo corpore terrestri, puta in ligno vel ferro aut lapide polito, vocatur geomantia; si autem in aqua, hydromantia; si autem in aere, areomantia; si autem in igne, pyromantia; si autem in visceribus animalium immolatorum in aris demonum, vocatur aruspicium.

<sup>704</sup> End

<sup>705</sup> *Start of adaptation of Aq.*, Summa 2/2.95.3.Co.: Diuinationem autem que fit absque expressa demonum inuocatione in duo genera diuiditur. . . Et si quidem aliquis conetur futura prenoscere ex consideratione situs et motus siderum, hoc pertinet ad astrologos, qui et generalitici dicuntur propter natalium considerationes dierum; si vero per motus vel voces auium seu quorumcunque; siue per sternuntationes hominum vel membrorum saltus, hoc pertinet generaliter ad augurium, quod dicitur ab garritu auium, sicut aruspicium ab inspectione auium. . . Si vero huiusmodi consideratio fiat circa verba hominum alia intentione dicta que quis retorquet ad futurum quod vult prenoscere, hoc vocatur omen. . . Si autem considerentur aliquae dispositiones figurarum in aliquibus corporibus visui occurrentes, erit alia diuinationis species. Nam ex lineamentis manus consideratis diuinatione sumpta chiromantia vocatur. . . Diuinatione vero ex quibusdam figuris in spatula alicuius animalis apparentibus spatulimantia vocatur.

<sup>706</sup> End

etiam in infernalibus supplicijs? Et hoc quidem quo ad culpas demonstrare non est difficile varijs rationibus.

Primo. Nam<sup>707</sup> licet eius peccatum sit irremissibile, hoc tamen non est propter magnitudinem criminis, habendo respectum ad eorum naturalia, et precipue secundum opinionem illorum qui dicunt eos tantum in naturalibus et nunquam in gratuitis fuisse creatos, et quia bonum gratie excedit bonum nature, ideo illorum peccata qui a statu gratie cadunt, prout malefice fidem susceptam in baptismo abnegantes existunt, eorum vtiq̄ue peccata excedunt. Si vero dicamus eos in gratia fuisse creatos, licet non confirmatos, sic etiam malefice, licet non create<sup>a</sup> in gratia, tamen a gratia sponte ceciderunt, sicut et ille volens peccauit.<sup>708</sup>

Secundo demonstratur. Nam licet eius peccatum sit irremissibile varijs de causis alijs – puta secundum Augustinum quia nullo suggerente  
80C | peccauit, ideo etiam nullo reparante redire debet,<sup>709</sup> vel quia secundum Damascenum contra dei formam intellectu peccauit et cognitio quanto est nobilior, tanto peior est error – seruus enim sciens voluntatem domini sui etc. – uel iterum secundum eundem Damascenum quia non est susceptibilis penitentiae, ideo nec venie, et hoc ex natura sua, que quia spiritualis tantummodo est, semel vertibilis eo quod se totam conuertit, quod in homine non fit vbi caro semper repugnat spiritui, vel iterum quia in excelso loco peccauit vt in celo, homo autem in terra: his tamen non obstantibus eius culpa in multis alijs minoratur comparatiue ad maleficarum flagicia: primo in hoc quod ille iuxta Anselmum in quadam oratione nulla precedente delicti vindicta superbiens peccauit, malefice vero post tantas penas sepe multis alijs maleficis inflictas, imo et post penas quas percipiunt in ecclesia diabolo occasione sue ruine inflictas omnia hec contemnunt et non ad minima peccata mortalia, vt  
80D | ceteri peccatores qui ex | infirmitate aut malicia absque habitu malicie peccant, sed ex profunda cordis malicia ad horrenda flagicia properant; secundo, quia licet triplex sit status mali angeli, innocentie, culpe et miserie seu pene, ipse tamen sic ab innocentia semel tantum cecidit, et quod ad illam nunquam restitutus fuit, peccator autem ad innocentiam

<sup>a</sup> *Ed. prin.*: -i

<sup>707</sup> *Start of adaptation of Aq., Sent. 2.21.2.2.Aq4*: Preterea, videtur quod etiam irremissibile fuerit [sc. peccatum Ade], quia bonum gratie excedit bonum nature. Angelus autem per peccatum a statu naturalium tantum cecidit secundum opinionem illorum qui dicunt eos in naturalibus creatos, homo autem etiam a statu gratie cecidit.

<sup>708</sup> *End*

<sup>709</sup> *Cf. Aq., Summa 1.64.2.Aq4*: Preterea, Gregorius dicit quod homo per alium reparari potuit, qui per alium cecedit . . . ; *and Raq*: Ad quartum dicendum quod non est tota causa quare peccatum hominis sit remissibile quia alio suggerente peccauit . . .

per baptismum restitutus iterum ab illa<sup>a</sup> cadens multum profundatur, et super omnes ipse malefice, vt earum flagicia demonstrant; tercio, ille contra creatorem, nos autem, et super omnes ipse malefice, contra creatorem et redemptorem etc.; quarto, ille dereliquit deum, permittentem videlicet eum peccare et non ex pietate eum prosequentem, nos autem, super omnes ipse malefice, peccatis elongamur a deo permittente et ex pietate nos continuo prosequente et beneficijs plurimis nos preuenientem; quinto, ille perstat in malicia deo reprobante et suam gratiam non apponente, nos miseri currimus | in illam maliciam deo continuo 81A  
reuocante; sexto, ille manet obduratus ad punientem, nos obdurati ad blandientem: etsi ambo contra deum, tamen ille contra se requirentem, nos contra pro nobis morientem, quem, vt premisimus, super omnes malefice dehonestantes offendunt.

*Solutiones argumentorum etiam declarant veritatem per  
comparationem*

AD ARGUMENTA.

Ad primum patet responsio per ea que in principio corporis questionis tacta sunt, vnde videlicet aliquod peccatum debeat censi grauius altero, et quomodo peccata maleficarum grauiora cunctis quo ad culpam existunt.

Ad aliud quo ad penam dicendum quod sicut culpa<sup>710</sup> Ade ita et eius pena dupliciter consideratur vel quo ad personam vel quo ad naturam totam, videlicet posteritatem ex eo secutam.<sup>711</sup>

Primo modo. Sicut<sup>712</sup> maiora peccata fuerunt post eum perpetrata quia videlicet ipse solummodo peccauit faciendo illud quod erat malum non secundum se | sed quia prohibitum,<sup>713</sup> fornicationes vero, adulteria, 81B  
et homicidia vtroque modo mala sunt, scilicet secundum se et quia prohibita: ideo etiam grauior pena eis debetur.

<sup>a</sup> *Ed. prin.*: -o

<sup>710</sup> *Start of adaptation of Aq., Sent. 2.21.2.2.R13*: ... dicendum quod pena peccati Ade dupliciter dicitur: vna que debetur sibi in quantum est quoddam singulare peccatum et personale, et sic multis alijs peccatis grauior pena debita fuit; alia que debetur sibi indirecte ratione infectionis originalis ex ipso create, et sic maxima pena ipsum primum peccatum secuta est.

<sup>711</sup> *End*

<sup>712</sup> *Start of adaptation of Aq., Sent. 2.21.2.2.SCI*: Sed contra, illud quod habet plures rationes mali magis est malum. Sed Adam peccauit faciendo illud quod erat malum solum quia prohibitum, multi autem peccant faciendo illud quod est vtroque modo malum, et secundum se et quia prohibitum. Ergo videtur quod multorum peccata grauiora sint peccato Ade.

<sup>713</sup> *End*

Secundo vero modo. Licet maxima pena primum peccatum secuta est, hoc tamen est per indirectum, inquantum videlicet per eum tota posteritas originali peccato fuit infecta, eo quod ipse primus parens omnium pro quibus omnibus solus filius dei satisfacere potuit potentia ordinata, pro suo autem personali medietate diuina gratia penituit et saluatus post solutionem factam per Christum. Incomparabiliter autem peccata maleficarum excedunt in grauitate, non contente<sup>a</sup> de suis personalibus peccatis et perditionibus, cum etiam innumeras alias post se continue trahunt.

Ad tertium dicendum ex prehabitis quod<sup>714</sup> hoc fuit per accidens in peccato Ade quod maiorem lesionem intulit, ex hoc videlicet quod naturam integram inuenit et quod corruptam necessario, non voluntarie, transfundere habuit, vnde non sequitur quod suum peccatum simpliciter  
81C grauius ceteris fuit, tum etiam quia hec idem etiam sequentia peccata fecissent si talem naturam inuenissent, sicut et secundum mortale peccatum non priuat gratiam eo quod illam non inuenit, priuaret autem si illam inueniret.<sup>715</sup> Hec est solutio sancti Thome in *Secundo* (di. xxi, ar. ij et in solutione secundi argumenti). Quam solutionem si quis ad plenum vult intelligere, habet considerare quod Adam originalem iustitiam si prestitisset,<sup>b</sup> non transfudisset in posteros, prout Anselmus opinabatur, quia etiam aliquis post eum peccare potuisset: videantur dicta doctoris (di. xx “an pueri mox nati fuissent in gratia confirmati,” item quotlibeto centesimoprimo “an idem qui nunc saluantur homines saluati fuissent si Adam non peccasset”).

SEQUITUR MODUS PREDICANDI CONTRA QUINQUE  
ARGUMENTA LAYCORUM QUIBUS PROBARE VIDENTUR  
SPARSIM QUOD DEUS NON PERMITTAT TANTAM  
POTESTATEM DIABOLO ET MALEFICIS CIRCA HUIUSMODI  
MALEFICIA INFERENDA

81D SIT DENIQUE PREDICATOR PROUIDUS super certa argumenta laycorum vel etiam peritorum quorundam qui intantum maleficas esse negant quod licet maliciam et potentiam demonis ad inferendum ex suo desiderio huiusmodi mala concedant, diuinam tamen permissionem sibi

<sup>a</sup> Sc.-arum

<sup>b</sup> Ed. prin.: p-

<sup>714</sup> *Start of Aq., Sent. 2.21.2.2. Raz:* . . . quod hoc fuit per accidens quod maiorem lesionem intulit, ex hoc scilicet quod naturam integram inuenit, vnde non sequitur quod grauius ceteris fuerit, quia hoc idem etiam sequentia peccata fecissent, si talem naturam inuenissent, sicut et secundum peccatum mortale gratia non priuat, quia eam non inuenit, sed priuaret, si inueniret.

<sup>715</sup> *End*

condescendentem negant, nec volunt quod deus talia fieri permittat, et licet modum arguendi non habeant et in tenebris sicut ceci palpitant, iam vnum, iam alterum medium tangendo, opus tamen est eorum assertiones ad quinque argumenta reducere ex quibus vtiq̄ue omnes eorum cauillationes procedere possunt, et primo quod deus non permittat diabolo sub tanta potestate seuire in homines.

VTRUM AD MALEFICIALEM EFFECTUM a demone per maleficas procurandum semper habet concurrere diuina permissio. Et arguitur quinque argumentis quod deus non | permittit, vnde etiam maleficium <sup>82A</sup> nihil est in mundo, et primum sumitur ex parte dei, secundum ex parte diaboli, tertium ex parte malefice, quartum ex parte morbi, quintum ex parte predicatorum et iudicum qui talia contra eas predicant et iudicant, qui vtiq̄ue nunquam securi essent.

Primo sic. Deus punire potest hominem propter peccata, et punit gladio, fame et mortalitate, item diuersis alijs infirmitatibus, varijs et innumeris, quibus humana conditio subiacet, vnde quia opus ei non est adiungere alias punitiones, ideo non permittit.

Secundo sic ex parte diaboli. Si vera essent que predicantur, quod videlicet vim generatiuam impedire possunt, vt videlicet mulier non concipiat, vel si concipiat, quod aborsum faciat, vel si non aborsum, quod etiam post partum natos interficiunt, vtiq̄ue sic perimere possent totum<sup>a</sup> mundum,<sup>716</sup> et iterum posset dici quod opera diaboli essent fortiora operibus dei,<sup>717</sup> scilicet sacramento matrimonij, quod est opus dei.

Tertio ex parte hominis. Nam videmus si maleficium debet esse ali- <sup>82B</sup> quid in mundo, tunc aliqui homines plus alijs maleficiuntur. De quo si queritur, vtiq̄ue dicitur hoc esse propter punitionem peccatorum, sed hoc est falsum, ergo et illud quod maleficia sint in mundo. Falsitas autem probatur ex eo quia tunc maiores peccatores amplius punirentur, hoc autem est falsum, cum minus puniantur quam alij, interdum iusti, quod etiam cernitur in pueris innocentibus qui asseruntur maleficiari.

Quarto potest addi et aliud argumentum ex parte dei. Hoc quod quis impedire posset et non impedit sed fieri permittit, vtiq̄ue iudicatur ex sua voluntate processisse, sed deus cum sit summe bonus, non potest velle malum, ergo non potest permittere vt fiat malum, quod ipse impedire potest.

Item ex parte morbi. Defectus et infirmitates qui dicuntur maleficiales similes etiam sunt defectibus et infirmitatibus naturalibus, id est, qui ex

<sup>a</sup> *Ed. prin.*: -cum

<sup>716</sup> Cf. *Aq., Sent. 4.34.1.3.Ag1* (quoted in n. 447)

<sup>717</sup> Cf. *Aq., Sent. 4.34.1.3.Ag2* (quoted in n. 8)

defectu nature procedunt. Quod enim aliquis claudicat, excecatur vel rationem perdit vel etiam | moritur ex defectu nature contingere possunt, vnde non possunt secure maleficis ascribi.

Vltimo ex parte iudicum et predicatorum qui cum talia aduersus maleficas predicant et practicant, vtique propter ingens odium a maleficis contra eos conceptum nunquam essent securi.

Sed contra. Argumenta sumantur ex questione prima super tertium principale prime partis tractatus et proponantur illa que sunt magis ad populum,<sup>a</sup> quomodo videlicet permittit mala fieri, licet non velit malum fieri, permittit autem propter admirabilem perfectionem vniuersi, que consideratur in hoc quod bona commendantur eminentius et magis placent et sunt laudabiliora dum comparantur malis (habentur ibi auctoritates).

Item profunda dei diuine sapientie, iusticie et bonitatis relucent quae alias essent occulta.

Et breuiter pro decisione questionis possunt colligi ex his que ibi tanguntur varia documenta pro informatione populi, videlicet quod deus iuste duos casus permisit, scilicet angelorum | et primorum parentum, qui cum sint maiores omnibus alijs casibus, non mirum si alij minores permittantur, qualiter autem sunt maiores quo ad causalitatem, non quo ad alias circumstantias secundum quas peccata maleficarum, vt in tertia questione tangitur, et malorum angelorum et primorum parentum peccata excedunt, et quare deus iuste permisit illos primos casus tangitur in secunda questione, ex quibus plurima colligere et dilatare potest ad suum placitum.

Sed ad respondendum super argumenta.

Nam ad primum: cum dicitur deus sufficienter punit per naturales infirmitates, mortalitates (gladio et fame), responderetur ex tribus.

Primo quia deus non limitauit suam virtutem ad naturalem processum aut etiam ad influentias corporum celestium, vt videlicet preter illa agere non possit, ideo et preter illa sepissime egit in punitionem peccaminum mortalitates et alia inferendo preter omnem influentiam corporum <celestium>, sicut in punitione peccati superbie in Dauid super mortalitatem inflictam populo propter populi numerationem etc.

Secundo hoc vtique congruit diuine sapientie, que cum rebus omnibus sic administrat vt eas proprijs motibus agere sinat, ideo sicut non conuenit maliciam demonis omnino impedire sed potius decet ipsam

<sup>a</sup> While the phrase magis esse ad seems unacceptably elliptical, cf. the idiom magis/potius videri ad in the decretal quoted on 193A.

permittere vt agat quantum ad bonum vniuersi spectare potest, licet continuo etiam refrenatur per bonos angelos vt non tantum noceat quantum nocere vellet, ita etiam non conuenit maliciam humanam refrenare super ea ad que ex libertate arbitrij potest, vt est fidem abnegare et seipsum demoni deuouere, que vtiq̄ facere in potestate sunt voluntatis humane. Ex quibus etiam duobus cum deus maxime offenditur, iuste permittit ea que a malefica desiderantur et propter que fidem abnegauit et ad que diaboli potentia se extendit, vt est hominibus, iumentis et terre frugibus posse nocere.

Tertio deus iuste permittit illa mala fieri per que diabolus etiam per indirectum maxime torquetur et summam recipit displicentiam. Sed per illa mala que a maleficis virtute demonum fiunt per indirectum diabolus maxime torquetur dum contra suam voluntatem deus omnibus malis ad gloriam sui nominis, ad fidei commendationem, ad electorum purgationem et cumulum meritorum vitur. Certum est enim quod inter omnes displicentias quas diabolus ex superbia quam semper contra deum erigit <recipit> iuxta illud "Superbia eorum qui te oderunt ascendit semper,"<sup>718</sup> hec precipua est qua sibi displicet quod deus omnia sua machinamenta in sui gloriam etc. conuertit. Iuste ergo deus cuncta permittit.

Ad secundum superius responsum est, et oportet respondere ad duo que includuntur in argumento, scilicet quod non dicitur diabolus fortior deo nec eius factura. Jmo cernitur quod minime virtutis existit, cum nihil possit nisi permissione<sup>a</sup> diuina, vnde eius virtus potest dici minima comparando ad diuinam permissionem, licet sit maxima comparando ad virtutes corporales quas naturaliter excedit, iuxta illud sepe allegatum "Non est potestas super terram que ei valeat comparari" (*Job xli*).

Alterum ad respondendum, cur videlicet deus potius super vim generatiuam permittit maleficia fieri quam super alios actus humanos, de quibus etiam supra tactum est in materia de permissione diuina sub titulo "Quomodo malefice vim generatiuam et actum venereum impedire possunt." Est enim hoc propter feditatem illius actus et quia originale peccatum inflictum ex culpa primorum parentum per illum actum transfunditur et exemplificatur etiam de serpente, qui primum instrumentum diaboli fuit etc.

<sup>a</sup> *Ed. prin.*: permissione

<sup>718</sup> *Quotation from Aq., Summa 1.64.2.SC*

83D Ad tertium dicendum quod sicut intentio et appetitus diaboli maior est ad tentandum bonos quam malos, licet ex parte tentati magis tentat malos quam bonos, id est, quod amplior abilitas est in malis ad recipiendum tentationem demonis quam sit in bonis, ita etiam plus affectat ledere bonos quam malos, licet maiorem abilitatem ledendi inueniret in malis quam in bonis. Et huius est ratio, quia secundum Gregorium quanto crebrius quis diabolo se subijcit, tanto intollerabiliorem sibi facit ut ei reluctari non possit, sed cum mali crebrius se subijciant diabolo, eis fit tentatio magis intollerabilis et frequentior cum non habeant scutum fidei formate quo se tueantur. De quo scuto apostolus (*Ephesiorum* vi): "In omnibus sumentes scutum fidei in quo possitis omnia tela nequissimi ignea extinguere."

Sed ex alia parte magis et acrius impugnat bonos quam malos, et ratio quia cum iam possideat malos, non autem bonos, ideo magis conatur per tribulationem trahere ad sui dominium iustos quos non habet quam peccatores possessos, sicut aliquis princeps terrenus magis insurgitur contra illum qui plus aufert de iure suo vel qui plus nocet regno quam contra illos qui non sibi contrariantur.

84A Ad quartum, quod deus permittit mala fieri, non vult tamen mala fieri, ultra premissa que tacta sunt, predicator declarare potest per quinque signa voluntatis diuine, que sunt preceptum, prohibitio, concilium, operatio et permissio. Vide sanctum Thomam, precipue in *Prima Parte*, quia ibi planius declarat (q. xix ar. xij). Nam licet<sup>719</sup> vna sit voluntas in deo, que est ipse deus, sicut et vna eius essentia, tamen per respectum ad eius opera indicatur et significatur nobis eius voluntas multipliciter secundum quod etiam psalmista dicit: "Magna opera domini exquisita in omnes voluntates eius."<sup>720</sup> Vnde<sup>721</sup> voluntas in deo distinguitur non ex parte rei sed ex parte suorum effectuum, ita ut voluntas proprie dicta dicatur voluntas bene placiti, voluntas methaphorice dicta dicatur voluntas signi,<sup>722</sup> in quantum videlicet per signa et methaphora indicatur

<sup>719</sup> *Start of adaptation of Aq., Summa 1.19.11.SC:* Sed contra est, quod voluntas dei est vna, cum ipsa sit dei essentia. Quandoque autem pluraliter significatur, ut cum dicitur: magna opera domini, exquisita in omnes voluntates eius. Ergo oportet quod aliquando signum voluntatis pro voluntate accipiatur.

<sup>720</sup> *End*

<sup>721</sup> *Start of adaptation of Aq., Summa 1.19.11.Co.:* . . . in deo quedam dicuntur proprie et quedam secundum metaphoram . . . Cum autem aliquae passionis humane in diuinam predicationem metaphorice assumuntur, hoc fit secundum similitudinem effectus . . . Et ideo in deo distinguitur voluntas proprie et metaphorice dicta. Voluntas enim proprie dicta vocatur voluntas bene placiti, voluntas autem metaphorice dicta est voluntas signi, eo quod ipsum signum voluntatis voluntas dicitur.

<sup>722</sup> *End*

nobis deum hoc velle, a simili sicut paterfamilias vnam habens in se voluntatem<sup>723</sup> demonstrat illam quinque modis, scilicet per se et per alium. Per se dupliciter, directe et indirecte: directe cum aliquid operatur et tunc est operatio, indirecte autem quando non impedit operantem, sicut et in quarto *Phisicorum* dicitur: remouens et prohibens est mouens per accidens, et quantum ad hoc dicitur signum permissio. 84B

Per alium autem declarat se paterfamilias aliquid velle tripliciter: vel in quantum ordinat aliquem ad aliquid faciendum necessario et prohibendo contrarium (et sic sunt preceptio in preceptis et prohibitio in affirmatiuis et negatiuis preceptis) vel in quantum ordinat aliquem persuasive ad aliqua <vel> conciliatiue (et hoc pertinet ad consilium).

Et sicut voluntas humana manifestatur per hec quinque, sic et ipsius dei. Quod enim preceptum, prohibitio et consilium dicatur voluntas dei, patet per illud (*Matthei* sexto): "Fiat voluntas tua sicut in celo et in terra," id est, vt in terra impleamus eius precepta, vitemus prohibita et impleamus pro posse consilia. Et similiter quod permissio et operatio dicatur dei voluntas, patet per Augustinum, qui dicit in *Encheridio*: "Nihil nisi omnipotens deus fieri velit, vel sinendo vt fiat vel faciendo."<sup>724</sup> 84C

Ad propositum. Cum dicitur illud: quod quis impedire posset et non impedit iudicatur ex sua voluntate processisse, verum est, sed cum inferitur: deus est summe bonus, ergo non potest velle mala fieri, verum est voluntate beneplaciti et per quatuor signa huius voluntatis, quia non potest operari mala nec precipere mala, nec vt non prohibeat mala et persuadeat bona supererogationis, potest autem velle permittere mala fieri.

Ad aliud, quomodo discernuntur infirmitates ab inuicem, vt vna sit maleficialis, altera naturalis, puta ex defectu nature, responderetur quod varijs modis. Primo, medicorum iudicio (xxvi quest. v. "Non licet"<sup>725</sup> et quest. ij c. "Jllud," vbi verba Augustini ex secundo *De Doctrina Christiana*:

<sup>723</sup> *Start of adaptation of Aq., Summa 1.19.12. Co.*: Potest autem aliquis declarare se velle aliquid vel per seipsum vel per alium. Per seipsum quidem in quantum facit aliquid vel directe vel indirecte et per accidens. Et quantum ad hoc dicitur esse signum operatio. Indirecte autem in quantum non impedit operationem: nam remouens prohibens dicitur mouens per accidens, vt dicitur in viij *Physic*. Et quantum ad hoc dicitur permissio. Per alium autem declarat se aliquid velle in quantum ordinat alium ad aliquid faciendum vel necessaria inductione. quod fit precipiendo quod quis vult et prohibendo contrarium, vel aliqua persuasoria inductione, quod pertinet ad consilium. Quia igitur his modis declaratur aliquem velle aliquid, propter hoc ista quinque nominantur interdum nomine voluntatis diuine tamquam signa voluntatis. Quod enim preceptum, consilium et prohibitio dicantur dei voluntas patet per id quod *Matth.* vi: fiat. . . terra. Quod autem permissio vel operatio dicantur dei voluntas patet per Augustinum, qui dicit in *Enchirid.*: Nihil . . .

<sup>724</sup> *End*

<sup>725</sup> *Decretum 2.26.5.3: liceat*

“Ad hoc genus superstitionis pertinent omnes ligature et remedia que  
 84D medicorum disciplina condemnat in quibuscunque rebus suspendendis  
 atque ligandis”). A simili, vbi medici ex circumstantijs, videlicet etate,  
 complexione sana et subito quasi in ictu oculi immutata et quod non  
 ex defectu sanguinis, stomachi aut labe infirmitas acciderit, iudicant  
 illam non ex defectu nature sed ab extrinseco accidisse, et ab extrinseco  
 vbi non ex venenosa infectione, quia sic sanguis et stomachus malis  
 humoribus esset repletus, tunc ex sufficienti diuisione iudicant effectum  
 esse maleficalem. Item secundo, cum eis existit incurabilis, vt nullis  
 medicaminibus eger potest releuari, imo potius cernunt ipsum aggrauari.  
 Tertio, quia sic subito interdum accidit quod iudicium infirmi super hoc  
 concurrit.

Res gesta vni ex nobis innotuit. Nam quidam de optimatibus ciuitatis  
 Spirensis nimis ceruicose voluntatis vxorem habuit, intantum vt cum  
 ipse libens in omnibus ei complacere studeret, tamen in cunctis fere  
 85A suis affectionibus ei recalcitrabat et verbis contumeliosis semper ipsum  
 molestare satagebat. Accidit inde vt domum ingressus quadam die, cum  
 mulier solito more contra se briganti<sup>a</sup> verbis opprobriosis et ire locum  
 dare et domum exire volebat, ipsa hostium per quod exire habebat cursu  
 veloci anticipando obseruauit et vociferando contestabatur quod nisi  
 eam verberaret, nulla probitas aut honestas sibi inesset. Ad que verba  
 grauia ille manum non animo ledendi extendit et ipsam expansis digitis  
 super spatulam leuiter tangendo, subito ad terram collisus omnem sen-  
 sum perdidit, et per plures septimanas in lecto decumbens grauissima  
 infirmitate detentus fuit. Qua in re pensari potest illam infirmitatem  
 non ex naturali defectu sed per maleficium mulieris sibi accidisse. Plura  
 imo quasi innumera consimilia acta sunt et multis innotuerunt.

Sunt quidam qui per certam practicam experientiam rei capiunt per  
 85B hunc modum. Nam plumbum liquefactum super infirmum tenent et in  
 scutellam plenam aqua infundunt, et si imago aliqua condensata cer-  
 nitur, tunc infirmitatem ex maleficio accidisse iudicant, et quidam, an  
 talis imago opere demonum aut naturali virtute erumpat, vbi interro-  
 gantur, talia practantes respondere solent quod virtute Saturni super  
 plumbum, qui alias malus existit, sicut sol super aurum, maleficium sua  
 virtute ostendere solet. Sed quid de his sentiendum sit, an videlicet prac-  
 tica licita sit aut non, circa tertium principale huius tractatus tractabitur.  
 Canonistis enim videtur licitum, vt vana vanis contundantur, licet the-  
 ologis omnino contrarium videatur, cum non sint facienda mala vt  
 eueniant bona.

<sup>a</sup> Sc. -abat (seemingly a cum-clause and an ablative absolute have been conflated)

Ad vltimum, vbi diuersa queruntur, primo, cur malefice non ditantur; secundo, cur principibus eis fauentibus ad perniciem omnium inimicorum ipsorum non cooperantur; tercio, cur predicatoribus et alijs eos<sup>a</sup> persequentibus non nocere valeant.

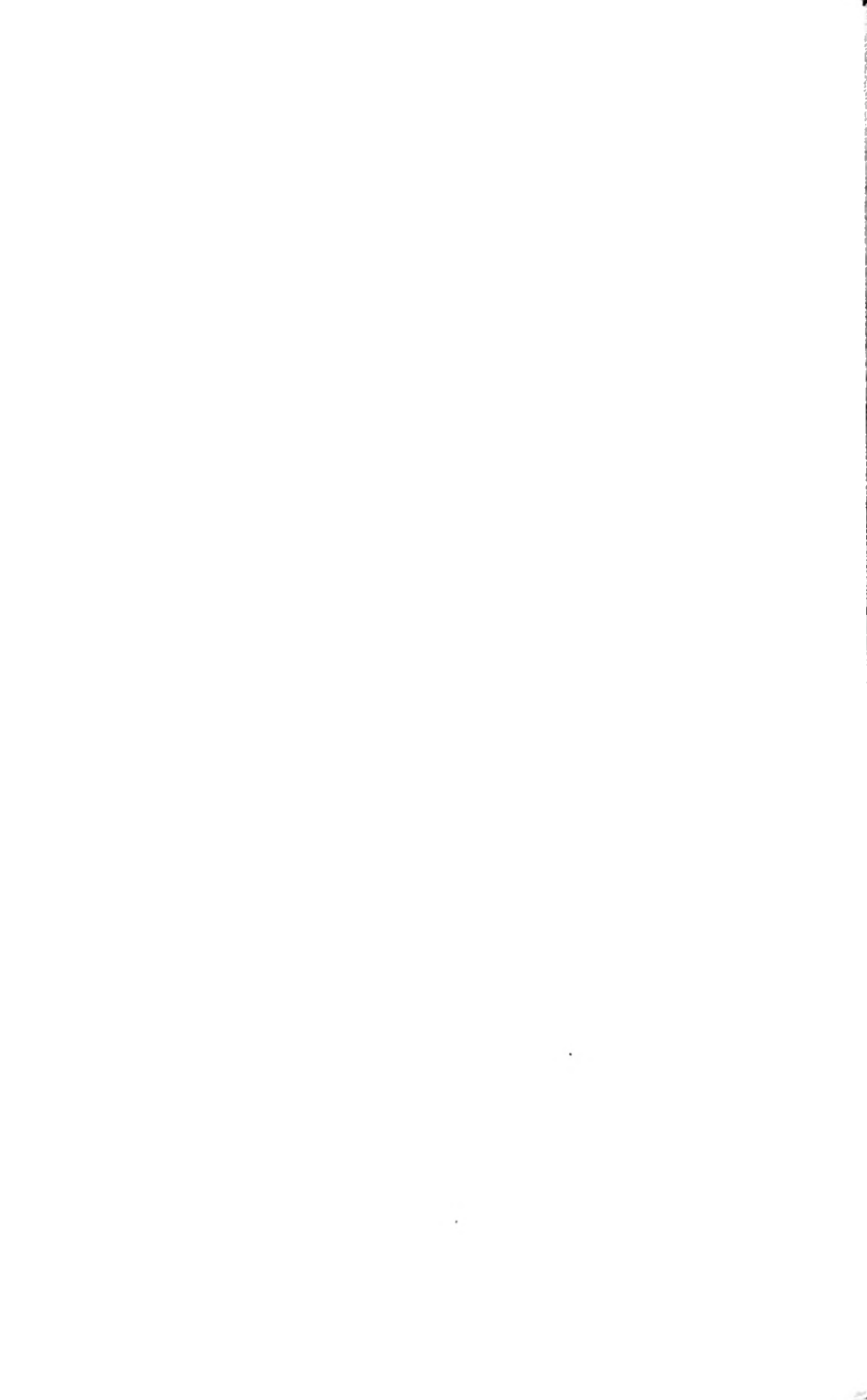
Ad primum dicendum quod | ideo vt plurimum malefice non ditantur, vt iuxta complacentiam demonis in contumeliam creatoris quantum possibile est pro vilissimo precio emantur, et secundo ne in diuitijs notentur. 85C

Ad secundum, cur principibus non nocent, causa est manifesta, quia quantum in ipsis est, hoc fit, vt ipsos in amicitia retineant. Et si queritur cur eorum inimicis non noceant, respondetur quia bonus angelus ex altera parte hoc maleficium impedit iuxta illud *Danielis*: "Princeps Persarum restitit mihi vigintiuna<sup>726</sup> diebus." Vide doctores in *Secundo Sententiarum* ("An inter bonos angelos sit pugna et qualiter").

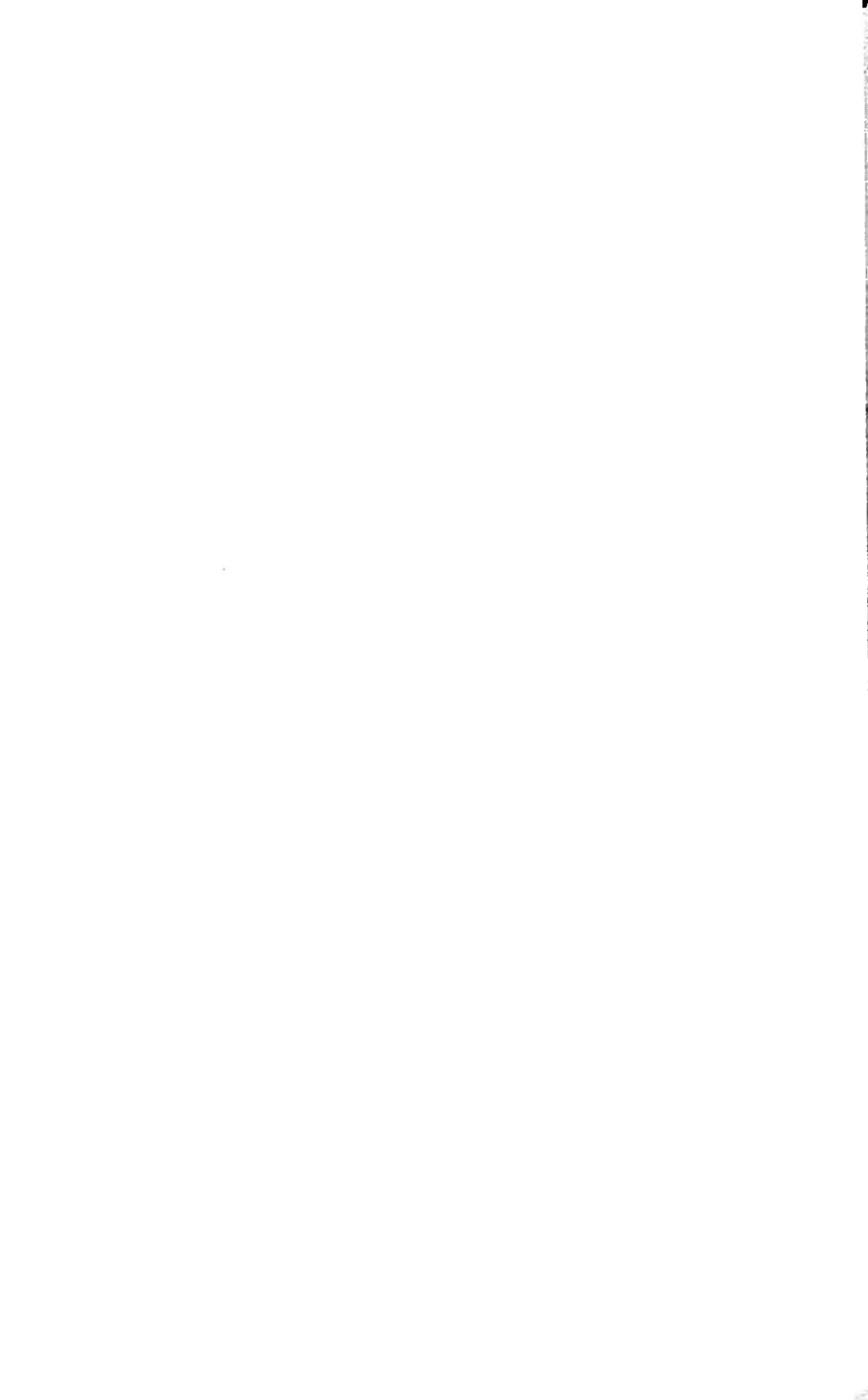
Ad tertium. Dicitur quod ideo nec inquisitoribus aut alijs officialibus nocere possunt, quia publica iusticia vtuntur. Exempla varia ad hoc possent adduci, sed temporis prolixitas non patitur.

<sup>a</sup> Sc. eas

<sup>726</sup> *Vulgate and Aq.*: vno



PARS 2



SECUNDA PARS PRINCIPALIS HUIUS operis. Quia est de modo procedendi qui a maleficis pro maleficijs inferendis obseruatur, et per decem et octo capitula distinguitur cum duabus dumtaxat difficultatibus, quarum vna in principio<sup>a</sup> super remedia preseruatiua, vt videlicet quis maleficiari non possit, altera in fine super remedia amouentia maleficia, et per que maleficiati curari possunt, cum secundum philosophum in quarto *Phisicorum* remouens et prohibens coincidunt et sunt cause per accidens, ideo vt per hec totale fundamentum huius horrende heresis habeatur, circa duo principaliter insistendum erit: primo circa introitum earum et professionem sacrilegam, secundo circa progressum in modo operandi et horrendam obseruantiam, tertio impedimenta salubria contra earum maleficia et remedia preseruatiua. Et quia in moraliam laboramus materia, vnde argumentis varijs et declarationibus vbique insistere opus non est, cum ea que per capitula sequentur sint per prece-

86A

dententes questiones sufficienter discussa, ideo precamur in deo lectorem ne demonstrationem in omnibus querat, vbi accomodata sufficit probabilitas ea deducendo que constant aut visus vel auditus propria experientia aut fidedignorum relatibus esse vera.

Circa primum autem duo principaliter tanguntur: primo diuersi modi ipsius demonis innoxios alliciendi, secundo diuersi modi ipsam heresim profitendi. Circa secundum vero sex per ordinem tanguntur quo ad modum procedendi et curandi: quia primo de his que a maleficis pro se et suis corporibus practicantur; secundo de his que erga alios homines operantur; tertio de his que erga bestias; et quarto de his quibus terre frugibus nocent; quinto de maleficio tantummodo virorum, quibus videlicet maleficijs tantummodo viri et non mulieres insistent; sexto de questione super maleficia amouenda et quibus modis curantur maleficiati. Est ergo prima questio per decem et octo capitula distincta, cum totidem modis in suis ritibus variantur et multiplicantur.

86B

VTRUM QUIS POSSIT PER bonos angelos ita beneficiari quod a maleficis per quoscunque infra scriptos modos non valeat maleficiari.

Et videtur quod non, eo quod per precedentia declaratum est etiam innoxios et innocentes et iustos pluries a demonibus affligi, vt Job et plures pueri innocentes qui cernuntur maleficiati cum multis alijs iustis,

<sup>a</sup> *Ed. prin.*: prn-

licet non equaliter vt peccatores eo quod non in perditionem suarum animarum, quamuis bonis fortune et corporum affligantur.

86C In contrarium est maleficarum fassio, | quod videlicet non omnes ledere valeant, sed tantummodo illos quos cernunt ex informatione demonum diuino auxilio destitutos.

Responsio. Tria sunt genera hominum beneficiati<sup>a</sup> a deo, quibus illud pessimum genus suis maleficijs nocere non potest, et primi sunt qui publicam contra eos iustitiam exercent aut officio aliquo publico aduersus eos insistunt; secundi qui de<sup>1</sup> ritibus ecclesie seruatis et veneratis, vt per aque benedictae aspersionem, per salis consecrati sumpcionem, per candelarum in die purificationis et frondium in die palmarum consecratorum vsum licitum, cum ad hoc talia ecclesia exorzisat, vt vires demonis imminuant<sup>2</sup> se muniunt, de quibus modis patebit; tertij sunt qui per sanctos angelos varijs et infinitis modis beneficiantur.

86D De primis ratio datur et per varia acta et gesta comprobatur. Quia enim omnis potestas a deo est et gladium portat iuxta apostolum in vindictam malorum et retributionem bonorum, non mīrum quod tunc angelica potestate demones arcentur quando iustitia in vindictam illius horrendi criminis exercetur. Notant ad idem doctores quod quia potestas demonis quinque<sup>3</sup> modis impeditur, in toto vel in parte,<sup>4</sup> primo<sup>5</sup> per terminum sue potestati a deo impositum, sicut de<sup>6</sup> *Job* (<*Job*> primo et secundo) tangitur<sup>7</sup> et de illo de quo in *Formicario* Nider legitur qui iudici<sup>8</sup> fassus fuerat quod dum quidam ipsum inuocasset vt inimicum suum vita priuaret aut in corpore lederet vel ictu fulminis interimeret, “cum vocassem demonem,” ait, “vt eius auxilio talia perpetrarem, respondit mihi quod neutrum facere posset. ‘Habet,’ inquit, ‘fidem bonam et diligenter se signo crucis munit: idcirco non in corpore sed in vndecima parte

<sup>a</sup> Sc. -orum

<sup>1</sup> *Start of adaptation of Nider, Form. 5.4 (208A):*... constat quod malefici de ritibus ecclesie seruatis et veneratis sua maleficia prepediri fatentur, vt per aque benedictae aspersionem [*sic*] per salis consecrati sumpcionem, per candelarum die purificationis et palmarum in die palmarum consecratarum vsum licitum et per similia, quia ad hoc talia ecclesia exorzisat vt vires demonis minuant...

<sup>2</sup> *End*

<sup>3</sup> *Start of adaptation of Nider, Form. 5.4 (207B):*... quinque sunt per que multum impediuntur, aliquando in toto, aliquando in parte...

<sup>4</sup> *End*

<sup>5</sup> *Start of Nider, Form. 5.5 (213A)*

<sup>6</sup> *Not in Nider*

<sup>7</sup> *End*

<sup>8</sup> *Start of Nider, Form. 5.4 (207C), which begins:*... exempla talia mihi Petrus (qui supra) retulit que audierat de superdicis maleficijs: “Cum,” inquit, “quidam simplex sed non rectus maleficium me invocaret vt inimicum suum vita priuarem...

fructuum suorum in campo, si libet, ei nocere possum.<sup>10</sup> Secundo<sup>10</sup> impeditur per impedimentum exterius adhibitum, vt in asina Balaam (Numeri<sup>2</sup> xxij); tertio per miraculum impossibilitatis exterius factum,<sup>11</sup> et sunt qui ex singulari priuilegio beneficiantur, de quo (tercium genus 87A hominum qui maleficari non possunt) iam inferius patebit; quarto<sup>12</sup> per dei iudicium singulariter<sup>13</sup> disponentis per obstaculum boni angeli, vt de Asmodeo interficiente sponsos<sup>14</sup> Sare virginis, non autem Thobiam; quinto interdum per cautelam suiipsius, quia non vult interdum diabolus ledere, vt peius inde sequatur, vt cum excommunicatos vexare posset, sicut et Corinthum quem vexauit excommunicatum (Corinthiorum v),<sup>15</sup> tamen non facit, vt fidem ecclesie in clauium potestate eneruat, ideo a simili etiam dicere possumus quod etiam si diuina virtute non arcerentur quando publica iusticia exercetur, adhuc tamen sepe manum seu protectionem a maleficis voluntarie retrahunt, quia vel timent earum conuersionem vel quia desiderant et accelerant earum damnationem.

Actis denique et gestis hec comprobantur. Nam et prefatus doctor refert quod malefici<sup>16</sup> verbo et experientia testimonium dederunt, quod eo ipso quo per reipublice iusticie officiales capiuntur, statim 87B omnis maleficorum eneruatur potestas, vnde et quidam iudex Petrus nomine, de quo et supra mentio facta est, cum quendam maleficum Stadlin nomine per suos famulos capere voluisset,<sup>17</sup> tantus tremor eorum manibus incussus fuit<sup>18</sup> et naribus tam malus fetor illapsus, vt se fere desperaret an maleficum inuadere auderent. Quibus dum<sup>19</sup> iudex imperasset,<sup>20</sup> "Secure miserum inuadite, quia publica tactus iusticia omnes vires

<sup>8</sup> So *Nider*; ed. prin.: nume.

<sup>9</sup> End

<sup>10</sup> Start of adaptation of *Nider*, Form. 5.5 (213B): . . . secundo per miraculum impossibilitatis exterius factum, vt in asina Balaam (Numeri xxij); tertio per impedimentum exterius adhibitum, vt in duobus discipulis a crisia percussis (Luce vltimo) . . .

<sup>11</sup> Pause

<sup>12</sup> Resume

<sup>13</sup> *Nider*: intus

<sup>14</sup> End of direct quote, start of adaptation: sponsos Sare Vxoris Thobie (eiusdem xi); quinto per cautelam suiipsius, quia non vult aliquando quod potest vt peius fiat, vt pater (Cor. v) de Corintho quem vexauit excommunicatum.

<sup>15</sup> End

<sup>16</sup> *Nider* of *Nider*, Form. 5.4 (208B), which begins: De publica vero iusticia omnes malefici (qui supra) . . .

<sup>17</sup> For . . . vnde . . . voluisset *Nider* has: vnde cum sepe dictus iudex Petrus antefatum Scadelem capere vellet per suos famulos . . .

<sup>18</sup> *Nider*: est

<sup>19</sup> Not in *Nider* (and obstructive to the syntax here)

<sup>20</sup> *Nider*: ait

perdet sue nequitie,” et ita rei probauit effectus.<sup>21,22</sup> Nam captus et incineratus fuit propter plurima ab eo perpetrata maleficia, que sparsim hincinde posita sunt et accomodata diuersis materijs.

- Sed et plura que nobis inquisitoribus in officio inquisitionis laborantibus contigerunt, si recitare expediret, vtique animum lectoris in ammirationem verterent, sed quia laus in ore proprio sordescit, potius expedit silentio preterire quam notam inanis glorie incurrere, illis dumtaxat exceptis que a deo in lucem prodierunt, quod celari non possunt.
- 87C In opido nempe Raſuenspurg dum a consulibus malefice incinerande interrogarentur cur nobis inquisitoribus aliqua maleficia, sicut alijs hominibus, non intulissent, responderunt: licet pluries hoc facere attentassent, non tamen potuerunt. Et de causa inquirentibus respondebant se nescire nisi quod sic a demonibus informate fuissent. Quotiens enim nocturnis et diuturnis temporibus nobis infest<sup>a</sup> fuerunt, enarrare non sufficimus, cum iam vt symee, iam<sup>b</sup> vt canes et capre suis clamoribus et insultibus nos inquietarent. De nocte ad orationes, licet indeuotas, surgentibus, extra fenestram loci, que tamen in tanta altitudine erat quod nisi per longissimas scalas quis adire potuisset, ictu validissimo, quasi ad caput de directo percutiebat, acus lintheo quo caput tegebatur inserentes, sic etiam a nobis surgentibus reperiebantur quasi illos capiti nostro immittere arte magica voluissent. Sed laus altissimo, qui sua pietate absque meritis nostris nos tanquam publicos iusticie fidei
- 87D indignos famulos preseruauit.

De secundis vero ratio in se patet. Nam ad hoc exorcizantur ab ecclesia et omnino sunt efficacissima remedia ad preseruandum se ab insultibus maleficarum. Quod si queritur per quem modum quis se munire debet, dicendum primo de his que absque alligationibus sacrorum verborum fuerint,<sup>c</sup> et demum de ipsis sacris carminibus.

Nam de primis licitum est aqua benedicta etiam quecunque honesta loca hominum et iumentorum cum inuocatione sanctissime trinitatis et oratione dominica in saluationem hominum et iumentorum aspergere. Sic enim in exorzismo dicitur vt vbicunque aspersa fuerit careat omni immundicia, liberetur a noxia, non illic resideat spiritus pestilens, etc. Homines enim et iumenta saluat dominus iuxta prophetam vnumquodque pro modulo suo.

<sup>a</sup> Sc. -e

<sup>b</sup> *Ed. prin.*: iam vt symee cum iam

<sup>c</sup> *Ed. prin.*: -it

<sup>21</sup> *Nider*: exitus siue effectus

<sup>22</sup> *End*

Secundo sicut primum de necessitate, ita hoc secundum, scilicet cereum benedictum accendere, est de congruitate, aspergere videlicet cum tali cereo loca inhabitantia.

Tertio herbas consecratas | adiungere vel fumigare, cum illis habitabiles<sup>a</sup> in aliquo loco occulto coniungere plurimum expedit. Sic enim in ciuitate Spirensi anno eodem quo hic liber est inchoatus contigit, quod dum quedam deuota mulier cum quadam suspecta malefica verba habuisset iuxta morem muliercularum mutuo brigantium rixosa, de nocte tamen cum paruulum lactantem cunis imponere voluisset, et mente reuoluens ea que de die cum suspecta malefica peregisset, timens de periculo pueri herbas benedictas puero supposuit, aqua simili aspersit, sal exorcizatum ori parum immisit, signo crucis muniuit et cunabulo diligenter alligauit. Et ecce circa medium noctis vagientem puerum audiuit, et dum iuxta morem puerum contrectare et cunabulum in alto prope lectum positum mouere voluisset, cunabulum quidem mouit sed puerum contrectare, quia aberat, non potuit. Tremens paupercula et de pueri amissione vehementer dolens, lumine accenso paruulum vagientem sub lectica et in angulo sine tamen lesione reperit. 88A 88B

Qua in re perpendi potest quanta insit exorcismis ecclesie aduersus insidias diaboli virtus. Liquet insuper omnipotentis dei clementia et sapientia, que attingit a fine vsque ad finem fortiter, disponit etiam istorum pessimorum hominum et demonum maleficia suauiter,<sup>23</sup> vt vbi querunt fidem imminuere et infirmare, eandem in multorum cordibus firmant<sup>b</sup> et radicent validius. Vtilitates enim plurime fidelibus ex huiusmodi malis proueniunt, vbi sic fides roboratur, demonis malicia inspicitur, dei misericordia et potestas manifestatur, homines ad sui custodiam actuantur et ad reuerendum Christi passionem et cerimonias ecclesie accenduntur.

Illis etiam diebus sculterus cuiusdam ville, Wissental, dum grauissimis doloribus et torsionibus corporis esset maleficiatus, et quod per maleficia sibi contigisset non tam ab alijs maleficis quantum et per experientiam edoctus fuit. Dixit enim quod singulis dominicis diebus se munire cum sumptione salis et aque benedicte solebat, et quia vno die propter cuiusdam celebrandas obmiserat nuptias, eodem etiam die maleficiatus fuit. 88C

Quid denique de illo in Rauenspurg, cum a diabolo in forma vnus mulieris ad carnalem actum sollicitaretur? Ille plurimum anxius dum desistere nollet diabolus, illi pauperi in mentem venit vt sumptione salis,

<sup>a</sup> *Ed. prin.*: -is

<sup>b</sup> *Sc.* -ent

<sup>23</sup> *Wisdom 8:1*: Attingit enim a fine vsque ad finem fortiter et disponit omnia suauiter.

prout in predicatione audierat, se munire deberet, vnde cum ad introitum stube sal benedictum sumpisset, mulier toruo vultu eum inspexit et quis diabolorum ipsum de hoc docuisset, impropere subito disparuit. Vbi diabolus per se in effigie malefice aut cum presentia corporali malefice affuerat, cum vtrumque facere deo permittente potest.

88D Sed et illi tres socij per viam ambulantes, duo eorum ictu fulminis percussi fuerant et tercius territus cum voces in aere clamantes audisset, "Percutiamus | et illum," altera vox cum respondisset, "Non possumus, quia hodie verbum caro factum est," audiuit. Intellexerat quod ea de causa quia missam audierat et in fine misse euangelium Johannis "In principio erat verbum et" etc. audiuisset, ideo preseruatus fuisset.

89A Sed et per sacra verba corpori alligata, quod miro modo sunt preseruatiua dummodo septem conditiones in ipsis seruentur, de quibus et in vltima questione huius secunde partis mentio fiet, eo quod ibi de remedijs sanatiuis, sicut hic de remedijs preseruatiuis, tractabitur, et illa sacra verba non solum ad preseruandum sed etiam ad curandum maleficiatos tendunt. Plurimum autem sunt preseruatiua locorum, hominum et iumentorum verba tituli triumphalis nostri saluatoris, dum scilicet per quatuor partes loci in modum crucis inscribuntur, "Jesus + Nazarenus + Rex + Judeorum +" vel etiam iungendo nomen virginis Marie aut | euangelistarum aut etiam verba Johannis "Verbum caro factum est."

Tertium vero genus quod a maleficis ledi non potest est singularissimum, vt pote precipua angelica custodia munitum interius et exterius, interius per gratie infusionem, exterius per celestium virtutum, id est, per motores<sup>23</sup> orbium celestium protectionem. Et hoc quidem genus in duabus speciebus electorum diuersificatur, quia vel munitur contra omnia genera maleficiorum, ita quod in nullo ledi possunt, vel quod precipue<sup>24</sup> circa generatiuam potentiam ita castificentur ab ipsis bonis angelis, sicut mali spiritus quosdam malos homines vel inflammant circa vnam vel infrigidant circa aliam per sua maleficia.<sup>25</sup>

Primum de interiori et exteriori protectione quo ad gratiam et quo ad influentias corporum celestium sic declaratur. Nam licet<sup>26</sup> deus per se

<sup>23</sup> Sr.: -um

<sup>24</sup> *Start of adaptation of Nider, Form. 5.6 (217B)*: ... quero principaliter . . . de beneficijs eorum circa generatiuam potentiam, vt pote an quosdam castificent [*sc.* boni angeli] sicut mali spiritus quosdam malos infrigidant per sua maleficia.

<sup>25</sup> *End*

<sup>26</sup> *Start of adaption of Nider, Form. 5.6 (216D)*: Quicquid enim boni a fonte totius bonitatis. deo. in nostra temporalia et corporalia bona emanat totum secundum beatum Dyonisium per ministerium angelorum habemus, et vt sanctus doctor in quodam loco super iij Sententiarum tradit. cum deus gratiam menti nostre notabilem vult infundere. ad quam licet se nulla creature potestas extendit, tamen ad hanc dispositiue angelus bonus cooperatur, sicut etiam licet ad verbi dei

gratiam infundat menti nostre, ita quod nulli creature potestas ad talem infusionem se extendere potest iuxta illud: “Gratiam et gloriam | dabit dominus,” tamen dispositiue, vt tradit sanctus Thomas in quodam loco super *Tertium Sententiarum*, quando deus aliquam notabilem gratiam vult infundere, angelus bonus cooperatur. Et hoc est quod Dionisius pretendit (quarto capitulo *De Diuinis Nominibus*): “Hec est lex diuinitatis immobiliter stabilita vt ima a summis per media perficiantur,”<sup>27</sup> ita quod quicquid boni a fonte totius bonitatis in nos emanat, totum per ministerium bonorum angelorum habemus.

Demus exempla cum rationibus. Nam licet ad verbi dei conceptionem in virgine beatissima per quam deus homo factus est sola diuina virtus efficienter affuerit, tamen angelico ministerio mens virginis per salutationem et per intellectus confortationem et informationem multum excitata vel ad bonum predisposita fuit. Ratione. Nam et prefati doctoris sententia est quod in homine tria sunt, vt videmus, scilicet voluntas, intellectus | et potentie alie interiores et exteriores affixe membris et organis corporalibus. In primum solus deus agere valet, quia cor regis in manu domini, dispositiue angelus bonus, in quantum intellectum ad veri et boni agnitionem amplius illuminat, ita quod in secundum et deus et angelus bonus agere possunt illuminando, et in tertium similiter bonus angelus ad bonum, et malus angelus, licet deo permittente immissiones malas imprimere potest, tamen in potestate humane voluntatis est tales immissiones factas acceptare vel refutare, quas etiam semper homo cum dei inuocata gratia potest propulsare.<sup>28</sup>

De exteriori etiam custodia, que per motores orbium a deo comunicatur, est<sup>29</sup> communis traditio et magis consona tam sacre<sup>a</sup> pagine quam

<sup>a</sup> *Ed. prin.*: -o

conceptionem in virgine beatissima per quam deus homo factus est sola diuina virtus efficienter affuerit, tamen angelico ministerio mens virginis per salutationem, per confortationem et per informationem multum excitata vel ad bonum predisposita fuit. [*Passage omitted here appears in next paragraph. The adaptation resumes on Nider 217A.*] Est insuper per doctrinam sancti doctoris quod in homine tria sunt in que spiritus separati agere valent, sed differenter, voluntas, intellectus et potentie alie ipsius anime affixe membris organicis corporalibus. In primum solus deus, in secundum tantummodo deus et bonus angelus vt illuminet, et in tertium deo permittente malus spiritus agere potest et imprimere, sed in potestate voluntatis humane est immissiones factas per angelos malos acceptare vel refutare, et talia cum dei inuocata gratia propulsare, vel eadem neglecta dimittere posse.

<sup>27</sup> Also quoted in 31B in a quotation of *Aq.*, De Malo, 3.3. *Ag15*, which gives (without attribution): lex diuinitatis est vltima per media reducere

<sup>28</sup> *End*

<sup>29</sup> *Start of adaptation of the passage omitted from Nider, Form. 5.6 (216D–217A) in the preceding paragraph:* Est prererea communior et magis consona tam sacre pagine quam philosophie naturali ista opinio que tradit omnia corpora celestia regi et moueri virtute angelica, quamobrem a Christo et ab ecclesia virtutes celorum vocantur. A celestibus autem influentijs simpliciter omnia huius mundi corporalia reguntur teste philosopho (primo Metheorum).

philosophie naturali, quod omnia corpora celestia mouentur virtute angelica, et dicuntur motores orbium, et a Christo et ab ecclesia virtutes  
 89D celorum vocantur, et consequenter a celestibus influentijs omnia huius mundi corporalia reguntur, teste philosopho (primo *Metheororum*),<sup>a, 30</sup> quare et dicere possumus: cum deus singularem habet prouidentiam de suis electis, licet quosdam malis huius vite, scilicet penalitatibus, subijcit, quosdam tamen ita preseruat quod in nullo ledi possunt. Et hoc donum recipiunt vel ab angelis bonis ipsis ad custodiam a deo deputatis vel ex influentijs celestium corporum seu a motoribus ipsorum orbium.

Insuper notandum quod licet aliqui contra omnia maleficia muniuntur, aliqui vero contra aliqua et non contra omnia, sunt tamen aliqui qui singulariter a bonis angelis super vim generatiuam ita castificantur quod nullo modo a malis maleficiari circa illam potentiam possunt. Sed de his scribere videtur in parte superfluum, licet in parte foret necessarium propter hoc quod isti qui circa potentiam generatiuam maleficiuntur  
 90A ideo destituuntur angelica custodia quod vel semper sunt in mortali peccato vel nimis libidinoso affectu illis spurcicijs insistent, vnde, etiam vt in prima parte operis tactum est, deus amplius permittit potentiam illam maleficiari, nedum propter eius turpitudinem, quantum et propter hoc quod corruptio primi parentis sub originali contagione in totum genus humanum traducitur.

Dicamus tamen pauca qualiter bonus angelus interdum viros iustos et sanctos beneficiet et precipue circa vim generatiuam. Nam<sup>31</sup> ita factum est de sancto Sereno abbate, de quo refert Cassianus in *Collationibus Patrum* (*Collatione abbatis Sereni prima*). “Hinc,”<sup>32</sup> inquit, “pro interna cordis atque anime castitate nocturnis diurnisque precibus, ieiunij quoque atque vigilijs infatigabiliter insistens cunctos estus carnalis concupiscentie tandem per diuinam gratiam in se extinxisse percepit. Deinde maiori zelo castitatis succensus prefatis vsus remedij a deo petijt, vt interioris hominis castitas in corpus redundaret dei dono. Postremo  
 90B autem veniens<sup>33</sup> ad eum angelus in visione nocturna eiusque velut aperiens ventrem<sup>34</sup> quandam ignitam carnis strumam de eius visceribus euellens<sup>35</sup> suisque omnia vt fuerant locis intestina restituens. ‘Ecce,’ inquit, ‘incentina<sup>b</sup> carnis tue abscisa sunt, et obtinuisse te noueris hodierna die

<sup>a</sup> So *Nider*, ed. prin.: -erorum

<sup>b</sup> So 100 *Nider*

<sup>30</sup> *End*

<sup>31</sup> *Start of Nider*, Form. 5.6 (217B–218C)

<sup>32</sup> *Nider*: hic

<sup>33</sup> *Nider*: ad-

<sup>34</sup> *Nider*: vterum

<sup>35</sup> *Nider*: euellens ac proijciens

perpetuam corporis puritatem iuxta votum quo poposcisti, vt ne ipse quidem naturali motu qui etiam in paruulis atque lactentibus excitatur vterius pulseris.”

Sic etiam<sup>36</sup> de beato Equicio abbate dicit beatus Gregorius (primo libro *Dialogorum*). “Hunc,” inquit, “cum iuuentutis sue tempore acri certamine<sup>a</sup> carnis incentina<sup>b</sup> fatigarent, ipse sue tentationis angustie ad orationis studium sollertiozem fecerunt. Cunque<sup>c</sup> hac in re ab omnipotente deo remedium continuis precibus quereret, nocte quadam assistente angelo eunuchari se vidit, in eiusque visione apparuit quod omnem motum ex genitalibus membris abscederet, atque ex eo tempore ita fuit alienus a tentatione ac si sexum non haberet in corpore.”<sup>37</sup> Ecce quale<sup>90C</sup> beneficium castificationis! Qua<sup>38</sup> virtute fretus ex dei omnipotentis auxilio, vt viris ante preerat, ita cepit postmodum feminis presse.

Ita in *Vitas<sup>d</sup> Patrum* illorum quos sanctus Heraclides, vir religiosissimus, collegit in libro suo quem *Paradisum* nominat, meminit cuiusdam sancti patris et monachi quem Heliam vocat. Hic misericordia motus trecentas feminas in monasterium collegit et regere cepit. Transacto autem biennio iam trigintaquinque annos habens vite tentatus a carne in heremum fugit, vbi biduo ieiunus orans ait: “Domine deus, aut occide me aut libera me ab hac tentatione.” Vespere igitur somnus ei irrepsit, et<sup>39</sup> tres angelos ad se venire vidit, quibus querentibus, cur a monasterio virginum fugisset, nec ille pre verecundia respondere auderet, dixerunt angeli: “Si liberaberis, num redibis curam feminarum gerendo?” Respondit ille quod<sup>40</sup> libens. Tunc illi iuramentum ab eo<sup>90D</sup> excipientes quod exegerant eum eunucharunt. Nam vnus manus, alter pedes, tertius nouacula testiculos eius visus est abscondere, non quod ita vere esset sed quia ita esse videbatur. Querentibusque anne remedium sentiret, respondit ille se plurimum exoneratum. Vnde quinta die ad lugentes feminas redijt, et per quadraginta annos quibus superuixit nec pristine tentationis deinceps scintillam sensit.

Non minus beneficium collatum esse legimus beato Thoma<sup>e</sup> doctore<sup>f</sup> nostri ordinis, qui a consanguineis propter ingressum dicti ordinis

<sup>a</sup> So *Nider*; ed. *prin.*: -men

<sup>b</sup> So too *Nider*

<sup>c</sup> Sc. cum-

<sup>d</sup> So *Nider* (apparently confusing this common noun with the undeclined title *Vitas Patrum*)

<sup>e</sup> Sc. -e (So *Nider*)

<sup>f</sup> Sc. -i (So *Nider*)

<sup>36</sup> *Nider*: sicut

<sup>37</sup> *Pause*

<sup>38</sup> *Resume*

<sup>39</sup> *Not in Nider*

<sup>40</sup> *Nider*: quam (presumably the text here is a misunderstanding of 93)

incarceratus, vt per meretricem seduceretur ad seculum, tentatus est, que per consanguineos immissa veste et ornatu comptissimo. Cum doctor eam intuitus fuisset<sup>41</sup> ad materialem ignem cucurrit, titionem ignitum arripuit et suggestricem ignite libidinis e carcere fugauit, et orationi<sup>42</sup> statim pro castitatis dono prostratus<sup>43</sup> obdormiuit, vbi duo angeli ei apparuerunt, dicentes: “Ecce dei ex parte te<sup>44</sup> cingimus cingulo castitatis, quod | nulla possit de cetero<sup>45</sup> impugnatione dissolui. Et quod humana  
91A virtute meritis non acquiritur, ex<sup>46</sup> parte dei confertur ex dono.” Sensit igitur cincturam,<sup>47</sup> scilicet tactum cincture, et exclamando euigilauit. Deincepsque<sup>48</sup> tanto munere castitatis se dotatum sensit vt ab eodem tempore omnem abhorreret luxuriam, vt nec<sup>49</sup> sine necessitate feminis colloqui posset, sed perfecta castitate polleret.<sup>50-51</sup>

Hec ex *Formicario* Nider.

Hij igitur tribus generibus hominum demptis nemo securus a maleficis, quin ex decemetocto modis infra scriptis aut maleficiatur aut ad maleficiandum tentatur et incitatur. De quibus per ordinem primo est disserendum, vt post eo clarius quibus remedijs maleficiati possint releuari discutiatur, et vt eo clarius pateant ipsi decemetocto modi per totidem capitula deducuntur, vt primo circa maleficarum introitum pateant diuersi modi per quos ipse malefice innoxias iuenculas in augmentum illius perfidie attrahunt; secundo de modo sacrilege professionis  
91B earum, vbi et quedam declaratio omagij prestandi ipsi diabolo inducitur; tertio de modo quo localiter transferuntur in corpore vel in spiritu; et quarto quo se incubis demonibus subiiciunt; quinto de modo generali, prout per sacramenta ecclesie sua maleficia exercent, et in speciali de modo quo demptis corporibus celestibus quasunque creaturas deo permittente inficere solent; sexto de modo quo vim generatiuam impedire solent; septimo super modum quo membra virilia auferre prestigiosa arte solent; octauo super modum quo homines in bestiales formas transmutare solent; nono super modum quo demones intra capita sine lesione existunt, quando prestigiosas apparitiones operantur; decimo

<sup>41</sup> For this clause, Nider has: Hanc enim sanctus doctor intuens

<sup>42</sup> Nider: in orationeque

<sup>43</sup> Nider: positus

<sup>44</sup> Nider: dei te ex parte

<sup>45</sup> Nider: -a

<sup>46</sup> Nider: tibi ex

<sup>47</sup> Nider: cincturam sanctus vir

<sup>48</sup> Nider: deinceps

<sup>49</sup> Not in Nider!

<sup>50</sup> Nider: pollet

<sup>51</sup> End (Nider ends with: eius vt tradit legenda)

super modum quo demones operatione maleficarum homines interdum substantialiter inhabitant; vndecimo quo omne genus infirmitatis inferre solent, et hoc in generali; duodecimo de quibusdam infirmitatibus in speciali; tertiodecimo super modum quo obstetrices malefice maiora <sup>91C</sup> damna inferunt dum infantes aut interimunt aut demonibus execrando offerunt; quartodecimo super modum quo iumentis varia nocumenta inferunt; quintodecimo super modum quo grandines et tempestates concitare et fulgura fulminare super homines et iumenta solent; sedecimo, decimoseptimo et decimooctavo super tres modos quo<sup>a</sup> tantum viri et non mulieres maleficijs sunt intenti. Post hec sequetur questio super modos tollendi huiusmodi maleficia.

Nec estimet<sup>b</sup> quis funditus horum noticiam capere pro eo quod hi varij modi super varia maleficia inferenda recitantur. Hoc enim et modicum vtile, imo fortassis et nocere posset. Neque enim prohibiti libri nigromantie hic inseruntur, cum hoc genus superstitionis non libris aut a doctis sed omnino ab imperitis practicatur: vnum habens fundamentum, dum illud non exprimitur aut practicatur, impossibile sit aliquem <sup>91D</sup> maleficijs vt maleficum insistere. Recitantur autem hic modi in superficie vt eorum opera non incredibilia videantur, sicut huc vsque in magnam fidei contumeliam et ipsorum maleficorum augmentum actum est.

Quod si aliquis ex prehabitis, cum dictum est aliquos preseruari per influentias corporum celestium vt maleficiari nullo modo possint, velit hoc etiam attribuere illis influentijs, dum aliqui maleficiantur, quasi quedam necessitas ibi sit, siue ad preseruandum a maleficijs siue ad inficiendum ab illis, talis non recte mentem doctorum saperet varijs respectibus.

Primo. Quia enim tria<sup>52</sup> sunt que a tribus celestibus causis dirigi possunt, scilicet voluntatis actus, intellectus actus et corporalia, et primum, vt supra tactum est, a solo deo et immediate dirigitur, secundum ab angelo, tertium a celesti corpore, licet dirigitur, non tamen necessitatur.

<sup>a</sup> Sc. quibus

<sup>b</sup> Ed. prin.: -at

<sup>52</sup> *Start of adaptation of Nider. Praec. 1.11.35 (Qa):* . . . in homine sunt tria que a tribus celestibus causis diriguntur: voluntatis actus, intellectus actus et corporalia, quorum primum a deo tantum et immediate, secundum ab angelo et tertium a celesti corpore dirigitur. Nam electiones et voluntates immediate a deo diriguntur, dicente (Prover. xxi) scriptura: "Cor regis in manu domini," et apostolus: "Deus operatur in nobis et velle et perficere pro bona voluntate." Cognitione vero humana intellectiua a deo mediantibus angelis ordinatur. Ea vero que ad corporalia pertinent, siue exteriora siue interiora, in vsu hominis venientia, a deo mediantibus angelis et celestibus corporibus dispensantur. Dicit enim Dionysius (c. iij De Divi. Nomi.) quod corpora celestia sunt cause eorum que in hoc mundo fiunt.

92A Secundo. Quia enim ex dictis manifestum est quod electiones et voluntates | immediate a deo diriguntur iuxta apostolum (“Deus est qui operatur in nobis velle et perficere pro bona voluntate”), et cognitio humana intellectiva a deo mediantibus angelis ordinatur, ideo etiam corporalia quecunque, siue sint interiora, vt virtutes et scientie acquisite per corporales potentias interiores, siue sint exteriora, vt sanitates et egritudines, a celestibus corporibus mediantibus angelis dispensantur, quod et Dionisius tangit (quarto capitulo *De Diuinis Nominibus*), quod corpora celestia sunt cause eorum que in hoc mundo fiunt.<sup>53</sup> Tamen hec sunt intelligenda quo ad sanitates et egritudines naturales, he autem egritudines cum sint supernaturales propter demonis potentiam, que illas deo permittente infert: ideo non possumus dicere quod ex influentijs corporum celestium contingat quod aliquis maleficiatur, sicut bene dici potest quod ex influentijs corporum celestium est quod aliquis maleficari non potest.

92B Et si dicitur quod opposita habent fieri circa idem, et sicut propositum in proposito, ita oppositum in opposito, responderetur quod vbi aliquis preseruatur virtute corporum celestium ab infirmitatibus his supernaturalibus, hoc non fit virtute corporum celestium immediate sed virtute angelica, que illam influentiam confortare potest, vt inimicus suis maleficijs non posset super eam preualere, et virtus illa angelica potest derivari vel a motore orbis celestis, vt si iam in puncto quis mori deberet super periodo naturali, deus sua potentia, qui semper per medias causas huiusmodi operatur, hoc immutare potest, virtutem conseruatiuam pro defectiua nature immittendo et eius influentia<sup>a</sup> – ita et dicere possumus de eo qui maleficiari posset quod etiam tali modo a maleficijs preseruatur – vel fit talis preseruatio ab angelo ad custodiam deputato, que etiam precipua est inter omnes custodias.

92C Et<sup>54</sup> quod dicitur *Jeremie* xxij: “Scribe virum istum sterilem qui in diebus suis non prosperatur,” hoc intelligitur quantum ad electiones

<sup>a</sup> *Ed. prin.:* -e

<sup>53</sup> *End*

<sup>54</sup> *Start of adaptation of Nider, Praec. 1.11.36 (Rr) (itself an adaption of Ag., Summa Contra Gentiles 3.92.N. 2):* Questio xxxvi: vtrum vel quomodo differt aliquem esse bene natum vel male, bene fortunatum vel male, bene gubernatum vel bene custoditum. Respondet Thomas (ibidem q. cl): Ex dispositione relicta a corpore celesti in corpore nostro dicitur aliquis non solum bene fortunatus aut male, sed etiam bene natus. Secundum vero quod ab angelo illuminatur, dicitur bene custoditus, secundum quod a deo in bonum inclinatur, dicitur bene gubernatus. Et quando aliquis ex impressione celestium corporum inclinatur ad aliquas electiones sibi vtilis, quarum vtilitatem propria ratione non cognouit, et cum homo ex lumine intellectualium substantiarum illuminatur eius intellectus ad eadem agenda, et ex diuina operatione inclinatur eius voluntas ad eligendum aliquod sibi vtile, cuius rationem ignorat, dicitur bene fortunatus. E contrario male

voluntatis, in quibus homo vnus prosperatur, alius non, quod etiam contingere potest ex influentijs corporum celestium. Verbi gratia, aliquis inclinatur ex impressione corporum celestium ad aliquas electiones vtilis, vt de ingressu religionis vel huiusmodi,<sup>a</sup> et cum ex lumine angeli illuminatur eius intellectus ad eadem agenda, et ex diuina operatione inclinatur eius voluntas ad hoc prosequendum, talis dicitur bene prosperari, vel etiam quando quis inclinatur ad aliquam artem vel ad aliquid vtile practicandum. E contra dicitur male fortunatus, quando ex superioribus causis ad contraria eius electio inclinatur. De quibus sententijs et multis alijs loquitur sanctus Thomas in *Summa Contra Gentiles* (libro tertio) et in plerisque alijs locis quomodo differt dicere aliquem esse bene vel male natum, bene vel male fortunatum, bene vel male gubernatum et custoditum, quia ex dispositione relicta a corpore celesti dicitur aliquis bene vel male natus, et sic etiam fortunatus, secundum vero quod ab angelo illuminatur, dicitur bene custoditus et non male, vbi sequitur illuminationes, sed secundum quod a deo in bonum et illud prosequitur, dicitur bene gubernatus.<sup>55</sup> 92D

Que tamen electiones hic non habent locum, quia de ipsis non intendimus, sicut de preseruatione a maleficijs inferendis, de qua ad presens sufficiat aggrediendo earum cerimonialia, que ab eis practicantur. Et primo quibus modis innoxios ad earum perfidiam alliciunt.

DE DIUERSIS MEDIJS QUIBUS DEMONES ATTRAHUNT ET  
ALLICIUNT INNOXIOS<sup>b</sup> PER MALEFICAS AD AUGMENTUM  
ILLIUS PERFIDIE

Capitulum Primum

SUNT AUTEM TRES MODI pre ceteris quibus demones per maleficas innoxios subuertunt, et ex quibus continue illa perfidia augmentatur. Et primus est per tedium ex importuna temporalium damnificatione. 93A Nam sicut sanctus Gregorius dicit, diabolus frequenter tentat vt saltim tedio vincat. Intelligas tamen hoc infra vires tentati, et super diuinam permissionem declara quod deus permittit ne homines ignauia torpeant.

<sup>a</sup> Ed. prin.: huius

<sup>b</sup> Ed. prin.: inn-

(fn. 54 cont.) fortunatus, quando ex superioribus causis ad contraria eius electio inclinatur, sicut de quodam dicitur (Jere. xxij): "Scribe iustum sterilem virum, qui in diebus suis non prosperabitur."

<sup>55</sup> End

In cuius figura dicitur (*Judicum ij*): “Has gentes non deleuit deus vt erudiret Jsrael in eis,”<sup>56</sup> et loquitur de finitimis nationibus Cananeorum, Jebuseis et alijs, et iam Hussite et alij heretici permittuntur vt deleri non valeant. Ita et demones per maleficas tantis afficiunt damnis in temporalibus vicinos et innoxios, vt quasi coacti maleficarum suffragia primo habeant implorare et demum earum consilijs se submittere.

Experientia sepe nos edocuit. Nouimus in dyocesi Augustiensi hospitem cui infra annum xliiij equi successiue dum fuissent maleficiati, vxor tedio affecta maleficas consuluit et iuxta earum consilia vtique non  
 93B salubria alios quos exposit emerat, quia vector erat, a maleficijs preseruauit. Quante denique mulieres in officio inquisitionis nobis existentibus conqueste fuerunt quod dum propter damna vaccis ex priuatione lactis et alijs iumentis illata<sup>a</sup> suspectas maleficas consuluisent, etiam remedia oblata percepissent dummodo aliquid vni spiritui promittere voluissent et illis inquirentibus quidnam promittendum foret, respondebant parum hoc esse dummodo informationibus illius magistri assentirent super certas obseruantias tempore diuinorum in ecclesia aut in confessionibus sacerdotibus faciendum<sup>b</sup> aliqua subticendo assentirent. Vbi notandum quod, vt supra tactum est, mille ille artifex<sup>c</sup> a minimis et paucis inchoat vt quod tempore eleuationis corporis Christi in terram spumant<sup>d</sup> aut oculos claudant aut quod aliqua verba inutilia proferant, sicut et nouimus eam, que adhuc superest seculari brachio defensa,  
 93C quando infra missarum solennia | sacerdos populum salutat dicendo: “Dominus vobiscum,” ipsa semper subiungit vulgari sermone, “Ker mir die zung im arsß vmb,” aut quod in confessione post absolutionem factam etiam similia proferant aut quod nunquam ex integro confiteantur, precipue mortalia peccata. Sicque ad omnimodam fidei abnegationem et sacrilegam professionem paulatim perducuntur.

Et hic modus seu etiam quicumque consimilis obseruatur a maleficis erga honestas matronas vitijs carnalibus minus deditas, magis autem terrenis comodis inhiantibus.<sup>e</sup> Sed erga iuuenulas ambitioni et voluptatibus corporis magis deditas alium modum obseruant, scilicet per carnalia desideria et voluptates corporis.

<sup>a</sup> *Ed. prin.*: -is

<sup>b</sup> *Sc.* -is

<sup>c</sup> Presumably, this odd expression (also used in 111A, C) is some adaption of the phrase mille nocendi habeant modos et artes (see 23A)

<sup>d</sup> *Sc.* -ent

<sup>e</sup> *Sc.* -es

<sup>56</sup> Cf. *Judges 2:21-22*: Et ego non delebo gentes quas dimisit Josue . . . vt in ipsis experiar Jsrael . . . and 3:1: He sunt gentes quas dominus dereliquit, vt erudiret in eis Jsrahelem.

Vbi notandum quod sicut intentio et appetitus diaboli maior est ad tentandum bonos quam malos, licet ex parte tentatorum magis tentat malos quam bonos, id est, quod amplior abilitas reperitur in malis ad recipiendum tantationem demonis quam sit in bonis, I ita et diabolus 93D sanctiores quasque virgines et puellas magis seducere conatur, cui experientia superest et etiam ratio. Nam cum malos iam possideat, non autem bonos, ideo magis conatur seducere ad sui dominium iustos quos non habet quam possessos malos, sicut etiam aliquis princeps terrenus magis insurgit contra illum qui plus aufert de iure suo quam contra alios qui non sibi contrariantur.

Experientia. Nam in opido Rauenspurg e duabus incineratis, prout etiam inferius patebit, vbi de modo quem obseruant concitando tempestates tangeretur, vna illa balneatrix inter alia que fassa fuerat etiam hoc recitauit, se multas a diabolo fuisse perpessam<sup>a</sup> iniurias ea de causa quod virginem quandam deuotam et filiam cuiusdam prediuitis, quem nominare opus non est cum et ipsa iam defuncta sit, disponente diuina clementia ne malicia deprauaret cor eius, seducere deberet taliter vt ipsam festiuo | aliquo die inuitaret vt et ipse demon in specie iuuenis cum ea 94A sua colloquia habere posset. Addiderat etiam quod licet sepissime hoc facere attentasset, semper tamen, vbi iuuenulam fuisset allocuta, illa signo sancte crucis se muniuit. Et hoc vtrique ex instinctu sancti angeli ad effugandum opera diaboli processisse nemo dubitat.

Est et alia virgo in diocesi Argentinensi constituta, que et vni ex nostris confessa asseruit quod die quadam dominica dum solitaria in domo paterna incederet, vetula quedam illius opidi ipsam visitandi gratia accessit, et inter alia scurilia verba que protulerat hec vltimatim subintulit, vt eam, si placeret, ad locum, vbi iuuenes omnibus hominibus opidi incogniti morarentur, deduceret. "Et dum," ait virgo, "assensum prebuissem et ipsam subsecuta ad domum venissem, vetula subintulit, 'Ecce, per gradus ad cameram superiorem ascendemus, vbi iuuenes morantur, sed caueas ne signo crucis te munias.' Quod dum | me facturam asseruissem, 94B illa precedente ego per gradus sequendo occulte me signo crucis muniui. Vnde contigit quod in summitate graduum et ante cameram pariter constitute,<sup>b</sup> illa vetula horribili vultu et stomachato animo se vertendo et me aspiciendo dixit, 'En, maledicaris! Signo crucis cur te signasti? Abhinc in nomine diaboli recedas.' Sicque ad propria redij illesa." Qua ex re colligitur quantis versucijs antiquus ille hostis in seductionem animarum debachatur.

<sup>a</sup> *Ed. prin.:* -as

<sup>b</sup> *Dangling nom. participle*

Prefata denique balnearia incinerata per hunc modum asseruit ab alia quadam vetula se seductam, cum tamen eius consodalis differenti modo, quia videlicet demonem in via in specie humana inuenisset, cum et ipsa intentionis fuisset amasium suum fornicationis causa visitare, et vbi a demone incubo cognita fuisset et interrogata an eum agnosceret et ipsa se eum minime agnoscere assereret, ille respondit, "Demon  
94C sum, et si volueris, ad tuum bene placitum semper | ero paratus, nec in quibuscunque necessitatibus te deseram." Ad que illa dum annuisset, decemetoocto annis, vsque videlicet ad vltimum vite, spurcicijs illis diabolicis inseruiuit, cum fidei tamen omnimoda abnegatione.

Et est tertius modus alliacendi per viam mesticie et paupertatis. Nam corruptis iuuenulis et spreis ab amatoribus, quibus se nubendi gratia ad eorum promissa impudice copulauerant, vbi iam omni frustrantur confidentia et se vndique infamatas considerant, etiam ad quecunque diabolica presidia se conuertunt, aut ratione vindicte illum maleficiando amatorem seu illam cui se coniunxit aut alias omnibus spurcicijs se submitiendo machinantur. Et sicut talium iuuenularum non est numerus, vt – heu! – experientia docet, ita nec numerus maleficarum ex eis insurgentium.

94D Pauca ex multis referamus. Est locus in dyocesi Brixinensi, vbi iuuenis super vxorem sibi maleficiatam talem casum deposuit. "Me enim tempore iuuentutis quandam," ait, "adamando<sup>a</sup> dum ipsa iugiter instaret vt eam matrimonio copularem et ego eam spernendo aliam ex alio dominio duxissem in vxorem, volens tamen amicitie gratia ei complacere, ipsam ad nuptias inuitabam. Qua veniente dum alie mulieres honeste suas propinas seu oblationes presentarent, illa que inuitata fuerat manum eleuans ceteris mulieribus que circumstabant audientibus dixit, 'Paucos dies sanos post hanc diem habebis,' et sponsa territa, cum eam non agnosceret, eo <quod>, vt premissum est, ex alio dominio copulata fuerat, dum interrogaret circumstantes, quenam esset que ei huiusmodi minas intulisset, alie ipsam vagam et dissolutam mulierem existere affirmabant. Non minus tamen ea que predixit et eo ordine subsequuta fuerunt. Nam post paucos dies adeo maleficiata fuit et omnibus membris destituta quod etiam vsque in presens vltra annos decem in suo corpore maleficia cernuntur."

95A Si ea que in vno dumtaxat oppido illius dyocesis reperta sunt inserenda essent, liber integer foret conficiendus. Conscripta autem sunt

<sup>a</sup> Sc. adamante

et reposita sunt apud eundem episcopum Brixinensem, et vtiq̄ue st̄penda et inaudita, vt̄ testis idem existit.

Nec silentio<sup>a</sup> pretereundam<sup>b</sup> putamus rem stupendam et inauditam. Nam comes quidam preclarus genere Westraniensis territorij in confinibus Argentinensis diocesis iuuenulam simili genere preclaram duxit vxorem, quam tamen post celebratas nuptias vsque ad tertium annum carnaliter cognoscere non poterat, maleficali impedimento, vt̄ rei probauit euentus, prepeditus. Anxius et quid ageret<sup>c</sup> ignorans et sanctos dei iugiter interpellans, accidit vt̄ ad ciuitatem Metensem ob negotiorum quorundam expeditionem applicaret, in qua dum per vicos et plateas seruis et familia vallatus incederet, quandam mulierem que ante illos annos concubina sua fuerat obuiam haberet. Qua visa dum super maleficia sibi illata minime cogitaret, improuise eam blande ex antiqua<sup>95B</sup> amicitia contracta alloquitur et qualiter se haberet et valeret inuestigat. At illa, cernens comitis pietatem, vice versa comitem de validudine sui corporis et status<sup>d</sup> diligenter inuestigauit. Quo respondente quod bene et prospere cuncta sibi succederent, illa attonita paululum siluit, et comes, cernens eam attonitam, amplius verbis blandis eam aggreditur ad collationem inuitando. At illa de statu vxoris inuestigando simile responsum accepit, quod bene in omnibus se haberet. Tunc illa anne pueros generasset inquisiuit, et comes: "Tres mihi," ait, "sunt pueri masculi. Quolibet anno vnum genuit." Tunc<sup>e</sup> amplius illa stupefacta paululum siluit, et comes: "Rogo te, carissima, cur tam diligenter inquiris, indica. Nec enim dubito quin mee felicitati congratularis." Tunc illa: "Vere congratulor, sed maledicatur illa vetula que obtulit se corpus vestrum velle maleficare, vt̄ carnalem actum cum vxore vestra exercere minime haberetis! In cuius signum | puteus qui est in medio curie vestre continet in fundo ollam certas res maleficiales continentem, que ea de causa<sup>95C</sup> ibidem posita fuit, vt̄ quamdiu ibidem contineretur, tamdiu coeundi impotentia vobis adesset. Sed ecce omnia vana sunt de quibus gaudeo" etc. Nec comes diu distulit. Ad domum regressus puteum exhauriri fecit, ollam repperit, et cuncta concremando potentiam illam perditam subito recuperauit. Vnde comitissa denuo nobiles quasque ad nuptias nouas inuitauit, affirmans se iam dominam illius castri et dominij, que tanto tempore virgo permansisset. Castrum et dominium propter honorem

<sup>a</sup> Ed. prin.: -a

<sup>b</sup> Ed. prin.: -um

<sup>c</sup> Ed. prin.: -ere

<sup>d</sup> Sc. statu (cf. de statu below)

<sup>e</sup> Ed. prin.: ta-

comitis non expedit nominatim exprimere. Hoc enim ipsum recta ratio persuadet, et vt substantia facti in detestationem tanti criminis detegatur. Ex quibus patent varij modi a maleficis vsitati in augmentum sue perfidie. Prefata enim mulier, quia ab vxore comitis expulsa, hoc maleficium  
 95D comiti ex alterius malefice|informatione intulerat, qua de causa innumeri effectus maleficiales sequuntur.

SEQUITUR DE MODO SACRILEGE PROFESSIONIS

Capitulum Secundum

MODUS AUTEM SACRILEGE PROFESSIONIS super expressum pactum fidelitatis cum demonibus varius existit, vtpote cum et ipse malefice varijs exercicijs circa maleficia inferenda insistent. Pro cuius intellectu est primo aduertendum quod sicut in genere triplices apparent malefice, vt in prima parte tractatus tactum est, scilicet ledentes sed curare non valentes, curantes et ex aliquo singulari pacto cum demone inito non ledentes, ledentes et currantes, ita et inter ledentes vnum genus existit supremum in quo genere existentes omnia alia maleficia que alie  
 96A sparsim exercent perpetrare valent. Vnde | <illarum modus> profitendi vbi describitur, satis declaratur de alijs speciebus inferioribus. Sunt<sup>57</sup> autem he que contra humane nature inclinationem, imo omnium ferarum, lupina tantummodo excepta, proprie speciei infantes vorant et comedere solent.<sup>58</sup> Et hec est suprema species in maleficijs exercendis. Sunt enim que ad innumera nocumenta alia tendunt. He enim grandines et auras lesiuas cum fulminibus exagitant; sterilitatem in hominibus et iumentis procurant; infantes quos non deuorant demonibus, vt supra patuit, offerunt aut alias occidunt – sed hoc circa infantes non renatos fonte baptismatis, quos autem deuorant renati sunt, vt patebit, sed non nisi deo permittente<sup>a</sup> – sciunt et infantes prope aquas ambulantes in ipsas nullo vidente in aspectu parentum projicere; equos sub insessoribus freneticos facere; de loco ad locum per aera vel corporaliter vel  
 96B imaginarie transmeare; iudicum et presidentium animos, ne eis nocere valeant, immutare; taciturnitatem sibi et alijs in tormentis procurare; in se capientium manus et animos tremorem magnum incutere; occulta alijs manifestare et quedam futura ex demonum informatione, que videlicet

<sup>a</sup> *Ed. prin.*: -mitcente

<sup>57</sup> *Start of adaptation of Nider, Form. 5.3 (202B-C)*: Sunt . . . quidam malefici vtriusque sexus, qui contra humane nature inclinationem, ymo aduersus condiciones specierum omnium bestiarum, lupina specie excepta tantummodo, proprie speciei infantes vorant et comedere solent.

<sup>58</sup> *End*

aliquam causam possunt habere naturalem, predicere (vide questionem an demones valeant futura precognoscere in *Secundo Sententiarum*, di. xij); absentia velud presentia conspicerere; ad amorem vel odium inordinatum mentes hominum immutare; ictu fulminis non nunquam quem volunt vel etiam aliquos homines et iumenta interimere; vim generatiuam aut etiam potentiam coeundi auferre; aborsum procurare; infantes in vtero matris solo exteriori tactu interimere; solo etiam visu absque tactu interdum homines et iumenta maleficiare et mortem inferre; proprios infantes demonibus dedicare; et breuiter omnia, vt premissum est, pestifera, que alie malefice sparsim procurare sciunt, quando dei iustitia talia fieri permittit, he in illo genere supremo existentes perpetrare sciunt, non autem econuerso (hoc tamen est commune omnium, spurcicias <sup>96C</sup> carnales cum demonibus exercere): ideo et ex illorum<sup>a</sup> modo profitendi qui in supremo genere existunt, aliarum maleficarum modum facilliter quis capere potest.

Fuerunt autem tales dudum ante triginta annos in confinibus Suardie versus dominium Bernensium, vt recitat Nider in suo *Formicario*, nunc autem in confinibus Lombardie versus dominium ducis Austrie, vbi et inquisitor Cumanus, vt in precedenti parte tactum est, vno anno xl et vnam maleficas incinerari fecit (et fuit annus domini etc. lxxxv), qui etiam adhuc continue inquirendo laborat.

Modus autem profitendi duplex est: vnus solennis per simile ad votum solenne; alius priuatus, qui seorsum demoni quacunq; hora fieri potest. Solennis inter eos fit, vbi malefice in certam concionem statuto die veniunt et demonem in assumpta effigie vident hominis, qui dum super seruanda sibi fidelitate cum temporalium prosperitate et longitudine vite hortatur, ille que assunt nouiciam suscipiendam sibi commendant, et demon, si de abneganda fide et cultu christianissimo et de extensa <sup>96D</sup> muliere – sic enim et beatissimam virginem Mariam nuncupant – et de sacramentis nunquam venerandis inuenerit nouiciam seu discipulum voluntarium, tunc demon manum extendit et vice versa discipulus seu nouicia stipulata manu illa seruare promittit. Et demon habitis illis premissis statim subiungit hec non sufficere, et vbi discipulus quenam vterius sint facienda inquirat, demon omagium petit, quod continet vt in anima et corpore sibi eternaliter pertineat et pro posse alios quoscunq; vtriusque sexus sibi associare velit. Adiungit denique vt certa vnguenta ex ossibus et membris puerorum, et precipue renatorum fonte baptismatis, sibi conficiat,<sup>b</sup> per que cunctas suas voluntates explere cum sua assistentia poterit.

<sup>a</sup> Sc. illarum

<sup>b</sup> Ed. prin.: -ât

Hunc modum nos inquisitores experientia teste percepimus in oppido  
 Brisiaco Basiliensis diocesis, plenam informationem capiendo ab vna  
 iuuenula malefica sed conuersa, cuius et matertera in diocesi Argenti-  
 97A nensi incinerata fuerat. Que etiam | addiderat quod per modum quo eius  
 matertera ipsam primitus seducere tentasset talis erat. Quadam enim die  
 secum per gradus ascendere habebat et eius iussu cameram intrare, vbi  
 cum vidisset quindecim iuuenes in vestimentis viridi coloris ad modum  
 quo rutheri incedere solet, matertera sibi dixit: “Euge! Ex his iuuenibus  
 et eum quem volueris tibi tradam, et ipse te sibi in sponsam assumer.”  
 Et cum illa nullum se velle habere asseruisset, grauiter vulnerata tandem  
 acquieuit, modum exprimens premissum. Asseruit etiam quod sepius  
 per longa terrarum spacia de nocte secum translata fuerat, etiam ab  
 Argentina vsque Coloniam. Hec est illa cuius occasione in prima ques-  
 tione promissum est nos velle declarare an malefice vere et corporaliter a  
 demonibus transferantur de loco ad locum, et hoc propter verba cano-  
 nis (xxvi q. v “Episcopi”), vbi textus sentit quod solummodo imaginarie,  
 cum tamen interdum etiam vere et corporaliter transferantur. Interro-  
 97B gata enim an solum imaginarie et fantastice sic incederent per demones  
 illuse, respondit quod vtroque modo, prout etiam veritas se habet, vt  
 inferius de modo transferendi localiter declarabitur. Asseruit etiam quod  
 maiora damna ab obstetricibus inferuntur, quia vt plurimum infantes  
 aut habent interimere aut demonibus offerre. Ab ipsa etiam matertera  
 asseruit se grauiter fuisse semel verberatam, eo quod ollam quandam  
 occultatam discooperiendo plurimorum infantium capita repperisset.  
 Et plura alia retulit prius prestito pro dicenda veritate iuramento, vt  
 decuit.

Eius denique verbis super modum profitendi fides indubia accomo-  
 datur etiam per ea que in suo *Formicario* prefatus Johannes Nider, doctor  
 precipuus qui etiam nostris temporibus miris claruit scripturis, recitat,  
 et hoc ex relatu inquisitoris Eduensis<sup>a</sup> diocesis, qui etiam in ipsa diocesi  
 multos de maleficijs reos inquisierat et incinerari fecerat. Dicit enim:  
 “Prefato<sup>59</sup> inquisitore mihi referente percepi quod in Lausanense ducatu  
 97C quidam malefici proprios natos | infantes coxerant et comederant. Modus  
 autem discendi talem artem fuit, vt dixit, quod malefici in certam con-  
 tionem venerunt et opere eorum verisimiliter<sup>60</sup> demonem in assumpta  
 imagine viderent hominis, cui discipulus habebat necessario dare fidem

<sup>a</sup> *Ed. prin.*: -i

<sup>59</sup> *Start of Nider, Form. 5.3 (202D–204D), which begins: Deinde antefato . . .*

<sup>60</sup> *Nider: visibiliter*

de abnegando christianismo, de eukaristia nunquam adoranda, et de calcando super crucem vbi latenter valeret.<sup>61</sup>

Sequitur aliud exemplum ab eodem. Fuit<sup>62</sup> insuper fama communis Petro iudice in Boltingen referente quod in terra Bernensium xiiij infantes deuorati<sup>63</sup> essent a maleficis, quamobrem etiam publica iusticia satis dure exarserat<sup>64</sup> in tales paricidas. Cum autem Petrus quisuisset a quadam capta malefica per quem<sup>a</sup> modum infantes comederent,<sup>65</sup> illa respondit, "Modus iste est. Nam infantibus, nondum baptizatis precipue, insidiamur, vel etiam baptizatis, presertim quando<sup>66</sup> signo crucis non muniuntur et orationibus."<sup>67</sup> Lector, aduerte quod ideo non baptizatis precipue insidiantur instinctu diaboli, vt non baptizentur.<sup>b</sup> | Sequitur: "Hos<sup>68</sup> in 97D cunabulis vel ad latera iacentes parentum cerimonijs nostris occidimus, quos, postquam putantur oppressi esse vel aliunde mortui, de tumulo<sup>69</sup> clam furto recipimus et in caldari decoquimus, quousque euulsis ossibus tota caro efficitur pene potabilis.<sup>70</sup> De solidiore materia vnguentum facimus nostris voluntatibus et artibus ac transuectionibus accomodum.<sup>c</sup> De liquidiore vero humore flasconem, vt<sup>71</sup> virem, replemus, de quo is qui potatus fuerit additis paucis cerimonijs statim conscius efficitur et magister nostre secte."<sup>72</sup>

Sequitur ad idem modus alius magis distinctus et clarus.<sup>73</sup> Nam<sup>74</sup> iuuenis quidam cum vxore malefica captus in Bernensium iudicio seorsum ab eadem et in distinctam turrim repositus dixit: "Si meorum facinorum veniam consequi possem, omnia que de maleficijs scio libens patefacerem. Mori enim video me oportebit." Cunque<sup>d</sup> per litteratos

<sup>a</sup> *Ed. prin.*: -e

<sup>b</sup> *Ed. prin.*: -etur

<sup>c</sup> *So Nider; ed. prin.*: -is

<sup>d</sup> *Sc. cum-*

<sup>61</sup> *Pause*

<sup>62</sup> *Resume (Nider begins: Fuit insuper fama communis dicto Petro iudice mihi referente...)*

<sup>63</sup> *Nider: inter pauca tempora deuorati*

<sup>64</sup> *Nider: exarsit*

<sup>65</sup> *Nider: comederunt*

<sup>66</sup> *Nider: si*

<sup>67</sup> *Pause*

<sup>68</sup> *Resume*

<sup>69</sup> *Nider: -is*

<sup>70</sup> *Nider: tota pene caro efficitur sorbilis et potabilis*

<sup>71</sup> *Nider: aut*

<sup>72</sup> *Pause*

<sup>73</sup> *Here Nider has the bridging passage: Modum autem eundem alius iuuenis maleficus captus et incineratus, tandem licet, vt credo, vere penitens, distinctius reseravit.*

<sup>74</sup> *Resume (Nider begins: In Bernensium namque iudicio captus dictus iuuenis cum vxore et ab eadem in distinctam...)*

circumstantes audisset<sup>75</sup> omnimodam posse consequi veniam, si vere  
 98A peniteret, tunc lete se morti obtulit, et modos priusmeue infectionis dis-  
 seruit. “Ordo,” inquit, “talis est quo etiam seductus sum. Oportet primo  
 ut<sup>a</sup> dominico die, antequam aqua benedicta consecratur, discipulum  
 futurum cum magistris ecclesiam introire et ibidem abnegare coram eis  
 Christum, eius fidem, baptisma, et vniuersalem ecclesiam, deinde oma-  
 gium prestare magisterulo,” id est, paruo magistro. Ita enim demonem  
 et non aliter vocant.<sup>76</sup>

Vbi notandum quod iste modus cum alijs recitatis concordat. Nec  
 obest quod demon interdum presens est, vbi omagium sibi prestatur,  
 interdum vero non. Dolose enim tunc operatur, cernens dispositionem<sup>b</sup>  
 futuri discipuli, qui fortassis ab eius presentia tamquam nouitius retra-  
 heretur timoris causa, cum tamen alias per sibi notos et familiares facilius  
 estimat eum assentire. Ideoque eum et tunc magisterulum vocant, cum  
 absens est, ut minori terrore ex parua estimatione magistri concutiatur.

Sequitur postremo. “De<sup>77</sup> vtre bibit supra dicto, quo facto statim se  
 in interioribus sentit imagines nostre artis concipere et retinere super  
 principales ritus huius secte. In hunc modum,” ait, “seductus sum, et  
 98B vxor mea, quam | tante pertinacie credo ut potius incendium sustineat  
 quam minimam fateri velit veritatem. Sed – heu! – ambo rei sumus.”

Sicut dixit iuuenis, ita veritas per omnia reperta est. Nam preconfessus  
 iuuenis in magna contritione mori visus est. Vxor vero testibus conuicta  
 nihil veritatis nec in ipsa tortura fateri voluit nec in morte, sed incendio  
 preparato per lictorem eidem verbis pessimis maledixit, et sic incinerata  
 fuit. Ex quibus liquet<sup>78</sup> modus profitendi earum solennis.

Alius vero modus priuatus fit diuersis medijs. Interdum enim viris  
 aut mulieribus [aut] aliqua alia corporali seu temporali afflictione inuo-  
 lutis demon astat, interdum visibiliter, interdum per medias alloquitur  
 personas. Et si secundum eius consilia agere velint, omnia profutura  
 pollicetur ad nutum, a paruis tamen, ut in primo capitulo tactum est,  
 inchoando, ut ad maiora paulatim perducatur. Varia possent ad hoc deduci  
 acta et gesta per nos in inquisitione reperta, sed quia difficultatem hec  
 materia non patitur, breuitati studendum est cum vltiori declaratione.

<sup>a</sup> So *Nider*, but grammatically unnecessary

<sup>b</sup> *Ed. prin.*: -potionem

<sup>75</sup> In *Nider* this appears after *veniam*

<sup>76</sup> *Pause*

<sup>77</sup> *Resume*

<sup>78</sup> *End* (*Nider ends with*: ex quibus dictis liquet quam noxium sit frigus perfidie quod infantes et partus solet occidere)

*Pro declaratione omagij prestandi aliqua sunt aduertenda*

98C

VERUM SUPER HOC QUOD diabolus omagium recipit aliqua sunt aduertenda, qua videlicet de causa et quam differenter hoc faciat.

Et primo. Nam licet hoc faciat principaliter ob maiorem offensionem diuine maiestatis, creaturam ei dicatam sibi vsurpando, et ob maiorem certitudinem future illius damnationis, quam summe affectat, tamen sepe receptum est a nobis tale omagium ad certos accepisse annos simul cum professione, interdum professionem tantum et omagium ad certos annos distulisse. Et dicamus professionem consistere in fidei totali aut partiali abnegatione: totali, vt supra tactum est, cum fides ex integro abnegatur, partiali, cum ex pacto inito habet cerimonialia quedam contra statuta ecclesie obseruare, vt dominicis diebus ieiunare aut sextis ferijs carnibus vesci aut certa crimina in confessione celare vel aliquid simile perpetrare. Omagium vero dicamus consistere in corporis et anime traditione.

Qua de causa autem talia practicantur: possumus assignare quattuor <sup>98D</sup> causas ex parte demonis. Cum enim, vt supra in prima parte tractatus declaratur circa secundum principale (an demones ad odium vel amorem mentes hominum possint immutare), patuit quod intima cordis non possit penetrare, cum hoc soli deo conueniat,<sup>79</sup> ex coniecturis tamen in illorum cognitionem deuenit,<sup>a</sup> vt etiam iam inferius patebit, ideo versutus ille hostis si considerabit nouiciam in aggressu difficilem ad consensum, tunc blande eam aggreditur, pauca exigens, vt paulatim ad maiora perducatur.

Secunda causa. Nam cum inter abnegantes fidem diuersitas credenda est, cum quedam ore sed non corde, quedam ore et corde, diabolus experiri volens an corde, sicut ore, sibi profiteatur, certos annos deputat, vt eo in tempore ex operibus et conuersatione mentem eius inuestiget.

Tercia causa. Nam si per tantum temporis spacium congnoſcet ipsam ad quecunque exequenda minus voluntariam et quod iam ore et non corde sibi adhereat, presumitque diuinam misericordiam ei propter angeli boni custodiam, quam demon in multis experiri potest, profuturam, tunc ipsam | abijcere et temporalibus afflictionibus exponere <sup>99A</sup> conatur, vt vel sic ex desperatione eius lucrum habere valeat. Huius veritas patet. Nam si causa queritur, vnde sit quod certe malefice sub

<sup>a</sup> *Ed. prin.*: deueit

<sup>79</sup> quod . . . conueniat is based on *Aq., Sent. 2.8.1.5. Aqs and Ras*

quibuscunque tormentis, etiam maximis, nec minimam veritatem fateri volunt, vbi tamen alie facilliter ad quecunque interrogata sua crimina fatentur, item vnde hoc quod sibiipsis postquam fasse sunt vitam auferre suspendio conantur – reuera enim dici potest quod vbi diuina coactio per sanctum angelum ad hoc non concurrit vt malefica cogatur fateri veritatem et maleficium taciturnitatis abscedere, quod tunc opere demonum fit quodcunque euenit, siue taciturnitas siue criminum confessio – primum fit super illas quas ore et corde nouit fidem abnegasse et simili modo omagium prestitisse, de quarum etiam perseuerantia certus est, vbi per oppositum alias relinquit non tuendo, eo quod nouit illas sibi minime proficuas. Experientia nos sepe docuit, cum omnes quas incinerari fecimus ex earum confessionibus patuit ipsas fuisse inuoluntarias circa

99B maleficia inferenda. Nec hoc sub spe euadendi dicebant, cum ex plagis et verberibus eis a demonibus illatis vbi ad eorum nutum non seruibant veritas constabat, sepiissime vise cum faciebus tumidis et liuidis, et similiter quod post confessionem criminum sub tortura semper seipsas vita priuare laqueo satagunt. Veritas ex nostra practica habetur, cum semper post criminum confessionem custodes deputantur singulis horis super talia attendentes,<sup>a</sup> vbi etiam ex negligentia interdum custodum ad corrigias vel peplas reperiebantur suspense, inimico vtique, vt dictum est, hoc procurante, ne per contritionem aut sacramentalem confessionem veniam consequerentur.

Et quas corde allicere nunquam poterat, que etiam facillime gratiam apud deum inuenissent, iam vltimo per temporalem confusionem et horribilem mortem in desperationem deducere conatur, quamuis et per dei gratiam maior,<sup>b</sup> vt pie est credendum, venia<sup>c</sup> per veram contritionem et puram confessionem consecuta sit, vbi non voluntarie illis spurcicijs inheserunt.

99C Patet<sup>d</sup> ex his que per dioceses Argentinensem, | Constantiensem et oppidum Hagenouie et Rauenspurg acta sunt vix annis tribus euolutis. In primo namque oppido vna vili peplo et fragili se suspendit.<sup>e</sup> Altera nomine Walpurgis de maleficio taciturnitatis miro modo fuit notata, alias mulierculas informando qualiter talem taciturnitatem per puerum masculum et primogenitum in fornace decoctum procurare deberet.

<sup>a</sup> *Ed. prin.*: -etes

<sup>b</sup> *Behringer et al. (2000)*: -em

<sup>c</sup> *Ed. prin.*: -am (There seems to be a confusion in this clause between maior . . . gratia . . . consecuta sit and maiorem . . . gratiam . . . consecute sint. Perhaps it was imperfectly revised from one to the other; in any case, the singular verb suggests that the former version is intended.)

<sup>d</sup> *Ed. prin.*: -ent

<sup>e</sup> *Ed. prin.*: sup-

Acta et gesta adhuc pre manibus habentur, et similiter de alijs in secundo oppido incineratis sparsim hincinde deducuntur.

Est et quarta causa cur demones omagium recipere super certas differunt, super alias vero minime, eo videlicet quod cum periodum hominis cognoscere subtilius quam astronomi possunt, facilius eis terminum vite vel prefigere vel terminum naturalem per casualem,<sup>a</sup> modo quo dictum est, preuenire potest.

Hec breuiter peracta et gesta maleficarum declarantur, primo demonis astutiam in talibus deducendo. Nam<sup>80</sup> quia secundum Augustinum in libro *De Natura Demonum* assignantur septem cause vnde etiam probabiliter coniecturantur futura contingentia, non quod illa scire certitudinaliter valeant. | Prima est quia vigent subtilitate naturali quo ad operationem intellectus ipsorum, vnde et sine discursu, qui necessarius est in nobis, rationes<sup>b</sup> intelligunt; secunda, quia propter experientiam temporum et reuelationem<sup>c</sup> supernorum spirituum plura sciunt quam nos, vnde ex Jsidoro allegatur sepius a doctoribus, triplice acumine scire vigent demones, subtilitate nature, experientia temporum et reuelatione supernorum spirituum; quarta est propter celeritatem motus, vnde que in oriente fieri habent predicere potest mira celeritate<sup>d</sup> in occidente; quinta, quia, sicut sua potentia cum deus permittit possunt inducere morbos, auram<sup>e</sup> inficere et famem inducere, ita possunt et illa predicere; sexta, quia per signa possunt subtilius predicere mortem quam medicus videndo vrinam et pulsum: nam sicut ille per signa videt aliqua in infirmo que simplex non considerat, ita et demon ea que nullus homo videt naturaliter; septima, quia ex signis que procedunt ab

<sup>a</sup> So ed. prin. (*The sense seems to demand causalem, but cf. 144B*)

<sup>b</sup> Ed. prin.: -is

<sup>c</sup> Ed. prin.: -e

<sup>d</sup> Ed. prin.: sce-

<sup>e</sup> Ed. prin.: auarm

<sup>80</sup> *Start of adaptation of Nider, Praec. 1.9 (G):* Dubitatur iterum, quibus ex causis demones sciant futura interdum, et vnde tam miros effectus possunt, cum deus permittit, efficere? Respondetur secundum Augustinum (li. De Natura Demonum), assignando sententialiter septem causas, non quod futura contingentia sciant, sed coniecturant probabiliter. Prima, quia vigent subtilitate naturali plus quam homines. Secunda: plura sciunt quam nos propter experientiam temporum. Tertia: propter celeritatem motus demon multa futura predicere potest que hominem latent. Quarta: potentia, cum deus permittit, possunt morbos immittere et hos predicere. Quinta: per signa futura possunt predicere subtilius quam medicus videndo pulsum et vrinam. Nam sicut medicus videt per signa aliquid in infirmo quod homo simplex non videt, ita demon quod nullus homo naturaliter videt. Sexta: ex signis que procedunt ab animo hominis coniecturant ea que sunt vel erunt in anima astitius quam prudenti viro. Sciunt enim qui instinctus eorum sunt verisimiliter secuturi. Septima: acta prophetarum et scripta noscunt, ex quibus futura predicere possunt. Et hec tanguntur xxvi q. iiii c. "Sciendum."

100A animo | hominis coniecturant ea que sunt vel erunt in anima astutius prudenti viro: sciunt enim qui instinctus sunt verisimiliter secuturi et consequenter cuiusmodi opera; octaua, quia acta prophetarum et scripta noscunt melius quam homines, et ex illis multa futura dependent, ideo ex illis multa futura predicere possunt. (Hec etiam tanguntur xxvi q. iiii “Sciendum.”)<sup>81</sup> Vnde non mirum si periodum hominis scire potest naturalem, licet secus sit de termino casuali, qui feret per incinerationem quam demon finaliter procurat, quando, vt dictum est, ipsas inuoluntarias reperit, timens de earum reditu et conuersione, cum tamen alias quas nouit voluntarias etiam ad naturalem, vt sic, vsque mortem defendit.

Demus ex vtraque parte exempla que a nobis reperta sunt et acta. Nam in Basiliensi diocesi villa supra Renum situata nomine Oberwyler plebanum conuersione honestum habuit, illius tamen  
 100B opinionis, seu potius erroris, quod maleficium nihil esset in mundo | sed tantum in opinione<sup>a</sup> hominum, qui huiusmodi effectus mulierculis attribuebant. Quem taliter a suo errore deus purgare voluit, quod etiam et alia demonum super prefigendum terminos<sup>b</sup> vite maleficis commercia patefierent. Nam dum festine pontem ob cuiusdam negocij expeditionem<sup>c</sup> pertransire vellet, obuiam simili importunitate quandam vetulam habuit, cui dum in pontis accessu locum, vt preiret, dare noluisset sed importune incederet, casu vetulam luto intrusit, vnde indignata in verba contumeliosa prorupit eique dixit, “Pfaff, impune non transibis.” Sed ille licet verba parum aduerteret, de nocte se infra cingulum, vbi surgere e lecto volebat, se maleficiatum sensit, ita vt brachijs aliorum sustentari semper habuit, vbi ecclesiam visitare volebat. Sicque per triennium mansit, sub cura tamen domestica matris carnalis. Quibus expletis dum vetula illa egrotaret, quam etiam propter verba  
 100C contumeliosa quibus minata fuerat semper suspectam de maleficio sibi illato habuerat, accidit tamen vt pro confessionis audientia infirmata ad eum mitteret. Et sacerdos, licet importune diceret: confiteatur diabolo suo magistro, ad instantiam tamen matris per duos villanos sustentatus inter brachia domum accessit, et ad caput lecti in quo<sup>d</sup> malefica iacebat sedendo,<sup>e</sup> duo illi villani ab extra auscultare volebant prope

<sup>a</sup> *Ed. prin.*: opinione

<sup>b</sup> *Ed. prin.*: -is

<sup>c</sup> *Ed. prin.*: -e

<sup>d</sup> *Ed. prin.*: -a

<sup>e</sup> *Dangling gerund*

<sup>81</sup> *End*

fenestram – sic enim stuba in plano erat situata – an maleficium illatum plebano confiteretur. Vnde contigit vt licet infra confessionem mentionem nullam de maleficio illato fecisset, ipsa tamen confessione peracta dixit: “Scisne tu, pfaff, quis te maleficiavit?” et dum blande ille responderet se nescire, illa subintulit: “Tu habes me suspectam, et bene. Scias me tibi intulisse,” tali de causa vt supra tactum est. Et dum ille pro sui liberatione instaret, dixit: “Ecce tempus statutum aduenit et mori habeo, sed ita disponam vt paucis diebus euolutis post mortem meam sanaberis.” Et ita euenit. | Nam illa iuxta statutum a demone terminum obiit, et infra triginta dies quadam nocte sacerdos ex integro se sanum reperit. Nomen sacerdotis dicitur Pfaff Heflin, iam in diocesi Argentinensi. 100D

Simile in diocesi Basiliensi, villa Buhel, prope opidum Gewiler contigit. Mulier quedam capta et tandem incinerata sex annis incubum demonem habuerat, etiam in latere viri dormientis in lecto, et hoc ter in septimana, sabbatis, quintis, tertijs ferijs, aut alijs noctibus sacracioribus. Tale autem omagium prestiterat diabolo vt post septimum annum in corpore et anima perpetue sibi dicata esset. Pie tamen dispensauit deus. Nam in sexto capta et igni adiudicata vere et integre confessa veniam creditur a deo percepisse. Plurimum enim voluntaria ad mortem extitit, asserens quod etsi liberari posset, mortem tamen amplius preeligeret dummodo potestatem demonis euaderet.

DE MODO QUO LOCALITER TRANSFERUNTUR DE LOCO AD LOCUM 101A

Capitulum Tertium

NAM AUTEM AGGREDIENDUM EST de earum cerimonijs et quibus in suis operibus procedunt modis.

Et primo de his que erga se et proprias personas operantur, et quia transferri de loco ad locum corporaliter est de precipuis earum actionibus, carnalibus etiam spurcitijs cum incubis demonibus insistere: de singulis aliqua deducemus, et primo de earum corporali transuactione. Vbi notandum est quod hec transuactio patitur difficultatem, vt sepius tactum est, ex vno dumtaxat processu scripture, puta xxvi q. v “Episcopi,” vbi dicitur ex consilio Acquirensi: “Jllud non est obmittendum quod quedam scelerate mulieres post Satham retro conuerse demonum illusionibus et fantasmatis seducte credunt<sup>a</sup> se et profitentur cum

<sup>a</sup> *So canon (and 60C); ed. prin.: -ent*

101B Diana horis nocturnis, dea paganorum, vel cum Herodiade et innumera  
 multitudine mulierum equitare super quasdam bestias et multa terrarum  
 spacia intempeste noctis silentio pertransire, eique tanquam domine in  
 omnibus obedire” etc. “quapropter sacerdotes dei predicare debent po-  
 pulo, vt nouerint omnino hec falsa et non a diuino sed maligno spi-  
 ritu talia fantasmata mentibus fidelium irrogari, siquidem ipse Sathanas  
 transformat se in diuersarum personarum species atque similitudines, et  
 mentem quam captiuam tenet in somnis deludendo per deuia queque  
 deducit” etc. Et ad hoc predicantur interdum a quibusdam exempla pub-  
 lica de sancto Germano et de quodam alio qui filiam suam super hoc  
 obseruauit quasi omnino hec sint impossibilia fieri, et indiscrete appli-  
 cantur ad maleficas et eorum<sup>a</sup> opera tanquam vt et singula eorum<sup>b</sup> facta  
 in lesionibus hominum, iumentorum, terre frugum non sint eis appli-  
 canda, eo quod sicut fantastice in transuentionibus, ita et circa creatu-  
 101C rarum lesiones illuduntur. Que quidem opinio cum in prima questione  
 tanquam heretica sit reprobata, vtpote contra diuinam permissionem  
 super diaboli potentiam, que ad maiora, vt sic, se extendere potest, mi-  
 litans, similiter et contra sacre scripture intentionem et ad ecclesie sancte  
 intolerabile damnum, vbi iam multis annis impune ex hac pestifera opin-  
 ione permanserunt, seculari brachio puniendi facultatem amputando,  
 vnde et in immensum sic creuerunt, vt iam non sit possibile eas eradi-  
 care, ideo diligens lector ea que ibi posita sunt in destructionem illius  
 opinionis considerabit, et ad presens qualiter transferantur et quibus  
 modis hoc sit possibile aduertet cum responsionibus super exempla que  
 ab eis in medium deducuntur.

Quod igitur corporaliter possint transferri varijs modis ostenditur, et  
 primo ex alijs magorum operationibus. Nam si non possent transferri,  
 hoc esset vel quia deus non permetteret aut quia diabolus hoc facere  
 non posset, eo quod creature repugnaret. Non primum, quia vbi maiora  
 101D vtique et minora dei permissione fieri possunt, sed maiora tam in pueris  
 quam in hominibus sepiissime facta sunt, vtpote iustis et in gratia consti-  
 tutis. Patet: nam vbi querunt an campiones puerorum opere demonum  
 fieri possunt et an demon localiter possit transferre aliquem hominem de  
 loco ad locum, etiam inuitum, ad primum respondent quod sic. Nam et  
 Guilielmus Parisiensis in vltima parte *De Vniuerso* dicit: “Campiones  
 puerorum fieri possunt, ita quod deo permittente demon vicem infantis  
 gerere potest, vel etiam translationem facere. Tales etiam pueri semper

<sup>a</sup> Sc. earum

<sup>b</sup> Sc. earum

sunt miseri eiulantes, et licet quattuor aut quinque matres vix sufficienter ad lactandum, nunquam tamen impinguntur sed ultra modum ponderosi existunt.” Mulieribus tamen propter nimium terrorem quem concipere possent nec affirmanda sunt nec neganda: instruende sunt vt litteratorum iudicia querant. Permittit enim deus propter | peccata parentum, cum interdum viri impregnatis vxoribus maledicunt: “Vellem,” 102A inquit, “vt diabolus portares” vel similia, et similiter impatientes mulieres sepe similia proferunt.

De alijs etiam hominibus, interdum iustis, exempla plurima reperiuntur. Nam Vincentius in *Speculo Historie* (li. xxvi ca. xliij) ex recitatione Petri Damiani refert de<sup>82</sup> puero quinquennij cuiusdam nobilissimi viri, qui puer monachus protunc factus a monasterio nocte illatus est pistrino clauso, vbi mane repertus et interrogatus dixit se per quosdam ad magnum conuiuium delatum et vt comederet iussum, et post per superiora pistrino immissum.<sup>83</sup>

Quid denique de his magis qui vsitato vocabulo a nobis nigromantici vocantur nuncupantur<sup>a</sup> et per aera sepe a demonibus ad longinqua terrarum spacia vehuntur, qui etiam alijs interdum hoc idem suadentes eos secum super caballum, qui vtique non verus equus sed demon in tali forma existit, vehunt, et vt loquantur nec vt signo crucis se muniant 102B hortantur?

Et licet duo simus hunc tractatum scribentes, vnus tamen ex nostris sepiissime tales vidit et reperit. Nam scholaris quidam protunc, nunc vero sacerdos Frisingensis diocesis, adhuc superesse creditur, qui et referre solitus est semel se corporaliter a demone fuisse per aera subuectum et ad remotas partes illatum. Superest sacerdos alius in Oberdorff oppido prope Lantzhutam, qui protunc consodalis illius existens oculis proprijs illam subuectionem vidit, et qualiter extensis brachijs in altum clamando et non eiulando translatus fuit.

Causa autem, vt idem retulit, hec erat. Nam conuiuentibus quadam die multis scholaribus in potagijs ceruisie omnes in hoc consenserant, vt ille qui ceruisiam afferret nil exponere haberet, et sic vnus ex socijs dum pro ceruisia apportanda exire volebat, hostium aperiendo nebulam densam ante hostium intuitus fuit, vnde territus redijt et quod potum afferre nollet causam aperiendo | eis insinuauit. Tunc idem qui illatus 102C

<sup>a</sup> vocantur nuncupantur: *presumably one of these was meant to replace the other but both wound up in the text.*

<sup>82</sup> *Start of Nider, Praec. 1.11.13 (R), which begins: Quod autem aliquando corporaliter fiat et localiter pater de puero . . .*

<sup>83</sup> *End (Nider adds: vt refert Petrus Damiani, et habetur in Speculo Hystoriali (li xxvi, c. lxiii))*

fuerat indignatus dixit: “Etsi diabolus adesset, potum apportabo” et sic exiens alijs omnibus videntibus per aera subuectus fuit.

Verum quidem quod non solum vigilantibus sed et dormientibus talia accidere possint fateri necesse est, vt videlicet dormiendo per aera localiter et corporaliter transferantur. Patet et de quibusdam qui super regulas domorum et edificia altissima somniando incedunt, nec quicumque eis obstare potest ad eorum transitum tam in altum quam in profundum, et si proprijs nominibus ab alijs circumstantibus vocantur, statim ad terram quasi collisi ruunt. Hec vtique opere demonum fieri plures arbitrantur, et non absque ratione. Nam cum demones sint in multiplici differentia, aliqui de inferiori choro angelorum, qui etiam exiguis penis vltra penam damni quam eternaliter patientur tanquam pro paruis delictis crutiantur, qui etiam neminem possunt ledere, saltem  
 102D grauius, sed solum principaliter ioculationes exercere, vbi etiam alij incubi sunt vel succubi, punientes nocturno tempore homines vel peccato luxurie coinquinantes eos, non mirum si etiam his trufis insistent. Potest deduci veritas ex dictis<sup>84</sup> Cassiani (*Collatione* i), vbi dicit tot esse immundos spiritus quot in hominibus studia. Non dubie comprobatur. Nam nonnullos eorum quos etiam paganos vulgus appellat,<sup>85</sup> nos vero trollen (et habundant in regno Norweye) aut schretel, ita<sup>86</sup> seductores et ioculatores esse manifestum est, vt certa queque loca, vias iugiter obsidentes, nequaquam tormentis pretereuntes ledere possunt,<sup>87</sup> derisu tantummodo et illusionem contenti fatigare eos potius studeant quam nocere; quosdam vero solummodo in nociuis incubationibus hominum pernoctare; alios ita esse furori ac truculentie deditos vt non sint contenti illorum tantummodo corpora quos suppleuerint atroci dilaceratione<sup>a</sup> vexare sed etiam irruere super eminus transeuntes atque affligere illos  
 103A seuissima | cede festinent. Vult dicere quod non tantum obsident, imo horribiliter crutiant quales illi in euangelio (*Mattei* viij) describuntur.<sup>88</sup>

Ex quibus concludere possumus primum quod non est dicendum maleficas non transferri localiter, eo quod deus non permittat. Si enim super iustos et innocentes aut etiam super magos aut alios vagos permittit, quomodo non super illas ex toto se diabolo deuouentes? Et vt cum timore

<sup>a</sup> So Nider; ed. prin.: dilacione, which may derive from the author's text of Nider but is meaningless.

<sup>84</sup> Start of Nider. Form. 5.2 (200C–D), which begins: De quibus ita dicit Cassianus (Coll. Sereni i) tot esse . . .

<sup>85</sup> Pause

<sup>86</sup> Resume

<sup>87</sup> Nider: nequaquam tormentis eorum quos pretereuntes poterunt decipere delectentur sed

<sup>88</sup> End

loquamur, nonne diabolus saluatorem nostrum sustulit et duxit et statuit hinc inde, vt euangelium testatur?

Nec etiam secundum suffragatur aduersarijs, quasi diabolus hoc facere non possit, cui, vt in supra dictis patuit, tanta inest virtus naturalis omnia corporalia excedens, quod nulla ei virtus terrena comparari potest iuxta illud: "Non est potestas super terram" etc., imo ipsi Lucifero tanta naturalis inest potestas seu virtus qua maior etiam inter angelos bonos in celo non existit. Sicut enim omnes angelos in naturalibus excessit et naturalia per casum non sunt imminuta sed tantummodo gratuita, ideo adhuc in eo remanent, licet obfuscata et ligata, vnde glosa ibidem super illud: "Non est potestas super terram" etc.: "Etsi omnia superat, meritis tamen sanctorum subiacet." 103B

Nec valet si quis duo obijceret, primo quod anima hominis posset resistere, et quod textus videtur sentire de vno in singulari, scilicet Lucifero, cum in singulari loquatur, et quia hic fuit qui Christum in deserto tentauit et primum hominem seduxit, iam autem relegatus sit et alij angeli non sint tante virtutis, cum ipse omnes excedat, ideo alij mali homines transferre localiter per aera non possunt.

Non valent instantie. Primo dicamus de angelis. Nam minimus angelus omnem humanam virtutem incomparabiliter excedit. Rationes sumuntur ex pluribus. Primo quia virtus spiritualis fortior virtute corporali, sicut virtus angeli aut etiam anime superior quam virtus corporalis.

Secundo quo ad animam, quia cum omnis<sup>89</sup> forma corporalis est forma indiuiduata per materiam et determinata per hic<sup>a</sup> et nunc, prout iam anima nostra existit, forme autem immateriales sunt absolute et intelligibiles,<sup>90</sup> vnde etiam potestatem habent absolutam et vniuersaliorem, ideo anima coniuncta non potest ita subito transferre corpus suum localiter nec in altum eleuare, bene autem faceret, cum esset separata, deo permittente. Que omnia a fortiori potest spiritus omnino immaterialis, prout est angelus tam bonus quam malus, sicut<sup>91</sup> etiam angelus bonus transtulit Abacuc in momento a Judea in Caldeam,<sup>92</sup> et ex hac ratione etiam concluditur quod illi qui de nocte in somnis per alta edificia vehuntur non feruntur a proprijs animabus nec ex influentijs corporum celestium sed ab aliqua excellentiori virtute, vt supra patuit. 103C

<sup>a</sup> So Aq.; ed. prin.: hec

<sup>89</sup> *Start of Aq.*. Summa 1.110.1.Co.: . . . virtus cuiuslibet corporis est magis particularis quam virtus spiritualis substantie. Nam omnis forma corporalis est forma indiuiduata per materiam et determinata ad hic et nunc, forme autem immateriales sunt absolute et intelligibiles.

<sup>90</sup> End

<sup>91</sup> *Start of Nider*, Praec. 1.11.13 (R)

<sup>92</sup> End

Tertio, quia sicut natura corporalis nata est moueri immediate a natura spirituali secundum locum, tum quia motus<sup>93</sup> localis est primus motuum  
 103D (viiij *Phisicorum*),<sup>94</sup> tum etiam quia perfectior<sup>95</sup> est inter omnes | motus  
 corporeos, vt ibidem probat philosophus,<sup>96</sup> ea ratione quia mobile secundum  
 locum non est in potentia ad aliquid intrinsecum, in quantum  
 huiusmodi,<sup>a</sup> sed solum ad aliquid extrinsecum, vnde etiam non tam  
 a doctoribus sanctis quam et philosophis concluditur quod suprema  
 corpora – suple celestia – mouentur a substantijs spiritualibus et separatis  
 bonis et secundum naturam et voluntatem, tum etiam quia videmus  
 quod anima primo et principaliter mouet corpus motu locali: ideo dicere  
 oportet quod ratio corporis humani nec quantum ad ipsum corpus nec  
 quantum ad ipsam animam obstare potest quin vtrunque moueri possit  
 subito deo permittente de loco ad locum a spirituali substantia bona  
 secundum voluntatem et naturam, quando boni et in gratia constituti  
 transferuntur, aut bona secundum naturam, non autem secundum  
 voluntatem, quando mali transferuntur. Si cui placet, videat<sup>b</sup> sanctum  
 Thomam in *Prima Parte* (q. cx per tres ibidem articulos) aut etiam *Ques-*  
 104A *tionibus de Malo* seu etiam in *Secundo Sententiarum* | (dist. vij de potestate  
 demonum super effectus corporales).

Modus autem transferendi talis est. Nam vt ex precedentibus patuit, vnguentum ex membris puerorum, precipue interemptorum ab eis ante baptismum, conficere habent et ad demonis instructionem sedile aliquod aut lignum inungere, quo facto statim in aera feruntur, et hoc siue de die siue de nocte, visibiliter seu etiam, si id volunt, inuisibiliter secundum quod demon et obstaculum alicuius corporis alterum corpus occultare potest, vt in prima parte tractatus de prestigiosa apparitione operum demonum patuit. Verum licet demon per tale vnguentum vt plurimum huiusmodi practicat in finem vt baptismi gratia infantes priuat et saluatione, tamen et absque his pluries efficere visus est, vbi per animalia que vti que non animalia vera sed demones sub formis illis existentes<sup>c</sup> ipsas transuexerunt, aut etiam sine aliquo exteriori adminiculo solummodo demonis virtute inuisibiliter operante interdum transferuntur.

<sup>a</sup> *Ed. prin.*: huius

<sup>b</sup> *Ed. prin.*: -cre

<sup>c</sup> *Sc.* extiterunt

<sup>93</sup> *Start of adaptation of Aq.*, Sent. 2.7.3.1. *Ag1*: . . . omnis alteratio reducitur in motum localem, vt in viij *Phisicorum* dicitur, quorum primus est motus celi . . .

<sup>94</sup> *End*

<sup>95</sup> *Start of adaptation of Aq.*, De Malo 16.10.1: Motus enim localis perfectior est inter omnes alios, vt philosophus dicit in viij *Phisicorum* . . .

<sup>96</sup> *End*

Res gesta de visibili et diurna transuactione in oppido Waltzhut super flumen Reni Constantiensis diocesis. Malefica quedam oppidanis cum esset plurimum odiosa et ad quasdam celebrandas nuptias non fuisset inuitata, cum tamen pene omnes oppidani illis interessent, ipsa indignata vindicare se estimans demonem aduocat et sue tristitie causam aperuit, et vt grandinem excitare vellet et cunctos de chorea dispergere petijt. Quo annuente ipsam subleuauit et per aera ad montem prope oppidum videntibus certis pastoribus transuexit, et, vt postmodum fassa fuerat, cum aqua sibi deesset ad fundendam in fouem, quem modum, vt patebit, vbi grandines excitant obseruant, ipsa in foueam quam paruam fecerat vrinam loco aque immisit et cum digito more suo astante demone mouit. Et demon subito illum humorem sursum eleuans grandinem vehementem in lapidibus super coreizantes<sup>a</sup> tantummodo et oppidanos immisit. Vnde ipsis dispersis et de causa illius mutuo conferentibus malefica oppidum ingreditur, vnde suspicio magis aggrauatur. At vero cum pastores ea que viderant recitassent, suspicio vehemens in violentam creuit. Vnde capta et fassa quod ea de causa quia inuitata non fuerat talia perpetrasset, ob multis etiam alijs maleficijs ab ea perpetratis<sup>b</sup> incinerata fuit.

Et quia publica fama de huiusmodi transuactionibus etiam apud vulgares continue volat, non expedit plura ad hoc probandum de his hic inserere. Tantummodo hec sufficiant aduersus illos qui huiusmodi corporales transuactiones aut omnino negant aut quod solummodo imaginarie et fantastice fiant affirmare conantur, qui vtrique in suo errore si relinquerentur, parum esset, imo nec aduertendum, dummodo in fidei contumeliam ipsorum error non vergeret.

Attento autem quod illo errore non contenti, etiam alios inserere et publicare in maleficarum augmentationem et fidei detrimentum non verentur, dum asserunt quod omnia maleficia que eis iuste tanquam instrumentis demonum vere et realiter imputantur, eis tantummodo imaginarie et illusorie tanquam innoxijs esse imputanda, sicuti et ipsa transuactio fantastica, vnde et pluries impune in magnam creatoris contumeliam et grauissimum iam ipsorum augmentum remanserunt, nec argumenta etiam a principio eis adducta suffragari possunt. Nam primum cum allegant capitulum “Episcopi” (xxvi q. v), vbi asseritur quod tantum fantastice et imaginarie transferantur, quis tam insipiens qui velit concludere quod non possint etiam corporaliter transferri? Sicut enim ex fine illius capituli, vbi ponitur quod qui credit posse hominem in melius

<sup>a</sup> *Ed. prin.*: corie-

<sup>b</sup> *Sc.* ob multa . . . alia maleficia ab ea perpetrata

vel in deterius transmutari aut in aliam speciem transformari infideli et pagano deterior sit censendus, quis posset concludere quod non possent homines in bestias prestigiosa illusionem transformari aut etiam de sanitate in infirmitates tanquam a meliori in deterius | transmutari? Jam talis qui sic in cortice verborum canonis laboraret vtiq̄ue contra mentem omnium doctorum sanctorum imo et contra scripture sacre processum sentiret.

Ex quibus multipliciter oppositum apparet, vt ex supra dictis in plerisque locis circa primam partem tractatus deductum est. Oportet ergo ad nucleum verborum attendere iuxta quod in prima questione prime partis tractatus tactum est, et hoc circa solutionem secundi erroris inter tres qui ibi reprobantur, quod quattuor iniunguntur predicatoribus populo ad predicandum. Transferuntur enim et corporaliter et fantasticè iuxta quod ex earum proprijs confessionibus patet, non tam illarum que incinerate fuerunt quam etiam aliarum que ad fidem et penitentiam redierunt. Inter quas et illa in oppido Brisiaco interrogata a nobis ane fantasticè et illusorie aut corporaliter possent transferri, respondit quod vtroque modo. Si enim casu aliquo nollent corporaliter transferri, scire tamen vellent omnia que in conitione illa ab earum consodalibus agerentur, tunc talis ab eis seruaretur modus, vt illa in nomine omnium diabolorum ad latus sinistrum se reponeret ad cubitum, extunc quasi vapor quidam glaucus ex eius ore procederet, vnde singula que ibi agerentur perlucide consideraret. Si vero corporaliter transferri vellet, modum supra dictum seruare necesse esset.

Preterea, in casu quo canon ille nude absque omni declaratione intelligendus esset, quis tam stollidus vt propterea omnia eorum<sup>a</sup> maleficia et nocumenta esse fantastica et imaginaria affirmaret, cum ad sensum omnibus appareat contrarium, eo precipue quod plures sint superstitionum species, vtpote quattuordecim, inter quas maleficarum species supremum in maleficijs et nocumentis continet gradum, et species phitonum ad quam reduci possunt qui fantasticè vehuntur minimum gradum?

Demum nec exempla ex legenda sancti Germani aut aliorum quorumcunque eis suffragantur, vtiq̄ue quia possibile erat demonibus vt seipos ad latera viri dormientis tempore intermedio, quando scrutinium de vxoribus fiebat,<sup>b</sup> applicarent quasi viris condormirent, quod tamen factum fuisse propter honorem sancti non asseritur, casus tamen ponitur, vt non credatur esse impossibile oppositum illius quod in legenda ponitur. A simili responderi potest ad quascunque alias obiectiones quia sicut

<sup>a</sup> Sc. earum

<sup>b</sup> Ed. prim.: -bant

inueniuntur<sup>a</sup> quod<sup>b</sup> quedam tantummodo imaginarie, ita etiam reperiuntur in scriptis doctorum plures fuisse corporaliter translatas.<sup>c</sup> Si cui placet Thomam Brabantinum in libro suo *De Apibus* inspicere, mira inueniet tam de imaginaria quam etiam corporali hominum transuectione.

SEQUITUR DE MODO QUO SE INCUBIS DEMONIBUS  
SUBIICIUNT

Capitulum Quartum

SED QUANTUM | AD MODUM quo malefice demonibus incubis se subi- 105D  
ciunt sex videnda sunt: aliqua ex parte demonis et corporis ab eo assumpti: ex quo elemento sit illud formatum; secundo ex parte actus: an semper cum infusione seminis ab altero recepti;<sup>d</sup> tertio ex parte temporis et loci: an potius vno quam altero tempore se exercent; quarto: an visibiliter se agitat ex parte mulieris, et an tantummodo ille que ex huiusmodi spurcitijs procreantur a demonibus frequentantur; quinto: an ille que ab obstetricibus tempore partus demonibus inferuntur; sexto: an remissior vel interior sit in talibus ipsa venerea delectatio.

Et primo super assumpti corporis materia et qualitate, dicendum quod aereum corpus assumpti et quod aliquo<sup>97</sup> modo est terrestre, in quantum habet terre proprietatem per condensationem,<sup>98</sup> quod sic declaratur.

Nam quia aer<sup>99</sup> | in se non est figurabilis, nisi secundum figuratorem 106A  
corporis alterius in quo includitur, vnde etiam minime suis terminis terminatur sed tantummodo alienis, et vna pars aeris alteri continuatur, ideo simpliciter, vt sic, non potest corpus aereum assumere.<sup>100</sup> Attento autem quod aer<sup>101</sup> est maxime transmutabilis et vertibilis in quodcumque, cuius

<sup>a</sup> *Ed. prin.*: -inntur

<sup>b</sup> *Grammatically unnecessary*

<sup>c</sup> *Sc. -e*

<sup>d</sup> *Ed. prin.*: -o

<sup>97</sup> *Start of Aq., Sent. 2.8.1.3. Ras*

<sup>98</sup> *End*

<sup>99</sup> *Start of adaptation of Aq., Sent. 2.8.1.3. Ag4*: Sed aer non est figurabilis nisi secundum figuratorem alterius corporis eo quod cum [*sic*] sit maxime humidum, minime suis terminis terminatur sed alienis, vnde et vna pars aeris alteri continuatur. Ergo videtur quod non assumant corpus aereum.

<sup>100</sup> *End*

<sup>101</sup> *Start of adaptation of Aq., Sent. 2.8.1.3. Co.*: . . . aer maxime transmutabilis est et conuertibilis in quecumque, et huius signum est quod quidam videntes corpus a demone assumptum, scindere gladio vel perferdere volentes, id efficere non valuerunt, quia partes aeris diuisi statim continuantur. Sed propter hoc quod aliquam figuram recipere possunt competentem angelo apparenti, oportet quod quantum ad terminum assumptionis aer iste sit in aliquo inspissatus, et ad proprietatem terre accedens, seruata tamen aeris veritate, quod efficere possunt tum per motum localem congregando partes, tum etiam per semina in elementis respersa . . .

signum est quod quidam nitentes corpus a demone assumptum scindere gladio vel perfodere, id efficere non valuerunt quia partes aeris diuisi statim continuantur de nouo: ideo patet quod in se aer est bene competens materia, sed quia non potest figurari nisi aliquod aliud terrestre sibi adiungatur, ideo oportet quod aer ille sit aliquo modo inspissatus, et ad proprietatem terre accedens, seruata tamen aeris veritate. Et hanc condensationem facere possunt demones et anime separate per vapores grossos ex terra eleuatos et per eorum motum localem eos congregando et figurando,<sup>102</sup> in quibus manent tanquam motores tantum et non vt  
 106B informatores vitam illi corpori formaliter influentes, quia sic fluit ab anima in corpus coniunctum.<sup>103</sup> Sunt autem in suis sic assumptis et figuratis corporibus, sicut nauta in nauī quam<sup>a</sup> mouit.<sup>b.104</sup>

Vnde quando<sup>105</sup> queritur quale sit corpus quantum ad materiam a demone assumptum, dicendum quod de eo aliud est loqui quantum ad principium assumptionis et aliud quantum ad terminum, quia quo ad principium sic est aer, quantum ad terminum est aer inspissatus ad proprietatem terre accedens.<sup>106</sup>

Hec autem omnia possunt demones deo permittente ex natura, cum<sup>107</sup> natura spiritualis sit superior nature<sup>108</sup> corporali, vnde et necesse habet sibi obedire, intelligendo quo ad motum localem, non autem quo ad formarum naturalium tam accidentalium quam et substantialium susceptionem nisi in aliquibus paruis creaturis, et hoc amminiculo alicuius alterius agentis, vt supra tactum est. Per motum autem localem nulla

<sup>a</sup> *Ed. prin.*: quem

<sup>b</sup> *Sc.* -et

<sup>102</sup> *End*

<sup>103</sup> *Cf. Aq., Sent. 2.8.1.2.Raq.*: ... quod influit vitam per modum efficientis tantum et non sicut forma coniuncta ...

<sup>104</sup> *Cf. Aq., Sent. 2.8.1.2.Ra:* ... talis assumptio terminatur ad aliquam vnionem que est motoris ad motum, vt nauta ad nauem, non vt forma ad materiam.

<sup>105</sup> *Start of adaptation of Aq., Sent. 2.8.1.2.Co.*: Si autem queratur ... quale sit quantum ad materiam, dicendum est quod materia corporis assumpti ab angelo potest considerari dupliciter: vel quantum ad principium assumptionis vel quantum ad terminum. Si quantum ad principium, dico ... quod assumit de aere ... quantum ad terminum assumptionis aer iste sit in aliquo inspissatus et ad proprietatem terre accedens ...

<sup>106</sup> *End*

<sup>107</sup> *Start of adaptation of Aq., Sent. 2.8.1.2.Co.*: Cum enim natura spiritualis superior sit natura corporali, oportet quod natura corporalis sibi obedit, non autem quantum ad formarum susceptionem, quia prima inchoatio formarum in materia, secundum quod in ea dicuntur esse habilitates quedam ad formam, est ab opere creatoris, sedeductio earum in actum est per virtutem agentium naturalium determinantum, sed quantum ad motum localem, per quem nulla forma ponitur in re mota.

<sup>108</sup> *Aq.*: -a

forma ponitur | in re mota.<sup>a, 109</sup> Vnde sic ad nutum mouere possunt cum alijs circumstantijs. 106C

Ex quibus tamen si quis incidentaliter quereret quid sentiendum vbi angelus bonus vel malus aliqua opera vite exerceret per corpora vera naturalia et non aerea, sicut<sup>110</sup> in asina Balaam per quam angelus loquebatur et vbi demones in obsessis corporibus agitantur,<sup>111</sup> dicendum quod illa corpora non dicuntur esse assumpta sed tantum occupata. Inspiciantur dicta doctoris in *Secundo* (distin. viij, an angeli corpora assumant).

Sed maneamus in proposito. Demones in assumptis corporibus cum maleficis loquuntur, vident, audiunt, comedunt et generant. Quomodo hec sunt intelligenda (et est secunda pars huius prime difficultatis) dicendum ad primum quod ad veram locutionem tria requiruntur, scilicet pulmo cum retractione aeris, que non solum propter vocem sed propter refrigerium est cordis, vnde et muti habent attractionem necessariam; secundo, requiritur quod formetur ex percussione corporis in aere, sicut cum quis ligno percutit in aere vel campana, sonum facit magnum vel paruum: quia materia in se sonorabilis et percutitur cum sonabili instrumento, redditur sonus secundum quantitatem corporis, et recipitur in aere et multiplicatur vsque ad aures audientis, qui si est remote,<sup>b</sup> post spacium, vt videtur, preuenire<sup>c</sup> habet; tertio, requiritur vox, et dici potest quod sonus in corporibus inanimatis dicitur vox in animatis corporibus, et ibi est lingua, que aerem respiratum et iterum emissum percutit in instrumento et vase fuso a deo et viuo naturaliter, quod non est in campana: ideo quod ibi sonus, hic vox dicitur, et hoc tertium potest exemplari per secundum, vt patet, et hec ideo posui vt predicatorum habeant modum tradendi populo; quarto, requiritur vt ille qui vocem format conceptum mentis vult alteri per vocem exprimere et vt ipse intelligat: ideo illam vocem organizat, id est, distinguit successiue in ore per linguam dentes percultiendo et per labia claudendo et aperiendo, percussum aerem in ore ad aerem extrinsecum emittendo, et<sup>d</sup> sic multiplicando successiue vsque ad aures audientis, qui tunc intelligit conceptum mentis. 106D 107A

<sup>a</sup> So *Aq.*; *ed. prin.*: remota

<sup>b</sup> *Sr.* -us?

<sup>c</sup> So *ed. prin.* (in pleno); *Behringer et al.* (2000) suggest per-

<sup>d</sup> *Ed. prin.*: vt

<sup>109</sup> *End*

<sup>110</sup> *Start of adaptation of Aq.*, Sent. 2.8.1.3.Co.:... vnde etsi aliquando angelus bonus vel malus moueat corpus alicuius veri animalis, non dicitur proprie illud assumere, sicut non dicitur angelus assumpsisse linguam asine per quam locutus est ad Balaam, nec demon corpus hominis quem vexat...

<sup>111</sup> *End*

Ad propositum. Demones<sup>112</sup> carent pulmone et lingua, quam tamen artificiatam ostendere possunt iuxta corporis conditionem, sicut et dentes et labia, vnde non vere et proprie loqui possunt. Sed quia intelligunt et<sup>3</sup> intellectum mentis vbi exprimere volunt, tunc non per voces sed per sonos, qui habent quandam similitudinem vocum, aerem non respiratum et attractum vt in hominibus sed inclusum in corpore assumpto percutiunt et ad aerem extrinsecum articulatim emittunt vsque ad aures audientis. Et quod absque aere attracto et non respirato possit fieri vocis similitudo patet per certa animalia non respirantia, que dicuntur vocare, et certa alia instrumenta, vt dicit philosophus<sup>113</sup> in secundo *De Anima*.

107B Allec enim dum capitur extra aquam, subito vocem | emittit et moritur. (Possunt hec applicari et ea que sequuntur vsque ad vim generatiuam, exclusiue tamen ad bonos angelos.) Si quis velit vlterius speculari de locutione demonum in obsessis corporibus – ibi enim vtuntur corporalibus instrumentis veri corporis obsessi quia illis illabuntur, sic intelligendo infra terminos corporalis quantitatis et non infra terminos essentie neque corporis neque anime<sup>114</sup> – da differentiam inter substantiam et quantitatem seu accidens. Sed de his nihil ad propositum. Si cui autem placet, inspiciat sanctum Thomam in *Secundo Sententiarum* (distin. viij. articulo quinto).

Consequenter autem qualiter vident et audiunt, dicendum quod quia duplex est visio, spiritualis et corporalis, et prima in infinitum excedit alterum, tum quia penetrat tum quia per distantiam non impeditur iuxta luminis facultatem, quod sibi deseruit, ideo dicendum quod nullo modo videt angelus, siue bonus siue malus, per oculos corporis assumpti nec

107C aliquid corporale | sibi deseruit, sicut tamen in locutione deseruit sibi aer et percussio aeris ad sonum procurandum et vlterius ad multiplicandum vsque ad aures audientis. Vnde oculi eorum sunt oculi depicti.

<sup>3</sup> From *Aq.*, but superfluous through the addition of the following vbi

<sup>112</sup> Start of adaptation of *Aq.*, Sent. 2.8.1.4e.Co. (from an intermediate commentary on Sent.): ... loqui est proprie per formationem vocum ex percussione aeris respirati determinatis organis ad exprimendum aliquem intellectum, et ideo locutio corporalis angelis conuenire non potest in assumptis corporibus secundum completam significationem, cum non habeant vera organa corporalia. Sed est aliqua similitudo locutionis in quantum intelligunt et intellectum exprimunt quibusdam sonis qui proprie non sunt voces sed similitudines vocum, sicut etiam quedam animalia non respirantia dicuntur vocare, et etiam quedam instrumenta, vt dicit philosophus.

<sup>113</sup> End

<sup>114</sup> Cf. *Aq.*, Sent. 2.8.1.5.Ra3: corpus autem habet terminos duplicis rationis, scilicet quantitatis et essentie, et ideo angelus operans intra terminos corporalis quantitatis, corpori illabatur, non autem ita quod sit intra terminos essentie sue . . .

Libenter autem sub his similitudinibus hominibus se offerunt, vt eis eorum proprietates quas naturaliter habent, scilicet videre, audire et loqui, spiritualiter per huiusmodi opera manifestent. Ideo enim et patribus sancti angeli sepe apparuerunt ex dei ordinatione et eius permissione. Malis hominibus se [se] manifestant, vt homines eorum proprietates cognoscentes illis se associant, hic in culpis et alibi in penis. Vnde Dionisius (*Celesti Jerarchia* in fine) dicit: "Ex omnibus partibus humani corporis docet angelus suas proprietates considerare."<sup>115</sup>

Concludendo quod corporalis visio cum sit operatio corporis viuientis per organum corporale, quibus demones in se carent, ideo in assumptis corporibus, sicut similitudines membrorum habent, ita et similitudines operationum. Et similiter dicere possumus de eius auditu, qui multum nobilior coporali, eo quod conceptum mentis et anime locutionem subtilius cognoscere potest quam homo audiendo<sup>a</sup> conceptum mentis per verba corporalia expressum (vide sanctum Thomam in *Secundo Sententiarum*, di. viij). Si enim in vultu hominis legitur secreta eius voluntas et ex motu cordis et qualitate pulsus a medicis passiones anime cognoscuntur, a fortiori per demones.

Sed quo ad commestionem, dicamus quod<sup>116</sup> completa ratio commestionis quattuor dicit: diuisionem cibi in ore et traiectionem in corpus, virtus<sup>b</sup> corporis potentis digerere, et quartum conuertere necessarium nutrimentum et superfluum eijcere. Angeli quicumque prima duo in assumptis corporibus comedendo faciunt, tertium et quartum non possunt, sed loco virtutis digestiue et eiectionis adest ei virtus alia qua cibus dissoluitur subito in preiacentem materiam. In Christo etiam fuit vera commestio in omnibus, quia habuit virtutem nutritiuam et conuersiuam,<sup>117</sup> non autem conuertendo in suum corpus, quia ille virtutes fuerunt glorificate, sicut et corpus, vnde etiam resoluebatur<sup>c</sup> | cibus in corpore subito, sicut qui aquam in ignem proiceret.

<sup>a</sup> *Ed. prin.*: iau-

<sup>b</sup> *Sc.* -tutem

<sup>c</sup> *Ed. prin.*: -uabatur

<sup>115</sup> Quoted (without attribution) in *Aq.*, *Sent.* 2.8.1.4c. *Co.*

<sup>116</sup> *Start of adaptation of Aq.*, *Sent.* 2.8.1.4a. *Co.*: . . . quod comedere secundum completam rationem sui non dicit solum diuisionem cibi et traiectionem in os, sed et istum actum procedere a virtute potente digerere et conuertere in nutrimentum, et ideo angeli non vere comederunt, sed fuit ibi vera diuisio cibi et traiectio in corpus assumptum, qui postmodum non est conuersus in corpus illud sed virtute angeli aliqua dissolutus est in preiacentem materiam. Christus autem vere comedit, quamuis cibus conuersus non fuerit, quia illa decisio cibi fuit habitus virtutem nutritiuam et conuersiuam.

<sup>117</sup> *End*

*Quomodo modernis temporibus malefice actus carnales cum incubis demonibus exercent, et qualiter ex his multiplicantur*

SED QUO AD ACTUS carnales, de quibus principaliter intenditur, quos etiam cum maleficis tanquam incubi in assumptis corporibus exercent, nulla subest difficultas ex premissis, nisi fortassis quis dubitaret an presentes malefice huiusmodi spurcitijs intenderent et an originem maleficorum ex his spurcitijs sumpserunt.

Ad has duas dubitationes respondendo, dicamus ad primam: quicquid de precedentibus maleficis ante annos incarnationis dominice mille et quadringentos vel circiter actum sit, an videlicet his spurcitijs inseruiebant, sicut ab illo tempore moderne malefice, hoc ignoratur, eo quod nusquam hoc | quod experientia iam edocuit historia disseruit. Maleficos enim semper fuisse et ex eorum prauis operibus plurima nocumenta hominibus, iumentis et terre frugibus euenisse, sicut et incubos et succubos demones, nemo qui historias peragrat dubitare potest, cum traditiones canonum et sacrorum doctorum plurima a multis centenis annorum de ipsis in posterum reliquerunt et tradiderunt, licet in hoc sit differentia quod incubi demones in retroactis temporibus infesti fuerunt mulierculis contra ipsarum voluntatem, prout in suo *Formicario* Nider et in libro *De Vniuersali Bono* siue *De Apibus* Thomas Brabantinus plurima recitant. Huic autem positioni qua asseritur presentes maleficas huiusmodi spurcitijs diabolicis esse infectas, non nostra sententia intantum adheret quantum ipsarum maleficarum experta testimonia, que cuncta illa reddiderunt credibilia, non iam vt hactenus inuitis animis sed sponte pro voluptate, re fetidissima, miserabili seruituti se subijcipientes. Quotquot enim a nobis seculari brachio ad puniendum relicte fuerunt in varijs diocesibus, precipue in Constantiensi et oppido Rauenspurgh, multis annis his inhiserunt spurcitijs, certis<sup>a</sup> sub xx, aliis<sup>b</sup> sub xij aut sub xxx annis, et semper cum fidei abnegatione in toto vel in parte. Testes sunt ibidem omnes incole. Demptis enim secrete penitentibus et ad fidem reuersis non minus quam xl et octo in quinque annis igni tradite fuerunt. Nec tantum illis accomodata fides quantum sponte reuersis ad penitentiam credulitas adhibita fuit, omnibus in hoc concordantibus quod huiusmodi spurcitijs in augmentum huius perfidie habent insistere. De quibus etiam sigillatim<sup>c</sup> in secunda parte operis, vbi eorum particularia opera describentur, tractabitur. Obmittendo ea que et socius noster inquisitor Cumanus in comitatu Burbie peregit, qui

<sup>a</sup> Sc. -c

<sup>b</sup> Sc. -e

<sup>c</sup> Sc. singillarim

et in spacio vnus anni, qui fuit millesimusquadragesimusoctogesimusquintus, xl et vnus maleficas comburi fecit, et omnibus publice asserentibus illis spurcitijis diabolicis inhesisse. Constant ergo omnia aut visus aut auditus propria experientia aut fidedignorum relatus. 108D

Quo ad secundum, vbi difficultatur an ipsi malefici ex his spurcitijis originem sumpserunt, dicamus secundum Augustinum hoc vtique verum esse omnes superstitiosas artes ex pestifera societate hominum et demonum originem sumpsisse. Sic enim dicit libro primo, *De Doctrina Christiana*, et habetur xxvi q. ij, illud quod est: “Omnes artes huiusmodi vel nugatorie vel noxie superstitionis ex quadam pestifera societate hominum et demonum quasi pacta infedelis et dolose amicitie constituta penitus sunt repudiande.” Illo attento manifestum est quod sicut diuerse sunt species superstitionis seu magice artis, ita et diuerse sunt eorum societates, et sicut species maleficorum inter quattuordecim illius artis species pessima existit, quia non per pactum tacitum sed expressum, et vltra hoc quod cultum latræ per fidei abnegationem ipsis demonibus habent exhibere, ideo et pessimam cum ipsis conuersando retinent societatem iuxta mulierum, que semper vanis delectantur, conditiones. Attento insuper quod iuxta doctrinam sancti Thome in *Secundo Sententiarum* (distin. iiii, arti. iiii in solutione vnus argumenti), vbi querit an geniti ex huiusmodi demonibus modis pretactis sint maioris virtutis quam alij homines, respondit hoc verum esse non solum ex textu scripture (*Genesis* vi: “Isti sunt potentes a seculo”<sup>118</sup> etc.) sed etiam ea ratione quod<sup>119</sup> demones possunt scire virtutem seminis decisi, primo ex dispositione eius a quo decimum est, secundo mulierem proportionatam ad seminis illius susceptionem, tertio constellationem iuuantem ad effectum corporalem, et quartum addere possumus etiam ex suis verbis, scilicet ipsius geniti complexionem optimam ad effectus<sup>a</sup> illi proportionatos. Ex quibus omnibus sic concurrentibus concluditur quod tales sic geniti sunt fortes et magni corpore.<sup>120</sup> 109A

Ideo ad propositum. Cum queritur an malefici ex his spurcitijis originem sumpserunt, dicamus: originem sumpserunt vtique ex pestifera mutua societate, vt ex primo notabili patuit, multiplicationem vero non<sup>b</sup> 109B

<sup>a</sup> Ed. prin.: -os

<sup>b</sup> Logically unnecessary (Redundant negatives in indirect discourse introduced by verbs signifying denial are a not infrequent linguistic phenomenon, and the present usage perhaps reflects interference from Early Modern German, there being no such usage in correct Latin.)

<sup>118</sup> Quotation from *Aq., Sent. 2.8.1.4c.SC3*

<sup>119</sup> Start of *Aq., Sent. 2.8.1.4c.Ra3*: ... demones possunt scire virtutem seminis decisi ex dispositione eius a quo decimum est, et similiter mulierem proportionatam ad seminis illius susceptionem, et etiam constellationem iuuantem ad effectum corporalem, scilicet optime complexionis in genito. Quibus omnibus concurrentibus possibile est genitos corpore magnos esse vel fortes.

<sup>120</sup> End

sumpsisse ex illis spurcitijs nemo negare potest ex secundo notabili, cum non delectationis sed corruptionis causa illis demones intendunt. Erit ergo talis ordo quod succubus demon ab homine scelerato semen decidat, qui si est proprius<sup>a</sup> illi homini deputatus et noluerit se incubum facere ad maleficam, tradet illud semen demoni mulieri seu malefice deputatus,<sup>b</sup> et ille sub certa constellatione sibi deseruiente vt talis genitus vel genita fortis viribus ad peragenda maleficia persistit se incubum malefice faciet. Nec obstat quod illi de quibus textus loquitur non fuerint malefici sed tantummodo gigantes famosi et potentes, quia, vt superius dictum est, maleficia non fuerunt perpetrata tempore legis nature, et hoc propter recentem memoriam creationis mundi, vnde idolatria locum habere non potuit. Jam autem malitia hominum excrescente diabolus maiorem ad  
 109C seminandum hoc genus perfidie reperit oportunitatem. Sed neque illi termini in bonum virtutis intelligi possunt, vbi illi asseruntur fuisse viri famosi dicebantur.<sup>c</sup>

*An semper cum decisione seminis incubus demon maleficam aggreditur*

AD ILLUD ETIAM, VBI queritur an semper cum infusione seminis etc., respondetur: cum mille<sup>121</sup> nocendi habeat modos et artes, vtpote qui a principio ruine sue conatur ecclesie vnitatem rescindere et humanum genus omnibus modis euertere<sup>d, 122</sup> (xvi q. ij), ideo de istis regula infallibilis non potest dari, sed probabilis distinctio, videlicet quod aut malefica annosa est et sterilis aut non. Si sic, tunc vtique absque seminis decisione, cum ad nihilum valeret et demon in suis operibus etiam quantum potest superfluitatem subterfugit, sicut et natura, maleficam aggreditur.  
 109D Vel etiam si sterilis | non sit, tamen delectationis causa ex parte malefice causande ipsam aggreditur. Si vero ad impregnationem disposita, tunc si comode semen a viro decisum habere potest, cum illo ipsam aggredere<sup>e</sup> ob infectionem prolis non differt.

Verum si quis quereret an semen emissum per nocturnam pollutionem ita colligere posset, sicut decisum per actum carnalem, ad hoc probabilis potest dari ratio quod non, licet alijs videri potest oppositum. Nam attento quod demones, vt premissum est, virtutem seminis

<sup>a</sup> *Ed. prin.*: -pius (*cf.* 25B)

<sup>b</sup> *Sc.*: -o

<sup>c</sup> asseruntur... dicebantur: *one is redundant*

<sup>d</sup> *So* Decretum, *Malleus 23B; ed. prin.*: a-

<sup>e</sup> *Sc.* -gredi

<sup>121</sup> *Start of adaptation of Decretum 2.16.2.1: Habet enim mille nocendi modos... Conatur namque a principio ruine sue vnitatem ecclesie rescindere... et omnibus modis humanum genus euertere...*

<sup>122</sup> *End*

generatiuam attendunt, et talis vis in semine per actum carnalem amplius effunditur et conseruatur, scinditur semen per pollutionem nocturnam emissum<sup>a</sup> tantummodo ex superfluo humore et non cum tanta vi generatiua descinditur, ideo cum eo se minus exercere ad generationem prolis creditur, nisi fortassis vim illam adesse semini intelligeret. Sed et hoc omnino negare non possumus quod malefica maritata et per maritum | impregnata etiam per commixtionem alterius seminis incubus 110A demon conceptum inficere potest.

*An potius vno tempore quam altero, et similiter de loco*

AD ILLUD, AN OBSERUAT tempora et loca, dicendum quod vltra obseruantiam temporum quo ad constellationes quas obseruat quando ad prolis infectionem operatur, obseruat etiam certa tempora quando non infectionis sed veneree voluptatis causa ex parte malefice exercende agitur, et sunt sacratiora totius anni tempora, vt natalis Christi, pascalis et penthecosten solennitatibus et alijs festiuis diebus, et hoc faciunt triplici ex causa: primo vt sic malefici non solum perfidie per apostasiam a fide verum etiam sacrilegij vitium incurrunt, in quibus ipsi demones delectantur, vt ipse creator amplius offendatur et grauius in proprijs animabus malefici condemnentur. Secunda causa, quod cum deus sic grauius offenditur, eis maiorem potestatem seuendi in homines et puniendi illos, siue in rebus siue in | corporibus, etiam innoxios, 110B relinquat.<sup>b</sup> Quod enim dicitur: “Filius non portabit iniquitatem patris” etc., intelligitur quo ad eternam punitionem, temporali autem sepius innoxij propter aliorum facinora afflictione puniuntur, vnde et alibi deus clamat: “Ego deus fortis et zelotes, visitans peccata parentum in terciam et quartam generationem.” Talis et puniatio patuit in filijs Sodomitarum submersis propter parentum scelera. Tercia causa, vt maiori oportunitate plures ruere faciant, presertim iuenculas, que festiuis diebus ocio et curiositatibus dum amplius insistunt, eo facilius a maleficis vetulis seducantur, prout in terra natiuitatis vnus ex his inquisitoribus, cum duo simus hoc opus colligentes, contigit. Nam iuencula quedam et virgo deuota sollicitata festiuo die ab vna vetula vt secum per gradus ad cameram ascenderet, eo quod certi iuuenes pulcherrimi ibidem essent inclusi, et dum illa annueret, ascendentibus<sup>c</sup> similiter vetula precedente iniunxit iuencule ne se signo crucis muniret, et licet illa annuisset, occulte tamen signo illo muniuit, qua ex re contigit vt dum ascendisset 110C et virgo neminem conspexisset, eo quod demones ibidem existentes suam

<sup>a</sup> *Ed. prin.:* -am

<sup>b</sup> *Ed. prin.:* -ant (cf. 112D)

<sup>c</sup> *Dangling participle*

presentiam in assumptis corporibus illi virigini nequibant ostendere, vetula maledicendo virgini dixit: “Vadas in nomine omnium diabolorum! Cur te signasti?” Hec ex confessione pura illius virginis collegi.

Potest et addi quarta causa, vt sic facilius homines seducant, qui dum considerant quod talia eis a deo sacratoribus temporibus fieri permittuntur, non estiment illa tam graua esse, sicut si illis temporibus nequirent facere.

De loco vero, an plus in locis certis se exercitant, dicendum quod ex verbis factisque maleficarum constat quod spurcitas illas omnino in locis sacris exercere non possunt, qua in re perpenditur efficacia angelice custodie ob reuerentiam illius loci, et, quod amplius est, asserunt se nunquam habere pacem nisi tempore diuinorum, cum presentes fuerint in ecclesia, et ideo citius et tardius ingrediuntur et egrediuntur, licet alia  
110D pessima certa cerimonialia habent ad instructionem demonum obseruare, vt videlicet tempore eleuationis in terram spuere, seu cogitationes nephandissimas per verba aut sine verbis proponere, vt “Vtinam esses in tali vel tali loco,” prout iam in secunda parte tangetur.

*An visibiliter, sicut ex parte malefice, ita etiam quo ad circumstantes se mutuo agitant*

AD ILLUD, AN VISIBILITER vel inuisibiliter huiusmodi spurcitas agant mutuo, dicendum, quantum experientia nos edocuit, quod licet semper visibiliter ex parte malefice demon incubus operetur – non est necessarium inuisibiliter propter federatum pactum et expressum ei appropinquare – tamen quo ad circumstantes sepius ipse malefice supine iacentes in agris seu siluis vise sunt et denudate supra vmbilicum, et iuxta dispositionem illius spurcie coaptatis membris tibijs et cruribus se  
111A agitantes | demonibus incubis inuisibiliter ibidem quo ad circumstantes cooperantibus, licet in fine actus vapor nigerrimus in longitudine hominis sursum a malefica in aerem eleuabatur, sed hoc rarissime.

Et qua de causa nouit ille mille artifex<sup>a</sup> vt iuencularum circumstantiam vel aliorum hominum mentes valeat aut allicere aut immutare, de quibus gestis et qualiter in plerisque locis tam in oppido Rauenspurg quam etiam in dominio nobilium De Roppelstein et certis alijs terris talia sunt peracta, in secunda parte patebit.

Sed et hoc contigisse certum est quod maritis visibiliter interdum cernentibus incubos demones, quos tamen non demones sed viros putabant, cum eorum vxoribus talia peragere, dum arma arriperent et

<sup>a</sup> See 93B (with note)

transfodere volebant, subito demon disparuit, se inuisibilem faciendo, vnde et mulieribus manus et brachia obijcientibus, licet interdum lese fuissent, ipsos tamen viros obiurgantes anne oculos haberent aut si a demonibus obsessi forent deridebant.

*Quod non solum demones incubi mulieres ex eorum spurcitijs procreatas  
aut eis ab obstetricibus oblatas infestant sed quascunque indifferenter,  
cum maiori vel minori venerea delectatione* 111B

FINALITER<sup>3</sup> VERO CONCLUDENDO. DICI potest ipsos demones incubos non tantum mulieribus ex eorum spurcitijs progenitis aut eis ab obstetricibus oblati fore infestos, sed toto conatu in quascunque sanctiores virgines illius terre aut oppidi per ipsas maleficas seductrices aut copulatrices anhelare. Hoc enim experientia, rerum magistra, edocuit, vbi in oppido Rauenspurg certe combuste ante finalem sententiam huic simile asseruerunt quod eis ab earum magistris iniunctum fuisset omni conatu debere in subuersionem sanctarum virginum et viduarum laborare.

Et de venerea delectatione, an maior sit vel minor cum incubis demonibus in corpore assumpto quam ceteris paribus cum viris in corpore vero, dicendum videtur quod licet naturalis ordo hoc minus excusat 111C quando maior sit vbi simile suo simili<sup>b</sup> alludit, tamen mille ille artifex,<sup>c</sup> vbi debita actiua debitis passiuis, licet non in natura, tamen sub qualitatibus in calore vel temperamento aliquo coniungit, vtique non minorem<sup>d</sup> excitare videtur concupiscentiam, sed de his in sequentibus latius quo ad conditionem sexus feminei declarabitur.

DE MODO GENERALI QUO PER SACRAMENTA ECCLESIE SUA  
MALEFICIA MALEFICE EXERCENT, ET DE MODO QUO VIM  
GENERATIUM IMPEDIRE SOLENT SEU ETIAM ALIOS  
DEFECTUS SUPER QUASCUNQUE CREATURAS DEMPTIS  
CORPORIBUS CELESTIBUS

### Capitulum Quintum

NAM AUTEM QUALITER ALIAS creaturas in vtroque sexu et terre fruges inficiunt, plura sunt super modos agendi aduertenda, et primo

<sup>3</sup> The Jerouschek facsimile has "V" as the initial drawn-in capital.

<sup>b</sup> Ed. prin.: -e

<sup>c</sup> See 93B (with note)

<sup>d</sup> Ed. prin.: -e

qualiter homines, demum qualiter bestias, tercio qualiter terre fruges; ex parte hominis: primo, qualiter vim generatiuam seu etiam actum  
 111D venereum, | ne mulier concipere aut vir actum exercere valeat, maleficijs impediunt; secundo, qualiter actus ille impeditur respectu vnus mulieris interdum et non respectu alterius; tercio, qualiter membra virilia auferuntur quasi omnino sint a corporibus euulsa; quarto, quomodo si aliquid premissorum contingeret potentia demonis inferente per se et non per maleficam posset discerni; quinto, quomodo malefice homines vtriusque sexus in bestias prestigiosa arte transmutant; sexto, quomodo obstetrices malefice conceptibus<sup>a</sup> in vtero matris diuersis modis interimunt, et vbi hoc non faciunt demonibus infantes offerunt.

Et ne hec quasi incredibilia putarentur, ideo in prima parte operis per questiones et argumentorum solutiones sunt decisa, ad quas, si opus sit, dubius lector pro inuestiganda veritate recurrere potest. Ad presens  
 112A tantummodo acta et gesta per nos reperta, | siue etiam ab alijs conscripta, in detestationem tanti criminis sunt deducenda, vt, priores questiones si fortassis alicui difficiles ad intelligendum forent, ex his que in hac secunda parte traduntur fidem capiat et ab errore resileat,<sup>b</sup> quo nullam maleficam esse aut nullum maleficium posse fieri in mundo estimauit.

Vnde primo notandum quod cum sex modis homines ledere possunt absque modis quibus alias creaturas ledunt – et vnus sit quo amorem<sup>c</sup> malum ingerunt viro alicui ad mulierem vel mulieri ad virum; alius quo odium vel inuidiam in aliquo seminare procurant; tertius in his qui maleficiati dicuntur ne vi generatiua vti valeant ad feminam vel viceversa femelle ad virum vel etiam alijs modis aborsum procurando, vt supra tactum est; quartus, cum in membro aliquo hominem egrotare faciunt; quintus, cum vita priuant; sextus, cum vsum rationis auferunt – et fateri cum hoc oportet quod in omni genere rerum demptis corporibus |  
 112B celestibus veros defectus et veras infirmitates, licet non veras sanitates, ex virtute naturali inferre possunt, et hoc ex potenti virtute naturali et spirituali qua corporali quacunque eminent virtute. Nulla etiam infirmitas cum altera concordat seu etiam defectus naturalis, vbi infirmitas desit: ideo diuersis medijs vtique ad diuersas infirmitates et defectus procedunt. De quibus aliqua, quantum necessitas postulat, in medium producamus.

Prius tamen ne animus lectoris maneat suspensus cur supra corpora celestia aliquam immutationem facere non possunt, dicamus triplicem

<sup>a</sup> Sc. -us

<sup>b</sup> Sc. -iat

<sup>c</sup> Ed. prin.: -e

esse causam: prima quia super eos<sup>a</sup> etiam quo ad locum penalem existunt, qui locus est aer caliginosus, et hoc propter ipsorum officium eis deputatus (vide supra in prima parte tractatus in questione secunda de incubis et succubis demonibus); secunda causa, quia corpora celestia mouentur a bonis angelis (vide in plerisque locis de motoribus orbium, precipue secundum Thomam | in *Prima Parte*, q. cx),<sup>b</sup> in quo concordant philosophi cum theologis; tertia causa propter vniuersale regimen et commune bonum vniuersi, cui detraheretur in generali si malis permitteretur spiritibus in illa<sup>c</sup> corpora celestia aliquas immutationes causare. Vnde et ille immutationes miraculose facte in veteri aut nouo testamento a deo per eorum motores seu angelos bonos facte sunt, vt in statione solis sub Josue, retrogradatione sub Ezechia, obscuracione innaturali in passione Christi. In omnibus autem exposit elementis et elementatis sua maleficia deo permittente et per se absque maleficis et cum maleficis exercere possunt, et de facto exercere non cessant, vt patebit.

112C

Secundo notandum quod in omnibus modis maleficiandi vt plurimum semper maleficas<sup>123</sup> informant vt instrumenta sue malicie per sacramenta seu sacramentalia ecclesie vel per quecunque diuina seu deo consecrata efficiant, vt quando imaginem ceream sub palla altaris ad tempus ponunt vel per crisma sacrum filum trahunt vel ex quibuscunque rebus consecratis, et hoc quidem triplici ratione, sicut etiam quod sanctioribus anni temporibus et precipue circa aduentum domini et festa natalia sua maleficia exercere solent: primo, vt non solum homines per talia perfidi fiant sed etiam sacrilegi, diuina quantum in eis est contaminando,<sup>d</sup> et vt sic plus deum creatorem suum offendant, intimius animas proprias condemnent et plures in peccata ruere faciant; secundo, vt deus sic grauiter per homines offensus demoni maiorem potestatem in homines seu iudi

112D

<sup>a</sup> Ed. prin.: cas

<sup>b</sup> Ed. prin.: c.x

<sup>c</sup> So Jerouschek's facsimile; Schnyder's has *illa* (worn piece of type)

<sup>d</sup> So Nider; ed. prin.: -a

<sup>123</sup> *Start of adaptation of Nider, Praec. 1.11.19 (Z):* Questio xix: cur malefici instrumenta sue malicie per sacramenta ecclesie vel per alia diuina tangi procurant, vt filum trahendo per crisma sacrum, vel imaginem ceream sub palla altaris ad tempus ponendo, et similia faciendo. Responderunt: demonis instinctu ista fiunt, triplici de cause. Primo, vt non solum homines per talia perfidi fiant sed etiam sacrilegi, diuina, quantum in eis est, contaminando, plus creatorem suum offendant, intimius animas proprias condemnent, et plures in peccata ruere faciant. Secundo, vt deus sic grauiter per homines offensus, secundum beati Augustini sententiam, demoni maiorem potestatem in homines malos tribuat, quibus deus concedit iratus quod denegaret propitius. Tertio, vt sic sub specie boni apparentis plures simplices facillius decipiat, quia tacta diuinis rebus et orationibus a deo putant etiam aliquid numinis obtulisse, vbi solum maiora peccata sunt commissa.

relinquat, sicut etiam Gregorius dicit, quod malis interdum iuxta eorum desideria et petitiones concedit iratus que alijs denegat propicijs; tertio vt sic sub specie boni<sup>a</sup> apparentis plures simplices<sup>b</sup> facilius decipiat quando per tacta diuinis rebus putant aliquid numinis a deo obtinuisse, vbi solum maiora peccata sunt commissa.<sup>124</sup>

- 113A Potest et addi quarta ratio<sup>125</sup> super sacraciora tempora et principium anni. Nam quia festa plus franguntur peccatis mortalibus quam mechanicis operibus iuxta Augustinum in *Libro de X Cordis* (“Superstitio autem et maleficia de maximis seruilibus operibus demonis est contra diuinam reuerentiam”), ideo, vt dictum est, homines profundius cadere facit et creator amplius offenditur. Et super principium anni dicere possumus iuxta Jsidorum (li. viij *Ethimologiarum* c. ij) quod sicut Janus, a quo ianuarius mensis dictus est, qui et in die circumcissionis incipit, ydolum fuit diuersis faciebus confictum, vna tanquam esset finis anni precedentis et alia tanquam esset principium futuri, et vt imminetis anni esset protector et fortunatus auctor, in eius reuerentiam, sed potius demonis, in ydolo faciebant pagani<sup>c</sup> varias commotiones luxuriosas et strenas et iocalia sibi mutuo tradiderunt, coreas varias duxerunt, mensas preparauerunt, de quibus mentio fit per beatum Augustinum in multis locis et fere per totum recitatur xxvi questionibus varijs.<sup>d</sup> Et sicut
- 113B iam mali christiani has corruptelas imitantur, licet quo ad lasciuam sint translata ab eis ad tempora carnispriuij quando cum laruis et ludis et alijs superstitionibus<sup>126</sup> discurrunt, ita et nunc malefice his persuasionibus a demonibus in ipsorum complacentiam circa principium anni quo ad

<sup>a</sup> *Ed. prin.*: -is

<sup>b</sup> *Ed. prin.*: -is

<sup>c</sup> *Ed. prin.*: -ati

<sup>d</sup> *Ed. prin.*: q.varijs (*seemingly a misunderstanding of the citation of the Decretum in Nider*)

<sup>124</sup> *End*

<sup>125</sup> *Start of adaptation of Nider, Praec. 1.11.20 (Aa)*: Questio xx est: cur plura maleficia et superstitiones exerceri solent sacracioribus anni temporibus, et presertim circa festum natiuitatis Christi. Respondetur quod triplici de causa, sicut in precedenti dubio per omnia, quia festa plus franguntur peccatis mortalibus quam mechanicis operibus, vt Augustinus dicit (li. De Decem Cordis): “Superstitio de maximis seruilibus operibus demonis est contra diuinam reuerentiam.” Ratio secundi est specialis de kalendis Ianuarii, quia, vt Jsidorus dicit (li. viij *Ethimo.* c. ij), Janus, a quo ianuarius mensis dictus est, qui in circumcissionis Christi die incipit, idolum fuit diuersis faciebus confictum: vna tanquam esset finis anni precedentis, et alia tanquam esset principium futuri et imminetis anni protector et fortunatus auctor. In cuius reuerentiam, potius demonis (in idolo venerati sunt demones), varias commotiones luxuriosas fecerunt: strenas et iocalia sibi mutuo homines tradiderunt, choreas varias duxerunt, mensas preparauerunt, de quibus mentio fit per beatum Augustinum in multis locis et libris, et xxvi q. v “Habes” fere per totum. Sed has corruptelas falsi christiani imitantur hodiecirca eadem festa, licet predicatione sanctorum extirpate sint in multis locis. Et tamen demonum operatione alicubi translata ad tempora carnispriuij, quando cum laruis et ludis et alijs superstitionibus similia fiant.

<sup>126</sup> *End*

diuinum officium et cultum, vt festum Andree et festa natalia Christi existunt, sua maleficia exercent.

Et quidem iam in speciali qualiter per sacramenta primo, demum qualiter per sacramentalia talia exercent, aliqua nouiter facta et a nobis per inquisitionem reperta referamus. Est<sup>a</sup> opidum quod nominare non expedit quia ordo caritatis et rationis imperat et suadet: vbi malefica corpus dominicum sumpsit et declinans subito, vt detestabilis modus est mulierum, peplum ori adhibuit et in panniculum dominicum corpus extrahendo inuoluit, et in ollam in qua bufo erat – sic a diabolo informata – proiecit et sub terra in stabulum prope horreum domus sue occultauit cum alijs plurimis rebus adiunctis ex quibus sua maleficia exercere habuisset. Sed assistente diuina pietate tantum facinus 113C detectum ad lucem peruenit. Nam sequenti die mercenario quodam causa sui laboris prope stabulum iter faciente vocem quasi cuiusdam infantis eiulantis audiuit, et quanto propius accessit vsque dum ad pavementum sub quo olla abscondita erat peruenisset, tanto clarius audiuit, et estimans infantem aliquem a muliere subtumulatum, sculetum seu presidentem accessit et rem gestam sua estimatione a paricida perpetratam narrauit. Quod cito missis seruatoribus, ita esse, vt ille narrauerat, repertum est. Exhumare autem puerum nolebant, sed potius vt custodes a remotis positi,<sup>b</sup> si qua mulier accederet, sano vsi consilio attendere haberent. Nec enim dominicum corpus ibi absconditum esse nouerant. Vnde et contigit vt eadem malefica locum accederet et sub pallio alijs occulte cernentibus ollam abscondit. Vnde capta et questionibus exposita facinus detexit, asserens dominicum corpus cum bufone in olla fuisse absconditum <vt> ex his pulueribus sua ad libitum nocumenta 113D hominibus seu alijs creaturis inferre posset.

Insuper aduertendum quod hanc obseruant malefice communicantes consuetudinem vt si absque nota efficere valeant dominicum corpus sub lingua et non supra recipiant, rationibus his, vt estimari potest, vt abnegationis fidei remedium nunquam percipere velint, nec per confessionem neque per sacramenti eukaristie perceptionem; secundo vt eo facilius ex ore dominicum corpus accipiatur pro earum, vt dictum est, vsibus applicandum in maiorem creatoris offensam. Quare et omnium ecclesie<sup>c</sup> rectoribus et populum communicantibus semper iniungitur summam adhibere diligentiam vt plurimum aperto ore et lingua bene extensa cum amotione pepli mulieres communicent. Et quanto maior adhibetur diligentia, tanto plures malefice per hunc modum notantur.

<sup>a</sup> *Ed. prin.*: et (cf. 123C)

<sup>b</sup> *Ed. prin.*: -is

<sup>c</sup> *Sc.* -atum

De alijs rebus sacramentalibus innumeras exercent superstitiones,  
 114A interdum imagines cereas, quandoque res aromaticas sub palla altaris, |  
 vt supra tactum est, ponentes, et sub limine domus occultantibus,<sup>a</sup> vt  
 per transitum ille pro quo positum est maleficiatur. Innumera possent  
 deduci, sed hec minima per maiora maleficia approbantur.

DE MODO QUO VIM GENERATIUM IMPEDIRE SOLENT

Capitulum Sextum

DE MODO AUTEM QUO vim generatiuum impedire solent tam in  
 hominibus quam iumentis etiam in vtroque sexu potest<sup>b</sup> lector ex  
 his que supra tacta sunt in questione an demones per ipsas maleficas  
 mentes hominum ad amorem vel odium immutare valeant, vbi post  
 solutiones argumentorum specialis fit declaratio de modo quo vim  
 generatiuum impedire valeant deo permittente. Vbi tamen notandum quod  
 tale impedimentum ab intrinseco et ab extrinseco practicatur. Intrinseco  
 autem fit ab eis dupliciter: primo vbi rigorem<sup>127</sup> membri pro fructifica-  
 114B motum alias naturalem in aliquo membro | impedire possunt; secundo  
 vbi missionem spirituum ad membra in quibus est virtus motiua pro-  
 hibent, quasi intercludendo vias seminis, ne ad vasa generationis descen-  
 dat vel ne excidatur vel emittatur. Extrinseco procurant interdum per  
 imagines vel ex herbarum commestionibus, interdum per alias res exteri-  
 ores, puta ex gallorum testiculis vel ex herbarum commestionibus. Non  
 tamen credendum est quod virtute illarum rerum vir impotens red-  
 datur, sed occulta virtute demonum illudente<sup>d</sup> huiusmodi maleficas per  
 huiusmodi vim generatiuum, ne videlicet vir coire aut mulier concipere

<sup>a</sup> Sc. -es

<sup>b</sup> *The necessary complementary infinitive has been neglected.*

<sup>c</sup> Sc. -i (*clumsy adaptation*)

<sup>d</sup> *So Nider; ed. prin.: -e3*

<sup>127</sup> *Start of adaptation of Nider, Form. 5.5 (211C–D):* . . . quarto, reprimendo directe vigorem membri fructificationi accomodi, sicut et motum localem cuiuscumque organi; quinto, prohibendo imissionem spirituum ad membra in quibus est virtus motiua quasi intercludendo vias seminis ne ad vasa generacionis descendat vel ne ab eis recedat vel ne excitetur vel emittatur vel multis alijs modis. Cum autem faciunt mulieres sortilegia cum fabis et gallorum testiculis, non est credendum quod virtute illarum rerum vir impotens reddatur, sed occulta virtute demonum illudente sortilarias per ista corporalia. Plus autem permittit deus super hunc actum, per quem primum peccatum diffunditur, quam super alios actus humanos, sicut et super serpentes, qui magis incantacionibus deseruunt, quam alia animalia.

valeat, maleficari possunt. Et huius ratio est quod plus permittit deus super hunc actum, per quem primum peccatum diffunditur, quam super alios actus humanos, sicut et super serpentes, qui magis incantationibus deseruiunt quam alia animalia,<sup>128</sup> vnde et pluries a nobis et ab alijs inquisitoribus repertum est quod per serpentes aut per cutem serpentis huiusmodi impedimenta intulerunt. Nam quidam captus maleficus 114C fassus fuerat quod multis annis sterilitatem tam in hominibus quam iumentis quandam domum inhabitantibus per maleficium intulisset. Nider insuper (vbi supra) refert quendam<sup>129</sup> maleficum nomine Stadlem in dyocesi Lausanensi captum, qui et fassus fuerat quod in certa domo, vbi vir et vxor simul permanebant, per sua maleficia successiue in vtero vxoris viri septem infantes occidisse, ita vt semper aborsum faceret femina annis multis. Simile fecerat in eadem domo omnibus pecoribus et iumentis fetosis, quorum nullum viuum partum edidit in eisdem annis. Et cum maleficus questionaretur qualiter talia procurasset aut quomodo reus esse posset, facinus aperuit, dicens: “Subter limen hostij domus serpentem posui, qui si amouebitur, fecunditas inhabitantibus restituetur,” et sicut predixit, ita euenit. Nam licet serpens non fuisset inuentus, quia in pulueres redactus, terram tamen omnino asportabant, et eodem anno 114D vxori et | omnibus iumentis fecunditas restituta fuit.<sup>130</sup>

Aliud denique factum in Richßhofen paucis et vix quattuor annis elapsis contigit. Famosissima quedam malefica erat, vt pote que solo tactu et omni hora maleficari et aborsum procurare sciebat. In quo dum vxor cuiusdam potentis impregnata esset et ob sui custodiam quandam obstetricem ad se recepisset, auisataque ab eadem obstetrice fuisset ne castrum exiret et quod precipue a colloquio et conuersatione illius malefice supra dicte se caueret, post aliquas septimanas immemor illius auisamenti castrum exiens quasdam mulieres congregatas in quodam conuiuio visitandi gratia accessit, vbi cum paululum resedisset, malefica superuenit et ipsam dominam quasi salutationis gratia super ventrem ambabus

<sup>128</sup> End

<sup>129</sup> *Start of adaptation of Nider, Form. 5.3 (202C–D):* Nam in opido Boltigen Lausanensis diocesis quidam dictus Stedelein grandis maleficus captus per prefatum Petrum iudicem loci, qui fatebatur se in certa domo vbi vir et vxor simul manebant per sua maleficia successiue in vtero vxoris prefate septem circiter infantes occidisse, ita vt semper aborsum faceret in femina multis annis. Simile fecit in eadem domo omnibus pecoribus fetosis, quorum nullum viuum partum edidit in eisdem annis, prout rei euentus probauit. Cumque antedictus nequam questionaretur an in his et qualiter reus esset, facinus aperuit, dicens: subter limen hostij domus se lacertam possuisse dixit, et si amouentur fecunditatem in habitantibus resituendam predixit. Cum autem serpens ille quereretur sub limine nec inueniretur, quia in puluerem forrassis redactus erat, pulueres seu terram subterpositam asportabant: in eodem anno vxori et omnibus iumentis domus fecunditas restituta est.

<sup>130</sup> End

manibus tetigit, et subito puerum se dolorose mouentem persensit. Vnde  
 115A territa vbi ad propria redijt et rem gestam obstetrici narrasset, “Heu,”  
 inquit, “iam puerum perdidistis!” exclamauit, et vt predixit in partu  
 contigit. Nam nec aborsum integrum sed paulatim frustra, iam capitis,  
 ianque pedum et manuum peperit. Magna vtique ex diuina permissione  
 castigatio in penam eius, videlicet mariti qui tales maleficas punire et  
 iniurias creatoris vlscisci deberet.

Fuit et in opido Merspurg Constantiensis dyocesis quidam iuuenis  
 intantum maleficiatus quod nullum actum carnalem cum aliqua dempta  
 vna exercere poterat. Multis etiam audientibus retulit quod sepiissime  
 dum eam declinare et alias terras inhabitare et fugam capere volebat,  
 adhuc interdum nocturno tempore assurgere et festine cursu velocissimo,  
 iam per terram, iam per aerem quasi volando, redire volebat.

#### DE MODO QUO MEMBRA VIRILIA AUFERRE SOLENT

##### Capitulum Septimum

115B SED ET HOC QUOD membra virilia auferre solent, non quidem in  
 rerum veritate corpora humana illis spoliando sed prestigiosa arte occul-  
 tando, vt supra in questione desuper tacta declaratum est, aliqua gesta  
 in medium producamus.

Jn opido nanque Rauenspurg iuuenis quidam iuencule adhesit,  
 quam relinquere volens membrum virile perdidit prestigiosa vtique arte,  
 vt nihil videre aut tangere preter planum corpus posset. Anxius inde  
 cellare quoddam adijt vt vinum emeret et paululum residens mulieri  
 alicui<sup>a</sup> alteri superuenienti<sup>b</sup> causam trisiticie sue aperiendo singula enar-  
 rauit et ita esse corpore demonstrauit. Astuta illa anne aliquam sus-  
 pectam haberet inquisiuit, et ille vtique talem ipsam denominando et  
 rem gestam narrando manifestauit, et illa: “Expedit vt per violentiam  
 aliquam, vbi benevolentia tibi non suffragatur, pro acquirenda sanitate  
 ipsam inducas.” At iuuenis in crepusculo noctis viam quam pertransire  
 115C malefica solebat obseruauit, et ipsam reperiens, dum pro sanitate cor-  
 poris sibi reddenda supplicaret, et illa se | innoxiam nec quicquam scire  
 assereret, ipsam inuadendo manutergium quoddam ad collum fortiter  
 comprimendo strinxit, dicens: “Nisi mihi sanitatem restitues, e manibus  
 meis peribis.” Vnde illa, quia clamare non poterat et iam facies tume-  
 facta nigrescebat, “Sine,” inquit, “me liberam et te sanabo.” Et iuuenis

<sup>a</sup> *Ed. prin.*: cui (*cf. alicuius alterius in 121B*)

<sup>b</sup> *Ed. prin.*: -e

dum nodum seu stricturam laxasset, malefica manu ipsum inter femora seu coxas tetigit, dicens: "Jam habes quod desideras." Et iuuenis, vt postmodum referebat, notabiliter persenserat, antequam visu aut tactu seipsum certificasset, membrum sibi ex tactu tumtaxat malefice fuisse restitutum.

Simile venerandus quidam pater honestate vite et scientia preclarus in ordine e conuentu Spirensi referre solet. "Quadam," inquit, "die dum confessionum audientie instarem, iuuenis quidam accessit et inter verba confessionis membrum virile lamentabiliter se perdidisse asseruit. Ammirans ego (pater) et verbis suis faciliter credere nolens eo | quod leuis 115D corde qui facile credit a sapiente iudicatur, experientia didici per visum nihil cernendo dum iuuenis locum vestes detegendo demonstrasset, vnde in me sanoque<sup>a</sup> consilio vsus, anne aliquam haberet suspectam que ei tale maleficium intulisset inquisiui, et iuuenis vnam se habere suspectam sed absentem et in Wormacia residentem asseruit. Tunc ego: 'Hec tibi iniungo: quantotius ipsam accedas et promissionibus ac blandis verbis pro posse ipsam emollire studeas,' quod et fecit. Nam post paucos dies reuersus est gratias mihi referens se sanum et cuncta recuperasse asseruit, et sic verbis credidi, experientia tamen visus certificatus denuo."

Sunt tamen et hic aliqua notanda ad intelligendum clarius que supra de eadem materia tacta sunt: primo, quod nullo modo credendum est talia membra euelli aut segregari a corporibus, sed arte prestigiosa per demonem, vt nec videri aut tangi valeant, occultari, et hoc auctoritate et ratione, | licet supra tactum sit, vbi Alexander<sup>131</sup> de Halis (*Parte Secunda*) 116A dicit: "Prestigium proprie sumptum est illa illusio demonis, que non habet causam ex parte mutationis rei sed solummodo ex parte cognoscen- tis, qui deluditur, siue quantum ad interiores sensus siue quantum ad exteriores."<sup>132</sup> Super hec tamen verba notandum quod hic illuduntur sensus duo exteriores, scilicet visus et tactus, et non interiores, vt sunt sensus communis, fantasia, ymaginatiua, extimatiua<sup>b</sup> et memoria, licet sanctus Thomas tantummodo ponat quattuor, vt supra dictum est, eo quod fantasiam et ymaginatiuam ponit vnam et bene. Pauca enim differentia est inter imaginari et fantasiari (Thomas in *Prima Parte*, q. lxxix). Et hi sensus immutantur et non exteriores solum, quando nihil occultatur vel manifestatur vel vigilando vel dormiendo, vigilando vt dum res aliter videtur quam in se sit, vt cum quis videt aliquem equum cum

<sup>a</sup> que is unnecessary

<sup>b</sup> Sc. es- (cf. 48A)

<sup>131</sup> Start of Nider, Praec. 1.11.11 (C)

<sup>132</sup> End

116B assessore deuorantem, aut | in bestiam esse hominem transformatum aut seipsum bestiam esse et cum bestijs debere incedere estimantem.<sup>a</sup> Tunc enim sensus exteriores deluduntur et occupantur per interiores, quia virtute demonum species sensibiles dudum reseruate in thesauro specierum sensibilibum, vt est memoria, non illa intellectiua in qua species intelligibiles conseruantur, sed memoria, que est conseruatric specierum sensibilibum, que etiam est in posteriori parte capitis, educuntur virtute demonum deo interdum permittente ad sensum communem, imaginatiuam, et tam fortiter imprimuntur quod sicut necesse habet imaginare equum vel bestiam per impetuosum actum quo demon deducit de memoria speciem equi vel bestie, ita necesse habet estimare se videre per oculos exteriores tantum talem bestiam, qua in re ab extra non est bestia sed per impetuosam demonis operationem mediantibus illis speciebus

116C sic videtur. Nec mirum videatur quod demones possunt, cum | et natura hoc facere potest etiam defectuosa, vt patet in freneticis, melancolicis, maniacis et ebrijs aliquibus, qui non possunt discernere. Et frenetici putant se mira vidisse et videre bestias et alia horrenda, cum tamen nihil sit in rerum veritate. (Vide supra in questione an malefice mentes hominum ad amorem vel odium possunt immutare, vbi plura notantur.)

Est demum et ratio in se clara. Nam cum demon habeat quandam potestatem super quasdam res inferiores, excipiendo tantummodo animam, ideo potest<sup>b</sup> et circa istas res aliquas immutationes facere quando deus sinit, vt res appareant aliter quam sint, et hoc, vt dixi, aut turbando aut illudendo organum visus, vt res clara videatur nubilosa, sicut etiam post fletum propter humores collectos lumen aliter apparet quam ante, vel operando in imaginatiuam potentiam per transmutationem specierum sensibilibum, vt dictum est, vel humores varios mouendo, vt

116D apparent ignea vel aquea, | que sunt terrestria vel sicca, vt quidam faciunt quod omnes in habitatione aliqua habent se vestimentis exuere et denudare, putantes se in aquis natate.

Vlterius autem super modum prefatum si queritur an huiusmodi illusiones indifferenter bonis et malis accidere possunt, sicut vt inferius patebit, corporales alie infirmitates etiam in gratia existentibus inferri a maleficis possunt, super quo inherendo verbis Cassiani (*Collatione ij Abbatibus Sereni*)<sup>c</sup> dicendum est quod non. Vnde omnes isti qui sic illuduntur presumuntur in peccatis mortalibus esse. Dicit enim: “Ex

<sup>a</sup> Ed. prin.: -timimantem

<sup>b</sup> Ed. prin.: ponit

<sup>c</sup> Ed. prin.: si-

verbis Anthonij patet demonem<sup>133</sup> nullatenus posse mentem cuiusquam vel corpus inuadere, nec habere facultatem in cuiuslibet animam penitus irruendi nisi eam primo destituerit omnibus cogitationibus sanctis ac spirituali contemplatione vacuam nudamque rediderit.<sup>134</sup> Concordat cum eo quod philosophia<sup>135</sup> (primo *De Consolatione*) ad Boecium tangit: “Talia tibi contuleramus arma, que | nisi prior abiecisses, inuicta te firmitate tuerentur.” Vnde Cassianus ibidem refert de duobus maleficis<sup>136</sup> 117A paganis, qui differentes in malicia successiue per sua maleficia demones miserunt ad cellam beati Anthonij, vt eum tentationibus exinde fugarent, odio viri sancti infecti eo quod multitudo populi ad eum quotidie confluebat.<sup>137</sup> Qui demones licet<sup>138</sup> amarissimis cogitationum stimulis Anthonium pulsarunt, illos<sup>139</sup> tamen semper repulit signo crucis fronti et pectori impresso et orationum incubationibus insistendo.<sup>140</sup> Ita dicere possumus quod omnes qui sic a demonibus ludificantur absque alijs infirmitatibus corporalibus vtique diuina gratia inhabitante carent. Vnde et illud (*Thobie* vi): “Qui libidini deseruiunt, in eo<sup>a</sup> diabolus accipit potestatem.”<sup>141</sup> Concordat et illud quod supra circa primam partem tractatus in questione an malefice operantur circa homines in bestiales formas 117B illos transmutando tactum est, vbi iuuenula conuersa fuit in | equam sua estimatione et omnium eam aspicientium dempto sancto Machario, cuius sensus diabolus illudere non poterat, ad quem ducta pro sanitate cum iam veram mulierem et non equam aspiceret et econuerso omnes alij acclamarent quod equa eis videretur, ipse sanctus suis orationibus eam et alios a tali illusionem liberauit, asserens hoc ei accidisse, quia diuinis non vacasset nec sacramenta, vt decebat, scilicet confessionis et eucharistie, vt decebat, frequentasset. Vnde iuuenis qui eam de turpitudine sollicitauerat, licet renuisset ex honestate, tamen iudeus maleficus

<sup>a</sup> *Nider*: illos, which suggests that eos may be meant, but the version of the quote in 117D shows that in eo is intentional.

<sup>133</sup> Start of adaptation of *Nider*, Form. 5.5 (212B–C), which begins: Responsum huius accipe ex Cassiani verbis, quibus (Collatione ij Abbatis Sereni) in hec verba concludit: “Diffinit,” inquit, “beatus Antonius nullatenus demonem . . .”

<sup>134</sup> *Pause*

<sup>135</sup> *Resume* (*Nider* begins: “Talia,” inquit philosophia (primo *De Consolatione*) ad Boecium, “tibi . . .”)

<sup>136</sup> *Nider*: maleficis et philosophis

<sup>137</sup> *Nider*: veniret

<sup>138</sup> *Not in Nider*

<sup>139</sup> *Nider*: quos

<sup>140</sup> *End*

<sup>141</sup> *Quoted in Nider*, Form. 5.5 (212A) in the form: In illos qui libidini vacant accipit demonium potestatem.

quem iuuenis ea de causa vt iuuenulam maleficiaret accesserat virtute demonis eam in equam conuerterat.

Summarie concludamus quod in<sup>142</sup> bonis fortune, sicut sunt res exteriores, vt bona temporalia, fama et sanitas corporis, licet boni per demones et sua membra ledi possint in eorum meritum et probationem, sicut de  
117C beato Job patuit, qui in talibus per demonem | lesus fuit, tamen eis inuitis, sicut in nullum peccatum per maleficia trahi possunt aut violentari, licet ab intra et in carne ab extra valeant tentari,<sup>143</sup> ita etiam nec huiusmodi illusiones fantasticas actiue et passiuæ inferre possunt, actiue vt eorum sensus haberent demones illudere, sicut aliorum in caritate non existentium, passiuæ vt eis eorum membra presitigiosa illusionem haberent auferre. Hec enim duo beato Job nunquam diabolus inferre potuisset, presertim passiuum nocumentum super actum venereum, qui tante continentie erat vt dicere posset: “Pepigi fedus cum oculis meis ne quidem cogitarem de virgine” (a fortiori de muliere aliena), cum tamen super peccatores demon magnam noscitur ex verbis euangelij (*Luce xi*: “Cum fortis armatus custodit atrium suum, in pace sunt omnia que possidet”)<sup>144</sup> habere potentiam.

Verum ex his si quis quereret circa illusiones membri virilis quod licet  
117D illam illusionem non posset demon existenti | in gratia inferre passiuæ, anne posset actiue, vt scilicet existens in gratia illuderetur in suo visu quia videret membrum annexum, cum tamen ille qui sibi estimaret ablatum non videret annexum nec etiam alij circumstantes, quod si conceditur, videtur esse contra predicta, potest dici quod quia non tanta vis existit in damno actiuo, sicut passiuo – capiendo actiuum non qui actiue intulit sed qui damnum ab extra videt, vt de se patet – ideo existens in gratia licet posset<sup>a</sup> videre damnum alterius et in illo demon sensus eius illuderet, non tamen posset sibiipsi tale damnum inferre passiuæ, vt scilicet suo membro priuaretur, cum libidini non deseruit, sicut per oppositum, vt angelus dixit Thobie, “Qui libidini vacant, demonium accipit potestatem.”

<sup>a</sup> *Schwyder (1993) 181 suggests adding non*

<sup>142</sup> *Start of adaptation of Nider, Praec. 1.11.18 (Y):* Questio xviii: anne hi qui in charitate sunt ledi possint per maleficas, sicut hi qui in peccato mortali. Respondetur secundum Cassianum in Collatione Patrum quod nequaquam. Boni enim in rebus per demonem et suos ledi possunt in meritum eorum et probationem, vt in bonis fortune que sunt exteriores res, fama et sanitate, sicut de beato Job patuit, qui in talibus lesus fuit per demonem. Sed in nullum peccatum bonis hominibus inuitis per maleficia trahi possunt, licet tentari valeant ab intra et in carne extra, sed nullatenus violentari.

<sup>143</sup> *End*

<sup>144</sup> *Quotation from Nider, Praec. 1.11.18 (Y)*

Quid denique sentiendum super eas maleficas qui<sup>a</sup> huiusmodi membra in copioso interdum numero, vt viginti vel triginta membra insimul, ad nidum auium vel ad aliquod scrineum includunt, vbi et quasi viuientia membra se mouent vel auenam vel pabulum consumendo, prout a multis visa sunt et communis fama refert, dicendum quod diabolica operatione et illusionem cuncta exercentur. Sic enim sensus videntium illuduntur modis supra tactis. Retulit enim quidam quod dum membrum perdidisset et quandam maleficam causa recuperande sanitatis accessisset, illa, vt quendam arborem ascenderet, infirmo iniunxit et vt de nido in quo plurima erant membra si quod vellet accipere posset indulsit. Et cum ille magnum quoddam accipere attentasset, “Non,” ait malefica, “illud accipias,” et quia vni ex plebanis attineret subiunxit. Hec omnia vtique prestigiosa illusionem fieri<sup>b</sup> a demonibus modis supra tactis, organum visus per transmutationem specierum sensibilium in imaginatiuam potentiam turbando. Nec enim oportet asserere quod demones sint in assumptis sic membris <se> ostendentes quemadmodum solent in assumptis corporibus ex aere | maleficis et interdum hominibus apparere et cum eis conuersari. Ratio est quia faciliiori modo, videlicet per motum interiorum localem specierum sensibilium ex conseruatoria seu memoratiua potentia ad imaginatiuam, ista facere possunt.

Et si quis dicere vellet quod etiam simili modo facere possent, vbi in assumptis corporibus asseruntur maleficis aut alijs hominibus conuersari, vt videlicet tales apparitiones facerent per transmutationem specierum sensibilium in imaginatiuam potentiam, vt homines dum putarent demones in assumptis corporibus esse presentes, tunc non essent nisi tales specierum sensibilium in interioribus potentijs immutationes, dicendum quod si nil altius demon ostendere vellet nisi tantummodo humane effigie presentationem, tunc vtique opus non esset ei in assumpto corpore apparere, cum sufficienter per prefatam transmutationem hoc efficere posset, nunc autem quia altiora habet exercere, puta loqui, conuesci et alijs spurcicijs intendere, ideo et ipsum presentem esse oportet ab extra visui realiter in assumpto corpore se obijciendo, quia virtus angeli ibi est, vbi operatur secundum doctores.

In questione vero qua queritur quid si demon per se absque malefica membrum virile alicui auferret, an aliqua sit differentia inter vnam ablationem et alteram, dici potest, vltra illa que tanguntur in prima parte tractatus in questione an malefice membra virilia possint auferre, quod

<sup>a</sup> Sc. -e

<sup>b</sup> The infinitive is presumably dependent upon an implied *sentiendum est* understood from the beginning of the paragraph.

vbi demon per se membrum auferret, tunc vere et realiter auferret et vere et realiter restitueret quandocunque restituere haberet; item secundo, sicut non absque lesione, ita non absque dolore auferret; tertio, quod nunquam nisi coactus per bonum angelum hoc faceret, eo quod materiam sui lucri amputare haberet. Nouit enim plura maleficia super illum actum exercere quam super alios humanos actus, sicut etiam deus plus  
 118D permittit illum actum maleficiare quam alios humanos actus, vt supra tactum est. Que singula locum non habent, vbi per maleficas deo permittente operatur.

Et si dubitatur an demon plus affectat homines et creaturas per seipsum ledere quam per maleficas,<sup>a</sup> dici potest quod nulla est comparatio. In infinitum enim plus affectat per maleficas ledere, tum quia maiorem infert deo contumeliam creaturam sibi dicatam vsurpando; secundo quia cum deus amplius offenditur, amplius sibi nocendi hominibus potestas permittitur; tercio propter sui lucrum, quod in perditionem<sup>b</sup> statuit animarum.

DE MODO QUO HOMINES IN BESTIALES FORMAS  
TRANSFORMANT

Capitulum Octauum

SED ET HOC QUOD malefice homines in bestiales formas virtute demonum qui talia principaliter operantur<sup>c</sup> transformant, licet in prima  
 119A parte operis, questione an talia malefice valeant efficere, satis sit declaratum, quia tamen aliquibus illa questio sub suis argumentis et solutionibus nimis posset esse obscura, presertim cum acta et gesta super hec non sunt deducta, modus etiam quo seipsas sic transformant non est expressus, ideo presens addenda est declaratio per solutiones plurimorum dubiorum.

Et primo quod canon ille (xxvi q. v “Episcopi”) non est sic nude intelligendus circa hanc materiam, prout plures etiam docti (sed vtinam bene docti!) decipiuntur et qui publice in eorum sermonibus asserere non verentur huiusmodi transmutationes prestigiosas nullo modo etiam virtute demonum posse fieri, et hoc vtique in magnum fidei detrimentum, vt sepe tactum est, et maleficarum confortationem, que et multum de talibus congraudent sermonibus.

<sup>a</sup> *Ed. prin.*: -tas

<sup>b</sup> *Sc.* -e

<sup>c</sup> *Ed. prin.*: -atur

Contingit autem hoc huiusmodi predicatoribus eo quod in cortice et non in medulla verborum canonis laborant, vt supra tactum est. Cum enim dicit: "Quisquis credit posse fieri aliquam creaturam aut in melius <sup>119B</sup> aut in deterius transmutari aut transformari in aliam speciem vel in aliam similitudinem nisi ab ipso creatore qui omnia fecit proculdubio infidelis est," hic pius lector attendat ad duo principalia, primo super verbum "fieri," secundo super verba "in aliam similitudinem conuerti."<sup>a</sup> Super primum sit resolutus quod "fieri" capitur dupliciter, videlicet pro "creari" et pro "naturali productione alicuius rei." Primo modo soli deo conuenit, vt notum est, qui sua infinita potentia aliquid ex nihilo creare potest. Secundo modo distinguendum est de creaturis, quia aut sunt creature perfecte, vt homo, asinus etc., aut sunt imperfecte, vt serpentes, rane, mures etc., que ideo dicuntur imperfecte quia ex putrefactione generari etiam possunt. Licet enim semper de primis loquitur canon, non de secundis, quod potest patere eo quod Albertus<sup>145</sup> in libro *De Animalibus*, vbi querit an demones possint facere vera animalia et<sup>b</sup> respondit quod <sup>119C</sup> sic, sed hoc quo ad imperfecta animalia, etiam cum ea differentia quod non in instanti, sicut deus operatur, sed motu quodam, licet subito, sicut patet de maleficis (*Exodi vij*):<sup>146</sup> si placet, vide aliqua que in notata questione tanguntur circa primam partem operis et in solutione primi argumenti.

Super secundum, vbi tangitur quod non possunt aliquam creaturam transmutare, dicas quod est duplex transmutatio, substantialis et accidentalis, et hec accidentalis iterum duplex, quia vel per formam naturalem et inherentem rei que videtur vel per formam non inherentem rei que videtur sed inherentem organo et potentijs ipsius videntis: de primis loquitur canon, et precipue de formali seu quiditatiua transmutatione, prout vna substantia in aliam transmutatur, cuiusmodi solus deus qui talium quiditatum creator existit facere potest.

Loquitur etiam et de secunda, licet illam demon efficere possit in quantum per infirmitates diuina permissione immissas aliqua forma accidentalis corpori inducitur, vt vbi leprosa facies appareret vel huius simile, <sup>119D</sup> sed quia proprie de his non loquimur sed de prestigiosa apparitione,

<sup>a</sup> *Ed. prin.*: -uerri

<sup>b</sup> *Grammatically unnecessary (clumsy adaptation)*

<sup>145</sup> *Start of adaptation of Nider, Praec. 1.11.7 (L)*: Responderetur secundum Albertum (ubi supra) quod sic, deo permittente: aliquando imperfecta quedam animalia procurare possunt fieri, non in instanti, sicut deus facere potest, sed motu quodam, licet subito, sicut patet de maleficis secundum Augustinum et Exo. vi.

<sup>146</sup> *End*

secundum quam videntur res transmutari in alias similitudines, dicimus quod has transmutationes (allegato capitulo) excludere non potest, quod autoritate, ratione et experientia insimul ex his que super certa experientia que Augustinus (libro decimo octauo, capitulo decimo septimo, *De Ciuitate Dei*) refert deducuntur, et per varias questiones illa etiam declarando.

Nam inter alias prestigiosas transformationes refert quod famosissima<sup>147</sup> maga Circes mutauerit socios Vlixis in bestias, et quod quedam stabularie mulieres conuertissent hospites suos in iumenta onera portantia. Refert etiam socios Diomedis in aues conuersos, et quod postea longo tempore circa templum Diomedis volassent, et quod Prestantius  
120A narrasset de patre suo veraciter, quod ipse pater | dixisset se caballum fuisse et annonam cum alijs animalibus baiulasse.

De primo nanque, quod socij Vlixis fuissent in bestias mutati, ibi vtiq; sola apparentia fuit et oculorum deceptio,<sup>148</sup> ita quod forma illa bestialis educta fuit de conseruatorio seu memoria specierum ad ipsam vim imaginatiuam, vnde et visio imaginaria causabatur et consequenter ex forti impressione in potentias<sup>a</sup> alias et organa videns estimabat se bestiam videre, modo quo supra in precedenti capitulo tactum est. Sed quomodo ista fieri possunt virtute demonis sine lesione infra patebit.

De secundo vero, vbi hospites in iumenta onera portantia a stabularijs conuertebantur, et similiter hoc quod Prestancij pater se equum fuisse et pladum portasse narratur, notandum quod ibi tres fuerunt deceptiones: prima, quod illi homines prestigiosa arte videbantur conuersi in iumenta, que conuersio facta fuit modo supra tacto; secunda, quod illa onera  
120B vbi excedebant vires portantium, demones inuisibiliter illa attulerunt; tertia, quod illi qui alijs videbantur transmutati in species sibiipsis etiam videbantur se in bestias conuersos, sicut Nabuchodonosor contigit, vbi septem<sup>b</sup> tempora super eum fuerunt immutata, vt fenum quasi bos comederet.

De illo autem quod socij Dyomedis fuissent in aues conuersi et circa templum volasse,<sup>c</sup> dicendum quod ille Dyomedis, quia in exercitu

<sup>a</sup> *Ed. prin.*: impotētias

<sup>b</sup> *Ed. prin.*: semp-

<sup>c</sup> *Sc.* -assent

<sup>147</sup> *Start of adaptation of Nider. Praec. 1.11.8 (M)*: Vnde Augustinus ibi dicit: famosissima maga Circes mutauerit socios Vlixis in bestias, et quedam stabularie mulieres conuertebant hospites suos in iumenta onera portantia. Refert etiam socios Diomedis in aues conuersos, et postea longo tempore circa templum Diomedis volabant, et quod Prestantius nomine narrauit de patre suo, qui dicebat se caballum fuisse et annonam cum alijs animalibus baiulasse. Nam, vt Augustinus ibidem soluit, in primo sola apparentia fuit et oculorum deceptio.

<sup>148</sup> *End*

Grecorum circa obsidionem ciuitatis Troie fuerat, vbi ad propria redire volebat, in mari cum socijs submersus fuit, ideo cum ex suggestione cuiusdam idoli templum sibi quasi inter deos annumeratus esset constructum fuerat, demones in confirmationem erroris longo tempore tanquam aues loco eorum volabant, quare et aliud genus superstitionis a predictis prestigijs ibi fuit, quia videlicet non per reductionem specierum sensibilibum ad vim imaginatiuam sed in assumptis corporibus tanquam aues | volantes se oculis aspicientium ingerebant.

120C

Quod si queritur an etiam predicto modo per reductionem specierum sensibilibum aspicientes illudere potuissent, vt demones non in assumptis corporibus ex aere tanquam volantes aues se ingessissent, dicendum quod sic. Nam et opinio<sup>149</sup> quorundam fuit, vt recitat sanctus Thomas in *Secundo Sententiarum* (di. viij, art. ij), quod angeli quicumque, siue boni siue mali, nunquam assumerent corpora, sed quod omnia que de eorum apparitionibus leguntur in scripturis facta fuerint in prestigijs vel secundum visionem imaginariam.<sup>150</sup> In quibus verbis notatur a doctore sancto differentia inter prestigium et imaginariam visionem, quia prestigium potest habere rem ab extra corporali visui se obijcientem, licet aliter videatur quam sit, imaginaria autem visio non hoc necessario requirit, vt videlicet res ab extra obijciatur, sed potest fieri absque illa exteriori obiectione tantummodo per illas interiores species sensibiles, vbi ad vim imaginatiuam reducuntur. Vnde illorum opinionem sequendo, socij Dyomedis non fuerunt representati per demones in assumptis corporibus et similitudinibus auium, sed tantummodo fantastica et imaginaria visione, per illarum videlicet specierum sensibilibum reductionem etc., vt supra. Sed quia doctor sanctus opinionem illam vt errorem et non vt opinionem simplicem reprobat, licet non vt heresim, forte vt pie creditur, cum etiam tales apparitiones imaginarie interdum et a bonis et a malis angelis fuerint absque corporibus assumptis visitate, ideo, vt ibidem dicit, cum<sup>151</sup> sancti communiter dicunt angelos etiam corporali visione apparuisse, et talis apparitio fit in assumptis corporibus, textus etiam scripture sacre super tales corporales apparitiones plus concordat quam super imaginarias aut prestigiosas:<sup>152</sup> ideo ex his ad presens dicere possumus etiam super quascunque visiones consimiles illis de socijs

120D

121A

<sup>149</sup> *Start of adaptation of Aq., Sent. 2.8.1.2.Co.*: . . . hic est quorundam error dicentium angelos nunquam corpus assumere, et omnia quecunque de apparitionibus angelorum scriptura loquitur in prestigijs facta esse dicunt vel secundum visionem imaginariam.

<sup>150</sup> *Pause*

<sup>151</sup> *Resume*: Sed quia sancti communiter dicunt angelos etiam corporali visione hominibus apparuisse, quibus scripture textus concordare videtur . . .

<sup>152</sup> *End (Aq. continues)*: ideo absque dubio dicendum est angelos quandoque corpora assumere in quibus ab hominibus videntur.)

Dyomedis, quod licet illi socij imaginaria visione videntium potuissent opere demonum videri modo quo dictum est, tamen potius presumitur quod per demones in assumptis corporibus ex elemento aeris tanquam aues volantes fuerint visi, aut quod alie aues naturales a demonibus agitate illos representauerint.

QUALITER DEMONES INTRA CORPORA ET CAPITA  
EXISTUNT SINE LESIONE QUANDO PRESTIGIOSAS  
OPERANTUR TRANSMUTATIONES

Capitulum Nonum

121B QUOD SI VLTERIUS SUPER modum prestigiose transmutationis queritur an intra corpora et capita tunc existant, et an tales sint tanquam obsessi a demonibus estimandi, et qualiter fieri possit vt absque lesione potentiarum et virium interiorum possint |species ab vna potentia interiori ad aliam deducere, et vtrum tale opus debeat censi miraculosum factum aut non, ad primum oportet distinguere de prestigiosa illusionem, eo quod, vt dictum est, illa illusio fit interdum super sensus exteriores, interdum super interiores vsque ad sensum exteriorem: prima ergo licet possit fieri absque hoc quod demones intrent potentias exteriores, <non> illas occupando sed tantum exterius deludendo, vt vbi corpus aliquod occultare vellet per interpositionem alicuius alterius corporis vel alio quocunq; modo, aut vbi per se corpus assumeret et se visui obijceret, secunda tamen non potest fieri nisi ipsum caput et potentias principaliter occupet.

Et hoc ostenditur autoritate et ratione, nec ob stare potest quod duo<sup>153</sup> spiritus creati non possint esse in vno et eodem loco et anima sit in qualibet parte corporis.<sup>154</sup> Est autem autoritas super hoc Damasceni: 121C "Angelus ibi est vbi operatur";<sup>155</sup> ratio sancti Thome (*Secundo Sententiarum*, di. viij, ar. v): "Omnes angeli boni et mali ex virtute naturali, que prestantior vtique est quacunque corporali, habent potestatem transmutandi corpora nostra."<sup>156</sup> Patet hoc nedum propter prestantiam et nobilitatem nature, sed et ideo quod tota machina mundi et creatura corporalis amministratur per angelos (Gregorius, iiii *Dyalogorum*: "In hunc mundum visibilem nihil nisi per creaturam inuisibilem disponi

<sup>153</sup> *Start of Aq., Sent. 2.8.1.5.Ag2*

<sup>154</sup> *End*

<sup>155</sup> *Quotation from Aq., Sent. 2.8.1.5.Ag3*

<sup>156</sup> *Actually, Aq., Sent. 2.8.1.5.Co. says: . . . angeli boni et mali ex virtute nature sue habent potestatem transmutandi corpora nostra, sicut etiam alia corpora naturalia.*

potest"),<sup>157</sup> vnde omnia<sup>158</sup> corporalia reguntur per angelos, sicut et motores orbium asseruntur non solum a doctoribus sanctis sed etiam a philosophis omnibus.<sup>159</sup> Patet et ex eo quod omnia corpora humana mouentur ab animabus, sicut omnia alia per corpora celestia et per ipsorum motores. Si cui placeat, videat sanctum Thomam in *Prima Parte* (q. cx, ar. i.), ex quo concluditur quod quia<sup>160</sup> demones vbi operantur, ibi sunt, ideo quando fantasias et interiores potentias perturbant, tunc etiam ibi existunt.

Item, licet illabi anime illi sit tantum possibile qui eam creauit, tamen 121D demones etiam illabi possunt deo permittente corporibus nostris, et quia protunc possunt impressiones facere in potentias interiores affixas organibus corporalibus, ideo et per illas impressiones, sicut immutantur organa, ita immutantur operationes potentiarum,<sup>161</sup> modo quo dictum est, quod educere possunt species reseruatas in vna potentia affixa organo, sicut ex memoria, que est in vltima parte capitis, educit speciem equi localiter mouendo illud fantasma vsque ad mediam partem capitis, vbi est cellula virtutis imaginatiue, et demum consequenter vsque ad sensum communem, cuius residentia est in anteriori parte capitis. Et omnia tamen subito sic immutare et perturbare possunt, vt forme tales necessario estimentur ac si exteriori visui obijcerentur. Exemplum patuit<sup>a</sup> ex naturali defectu in freneticis et alijs maniacis.

Quod si queritur quomodo hoc absque dolore capitis efficere possit, 122A facilis est responsio: primo quia enim organa<sup>162</sup> non diuidit nec immutat quo ad ipsorum subiectum, sed tantummodo species mouet;<sup>163</sup> item secundo quia non alterat immittendo aliquam qualitatem actiuam, vnde necessario passio sequatur, cum et ipse in se demon<sup>164</sup> omni qualitate

<sup>a</sup> Ed. prin.: -nit

<sup>157</sup> Quotation (*with* in hoc mundo) from *Aq.*, Summa 1.110.1.SC

<sup>158</sup> *Start of adaptation of Aq.*, Summa 1. 110.1.Co.: ... omnia corpora reguntur per angelos, et hoc non solum a sanctis doctoribus ponitur sed etiam ab omnibus philosophis...

<sup>159</sup> *End*

<sup>160</sup> *Start of adaptation of Aq.*, Sent. 2.8.1.5.Co.: ... quia demones vbi operantur ibi sunt, ideo nostris corporibus illabuntur et per consequens etiam impressionem habent in potentias affixas organibus, quarum operationes immutantur ad immutationem organorum, sicut est sensus, imaginationis et huiusmodi...

<sup>161</sup> *End*

<sup>162</sup> *Start of adaptation of Aq.*, De Malo 16.11.Rag: ... demon non immutat potentiam sensitiuam et imaginatiuam se ei obijciendo ... sed eam transmutando: non quidem alterando nisi quantum ad motum localem, quia non potest de se imprimere nouas species ... Immutat autem transmutando siue localiter mouendo, non quidem substantiam organi diuidendo, vt sic consequatur sensus doloris...

<sup>163</sup> *End*

<sup>164</sup> *Start of adaptation of Aq.*, De Malo 16.11.Agg: ... Similiter etiam nec hoc potest facere immutando, quia aut immutaret alterando, quod videtur esse inconueniens, quia omnis alteratio fit per qualitates actiuas, quibus demones carent...

corporali careat, ideo sine dolore talia operari potest;<sup>165</sup> item tertio, quia, vt dictum est, tantummodo facit transmutationes per motum localem ab vno organo ad aliud et non per alios motus ex quibus alterationes lesiue interdum causantur: illud ergo quod difficultatem facit, quod quia duo<sup>166</sup> spiritus<sup>167</sup> non possunt esse in eodem loco,<sup>168</sup> puta diffinitiuē, et anima etiam existit in capite, quomodo tunc demones ibidem existere possunt? dicendum quod residentia anime assignatur centrum cordis in quo vitam influendo omnibus membris communicat. Et exemplum  
 122B datur de aranea in medio tele, que sentit tactum ex omni parte. Tamen quia dictum Augustini in libro *De Spiritu et Anima*, quod est tota in toto et tota in qualibet parte corporis, ideo dato quod sit in capite, adhuc demon ibi operari potest, quia alia est eius operatio ab operatione anime, cum operatio<sup>169</sup> anime in corpore est, vt informat et vitam influat, vnde est ibi sicut forma in materia, non sicut in loco, demon autem sicut in tali parte corporis et tali loco immutando et operando circa species sensibiles. Vnde quia nulla confusio operationum est inter eos, ideo vtrunque simul in eadem parte corporis esse possunt.<sup>170</sup>

Ad illud an tales sint tanquam obsessi et arrepticij, id est, a demonibus arrepti, estimandi, quia specialem hoc vult habere declarationem, an videlicet hoc possibile sit vt opere maleficorum aliquis sit<sup>a</sup> obsessus a demone, id est, quod demon eum possideat vere et corporaliter, ideo de tali materia specialis tractabitur modus in capitulo sequenti. Habet  
 122C enim et hoc specialem difficultatem, an operibus maleficorum id fieri valeat.<sup>b</sup>

Ad illud tantummodo, an talia opera maleficorum et demonum sint ad modum miraculorum<sup>c</sup> operum censenda, ita quod debeant opera miraculosa estimari, dicendum quod sic, inquantum fiunt<sup>171</sup> preter

<sup>a</sup> *Ed. prin.*: vt (misreading of fit)

<sup>b</sup> *Ed. prin.*: -eant

<sup>c</sup> *Ed. prin.*: miraculo|rurum

<sup>165</sup> *End*

<sup>166</sup> *Start of Aq.*, Sent. 2.8.1.5.Ag2

<sup>167</sup> *Aq.*: spiritus creati

<sup>168</sup> *End*

<sup>169</sup> *Start of adaptation of Aq.*, Sent. 2.8.1.5.Raz: . . . anima non est in corpore sicut in loco, sed sicut forma in materia, et ideo non est vnus rationis operatio quam anima in corpus efficit et demon; vnde sine confusione operationum vtrumque simul in eadem corporis parte esse potest.

<sup>170</sup> *End*

<sup>171</sup> *Start of adaptation of Aq.*, Summa 1.110.4.Raz: . . . aliqua fiunt preter ordinem totius nature create. Sed quia non omnis virtus nature create est nota nobis, ideo cum aliquid fit preter ordinem nature create nobis note, per virtutem creatam nobis ignotam, est miraculum quo ad nos, et hoc modo magi per demones miracula faciunt.

ordinem nature create nobis note per virtutem creature nobis ignote, licet non sint proprie miracula, sicut illa que fiunt preter ordinem totius nature create,<sup>172</sup> qualia sunt miracula dei et sanctorum. Vide que in prima parte operis sub quinta questione et reprobatione tertij erroris tacta sunt.

Vltra que addenda sunt hec propter eos qui huiusmodi opera impugnare possent quasi non debeant censi opera miraculosa sed simpliciter opera diabolica, eo quod cum<sup>173</sup> miracula sint data in confirmationem fidei, non debent concedi fidei aduersario,<sup>174</sup> tum etiam quia<sup>175</sup> signa antechristi dicuntur ab apostolo signa mendacia.<sup>176</sup> Sed dicendum ad primum quod miracula facere est donum gratie gratis date, vnde sicut per malos possunt | fieri homines, ita et per malos spiritus, <sup>122D</sup> in his videlicet ad que eorum virtus extendere se potest. Vnde etiam discernuntur<sup>177</sup> miracula per bonos facta ab illis que per malos fiunt adminus tripliciter: primo ex efficacia virtutis operantis, quia signa facta per bonos diuina virtute fiunt in illis etiam ad que virtus actiue nature se nullo modo extendit, sicut suscitare mortuos et huiusmodi, que demones secundum veritatem facere non possunt, sed in prestigijs tantum,<sup>178</sup> vt Symon magus de mortuo cuius caput agitabat, que<sup>179</sup> diu durare non possunt; secundo ex vtilitate signorum, quia signa per bonos facta sunt de rebus vtilibus, vt in curationibus<sup>180</sup> infirmitatum et huiusmodi,<sup>a</sup> signa autem per maleficas<sup>181</sup> facta sunt de rebus nociuis vel vanis, sicut quod volant in aere vel reddant membra hominum stupida et huiusmodi.<sup>b</sup> Et hanc differentiam assignat beatus Petrus in *Jtinerario Clementis*. Tercia <sup>123A</sup> differentia est quantum ad finem, | quia signa bonorum ordinantur ad edificationem fidei et bonorum morum, sed signa malorum sunt in manifestum nocumentum fidei et honestatis. Etiam<sup>182</sup> quantum ad modum

<sup>a</sup> *Ed. prin.*: huius

<sup>b</sup> *Ed. prin.*: huius

<sup>172</sup> *End*

<sup>173</sup> *Start of adaptation of Aq.*, Sent. 2.7.3.Ag2: . . . id quod in manifestationem et confirmationem fidei non debet concedi aduersarijs.

<sup>174</sup> *End*

<sup>175</sup> *Start of adaptation of Aq.*, Sent. 2.7.3.1.Ag1: . . . quia dicitur ij Thess. ij quod antichristus veniet in signis mendacibus [cf. 2 Thess. 2:9]

<sup>176</sup> *End*

<sup>177</sup> *Start of Aq.*, Sent. 2.7.3.1.Ra2

<sup>178</sup> *Pause*

<sup>179</sup> *Resume*

<sup>180</sup> *Aq.*: -e

<sup>181</sup> *Aq.*: malos

<sup>182</sup> *Aq.*: et

operandi<sup>183</sup> differunt, quia boni operantur mirabilia per inuocationem diuini nominis pie et reuerenter, sed malefici et<sup>184</sup> mali quibusdam deliramentis<sup>185</sup> et demonum inuocationibus.

Aliud etiam non obstat, quod videlicet apostolus opera diaboli et antechristi nominat signa mendacia, quia tunc<sup>186</sup> illa mirabilia que fiunt ab eo diuina permissione sunt vera et etiam falsa diuersis respectibus: vera in illis que fiunt virtute demonis ad que eius virtus se extendere potest;<sup>187</sup> falsa, quando faciet ea ad que sua virtus se non potest extendere, vt suscitare mortuos, illuminare cecos, quia in primo vbi facere attentabit aut intrabit corpus defuncti aut illud amouebit et loco illius ipse in assumpto corpore ex aere se presentabit, et sic in secundo prestigiosa arte visum aufert aut infirmitates alias <infert> et subito sanabit a lesione cessando, non qualitates interiores rectificando, sicut in legenda Bartholomei ponitur. Possunt<sup>188</sup> etiam omnia mirabilia opera antechristi et maleficarum dici signa mendacia in quantum solummodo<sup>a</sup> ad decipiendum fiunt<sup>189</sup> iam, et tunc operabitur antechristus. Hec Thomas (di. vij de virtute demonum in operando).

Posset etiam hic adduci differentia miraculorum que ponitur in *Compendio Theologicæ Veritatis* et inter mirum et miraculum, quia cum miraculum proprie quattuor requirat, scilicet quod sit a Deo, et quod sit preter existentiam nature, contra cuius ordinem sit, et tertio quod sit euidens, et quarto quod ad fidei corroborationem: quia ergo in operibus maleficarum primum et vltimum adminus deficiunt, ideo mira opera, non autem miracula dici possunt.

Ea etiam ratione, quia etsi aliquo modo miracula dici possunt, quia tamen quedam sunt supra naturam, quedam contra naturam, quedam preter naturam, et supra naturam sunt illa in quibus non est simile in natura nec in eius potentia, vt virginem parere, contra naturam, vt que fiunt vsu contrario nature, terminantur autem ad conforme nature, vt ceci illuminatio, et preter naturam, vt que fiunt ordini simile nature, non tamen per principium nature, vt in mutatione virgarum in serpentes,

<sup>a</sup> *Ed. prin.*: solūmodo

<sup>183</sup> *Not in Aq.*

<sup>184</sup> malefici et *not in Aq.*

<sup>185</sup> *End (Aq. adds:* sicut quod incidunt se cultris et huiusmodi turpia faciunt)

<sup>186</sup> *Start of adaptation of Aq., Sent. 2.7.3.1.Rat.*: . . . tempore antichristi aliqua vera miracula fiunt virtute demonum permissione diuina, in illis tamen ad que virtus demonis se extendit. Tamen dicuntur omnia mendacia ex parte finis, quia ad decipiendum sunt.

<sup>187</sup> *Pause*

<sup>188</sup> *Resume*

<sup>189</sup> *End*

quod natura facere potuisset per longam putrefactionem propter rationes seminales: sic etiam opera magorum dicentur mirabilia.

Rem gestam narrare expedit et paululum eius declarationi insistere. Est opidum in dyocesi Argentensi, cuius nomen occultare ordo caritatis et honestatis postulat, in quo laborator quadam die dum ligna ad comburendum dumtaxat in domo secaret, cartus quidam non parue quantitatis ipsum molestare ei importune se obijciendo nisus est. Quem abiciendo,<sup>a</sup> ecce alius maioris quantitatis simul cum priori acrius ipsum aggrediuntur. Quos iterum vbi repellere volebant, ecce tres pariter et iam versus vultum salliendo ianque<sup>b</sup> inter tibias morsibus lacerando ipsum aggrediuntur. Perterritus inde et, vt retulit, maiori anxietate nunquam perplexus signo crucis se muniendo et opus pretermittendo per incisa ligna catts infestos et modo ad faciem, modo ad guttur denuo saltantes, iam vnam ad caput, iam alteram ad pedes aut super dorsum percutiendo vix abegit. Et ecce post horis<sup>c</sup> spacium dum iterum suo operi insisteret, duo famuli opidi consulum tanquam malefactorem ipsum capientes ad presentiam baliui seu iudicis ducere volebant, qui iudex alonge ipsum aspiciens nec audientiam sibi prestare volens, imperat vt ad profundum cuiusdam turris seu carceris, vbi plectendi includebantur ad mortem, projiceretur. Eiulans ille et cur talia pateretur cum in nullo crimine | se conscium 123D agnosceret per triduum custodibus carceris querulose lamentabatur, et hi quidem quanto pro audientia sibi prestanda amplius instarent, tanto acrius iudex ira seueibat verbis contumeliosis, asserens quomodo tantus malefactor adhuc reatum suum non agnosceret aut quomodo se innocentem proclamaret, cum euidentia<sup>d</sup> facti eius flagicia horrenda demonstrarent, et cum hij nihil proficerent, tamen suasu aliorum consulum iudex inductus audientiam sibi prestare habuit. Eductus itaque de carcere cum ante iudicem staret et iudex ipsum intueri renueret, pauper genibus aliorum circumsedentium prouolutus petijt vt causa sue calamitatis sibi aperiretur, sicque iudex in hec verba prorupit: “Tu sceleratissimus hominum quomodo tua flagicia non recognoscis? Ecce tali die et tali hora tres matronas precipuas huius ciuitatis vulnerasti, vt in lectis decumbentes nec surgere aut mouere se valent.” Refocillatus pauper et de die et hora ac | de euentu rei apud se ruminans, dixit: “En diebus vite 124A mee mulierem nunquam percussi aut verberaui, et quod tali die et hora sectioni lignorum insteti, testium legitima productione probabo. Sed 124B

<sup>a</sup> *Ed. prin.*: abiendo

<sup>b</sup> *Sc.* iam-

<sup>c</sup> *Sc.* -e (confusion of hora, -e with os, oris?)

<sup>d</sup> *Construed as neut. pl. (cf. 197C, 207B, C)*

et vestri familiares sequenti hora huic operi me insistentem compere-  
runt.”<sup>a</sup> Tunc iterum furibundus iudex: “Ecce,” ait, “quomodo scelera  
sua palliare nititur! Mulieres verbera deplangunt, demonstrant et quod  
eas percusserit publice testantur.” Tunc pauper amplius super euentum  
rei ruminans: “Jlla,” inquit, “hora creaturas me percussisse recolor, non  
autem mulieres.” Attoniti circumsedentes et vt cuiusmodi creaturas per-  
cusserit reserari cupiunt. Tunc ille rem gestam et, prout supra tactum  
est, omnibus stupentibus recitauit. Et intelligentes opus demonis fuisse,  
pauperem solutum et illesum abire et quod negocium nulli reuelaret pre-  
cipiunt. Sed nec a fidei zelatoribus, qui et interfuerunt, euentus occultari  
potuit.

124C Super quem modum aliqua disserendo, ane demones in assumpris  
sic effigijs absque presentia maleficarum apparuerunt, aut earum cor-  
poralis presentia prestigioso artificio in bestiales illas formas transmu-  
tata fuerit: respondendo concludere oportet quod licet vtrumque virtute  
demonum fieri possit, ipsum tamen secundum factum fuisse amplius  
presumitur. Nam quod<sup>b</sup> motum localem, vbi demones in effigijs cat-  
torum laboratorem inuaserunt, etiam laboratoris ictus et verbera cat-  
tis illata mulieribus in domo residentibus subito et per aerem inferre  
potuisse, et hoc propter pactum mutuo dudum ininitum, nemo dubi-  
tat. Sic enim et lesionem vel puncturam quam inferre volunt sciunt  
alicui imagini depicte<sup>c</sup> vel fuse,<sup>d</sup> vbi aliquem maleficiare volunt, quod  
non illam<sup>e</sup> imaginem<sup>f</sup> sed illum quem presentare habet iuxta puncturas  
super imaginem<sup>g</sup> factas ledunt. Varia super hunc modum gesta deduci  
possent.

124D Nec valet instantia si quis obijceret illas mulieres sic lesas fortassis  
fuisse innocentes, eo quod et per exempla tacta lesiones etiam inno-  
centibus posse contingere patet, dum aliquis ignoranter per imaginem  
artificialem a malefica leditur: instantia non valet, quia aliud est a demone  
per maleficam ledi et aliud per ipsum demonem absque malefica, quia  
demon per se in effigie animalis tunc verbera suscipit, quando alteri sibi  
per pactum coniuncto infert et quando cum eius consensu ad talem  
apparitionem sub tali forma et modo se ingressit. Vnde sic tantummodo

<sup>a</sup> *Ed. prin.*: -arerunt

<sup>b</sup> *Grammatically unnecessary*

<sup>c</sup> *Ed. prin.*: -o

<sup>d</sup> *Ed. prin.*: -o

<sup>e</sup> *Ed. prin.*: -i

<sup>f</sup> *Ed. prin.*: -i

<sup>g</sup> *Ed. prin.*: -es

noxios et sibi per pactum coniunctos nocere potest et nullo modo innocentes. Per maleficas autem ubi demones ledere querunt, tunc etiam innocentes permissione diuina in ultionem tanti criminis sepe affligunt. Verum quod etiam demones per se interdum deo permitte et innocentes ledunt, et dudum Job sanctissimum leserunt, sed ibi non fuerunt nec vsus fuit diabolus huiusmodi prestigiosis apparitionibus, prout in tali facto et per tale fantasma | catti, quod animal perfidiorum est appropriatum signum, sicut canis predicatorum in scripturis, vnde semper 125A  
mutuo sibi insidiantur, et ordo predicatorum sub figura catuli latrantis in primo fundatore aduersus hereses premonstratus fuit. Presumitur autem quod per secundum modum malefice ille tres laboratorem inuaserunt, tum quod primus modus non tantum eis placuisset, tum quia secundus earum curiositati magis congruit.

In quo etiam talis ordo circa tria seruatus fuit: primo quod ad demonum instantiam sollicitate super hoc fuerunt et non demones ad instantiam maleficarum. Sic enim sepius ex earum fassionibus repertum est a nobis, quod ad instantiam demonum eas continue ad mala perpetranda infestantes<sup>a</sup> plura habent facere, et verisimile quod de se non cogitassent pauperem molestare. Causa autem quare demones ad hoc sollicitabant sine dubio extitit quod quia bene noscunt, ubi crimina manifesta impunita remanent, amplius | deus offenditur, fides catholica dehonestatur et ipsarum numerus amplius augmen- 125B  
tatur. Secundo, habito earum consensu demones earum corpora localiter transtulerunt ea facilitate qua et spiritualis virtus prestantior corporali existit; tertio quod prestigiosa apparitione modo quo supra tactum est in formas illas bestiales conuerse ipsum laboratorem inuadere habuerunt, nec defense a verberibus, sicut vtique ea facilitate qua translate fuerant eas defendere potuissent, sed verberari et verberatorem manifestare permiserunt, scientes illa flagicia per effeminatos viros nullum zelum fidei habentes remanere ob causas pretactas impunita. Alludit quod legitur de quodam sancto viro qui dum semel predicantem diabolum in forma sacerdotis deuoti in ecclesia repperisset et per spiritum ipsum demonem agnouisset esse, verba sua obseruauit et an bene vel male populum informaret attendebat, et dum ipsum irreprehensibilem et potius criminum obliurgatorem perpendisset, finito sermone eo accersito dum causam 125C  
super his quereret, respondit: "Ecce, veritatem dico, sciens quod dum auditores sint verbi et non factores, amplius deus offenditur et lucrum meum augmentatur."

<sup>a</sup> Sc. -ium

DE MODO QUO DEMONES PER MALEFICARUM  
OPERATIONES HOMINES INTERDUM SUBSTANTIALITER  
INHABITANT

Capitulum Decimum

QUIA IN PRECEDENTI CAPITULO tactum est qualiter demones etiam capita hominum aut alias partes corporis occupare et intrare et species interiores de loco ad locum mouere possunt, dubitare quis posset an ex toto homines ad instantiam maleficarum obsidere possent, et de diuersis modis obsidendi absque maleficarum instantia, vnde pro harum declaratione tria sunt declaranda: primo de diuersis modis possidendi; secundo quod ad instantiam maleficarum diuina permissione demones interdum omnibus illis modis possident; tertio acta | et gesta super hec sunt deducenda.

Quo ad primum. Secluso illo generali modo quo diabolus hominem cum quolibet peccato mortali inhabitat, de quo modo sanctus Thomas *Quotlibeto Tertio* (q. ii) sub dubio, an diabolus semper substantialiter inhabitat hominem quandocumque peccat mortaliter: causa dubitationis eius sit, quod cum spiritussanctus<sup>190</sup> semper inhabitat hominem cum gratia iuxta illud (i *Ad Corinthios* ii): “Templum dei estis et spiritus dei habitat in vobis,” et gratie opponitur culpa<sup>191</sup> et opposita habent fieri circa idem, vbi etiam declarat quod quia<sup>192</sup> inhabitare hominem potest intelligi dupliciter, vel quantum ad animam vel quantum ad corpus, et primo modo cum non est diabolo possibile inhabitare animam, eo quod solus deus menti illabatur, nec iterum diabolus ita est causa culpe, sicut spiritussanctus gratie quam spiritussanctus efficit in anima

<sup>190</sup> *Start of adaptation of Aq.*, Quodlibet 3.3.3.Ag.: Culpa enim mortalis opponitur gratie, sed spiritussanctus semper inhabitat hominem cum gratia secundum illud (i *Ad. Corinth.* iij): “Templum dei estis, et spiritus dei habitat in vobis.”

<sup>191</sup> *End*

<sup>192</sup> *Start of adaptation of Aq.*, Quodlibet 3.3.3.Co.: ... diabolus inhabitare hominem potest intelligi dupliciter: vno modo quantum ad animam, alio modo quantum ad corpus. Quantum ad animam quidem non potest diabolus inhabitare hominem substantialiter, quia solus deus illabatur menti, nec ita diabolus causat culpam sicut spiritussanctus gratiam. Spiritus enim sanctus interius operatur, sed diabolus exterius suggerit vel quantum ad sensum vel quantum ad imaginationem. Dicitur tamen inhabitare affectum hominis per effectum malitie, non solum quando ex eius suggestione peccatum perpetratur, sed etiam per quodcumque peccatum mortale, quia ex quocumque peccato mortali homo seruituri diaboli addicitur. Sed quantum ad corpus diabolus potest hominem substantialiter inhabitare, sicut patet in arrepticis, sed hoc magis pertinet ad rationem pene quam culpe. Pene autem corporales huius vite non semper consequuntur culpam sed quandoque peccantibus non inferuntur, et quandoque non peccantibus inferuntur, vt dicitur Johan. ix de ceco nato, et hoc est secundum altitudinem incomprehensibilem iudiciorum dei, vnde non cum qualibet culpa mortali diabolus inhabitat hominem substantialiter etiam quantum ad corpus.

per se operando, ideo similitudo non valet. Quantum vero ad corpus dicere possumus quod dupliciter diabolus potest inhabitare | hominem, <sup>126A</sup> sicut etiam dupliciter homines reperiuntur, vel in peccato vel in gratia existentes. Primo modo dicere oportet quod quia ex quolibet peccato mortali homo seruituti diaboli addicitur in quantum diabolus interdum exterius suggescit<sup>a</sup> peccatum, vel quantum ad sensum vel quantum ad imaginationem, ideo dicitur inhabitare affectum hominis, cum ad quemlibet motum tentationis mouetur, sicut nauis in mari sine gubernatore. Potest<sup>193</sup> etiam diabolus hominem substantialiter inhabitare, sicut patet in arrepticijis, et quia<sup>194</sup> hoc magis pertinet ad rationem pene quam culpe, vt patebit,<sup>195</sup> et pene corporales non semper consequuntur culpam sed quandoque peccantibus et non peccantibus inferuntur, ideo et in gratia et extra gratiam existentes secundum altitudinem incomprehensibilium iudiciorum dei inhabitare substantialiter possunt.<sup>196</sup> Et hic modus possedendi, licet non sit nostre speculationis, ponitur tamen ne alicui impossibile videatur quod | etiam dei permissione homines <sup>126B</sup> a demonibus ad instantiam maleficarum substantialiter interdum inhabitantur.<sup>b</sup>

Possumus ergo dicere quod sicut quinque modis demones per se absque maleficis homines ledere et possidere possunt, ita et omnibus illis modis ad instantiam maleficarum cum extunc, sicut amplius deus offenditur, ita et maior seuiendi in homines per maleficas demoni permittitur facultas. Et modi perfunctorie recitando hi sunt, dempto eo quod vexant aliquando in bonis fortune exterioribus, quod aliquando etiam aliquos in proprijs ledunt tantummodo corporibus, aliquando in corporibus simul et in potentijs interioribus, aliquando solum tentant intus et extra, alios vsu rationis ad tempus priuant, alios velut bestias irracionales reddunt.

De singulis dicamus. Sed prius quinque causas propter quas deus permittit homines possideri premittamus, quia hunc ordinem seruare materia postulat. Nam aliquando<sup>197</sup> quis possidetur pro maiori suo <sup>126C</sup>

<sup>a</sup> Sc. -gerit (*clumsy adaptation*)

<sup>b</sup> Ed. prin.: -ant

<sup>193</sup> From here on the passage of Aq. is also quoted in Nider, Form. 5.11 (237B-C), where it is introduced with: Vnde ad primam tuam questionem [sc. quibus modis vexent] audi sancti doctoris Quodlibet Tercio (q. iij, resp.) . . . (cf. start of present parag.). Apparently the small quotation in Nider has had more of the original passage of Aq. added to it.

<sup>194</sup> For et quia Aq. and Nider have sed

<sup>195</sup> This clause and the following et are not in Aq. or Nider, who have pene autem corporales

<sup>196</sup> End

<sup>197</sup> Start of Nider, Form. 5.11(237C-238C), which begins: . . . v de causis alicue contigit possideri: aliquando pro maiori . . .

merito, aliquando pro alieno leui delicto, aliquando pro suo veniali peccato, aliquando pro graui peccato alieno, aliquando pro magno facinore proprio.<sup>198</sup> Et his omnibus de causis nulli dubium quin et deus ad instantiam maleficarum per demones etiam similia fieri interdum permittat, et singula ex scripturis et non per noua gesta tantum probare expedit, cum semper noua per antiqua roborantur.

Nam de<sup>199</sup> primo patet in *Dialogo* Seueri beati Martini carissimi discipuli, vbi fertur quendam patrem sanctissime vite tanto dotatum in gratia expellendi demones, vt hi nedum verbis proprijs fugarentur sed etiam eiusdem patris epistulis et cilicio, et cum coram mundo pater esset celeberrimus, se tentari sensit vana gloria, cui vitio licet viriliter resisteret, tamen vt humiliaretur amplius totis precordijs deum precabatur, quatenus quinque mensibus a demone possideretur, quod et factum est. Nam eum statim possessum vinculari oportebat et omnia  
126D applicare|sibi demoniacis communia. Finito autem quinto mense prorsus et ab omni vana gloria et a demone liberatus est.<sup>200</sup> Sed quod hac de causa quis per maleficium alterius posset a demone possideri, sicut factum fuisse non legitur, ita nec ad presens affirmatur, licet, vt premissum est, incomprehensibilia sint dei iudicia.

De<sup>201</sup> secundo autem quod<sup>202</sup> ex alieno leui delicto aliquis possidetur, ponit exemplum beatus Gregorius de beato Eleutherio abbate, viro simplicissimo, qui cum prope monasterium virginum pernoctaret, ei<sup>2</sup> ignoranti ordinauerunt ad suam cellam poni paruulum puerum qui omni nocte vexabatur a demone, sed eadem nocte a demone liberatus est per patris presentiam. Hic cum rem didicisset gestam et puer iam positus esset in monasterio sancti viri, et transactis multis diebus paulo immoderate letus de liberatione pueri ait ad confratres suos: “Diabolus sibi cum illis sororibus iocabatur, sed vbi ad seruos dei venit, puerum  
127A hunc accedere| non presumpsit,” et ecce statim diabolus puerum vexare cepit, et per lacrimas et ieiunia sancti viri et confratrum difficulter sed eodem die liberatus fuit.<sup>203</sup>

Et quidem vbi ex alieno et leui delicto quis innocens possidetur, non mirum si propter veniale proprium aut propter graue alienum peccatum

<sup>2</sup> *So Nider, ed. prin.: et*

<sup>198</sup> *Pause*

<sup>199</sup> *Resume*

<sup>200</sup> *Pause*

<sup>201</sup> *Resume*

<sup>202</sup> *Nider: quomodo*

<sup>203</sup> *Pause*

aut etiam propter proprium facinus aliqui etiam ad maleficarum instantiam per demones possidentur. Nam et de<sup>204</sup> proprio veniali peccato patet per Cassianum (*Collatione Abbatis Sereni Prima*) dicentem de Moyse: "Moyse," inquit, "in heremo cum singularis et incomparabilis vir esset, ob reprehensionem vnus sermonis quem contra abbatem Macharium disputans paulo durius protulit, quadam scilicet opinione preuentus, diro confestim traditus est demoni, vt humanas egestionis ori suo ab eo suppletus ingereret. Quod flagellum purgationis gratia dominus intulisse videtur, ne scilicet in eo vel momentanei delicti macula resideret, patuit ex miraculosa curatione."<sup>205</sup> Nam | continuo abbate <sup>127B</sup> Machario in oratione submissa<sup>206</sup> citius nequam spiritus ab eo fugatus abscessit.

Simile videtur huic quod Gregorius (primo *Dyalogorum*) refert de moniali<sup>207</sup> que lactucam comedit non prius signo crucis se muniens et per beatum Equicium patrem liberata.

De quarto etiam, videlicet pro alieno graui peccato aliquem possideri, ibidem refert beatus Gregorius de beato Fortunato episcopo, qui dum diabolus ab obsesso homine propulisset, sero idem demon in specie peregrini per plateas ciuitatis clamare cepit: "O virum sanctum Fortunatum episcopum! Ecce de hospicio me peregrinum proiecit, nec vbi quiescam inuenio." Tunc quidam cum vxore sua et filio sedens peregrinum inuitauit suum ad hospicium, et<sup>208</sup> querendo causam expulsio- nis est gauisus super derogatione sancti viri quam a peregrino ficte<sup>209</sup> audiuit. Exinde autem diabolus puerum inuasit et prunis iniecit ac animam eius excussit, sicque pater miser primum quem recepisset hospicio intellexit.

Et de quinta causa proprii facinoris et magni communiter tam in <sup>127C</sup> sacra scriptura quam in sanctorum passionalibus legimus. Nam et sic (i *Regum* xv) Saul inobediens deo possessus est.<sup>210</sup>

<sup>204</sup> *Resume*

<sup>205</sup> *For this clause Nider has: velocitate curacionis eius atque auctore medio demonstratit*

<sup>206</sup> *Nider: submisso dicto*

<sup>207</sup> *Start of paraphrase of Nider: de quadam dei famula in monasterio virginum, que hortum ibidem ingressa lactucam conspiciens et concupiescens, quam signo crucis benedicere oblita auide momordit, arrepta a demone cecidit et vexabatur, quousque statim vocato beato ibidem patre Equicio per eundem liberata est. De quarta causa qua dictum pro alieno graui peccato aliquem possideri patet ibidem per beatum Gregorium. Nam, vt refert Fortunatus episcopus, diabolus ab obsesso homine propulerat. Sero igitur demon idem in specie peregrini per plateas ciuitatis clamare cepit: "O virum sanctum Fortunatum episcopum! Eiecit de hospicio peregrinum. Quem quidam vir inuitauit suum ad hospicium."*

<sup>208</sup> *Resumption of direct quote*

<sup>209</sup> *Nider: -o*

<sup>210</sup> *End*

Que omnia, vt diximus, tacta sunt ne impossibile cuiquam videatur, si ob facinorum<sup>a</sup> maleficarum, vt aliqui etiam ad earum instantiam, possideantur. Super quo vt diuersos modos possidendi intelligere valeamus quo ad secundum rem gestam in medium producamus.

Tempore siquidem Pij pape secundi ante iniunctum inquisitionis officium vni e duobus inquisitoribus hunc tractatum conficientibus talis accidit casus. Bohemus quidam de Dachouo opido filium vnicum et sacerdotem secularem ob liberationis gratiam, quia obsessus erat, Romam vsque perduxit. A casu autem dum ego (vnus ex inquisitoribus) hospiciū refectionis gratia intrassem, contigit vt tanquam commensalis idem sacerdos cum patre ad tabulam pariter mecum consederent.

127D Conuescentes autem et mutuo, vt moris forensium est, conferentes, idem pater pluries suspirans, et quod prosperum iter compleuisset a deo omnipotenti optabat, cui ex intimis compatiendo, quenam sui itineris et causa tristicie esset inquirere cepi. Tunc ille filio audiente, qui et mihi collateralis in mensa erat, respondit: “Heu! Filium habeo a demone obsesum, quem ob liberationis gratiam magnis laboribus et impensis hucusque perduxī.” Et ego vbinam filius esset dum inquirerem, quod mihi colateralis esset indicauit. At territus ego paululum et diligenter ipsum intuens quod cum tanta modestia cibum sumeret et ad queque interrogata pie responderet, hesitare animo cepi, et quod obsessus non esset sed infirmitatis causa sibi aliquid accidisse obieci. Tunc filius rem gestam per se narrans et qualiter quantoque tempore obsesus fuisset indicauit: “Mulier,” inquit, “quedam malefica hanc mihi infirmitatem

128A contulit. Briganti enim contra eam ratione cuiusdam displicentie circa regimen curie cum eam durius increpasssem quia ceruicose voluntatis erat, dixit quod post paucos dies haberem intendere his que mihi contingerent. Sed et demon in me habitans hoc idem refert quod maleficium sub quadam arbore positum sit a malefica, quod nisi amoueat, non potero liberari, sed nec arborem vult indicare.” At ego nec minimam suis dictis fidem adhibuissem nisi experientia me protinus edocuisset. Nam interrogatus a me de interuallo temporis vt preter consuetum modum obsessorum tante sue rationis esset capacitatis, respondit: “Vsu rationis tantummodo prius quando diuinis aut vacare aut sacra loca visitare voluero. Precipue autem demon ex suis verbis per me prolatis dixit quod sicut maiorem displicentiam hactenus in sermonibus ad populum sibi

<sup>a</sup> Sc. -a Perhaps this incorrect case is generated through confusion with the syntax of some German preposition that takes the genitive (like *wegen*); conceivably it results from a clumsy adaptation of the frequent expression *ob facinorum magnitudinem* (used often to explain the etymology of *maleficus*).

fecissem, ita vt nunc nullo modo me predicare sineret." Gratosus enim ex relatu patris predicator extitit et omnibus amabilis.

At ego (inquisitor) cum de singulis certificari volebam, per quindecim et vltra|ad varia sanctorum limina ipsum deducere decreui, precipue <sup>128B</sup> autem ad ecclesiam sancte Praxedis virginis, vbi pars statue marmoree, cui in sua flagellatione saluator noster alligatus fuerat, et ad locum in quo Petrus apostolus crucifixus fuerat, in quibus locis horribiles eiulatus dum exorcizabatur emittebat, iam asserens se velle exire, post paululum vero minime. Et vt premissum est, in omnibus moribus mansit sacerdos compositus et sine omni nota nisi dum exorcismi incipiebantur et illis finitis dum stola de collo amouebatur; extunc iterum nec minimum irrationalem aut inhonestum motum demonstrabat, hoc dempto <sup>128C</sup> dum ecclesiam aliquam pertranseundo genua pro salutatione virginis gloriose flectebat: tunc diabolus eius linguam in longum extra os suum emittebat, et interrogatus an non ab illo se posset continere, respondit: "Hoc facere minime valeo. Sic enim vtitur omnibus membris et organis, collo, lingua, pulmone, ad loquendum vel eiulandum dum ei placet. Quod audio | quidem verba que sic per me et ex membris meis loquitur, <sup>128C</sup> sed resistere omnino non valeo, et quanto deuotius orationi aliquando insistere affectarem, tanto acrius me impugnat, linguam emittendo."

Et quamquam<sup>3</sup> columna in ecclesia sancti Petri ex templo Salomonis circumserrata existit, per cuius virtutem plures licet a demonibus obsessi liberantur, eo quod et Christus predicando in templo illi se appodiasset, hic tamen occulto dei iudicio liberari non potuit, alium modum pro sua liberatione sibi disponendo. Licet enim per integrum diem et noctem circa columnam inclusus mansisset, tamen sequenti die post varios exorcismos super eum perlectos dum circumstaret populus et magnus fieret concursus, et interrogatus in qua parte columne se Christus appodiasset, tunc dentibus mordendo columnam locum demonstrabat, eiulans: "Hic stetit! Hic stetit!" Vltimatim tamen dixit: "Nolo exire." Et cum interrogaretur qua de causa, respondit: "Propter Lombardos," et interrogatus denuo cur propter Lombardos | egredi noller, tunc respondit in ytalica <sup>128D</sup> lingua, cum tamen infirmus sacerdos illud ideoma ignoraret, dicens: "Omnes faciunt sic et sic," nominando premissum vitium luxurie. At sacerdos post hoc me interrogando dixit: "Pater, quid sibi volunt hec verba ytalica que ex ore meo protulit?" Cui cum indicassem, respondit: "Verba quidem audiui sed intelligere non potui."

<sup>3</sup> *Ed. prin.*: qm̄ (=quantum)

Et quia, vt rei probauit euentus, hoc demonium erat de genere illo de quo saluator in euangelio: “Hoc genus demoniorum non eijcitur nisi in oratione et ieiunio,” ideo quidam venerabilis episcopus per Turcos, vt fertur, a sede expulsus pie illi compatiens per totum quadragesimale tempus in pane et aqua ieiunij et orationibus et exorcismis quotidie insistens ipsum per dei gratiam tandem liberauit, et ad propria cum gaudio remisit.

129A Super quo licet<sup>211</sup> sine miraculo nullus in hac vita possit sufficienter disserere, quibus et quot modis demon homines possideat vel etiam ledat, possumus tamen dicere quod quinque modis, | dempto eo quod in rebus fortune exterioribus aliquando tantum ledunt. Nam aliqui in proprijs tantummodo vexantur corporibus, aliqui in corpore simul et in potentijs interioribus, aliqui in potentijs tantummodo interioribus, aliqui castigatione eorum ad tempus tantummodo vsu rationis priuantur, aliqui vero velut bestie irrationales redduntur. Prefatum sacerdotem quarto modo possessum fuisse declaratur. Nam nec in rebus fortune nec in proprio vexatus corpore fuit, prout contigit beato Job, vbi deus demonem licenciasset<sup>a</sup> manifeste scriptura<sup>b</sup> super hoc tradit, dicens ad

<sup>a</sup> Sc. licenciavit (*clumsy adaptation*)

<sup>b</sup> *Ed. prin.*: -a3

<sup>211</sup> *Start of adaptation of Nider, Form. 5.11 (239B–240A)*: . . . quibus modis demon possideat vel homines vel ad plenum, puto, nullus in hac vita sine miraculo posset edicere, sunt tamen sex modi satis conuenientes . . . quibus potestatem exercent in homines, sed tantummodo pro quanto a deo permissi fuerint. Nam vexant aliquando tantum in rebus fortune exterioribus; aliquando etiam aliquos in proprijs vexant tantummodo corporibus; aliquando in corpore simul et in potentijs interioribus; aliquando quidem per eos intus et extra solum temptantur; alij castigatione eorum ad tempus tantummodo vsu rationis priuantur; alij vero velut bestie irrationales redduntur. De tribus primis manifestum est in beato Job deum demonem licenciasset in res exteriores eius tantummodo quando deus Sathan ait: “Ecce vniuersa que habet tua sunt. Tantum in eum ne extendas manum tuam” (Job primo). In corpus vero postmodum ait (ibidem ij): “Ecce in manu tua est, verum tamen animam eius serua,” id est, “vitam eius ne auferas.” In potencias interiores vero agendi potestatem dedit ibidem vij, vbi dicit Job ad dominum: “Si dixerò, consolabitur me lectulus meus, et releuabor loquens mecum in strato meo: ‘Terrebis me per somnia et per visiones, horrore concutiens,’” demone procurante secundum Nicolaum de Lyra. Nam vt sanctus Thomas ibidem ad litteram exponit, homines sapientes quando solitarij sunt et a tumultibus hominum et negotiorum semoti, tunc magis loqui possunt secundum rationem aliquando cogitando, sed ista remedia Job iuuare non poterant quia tempore quo hijs remedijs vti debebat aderant sibi impedimenta quibus perturbabantur, scilicet somnia terribilia et horribiles visiones, et hoc est quod subdit: “Terrebis me per somnia,” que scilicet dormienti apparent, “et per visiones,” que scilicet apparent vigilanti ab vsu exteriorum sensuum alienatorum. Solent nocturna fantasmata conformia esse diurnius cogitationibus, vnde quia Job in die mortis sue cogitabat, similibus fantasmatibus perturbabatur in nocte. Infirmitas enim corporis ad hoc operatur, vt perturbata fantasmata dormientibus appareant. Sic igitur vidique [*sic; sc. vndique*] consolacionem [*sc. -e*] exclusa nullus modus Job remanere videbatur tot angustias euadendi nisi per mortem: “Horrore,” inquit, “concutiens.”

Sathan: "Ecce, vniuersa que habet in manu tua sunt. Tantum in eum ne extendas manum tuam," et hoc in res exteriores. In corpus vero postmodum ait: "Ecce, in manu tua est. Veruntamen animam eius serua," id est, "vitam eius ne auferas." Potest etiam dici quod tertio modo, scilicet in potentijs anime interioribus simul et corpore, vexatus fuit, cum dicebat, vt Job vij habetur, | ad dominum: "Si dixerero: 'Consolabitur me lectulus meus' et releuabor loquens mecum in stratu meo, terrebis me per somnia et per visiones horrore concuties," demone scilicet procurante secundum Nicolaum de Lyra. Et secundum Thomam "Terrebis me per somnia," que scilicet dormienti apparent, "et per visiones" que scilicet apparent vigilanti ab vsu exteriorum sensuum alienato. Solent enim fantasmata informata diurnis cogitationibus esse in terrorem dormientium. Et hec operabantur in eo ex infirmitate corporis, vnde sic consolatione vndique seclusa nil remedij videbatur Job euadendi tot angustias nisi per mortem. "Horrore," inquit, "concuties."<sup>212</sup> Quibus modis et malefice<sup>a</sup> homines ledere per demones nemo dubitat, prout et in sequentibus patebit qualiter per grandines in rebus fortune et in corpora animalium et hominum lesiones inferunt.

129B

Et terius etiam modus ledendi est in corpore et in interioribus potentijs absque priuatione vsus rationis. Patet ex eorum operationibus, vbi, vt supra tactum est, adeo mentes hominum ad illicitas affectiones incendunt quod necessario etiam nocturno tempore ad amasias per longa terrarum spacia currere habent, fisco<sup>b</sup> carnalis amoris nimis illaqueati.

129C

Potest adduci et illud quod in Hassia, opido Margburck contigisse dicitur de quodam obsesso etiam sacerdote. Dum in exorcismis demon interrogaretur quanto tempore sacerdotem inhabitasset, respondisse fertur: "Septem annis." Et cum exorcista objiceret: "Cum vix per tres menses eum vexasti, reliquo tempore vbi eras?" respondit: "In corpore suo me occultabam." Et ille "In qua parte corporis?" vbi inquirebat, respondit: "Vt plurimum in capite." Et denuo vbinam fuisset quando diuina celebrasset et sacramentum sumpsisset requisitus, dixit: "Sub lingua eius me occultauit." Et ille: "Miser, qua temeritate ad presentiam creatoris tui non aufugisti?" tunc demon: "Nunquid sub ponte se nequam occultare potest donec desuper vir sanctus pertransibit?" Diuina tamen cooperante gratia liberatus fuit, siue verum siue ficticium protulerit, cum mendax sit et pater eius.

129D

<sup>a</sup> Sc. -as<sup>b</sup> Sc. v-<sup>212</sup> End

Quartus modus applicatur ad prefatum possessum Rome liberatum sub hac declaratione: quod demon<sup>213</sup> possit illabi corpori, licet non anime, cum hoc soli deo sit possibile, illabi etiam corpori, non tamen infra terminos essentie corporis. Hoc, inquam, declarando habetur modus quo demones substantialiter interdum homines inhabitant.

Et ad tempus tantummodo vsu rationis priuant. Et quidem hoc sic declaratur. Nam dicere possumus quod corpus habet terminos duplicis rationis, scilicet quantitatis et essentie, vnde quando angelus quicumque, bonus vel malus, operatur infra terminos corporis, operatur infra terminos corporalis quantitatis, et sic etiam illabitur corpori operando circa potentias quantitatuas. Sic etiam boni angeli etiam imaginarias in bonis  
 130A visiones operantur. Nunquam autem dicuntur illabi essentie corporalis,<sup>a</sup> quia non possunt illa sicut<sup>b</sup> pars neque sicut virtus: non sicut pars quia alia et alia est essentia vtrobique, non sicut virtus quasi dans esse, quia suum esse habet per creationem a deo. Vnde et ipse solus habet intrinsecam essentie operationem et conseruationem quamdiu placitum fuerit sue pietati conseruando. Vnde concluditur quod alie<sup>c</sup> omnes perfectiones seu defectus (loquendo de bonis quo ad perfectiones, de malis quo ad defectus) quando operantur, si operantur circa corpus et partes eius, vt circa caput, illabuntur tali corpori super terminos, videlicet quantitatis et quantitatuas potentias.<sup>214</sup>

Si vero circa animam, tunc iterum vterque extrinsece operatur, sed modis diuersis, et dicuntur operari circa animam fantasmata illa seu species intellectui representando, et non solum ad iudicium sensus communis et sensuum exteriorum. Ex<sup>215</sup> quibus operationibus sequuntur  
 130B tentationes a malis angelis et affectiones et cogitationes male per indirectum operando versus intellectum. A bonis autem angelis sequuntur illustrationes fantasmatum ad cognoscendum reuelanda ab eis. Vnde et

<sup>a</sup> Sc. i (clumsy adaptation)

<sup>b</sup> So *Aq.* (cf. following clause); *ed. prin.*: vt

<sup>c</sup> Sc. alias (clumsy adaptation)

<sup>213</sup> *Start of adaptation of Aq.*, *Sent. 2.8.1.5.Ra3*: ... corpus autem habet terminos duplicis rationis, scilicet quantitatis et essentie, et ideo angelus operans intra terminos corporalis quantitatis corpori illabitur, non autem ita quod sit intra terminos essentie sue, nec sicut pars nec sicut virtus dans esse, quia esse est per creationem a deo, substantia autem spiritualis non habet terminos quantitatis sed tantum essentie, et ideo in ipsam non intrat nisi ille qui dat esse, scilicet deus creator qui habet intrinsecam essentie operationem. Alie autem perfectiones sunt superaddite ad essentiam, vnde angelus illuminans non dicitur esse in angelo et in anima sed extrinsecus aliquid operari.

<sup>214</sup> *End*

<sup>215</sup> *For the rest of this paragraph, cf. Aq.*, *Sent. 2.8.1.5.Ra6*: ... mali angeli cogitationes immitunt ... illustrando fantasmata ... sed boni angeli etiam directe in intellectum imprimere possunt ...; *and Ra7*: ... vnde patet ex predictis quod demones imprimunt in fantasiam, sed angeli etiam in intellectum ...

talís diuersitas est quod boni angeli etiam directe possunt imprimere in intellectum fantasmata illustrando, mali autem neque illustrare dicuntur fantasmata sed potius obfuscare. Item nec directe imprimere possunt, sed tantummodo indirecte, in quantum intelligentem necesse est fantasmata speculari.

Per hec tamen etiam angelus bonus non dicitur illabi anime, licet eam illuminet, sicut nec dicitur superior angelus illabi in inferiorem, licet eum illuminet, sed tantummodo extrinsece operatur et cooperatur modo quo dictum est.

Et per hunc modum demon sacerdotis corpus in tribus occupauit: primo, quod sicut illabi suo corpori potuit, intra videlicet terminos corporalis quantitatis, ita caput suum occupauit substantialiter illud inhabitando; secundo, quod sicut circa animam eius extrinsece operari potuit obfuscando intellectum, vt rationis vsum perderet, ita etiam potuit vt sine intermissione vel etiam interpellanti eum quo ad amissionem rationis vexaret, licet etiam dici potest quod ex dono dei hoc habuerit sacerdos vt non sine intermissione a demone vexaretur; tertio, quod licet omnibus membris et organis ad loquendum et voces ad formandum priuaretur, semper tamen ad verba, licet non ad sententiam verborum, aduertentiam habuit. Qui modus obsidendi plurimum ab alijs obsidendi modis differt, cum communiter obsessi leguntur sine intermissione a demonibus affligi, vt patet in euangelio tam de<sup>216</sup> lunatico cuius pater dixerat ad Jesum: "Domine, miserere filio meo quia lunaticus est et male patitur" (*Matthei xvij*) quam etiam de muliere illa quam Sathanas alligauerat xvij annis et erat inclinata nec omnino poterat sursum aspicere (*Luce xiiij*).<sup>217</sup> Quibus | etiam modis indubie demones diuina permissione ad instantiam maleficarum vexare possunt. 130C  
130D

DE MODO QUO OMNE GENUS INFIRMITATIS INFERRE  
POSSUNT, ET HOC IN GENERALI DE GRAUIORIBUS

Capitulum Vndecimum

SED ET HOC QUOD non sit aliqua infirmitas corporalis que a maleficis deo permittente inferri non possit, etiam si ad lepram vel epilepsiam

<sup>216</sup> *Start of adaptation of Nider, Form. 5.11 (240B):* De quinto modo habes (*Math. xvij*) in lunatico exemplum, cuius pater ait ad Jesum: "Domine . . . patitur," et de Saul (*primi Reg. xv* et in sequentibus). De sexto modo typum gessit illa mulier quam, vt Christus ait, alligauit Sathanas xvij annis, et erat inclinata nec omnino poterat sursum respicere, sicut nec bestie, vt patet *Luce xiiij* . . .

<sup>217</sup> *End*

se extendere habeat, probari potest per hoc quod per doctores nullum genus infirmitatis excipitur. Nam si diligenter ea que superius tacta sunt tam de virtute demonum quam <quo> ad maliciam maleficarum considerantur, nullam patitur hoc difficultatem. Nam et Nider tam in suo *Preceptorio* quam etiam *Formicario*, vbi querit an malefici possint veraciter suis maleficijs homines ledere – et est questio absque exceptione alicuius infirmitatis, etiam quantumcunque incurabilis – et vbi  
 131A respondit quod sic, querit consequenter quibus<sup>218</sup> modis et quibus rebus, et quo ad primum respondit, vt supra ex prima questione prime partis tractatus patuit. Probatur etiam per Ysidorum describentis<sup>a</sup> maleficarum operationes (viiij *Ethimolgiarum* c. ix): “Malefici dicuntur ob facinorum magnitudinem. Hi enim elementa concutiunt,” scilicet opere demonum, “ad tempestates concitandas, mentes hominum turbant,” modis videlicet supra tactis, “vsum rationis vel omnino impediunt aut grauiter obfuscando.” Subdit: “et absque vllo veneni haustu violentia tantum cariminis animas interimunt,” vitam videlicet auferendo. Probatur etiam per sanctum Thomam in *Secundo Sententiarum* (circa di. vij et viij, et in *Quarto*, di. xxxiiij) et communiter per omnes theologos ibidem scribentes quod malefici omnibus modis possunt procurare lesiones in hominibus et eorum rebus cooperante demone,<sup>219</sup> in quibus demon<sup>220</sup> potest solum ledere vel decipere, videlicet in rebus, fama, corpore, vsu rationis et in  
 131B vita.<sup>221</sup> Vult dicere quod in illis in quibus demon per se absque malefica possit ledere possit etiam cum maleficia, imo ampliori facilitate propter maiorem diuine maiestatis offensionem, vt supra tactum est.

De<sup>222</sup> rebus nanque<sup>b</sup> patet Job i et ij, vt supra patuit.

De fama patet in legenda beati Hieronimi, vt refert Johanne Andree in *Hierominiano* quod diabolus se transformauit in formam sancti Siluani

<sup>a</sup> Sc. -entem (*clumsy adaptation*)

<sup>b</sup> Sc. nam-

<sup>218</sup> *Start of adaptation of Nider, Praec. 1.11.16 (V), which begins:* Questio xvi: vtrum malefici possunt veraciter suis maleficijs homines ledere, et si sic, quibus modis et quibus rebus. Dicuntur autem malefici, vt dicit Ysidorus (*Ethimo. c. xxij*), “ob facinorum magnitudinem. Hi elementa concutiunt, scilicet opere demonum, turbant mentes hominum, ac sine vllo veneni haustu violentia tantum cariminis interimunt, vt Lucanus dicit.” Haec Ysidorus. Respondetur secundum Thomam in ij circa di. vij et viij, in Quarto di. xxxiiij et communiter ibidem scribentes quod ...

<sup>219</sup> *End*

<sup>220</sup> *Start of Nider, Praec. 1.11.15 (T), which begins:* Questio xv: an demones possunt et audeant grauiter homines ledere. Respondetur secundum Thomam quod sic. Possunt enim deo permittente quintupliciter legere, videlicet in rebus, fama, corpore, vsu rationis et in vita.

<sup>221</sup> *Pause*

<sup>222</sup> *Resume*

episcopi in Nazareth, amatoris Hieronimi, qui demon primo feminam nobilem nocte in lecto procare et prouocare cepit ad luxuriam verbis, et deinde factis sollicitauit ad malum. Que cum clamaret, demon sub specie sancti episcopi sub lecto femine se abscondit, vbi requisitus et inuentus per luxuriosa verba se mentitus est esse episcopum Siluanum. In crastinum igitur sanctus vir disparente diabolo diffamatus est grauissime, que infamia tandem circa sepulcrum sancti Hieronimi fatente diabolo in obsessio corpore purgata est.

De corpore patet in beato Job, qui percussus fuit a demone vlcere <sup>131C</sup> pessimo, quod exponitur de lepra.

Refert etiam Sigibertus et Vincentius in *Speculo Historie* (li. xxv c. xxxvij) quod tempore Ludouici secundi imperatoris in parrochia Moguntina quidam demon primo sepe lapides iecit et quasi mallio ad domos percussit, et deinde publice loquendo, furta prodendo et discordias seminando plures inquietauit. Deinde omnes contra vnum irritauit cuius hospicium vbicunque manebat incendit, et ob illius peccata omnes pati affirmavit. Vnde tandem tantum agros pro hospicio habere potuit, propter quod cum presbiteri letanias celebrarent, multos iactibus lapidum demon vsque ad cruentationem lesit. Aliquando quieuit, aliquando seuit, et per triennium ista continuauit quousque omnia edificia ibi incendio consumpta sunt.

Jtem<sup>223</sup> de nocumento vsus<sup>a</sup> rationis et vexatione interiorum sensuum probatur ex possessis et arrepticijs, per euangelicas etiam historias.

Jtem<sup>224</sup> de morte et quod vita etiam quosdam priuat, patet | (Thobie <sup>131D</sup> vi) de septem viris Sare virginis occisis, qui propter luxuriosum affectum et effrenem appetitum in virginem Saram eiusdem non erant digni matrimonio.<sup>225</sup> Quare concluditur quod sicut per se, ita et amplius per maleficas in omnibus nihil dempto hominibus nocere possunt.

Verum vbi queritur an huiusmodi lesiones sint potius demonibus aut maleficis imputande, respondetur quod sicut propria et immediata actione demones operantur infirmitates immittendo, ita et ipsis principaliter sunt imputande, sed quia in contemptum et offensam creatoris simul et in perditionem animarum querunt huiusmodi per maleficas exercere, scientes quod per talem modum, sicut deus amplius irritatur, ita et amplius permittit eis potestatem seuiendi, quia et de facto innumera maleficia perpetrantur, que non permitterentur diabolo inferre

<sup>a</sup> So Nider; ed. prin.: -u

<sup>223</sup> Not in Nider

<sup>224</sup> Not in Nider

<sup>225</sup> End

132A hominibus si per se solum affectaret homines ledere, que tamen permit-  
tuntur iusto et occulto dei iudicio per malleficas propter earum perfidiam  
et catholice fidei abnegationem: vnde et eis iusto iudicio talia maleficia  
imputantur secundo quantumcunque diabolus sit actor principalis.  
Scopa<sup>226</sup> ergo quam mulier intingeret aque vt pluat et<sup>a</sup> sursum in aerem  
aquam spargendo, licet in se non causat pluuiam nec posset mulier  
inde reprehendi, quia tamen ex pacto cum demone inito vbi iam vt  
malefica talia facit, licet demon sit qui pluuiam causat, ipsa tamen meri-  
to inculpatur, eo quod mala fide et opere diabolo seruit eius obsequijs se  
tradendo. Sic etiam quando imaginem ceream vel simile ad maleficiand-  
um aliquem maleficus facit vel quando maleficio alicuius in aqua vel  
plumbo imago apparet, quicquid molestie inferatur tali imagini cum tale  
experitur fieri in imaginato, id est, homini maleficiato, puta punctura  
vel alia lesura quecunque, licet lesio realiter inferatur imagini per malefi-  
132B cam vel alium hominem et inuisibiliter demon maleficiatum hominem  
eodem modo ledit, merito tamen malefice imputatur,<sup>227</sup> quia sine ea  
deus nunquam lesionem inferre diabolo permetteret, nec diabolus per se  
ledere ipsum attentasset.

Sed quia dictum est de fama, in qua demones per se homines ledere  
possunt absque maleficarum cooperatione, posset in dubium verti, an  
etiam demones per se possent honestas mulieres infamare vt tanquam  
malefice reputarentur cum in earum effigie ad maleficiandum aliquem  
apparent, vnde contingeret talem innocenter infamari.

Responsio. Aliqua sunt premittenda: primo quia dictum est demonem  
nihil posse efficere absque diuina permissione, vt in prima parte operis  
circa vltimam questionem patuit; etiam tactum est quod non est tanta  
permissio super iustos et in caritate existentes, sicut super peccatores,  
in quos vtique sicut maiorem habet potestatem iuxta illud: “Cum  
fortis armatus custodit” etc., ita vtique plura permittuntur a deo in

<sup>a</sup> *Unnecessary (clumsy adaptation)*

<sup>226</sup> *Start of adaptation of Nider, Praec. 1.11.16 (V):* Scopa quam malefica intingit aque vt pluat non  
causat pluuiam, sed demon talibus visis. Quod si deus promiserit, potestatem habet in omnia  
corporalia et in aerem, ventos et nubes, vt statim procurare et causare valeat. Maga siquidem  
signum dat per scopam, sed demon illud procurat et agit vt pluat per demonis actionem, cui  
maga mala fide et opere seruit et se tradidit obsequijs illius vel alijs. Sic quando imaginem ceream  
vel simile ad maleficiendum aliquem maleficus facit vel quando maleficio alicuius in aqua vel  
plumbo imago apparet: quicquid molestie inferatur tali imagini, tale experitur fieri imaginato,  
id est, homini maleficiato, puta punctura vel alia lesura quecunque. Que lesio realiter quidem  
inferatur imagini per maleficum vel per alium hominem sed inuisibiliter demon maleficiatum  
hominem eodem modo ledit dei permissione si demeruit reus.

<sup>227</sup> *End*

eorum afflictionem | quam super iustos. Demum licet iustos in rebus exterioribus, vt fama et sanitate corporis, ledere possunt deo permittente, quia tamen sciunt hoc eis cedere in augmentum meritorum, ideo minus eos ledere affectant. 132C

Ex quibus dici potest quod in hac difficultate respectus potest haberi ad diuersa: primo ad diuinam permissionem; secundo ad hominem qui censetur honestus, cum tales non semper sunt in caritate existentes, sicut sunt sub honestate reputati; tertio ad facinus in quo innocens deberet infamari, quia illud ex sua radice cuncta flagicia mundi excedit: ideo dicendum, licet ex diuina permissione quique innocens, siue in gratia constitutus siue non, ledi possit in rebus fortune et fama, habendo tamen respectum ad ipsum facinus et grauitatem criminis, cum malefici sic nuncupantur ob facinorum magnitudinem iuxta Jsidorum sepe allegatum, dici potest quod hoc, vt aliquis innocens predicto modo a demone infametur, fieri non est | bene possibile, iterum multis respectibus: primo quia cum infamare in vitijs que absque pacto<sup>a</sup> expresso vel tacito inito cum demone perpetrantur, vt sunt furta, latrocinia et actus carnales, aliud sit ab infamia super vitia que nullo modo possunt homini imputari aut ab eo perpetrari nisi super pactum expressum cum demone initum, qualia sunt opera maleficarum que nisi virtute demonum a maleficis perpetrantur, vt vbi homines, iumenta aut terre fruges maleficiantur, vnde et eis aliter imputari non possunt, ideo licet demon possit hominem de alijs vitijs infamare, de tali tamen vitio infamare, quod sine eo non potest perpetrari, non videtur bene possibile. 132D

Preterea, hucusque nunquam actum est nec repertum vt aliquis innocens sit per demonem taliter infamatus<sup>b</sup> et sic propter talem infamiam morti fuisset adiudicatus, imo vbi tantummodo infamia laborat talis, nulla pena punitur nisi quod canonica purgatio sibi indicitur, vt in tertia | parte operis circa secundum modum sentiendi maleficas patebit. Et licet ibi contineatur quod in casu dum in purgatione deficeret, pro reo esset habendus, adhuc tamen abiuratio sibi indiceretur antequam vltius super penam relapsis debitam procederetur. Sed quia circa contingentia laboramus, que actu nunquam fuerunt perpetrata, nulli dubium quin et in posterum diuina permissio fieri non permittat. 133A

Preterea et a fortiori, propter angelicam custodiam que non permittit insontes in alijs criminibus minoribus infamari, vt in latrocinijs et huiusmodi, minus permittet, imo fortius sue custodie deputatum ab

<sup>a</sup> *Ed. prin.:* peccato (*Presumably the correct text was misread as the abbreviation pcccto and expanded.*)

<sup>b</sup> *Ed. prin.:* -um

infamia talium flagiciorum preseruabit. Nec valet si quis acta per sanctum Germanum obijceret, quando demones in assumptis corporibus et ad mensam consistentibus<sup>a</sup> alias mulieres viris suis condormientibus representabant, hospitem illudentes quasi ille mulieres in proprijs corporibus semper edentes et bibentes aduentarent, de quo<sup>b</sup> etiam supra mentio habita est, quia nec ibi ille mulieres excusantur quasi innocentes omnino, sed quod talia mulieribus sepe accidunt, quod iuxta capitulum (xxvi q. v) “Episcopi” notatur, vbi reprehenduntur tales quod dum in imaginaria solummodo illusionem transferantur, putant se veraciter et corporaliter transferri, licet, vt supra tactum est, etiam interdum corporaliter a demonibus vehuntur. Sed quod corporales infirmitates alias omnes nulla dempta diuina permissione inferre possunt, de illo est presens speculatio: concludendo ex prenotatis quod sic, cum nulla fiat a doctoribus exceptio, cui et rationem assentire oportet, cum alias demones sua naturali virtute cuncta corporalia excedunt, vt sepe tactum est.

Acta denique et gesta per nos reperta hec affirmant. Nam licet maior difficultas fortassis circa lepram aut epilensiam oriri possit, an videlicet talia inferre possent, eo quod huiusmodi tantummodo ex diuturnis et preuijs interiorum dispositionibus et defectibus solent oriri, nihilominus per maleficia interdum esse illata repertum est. Nam in dyocesi Basiliensi in confinibus partium Lotharingie et Alsacie cum quidam honestus laborator quedam verba dura contra rixosam quandam mulierem protulisset, illa indignata minas adiecit, quod in breui se de eo vindicare vellet. Et ille licet minas paruipendisset, eadem tamen nocte sibi pustulam collo accreuisse sensit, fricando tamen paululum et tangens totam faciem inflatam et tumefactam cum collo persensit, intantum vt horribilis species lepre etiam per totum appareret corpus. Qui non distulit sed quantotius amicis et consulibus accersitis rem gestam super comminatoria verba mulieris narrauit, et quod sic mori ea fide et suspitione vellet, quod illa sibi arte magica eadem malefica intulisset. Quid plura? Mulier capitur, questionibus exponitur et crimen fatetur. At iudex de modo et causa diligentius inquirens,<sup>c</sup> respondit: “Cum | me verbis opprobriosis homo ille aggressus fuisset, ego ira succensa cum ad domum venissem, malignus spiritus causam tristitie mee inquirere cepit, cui cum singula enarrassem et vt me vindicare possem eidem insinuando instarem, ille inquisiuit, dicens: ‘Quid ergo vis vt ei faciam?’ At ego respondi: ‘Vellem vt inflatam faciem semper retineret.’ Et sic ille abscessit et illam

<sup>a</sup> Sc. -es

<sup>b</sup> Ed. prin.: qua

<sup>c</sup> Sc. iudice . . . inquirente

infirmi-  
tatem vltra quam petij homini intulit. Ego enim quod tali lepra  
eum percuteret minime sperassem." Vnde et incinerata fuit.

In dyocesi denique Constantiensi inter Brisiacum et Friburg leprosa  
quedam mulier multis referre solet, nisi debitum vniuerse carnis iam ab  
annis duobus persoluerit, quod simili de causa contrauersie que inter  
ipsam et quandam aliam mulierem mota fuisset, dum de nocte domum  
egressa ante ostium quid operis agere tentasset, ventus quidam calidus a  
domo alterius mulieris, que ex opposito domus sue fuerat, eius faciem  
repente insufflauit. | Vnde et subito in lepram quam gestabat se incidisse 134A  
asseruit.

In diocesi denique eadem et territorio Nigre Silue malefica quedam  
dum per lictorem super struem lignorum pro incendio sibi parato a terra  
eleuaretur, dixit: "Dabo tibi mercedem," et sic insufflando in eius vultum  
statim lepra horribili per totum corpus percussus paucis exposit super-  
uixit diebus. Horrenda eius flagicia breuitatis causa obmittuntur, sicut et  
alia quasi innumera super hec recitari possent. Epilensiam namque seu  
caducum morbum certis infligisse per ova cum mortuorum corporibus  
subtumulata, precipue ex earum secta inhumatis, cum alijs earum ceri-  
monijs, que recitanda<sup>a</sup> non sunt, vbi in potu vel cibo alicui prebuerunt,  
sepius a nobis repertum est.

SUPER MODUM QUO ALIAS CONSIMILES INFIRMITATES  
IN SPECIALI HOMINIBUS INFERRE SOLENT

Capitulum Duodecimum

ALLAS DENIQUE INFIRMITATES INFLIXISSE, vt cecitatem vel 134B  
accutissimos dolores et torsiones, in corporibus hominum quis enu-  
merare potest? Tamen ex his que oculis nostris perspeximus et que vni  
ex inquisitoribus innotuerunt aliqua in medium producamus.

Eo in tempore quo in opido Ysbruck inquisitio super maleficas fieret,  
hic inter alios deductus fuit casus. Nam honesta quedam persona et  
vni ex familiaribus archiducis matrimonio copulata in presentia notarij  
etc. secundum formam iuris deposuit quod cum tempore sue virgini-  
tatis cuidam ex ciuibus famularetur, accidit vt vxor illius graui dolore  
capitis langueret. Pro cuius curatione cum quedam mulier accessisset  
et suis carminibus et certis praxis<sup>b</sup> mitigare dolorem haberet, "ego eius  
practicam vbi diligenter obseruabam perspexique quod contra naturam 134C

<sup>a</sup> Sc. -e

<sup>b</sup> Sc. praxibus

aque fuse in scutellam quandam ipsa aqua in ollam aliam ascendisset,” cum alijs cerimonijs que recitare opus non est. “Consideransque quod ex illis dolor capitis in domina non mitigaretur aliqualiter, indignata hec verba ad maleficam protuli: ‘Nescio quid agitis. Vos non facitis nisi supersticiosa et hoc propter comodum vestrum.’ Tunc malefica statim subiunxit: ‘An sint supersticiosa vel non, tertia die tu senties,’ quod rei probavit euentus. Nam tertia die mane me sedente et fusum apprehendente tantus dolor subito corpus meum inuasit, primo in interioribus vt non esset pars corporis in qua non punctiones horribiles sentirem, secundo non aliter mihi videbatur nisi quod continue igniti carbores capiti meo superfunderentur, tertio in cute corporis a vertice vsque ad plantas pedis non fuisset spacium ad punctum acus vbi non fuisset pustula alba sanie repleta. Sicque in his doloribus eiulando et tantummodo  
 134D mortem optando | vsque ad diem quartum perstiti. Tandem maritus domine mee vt stabulum quoddam intrarem mihi iniunxit. At ego paulatim incedendo<sup>a</sup> eo precedente dum ante ostium stabuli eramus, ‘Ecce,’ inquit ad me, ‘peciam panni albi super ostium stabuli.’ At ego: ‘Video bene.’ Tunc ille: ‘Quantum potes, remoue, quia forte melius habebis.’ Tunc ego quantum potui vno brachio me ad hostium tenente cum altero peciam apprehendi. ‘Aperias,’ inquit dominus, ‘et considera diligenter ibi reposita.’ Tunc vbi peciam solui, plura ibidem inclusa repperi, precipue autem grana quedam alba ad modum quo pustule inerant corpori meo. Semina quoque et legumina quorum similia nec edere poteram aut intueri cum ossibus serpentum et aliorum animalium intuita sum. Et sic stupefacta dum inquirerem a domino quidnam agendum foret: vt in ignem cuncta projicerem iniunxit. Proieci, et ecce subito non post  
 135A hore spacium | aut quartale sed in momento, vt in ignem res ille fuerant proiecte, omnem sanitatem pristinam recuperavi.”

Et quia plura contra vxorem illius cui famulabatur fuerunt deposita per que suspecta non tam leuiter quam et vehementer fuit habita, et precipue propter magnam familiaritatem cum maleficis habitam: vnde presumitur quod conscia de maleficio reposito hoc viro indicauit et deinceps modo premissio publicatum<sup>b</sup> sanitatem ancilla recuperavit.

Insuper aliud maleficium cuidam persone etiam muliebri illatum in eodem opido referre in detestationem tanti criminis expedit. Mulier quedam maritata et honesta accessit et iuxta iuris formam (vt supra) deposuit. “Retro domum,” inquit, “habeo viridarium. Est et illi ortus

<sup>a</sup> Sc. me... incedente

<sup>b</sup> *Dangling participle (Presumably hoc... publicato is meant.)*

contiguus vicine mee. Vnde quadam die cum transitum fieri ex orto vicine ad viridarium meum non absque damno perspexissem stans in ostio viridarij, et apud me ipsam conquerendo et querulando<sup>a</sup> | tam de 135B  
transitu quam et de damno, vicina subito superuenit et an eam suspectam haberem inquisiuit. At ego territa propter malam eius famam nil aliud nisi hec verba protuli: 'Gressus in graminibus damna demonstrant.' Tunc illa indignata quia ad eius fortassis beneplacitum me litigiosis verbis cum ea implicare nolebam, abscessit cum murmure. Et verba que protulit licet audirem, tamen intelligere non potui. Post paucos vero dies ingens infirmitas mihi accidit cum doloribus ventris et acutissimis torsionibus a latere sinistro versus dextrum et viceversa, quasi duo gladij aut cultri essent pectori infixi. Et sic die noctuque clamoribus omnes vicinos alios inquietauī, et confluentibus<sup>b</sup> hincinde pro consolatione accidit vt lutifigulus prefatam vicinam et maleficam adulterino flagicio habens in amasiam simili modo visitationis gratia accedens et infirmitati 135C  
mee compatiens | post verba consolatoria abscessit. Sequenti tamen die festine redijt et inter alia consolatoria subiunxit: 'Experimentum capiam an ex maleficio hec vobis infirmitas acciderit, quod si sic repertum fuerit, sanitatem vobis recuperabo.' Accepto ergo plumbo liquefacto et me in lecto decumbente plumbum in scutellam aqua plenam supra corpus meum appodiando infudit, et vbi quadam imago et figure diuersarum rerum ex plumbo congelato apparuissent, 'Ecce,' inquit, 'ex maleficio hec vobis contigit infirmitas. Et subter limen hostij domus vna pars instrumentorum maleficij continetur. Accedamus ergo et illis amotis melius sentietis.' Sicque maritus meus cum eo partiter ad tollendum maleficium accedunt, et lutifigulus limen eleuans marito iniunxit vt manum in foueam que apparuerat mitteret et quecunque inueniret extraheret, quod et fecit." Nam primo imaginem quandam ceream in longitudine 135D  
vnus palme vndique perforatam habentis<sup>c</sup> duos acus ex aduerso per latera ad modum quo ipsa punctiones a sinistro latere vsque ad dextrum et econuerso persenserat extraxit, demum pecias panniculorum diuersas, plurimas res tam in granis quam in seminibus et ossibus continentes. "Sicque illis in ignem proiectis ego quidem conualui, sed non ex toto. Nam licet torture et punctiones cessassent, appetitusque comedendi redijisset, ex integro tamen pristine sanitati vsque in presens minime sum restituta. Et cum apud lutifigulum importune instarem, vnde hoc quod

<sup>a</sup> Sc. me . . . conquerente et querulante

<sup>b</sup> Sc. multis (vel sim.)

<sup>c</sup> Ed. prin.: -entem (Perhaps the genitive is conceived of as agreeing with the person "of whom" the image was.)

pristina sanitas non rediret, respondit: ‘Sunt et alia instrumenta alibi abscondita, que inuenire non valeo.’ Et qualiter tunc prima instrumenta reposita agnouisset dum inquirerem, respondit: ‘Ex amore quo amicus amico reuelare solet hec cognoui.’ Vnde dum adulteram procabat et  
 136A mihi vicinam agnoui, ideo argumentum super eam | cepi suspicionis.” Hec egrota recitabat.

Sed quid si singula que in illo dumtaxat opido reperta sunt? Dum recitare vellem, liber vtique foret conficiendus. Quanti enim ceci, claudi, aridi et diuersis irretiti infirmitatibus iuxta formam iuris ex vehementi suspitione super maleficas eis huiusmodi infirmitates in genere vel in specie predicentes et quod talia in breui sentire haberent, vel ad dies vite vel ad mortem statim percipiendam, et quod secundum eorum<sup>a</sup> auisamenta cuncta accedissent, vel ad specificatam infirmitatem vel ad mortem aliorum! Quia enim terra illa vasallis et armigeris abundat et ocia dant vitia, vbi interdum mulieres procabant, dum illas procatas abijcere et alias honestas matrimonio sibi copulare disposuerunt, raro sine vindicta super maleficium inferendum aut viro aut vxori, dum se spre-  
 136B tas cernebant, thorus coniugalis perseuerabat, non autem viris tantum quantum mulieribus, eo <quod>, vt pie estimari potest, illis interemptis aut arefactis priores amasias procare haberent.

Nam et cocus quidam archiducis dum iuuenulam honestam et alienigenam duxisset, malefica eius amasia in publica via alijs honestis personis audientibus iuuenule maleficium et mortem predixit, extensa manu dicens: “Non diu de tuo marito gaudebit.” Statimque sequenti die lecto decubuit et post paucos dies debitum vniuerse carnis persoluit, in extremis contestando: “En, sic morior, quod illa suis maleficijs deo permittente me interimit,” et vtique pro meliori deo sibi alias nuptias in celis disponente.

Sic denique per maleficia miles quidam, vt publica fama testatur, interemptus fuit sic et alij plures quos recitare obmitto. Jnter quos et domicellus quidam dum ad nutum amasie secum pernoctare nolebat  
 136C et per famulum suum | quod ea nocte secum certis negocijs prepeditus pernoctare non posset ei indicasset, illa indignata famulo iniunxit: “Dicas domicello: non diu me vexabit.” Sicque et sequenti die infirmatus, post paucos dies sepultus. Sunt et tales malefice que iudices solo aspectu et oculorum intuitu maleficari sciunt, quod<sup>b</sup> etiam nullam molestiam eis inferre publice se iactantes.

<sup>a</sup> Sc. earum

<sup>b</sup> Gramatically unnecessary

Sed et quibuscumque pro criminalibus causis detentis et grauissimis tormentis pro dicenda veritate expositis taciturnitatem inferre sciunt, quod nunquam eorum<sup>a</sup> facinora detegere poterunt.

Sunt et que imaginem crucifixi flagellis et cultris impingendo ob maleficia perpetranda cum turpissimis verbis contra gloriosissime virginis Marie puritatem et nostri saluatoris ex eius intemerato vtero natiuitatem dehonestauerunt. Verba illa et singulos actus recitare non expedit, cum nimis sint piorum aurium offensiua, in scriptis tamen redacta et reposita sunt, prout baptizata | quedam Judea et alias iuuenulas induxerat, quarum vna Walpurgis nomine eodem anno in extremis posita dum a circumstantibus ad confessionem peccaminum hortaretur exclamauit: "Corpus et animam tradidi diabolo, nec spes mihi adest venie," et sic defuncta. 136D

Singula hec non ad ignominiam sed ad laudem et gloriam illustrissimi archiducis conscripta sunt, cum re vera vti catholicus princeps et precipuus fidei zelator in exterminium earum cum assistentia reuerendissimi ordinarij Brixienensis non mediocriter laborauit, recitata autem potius in detestationem et odium tanti criminis, vt qui iniurias hominum vlscisci non desistunt: quomodo iniurias creatoris et fidei contumelias, etiam non habendo ad temporalia damna respectum, sufferre possunt? Omnium enim eorum hoc | precipuum fundamentum, fidei videlicet abnegatio, existit. 137A

SUPER MODUM QUO OBSTETRICES MALEFICE MAIORA  
DAMNA INFERUNT DUM INFANTES AUT INTERIMUNT AUT  
DEMONIBUS EXECRANDO OFFERUNT

### Capitulum Tertiumdecimum

NEC PRETEREUNDUM EST DE | NOCUMENTIS a maleficis obstetricibus pueris illatis, et primo quomodo interimunt, secundo quomodo demonibus offerendo execrant. 137B

In dyocesi nanque Argentinensi et opido Zabernio mulier quedam honesta ac beatissime virgini Marie plurimum deuota hunc casum referre <solet><sup>b</sup> sibi que accidisse singulis eius hospicium quod publice tenet nigram habens aquilam pro intersigno frequentantibus commemorat. "A viro," inquit, "legittimo sed iam defuncto impregnata,<sup>c</sup> vbi dies

<sup>a</sup> Sc. earum

<sup>b</sup> Cf. 133D

<sup>c</sup> Dangling participle

pariendi appropinquarent, mulier quedam obstetrix, vt ipsam ad obstetricandum puerum acceptarem, importune instabat. At ego conscia de eius infamia licet aliam mihi assumere decreuissem, verbis tamen pacificis quasi suis annuere vellem petitionibus me simulabam. Adueniente autem tempore partus cum aliam obstetricem conduxissem, illa prior indignata quadam nocte cameram meam euolutis vix octo diebus cum duabus alijs mulieribus ingreditur. Et lecto appropinquantes<sup>a</sup> in quo iacebam, cum maritum meum qui in altera dormiebat camera vocare voluissem, singulis membris et lingua ita remansi viribus destituta quod dempto visu cum auditu nec pedicam mouere potuissem. In medio ergo illarum duarum stans malefica hec verba protulit: ‘Ecce hec pessima mulierum: quia in obstetricem me recipere noluit, impune non transibit.’” Et cum alie due a latere stantes pro ea supplicarent, dicentes: “Tamen nunquam alicui ex nostris nocuit,” malefica subiunxit: “Hanc mihi displicentiam fecit: suis intestinis aliqua immittere volo, sic tamen quod infra dimidium annum nullos propter vos dolores sentiet, sed illo euoluto saltis cruciabitur.” “Accessit ergo et ventrem cum manu tetigit, mihiq; videbatur quasi intestinis extractis certas res, quas tamen videre non potui, intromitteret. Illis ergo abeuntibus cum vires ad clamandum recuperassem, maritum quantocius vocaui et rem gestam denudaui. Cum autem ille causam puerperio assignare vellet, dicens: ‘Vos puerpere plurimis illusionibus et fantasijs laboratis,’ nec quoque<sup>b</sup> modo dictis meis fidem adhibere volebat, adiunxi: ‘Ecce spacium pro anno dimidio mihi donauit. Quo elapso, si nulli cruciatus superuenient, dictis tuis fidem adhibebo.’” Consimilia denique verba filio clerico, qui et prorunc archidiaconus ruralis erat, protulit, cum et ipse visitationis gratia illo die eam frequentasset. Quid plura? Sex mensibus ad punctum euolutis inter-  
 137C  
 137D  
 138A  
 norum viscerum tortura subito ipsam tam dire inuasit vt nec diebus nec noctibus a clamoribus omnes inquietando abstinere potuisset. Et quia, vt premissum est, deuotissima virgini et regine misericordie extitit, in pane et aqua singulis sabbatinis diebus ieiunando, ideo et per ipsius suffragia credidit se liberari, vnde et quadam die, vbi opus nature perficere volebat, tunc omnis illa immunidicia e corpore prorupit, et aduocans maritum cum filio dixit: “Suntne res iste fantastice? Nonne dixi: ‘Post dimidij anni spacium veritas cognoscetur?’ Aut quis vidit vnquam spinas, ossa, simul etiam ligna me comedisse?” Erant enim spine rosarum in longitudine vnus palmi cum alijs varijs innumeris<sup>c</sup> rebus immissee.

<sup>a</sup> *Dangling participle*

<sup>b</sup> *Sc. quoquam*

<sup>c</sup> *Ed. prin.: -o*

Insuper, vt in prima parte operis ex illius famule reducte ad penitentiam in Brisiaco confessione patuit, maiora damna fidei circa hanc heresim maleficarum ab obstetricibus inferuntur, quod etiam quarundam confessio, que et postmodum incinerate fuerunt, luce clarius demonstrauit. Nam in diocesi Basiliensi et opido Dann quedam incinerata fassa fuerat vltra quadraginta pueros necasse per modum talem vt quando ex vtero egrediebantur, acum capitibus eorum per verticem vsque in cerebrum infixit. 138B

Altera denique in diocesi Argentinensi pueros absque numero, puta quia de numero non constabat, se interemisse fassa fuerat, taliter autem deprehensa. Nam vbi ex vno opido in aliud causa obstetricandi mulierem quandam vocata fuisset, officio suo completo dum ad propria redire volebat, vbi portam opidi exiuit, casu brachium pueri recenter nati ex lintheo quo precincta erat, cui et inuolutum brachium fuerat, ad terram cecidit. Quo viso ab his qui infra portam sedebant, dum illa preterisset, leuatam e terra, vt putabant, peciam carnis, cautius intuebantur, et cum non peciam carnis sed brachium pueri per articulos membrorum agnouissent, consilio cum presidentibus habito et inuento quod infans ante baptismum decesserat brachioque careret, malefica capitur, questionibus exponitur et crimen detergitur. Sicque, vt predictum est, absque eius numero se infantes interemisse cognouit. 138C

Qua autem de causa? Vtique presumendum quod ad instantiam malignorum spirituum etiam eis interdum inuitis talia facere coguntur. Nouit enim diabolus quod ab introitu regni celestis propter penam damni aut originale peccatum tales pueri sequestrantur. Vnde etiam diutius finale iudicium protrahitur sub quo eternis cruciatibus deputabuntur, cum eo tardius numerus electorum completur, quo completo mundus consummabitur. Et, vt in premissis tactum est, suasu demoniorum ex huiusmodi membris vnguenta earum vsibus accomoda conficere habent.

Sed et hoc horrendum facinus silentio pretereundum in detestationem tanti criminis non est. Nam vbi infantes non interimunt, tamen illos demolibus execrando per hunc modum offerunt. Nato enim infante obstetrix, vbi puerpera malefica per se non existit, tunc quasi quid operis pro infantis refocillatione actura ipsum extra cameram deportat et sursum eleuans principi demoniorum, scilicet lucifero, et omnibus demonibus, imolant et hoc in loco coquine supra ignem. 138D

Et, vt quidam retulit, cum perpendisset vxorem suam tempore paritus quod preter consuetum modum puerperarum nullam ad se ingredi mulierem permittebat nisi dumtaxat filiam propriam, que obstetricandi

officium gerebat, causam huiusmodi experiri volens latenter se illo in tempore in domo occultabat, vnde et ordinem sacrilegij et diabolice imolationis modo predicto perpendit, cum eo quod, vt sibi videbatur, per appendiculi instrumentum in quo olle suspenduntur infans non fultus humano auxilio sed demonis sursum vehebatur. Vnde mente conster-

139A natus cum et horrenda verba | pro demonum inuocatione et alios ritus nephandissimos persensisset, subito vt infans baptizaretur acrius insteterit, et cum ad aliam villam in qua parochialis erat ecclesia deferendus esset, et per pontem super flumen quoddam pertransire haberent, ille euaginato gladio super filiam que infantem gerebat irruit, dicens alijs duobus sibi adiunctis audientibus: “Nolo vt infantem per pontem deferas, quia aut per se pontem gradietur aut tu in flumine submergeris.” Qua perterrita cum alijs que aderant mulieribus et anne compos esset rationis inquirentes<sup>a</sup> – res enim gesta cunctas alias latebat, demptis duobus viris sibi coniunctis – tunc ille: “Pessima mulierum, arte tua magica scandere pendiculum infantem fecisti. Fac et iam vt nullo deferente pontem pertranseat aut in flumine te submergam.” Sicque coacta puerum super pontem posuit et arte sua demonem inuocans<sup>b</sup> subito ex altera parte

139B pontis infans cernitur. Baptizato ergo puero et ad propria rediens cum iam per testes filiam de maleficio conuincere poterat, prout primum facinus oblationis minime probare potuisset, eo quod ipse vnicus illi sacrilego ritui interfuisset, apud iudicem post tempus purgationis filiam cum matre accusat et pariter incinerantur et facinus de sacrilega oblatione quod per obstetrices fieri solet detergitur.

Sed hic dubium oritur, quidne operis aut efficacie talis sacrilega oblatio in huiusmodi pueris efficere valeat. Ad quod dici potest quod sicut triplici ex causa hoc demones efficiunt, ita et ad tria nephandissima hec eis deseruiunt. Nam primo ex superbia eorum, que quia semper ascendit iuxta id: “Superbia eorum qui te oderunt ascendit semper,” querunt quantum possunt diuinis rebus et cerimonijs se conformare, vt<sup>228</sup> sic sub

<sup>a</sup> Sr. -ibus

<sup>b</sup> *Dangling participle*

<sup>228</sup> *Start of adaptation of Nider, Praec. 1.11.2 (F):* Questio secunda: vnde proueniant res vise, quas vident virgines in speculis siue vnguibus maleficorum ad furta sublata et huiusmodi repertienda, et cur malefici potius recipiunt virgines, mares vel feminas quam corruptos? Respondetur secundum Guillelmum Parisiensem in vltima parte De Vniuerso, quod opere demonum fit per modum vnum vel plures precedenti dubio expressos. Virgines autem tantum ad hoc idoneas demon mentitur triplici de causa. Prima: vt fingat falso se castitatem amare, quam odit, quia castissimam virginem summe odit, que contriuit caput eiusdem serpentis, vnde insidiatur calcaneo eius. Vnde deus ait serpenti: “Inimicicias ponam inter te et mulierem, et semen tuum et semen illius: ipsa conteret caput tuum, et tu insidiaberis calcaneo eius” (Gen. iij). Secundo, vt sic animas maleficorum et eis credentium decipiat ad amicitiam demonum inclinat per infidelitatis vitium sub specie boni, non sub specie mali. Tertio, vt corpora sic ledat innocentium vel minus vitijs infectorum . . .

specie boni apparentis facilius decipiant. Sic enim et virgines pueros, mares vel feminas, expetunt a magis, vbi in speculis vel vniuersibus maleficorum furta sublata vel alia occulta habent manifestare, licet per corruptos idem ostendere valerent, sed tamen vt fingat se false castitatem amare, quam tamen odit cum castissimam virginem summe odit, eo quod caput eius contriuit (*Genesis* iij), vnde sic animas maleficorum et eis credentium per infidelitatis vitium sub specie virtutis decipiunt.<sup>229</sup> Tertio vt ipsa perfidia maleficarum amplius in sui augmentum crescat, dum a cunabulis sibi dicatas maleficas seruant. Ex his efficit hec sacrilega oblatio tria in puero: primo quod sicut exterior oblatio fit in rebus sensibilibus deo, puta in vino, pane, terre frugibus, et hoc in signum debite subiectionis et honoris iuxta illud *Ecclesiastici* xxv: "Non apparebis in conspectu domini dei tui vacuus," que etiam res alijs postmodum prophanis vsibus nullo modo applicari debent nec possunt, vnde et (x q. i) Damasus papa dicit oblationes que intra ecclesiam offeruntur sacerdotibus tantummodo pertinere, sic tamen vt non solum eas in suos vsus conuertant sed vt fideliter dispensent partim ad ea que ad cultum diuinum pertinent, et partim etiam in vsus pauperum conuertant, ita et talem puerum diabolo in signum subiectionis et honoris oblatum diuinis vsibus applicari digne et fructuose subiectionis tam pro se quam pro alijs: quomodo est possibile hoc a catholicis fieri? Quis enim dicere potest materna scelera seu aliena peccata quo ad punitionem non redundare in filios? Fortassis ille qui dictum propheticum attendit: "filius non portabit iniquitatem patris." Sed quid de illo passu (*Exodi* xx): "Ego dominus zelotes visitans peccata patrum in filios vsque in tertiam et quartam generationem"? Est enim hec vtriusque sententia vt prima intelligatur de pena spirituali in iudicio poli siue dei et non in iudicio fori, et est pena que principaliter tangit animam siue sit pena damni, vt priuatio glorie, siue pena sensus, id est, cruciationis ignis infernalis – his enim penis nunquam punitur aliquis sine culpa propria vel contracta quantum ad originale vel commissum<sup>3</sup> quantum ad actuale peccatum – secunda vero autoritas quia intelligitur de imitatoribus paternorum scelerum, vt Gratianus exponit (i q. iij § "*Quibus*," vbi etiam dat alias expositiones): ideo alijs penis quibuscunque in iudicio dei punitur quis non solum pro culpa sua commissum vel committenda, vt scilicet euitetur, sed etiam pro culpa alterius. Nec valet si dicatur quod tunc punitur sine causa et sine culpa, que debet esse causa pene, quia iuxta regulam iuris sine culpa nisi subsit causa non est aliquis puniendus, vnde et dicere

<sup>3</sup> Ed. prin.: -o

<sup>229</sup> End

possumus, quod semper superest causa etiam iustissima, licet nobis ignota (xxiiiij q. iij, Augustinus: “Etsi super actionem facti profunditatem iudiciorum dei penetrare non possumus, verumtamen verum scimus esse quod dixit et iustum esse quod fecit”).<sup>230</sup>

<sup>140B</sup> Est tamen distinctio in pueris oblati | eo quod loquendo de innocentibus, qui non per matres maleficas sed per obstetrices demonibus offeruntur et rapiuntur occulte, vt dictum est supra, ab amplexibus et vtero honeste matris: quod tales innocentes non adeo deferuntur vt imitatores efficiantur tantorum scelerum sed imitatores paternarum virtutum, hoc pie credendum est.

Secundum quod efficit hec sacrilega oblatio est quod sicut in oblatione, qua homo seipsum deo offert in sacrificium, recognoscit deum suum principium et finem, quod quidem sacrificium dignius est omnibus sacrificijs alijs exterioribus ab eo impensis iuxta illud: “Sacrificium deo spiritus contribulatus: cor contritum et humiliatum, deus, non despicias,”<sup>231</sup> et hoc quo ad principium creationis et finem glorificationis, ita et ipsa malefica puerum offerens diabolo eius animam et corpus tanquam suo principio et fini damnationis eterne commendat. Vnde et non | nisi miraculose a solutione tanti debiti liberari poterit.

<sup>140D</sup> Solet quedam historia, imo et plures, recitari de pueris ex materno vtero demonibus improuise et ex aliqua passione et commotione mentis a matribus oblati et qualiter cum maxima difficultate in adulta etate a demonum iurisdictione, quam diuina permissione sibi vsurpabant, liberari potuerunt, de quibus *Liber Exemplorum Beatissime Virginis Marie* refertur noscitur, specialiter et de illo qui per summum pontificem dum liberari a vexationibus demonum non poterat, missus tandem ad quendam virum sanctum in orientalibus partibus degentem cum magna adhuc difficultate per intercessionem ipsius gloriosissime virginis ab illa iurisdictione ereptus fuit. Vnde si in vltionem vnus improuise non dico oblationis sed exhibitionis, vbi mater ex indignatione dumtaxat super copulam carnalem viro exhibendam cum dixisset maritus: “Spero inde fructum prouenturum,” et illa replicans: “Sic fructus ille diabolo datus,” tanta seueritas diuine punitio- nis patuit quanta creditur seuire vbi tanta diuine maiestatis cernitur offensa.

<sup>230</sup> *Quotation of Augustine in Decretum 2.23.4.23. Commentary § 3: Nos etenim si ratione facti profunditatem iudicij eius penetrare non possumus, manifestissime tamen scimus et verum esse quod dixit et iustum esse quod fecit. . .*

<sup>231</sup> *For despicias Vulgate Ps, 50:19 has: spernet*

Tertium quod hec sacrilega oblatio efficit est habitualis inclinatio ad huiusmodi maleficia hominibus, iumentis et terre frugibus inferenda. Huius ratio assignari potest ex his que secundum Thomam (*Secunda Secunde*, quest. centesima octava super punitionem temporalem qua aliqui propter alienas culpas puniuntur) deducuntur. Dicit enim quod quia filij sunt secundum corpus res quedam patris et serui et animalia res dominorum, et cum aliquis sit puniendus in rebus suis omnibus, ideo et filij puniuntur pluries pro parentibus.<sup>232</sup> Et differt hec ratio ab illa que supra tacta fuit de peccatis patrum quia deus visitat in filios vsque in tertiam et quartam generationem, quia, vt ibi tactum est, hoc intelligitur de imitatoribus paternorum scelerum, | hec autem ratio concludit de punitione filiorum pro parentibus, vbi non imitantur paterna scelera in actu per mala opera sed tantum in habitu. Sic enim et filius natus ex adulterio Daud mortuus fuit quam citius, et animalia Amalechitarum iussa sunt interfici, quamuis et in huiusmodi sit ratio mistica, vt habetur i q iiiij § "Paruulos."

141A

Ex quibus omnibus non inconuenienter dicitur quod huiusmodi pueri semper ad maleficia perpetranda vsque in finem vite inclinantur. Sicut enim deus suam oblationem sanctificat, vt sanctorum gesta demonstrant, vbi parentes subolem<sup>a</sup> ex eis procreandam deo dicassent, vtique et diabolus suam oblationem inficere non cessat ex veteri et nouo testamento: quasi innumera possent gesta deduci. Sic enim plures patriarche et prophete, vt Jsaac, Samuel, Sampson, sic etiam Alexius, Nicolaus et alij innumeri gracijs plurimis ad sanctitatem vite fuerunt preuenti.

141B

Experientia denique demonstrat semper filias maleficarum in consimilibus tanquam imitatrices maternorum scelerum esse diffamatas, imo et totam quasi progeniem esse infectam. Et huius quidem et omnium precedentium ratio quia superstitem semper habent relinquere et in augmentum illius perfidie summis conatibus ex pacto cum demone inito tendere. Vnde enim contingere posset, quod sepiissime reperitum est, puellas impuberas, vt octo vel decem annorum, tempestates et grandines concitasse nisi ex tali pacto sub tali oblatione sacrilega diabolo per matrem maleficam infantem execrasset? Nec enim per se pueri talia ex fidei abnegatione, prout adulte malefice a principio facere

<sup>a</sup> *Ed. prin.*: sob-

<sup>232</sup> *Cf. Aq., Summa 2/2.108.4.Ra3: . . . paruuli diuino iudicio simul puniuntur temporaliter cum parentibus, tum quia sunt res parentum et in eis etiam parentes puniuntur, tum etiam quia hoc in eorum bonum cedit, ne si reseruentur, essent imitatores paterne malitie et sic grauiores penas mererentur. In bruta vero animalia et quecumque alias irracionales creaturas vindicta exercetur, quia per hoc puniuntur illi quorum sunt. Et iterum propter detestationem peccati.*

habent, efficere possent cum nec alicuius fidei articuli fortassis noticiam habent.

E quibus gestis aliqua in medium producamus. In partibus enim Sueuie dum quidam villanus segetes in campis cum filia paruula vix  
 141C octo annorum conspicerere decreuisset et propter siccitatem terre pluuiam apud se ruminans et conferens optasset, dicens: “Heu! Quando veniet pluuiam?” puella audiens verba patris ex simplicitate animi dixit: “Pater, si pluuiam desideras, faciam quod cito veniet.” At pater: “Vnde hec tibi? Noscisne pluuiam procurare?” Respondit puella: “Vtique, et nedum pluuiam, sed et grandines et tempestates concitare scio.” Et pater: “Quisnam te docuit?” Respondit: “Mater mea. Verum quod mihi inhibuit ne alicui hoc indicarem.” Tunc iterum pater: “Et quomodo te docuit?” Respondit: “Me commisit vni magistro, quem omni hora ad quecunque petita habere possum.” At pater: “Vidistine istum?” Respondit: “Vidi interdum viros introeuntes et exeuntes ad matrem.” Et cum interrogasset quinam essent, respondit: “Sunt nostri magistri, quibus etiam te tradidi et commisi, magni fautores et diuites.” Territus pater anne illa hora grandinem citare posset inquisiuit, et puella: “Vtique, si modicum aque habuero,  
 141D faciam.” | Tunc pater puellam per manum ad torrentem deduxit. “Fac,” inquit, “sed tantummodo super agrum nostrum.” Tunc puella manum in aquam misit et in nomine sui magistri iuxta doctrinam matris mouit. Et ecce tantummodo pluuiam agrum illum perfudit. Quod cernens pater: “Fac,” inquit, “et grandinem, sed tantummodo super vnum ex agris nostris.” Quod cum iterum puella fecisset, pater de experientia certificatus vxorem apud iudicem accusauit, que capta et conuicta incinerata fuit et filia denuo baptizicata et deo dicata amplius illa efficere non potuit.

SEQUITUR SUPER MODUM QUO IUMENTIS MALEFICE  
 VARIA NOCUMENTA INFERUNT

Capitulum Quartumdecimum

142A VTIQUE A FORTIORI CUM apostolus dicat: “Numquid deo cura est de bobus?” volens per hoc innuere, quod licet omnia subsint diuine prouidentie tam homines quam iumenta, vtrosque iuxta modulum suum seruans,<sup>a, 233</sup> vt psalmista ait, filij tamen hominum sub tegmine et

<sup>a</sup> *Dangling participle*

<sup>233</sup> *Cf. Ps. 36:7–8: Homines et iumenta saluabis, deus... filij autem hominum in tegmine alarum tuarum sperabunt.*

protectione alarum amplius gubernantur: si, inquam, homines diuina permissione per maleficos affliguntur, innocentes, iusti et peccatores, parentes denique in filijs qui res sunt pertinentes ad eos, cum etiam iumenta, terre fruges similiter de rebus hominum existunt, vtique et super illos varia nocumenta posse a maleficis inferri nemo dubitare diuina permissione concurrente presumat. Sic enim Job a diabolo percussus cuncta iumenta perdidit; sic denique nec minima reperitur villula vbi mulieres mutuo vaccas inficere, lac<sup>a</sup> eas priuare, et sepiissime interimere non cessant, a minimo autem nocumento inchoando quod de priuatione lactis estimari potest.

Si de modo quo id efficere valeant queritur, responderi potest quod quia<sup>234</sup> secundum Albertum | (iij *De Animalibus*) lac de natura sit menstrui<sup>b</sup> in quolibet animali, sicut etiam fluxus alius in femina, vbi non restringitur talis fluxus aliqua infirmitate vel ex conditione nature vel ex accidentali infirmitate, tunc restringitur aut aufertur interdum maleficiali opere: ex conditione autem naturali lac restringitur post conceptum fetum, ex infirmitate vero accidentali, sicut pluries ex comestione alicuius herbe que ex natura lac restringere habet et vaccam alterare.<sup>235</sup> 142B

Ex maleficio autem talia procurant varijs modis. Quedam enim nocturnis temporibus et sacratoribus – vtique ex inductione diaboli ob maiorem offensam diuine maiestatis – in quocunque angulo domus sue se collocant, vrceum inter cruras habentes, et dum cultrum vel aliquod instrumentum in parietem aut columnam infigunt et manus ad mulgendum apponunt, tunc suum diabolum qui semper eis ad omnia cooperatur inuocant, et quod de tali vacca ex tali domo que sanior et que magis in lacte abundat mulgere affectat proponit: tunc subito diabolus ex mammillis illius vacce lac recipit et ad locum vbi malefica residet et, quasi de illo instrumento fluat, reponit. 142C

Hec quidem populo predicando<sup>c</sup> nemo propterea ex eis informatur quia quantumcunque quis demonem inuocaret et per nudam

<sup>a</sup> Sc. lacte

<sup>b</sup> So *Nider*; sc. -uum?

<sup>c</sup> *Dangling gerund*

<sup>234</sup> *Perhaps an adaptation of Nider, Praec. 1.11.33 (Oo):* Cum enim secundum Albertum in *De Animalibus* lac de natura sit menstrui animali quolibet, sicut fluxus talis humoris infirmitate aliqua restringitur, vt dicunt medici de femina, idem potest demon, si a deo permittitur, in bestia facere. Notandum tamen pro solutione secunde questionis quod istius fluxus siue lactis restrictio tripliciter fieri potest: vno modo ex conditione naturali, sicut post conceptum fetum; alio modo ex infirmitate accidentali, sicut forte ex comestione alicuius herbe que lac restringere habet et alterare vaccam.

<sup>235</sup> *End*

inuocationem hec se posse efficere estimaret, seipsum deciperet, quia caret fundamento illius perfidie, quia scilicet omagium non prestitit et fidem non abnegauit. Hec ideo posui cum plures hec et alia que posita sunt estimant populo non esse proponenda propter periculum informationis, cum sit impossibile aliquem per predicationem posse informari ratione tacta: potius autem sunt in detestationem tanti criminis, et vt iudices in vltionem tanti sceleris, scilicet fidei abnegationis, amplius inardescant, sunt predicanda, licet non semper. Plus etiam ponderant  
 142D seculares huiusmodi | temporalia damna, cum magis terrenis implicantur affectionibus quam spiritualibus, vnde et cum eis talia posse fieri affirmantur in punitionem ipsorum amplius seuiunt. Sed tamen astutiam diaboli quis explicare potest.

Noui illos in quadam societate constitutos qui dum tempore may butirum maycum comedere affectarent, eis in itinere existentibus et in prato circa torrentem consedentibus, vnus ex eis quo pacto cum demone per antea siue tacito siue expresso inito dixit: “Ego optimum butirum maycum procurabo,” et statim depositis vestimentis et torrentem intrans non stando sed sedendo contra aque fluxum dorsum vertebat et ceteris conspicientibus ipse, dum certa verba protulisset et aquam manibus post tergum mouisset, post paululum butirum formatum ad modum quo villane tempore may vendere in foro solent in magna quantitate<sup>a</sup>  
 143A apportauit, et alijs gustantibus<sup>b</sup> | optimum fuisse butirum affirmarunt. Qua ex re colligitur primo hunc de sua practica fuisse certum, vel quia mere maleficus per expressum pactum cum demone initum vel quia per tactium pactum nouit sibi diabolum ad vota affuturum: si quidem primum, tunc non indiget discussione quin verus maleficus fuerit; si autem secundum, tunc vsus suffragio diaboli fuit, eo quod sibi oblatus et execratus a matre vel obstetrice fuerit. Quod si quis obijceret diabolum fortassis apportasse butirum sine aliquo pacto tacito vel expresso ac etiam absque oblatione aliqua vt premittitur facta, responderetur quod nunquam aliquis vtitur suffragio diaboli in consimilibus operibus sine eius inuocatione, quia ipso facto cum quis demonis auxilium petit contra fidem, vt apostata agit iuxta determinationem doctoris in *Secundo Sententiarum* (di. viij super difficultatem vtrum auxilio demonum vti sit apostasia a fide). Nam cum alijs doctoribus Albertus magnus  
 143B licet | concordat, tamen magis expresse dicit quod<sup>236</sup> semper in talibus est

<sup>a</sup> Ed. prin.: -tita

<sup>b</sup> Sc. alij gustantes

<sup>236</sup> *Start of adaptation of Albert as quoted in Eym. 2.43 (339 2E):* Solutio dicendum quod in talibus semper est apostasia verbi vel operis. Si enim inuocationes, coniurationes, sacrificia,

apostasia verbi vel operis. Si enim inuocationes, coniurationes, fumigationes et adorationes fiant, tunc apertum pactum initur cum demone absque hoc, videlicet quod aliquis corpus et animam cum fidei abnegatione in toto vel in parte tradat, quia per hoc quod ipsum inuocat iam committit apostasiam verborum apertam; si autem non fit inuocatio verborum sed solummodo<sup>a</sup> fit opere simplici, quia scilicet tale opus facit quod non nisi demonum auxilio effectum sortiri potest, tunc siue faciat illud inchoando in nomine diaboli siue per alia verba ignota siue absque omni verbo, illa tamen intentione, vt dictum est, tunc, vt subdit Albertus, est apostasia operis. Cum autem expectare<sup>237</sup> aliquid a demone vel aliquid percipere per ipsum semper est fidei contumelia, et ideo apostasia.<sup>238</sup> Vnde et hic concluditur quod | quocunque modo prefatus magus 143C hoc procurauit, vtique per pactum tacitum vel expressum procurauit, et verisimiliter si absque pacto expresso, quod tunc, vt malefici facere solent, per tacitum et occultum pactum vel ex se vel a matre aut obstetrice initur talia effecit: et hoc dico ex se quia tantummodo opus exercuit effectum a diabolo expectans.

Secundum quod colligitur ex illa vel consimili practica est quod quia diabolus nouas rerum species condere non potest, ideo vbi tam subito naturale butirum ex aqua prorupit, hoc virtute demonum non aquam in lac mutando sed vel butirum alibi ex loco repositum<sup>b</sup> accepit et illi ad manus tradidit, vel ex lacte naturali, hoc ex naturali vacca, recipiendo et subito vt sic coagulando in naturam<sup>c</sup> butiri, quia quod ars mulierum per spacium temporis efficit butirum formando, hoc ipse in breuissimo tempore efficere nouit et tunc illud sibi obtulit.

Ad idem reducitur modus quo aliqui supersticiosi vinum aut alia | 143D necessaria non habentes, nocturnis temporibus tantummodo flasconem aut aliud vasculum recipiunt, et dum per vicum aliquem incedunt, subito vas vino impletum reportant. Tunc enim diabolus vinum naturale ex aliquo vase recipiendo illi flasconem impleuit.

Super modum autem quo animalia et iumenta malefici interimunt, dicere oportet quod sicut homines, ita et iumenta vel tactu et visu vel visu

<sup>a</sup> *Ed. prin.*: solnm-

<sup>b</sup> *Ed. prin.*: -o

<sup>c</sup> *Ed. prin.*: nac-

(*fr.* 236 *cont.*) subfumigationes et adorationes fiant, tunc aperte pactum initur cum demone, et tunc aperte est apostasia ibi oris. Si autem non fit nisi opere simplici, tunc est apostasia operis, quia illud opus expectatur a demone. Cum autem expectatur aliquid a demone vel aliquid percipere per ipsum, semper est fidei contumelia et ideo apostasia.

<sup>237</sup> *Eym.*: expectatur!

<sup>238</sup> *End*

tantum vel vbi subter limen ostij ipsius stabuli aut vbi solent adaquari maleficium aliquod seu instrumentum maleficij reponunt. Sic enim et iste in Rauenspurg incinerate, de quibus et infra patebit, semper ad instantiam demonum vbi meliores equi aut pinguiora iumenta erant maleficiare habebant, et dum interrogate fuissent per quem modum talia efficerent, respondit vna nomine Agnes quod subter limen ostij ipsius stabuli certas res occultarent, et interrogata cuiusmodi | res, respondit: 144A “Diuersarum specierum animalium ossa.” Et vltterius in cuius nomine hoc facerent, interrogata, respondit: “In nomine diaboli et omnium aliorum demoniorum.” Sed et altera nomine Anna, que dum vni ex ciuibus successiue viginti tres equos maleficasset, quia vector erat, vltimatim dum vicesimum quartum emisset et iam ad extremam paupertatem deuenisset, vector stans in ostio stabuli dixit ad maleficam, que et in ostio domus sue stabat: “Ecce! Jam enim equum promitto deo et sue matri quod si equus ille morietur quod manibus meis proprijs te interficiam.” Sicque territa malefica equum sibi intactum reliquit. Dum autem capta et interrogata fuisset per quem modum talia effecisset, respondit se nil aliud nisi foueam fecisse, qua facta dyabolus certas res imposuisset sibi ignotas. Qua ex re colligitur quod tantummodo aut manum aut visum apponere habent, et hoc vt quoque modo malefica cooperetur. 144B Alias enim dyabollo seuendi in creaturas facultas non permitteretur vbi malefica non concurreret, vt prius tactum est, et hoc contingit propter maiorem offensam diuine maiestatis.

Seppissime etiam a pastoribus visa sunt quod certa animalia in campis dum tres aut quattuor saltus in aerem fecissent, subito in terram collapsa interierunt, et hoc vtique demonum ad instantiam maleficarum virtute. In dyocesi denique Augustiensi inter opidum Fiessen et montem Ferrerium quidam prediues asseruit sibi et alijs vltra quadraginta iumenta in bobus et vaccis in Alpibus fuisse maleficiata, et hoc infra anni spacium non peste aut aliqua infirmitate precedente, et pro inter-signo dixit quod vbi peste aut alia casuali infirmitate moriuntur, non subito sed paulatim et successiue deficiunt; illud autem maleficium subito abstulit omnem vigorem, ita quod ab omnibus iudicabatur illa maleficijs fuisse interempta. Verum talem annotaui numerum, estimo 144C tamen quod amplioem expressit: hoc tamen verissimum quod in partibus et precipue in Alpibus plurimum iumenta asseruntur maleficiari, quod genus etiam maleficij vndique diffusum noscitur. Aliqua similia infra in capitulo de remedijs adhibendis contra maleficia iumentorum discutientur.

SUPER MODUM QUO GRANDINES ET TEMPESTATES  
 CONCITARE AC ETIAM FULGURA SUPER HOMINES ET  
 IUMENTA FULMINARE SOLENT

Capitulum Quintumdecimum

DENIQUE QUOD DEMONES<sup>239</sup> ET sui discipuli talia maleficia in fulminibus, grandinibus et tempestatibus concitare possint, et hoc accepta potestate a deo quo ad demones seu eius permissione quo ad ipsius discipulos, sacra scriptura (*Job* primo et secundo) testatur, vbi accepta potestate a deo statim demon procurauit vt Sabei quingenta iuga boum et quingentas asinas auferrent, et deinde ignis de celo descendens septem milia camelorum consumeret,<sup>a</sup> tandem etiam septem | filij et tres filie 144D per vehementem ventum et per lapsum domus occumberent, et semper pueri, id est, famuli multi, vno qui nunciaret dempto, interierunt, vtque vlcere pessimo sancti viri corpus percuteretur, et vxor et tres amici eius vt ipsum vexarent graviter procurauit. Vbi et sanctus Thomas in postilla sua super *Job* ita loquitur: "Necesse est confiteri quod deo permittente demones possunt perturbationem aeris inducere, ventos concitare, et facere vt ignis de celo cadat. Quamuis enim natura corporalis non obediat ad nurum angelis neque bonis neque malis ad susceptionem formarum sed soli deo creatori, tamen ad motum localem natura corporalis nata est spirituali nature obedire, cuius indicium in homine apparet. Nam ad solum imperium voluntatis,<sup>240</sup> que subiectiue est in anima, mouentur<sup>241</sup> membra, vt opus a voluntate dispositum prosequatur. Quecunque igitur solo motu locali fieri possunt, hec per naturalem virtutem non solum boni sed etiam mali facere possunt nisi diuinitus prohibeantur. Venti autem et pluuie et alie<sup>b</sup> huiusmodi | aeris perturbationes solo motu 145A

<sup>a</sup> *Ed. prin.*: -sūm-

<sup>b</sup> *So Nider; ed. prin.*: -a

<sup>239</sup> *Starts of Nider, Form. 5.4 (206C-207A), which begins: . . . vtrumne demones et sui discipuli talia maleficia in fulminibus, grandinibus et similia . . . facere possunt? . . . Haud dubie possunt, sed non nisi deo permittente. Nam Job i et ij accepta potestate a deo statim demon procurauit vt Sabbei quingenta iuga boum et quingentas asinas auferrent, vt deinde ignis de celo descendens septem milia ouium incederent, vt Caldei per tres turmas tria milia camelorum raperent, vt septem filij et tres filie per vehementem ventum lapsu domus occumberent et semper pueri multi vno dempto, vtque vulcere pessimo corpus viri sancti percuteretur et vxor eius et tres amici eius eum vexarent grauitur. Vir sanctus dicit . . .*

<sup>240</sup> *Pause*

<sup>241</sup> *Resume*

vaporum resolutorum ex terra et aqua fieri possunt, vnde ad huiusmodi procuranda naturalis virtus demonis sufficit.” Hec Thomas.

Mala enim que nostris exigentibus <peccatis><sup>a</sup> in mundo fiunt deus velut per suos tortores iuste per demones solet infligere, vnde et glosa super illo psalmi ciiiij: “Vocavit famem super terram et omne firmamentum panis contriuit” dicit sic: “Hec mala permittit deus per angelos malos qui talibus prepositi sunt. Vocat ergo famem, id est, angelum fami prepositum.”<sup>242</sup>

Possent et <addi> illa que supra notata sunt circa questionem an semper malefici circa maleficia inferenda habent concurrere cum demonibus, vbi de triplici nocumento et quomodo interdum demones sine maleficis varia nocumenta inferunt. Cum maleficis autem demones plus affectant hominibus nocere, eo quod cum deus amplius per hoc irritatur, inde eis maior facultas puniendi et affligendi conceditur.

Deseruiunt et illa que doctores super *Secundo Sententiarum* (dist. 145B vi, “an locus sit conuenienter deputatus malis angelis | in aere caliginoso”) movent: quia cum tria considerantur in demonibus, natura, officium et culpa, sicut nature corresponderet celum empirreum, culpe vero infernus, ita eorum officio, cum tortores sint et ministri, vt supra tactum est, in punitionem malorum et exercitium bonorum, competit aer caliginosus, ne videlicet nimis nos infestarent, si in mundo inferiori circa nos habitarent, vnde et in aere et circa speram ignis actiua passiuus coniungere sciunt, vbi a deo permittuntur et ignem de celo cadere seu fulgura fulminare procurant.

Narratur in *Formicario* de quodam capto: per iudicem dum interrogaretur quomodo ad grandines et tempestates concitandas procederent et an facile hoc eis foret procurare, respondit: “Faciliter<sup>243</sup> grandines procuramus,<sup>244</sup> sed ad libitum ledere non valemus.”<sup>245</sup> (Nota custodiam bonorum angelorum.) Vnde addidit: “Eos<sup>246</sup> tantummodo ledere possumus qui dei destituti sunt auxilio, et qui signo crucis se muniunt illos ledere non possumus. Est autem hic noster modus: primo verbis certis 145C in campis<sup>247</sup> principem omnium demoniorum imploramus, vt de suis mittat aliquem qui a nobis designatum percutiat; deinde veniente certo

<sup>a</sup> So Nider

<sup>242</sup> End

<sup>243</sup> Start of Nider, Form. 5.4 (208C)

<sup>244</sup> Nider: procuro

<sup>245</sup> Pause

<sup>246</sup> Resume

<sup>247</sup> Nider: campo

demone eidem in biuio pollum nigrum imolamus eundem in altum proijciendo in aera. Quo a demone sumpto obedit et statim auram<sup>248</sup> concitat. Attamen<sup>248</sup> non semper in loca destinata a nobis sed iuxta dei uiuentis permissionem grandines et fulmina proijcit.<sup>249, 250</sup>

Narratur etiam ibidem de<sup>251</sup> quodam auctore seu heresiarcha maleficorum (Stafus dictus)<sup>b</sup> qui in Bernensium territorio et locis adiacentibus constitutus publice de hoc gloriari audebat quod quandocunque uellet, ipse se in omnium emulorum oculis uelut murem facere uellet<sup>252</sup> et dilabi manibus inimicorum suorum letalium, et ita etiam capitalium<sup>253</sup> suorum inimicorum manibus sepius euasisse.<sup>254</sup> Diuina<sup>255</sup> tamen iustitia cum terminum sue malitie facere uoluit, per hostes suos in stupa quadam prope fenestram quandam<sup>c</sup> sedere dum caute explorabatur, a sibi insidiantibus<sup>256</sup> gladijs et hastis inopinate transfixus ob sua facinora miserabiliter obiit. Superstitem tamen | discipulum qui Hoppo voca-<sup>145D</sup> batur reliquit, qui et supradictum Stadelem de quo in capitulo sexto mentio fit<sup>257</sup> magistrum fecit. Sciuerunt hi duo quando eis placuit tertiam partem fimi, feni uel frumenti aut cuiuscunque rei de vicini agro nemine uidente ad proprium agrum deferre, grandines uiuacissimas<sup>258</sup> et auras lesiuas cum fulminibus procurare, in aspectu parentum infantes prope aquam ambulantes in ipsam nullo uidente proijcere, sterilitatem in hominibus et iumentis efficere, occulta alijs manifestare, in rebus et corporibus modis quibuscunque ledere,<sup>259</sup> ictu fulminis nonnunquam

<sup>a</sup> *Ed. prin.*: -a

<sup>b</sup> *Sc. Scafo dicto (clumsy adaptation)*

<sup>c</sup> *So Nider: ed. prin.*: quen-

<sup>248</sup> *Not in Nider*

<sup>249</sup> *Nider*: proijciendo

<sup>250</sup> *End*

<sup>251</sup> *Start of Nider. Form. 5.4 (205D-206C), which begins:* In territorio Bernensium et in locis eidem adiacentibus a sexaginta circiter annis suprafata maleficia a multis practicata sunt. Quorum primus auctor fuit quidam Scauius dictus, qui publice de hoc gloriari . . .

<sup>252</sup> *Nider*: ualeret

<sup>253</sup> *Nider*: -ibus

<sup>254</sup> *Nider*: euasis

<sup>255</sup> *Nider*: Sed cum terminum sue malicie diuina iusticia . . .

<sup>256</sup> *For a . . . insidiantibus Nider has:* Quo in loco cum nullum de sibi insidiantibus suspectum haberet, per fenestram

<sup>257</sup> *For de . . . fit Nider has:* in maleficijs

<sup>258</sup> *Nider*: vastissimas

<sup>259</sup> *For this clause Nider has:* in rebus et corporibus proximos ledere, equos sub inessoribus, si strepam ascendenti tenerent, freneticos facere, de loco ad locum per aera, ut putabant, transmeare, a se cum capi deberent, fetores pessimos emitte, in se capientium manus et animos tremore magnum incutere, occulta alijs manifestare, et quedam futura predicere, absentia uelut presentia conspiciere

quem vellent interimere, et multa alia pestifera procurare, vbi et quando dei iustitia hec fieri permisit.<sup>260</sup>

Ad ea tamen que per nos reperta sunt expedit convertere. In diocesi nanque Constantiensi ab oppido Rauenspur̄g ad<sup>a</sup> vigintiocto miliaria teuthonica versus Saltzburgam grando seuissimus excitatus cunctas fruges, segetes et vinetas adeo in latitudine vnus miliaris contriuerat quod tertius annus vix iudicabatur frugiferus | in vinetis. Vnde res gesta cum per notarium inquisitionis innotuisset et quod propter clamorem populi inquisitione opus esset, dum certi per maleficia imo omnes pene oppidani talia contigisse iudicarent, quare consulibus ad<sup>b</sup> id consentientibus per quindenam iuxta iuris formam super heresim dumtaxat maleficarum a nobis inquiritur, et ad duas dumtaxat personas pre alijs, que tamen in paruo numero non erant, diffamatas peruenitur – nomen vnus Agnetis balneatricis, alterius Anna de Mindelheim – quibus captis et seorsum ad distinctos carceres positis, ignorante penitus vna de altera, sequenti mane balneatrix questionibus leuissimis a rectore seu ciuium magistro magno fidei zelatore Gelre cognominato et ab alijs ex consulibus sibi adiunctis in presentia notarij exponitur, et licet maleficium taciturnitatis indubie penes se habuisset, de quo et semper iudicibus timendum est, eo quod in primo aggressu non iam muliebri sed virili animo se innoxiam<sup>c</sup> affirmabat, diuina tamen fauente clementia ne tantum facinus | impune transiret, subito libere et a vinculis absoluta, licet in loco torture, et<sup>d</sup> cuncta flagitia ab ea perpetrata detexit. Nam a notario inquisitionis interrogata super articulos ex depositione testium circa nocumenta hominibus et iumentis illata, ex quibus iam violenter reddebatur tanquam malefica suspecta: cum nemo testis de fidei abnegatione ac carnali spurcicia cum demone incubo aduersus eam deposuisset, eo quod illa secretissima sint illius secte ceremonialia, attamen vbi post nocumenta animalibus et hominibus illata vti rea respondisset, cetera omnia de fidei abnegatione et spurcitijs diabolicis cum incubo demone peractis interrogata publice fatebatur, asserens se vltra decem et octo annis<sup>e</sup> illi incubo cum omninoda fidei abnegatione succubuisse. Quibus expletis vbi super grandinem pefatam anne aliquid de illis sciret inquireretur, respondit quod sic. Et interrogata quomodo et qualiter, respondit: “In domo eram et hora meridiei demon me accersiu et vt

<sup>a</sup> *Ed. prin.*: ab

<sup>b</sup> *Ed. prin.*: an

<sup>c</sup> *Ed. prin.*: -us

<sup>d</sup> *Unnecessary*

<sup>e</sup> *Sc.* -os

super campum seu planiciem Kuppel” – sic enim nominatur – “paululum | aque mecum deferendo me transferrem iniunxit, et dum interrogassem quidnam operis in aqua explere vellet, pluuiam se velle causare respondit. Portam ergo ciuitatis exiens, ipsum demonem sub arbore stantem reperi.” Interrogata autem a iudice sub qua arbore, respondit: “Sub illa ex opposito illius turris,” ipsam denotando, et interrogata quid sub arbore egisset, respondit: “Demon vt foueam paruam foderem et illi aquam infunderem iniunxit.” Et interrogata anne pariter consedisent, respondit: “Me sedente ipse demon stabat.” Interrogata demum quibusne verbis aut modis aquam mouisset, respondit: “Digito quidem moui, sed in nomine illius diaboli et omnium aliorum demoniorum.” Et rursum iudex: “Quid actum fuit de aqua?” Respondit: “Disparuit et sursum in aerem diabolus duxit.” Et demum anne aliquam sociam habuisset interrogata, respondit: “Ex opposito sub tali arbore aliam captam maleficam” – Annam videlicet Mindelheim nominando – “consodalem habui. Quid autem egerit, ignoro.” Et finaliter interrogata balneatrix de interuallo temporis ab aque assumptione vsque ad grandinem, respondit: 146C  
 “Tanta dilatio fuit quousque ad domum peruenissent.” 146D

Sed et hoc mirabile: cum sequenti die altera questionibus etiam leuissimis exposita primo fuisset, vtpote digito vix a terra eleuata,<sup>a</sup> post libere soluta, prefata omnia non discrepando in minimo nec quo ad locum, prout altera fassa fuerat, quia videlicet sub tali arbore et alteram sub alia, nec quo ad tempus, quia hora meridiei, nec quo ad modum, quia per motionem aque in foueam immisit in nomine diaboli et omnium demoniorum, nec quo ad interuallum temporis, quia dum eius diabolus aquam accepisset in sublime eleuando, regressam ad domum superuenisse grandinem affirmabat, singula detexit. Sicque tertia die incinerantur, et balneatrix contrita et confessa plurimum se deo commendauit, asserens se libenti animo mori vt demonis iniurias posset euadere, crucem in manibus tenendo et amplexando, quam tamen altera spernebat. Que etiam vltra viginti annos incubum demonem cum omnimoda fidei abnegatione habuerat, primam in multis maleficijs hominibus, iumentis | et terre frugibus illatis excedens, vti processus ad consulatum<sup>b</sup> repositus demonstrat. Sufficiant ista cum reuera quasi innumera circa huiusmodi maleficia illata recitari possent. 147A

Sed et de ictu fulminis, quod sepiissime aut homines solum aut cum bestijs aut cum domibus et horreis consumpserint, licet occultiorem et magis ambiguam videatur habere causam, eo quod alias diuina permissione sepe contingant, absque maleficarum videlicet cooperatione,

<sup>a</sup> *Ed. prin.*: -nata

<sup>b</sup> *Ed. prin.*: -sol-

tamen vbi sponte ex earum fassionibus talia eas fecisse seu procurasse repertum est, super que etiam varia acta et gesta preter ea que super tacta sunt deduci possent. Ratio etiam suffragatur, cum ea facilitate qua grandines sic et fulmina procurare possunt, in mari etiam tempestates: ideo omnis ambiguitas de medio tollitur.

SUPER TRES MODOS QUO<sup>a</sup> VIRI ET NON MULIERES  
REPERIUNTUR MALEFICIJS INFECTI, PER TRIA CAPITULA  
ET PRIMO DE SAGITTARIJS MALEFICIS

147B VLTIMUM AD PRESENS GENUS maleficij quo viri inficiuntur in tribus speciebus. Notandum est primo de grauitate criminis quo ad maleficos sagittarios in septem horrendis<sup>b</sup> flagitijs. Nam primo sacratori die dominice passionis, sexta videlicet feria parasceue,<sup>c</sup> vt fertur, infra misarum solemniam habent sacratissimam crucifixi imaginem telo quasi ad metam sagitando – o quanta crudelitas et iniuria saluatoris! – secundo, licet sub dubio vertitur an aliam apostasiam verbo vltra illam apostasiam operis habent cum demonibus inire, tamen quocunque modo fiat, maior contumelia non potest a christiano irrogari fidei, cum certum sit quod si infidelis consimilia perpetraret, nullius forent efficacie: in nullo etiam tantum<sup>d</sup> complacere aduersario salutis opere potest, vnde miseri tales fidei catholice veritatem et efficaciam potius perpendere deberent, qua etiam de causa deus huiusmodi flagicia iuste permittit; tertio, quod tres aut quattuor iactus per totidem tela habent infigere, et ex consequenti tot secundum eundem numerum homines quolibet die poterit interimere; quarto, quod sic de premissis certificantur a demonibus, quod tamen corporali visu illum occidendum prius habent conspicere, et cordis voluntatem vbi ex integro illum ad interimen]dum flectunt, talis quocunque loco inclusus se tueri non poterit quin tela<sup>e</sup> emissa feratur et per diabolum ei infigatur; quinto, quod sub tali certitudine sagittam emittere valent vt in casum<sup>f</sup> quo denarium a capite per sagittam deponere absque capitis lesione voluerint hoc ipsum efficere valeant, simili modo per bombardam quantumcunque magnam; sexto, quod super hec efficienda homagium tale cum corporis et anime perditione diabolo prestare habent.

147C

<sup>a</sup> Sc. quibus

<sup>b</sup> Ed. prin.: -um

<sup>c</sup> Ed. prin.: -em

<sup>d</sup> Ed. prin.: -o

<sup>e</sup> Though the correct classical form in the neuter appears earlier in the sentence, here the noun is declined as the first declension feminine form, a not infrequent mediaeval usage.

<sup>f</sup> Sc. -u

Super quibus aliqua gesta in medium producamus. Nam princeps quidam Reni Barbarus cognominatus eo quia barbam<sup>a</sup> nutriebat cum ante annos sexaginta adiunctis sibi terris imperialibus quoddam castrum Lendenbrunnem propter rapinas quas castrenses inde faciebant obsidendo circumuallasset, habuit in suo comitatu quendam huiusmodi maleficum Puncker nomine, qui intantum castrenses molestabat quod vno dempto omnes successiue sagittis interemit, talemque modum seruauit vt eum quem intuitus fuisset quocumque se diuertisset per emissam sagittam letaliter vulneraret et occideret talesque tractus quolibet die tres dumtaxat in sua potestate habebat, eo videlicet quod tres sagittas 147D imagini saluatoris infixerat. Cur autem diabolus ternarium numerum pre alijs eligit estimari potest quod in abnegationem sanctissime trinitatis hoc efficiat. Illis autem tribus emissis tractibus non nisi in sortem vt ceteri sagittas emittebat. Accidit demum vt dum quidam ex castrensis deridendo ad ipsum clamasset Puncker: "Nonne circulum in porta pendentem illesum permittes?" et respondente illo ab extra nocturno tempore: "Non. Sed ipsum die<sup>b</sup> captionis castri auferam," hoc idem quod predixit adimpleuit. Nam omnibus, vt premissum est, dempto vno interemptis castrum capitur et ipse circulum domui sue in Rorbach Wormatiensis diocesis appendit, et sic appensum in hodiernum diem cernitur. Qui etiam post a rusticis quibus plurimum molestus erat quodam sero cum fossorijs eorum instrumentis occiditur et in peccatis suis moritur.

Fertur denique de ipso quod quidam de optimatibus dum artis sue experientiam certam capere voluisset, eidem proprium filium paruulum ad metam posuit et pro signo super birretum pueri denarium, sibi que mandauit vt denarium sine birreto per sagittam ammoueret. Cum autem 148A maleficus id se facturum sed cum difficultate assereret, libentius abstinere ne per diabolum seduceretur in sui interitum, verbis tamen principis inductus sagittam vnam colari suo circa collum immisit, et alteram baliste superponens denarium a birreto pueri sine omni nocumento excussit, quo viso dum ille maleficum interrogasset cur sagittam colari imposuisset, respondit: "Si deceptus per diabolum puerum occidissem, cum me mori necesse fuisset, subito cum sagitta altera vos transfixissem vt vel sic mortem meam vindicassem."

Et quidem licet diuina permissio mala huiusmodi in probationem et castigationem fidelium fieri sinit, exaduerso tamen in confortationem et gloriam fidei potiora miracula clementia saluatoris operatur. Nam in

<sup>a</sup> *Ed. prin.*: -a

<sup>b</sup> *Ed. prin.*: die

diocesi Constantiensi prope castrum Hohenzorn ac monasterio<sup>a</sup> monialium ecclesia quedam iam de nouo cernitur constructa in qua huiusmodi imago saluatoris cum sagitta infixi ac cruore effuso cernitur, cuius miraculi veritas tali ordine patuit. Miser enim quidam dum iuxta ordinem  
 148B prenotatum sulper tres aut quattuor tractus baliste ad interitum aliorum a diabolo certificari cuperet, in biuio quodam imaginem crucifixi sagitta petit et modo quo vsque<sup>b</sup> in presens cernitur transfixit, et dum cruor miraculosus erumperet, miser immobiliter diuina virtute gressu percussus figitur, et vbi a pretereunte<sup>c</sup> quodam cur ibi fixus maneret interrogaretur, miser caput agitabat brachijsque ac manibus quibus balistam tenebat ac toto corpore tremens nil respondere poterat. Et alter hincinde circumspiciens dum imaginem crucifixi intuetur et sagittam infixam cum cruore effuso speculatur, “Pessime,” inquit, “neque imaginem domini nostri transfixisti?” et alios conuocans, “Attendite,” inquit, “ne fugam capiat.” Dum tamen, vt premissum est, se de loco mouere non poterat, ad castrum cucurrit et rem gestam narrauit. Qui concite descendunt et miserum in eodem loco persistentem reperiunt, et inquiringibus de casu dum crimen fassus fuisset, ex contactu publice iustitie de loco mouetur et dignam pro commissis vltionem per miserabilem mortem recepit.

148C Sed – heu! – quod cogitatu horribile existit, nec his humana peruersitas | terretur, vt a similibus flagitijs se contineat. Nam in curijs optimatum vndique, vt fertur, tales sustentantur, de suis flagitijs publice in contemptum fidei et grauem offensionem diuine maiestatis et contumeliam nostri redemptoris gloriari et se iactari de talibus permittuntur, vnde et tales vtique et receptatores, defensores et fautores nedum hereticorum sed et apostatarum a fide iudicandi sunt et penis plectendi subscriptis. Et hoc est septimum.

Nam primo ipso iure excommunicati sunt, et fauentes clerici ab omni officio et beneficio deponuntur et priuantur, nec ad illa restituntur absque speciali apostolice sedis indulto. Jtem, prefati receptores postquam fuerint publicati, si in excommunicatione steterint per annum animo pertinaci, velut heretici sunt condemnandi.

Que singula sic probantur. Nam<sup>261</sup> in c. “Vt inquisitionis” § “Prohibemus” (*Libro Sexto*) tangitur de non impediendo directe vel

<sup>a</sup> Sc. -um

<sup>b</sup> Ed. prin.: quousque

<sup>c</sup> Ed. prin.: -euunte

<sup>261</sup> Cf. Eym. 2.47 (360 1B): Sunt igitur excommunicati in duplici genere. Quidam namque sunt excommunicati in causa fidei, et hoc est in tribus casibus, quia vel (*the first example is those who*

indirecte processum, iudicium diocesanorum et inquisitorum in causis fidei, vbi tangitur predicta pena infligenda post annum. Nam dicitur primo: "Prohibemus districtius potestatibus, dominis temporalibus et rectoribus, eorundem<sup>262</sup> officialibus" etc. | - si cui placet, capitulum perlegat - denique quod et ipsi malefici cum eorum receptatoribus sint ipso iure excommunicati, postque de ipsis hereticis maleficis in c. "Ad abolendam" in principio et in c. "Excommunicauimus" primo et presertim et breuius in c. "Excommunicamus" secundo ("De Hereticis"), vbi sic dicitur: "Excommunicamus et anathematizamus vniuersos hereticos, catharos, paterinos" et infra: "et alios quibuscunque nominibus censeantur" etc., et nota super quibuscunque nominibus.

De credentibus autem et receptatoribus et ceteris supradictis habetur in c. "Excommunicamus" i § "Credentes,"<sup>263</sup> vbi sic dicitur: "Credentes preterea, receptatores, defensores et fautores talium excommunicationi decernimus subiacere" etc., et in c. "Excommunicamus" secundo tanguntur plures pene quas incurrunt infra annum cum ipsis clericis, vbi sic dicitur: "Receptatores,<sup>264</sup> fautores et defensores excommunicationi decernimus subiacere, vt postquam quilibet talium fuerit excommunicatione notatus, si satisfacere contempserit infra annum, extunc ipso iure sit infamis, nec ad publica officia seu consilia, nec ad eligendos aliquos ad huiusmodi nec ad testimonium admittantur. Sint<sup>265</sup> etiam intestabiles,<sup>266</sup> vt nec testandi liberam habeant<sup>267</sup> facultatem, nec ad hereditatis successionem accedat. Nullus preterea ipsi super quocunque negotio respondere cogatur. Quod si forte iudex extiterit, eius sententia nullam obtineat firmitatem, nec cause aliquae ad eius audientiam proferantur; si fuerit aduocatus, nullatenus eius patrocinium admittatur; si tabellio, instrumenta confecta nullius sint momenti, sed cum auctore damnato damnentur, et in similibus idem precipimus observari. Si vero clericus fuerit, ab omni officio et beneficio deponatur vt in quo grauior est culpa, maior exerceatur vindicta. Si qui tales autem postquam

*refuse to appear when summoned*] vel quia impederunt officium inquisitionis directe vel indirecte seu ad hoc presterunt auxilium, consilium vel fauorem, et isti ipso iure sunt excommunicationis mucrone percussi iuxta cap. "Vt inquisitionis" § "Prohibemus" [*which is quoted in full in 3.36 (563 1A)*], vel quia crediderunt, receptarunt, defenderunt seu fauerunt hereticis: isti etiam ipso iure sunt excommunicati iuxta cap. "Excommunicamus itaque" § "credentes."

<sup>262</sup> *So Eym.; canon: eorundemque*

<sup>263</sup> *Cf. Eym. 2.47 (360 1D): De credentibus, receptatoribus, defensoribus et fautoribus eodem cap. "Excommunicamus itaque" § "credentes" . . .*

<sup>264</sup> *This text is quoted in full in Eym. 102 1D-2A.*

<sup>265</sup> *Canon: sit*

<sup>266</sup> *Canon: -is*

<sup>267</sup> *Canon: -cat*

ab ecclesia fuerint denotati euitare contempserint, excommunicationis sententia vsque ad satisfactionem idoneam percillantur. Sane clerici non exhibeant huiusmodi pestilentibus ecclesiastica sacramenta, nec eos presumant tradere christiane sepulture nec elemosinas aut oblationes eorum recipiant: alioquin suo priuentur officio, ad quod nequaquam restituantur absque indulto sedis apostolice speciali.”

149B Sunt denique et alie | pene quamplures super<sup>268</sup> predictos, etiam si non persistant per annum animo<sup>a</sup> pertinaci, super eorum videlicet filios et nepotes qui ab episcopo et inquisitore<sup>b</sup> possunt priuari seu priuatos<sup>c</sup> denunciari dignitatibus, personatibus et omnibus honoribus ac beneficijs ecclesiasticis et officijs publicis quibuscunque iuxta c. “Vt commisi” § “Priuandi” (“De Hereticis,” *Libro Sexto*). Intelligitur tamen “si impenitentes extiterint,” vt in c. “Statutum felicitis” (eodem libro et titulo),<sup>269</sup> item quod<sup>270</sup> etiam ipsorum filij vsque ad secundam generationem sunt priuati omni beneficio ecclesiastico et officijs publicijs, vt in c. “Quecunque”<sup>271</sup> § “Heretici” (eodem libro).<sup>272</sup> Intelligendum<sup>273</sup> tamen “qui per paternam et non per maternam lineam descenderunt,” et etiam de impenitentibus, vt in allegato c. statutum.<sup>274</sup> Item quod<sup>275</sup> illis

<sup>a</sup> *Ed. prin.*: omnino (in pleno; the correct reading is shown in 149C, and the mistake is to be attributed to a misreading of the abbreviation oio as aio.)

<sup>b</sup> *Ed. prin.*: -i

<sup>c</sup> *Sc.* -i (clumsy adaptation)

<sup>268</sup> *Start of adaptation of Eym. 3.113 (666 1B)*: Centesimatertiadecima questio est vtrum inquisitor cum episcopo (vel eius vicario) possit priuare seu priuatos nunciare hereticos, credentes, receptatores, fautores et defensores eorum ac illorum filios et nepotes dignitatibus, personatibus et omnibus honoribus et beneficijs ecclesiasticis et officijs publicis quibuscunque. Respondemus quod sic . . . Considerandum vero quod hec intelliguntur de predictis si impenitentes extiterint, non autem si penitentes, vt patet c. “Statutum felicitis” (“De Heret.” Lib. Sex.) . . .

<sup>269</sup> *End*

<sup>270</sup> *Start of adaptation of Eym. 3.114 (669 1E)*: Centesimaquartadecima questio est vtrum per episcopum et inquisitorem heretici, credentes, receptatores, defensores et fautores, ipsorumque filij vsque ad secundam generationem omni beneficio ecclesiastico et officijs publicis sunt priuandi seu ipso iure sunt priuati. Respondemus quod sunt priuandi vsque ad secundam generationem, vt patet cap. “Quicunque” § “heretici” (“De Heretic.” Lib. Sex.) . . .

<sup>271</sup> *Eym., canon:* qui-

<sup>272</sup> *End*

<sup>273</sup> *Start of adaptation of Eym. 3.115 (672 1A)*: Respondemus quod est intelligendum per paternam, et non maternam, et etiam de impenitentibus hereticis credentibus etc. vt patet in c. “Statutum” (“De Heretic.” Lib. Sex.) . . .

<sup>274</sup> *End*

<sup>275</sup> *Start of adaptation of Eym. 3.117 (674 2D, 675 1A)*: Respondemus quod eis est appellacionis beneficium interdictum, et quod nequeunt appellare, vt patet in ca. “Vt inquisitionis” (“De Heret.” Lib. Sex.) . . . Hic est diligentius attendendum quod cum predicti esse tales sunt per sententiam declarati, vt pote quia sunt heretici, credentes etc., quod tunc non possunt a tali sententia diffinitiuam appellare, cum in crimine perseuerent. Ante sententiam autem, si in aliquibus aggrauantur, seu indebite fatigantur, non est dubium quin possint appellare. Nam non sunt habendi pro hereticis. (Concordat archidiaconus super eodem cap.)

(supple credentibus, receptatoribus, defensoribus et fautoribus eorum) sit appellationis et proclamationis beneficium interdictum patet in c. "Vt inquisitionis" (eodem libro), vbi tamen archidiaconus (super c. eodem) intelligit vt postquam per sententiam esse tales sunt declarati, tunc non possunt, ante autem sententiam si in aliquibus aggrauantur seu indebite fatigantur, appellare possunt.<sup>276</sup>

149C

Plura alia possent deduci, sed ista sufficiant. Pro ampliori tamen premissorum intelligentia aliqua sunt discutienda. Primo quid si princeps vel secularis potestas iuxta prenotata gesta ad deuastationem alicuius<sup>a</sup> castri iusto bello aliquem huiusmodi maleficum secum recipiat et eius assistentia tyrannidem malorum compescat: numquid totus exercitus vt fautores et receptatores talium sunt iudicandi et predictis penis multandi? Respondendum videtur quod quia propter multitudinem rigor iustitie est temperandus (dist. xl, "Constitueretur"), ideo licet principalis et eius assessores et consiliarij talia fouentes omnino sint ipso iure penis prefatis innodati, vbi moniti ab eorum ordinarijs non destiterint, cum iam vti receptatores, fautores iudicantur, vnde et ipsis penis subijciuntur, reliquus tamen exercitus, cum absque eorum consilio et fauore talia fiant, imo pro defensione reipublice sua corpora exponere sunt parati, licet fortassis in factis maleficis complacentiam habeant, tamen censuram illam excommunicationis euadunt, licet reatum illum | in eorum confessione agnoscere habeantur, debita cautione accepta super omnimoda huiusmodi detestatione in perpetuum a confessore absolui, et quantum in ipsis est ab eorum finibus huiusmodi maleficos expellere.

149D

Si vero queritur a<sup>277</sup> quibus possint presidentes vbi resipiscant absolui, an ab eorum ordinarijs aut inquisitoribus, responderetur: vtique absolui possunt et ab ordinarijs ac alijs inquisitoribus si resipiscant; habetur in c. "Vt officium" in principio ("De hereticis," *Libro Sexto*), vbi sic dicitur: "Vt officium" et infra: "contra hereticos, credentes, receptatores, fautores et defensores eorum necnon contra infamatos de heresi vel suspectos secundum sanctiones canonicas hominum metu diuino timori<sup>b</sup>

<sup>a</sup> *Ed. prin.*: -ciuius

<sup>b</sup> *So canon; ed. prin.*: -e

<sup>276</sup> *End*

<sup>277</sup> *Start of adaptation of Eym. 3.92 (640 2D-641 1A)*: Nonagesimasecunda questio est vtrum episcopus et inquisitor taliter deprehensum in heretica prauitate sed post penitentem et abiurantem eundem possit absoluere ab excommunicationis sententia, qua fuerit innodatus iuxta c. "Ad absolendam" in princ. et c. "Excommunicamus" i et ij ("De Heret."). Respondemus quod sic, vt patet "De Heret" Lib. Sex., vbi dicitur sic: "Vt officium" et infra: "Discrecioni vestre per apostolica scripta mandamus, quatenus vbique in prefata prouincia simul vel separatim aut singulariter (prout negotij vtilitas suadebit) contra hereticos, credentes... [rest of the quotation as here].

postposito precedatis. Si vero aliquis ex predictis heretica labe primitus abiurata redire voluerit ad ecclesie vnitatem, iuxta<sup>278</sup> formam ecclesie absolutionis beneficium impendatis.”<sup>279</sup>

Si denique instatur: “Quando dicitur princeps vel alius resipiscere?” respondetur quando maleficum propter iniuriam creatori illatam puniendum<sup>a</sup> tradit, vnde et vt ipsum a dominio tantummodo expellat non est  
150A malefici seu heretici manifeste deprehensi in heretica prauitate, vt infra patebit, pena debita, et vt de preteritis doleat et tales nunquam de cetero fouere, vti catholicum decet principem, firmiter in animo suo statuatur.

Quod si queritur cui tradendus et quo ordine puniendus et an vt manifeste deprehensus in heresi sit iudicandus, ad primum specialiter tangetur difficultas in principio tertie partis, an videlicet eorum punitio tantummodo ad iudicem secularem et non ecclesiasticum pertineat. Manifestum est enim per c. “*Vt inquisitionis*” § “*Prohibemus*” (*Libro Sexto*) quod potestatibus et dominis temporalibus interdicitur ne de crimine heresis quoque<sup>b</sup> modo iudicent absque episcoporum seu inquisitorum aut saltim alterius eorundem licentia, sed quia ratio que ibi assignatur circa maleficos non videtur habere locum, quia dicitur ibi quod ideo non debent iudicare eo quod crimen heresis est mere ecclesiasticum, maleficorum autem crimen non videtur mere ecclesiasticum sed etiam ciuile propter damna temporalia, quicquid tamen sit, vt infra patebit, licet iudicis ecclesiastici sit cognoscere et iudicare, tamen iudicis secularis est  
150B exequi et punire, vt patet (*Extra*, “*De hereticis*” c. “*Ad abolen|dam*” et c. “*Vergentis*” et c. “*Excommunicamus*” (vtrique),<sup>c</sup> vnde et iudex secularis si tradet talem ordinario adiudicandum, habet tamen per se eundem punire postquam ab episcopo sibi traditur aut relinquitur, vel etiam ex consensu episcopi secularis iudex vtrumque facere potest, scilicet iudicare et punire.

Nec valet si dicatur quod tales malefici non sunt heretici sed potius apostate, quia cum vtrunque contingat circa fidem, tamen sicut hereticus circa illam tantummodo dubitat, et hoc in toto vel in parte, ita et apostate malefici. Ratio etiam per se dictat. Cum<sup>280</sup> enim grauius est corrumpere fidem per quam est anime vita quam falsare pecuniam per quam vite temporalis subuenitur: vnde<sup>d</sup> si falsarij pecunie vel alij malefactores statim

<sup>a</sup> *Ed. prin.*: pueniendum

<sup>b</sup> *Sc.* quoquam

<sup>c</sup> *Sc.* vtroque

<sup>d</sup> *Sc.* ideo

<sup>278</sup> *Eym.*, canon: ei iuxta

<sup>279</sup> *End*

<sup>280</sup> *Starts of Aq.*, Summa 2/2.11.3. Co.

per seculares potestates iuste morti traduntur, multo magis tales heretici et apostate<sup>281</sup> statim quod conuincuntur possunt<sup>282</sup> iuste occidi.<sup>283</sup>

Vnde et per hec est responsio ad secundum, quo scilicet ordine et a quo iudice sit puniendus, sed clarius de illo tractabitur in tertia parte operis circa modos sentendiandi, qualiter deprehensus manifeste in heresi sit sentendiandus circa octauum et duodecimum modum et super dubium,<sup>150C</sup> quid si peniteret, an adhuc esset occidendus. Reuera enim si hereticus simplex relapsus, quantumcunque peniteat, est occidendus in c. "Ad abolendam" allegato, et hoc rationabiliter secundum Thomam, cum per hoc prouidetur bono communi, quia si heretici reuersi sepe reciperentur, vt in vita conseruarentur et alijs temporalibus bonis, posset hoc esse in preiudicium salutis aliorum, tum quia si relaberentur, alios inficerent, tum etiam quia si sine pena euaderent, alij securius in heresim relaberentur. Ex relapsu etiam ipsorum presumitur de inconstancia eorum circa fidem, et ideo iuste occidendus. Quare et hic dicere oportet quod si propter suspicionem solam inconstantie ecclesiasticus iudex relapsum habet tradere curie seculari ad occidendum, a fortiori si non velit tradere apostatam aut maleficam quamcunque curie seculari propter penitentiam et eius conuersionem, tamen relinquere habet talem et non impedire cum iudex secularis propter damna temporalia ipsorum maleficum vult occidere secundum leges, licet ecclesiasticus iudex prius habeat penitentem maleficum absolueret ab excommunicatione quam<sup>150D</sup> propter heresim maleficarum incurrit, cum et hereticus sit excommunicatus iuxta c. "Excommunicamus" i et ij, et ad gremium ecclesie recipere vt spiritus saluus fiat, vt dicitur (xi q. iij) "Audi." Alie rationes assignantur inferius circa questionem primam tertie partis.

Sufficiant ista ad presens. Tantummodo aduertant animarum rectores quam dura et districta exigitur ab eis ratio a tremendo iudice, cum reuera iudicium durissimum his qui presunt ac vbi tales in iniuriam creatoris viuere permittunt.

Sequitur de duobus alijs maleficorum generibus. Nam ad idem genus maleficij reducuntur et illi qui per incantationes et carmina sacrilega arma quecunque incantare sciunt, vt eis nullo modo nocere valeant, vnde nec etiam vulnerari possunt.

Hi enim diuersificantur. Nam aliqui sunt qui cum predictis sagittarijs maleficis concordant in eo quod etiam circa imaginem crucifixi et

<sup>281</sup> et apostate: *not in Aq.*

<sup>282</sup> *Aq.*: et possent

<sup>283</sup> *End*

contumeliam<sup>a</sup> ei illatam<sup>b</sup> talia addiscunt: gratia exempli qui vult vt non valeat ledi in capite aliquo ferro aut ictu habet caput imaginis auferre; qui circa collum, auferat collum; qui circa brachium, | auferat seu comminuat brachium, et sic consequenter. Interdum supra angulum aut infra, interdum ex toto comminuunt, et in huius signum vix inter decem imagines in biuio aut in campis repositas vna integra reperitur.

151A Aliqui vero sunt qui certa brevia secum deferunt, aliqui verbis interdum sacris aut etiam ignotis talia procurant, inter que hec estimatur diuersitas. Nam primi licet in contumeliam fidei circa dehonestationem imaginis saluatoris cum prefatis maleficis sagittarijs concordant, vnde vt veri apostate reputandi et iudicandi, vbi fuerint deprehensi, alio tamen respectu sagittariorum nec etiam in malum proximi manifestum, prout in tuitionem proprij corporis supra cingulum vel infra aut etiam totius corporis seruire videtur, ideo tanquam heretici penitentes et non relapsi, vbi sunt malefici conuicti et peniteant, sunt iudicandi et iuxta octauum modum penitendi cum abiuratione et inclusione, vt in tertia parte operis tangetur.

151B Pro secundis vero qui per carmina arma incantare nituntur et super illa nudis plantis incedere et similia exercere| – incantatores enim dicuntur iuxta Isidorum (viiij *Ethimologiarum*) qui artem aliquam verbis peragunt – distinguendum quia interdum incantationes fiunt per verba sacra aut per carmina scripta super infirmos, et he quidem incantationes licite fieri possunt septem conditionibus seruatis, vt inferius patebit circa modos curandi maleficiatos infirmos; incantationes autem que fiunt super arma per aliqua verba aut vbi talia carmina scripta deferuntur, hoc iudicibus attendendum quod si ibi sunt nomina incognita, item characteres et signature alie preter signaculum crucis, tunc talia sunt omnino refutanda et auertendi sunt homines pie a talium credulitate. Quod si desistere nollent, tunc tanquam leuiter suspecti sunt iudicandi, de quibus in secundo modo sentendiandi inferius patebit. Non enim caret tunc scrupulo heretice prauitatis, imo quia talia omnino opere et auxilio demonum habent fieri, cuius,<sup>c</sup> vt supra patuit, qui auxilio vtitur apostata a fide iudicatur, licet etiam propter ignorantiam et emendationis gratiam mitius quam cum sagittarijs maleficis sit agendum. Et | quia plurimum commune cernitur apud clientes et mercatores secum deferre huiusmodi carmina et benedictiones que incantationis speciem habere videntur, expedit omnino siue in foro penitentie per confessorem siue

<sup>a</sup> *Ed. prin.:* -a

<sup>b</sup> *Ed. prin.:* -a

<sup>c</sup> *Sc. quorum*

in foro contentioso per ecclesiasticum iudicem huiusmodi eliminare, cum tacitum pactum propter verba ignota et characteres signati<sup>a</sup> cum demone initur et demon occulte se ingerit et optata procurat, vt tandem ad peiora alliciat: vnde vbi in foro contentioso, talis debet abiurare<sup>b</sup> iuxta secundum modum sentiendiandi; vbi in foro conscientie, confessor debet carmina inspicere, et si nolit omnino projicere, debet tamen nomina ignota et characteres delere, reliqua vero, vt euangelica verba et signacula crucis, permittere.

Super quibus omnibus et precipue super maleficos sagittarios notandum quia supra tactum est an vt manifeste deprehensi in heretica prauitate iudicandi sint, de qua materia etiam prius tactum est in prima questione prime partis, et quidem quod sic, patet ibidem. Nam vt dicit Bernardus<sup>284</sup> in glosa ordinaria in c. "<Ad> abolendam" § "Presenti" et verbo "Deprehensi," | tribus modis de iure quis pro manifeste depre-  
151D  
hensio in heretica prauitate habetur, puta facti evidentia, vt in simplici heresi, quando publice predicant heresim (ff. "De ritu nuptiarum" "Palam" § "Vltio") vel legitima probatione per testes vel ex sua confessione, et eiusdem Bernardi glosa in c. "Excommunicamus" ij super verbo "Deprehensi publice": "ita quod notorium sit illis etiam quia condemnati sunt." Ad idem videtur facere super c. "Super quibusdam" (*Extra*, "De verborum significatione")<sup>285</sup> prout patuit in prima questione prime partis huius operis. Ex quibus patet quod malefici sagittarij, similiter et alij arma incantantes pro manifeste deprehensis in heretica prauitate per aliquod pactum expressum cum demone initum propter manifesta ipsorum opera que non nisi diabolica virtute fieri possunt habendi sunt.

Patet et secundo quod eorum fautores, receptatores, defensores vt manifeste tales pro talibus habendi sunt et penis prescriptis manifeste subiacere, ita quod non iam sub dubio aut tanquam suspecti receptatores leui aut graui vel violenta suspitione iudicandi, prout plures alij existere possunt.

Vnde et semper grauissime<sup>c</sup> contra | fidem delinquent et semper mala  
152A  
morte a deo percutiuntur. Nam vt fertur quidam princeps cum consimiles foueret maleficos et cum hoc quandam ciuitatem in certis negocijs indebite aggrauaret dum hoc sibi a quodam familiari objiceretur, ille omni timore dei postposito respondit: "Det deus quod in hoc loco

<sup>a</sup> Sc. -i (*clumsy adaptation?*)

<sup>b</sup> *Ed. prin.*: ad-

<sup>c</sup> *Ed. prin.*: gran-

<sup>284</sup> *Start of Eym.* 3.89 (638 1B-C)

<sup>285</sup> *End*

moriar, si iniuste a me illi aggraentur,” ad que verba subito diuina vltio subsecuta: subitanea morte expirauit, reuera in vindictam non tam iniuste aggrauationis quantum et fautorie heresis.

Patet et tertio quod prelati quicunque et rectores, vbi huiusmodi flagitijs et eorum auctoribus et fautoribus iuxta omnem possibilitatem non resistunt, etiam tanquam manifesti fautores et quod prescriptis penis manifeste subiacere debeant iudicantur.

SEQUITUR SECUNDUM PRINCIPALE HUIUS SECUNDE  
PARTIS SUPER MODOS TOLLENDI ET CURANDI MALEFICIA,  
PREMITTENDO<sup>a</sup> DIFFICULTATEM.

152B VTRUM LICITUM SIT MALEFICIA per alia maleficia vel per aliqua illicita tollere, et arguitur quod non, quia |vti auxilio demonum non est licitum, vt supra patuit.

Et in *Secundo Sententiarum* (di. vii) a doctoribus communiter determinatur, quia videlicet est apostasia a fide. Et quidem quod sine auxilio demonum non possit dissolui probatur, quia aut dissoluitur humano artificio aut diabolico aut diuina potentia: non primum, quia inferior potestas non potest infringere superiorem, cum nihil agat vltra suam virtutem, non etiam diuina, quia hoc esset opus miraculosum, et cum illa deus ad suum nutum operatur et non ad instantiam hominum, sicut et Christus matri petenti miraculum de subuentione necessitatis vini, vt doctores exponunt quod hoc miraculum conuersionis desiderabat, Christus respondit: “Quid mihi et tibi, mulier?” scilicet commune in opere miraculoso.<sup>b</sup>

Apparet etiam quod rarissime liberantur, quantumcunque diuinum auxilium et suffragia sanctorum implorant: ergo non nisi auxilio demonum liberari possunt, quod tamen non est licitum querere.

152C Preterea, hoc quod communiter tolleratur in vsu practicatur, licet sit illicitum, sed hoc communiter practicatur quod tales maleficiati currunt ad mulierculas superstitionis, a quibus sepiissime liberantur et non per sacerdotes aut exorcistas: ergo practica ostendit quod auxilio demonum maleficia tolluntur. Cuius<sup>c</sup> tamen auxilium querere cum sit illicitum, etiam non est licitum maleficia tollere sed patienter sufferre.

<sup>a</sup> *Dangling gerund*

<sup>b</sup> *Ed. prin.:* -e

<sup>c</sup> *Sc. quorum*

Preterea, secundum Thomam et Bonaventuram in *Quarto* (dist. xxx-iii, de impedimento maleficali) maleficium<sup>286</sup> est ita perpetuum quod non potest habere humanum remedium, quia si habet remedium, non est homini notum vel licitum, in quibus verbis dant intelligere quod sit quasi infirmitas incurabilis et perpetue inherens. Vnde subdunt: licet deus prestare possit remedium demonem cogendo et demon desistendo, ille curaretur, tamen curatio non erit humana. Ergo nisi deus dissoluerit per se, non est licitum eius dissolutionem quocunque modo querere.

Preterea, in eadem distinctione et questione dicunt quod etiam per aliud maleficium adhibere remedium est illicitum, vnde dicunt: etsi posset per aliud maleficium adhiberi remedium, nihilominus reputaretur perpetuum, licet amoveretur maleficium, quia nullo modo est licitum per maleficium inuocare demonis auxilium.

152D

Preterea, exorcismi ecclesie non valent ad reprimendum demones semper quo ad omnes molestias corporales, hoc dei iudicio exigente, semper tamen valent contra illas demonum investationes<sup>a</sup> contra quas sunt principaliter institute,<sup>b</sup> sicut contra obsessos vel circa pueros exorcizandos.

Preterea, non oportet quod si propter peccatum diabolo sit potestas in aliquem data, cessante peccato cessat potestas, quia interdum cessante culpa remanet pena.

Ex quibus verbis videntur prefati duo doctores sentire quod non sit licitum maleficia tollere, sed permittere illa, sicut permittuntur alie infirmitates incurabiles, et committere illa tantummodo domino deo, qui illa tollere potest ad suum placitum.

In contrarium est quod sicut deus et natura non abundant in superfluis, ita non deficient in necessarijs, quare et necessario fidelibus contra huiusmodi insultus demonum sunt data non solum remedia preseruatua, de quibus in principio huius secunde partis tactum est, verum etiam remedia curatiua, cum alias non sufficien̄ter fidelibus a deo prouisum esset et opera diaboli viderentur fortiora operibus dei.

<sup>a</sup> Sc. -fes-<sup>b</sup> Sc. -i

<sup>286</sup> Cf. *Aq.*, *Sent.* 4.34.1.3. *Ra.* 3: ... maleficium est ita perpetuum quod non potest habere remedium humano opere, quamuis deus posset remedium prestare demonem cogendo, vel etiam demon desistendo. Non enim oportet semper vt id quod per maleficium factum est possit per maleficium aliud destrui, vt ipsi malefici contentur, et tamen si posset per maleficium remedium adhiberi, nihilominus perpetuum reputaretur, quia nullo modo debet aliquis demonis auxilium per maleficia inuocare. Similiter non oportet quod si propter peccatum aliquod data est diabolo potestas in aliquem, cessante peccato cesset potestas, quia pena interdum remanet culpa transeunte. Similiter etiam exorcismi ecclesie non valent ad reprimendum demones semper quantum ad omnes molestias corporales iudicio diuino hoc exigente: semper tamen valent contra illas infestationes demonum contra quas principaliter instituti sunt.

Preterea, glosa super illud Job lxi (“Non est potestas super terram” etc.) dicit: “Omnia humana superat, etsi meritis sanctorum subiacet,” vnde et meritis sanctorum virorum in hac vita subiacent.

Preterea, Augustinus (*De Moribus Ecclesie*): “Non est angelus, cum inheremus deo, mente nostra potentior. Nam si potestas virtus est, in hoc mundo toto mundo sublimior est mens deo inherens,” vnde et talibus dissolui possunt opera diaboli.

Responsio. Hic sunt due solennes opiniones sibi inuicem, vt videtur, contrariantes. Sunt enim quidam theologi et canoniste inuicem concordantes quod licitum est maleficia tollere, etiam per opera superstitionis et vana, et huius opinionis sunt Scotus, Hostiensis et Gotfridus et communiter omnes canoniste. Aliorum<sup>287</sup> theologorum opinio, et precipue antiquorum et quorundam modernorum, vt Thome, Bonaventure, Alberti, Petri de Palude et aliorum multorum, quod nullo modo sint  
153B facienda mala vt eue|niant bona, et quod potius homo mori debet quam in talia consentire, vt scilicet per opera superstitionis et vana liberaretur.

Sed quia vnica distinctione poterunt eorum dicta concordari,<sup>288</sup> vidende<sup>a</sup> sunt prius eorum sententie. Nam Scotus in suo *Quarto* (dist. xxxiiij, “De impedimento maleficiali siue de frigidis et maleficiatis”) reputat fatuitatem asserere quod etiam per vana et superstitionis non debeant maleficia tolli. Dicit enim: “Nec in hoc est infidelitas aliqua, quia destruens non assentit operibus diaboli sed credit eum posse et velle fatigare dum durat tale signum, quia ex pacto non assistit ad hoc nisi dum illud durat. Et sic destructio illius signi non ponet<sup>289</sup> finem tali vexationi.” Vnde et dicit quod est meritorium opera diaboli delere.

Et quia loquitur de signis, ponamus exemplum. Sunt quedam mulieres que tali signo notant maleficas, vt si vacca vbertate lactis ex maleficio priuatur, tunc vrceum lactis super ignem appendunt, et certis verbis superstitionis insistendo vrceum cum baculo percutiunt, et licet fasculum mulier percutiat, tamen omnia verbera diabolus ad dorsum malefice defert. Per que sic diabolus cum malefica fatigatur: licet diabolus non cogatur nec fatigatur, facit tamen illa diabolus vt percutientem  
153C

<sup>a</sup> *Ed. prin.*: -a

<sup>287</sup> *Start of adaptation of Nider, Form. 5.4 (204A)*: Antiqui negant [sc. Estne licitum maleficium de loco tollere], moderni concedunt, vtrique bene, sed sola opus est vnica distinctione quare tolli potest per alium maleficium: seu per ritus alicuius malefici illicitos, et id constat esse illicitum, ymo potius homo mori deberet quam in talia consentire, aut tolli potest sine nouis superstitionis operibus, vt per motum localem . . . et illud est licitum.

<sup>288</sup> *End*

<sup>289</sup> *Duns Scotus, Sent. 4.34.1.Co.*: imponet (*without non, which presumably derives from a misreading of im-*)

catholicam ad peiora alliciat, vnde periculosum existit. Alias non videtur<sup>a</sup> opinio tanti doctoris habere difficultatem. Possent et alia exempla adduci.

Hostiensis ad idem in *Summa Copiosa* ("De frigidis et maleficiatis" et ti. "De impotentia coeundi" in glosa super c. "Litere" § "Mulierem autem") dicit quod in hoc defectu recurrendum est ad remedia medicorum, et licet quedam remedia contra hec scripta vana seu superstitiosa<sup>b</sup> videantur, tamen cuilibet auctori in sua arte credendum est. Sed et satis tollerare potest ecclesia retundere vana vanis.

Humbertinus denique in suo *Quarto* (prefata distinctione) his vitur verbis: "Possunt maleficia aut per orationes aut per artem per quam facta sunt destrui."

Ad idem Gotfridus in *Summa* sua (eodem ti.): "Maleficium non potest solui semper per illum qui fecit, vel quia est mortuus vel quia nescit delere ipsum vel quia maleficium est perditum. Si autem<sup>c</sup> sciretur, licite posset 153D soluere," et loquitur contra illos qui dicebant quod per maleficia non posset copule carnali prestari impedimentum, eo quod nullum tale esset perpetuum, vnde non dirimeret matrimonium iam contractum.

Preterea, illi qui fuerunt moti asserere quod nullum maleficium sit perpetuum mouebantur his rationibus: quia putabant omne maleficium posse remoueri vel per aliud maleficium vel per exorcismos ecclesie qui sunt ordinati ad reprimendum vim demonum vel per veram penitentiam, cum diabolus non habeat potestatem nisi super peccatores. Vnde quo ad primum concordabant cum opinione aliorum quod [ad] adminus per superstitiosa possint tolli. Contrarie autem opinionis est Sanctus Thomas in suo *Quarto* (prefata di.) sic inquirentis<sup>d</sup> quod si maleficium non potest reuocari nisi per aliquid illicitum, vt per demonis auxilium vel huiusmodi,<sup>e</sup> etiam si sciretur posse sic reuocari, nihilominus perpetuum iudicatur, quia remedium non est licitum.

Ad idem Bonaventura, Albertus et communiter omnes theologi, vbi cum breuiter tangunt demonis auxilium tacite vel expresse inuocandum, videntur sentire quod per nil aliud nisi per licitos exorcismos vel per veram penitentiam, vt in c. "Si per sortiarias" allegato tangitur, remoueri 154A debeant, moti, vt apparet, rationibus in principio questionis annotatis.

Et quia tantos doctores in eorum dictis quantum possibile est expedit concordare, et hoc vnica distinctione fieri potest, ideo notandum quod

<sup>a</sup> *Ed. prin.*: -certur

<sup>b</sup> *Ed. prin.*: -stiosa

<sup>c</sup> *Ed. prin.*: at (*error for aut*)

<sup>d</sup> *Sc.* -ens

<sup>e</sup> *Ed. prin.*: huius

maleficium aut tollitur per alium maleficum simul et per aliud maleficium aut tollitur non quidem per maleficum sed per maleficiales ritus et illicitos, et hoc iterum dupliciter, quia vel per illicitos et vanos ritus insimul vel per vanos et non illicitos. Primum remedium est omnino illicitum, tam ex parte auctoris quam et ipsius remedij, sed tamen quia fit dupliciter, quia aut cum nocumento illius qui maleficium intulit aut sine nocumento, fit tamen per maleficiales ritus et illicitos, tunc comprehenditur sub secundo modo, videlicet vbi maleficium tollitur non per maleficum alium sed per maleficiales ritus et illicitos: tunc iterum illicitum iudicatur, licet non tantum sicut primum.

Vnde summarie dicere possumus quod per tria et tribus modis remedium redditur illicitum: quando videlicet tollitur per maleficum  
 154B alium et per maleficia alia, videlicet virtute demonis aliquius; secundo, quando non per maleficum sed honestam personam tollitur, sic tamen quod superstitiosis remedijs maleficium quod vni persone aufertur alteri infertur, et hoc iterum illicitum; tertio, quando aufertur sine eo quod alteri infertur, vtitur tamen demonum inuocatione expressa vel tacita, tunc iterum illicitum.<sup>a</sup> Et secundum hos modos dicitur a theologis quod potius mors sit preeligenda quam in talia consentire. Alijs vero duobus modis vtimis tollere maleficium potest esse vel licitum vel non vanum secundum canonistas, et quod tollerari possunt vbi remedia ecclesie prius attemptata, vt sunt exorcismi ecclesie, suffragia sanctorum implorata ac vera penitentia, nihil effecissent.

Et vt clarior habeatur intellectus de singulis, sit<sup>b</sup> aliqua gesta et acta per nos reperta recitanda. Roma<sup>c</sup> tempore Nicolai pape episcopus quidam ex Almanie partibus certa expediturus negocia aduenerat, cuius nomen occultare ordo charitatis postulat, licet iam vniuerse carnis debitum persoluerit. Hic quandam iuenculam adamando et ipsam ad suam diocesim destinare cum duobus famulis ac rebus alijs et clenodijs <cum>  
 154C disposuisset, | iuencula<sup>d</sup> auiditate feminea super clenodia, que preciosas erant, decepta modum excogitare cepit, vt ea in itinere existente episcopus maleficijs interiret. Jamque in sua habebat clenodia commissione, et ecce sequenti nocte episcopus subito infirmatur. Et ne fortassis veneno intoxicatus esset, a medicis percunctatur, et a famulis dolenter dubitatur. Tam ingens enim calor inerat pectori vt non nisi gargarismis per aquam frigidam continue haberet refocillari. Tertia igitur die, cum iam nulla spes vite haberetur, vetula quedam ingressum ad episcopum instanter petijt,

<sup>a</sup> *Ed. prin.*: -a

<sup>b</sup> *Sic ed. prin.*

<sup>c</sup> *Sc.* -am?

<sup>d</sup> *Ed. prin.*: -ā

et quod causa sue sanitatis aduenisset aperuit. Ingressa igitur episcopum alloquitur et sanitatem promittit dummodo suis acquiescere suasionibus velit. Episcopus vero quidnam foret cui acquisceret<sup>a</sup> pro recuperanda sanitate quam summe affectabat vbi inquit, vetula respondit: "Ecce! Hec infirmitas maleficio vobis accidit, et non nisi per aliud maleficium<sup>b</sup> liberari poteritis, vt videlicet ipsa malefica que vobis intulit moriatur et eadem vestra infirmitate inficiatur." Stupefactus episcopus et quod alio modo liberari non | posset vbi persensit, nil tamen temere volens 154D agere, papam consulere per supplicationem decreuit. At pontifex cum eum tenerrime diligebat et quod non nisi per mortem malefice liberari posset cum didicisset, annuit vt inter duo mala minus permitteretur et super hoc supplicationem signauit. Vnde denuo vetula accersita et <quod> tam ipse quam summus pontifex in mortem malefice consentirent, dummodo pristinae sanitati restitueretur, disseruit, sicque [quod] vetula abscessit et quod sequenti nocte liberaretur promisit. Et ecce circa medium noctis, vbi se sanum et ab omni infirmitate liberatum persensisset, nuncio misso <qui> quidnam de iuuencula foret perscrutatur, et ecce aderat qui ipsam circa medium noctis in latere matris dormientem infirmatam fuisse subito affirmabat.

Qua in re dabatur intelligi quod eadem hora et momento infirmitas episcopum relinquendo maleficam iuuenculam per aliam maleficam vetulam inuasit, et sic spiritus malignus a lesione episcopi cessando ipsum sanitati per accidens restituere videbatur, | cum tamen 155A proprie sanitatem non immittebat, quam tamen occupare deo permittebat poterat et propter pactum cum malefica altera vnitum, que fortune alterius inuidebat. Ipse demon magistram iuuenculam inficere habebat, et bene estimari potest illa duo maleficia non per vnum demonem duobus personis sed a duobus demonibus duabus maleficis seruientibus fuisse inflictas, nec in isto demones sibi inuicem contrariantur, cum semper in perditionem animarum, quam summe et concorditer affectant, singula operantur.

Episcopus denique cum pietatis causa ipsam visitare proponeret, cameram ingrediens horribilibus maledictionibus susceptus fuit, exclaimando:<sup>c</sup> "Tu cum tua que te talia docuit et te liberauit maledicamini in eternum!" Et episcopus emolire eius animum ad penitentiam et quod omnem offensam ei remisisset vbi tentabat, illa vultum auertendo clamabat: "Exeas, maledicte! Hic nulla spes venie sed animam meam omnibus demonibus commendo." Et miserabiliter interijt et episcopus cum

<sup>a</sup> *Ed. prim.*: -ere

<sup>b</sup> *Ed. prim.*: mallf-

<sup>c</sup> *Dangling gerund*

155B gaudio ad propria remeavit. Vbi etiam notandum quod quia priuilegium vnus non facit | legem communem, ideo dispensatio pape in hoc casu non arguit omnibus sic licere.

Ad idem refert Nider in suo *Formicario*. Dicit enim: Modus<sup>290</sup> tollendi maleficium aut se vindicandi in malefico: talis practicatur interdum modus. Venit enim aliquis lesus in se vel in suis ad maleficam, sciscitans<sup>a</sup> scire malefactorem: tunc malefica plumbum liquefactum aliquotiens fundebat in aquam, quousque opere demonis in plumbo imago aliqua videretur. Qua visa malefica quisiuit ab explorante: “In qua parte vis ledi maleficum tuum et in eodem vulnere eum agnoscere?” Cumque explorator locum eligeret, statim malefica in eadem parte imaginis que in plumbo relucebat fixuram vel vulnus per cultrum posuit et locum vbi reum inueniret indicauit, nomen tamen nullatenus manifestauit. Sed experientia teste maleficus per omnia ledi reperiebatur, sicut sua imago plumbea demonstrabat.<sup>291</sup>

155C Hec, inquam, remedia et similia vtique iudicantur illicita, quamuis humana fragilitas sub spe venie consequende a deo sepius his inuoluitur, plus estuans pro sanitate corporis quam | anime.

Secundum vero remedium: de ipsis maleficis maleficia dissoluentes<sup>b</sup> sub expresso pacto cum demone inito absque nocumento persone, et quidem de eis quid agendum sit et qualiter cognoscuntur infra in sedecimo modo sentiendiandi patebit. Hi<sup>c</sup> enim quam plures existunt et semper infra vnum aut duo miliaria teuthonica reperiuntur, in quo spacio quicquid alie malefice ledunt, hoc illi<sup>d</sup> curare videntur. Quas etiam curationes alique simpliciter quo ad omne tempus, alique vero tantum a proxima angaria lesos maleficijs curare se iactant, alique vero non nisi in consensu malefice que maleficium intulit curare possunt, et he notantur super expressum pactum cum demone initum propter hoc quod occulta manifestare solent illis qui causa sanitatis recuperande ipsas accedunt. Ipsis enim causas sue calamitatis subito manifestant, dicentes quod propter brigas et rixas cum vicina vel alia muliere aut viro habitas lesa fuerit in se vel in suis attinentibus. Que etiam ad occultandum sua flagitia 155D interdum peregrinationes seu alia pietatis opera iniungunt, quas | quidem accedere pro recuperanda sanitate tanto pernitiosius existit quanto pro

<sup>a</sup> *Ed. prin.*: scicc-

<sup>b</sup> *Sc.* -entibus

<sup>c</sup> *Sc.* -e

<sup>d</sup> *Sc.* -e

<sup>290</sup> *Start of Nider, Form. 5.4 (204B)*

<sup>291</sup> *End*

illis qui solum per pactum tacitum curare videntur in contumeliam fidei amplius delinquant. Hi enim dum ex vna parte sanitatem corporalem deo preponunt, ex altera parte sibiipsis in vindictam criminis vitam deo percutiente abbreviant. Sic enim in Saul diuina seuitio. Cum primo magos et ariolos abstulisset de terra, postea consuluit, vnde et in bello occisus cum filijs fuit (i *Regum* xxviii et culpa tangitur i *Paralipomenon* x). Propter hoc etiam Ochosias infirmus mori habuit (iii *Regum* i). Tales etiam visitatores maleficarum infames, vnde nec ad accusationem debent admitti (ij q. viii “Quisquis nec”); item tales secundum leges debent pena capitis plecti, vt in prima questione operis tactum est.

Sed – heu, domine deus! – cum omnia iudicia tua iusta sunt, quis liberabit pauperes maleficiatos et in continuis doloribus eiulantes peccatis nostris exigentibus? Inimicus nimis preualuit: vbi sunt qui licitis exorcismis illa opera diaboli dissoluere valeant? Hoc vnicum ergo superesse videtur remedium | vt iudices eorum insultus adminus refrenant, varijs 156A penis auctrices maleficas castigando, vnde et infirmis facultas visitandi maleficas amputabitur.

Sed – heu! – nemo percipit corde omnes que sua, non que Jesu Christi sunt querentes. Illa enim malefica in Richßhoffen, de qua supra mentio facta est, adeo assiduus frequentabatur pro recuperanda sanitate maleficiatis, quod comes castri thelonei lucrum habere voluit, ita quod quilibet maleficiatis in se vel in sibi attinentibus denarium vnum in introitu porte soluere habebat, vnde et magnum exinde se habuisse prouentum asseruit.

Teste etiam experientia didicimus plures tales per diocesim Constantiensem existere, non quod ipsa pre alijs diocesibus sit infecta, cum hoc genus infidie serpit per omnes dioceses et – heu! – totum mundum infecisse videtur, sed quia ipsa diocesis amplius elaborata fuit et quidam Hengst nomine repertus qui maiorem concursum et quotidianum a maleficiatis pauperculis habere cernitur. Quem etiam concursum sic oculis 156B nostris perspeximus in villa quadam<sup>a</sup> Eningen, | quod sine dubio ad quecunque loca beatissime virginis, siue Aquisgrani siue ad Heremitas, tantus pauperum concursus non existit sicut ad eundem superstitiosum hominem. Nam hiemali et frigidissimo tempore dum pre abundantia niuium omnis via regia et publica obstruitur, adhuc a circumiacentibus terris ad duo vel tria miliaria cum magnis hominum fatigationibus frequentatur, quibusdam remedia percipientibus, alijs vero minime, vt reor, quod non eque omnia maleficia dissolui propter varia, vt supra tactum

<sup>a</sup> Ed. prin.: que-

est, obstacula possunt, et hi quidem sub expressa demonum inuocatione maleficia dissoluentes quo ad secundum remedium illicitum, non tamen sicut primum.

Tertium vero remedium, quod quibusdam ceremonijs supersticiosi practicatur, non tamen in nocumentum alicuius persone aut per manifestos maleficos agitatur, experientia teste per hunc modum. In ciuitate Spirensi mercator quidam forensis hunc casum sibi accidisse proposuit. “In partibus,” inquit, “Sueuie in quodam castro nobilium  
 156C me degente quadam | die dum peracto prandio associatus duobus domicellis solacij causa super pratium incederem, quedam mulier obuiando dum a remotis adhuc incederet et a duobus domicellis agnita fuisset, vnus eorum ad me hec verba protulit: ‘Munias te cito signo crucis,’ et similiter ad idem alius ab alio latere hortabatur. At ego causam huius timoris inquirens,<sup>a</sup> responderunt: ‘En! Peijor malefica totius prouintie iam nobis obuiam dat. Ipsa enim solo visu maleficiare homines nouit.’ Tunc ego stomachando et nunquam tales timuisse me iactitabam, ecce vix verba compleui, et me grauiter in pede sinistro lesum persensi, ita vt sine graui dolore de loco figere pedem non potui aut gressum, vnde et alij concito e castro per nuncium mihi equum destinando ad illud reducunt. Doloribus autem per triduum augmentatis prefati incole, intelligentes maleficio me infectum, quendam rusticum ad spacium vnus miliaris accedunt et casum proponunt, quem nouerant per artem quandam<sup>b</sup> maleficia tollere. | Qui concito veniens et pedem prospiciens, ‘Si,’ inquit, ‘ex  
 156D <maleficio> vobis contigit aut naturali defectu, experimentum capiam, et si quidem ex maleficio accidit, cum dei adiutorio curabo. Sin<sup>c</sup> autem, remedijs naturalibus opus erit insistere.’ At ego: ‘Si absque superstitione et cum dei adiutorio curari potero, libens acceptabo, quoniam cum demone nihil commune habere volo, nec eius adiutorium affecto.’ Ad idem et ipse villanus respondit se non velle nisi licita remedia et cum dei adiutorio adhibere et curare, dummodo experientia didicisset hoc per maleficio mihi contigisse. Ad que duo assensi. Ille plumbum” – vt supra de alia malefica tactum est – “liquefactum in cocleari ferreo supra pedem tenuit, et in scutellam aqua plenam fudit, et subito diuersarum rerum species proruperunt ac si spine vel pili aut ossa et similia fuissent intromissa. ‘Jam,’ inquit, ‘video<sup>d</sup> quod infirmitas hec non ex  
 157A naturali defectu, sed maleficio vobis contigit.’ At ego quomodo talia ex |

<sup>a</sup> Sc. me . . . inquirente

<sup>b</sup> Ed. prin.: quen-

<sup>c</sup> Here = si non?

<sup>d</sup> Ed. prin.: vig-

plumbo liquefacto scire posset dum inquirerem, 'Ecce,' inquit, 'septem sunt metalla ex septem planetis, et quia Saturnus dominatur plumbo, eius proprietas est vt si plumbum super maleficium aliquod fusum fuerit, per suum influxum maleficium demonstrabit. Et bene,' inquit, 'actum est vt cito remedium adhibeatur, quia tot diebus vos visitare habeo quot sub maleficio stetitis, et interrogare quot dies elapsi fuissent.' 'Jam triduo,' fassus sum, vnde et ipse singulis diebus per triduum me visitando et pedem inspiciendo solum et tangendo et cuncta verba penes se ruminando integre sanitati fugato maleficio me restituit."

Hic certe modus actorem non monstrat maleficum, sicut modum superstitiosum. In eo enim quod dei adiutorio et non opere diaboli sanitatem promisit, et hoc quod Saturni influxum super plumbum tanquam ex eius dominio causatum allegauit, irreprehensibilis extitit et potius commendandus fuit. Sed qua virtute maleficium fugauit et species rerum in plumbo causauit, sub dubio relinquitur. Nam cum maleficium nulla virtute | naturali possit ammoueri, licet mitigare valeat, vt inferius 157B de obsessorum remedijs patebit, potius videtur quod per aliquod pactum adminus tacitum cum demone initum hoc practicauerit, et dicitur hic pactum tacitum quando adminus auctor tacite in assistentiam diaboli consentit, per quem modum innumera superstitiosa opera practicantur, licet differenter quo ad diuinam offensam, cum in vno opere maior sit creatoris offensa quam in altero. In eo enim quod de sanitate procuranda certus fuit et in eo quod tot diebus quot sub infirmitate extiterat ipsum visitare habuit nec aliquibus medicaminibus naturalibus <vsus> fuit, et tamen iuxta promissa egrotum sanitati restituit, non tam suspectus quam vt manifeste deprehensus adminus, licet non super expressum initum cum demone pactum, tamen super tacitum iudicatur, et tanquam pro conuincto haberi et penis adminus in secundo modo sentiendi infra contentis sed puniri debet cum abiuratione solenni nisi leges que in contrarium sentire videntur ipsum sustentarent, in quo casu quid ordinario | sit faciendum in solutione argumentorum patebit 157C postea.

Quartum vero remedium tollerandum et de quo canoniste adminus intendunt cum certis theologis dicitur vanum tantum et precise, puta quia solum superstitiosum et non sub aliquo pacto expresso vel tacito ex intentione et proposito practicantis operatum. Et dico "adminus" quia fortassis si velint etiam tertium remedium huic quarto adiungere, potius videtur nobis eorum assertioni cedere quam contentionibus deseruire. Et hoc quidem remedium vanum, superius exemplificatum de mulieribus que vrceolum supra ignem positum percutiunt in finem vt malefica que

vaccam vbertate lactis priuauit verberetur, licet fortassis talia in nomine diaboli facere habeant aut fortassis sine eius expressione.

Ad idem possunt et alia earum gesta adduci. Nam interdum vbi vaccas huiusmodi lesas ad pascua emittere volunt, explorare etiam ipsam maleficam nituntur: tunc bracam viri vel aliud immundum super caput  
157D aut dorsum vacce,<sup>a</sup> et hoc potius festiuis diebus et sacratoribus, ipsam vaccam cum baculo fortassis iterum sub tali, vt supra, expressione percutiundo expellunt, et tunc vacca recto tramite ad domum malefice properat et cornua in eius ostium viberat<sup>b</sup> cum magno eiulatu continue pulsando.

Et hec vtique diabolus in vacca operatur tamdiu quo per alia maleficia sedatur. Reuera etsi secundum prefatos doctores talia sint tolleranda, non tamen meritoria, vt quidam asserere conantur, existunt. Cum enim iuxta apostolum omnia que in verbo aut opere facimus in nomine domini nostri Jesu Christi facere precipimur, licet ibi non sit expressa demonis inuocatio, est<sup>c</sup> tamen eius nominis expressio, et iterum licet ibi non sit intentio per pactum aliquod tacitum vel expressum talia facere, quia fortassis dicit: “Volo hoc facere,” siue diabolus intromittat se siue non, ipsa temeritas qua diuinum timorem postponit deum offendit, vnde et diabolo potestatem talia faciendi permittit. Jnducendi ergo tales sunt ad  
158A penitentiam et hortandi vt | potius desistant et ad remedia infra scripta et superius etiam in parte tacta, per vsum videlicet aque benedictae et salis exorcizate etc., recurrant.

Simili modo iudicandum de illis quibus dum aliquod iumentum maleficio interimitur et explorare maleficum aut eciam si naturali defectu vel maleficio sit interemptum vbi nituntur, ad loca vbi cadauera bestiarum excorticantur properant<sup>d</sup> et intestina cadaueris super terram trahendo vsque ad domum deferunt. Non autem intra domum per hostium super sed sub limine domus ad coquinam trahunt et igne facto super cratem intestina ponunt, et tunc, vt ex relatu talia practicantium sepius informati sumus, sicut intestine<sup>e</sup> calefiunt et ardent, ita intestine malefice calore et doloribus crutiantur. Aduertunt ergo illi exploratores vt hostium domus optime sit obstrusum eo quod pre doloribus malefica ad introitum festinabit domus, et si quidem introitum habeat, carbonem de igne aufert et tunc omnis crutiatus effugatur. Repertum denique

<sup>a</sup> A verbal form meaning “placing” seems to have been omitted.

<sup>b</sup> So ed. prin. (presumably a conflation of *verberat* and *vibrat*)

<sup>c</sup> Ed. prin.: et

<sup>d</sup> Ed. prin.: -tant

<sup>e</sup> Apparently, this neut. pl. of classical Latin is treated as a fem. pl. (cf. *tela* in 147C).

sepius nouimus quod vbi inriotum habere non poterant, extunc densissimis tenebris domum intus | et extra vallabant, cum commotione 158B  
tam horribili et strepitu vt ex ruina domus omnes sic<sup>a</sup> tandem interire putarent nisi ostium aperiretur.

Ad idem etiam certa experimenta reducuntur. Nam certi volentes e multitudine mulierum in ecclesia existentium experiri maleficas, que etiam sine eorum consensu ecclesiam diuinis peractis exire non valeant, tali experimento insistunt. Nam die dominico sotularia iuuenum sungia seu pinguedine porci, vt moris est pro restauratione fieri, perungunt, et sic vbi ecclesiam intrant tandiu malefice exire ecclesiam non poterunt quo adusque exploratores aut exeunt aut illis licentiam sub expressione, vt supra, exeundi concedant. Simile fit etiam per certa verba que annotare non expedit, ne quis per diabolum seducatur. Nam nec iudices aut presidentes his infallibilem fidem aut opinionem accomodare debent nisi talis persona alias plurimum esset diffamata, cum sub tali pretextu ille mille artifex etiam innoxias infamare posset, vnde potius auertendi sunt homines a talibus experimentis et salutare penitentie iniungende, licet interdum tollerantur.

Per hec patet responsio | ad argumenta que concludunt maleficia non 158C  
esse tollenda, quia primis duobus modis omnino illicitum est tollere; tertium remedium secundum leges etsi tolleratur, tamen non paruam super hoc ecclesiasticus iudex debet habere aduertentiam. Nam quod leges videntur tollerare, patet C. "De maleficis," lege "Eorum," vbi sic habetur: "Alij autem qui faciunt id, ne labores hominum ventorum, grandinisque lapidatione sternuntur, non pena sed premio digni sunt." Et Antoninus<sup>b</sup> in *Summa* de legibus in quibus ius canonicum et ciuile discrepant hoc idem allegat. Ex quo videtur quod concedunt leges pro conseruatione frugum et iumentorum in omnem euentum posse certos homines talia practicantes non solum tollerare sed et premiare. Erit ergo ecclesiastici iudicis aduertere si tantummodo iuxta mentem legis contra grandines et aeris temperiem<sup>c</sup> modis congruis, vt inferius patebit, aut etiam quibusdam superstitiosis procedit, et tunc, dum inde nullum sequitur fidei scandalum, etiam tollerare. Sed reuera hoc non erit iuxta tertium sed quartum modum et quintum, de | quo consequenter trac- 158D  
tandum erit de ecclesiasticis et licitis remedijs, inferendo interdum de

<sup>a</sup> *Ed. prin.*: si

<sup>b</sup> *Ed. prin.*: -ius

<sup>c</sup> *So ed. prin.*: from the usage of both classical Latin and Aquinas, one would expect intem-, but cf. Hansen (1901) 120 l. 11. where the context indicates that aeris intemperies means "clement weather," which is the opposite of its classical meaning and implies that aeris temperies means "inclement weather" (perhaps this usage comes from a confusion with tempestas).

superstitiosis ad quartum modum pertinentibus, et hoc per capitula sequentia.

REMEDIIUM ECCLESIASTICUM CONTRA INCUBOS ET  
SUCCUBOS DEMONES

Capitulum Primum

QUIA VERO IN PRECEDENTIBUS capitulis prime questionis super modos maleficiandi homines, iumenta et terre fruges tacta sunt ante omnia ea que ipse malefice erga proprias personas practicant, qualiter videlicet innoxias iuuenulas in augmentum sue perfidie alliciunt, qualis etiam modus sit profitendi earum et omagii prestandi, qualiter etiam infantes proprios aut alienos demonibus offerunt et quomodo localiter transferantur: hec, inquam, et similia remediare quia non est possibile<sup>a</sup> nisi vt per suos iudices de medio tollantur aut adminus in exemplum  
159A omnium futurorum puniantur, | ideo de huiusmodi remedijs non ad presens sed in vltima parte operis, vbi viginti modi procedendi et sententiandi contra et super maleficarum personas deducuntur, tractabitur. Ad presens tantum super remedia contra earum maleficiales effectus tendere oportet, et primo qualiter homines maleficiati remediuntur, demum qualiter bestie et vltimo qualiter fruges terre conseruantur.

De hominibus vero maleficiatis quo ad incubos demones vel succubos, quia sunt in triplici genere, scilicet<sup>b</sup> earum que se voluntarie demonibus incubis subiiciunt, vt sunt malefice, quia de succubis quo ad viros non ita voluntarie practicatum reperitur, cum ex naturali vigore rationis quo viri mulieribus preeminet talia plus abhorrent; est et eorum qui a maleficis cum incubis aut succubis contra eorum voluntatem inuoluuntur; et est tertium genus, et hoc precipue virginum quarundam que contra earum omnino voluntatem ab incubis demonibus molestantur, de quibus etiam sepe presumitur quod a maleficis sic maleficiantur, puta quia demones  
159B ad instantiam maleficarum, sicut sepissime alias infirmitates immittere solent, ita et incubos illis personis se facere habent, vt vel sic eos<sup>c</sup> ad suam perfidiam allicere valeant.

Demus quedam exempla. Est in ciuitate Confluentia pauper quidam sic maleficiatus quod in presentia vxoris omnem actum venereum, prout viri cum mulieribus agere solent, etiam repetitis vicibus per se exercet, nec ab illis ad instantiam et eiulatum mulieris auerti potest, quia vno

<sup>a</sup> *Ed. prin.*: -ble

<sup>b</sup> *Ed. prin.*: ꝑꝛ (=*sed*) in place of ꝑꝛꝛ (=*scilicet*)

<sup>c</sup> *Sc. eas*

aut tribus actibus expletis verba replicat: "Volumus iterum de nouo et iterum de nouo inchoare," cum tamen nulla persona corporali visu cernatur ei succumbere. Sicque vt post diutinas huiusmodi vexationes pauper ille collisus in terram omnibus viribus destituitur, et dum post aliquarum virium recuperationem interrogatur quomodo et qualiter ista sibi contingant et anne personam succumbantem habuerit, respondere solet se nihil<sup>a</sup> videre sed ita mente captiuatum vt omnino abstinere non valeat. Et quidem super hoc maleficium mulier quedam plurimum habetur suspecta quod ei intulerit, eo quod illi pauperi minata fuerit per verba contumeliosa quod ipsum propter displicentiam sibi | factam expe- 159C  
dire vellet, sed legum et executores iustitie non assunt qui saltim super diffamam et grauem suspicionem in vindictam tanti criminis procederent, putantes neminem debere condemnari nisi qui confessione propria aut trium testium productione legitima conuincatur, quasi indicia facti aut euidentia super graues aut violentas suspensiones nullas mereantur penas. De quibus tamen modis sentiendi inferius, vt premissum est, patebit.

De secundo vero genere quo puelle ab incubis demonibus molestantur, etiam nostris temporibus referre nimis longum foret, cum historie certe de similibus existant referte, sed cum quanta difficultate talia remediari possint, patere potest ex his que Thomas Brabantinus circa finem operis sui *De Apibus* de quadam in hunc modum refert.<sup>292</sup> "Vidi," inquit, "et in confessione audiui virginem quandam in religioso habitu, que primo dixit se nunquam in concubitum consensisse, per hoc tamen dat intelligere se cognitam fuisse. At ego non credens artaui eam rationibus et duris comminationibus sub periculo anime sue: | tandem 159D  
cum lachrymis confessa est se prius corruptam mente quam corpore, et cum postea doleret quasi ad mortem et confiteretur omni die cum lachrymis, non potuit tamen ingenio, studio vel arte ab incubo demone liberari nec signo crucis nec aqua benedicta, que tamen specialiter ad fugandos demones ordinanatur, nec sacramento Christi corporis ipsis etiam angelis terrifico, donec post plures annos oratione et ieiunio pie Lugardis<sup>b</sup> fugaretur, et est credibile saluo meliori iudicio quod postquam

<sup>a</sup> *Ed. prin.*: mihi

<sup>b</sup> *Ed. prin.*: luc-

<sup>292</sup> *This story is paraphrased in Nider, Form. 5.10 (234D): Aliquando vero nullum predictorum remediorum iuuat vt demonis abscedat nequicia, vt in De Apibus circa finem ponit Thomas Brabantinus exemplum de quadam que incubum passa nullo confessionis remedio vel crucis aut huiusmodi applicatione liberabatur, licet eam vexationis sue satis nude confessa esset. The presence of circa finem in both Nider and the Malleus combined with the fact that the preceding and following sections of Nider are used in the Malleus suggests that Nider is the ultimate source, but the fuller original version has been substituted.*

de peccato suo dolens confitebatur, potius ei concubitus demonis pena culpe quam culpa fuit. Hec etiam cum in vigilia penthecosten<sup>a</sup> querelaretur apud Cristinam in valle ducisse Brabancie monialem deuorantem que mihi hoc retulit, quod non auderet communicare propter demonis importunam vexationem, conpatiens dixit ei Cristina, 'Vade. Quiesce secreta communicatura cras dominico corpore. Ego in me recipiam penam tuam.' Recedens illa gaudens dormit in pace; ad orationem de nocte surgit; mane cum omni tranquillitate sacramenta suscipit. Cristina autem susceptam in se penam non ponderans,<sup>b</sup> vespere quieti se dans  
 160A audit in stratu suo | quasi porcellum commouentem se et inquietius agitantem, nec suspicans demonem: arrepto colo fugare nititur quicquid esset. Decumbit iterum, sed pauida vexata surrexit, et hoc pluries: tandem sensit et vidit euersis fere straminibus quod demonis nequitia vexaretur. Dimisso ergo lecto noctem ducit insomnem, et orare volens demonis crutiabatur insultu et, vt dixi, nunquam talia passa fuerat. Vnde predictae mulieri mane, 'Renuncio,' inquit, 'renuncio pene tue. Vix sine vite discrimine violentiam tentatoris pessimi euasi.'" Qua ex re perpenditur difficile esse huiusmodi remediare, siue maleficio siue absque eo contingat.

Sunt tamen adhuc aliqua per que fortassis ipsi demones fugantur. De quibus et Nider in suo *Formicario*. Licet enim, vt ibi refert, quinque<sup>293</sup> modis valeant puella et viri liberari, videlicet per sacramentalem confessionem et sanctam exercitationem in crucis consignatione vel angelica<sup>c</sup> salutatione, tercio per exorcismorum applicationem, quarto per certi  
 160B loci mutationem, et per cautam sanctorum excommunicationem,<sup>294</sup> et ex premissis patuit quod prima duo moniali non profuerunt, non tamen propterea obmittenda sunt. Quod enim vni est remedium non propter hoc sequitur quod et alteri, ita et econuerso. Nam et incubos sepe per orationem dominicam aut aque aspersionem vel etiam per angelicam salutationem fuisse repulsos historie tradunt. Refert<sup>295</sup> enim Cesarius in

<sup>a</sup> So 110A; ed. prin.: penthecost

<sup>b</sup> Ed. prin.: -as

<sup>c</sup> Ed. prin.: au-

<sup>293</sup> *Start of Nider, Form. 5.10 (233D-234B), which begins: . . . per v modos quidam liberati reperiuntur, videlicet per exorcismorum applicationem, per sanctam exercitationem, per sacramentalem confessionem, per loci certi mutationem et per cautam sanctorum excommunicationem . . . De secundo (sanctis exercitijs, videlicet crucis consignatione vel angelica salutatione) refert Cesarius . . .*

<sup>294</sup> *Pause*

<sup>295</sup> *Resume (Nider begins: Refert Cesarius in suo Formicario quod in Bunna postquam sacerdos quidam se suspendit . . .)*

*Dialogo* suo quod sacerdos quidam postquam se suspenderat, eius concubina monasterium intrauit et per incubum ad luxuriam procata est. Quem tamen<sup>296</sup> per crucis consignationem repulit et per aque benedictae aspersionem, licet<sup>297</sup> statim postea redijt. Quando autem angelicam salutationem dicebat, longe velut sagitta disparuit et recessit, sed interdum redijt, licet prope accedere eam non auderet.

Item de tertio, videlicet per sacramentalem confessionem, patet per eundem Cesarium, qui dicit quod concubina antedicta cum iam confessa esset pure, in toto derelicta est ab incubo. Refert idem quod quidam vir in Leodio passus incubum confessione sacramentali finita totaliter liberatus est. Poneit insuper exemplum de quadam inclusa<sup>298</sup> 160C quam incubus nec<sup>299</sup> oratione nec confessione nec propter aliud spirituale exercitium reliquit, quando eius lectum ascenderet, sed cum ad informationem cuiusdam viri religiosi diceret: "Benedicte," statim eam demon reliquit.

De quarto vero, loci videlicet<sup>300</sup> mutatione, dicit qui prius quod filia cuiusdam sacerdotis stuprata per incubum et facta ex dolore frenetica trans Renumque elongata ab incubo dimissa est, sed pater eius quia a loco filiam deposuerat, a demone percussus est adeo vt moreretur in triduo. Fit et mentio<sup>301</sup> de quadam que per incubum crebro in lecto vexata proprio: consociam deuotam petijt vt loco vexate iaceret, quod cum fecisset, tota nocte quasdam inquietudines grauissimas sensit et prior tunc quieta fuit.<sup>302</sup>

Notatur<sup>303</sup> etiam a Guilhelmo quod incubi plus vexare videntur mulieres et puellas pulchros crines habentes ideo quia aut cure aut ornatui crinium nimium incumbunt huiusmodi aut quia per crines viros inflammare cupiunt vel consueuerunt aut quia in eis inaniter gloriantur aut 160D quia diuina bonitas hoc permittit vt terreantur mulieres viros inflammare per ea que etiam demones inflammari viros volunt.<sup>304</sup>

<sup>296</sup> *Not in Nider*

<sup>297</sup> *Nider: sed*

<sup>298</sup> *Nider: inclusa propter deum*

<sup>299</sup> *Nider: nec crucis signo nec oratione . . .*

<sup>300</sup> *For vero . . . videlicet Nider has: videlicet loci*

<sup>301</sup> *For Fit . . . mentio Nider has: Jn De Apibus prope finem sermo fit . . .*

<sup>302</sup> *End*

<sup>303</sup> *Start of adaptation of Nider. Form. 5.10 (233C):* Cum autem incubi amplius vexare reperiantur mulieres et etiam puellas pulchros crines habentes, respondit dominus Wilhelmus: "Non mihi alia causa occurrit nisi vna istarum: quia aut cure aut ornatui crinium nimium incumbunt huiusmodi, aut quia per crines viros inflammare cupiunt vel consueuerunt, aut quia in eis inaniter gloriantur, aut quia diuina bonitas hoc permittit vt terreantur mulieres inflammare viros per ea que etiam demones inflammare viros volunt."

<sup>304</sup> *End*

De<sup>305</sup> quinto (de excommunicatione que fortassis aliquando eadem est exorcisationi), patet in legenda sancti Bernardi. In Aquitania siquidem mulier ab incubo sex annis incredibili abusu<sup>a</sup> libidinis vexata audiuit sibi incubum ne ad virum sanctum qui venturus erat appropinquaret minantem: "Nihil," inquit, "tibi proficiet, sed eo recedente tuus crudelissimus ero persecutor, qui actenus<sup>b</sup> tuus amator extiti." Que cum virum sanctum Bernardum inuocaret, respondit: "Tolle meum baculum et lecto tuo infige, et faciat malignus quod potest." Hoc cum fecisset, demon cameram femine non est ausus intrare, sed foris minabatur atrocissime se eam velle persequi Bernardo recedente. Quo per feminam audito conuocat populum beatus Bernardus: omnes iubet accensas candelas gestare in manibus et demonem cum vniuerso qui aderat cetu excommunicauit ac ne ad illam | vel aliam deinceps accessum habeat interdixit. Et ita illa plane liberata est.<sup>306</sup>

Verum hic notandum quod potestas clauium concessa Petro et suis successoribus quia sonat super terram et tantum pro viatoribus, hec iurisdictionis potestas sit in remedium ecclesie concessa. Mirum videtur quod et aeree potestates hac<sup>c</sup> iurisdictione valent arceri, sed dici potest quod quia persone que a demonibus molestantur sunt sub iurisdictione pape et clauium, non mirum si per indirectum huiusmodi potestates vigore clauium arceantur, sicut etiam indirecte animas potestate clauium a penis purgatorij ignis absoluere potest, non obstante quod potestas illa sonat super terram et anime sint sub terra. De potestate etiam clauium concessa capiti ecclesie, scilicet vicario Christi, non est tutum disputare, cum notum sit quod tanta potestas sit a Christo ecclesie et eius vicario concessa quanta puro homini concedi a deo potuit, et hoc in vtilitatem ecclesie. Pie etiam estimari potest quod si egritudines a maleficis virtute demonum inflicte excommunicarentur cum ipsis maleficis aucatricibus et demonibus, non adeo in ipsos infirmos seuirent, et quod citius liberarentur adhibitis super hoc et alijs exorcismis licitis. In partibus denique Athisis vulgaris est narratio, simul et alijs in locis, quod dum diuina permissione locuste volantes cum ingenti multitudine, vinetas, frondes, segetes et cuncta virentia eradicarent, huiusmodi excommunicatione et maledictione fugate et subito interempte fuerunt. Quod si sanctificati viri quis ascribere velit et non virtuti clauium, sit in nomine domini: vnum pro certo habemus quod nec virtus miraculorum nec potestas

<sup>a</sup> *So Nider, ed. prin.:* ab vsu

<sup>b</sup> *Sc. h-*

<sup>c</sup> *Ed. prin.:* hec

<sup>305</sup> *Start of Nider, Form. 5.10 (234B-C)*

<sup>306</sup> *End*

clauium gratiam gratum facientem de necessitate presupponunt, cum vtrumque ex gratia gratis data procedat.

Est et iterum notandum quod vbi nullum predictorum remediorum iuuat, quod tunc ad exorcismos licitos sit recurrendum, de quibus inferius patebit; quod et si hi ad fugandum demonis nequiciam non sufficient, tunc<sup>307</sup> reuera talis vexatio demonis est pena pro peccatis satisfactoria, si, prout oportet, sustineatur in charitate, sicut et alia mala huius mundi que nos sic premunt | vt ad deum ire compellant.

161C

Verum etiam aduertendum quod interdum alique in veritate per incubum non vexantur, sed tantummodo ita se vexari putant, et hoc quod mulieribus precipue et non viris, cum alias sint timide et mirabilium formarum in imaginatione susceptiue. Vnde et Guilhelmus (sepe allegatus) "Multe," inquit, "de apparitionibus fantasticis ex morbo melancholico in multis fiunt, et<sup>308</sup> in mulieribus maxime, sicut apparet de visionibus et reuelationibus, et causa in hoc est, vt<sup>309</sup> norunt medici, ipsa natura muliebrium animarum, eo quod<sup>310</sup> longe facillioris et leuoris impressionis sunt quam anime viriles." Et subdit ibidem: "Scio me vidisse mulierem que credebat se cognosci ab intus a diabolo et alia incredibilia se sentire dicebat. Nonnunquam etiam impregnate sibi videntur mulieres ab incubis et intumescunt vehementer ventres earum, et cum partus tempus aduenerit, sola emissione multe ventositatis detumescunt.<sup>a</sup> Nam de ouis<sup>b</sup> formicarum in potu sumptis incredibiliem ventositatem et tumultum in ventre | generant hominis. Similiter de granis catapucie et de granis arboris que dicitur nigra pinus consimila in ventre fiunt. Facillimum est autem demoni similia et maiora in ventribus hominum procurare."<sup>311</sup>

161D

Hec addita sunt vt non facillime quis mulierculis fidem adhibeat, sed illis<sup>c</sup> dumtaxat super quibus experimenta fidem fecerunt, vt de illis

<sup>a</sup> So *Nider*, ed. prin.: -mut-

<sup>b</sup> Apparently the subject of the sentence (if mulieres is understood as the subject, hominis is pointless), in which case the construction is a Romance solecism (cf. French des oeufs as subject).

<sup>c</sup> Ed. prin.: iliis

<sup>307</sup> *Start of Nider*. Form. 5.10 (234D-235B). which begins: Tunc enim pena est vexatio demonis, et pro peccatis satisfactio, si, prout oportet, sustineatur in caritate, sicut alia mala huius mundi, que nos premunt, sed ad deum ire compellunt. (Piger): Cum femine sint timide et faciliter mirabilium formarum in ymaginacione susceptiue, nunquit contingit quibusdam ex eis quod in veritate per incubum non vexantur, sed tantummodo ita se vexari putant, sicut etiam quedam ex eadem radice false impregnatas esse putant per incubos, vt fertur, que tamen grauide non sunt? (Theologus): Vtrumque verum esse agnoscitur, vt dicit dominus Wilhelmus (vbi prius): "Multe . . ."

<sup>308</sup> *Nider*: sed

<sup>309</sup> *Nider*: propter eam quam

<sup>310</sup> *Nider*: ob hoc, videlicet quod

<sup>311</sup> *End*

que<sup>a</sup> didicerunt in proprijs lectis vel alio modo condormientibus per experientiam talia vera esse.

REMEDIA PRO ILLIS QUI CIRCA VIM GENERATIUM  
MALEFICIUNTUR

Capitulum Secundum

LICET MULIERES IN MAIORI numero sint malefice quam viri, vt in prima parte operis ostensum est, tamen viri plus maleficiuntur. Et huius ratio est quia cum deus<sup>312</sup> plus permittit super actum venereum per quem primum peccatum diffunditur quam super alios actus humanos, sicut et per serpentes qui magis incantationibus deseruiunt quam alia animalia,<sup>313</sup> eo quod diaboli primum instrumentum, et cum actus ille venereus plus  
162A et faciliori modo potest | maleficiari in viro quam in muliere: ideo.

Et quidem patet quod tactum est. Nam cum quinque modis demon in generatiuum potentiam potest agere et illi modi citius procurantur in viris, remedia adhibenda super vnum quemque modum iuxta possibilitatem sunt deducenda, et ille qui vitiatus est in tali potentia attendat, sub quo modo suum maleficium contineatur.

Sunt<sup>314</sup> autem quinque modi iuxta Petrum de Palude in suo *Quarto* (dis. xxxiiij, “In processu huius maleficij”). Nam demon ex hoc quod est spiritus habet potestatem super creaturam corporalem deo permitte[n]te, et ex conditione nature sue precipue ad motum localem, vt illum prohibeat vel vt promoueat, vnde per hanc potestatem potest<sup>b</sup> corpora viri et mulieris impedire ne sibi appropinquant, et hoc directe vel indirecte: directe quando vnum elongaret ab altero vel non sineret ad alterum

<sup>a</sup> Sc. illis de quibus

<sup>b</sup> So *Nider*; ed. prin.: pñt (=possunt)

<sup>312</sup> *Starts of Nider*, Form. 5.5 (211D).

<sup>313</sup> *End*

<sup>314</sup> *Starts of adaptation of Nider*, Form. 5.5 (211B–C): Per quem modum autem demon in potentiam ymaginatiuum, in fantasiam et in generatiuum possit agere ostendit Petrus de Palude in iiiij, dis. xxxiiij quinque modis. Habet enim ex hoc quod est spiritus potestatem super creaturam corporalem ad motum localem prohibendum vel faciendum, vnde potest corpora impedire ne sibi appropinquent vel directe vel indirecte, interponendo se in corpore assumpto, sicut cuidam iuueni pagano acciderat, qui idolum desponderat et nihilominus contraxerat cum quadam iuuenula, nec propter hoc poterat eam cognoscere; secundo modo hominem inflammare ad actum illum vel refrigerare ab actu illo, adhibendo occultas virtutes quas optime nouit ad hoc validas; tercio modo turbando estimacionem et ymaginacionem quam reddit mulierem exosam, quia potest in ymaginacionem imprimere; quarto reprimendo directe virgorem membri fructificationi accomodi, sicut et morum localem cuiuscumque organi; quinto prohibendo.

appropinquare; indirecte quando aliquod impedimentum procuraret vel quando se interponeret in corpore assumpto, sicut cuidam iuueni pagano acciderat, qui idolum desponsauerat et nihilominus contraxerat cum quadam iuuenula, nec propter hoc poterat eam cognoscere, 162B vt super patuit; secundo modo, vbi hominem inflammaret erga vnam et refrigeraret erga aliam, et hoc posset occulte procurare per applicationem quarundam herbarum aut aliarum rerum, quas optime nouit ad hoc validas; tertio modo, vbi estimationem viri aut mulieris turbaret, qua redderet vnam personam alteri exosam, quia, vt supra patuit in prima parte operis, potest in imaginationem imprimere; quarto modo, reprimendo vigorem membri qui ad fructificationem necessario requiritur, sicut et motum localem cuiuscunque organi reprimere potest; quinto, prohibendo missionem spirituum ad membra in quibus est virtus motiua, quasi intercludendo vias seminis ne ad vasa generationis descendat<sup>a</sup> vel ne ab illis vijs recedat vel ne excidatur vel emittatur.<sup>315</sup>

Quod si quis dicat: “Nescio sub quo modo maleficium<sup>b</sup> mihi illatum contineatur: vnum scio quod generatiua potentia erga vxorem meam careo,” responderi potest: si potens est ad alias mulieres, non autem ad propriam, tunc sub secundo modo, | quia de primo modo certificaretur 162C per succubum demonem, id est, quod per demones<sup>c</sup> incubos et succubos deluderetur. Si autem habet exosam et non potest agnoscere, tunc sub secundo et tertio modo continetur. Jtem si vxorem non habet exosam, et tamen non potest ipsam agnoscere sed bene alias, tunc iterum manet sub secundo modo. Jtem si non habet exosam, vellet autem cognoscere sed non habet vigorem membri, tunc sub quarto modo. Si vero habet vigorem membri sed non habet excisionem seminis, tunc quinto modo.

Modus ergo curandi patebit, vbi declaratur si equaliter in charitate et extra charitatem existentes his maleficari valeant. Et quidem quod non, dempto quarto modo, qui tamen etiam rarissime accidere potest ei<sup>d</sup> qui in gratia et caritate existit, sic declaratur (tamen lectori presupponitur quod loquimur de actu coniugali inter matrimonialiter coniunctos, quia alias implicaretur cum omnis actus venereus extra matrimonium est peccatum mortale et non nisi ab his qui extra charitatem existunt

<sup>a</sup> So *Nider*: ed. *prin.*: -ant

<sup>b</sup> *Ed. prin.*: -ciatum

<sup>c</sup> *Ed. prin.*: -ūes

<sup>d</sup> *Ed. prin.*: eī

<sup>315</sup> *End (Nider adds: vel alijs modis)*

162D exercetur). Nam cum asserere oporteat ex | totius scripture sacre tradi-  
tione quod demones<sup>316</sup> magis permittuntur a deo sevire in peccatores  
quam in iustos – licet legatur ipsum iustissimum Job fuisse percussum,  
hoc tamen non fuit singulariter super potentiam generatiuam nec etiam  
directe – ideo dicere oportet quod quibuscunque talia maleficia inter  
matrimonialiter coniunctos contingunt, signum est quod vel ambe per-  
sone vel altera extra charitatem existat.

Et quidem fundamentum huius ex scripturis deducitur auctoritate et  
ratione. Nam angelus dixit Thobie: “In illos qui libidini vacant accipit  
demonium potestatem”: effectus demonstrat, vbi septem viros virgi-  
nis Sare occiderat. Item Cassianus in *Collatione Patrum*: “Diffinit beatus  
Antonius nullatenus posse demonem mentem cuiusque vel corpus in-  
uadere nisi eam prius destituerit omnibus cogitationibus sanctis ac spir-  
ituale contemplatione vacuam nudamque reddiderit.” Hec verba vtique  
applicari possunt super maleficium corporis vniuersaliter super totum  
corpus, cum Job tali maleficio<sup>a</sup> percussus non tamen nudus a diuina  
163A gratia fuit, sed particulariter, quando videlicet particulare maleficium  
ratione alicuius peccati accidit corpori, et hoc quidem non potest esse  
nisi peccatum incontinentie.<sup>317</sup>

Ratio. Nam, vt dictum est, propter feditatem illius actus, et quia per<sup>318</sup>  
ipsum primum peccatum diffunditur, deus plus permittit super ipsum  
quam super alios humanos actus:<sup>319</sup> ergo et inter matrimonialiter con-  
iunctos, vbi diuino auxilio propter peccatum destituuntur, amplius circa  
illam vim generatiuam maleficiari a deo permittuntur. Quod si queri-  
tur, cuiusmodi sint illa peccata, dici potest quod peccata incontinentie

<sup>a</sup> *Ed. prin.*: mali-

<sup>316</sup> *Start of adaptation of Nider, Form. 5.5 (212A–B)*: Ideo vir sepius maleficiatur quam mulier, et magis permittit deus in peccatores deseuire demones quam in iustos, vnde angelus dixit Thobie: “In illos qui libidini vacant accipit demonium potestatem, licet aliquando in iustos,” sicut in Job, propter quod debent facere confessionem et huiusmodi, ne ferro manente in vulnere frustra sit malagina apponere. (Piger): Mihi adhuc occurrit de visco carnalis amoris dubium, vtrum in caritate existentes amore tali maleficiari valeant. (Theologus): Responsum huius accipe ex Cassiani verbis, quibus (Collatione ii Abba. Sereni) in hec verba concludit: “Diffinit,” inquit, “beatus Anthonius nullatenus demonem posse mentem cuiusquam vel corpus inuadere nec habere facultatem in cuiuslibet animam penitus irruendi nisi eam primo destituerit omnibus cogitationibus sanctis ac spiritali contemplatione vacuam nudamque reddiderit.” Non tamen ista ita intellige, vt demones amore prefato in caritate existentes non inpuignent et similibus, sed tales expugnare non valent.

<sup>317</sup> *End*

<sup>318</sup> *Start of adaptation of Nider, Form. 5.5 (211D)*: Plus autem permittit deus super hunc actum per quem primum peccatum diffunditur quam super alios actus humanos . . .

<sup>319</sup> *End*

que inter coniunctos<sup>a</sup> <sunt> cum varia sint iuxta illud Jeronimi (et habetur in textu: "Adulter est in propriam amator ardentior"), simul et huiusmodi amatores amplius in predictis maleficiuntur, remedia ergo ecclesiastica sunt duplicia: vnum in foro contentioso, alterum in foro conscientie practicatur.

Primum. Si in iudicio allegatur impotentia ex maleficio illata, tunc distinguendum est quia talis impotentia aut est temporalis aut perpetua: si temporalis, non impedit; tunc autem presumitur esse temporalis, quando infra spacium trium |annorum<sup>b</sup> cohabitantes et quantum pos-  
163B  
sunt operam dantes, siue per ecclesiastica sacramenta siue per alia remedia, sanari possunt. Si vero non sanentur aliquo remedio, extunc presumitur esse perpetua. Item aut precedit matrimonij contractionem et consummationem, et sic impedit contrahendum et dirimit iam contractum, aut sequitur matrimonij contractionem sed non consummationem, et est communis modus maleficiandi viros quando spernunt amasias. Tunc enim quia sperabant se matrimonialiter copulari et defraudantur, inferunt maleficia viris, vt nec alijs commiseri valeant. In tali enim casu, vt dicunt aliqui, dirimit matrimonium iam contractum nisi sub continentia cohabitare velint, vt Maria et Joseph, et habent pro se canonem. Dicitur enim (xxxij q. i) quod coniugium confirmatur officio, scilicet carnis, vt dicit glosa. Et parum<sup>c</sup> post dicitur quod antequam confirmetur, impossibilitas officij soluit vinculum coniugij aut sequitur matrimonium consummatum,<sup>d</sup> et tunc vinculum matrimoniale non dirimit.

Plura alia a doctoribus notantur, sed quia non precise sunt presentis  
163C  
speculationis, notantur autem in varijs scriptis doctorum, vbi de maleficali impedimento tractant, ideo hic est supersedendum. Tantummodo si quis difficultaret, quomodo actus ille possit impediri respectu illius mulieris et non respectu alterius, respondit Bonaventura: "Hoc est vel quia sortilegus ad hoc respectu persone determinate diabolum inuitauit, vel quia deus respectu persone cuiuslibet impedire non permittit. Occultum enim iudicium dei hic latet, vt in vxore Thobie." Qualiter autem diabolum hoc facere possit, patet ex premissis: dicit tamen hic Bonaventura quod impedit generatiuam, non impedimento intrinseco ledendo organum, sed extrinseco impediendo vsum, et est impedimentum

<sup>a</sup> *Ed. prin.*: cognatos (cf. 164C; the confusion may have been aided by the identical pronunciation of ni and gn as "ny".)

<sup>b</sup> *Ed. prin.*: annn-

<sup>c</sup> *Ed. prin.*: parū (fōr paruo ?)

<sup>d</sup> *Ed. prin.*: -suma-

artificiale, non naturale, et ita potest impedire ad vnam et non ad alias, vel tollendo excitationem concupiescentie ad illam vel aliam, et hoc per virtutem propriam vel per herbam vel per lapidem vel per aliquam naturam occultam, et satis concordat cum dictis Petri.

163D Remedium vero ecclesiasticum in foro conscientie traditur xxxij | q. viij “Si per sortiaras,” vbi sic dicitur: “Si per sortiaras atque maleficas artes nonnunquam occulto iusto dei iudicio permittente et diabolo preparante concubitus <non><sup>a</sup> sequitur, hortandi sunt quibus ista eueniunt vt corde contrito et spiritu humiliato deo et sacerdoti de omnibus peccatis suis puram confessionem faciant et profusis lachrymis et largioribus elemosinis et orationibus atque ieiunijs domino satisfaciant.” Jn quibus verbis notatur quod tantummodo propter peccata et extra charitatem existentibus talia contingunt. Sequitur: “Et per exorcismos ac cetera ecclesiastice medicine munimina ministri ecclesie tales, quantum annuerit dominus, qui Abymelech et domum eius Abrahe orationibus sanauit, sanare procurent.”

Vnde summarie dicere possumus quod quinque sunt remedia que talibus sic maleficiatis licite applicari possunt, videlicet <ad> sanctorum aliquorum limina peregrinatio; et ibidem peccatorum suorum cum contritione vera confessio; signi crucis et orationis deuote multiplicatio; per 164A verba sobria licita exorcizatio<sup>b</sup> (que qualiter fieri debet | inferius patebit); et cauta maleficij ablatio<sup>c</sup> (facit ad hoc quod supra de comite tactum est, qui cum<sup>d</sup> per triennium sibi matrimonialiter copulatam virginem cognoscere non potuisset).

#### REMEDIA CONTRA MALEFICIATOS SUPER AMOREM VEL ODIUM INORDINATUM

##### Capitulum Tertium

SICUT MALEFICIUM IN POTENTIA generatiua, ita philocaptio et odium in voluntate causantur: expedit primo de eius causa, et tandem quantum possibile est de eius remedijs transcurrere.

<sup>a</sup> Confusion caused by the double negative of this clause led to various attempts to correct the sense in MSS of the Decretum. The text used here may well have lacked non, but the clause is gibberish without it.

<sup>b</sup> Ed. prin.: exoraizatio

<sup>c</sup> Ed. prin.: ob-

<sup>d</sup> Grammatically unnecessary as the sentence stands, but apparently cum generated the subj. potuisset, and a corresponding main clause has been inadvertently omitted.

Philocaptio<sup>320</sup> igitur seu amor inordinatus vnus sexus ad alterum triplici ex causa oriri potest: aliquando ex sola incautela oculorum; aliquando ex tentatione demonum solum; aliquando ex maleficio nigromanticorum et maleficarum simul et demonum.

De primo dicitur (*Jacobi* i): "Vnus quisque tentatur a concupiscentia sua abstractus et illectus; deinde concupiscentia cum conceperit, parit peccatum; peccatum vero cum consummatum fuerit, generat mortem." Sic Sichem cum vidisset Dinam exeuntem ad videndum mulieres regilonis illius, admauit eam et rapuit et dormiuit cum illa et 164B  
conglutinata est anima eius cum ea" (*Genesis* xxxiii) secundum glosam: "Infirmis anime sic accidit quando postpositis proprijs aliena negocia curat, seducitur consuetudine, et fit vna vnitate consensus cum illicitis."

De secundo, quod oriatur ex tentatione demonum principaliter. Sic Aman sororem Thamar speciosissimam admauerat et deperierat in ea valde, ita vt propter amorem eius egrotaret (*ij Regum* xiiij). Non enim in toto tam corruptus esse potuit<sup>321</sup> mente vt in tantum facinus stupri prosileret si non grauitur a diabolo tentatus fuisset.<sup>322</sup> De hoc etiam genere amoris refertur est *Liber Sanctorum Patrum*, qui refert omnem tentationem carnalis amoris sibi in heremis substraxisse quosdam, qui tamen vltra quam credi potest amore mulierum tentabantur aliquotiens. Vnde et (*ij Corinthiorum* xi) apostolus dicit: "Datus est mihi stimulus carnis mee angelus Sathane, qui me colaphiset," vbi glosa: "Tentando per libidinem datus est mihi stimulus," aiunt quidam.<sup>323</sup> Tentatio autem cui non consentitur non est peccatum, sed materia exercende virtutis." 164C  
Hoc intelligitur de tentatione que ab hoste, non a carne, que peccatum est veniale etiam si ei non consentiatur. De his varia exempla leguntur in varijs locis.<sup>324</sup>

De tertio, quod amor hereos<sup>325</sup> proueniat ex maleficijs demonum et maleficarum,<sup>326. 327</sup> possibilitas huius maleficijs supra in questionibus prime partis ("an demones per maleficas mentes hominum ad amorem vel odium immutare et incitare valeant") ad longum deducitur: per varia

<sup>320</sup> *Start of Nider, Form. 5.5 (210C-211A), which begins: De philocaptione seu amore inordinatus vnus sexus ad alterum scire debes quod ex triplice causa oriri potest. Aliquando ex sola . . .*

<sup>321</sup> *Nider: videretur*

<sup>322</sup> *Here a quotation from a gloss in Nider is omitted.*

<sup>323</sup> *Nider: vt quidam aiunt.*

<sup>324</sup> *Nider: Et de amore habes exemplum etiam in Formicarij nostri lib. i.*

<sup>325</sup> *Nider: illicitus*

<sup>326</sup> *Nider: ydolatrarum*

<sup>327</sup> *End*

etiam gesta et acta a nobis reperta comprobatur, imo inter omnia maleficia nimium<sup>a</sup> propter sui generalitatem reputatur.

Quod si queritur: “Petrus philocaptus amore talis etc.: nescitur an primo, secundo aut tertio modo,” respondetur: odium inter coniugatos cum crimine adulterij etsi operatione demonum fieri possit, vbi tamen fisco<sup>b</sup> carnalis [concupiscentie]<sup>c</sup> amoris quis adeo inuoluitur et succenditur<sup>328</sup> vt nulla confusione, plagis, verbis aut factis ad destitendum cogi valeat;<sup>329</sup> item vbi quis sepe pulcriorem dimittit vxorem et turpissime adheret; item vbi nocturno tempore nec quiescere valent, | sed ita dementantur vt per deua queque incedere habeant (optimates, prelati et alij diuites sepissime his miserijs inuoluntur). Est quidem hoc tempus muliebre de quo Hildegardus,<sup>d</sup> vt Vincentius in *Speculo Historie* refert, predixit quod non tamdiu durabit quantum hucusque perstitit,<sup>330</sup> cum iam mundus plenus sit adulterij, precipue in optimatibus. Et quod opus scribere de remedijs qui remedia abhorrent! – tamen vt pio lectori satisfiat, aliqua breuiter tangamus.

Super philocaptionem sine maleficio. Avicenna septem remedia ponit, quando videlicet personam egrotare facit, sed parum ista nostre speculationi nisi quantum mistice anime languenti deseruiunt. Dicit<sup>331</sup> enim (libro iij) quod ex variatione pulsus et<sup>e</sup> ad nominationem amati, cum ibi radix egrotationis habetur, tunc si lex sustinet, fiat copula per matrimonium, quia sic sanantur cum obeditur nature; aut fiat applicatio medicinalium, de quibus ibidem tractat et docet; aut vt egrotus amorem suum de dilecto per licita remedia ad aliud diligendum conuertat, quod

<sup>a</sup> *Early mod. emendation; ed. prin.:* minimum

<sup>b</sup> Sc. v-

<sup>c</sup> *The phrase viscus carnalis amoris appears in Nider, so concupiscentia is presumably some sort of gloss that has been mistakenly inserted into the adaptation of the phrase.*

<sup>d</sup> Sc. -is

<sup>e</sup> *Not in Nider and obstructive of the sense*

<sup>328</sup> *Start of adaptation of Nider, Form. 5.5 (210A):* Multos audiui . . . adeo succendi vt . . . valent.

<sup>329</sup> *End*

<sup>330</sup> *Quotation of Vincent of Beauvais, Speculum Historie 31.108*

<sup>331</sup> *Start of adaptation of Nider, Form. 5.6 (216A–C):* Tradit enim Avicenna septem remedia inter cetera (li. iij). Vnum est agnoscere personam in qua captus est, quod experitur aliquis ex fassione infirmi vel ex variacione pulsus ad nominationem amati, quia sic radix egrotationis habetur . . . Aliud est copula per matrimonium si lex sustinet, quia ita quidam sanantur cum obeditur nature. Tertium est applicacio medicinalium, de quo ibidem tractat et docet. Quartum est vt amorem suum de dilecto per licita remedia ad aliud diligendum conuertat quod priori preeligere debet, et ita fugere presentiam amati, quia sic distrahitur animus. Quintum: si ille rationabilis est, corrigatur, hortetur et tribuletur, et amoris opus ostendatur esse miseria. Sextum est vt potissimum vetule ad ipsum dirigantur, qui quantum cum veritate et deo possunt vituperent corpus et dispositionem dilecti et mores cum transfiguratione facierum turpi seu deformi . . . Septimum est vt occupetur in rebus arduis, distractiujs officijs, et huiusmodi.

priori preeligere debet, et ita fugere presentiam amati, quia | sic dis- 165A  
trahitur animus; aut etiam si corrigibilis est, tribuletur, hortetur, quod  
opus amoris est maxima miseria; vel dirigantur ad ipsum qui quantum  
cum veritate et deo possunt vituperent<sup>a</sup> corpus et dispositionem dilecti  
et mores cum transfiguratione facierum turpi seu difformi; vel saltim  
ultimo vt occupentur in rebus arduis et distracciuis officijs.<sup>332</sup>

Reuera sicut animalis homo per huiusmodi remedia sanatur, ita ad  
spirituale singula capiendo interiorem hominem reformant: obediatur  
legi mentis potius quam nature; conuertit<sup>b</sup> amorem suum ad eternas  
delitias; recordetur quam momentaneum sit quod delectat et eternum  
quod cruiat; querat delitias in illa vita vbi sic inchoantur quod nunquam  
finiuntur, cuius qui amator esse noluerit, et istam perdet et illam non  
inueniet et eternis ignibus deputabitur. Ecce tria damna irrecuperabilia  
ex amore hereos prouenientia!

Super philocaptionem vero ex maleficio. Remedia in precedenti capi-  
tulo tacta non inconuenienter et hic applicari possunt, precipue autem  
exorcisatio per sacra verba quam sibiipsi | facere taliter maleficiatus potest: 165B  
quotidie angelum sanctum sibi ad custodiam a deo deputatum inuocet,  
pura confessione sanctorum limina, precipue autem beatissime virginis,  
frequentet, et sine dubio liberabitur. Sed quam vituperabile vt barbati  
homines donis naturalibus et virtutum armis abiectis seipsos tueri ren-  
nuunt<sup>c</sup> cum puellule sepissime inuicta infirmitate huiusmodi maleficia  
his armis propulerunt! Jn quarum commendationem vnum e multis in  
medium producamus.

Fuit in rurali villa quadam prope Lindawe Constansiensis diocesis  
virgo adulta facie pulcra et elegantior moribus: in huius aspectu captus  
quidam vir leuis moribus, clericus ferre<sup>d</sup> solo nomine – vtinam non sa-  
cerdos!<sup>e</sup> – qui vulnus sue mentis vltra celare non valens, venit ad laborato-  
rium dicte virginis et honestis verbis se rethe demonis exhibens primum,  
tandem ad amorem sui virginis ausus est verbis dumtaxat prouocare ani-  
mum, quod illa diuino instinctu percipiens intacta mente et corpore 165C  
respondit viriliter: “Domine, cum verbis talibus domum meam nolite  
frequentare: alioquin repulsam<sup>f</sup> sustinebitis, verecundia mediante.” Cui

<sup>a</sup> *So Nider; ed. prin.: -et*

<sup>b</sup> *Sc. -at*

<sup>c</sup> *Sc. renuunt*

<sup>d</sup> *Presumably fer|re=fere*

<sup>e</sup> *Ed. prin.: se-*

<sup>f</sup> *Ed. prin.: -pulam*

ille: “Etsi me diligere modo rennuis<sup>a</sup> verbis dulcibus monita, non post modicum coacta operibus me amabis, tibi promitto.” Erat vir ille suspectus incantator et de maleficio, sed verba hec virgo pro vento habuit nec scintillam amoris carnalis ad virum in se sensit protunc, sed euoluto non multo tempore imaginationes amorosas de viro illo cepit habere. Quod illa percipiens diuinitus inspirata ad matrem misericordie confugit et pro auxilio a filio impetrando deuotissime implorauit: et statim honestam societatem requirens peregrinari cepit ad locum heremitarum – sic enim nominatur ecclesia in honore ipsius genetricis miraculose consecrata in prefata diocesi – in qua sacramentaliter confessa, ne in ea aliquid inuenire posset malignus spiritus, et ad ipsam matrem pietatis precibus fuis protinus omnis cessauit hostis machinatio, ita vt eam post modum nunquam tangeret.

165D Supersunt tamen adhuc et barbati viri a maleficis mulierculis impertune super huiusmodi sollicitati, quasi nequaquam a philocaptione earum se contineri possent, qui tamen viriliter resistentes, quantum se vltro pulsari<sup>b</sup> illecebris imaginationibus<sup>c</sup> sentirent, tantum etiam per presidia premissa cuncta machinamenta diaboli superant.

Et vere speculum huius pugne: quidam iuuenis prediues in oppido Ysbruck, qui quantum a maleficis pulsatus fuit nec calamo exarari quis posset, semper virilem animum gerens per prefata remedia intactus euasit. Quare et merito concluditur prefata remedia contra huiusmodi morbum esse certissima, ita quod certissime ita liberantur quicumque his armis vtuntur.

Et quod de amore inordinato, hoc et de odio, cum oppositorum eadem sit disciplina, intelligendum est, licet aliqualis in modo maleficiandi cum sit differentia, etiam aliud remedium illa persona que odio habetur requirere debet. Ipse enim qui odio habet et in corde defert non de facili, si adulter est, ad amorem vxoris etiam per quascunque peregrinationes flectitur.

166A Et quia relatu maleficarum compertum est quod per serpentes huiusmodi maleficia | ad odium procurantur, eo quod dum primum instrumentum erat diaboli et in sui maledictionem recepit inimicitiam inter ipsum et mulierem, ideo et tales inimicitias ex ipsis procurare satagunt, ponendo pellem aut caput serpentis sub limine hostij camere aut domus, vnde et omnes anguli domus sunt perquirendi et innouandi quo ad inhabitationes quantum possibile est, vel alienas inhabitare domos.

<sup>a</sup> Sc. renuis

<sup>b</sup> Ed. *prin.*: -are

<sup>c</sup> Sc. -is?

Et quidem cum dictum sit quod seipsos maleficiati exorcizare valeant, intelligitur quod verba sacra, benedictiones et carmina secum deferre in collo poterunt, si quidem legere aut seipsos benedicere nescirent, que tamen qualiter facienda sint, in sequentibus patebit.

REMEDIA SUPER EOS QUIBUS VIRILIA MEMBRA  
PRESTIGIOSA ARTE AUFERUNTUR ET VBI INTERDUM IN  
BESTIALES FORMAS HOMINES TRANSMUTANTUR

Capitulum Quartum

SUPER EOS QUI PRESTIGIOSA arte illuduntur vt se virili membro carere aut in bestiales formas transmutatos esse putant: quibus | remedijs <sup>166B</sup> subleuari valeant, ex premissis satis euidenter elicitur. Nam cum tales omnino diuina gratia destituuntur, quod principium in maleficiatis existit fundamentum, non est possibile vt ferro manente in vulnere<sup>333</sup> emplastrum curatiuum apponatur: expedit ergo vt per veram confessionem deo ante omnia reconcilietur.

Demum quia, vt supra in secunda parte operis capitulo septimo tactum est, talia membra nunquam in veritate euelli aut segregari a corporalibus sed tantummodo prestigiosa arte occultari ad sensum tactus et visus, patuit etiam quod huiusmodi illusiones in gratia constitutis non ita faciliter nec actiue nec passiuè contingunt, vt videlicet eis membra auferantur aut quod in eorum visiuà potentia, quasi alijs sint ablata, deludantur, ideo et remedium in eodem capitulo expremitur cum ipso morbo, vt videlicet, quantum possibile sit, cum ipsa malefica amice se componant.

Super eos denique qui in bestiales formas se transmutatos esse putant, sciendum quod hoc genus maleficij non ita in occidentalibus sicut orientalibus regnis practicatur. (Intellige quo ad secundas personas, licet quo ad proprias maleficarum personas hoc sepius apud nos visum fuerit, ipsas <sup>166C</sup> videlicet maleficas in effigijs animalium oculis intuentium se obiecisset, vt supra capitulo octauo deductum, quare et remedia que in tertia parte operis deducuntur, super exterminium videlicet maleficarum per secularè brachium, forent applicanda.)

Et quidem quomodo orientales huiusmodi illusiones remediare solent, sic deducitur. Nam ex militaribus fratribus ordinis sancti Johannis Hierosolimitani in Rhodis veridica relatione plura de his percepimus, precipue autem quod in ciuitate Salamina regni Cypri talis casus accidit.

<sup>333</sup> ferro . . . in vulnere *is from Nider, Form. 5.5 (212A)*

Nam cum ibi portus sit maris et nauis quedam onusta mercimonij applicando<sup>a</sup> peregrinis nauim exeuntibus, vt quisque victualibus se muniret, iuuenis quidam ex eis robustus domum cuiusdam mulieris extra ciuitatem super litus maris situatam accessit et an oua haberet ad vendendum a muliere scissatur.<sup>b</sup> At mulier cernens iuuenem robustum forensem et alienum a patria, vnde minor de eo suspitio apud intraneos super eius 166D perdicionem oriri posset, “Exspecta,” inquit, “paululum et iuxta | optata singula recipies,” et dum moram faceret clausa in interiori parte domus, iuuenis ab extra, vt eum quamtotius expediret, ne nauem eum negligere contingeret, clamare cepit. Tunc mulier aliqua oua attulit, iuueni tradidit, et in casu quo nauem neglexisset et<sup>c</sup> ad eam rediret sibi iniunxit. Veloci igitur cursu ad nauem que in littore maris erat properauit, et ante ingressum, eo quod necdum alij socij omnes conuenerant, oua comedere et seipsum reficere studuit: et ecce post horam mutus effectus et quasi mente destitutus, vt post ipse referre solitus erat de seipso, ammirans quidnam sibi accidisset, conicere non poterat. Volens ergo nauim intrare ab immorantibus baculis verberatus repellitur, cunctis acclamantibus: “Ecce, ecce! Quidnam in asino? Maledicaris, bestia! Num et tu nauim intrabis?” Repulsus sic iuuenis et verba illorum qui ipsum asinum affirmabant intelligens, apud se ruminabat et quod maleficio<sup>d</sup> mulieris infectus esset cogitare cepit, precipue in eo quod nullum verbum formare poterat, cum tamen ipse omnes intelligebat. Et dum rursus nauim 167A ascendere tentaret, | grauioribus cesus verberibus, ipsum amaro corde remanere et recessum nauis conspicere opus erat. Huc illucque discurrens, cum omnes ipsum asinum estimabant, necesse erat vt tanquam bestia ab omnibus tractaretur. Compulsus igitur ad domum mulieris redijt, cui ad placitum pro conseruatione vite sue vltra triennium seruiuit, nil operis faciens manibus nisi necessaria domus in lignis et pladis<sup>e</sup> apportans, etiam que exportanda erant tanquam iumentum deportabat, hoc consolationis relicto vt licet ab omnibus alijs iumentum reputaretur, ab ipsis tamen maleficis coniunctim vel diuisim morantibus vt verus homo humanitus conuersando in incessu, statu et habitu agnoscebatur.

Quod si queritur quomodo onera sibi tanquam iumento imponebantur, dicendum quod sicut Augustinus narrat de mulieribus stabularijs que hospites conuertebant in iumenta onera portantia (li. xvij c. xvij, *De Ciuitate Dei*) et de patre Prestantij, qui se caballum seu equum

<sup>a</sup> Sc. naue . . . applicante

<sup>b</sup> Sc. scisc-

<sup>c</sup> Unnecessary

<sup>d</sup> Ed. prin.: -in

<sup>e</sup> Sc. b-

fuisse et annonam cum alijs animalibus baiulasse narravit, vtique ex illis actis de presenti iudicamus, ita quod triplex deceptio prestigiosa arte fiebat: prima quo ad homines iuuenem non vt hominem sed vt asinum 167B intuentes, quod qualiter demones faciliter procurare possunt, supra (viiij capitulo) patuit; secunda, quod illa onera non fuerunt illusoria, sed vbi vires iuuenis excedebant, demon inuisibiliter deferebat; tertia,<sup>2</sup> quod sibiipso dum inter alios conuersabatur iuuenis etiam iumentum videbatur, in imaginatione dumtaxat et estimatiua potentia, que sunt affixe organis corporalibus, non autem in ratione, que non a deo erat ligata quin se hominem sciebat, sed arte magica delusum, vt tanquam bestia estimaretur, sicut et de Nabuchodonosor ibidem explicatur.

Triennio igitur sic elapso in quarto dum quodam die ante meridiem ciuitatem prefatam intrasset et mulier a longe sequeretur, contigit quandam ecclesiam, in qua diuina celebrabantur, iuuenem sic maleficiatum preterire: audiens nolam campane, cum more Latinorum et non Grecorum in illo regno diuina peraguntur, pro eleuatione corporis Christi ad ecclesiam se conuertit, et intrare dum propter verbera et expulsionem non auderet, a foris genua et crura posteriora in terram fixit et anteriores pedes, id est, manus, simul iunctas eleuans, ex capite asinino, vt 167C putabatur, sacramentum in eleuatione intuetur. Quod prodigium dum certi Januenses mercatores conspexissent mirantes, asinum sequuntur et inter se de miro opere conferentes: ecce malefica cum baculo asinum insequitur, et quia, vt premissum est, huiusmodi maleficia illis in partibus plurimum practicantur, ad instantiam mercatorum per iudicem asinus cum malefica capitur. Interrogata et questionibus exposita crimen fatetur et, vt ad domum redire valeat, iuuenem restituere sue forme promisit. Dimissa igitur ad domum regressa, iuuenis ad pristinam formam reducitur et ipsa denuo capta debitam vltionem pro commissis suscepit, et iuuenis ad propria cum gaudio remeavit.

#### REMEDIA CONTRA OBSESSOS EX MALEFICIO

##### Capitulum Quintum

QUOD INTERDUM EX MALEFICIO demones quosdam<sup>334</sup> homines substantialiter inhabitant supra (c. ix et x) satis patuit, quibus etiam de

<sup>2</sup> *Ed. prin.*: -o

<sup>334</sup> *Start of adaptation of Nider, Form. 5.11 (237C-238C)*: Reperio autem quod v de causis aliquem contingit possideri: aliquando pro proprio maiori suo merit; aliquando pro alieno leui delicto, aliquando pro suo veniali peccato, aliquando pro graui peccato alieno, et aliquando pro magno facinore proprio.

167D causis quia non solum pro graubus criminibus proprijs | imo interdum pro proprio suo maiori merito, aliquando pro alieno leui delicto, aliquando pro suo veniali peccato, aliquando pro graui alieno peccato, et aliquando pro alieno facinore proprio,<sup>335</sup> pro quibus etiam diuersi diuersimode possidentur, quidam plus, alij minus, vt eitam Nider in suo *Formicario* recitat: non mirum si maleficio seu ad instantiam malefice demon deo permittente hominem substantialiter modo quo ibi declaratur, quod videlicet per substantiam sit intelligendum, inhabitet. Quibus autem remedijs liberari possint, quod videlicet per exorcismos ecclesie et cum hoc vera contritione vel etiam confessione, vbi pro mortali quis esset obsessus, patuit ex ibidem deductis et ex illius sacerdotis Bohemi liberatione, sed quod vltra hec duo remedia etiam tria alia valeant suffragari, videlicet eucharistie sacra communio, sanctorum locorum applicatio vel bonorum oratio, et excommunicationis absolutio, prefati doctoris discursu, quem etiam deducere expedit, cum <non> omnes necessariorum tractatuum copiam habent.

Nam de ipsa sacra communione Cassianus<sup>336</sup> (*Collatione Abbatis prima*) loquitur in hec verba. "Communionem sacrosanctam nequie spiritibus | traditam<sup>337</sup> a senioribus nostris nunquam meminimus<sup>338</sup> interdictam; quin imo etiam si possibile esset, eis quotidie impartiri eam etiam debere censebant, que ad purgationem ac tutelam corporis animeque peruenire credenda est, et que ab homine percepta eum qui in membris eius insidet spiritum seu in ipsis latitare conatur quodam exurens fugat incendio. Hoc nanque modo curatum abbatem Andronicum nuper aspeximus. Insultabit<sup>339</sup> offenso,<sup>340</sup> cum eum a celesti medicina viderit segregatum. Tanto enim<sup>341</sup> durius et frequentius attentabit affligere, quanto eum a spirituali remedio senserit longuis abdicatum." Hec Cassianus.

Et iterum de eisdem ibidem dicit: "Duo hic credere immobiliter oportet: primo, quod sine dei permissu nullus ab eis spiritibus omnino tentatur; secundo, quod omnia que nobis a deo inferuntur, siue tristia<sup>a</sup> ad presens siue leta videantur, velud<sup>b</sup> a pijssimo patre clementissimoque

<sup>a</sup> So Nider; ed. prin.: tristitia

<sup>b</sup> Sc. -t

<sup>335</sup> End

<sup>336</sup> Start of Nider, Form. 5.11 (241A-243C), which begins: ... Cassianus dicit: "Communionem ..."

<sup>337</sup> Nider: -is!

<sup>338</sup> Nider: memini

<sup>339</sup> Nider: Magis enim magis insultabit ...

<sup>340</sup> Nider: -e

<sup>341</sup> Nider: et tanto

medico pro nostris vtilitatibus irrogantur, et idcirco eos velut pedagogis<sup>a</sup> traditos humiliari vt discedentes ab hoc mundo vel purgatores<sup>b</sup> ad vitam aliam transferantur vel penali vigore plectantur, qui secundum apostolum traditi sunt in presenti Sathane in interitum carnis, vt spiritus 168B salui fiant in die domini nostri Jesus Christi.”

Sed<sup>342</sup> hic oritur dubitatio: cum apostolus dicat: “Probet seipsum homo et sic de pane illo edat,” quomodo possunt obsessi non habentes vsum rationis communicare? Respondit sanctus Thomas de hoc in *Tertia Parte* (q. lxxx), sic distinguendo de omnibus amentibus. “Aliqui,” inquit, “dicuntur non habere vsum rationis dupliciter: vno modo quia habent debilem vsum rationis (sic dicitur non videns qui male videt), et quia tales possunt aliquam deuotionem concipere huius sacramenti, non est eis hoc sacramentum denegandum; alio modo dicuntur aliqui non habere vsum rationis, quia sic a natiuitate permanserunt, et sic talibus non est hoc sacramentum adhibendum, quia in eis nullo modo processit huius sacramenti deuotio; aut non semper caruerunt vsu rationis, et tunc si prius, quando erant sue mentis compotes, apparuit in eis huius sacramenti deuotio, debet eis in articulo mortis hoc sacramentum exhiberi, nisi forte timeatur periculum vomitus<sup>c</sup> vel epuitionis. Vnde legitur ex consilio Carthaginensi (et habetur xxvi q. vi): ‘Js qui in infirmitate penitentiam petit, si casu dum ad eum inuitatus sacerdos | venit oppressus infirmitate obmutuerit<sup>d</sup> vel in frenesim 168C conuersus fuerit, dent testimonium qui eum audierunt, et si continuo creditur moriturus, reconcilietur per manus impositionem et infundatur ori eius eucharistia.’ De baptisatis qui corporaliter ab immundis spiritibus vexantur est eadem ratio, et de alijs amentibus.” Hec Thomas.<sup>343</sup>

Addit tamen in *Quarto* (dist. ix) quod demoniacis non est deneganda communio, nisi forte certum sit pro aliquo crimine a diabolo torqueri. Cui sic Petrus de Palude addit: “Jn hoc casu pro excommunicandis sunt habendi, qui traditi sunt Sathane.”<sup>344</sup>

<sup>a</sup> *Ed. prin.*: -os

<sup>b</sup> *So Nider; ed. prin.*: -iões

<sup>c</sup> *So Nider; ed. prin.*: -is

<sup>d</sup> *So Nider; ed. prin.*: -uit

<sup>342</sup> *The beginning of this paragraph is somewhat modified to adapt the dialogue format of Nider 241A:* (Piger): Quid ergo erit de vsum rationis non habentibus, qui se probare non possunt et sic edere de cibo (hoc secundum apostolum) non valent? (Theologus): Sanctus doctor de hoc in . . . sic distinguit . . .

<sup>343</sup> *Nider adds:* Et ad hoc Cassianum allegat.

<sup>344</sup> *Nider adds:* Hec Petrus.

Ex quibus liquet quod si aliqui sunt possessi a demone etiam propter sua crimina, habentes tamen lucida interualla et rationis vsum, postea conuertuntur<sup>a</sup> de peccatis suis vel debite confitentur, tales cum sint absoluti coram deo, nullatenus sunt a communione diuinissimi sacramenti eucharistie sequestrandi.

De sanctorum applicatione vel deuota oratione. Quomodo per hec obsessi etiam potenter liberantur, legende sanctorum referte sunt. Merita enim sanctorum martirum, confessorum, virginum exigunt vt hi spiritus nequam sanctorum in patria existentium | oratione et intercessione vincantur, quos sancti in via vicerunt.

Similiter viatorum deuote orationes liberationem<sup>b</sup> obsessorum obtinuisse sepe leguntur. Vnde ad hoc hortatur Cassianus (vbi supra): “Si,” inquit, “haberemus hanc sententiam, imo fidem, quam superius comprehendendi, vt et omnia per dominum fieri pro vtilitate animarum et dispensari vniuersa, non solum nequaquam despiciemus eos, sed etiam pro eis tanquam pro membris nostris incessanter orabimus, eisque totis visceribus ac pleno compatiemur affectu.”

De vltimo<sup>345</sup> modo absoluendi aliquem ab excommunicatione sciendum quod nec iste communis est nec forte licitus nisi habenti auctoritatem et specialem reuelationem vel probabilitatem quod possessus quis sit propter excommunicationem ecclesie, sicut apostolus (*i Ad Corinthios v*) excommunicatum a se et a plebe Corinthum fornicarium tradidit Sathane in interitum carnis, vt spiritus saluus fieret in die domini nostri Jesu Christi, id est, vt glosa dicit, vsque ad illuminationem gratie contritionis vel ad iudicium. Et pseudo-doctores qui fidem perdidierant, videlicet Jmeneum et Alexandrum, tradidit Sathane, vt discerent non blasphemare (*i Ad Thimotheum i*). | “Tante enim potestatis erat apostolus,” dicit glosa, “tantamque gratiam habebat, vt recedentes a fide solo verbo traderet diabolo.”

Vnde sanctus Thomas in *Quarto* (di. xviiij), vbi magister tres effectus excommunicationis tradit, eosdem sic declarat idem doctor. “Et hoc ipso,” inquit, “quod aliquis suffragijs ecclesie priuatur triplex incommodum incurrit per tria que quis ex suffragijs ecclesie consequitur. Valent enim ad augmentum gratie eis qui habent vel ad merendum eis<sup>c</sup> qui non habent. Et quantum ad hoc magister dicit quod gratia subtrahitur per excommunicationem. Valent etiam ad custodiam virtutis, et quantum ad hoc dicit quod protectio subtrahitur, non quod omnino a dei

<sup>a</sup> So Nider; ed. prin.: conuertuntur

<sup>b</sup> So Nider; ed. prin.: -um

<sup>c</sup> So Nider; ed. prin.: ei

<sup>345</sup> Nider: sexto

prouidentia excludantur, sed ab illa que filios ecclesie specialiori modo custodit. Valent etiam ad defendendum ab hoste, et quantum ad hoc dicit quod diabolo maior potestas seuiendi in ipsum datur et corporaliter et spiritualiter, vnde in primitiua ecclesia quando oportebat per signa homines ad fidem inuitare, sic spiritussanctus visibili signo manifestabatur: ita excommunicatus corporali vexatione a diabolo innotescebat. Nec est inconueniens si ille qui non est desperatus hosti datur, quia non datur ei quasi damnandus, sed quasi corrigendus, cum in potestate ecclesie sit ex eius manu ipsum eripere cum voluerit.” Hec Thomas.<sup>346</sup> 169B

Vbi tamen exorcista ad cautelam obsessum absoluat, non videtur inconueniens, sed subdit Nider quod cauendum<sup>347</sup> est valde exorciste ne de suis viribus faciliter presumat aut iocum et ludum serio deo operi intermisceat aut superstitiosum vel suspectum aliquid de maleficio adijciat: alioquin penam vix euadet, vt declaratur per exempla.

Nam de primo refert beatus Gregorius (i *Dialogorum*) de quadam que<sup>a</sup> contra conscientiam suam a marito petente et obtinente<sup>b</sup> debiti redditionem in vigilia dedicationis ecclesie sancti Sebastiani, et<sup>c</sup> quia contra conscientiam ecclesie processioni se immiscuit, possessa est et publice furiebat. Quo viso sacerdos eiusdem ecclesie de altari syndonem tulit eamque cooperuit. Sed et hunc sacerdotem repente diabolus simul inuasit, et quia vltra vires voluit quicquam presumere, compulsus est in sua vexatione cognoscere quis esset. Hec Gregorius.

De secundo, vt nullus de officio exorcistatus sanctum ordinem concernens<sup>d</sup> iocum faciat, refert Nider se vidisse<sup>348</sup> in conuentu Coloniensi fratrem verbis satis iocosum, sed in gratia expellendi demones famosum. 169C Hic cum in terminis conuentus Coloniensis demonem in obsesso corpore artaret, iam demon petiuit a fratre locum recedendi, quo gauisus frater ait in ioco: “Jn cloacam meam vadas!” Exijt igitur demon. Nocte cum frater ventrem purgare vellet, demon eum tam dire torsit prope cloacam, vt vitam cum difficultate saluaret.

Sed et hoc precipue cauendum vt obsessi etiam per maleficas ad presidia maleficarum non ducantur.<sup>349</sup> Vnde et de prefata femina Gregorius

<sup>a</sup> Not in Nider and unnecessary

<sup>b</sup> Ed. prin.: -i

<sup>c</sup> Not in Nider and unnecessary

<sup>d</sup> Sc. -entis

<sup>346</sup> Pause

<sup>347</sup> Resume (Nider begins: Ex quo vltimo patet sextum remedium. Sed cauendum . . .)

<sup>348</sup> For De secundo . . . vidisse Nider has: Nec de officio quod exorcistatus secundum ordinem sanctum requirit quis iocum faciat. Nam vidi in conuentu . . .

<sup>349</sup> For this sentence Nider has: Cum preterea maleficorum presidia super possessos inuocantur, finis deterior quam principium sepe efficitur.

infert: “Cum,” inquit, “propinqui eam carnaliter amantes atque amando persequentes ad obtinendum salutis remedium maleficis tradidisset et per eas ad fluuium ducta et in aquam mersa multis incantationibus agitata fuisset,<sup>350</sup> dum vnus demon expelli debuit, legio subintravit et eorum distinctis vocibus iam clamare<sup>a</sup> cepit. Vnde consanguinei tandem confidentes et de hoc dolentes eam presentarunt sancto episcopo Fortunato, qui diuturnis orationibus et ieiunijs eam<sup>b</sup> ex integro sanauit.<sup>351</sup>

169D Sed quia dictum sit debere exorcistas cauere ne superstitiosum vel suspectum aliquid de maleficio adijciant, dubitare exorcista posset an certas herbas et petras etiam non benedictas adhibere posset. Responsio. Si benedictae sunt herbe, tanto melius; si vero non, vt herba quedam que alias nominatur fuga demonis, vel etiam naturas lapidum si quis adhibeat, non erit superstitiosum, dummodo credat quod<sup>352</sup> non directe de sui natura demones compellant,<sup>353</sup> quia tunc incideret in errorem quod simili modo alijs herbis aut verbis possent cogi vt error nigromanticorum fatetur, putantes<sup>c</sup> se efficere per naturales et inditas talium virtutes. Vnde<sup>354</sup> sanctus Thomas in *Quarto* (dist. vij, arti. vlti.): “Non est,” inquit, “credendum aliquibus virtutibus corporalibus demones subiacere, et ideo non coguntur inuocationibus et factis quibusdam maleficis nisi in quantum per hoc fedus cum eis initur secundum quod dicitur Jsaie xvij: ‘Percussimus fedus cum morte et cum inferno fecimus pactum.’ et illud *Job* xl: ‘An extrahere poteris Leuiathan hamo’ et sequentia verba.” Sic finaliter exponit super *Job*, dicens: “Si quis recte considerat omnia premissa, videntur pertinere ad presumptionem nigromanticorum confutandam,<sup>d</sup> qui nituntur cum demonibus pactum inire ac eos sibi subijcere vel qualitercunque constringere. Ostenso ergo quod homo non potest sua virtute diabolum superare, concludit dicens: ‘Pone super eum manum tuam.’ Subaudi ‘si potes,’ quasi diceret<sup>e</sup> ‘nullo modo tua virtute potes.’ Superatur tamen virtute diuina, vnde subdit:

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<sup>a</sup> *So Nider; ed. prin.*: -ore

<sup>b</sup> *So Nider; ed. prin.*: eum

<sup>c</sup> *Sc.* -antium

<sup>d</sup> *So Nider; ed. prin.*: -is

<sup>e</sup> *So Nider; ed. prin.*: q. di. (*misunderstood abbreviation?*)

<sup>350</sup> *For tradidisset . . . fuit Nider has: tradiderunt, ducta igitur per eos ad fluminum atque in aquam mersa et multis incantacionibus agitata et . . .*

<sup>351</sup> *End*

<sup>352</sup> *Start of Nider, Form. 5.12 (245A–C), which begins: Detur quod prenomina non directe de sui natura aduocant vel compellunt demone . . .*

<sup>353</sup> *Pause*

<sup>354</sup> *Resume (Nider begins: Vnde dicit . . .)*

'Memento belli, quo scilicet ego pugno contra eum.'<sup>355</sup> Et potest dici quod ponitur presens pro futuro, scilicet 'pugnabo in cruce,' vbi capitur Leviathan per hamum, scilicet per diuinitatem occultatam sub esca humanitatis, estimans<sup>a</sup> saluatorem purum hominem. Vnde<sup>356</sup> etiam postea (xli) dicitur: 'Non est potestas super terram que ei potest comparari.' Per hoc," inquit, "signatur quod nulla virtus corporalis potest adequari potestati demonis, que est potestas pure spiritualis nature." Hec de Thoma.<sup>357</sup>

Sed quia<sup>358</sup> indirecte a demone obsessus potest virtute melodie, vt Saul per citharam Dauid, vel herbe vel corporalis rei alterius sibi a naturali proprietate inexistente releuari, ideo applicari possunt, quod quidem posse fieri auctoritatibus et rationibus deducitur. Nam xxvi q. | 170B  
vij "Demonium sustinenti" dicitur: "Licet petras vel herbas habere sine incantatione," et sunt Jeronimi verba. Jtem magister in *Historia* tractans illud *Thobie* vi, vbi Raphael ait Thobie: "Cordis particulam," scilicet de pisce, quam<sup>359</sup> cepisti, "si super carbones ponas, fumus eius exterret<sup>360</sup> omne genus demoniorum, siue a viro siue a muliere, ita vt vltra non accedat ad eos," dicit: "Nec super hoc mirari debemus, cum fumus cuiusdam arboris aduste eandem vim habere videatur," quamuis etiam spirituales in se contineat sensum, scilicet de fumo spiritualis orationis. Ad idem Albertus super *Luce* ix et Nicolaus de Lyra (*i Regum* xvi),<sup>361</sup> imo et

<sup>a</sup> *Dangling participle*

<sup>355</sup> *Pause*

<sup>356</sup> *Resume as adaptation:* Vnde etiam postea (capi. xli) dicitur: Non est potestas super terram que ei comparetur. Super quo idem: Per hoc, inquit, signatur quod nulla virtus corporalis adequari potestati demonis, que est potestas spiritualis nature. Et sequitur: qui factus est vt nullum timeret. Diabolus enim est ordinatione sue nature, in qua factus est a deo vt nec hominem timeret nec aliquam creaturam corporalem. Hec de Thoma.

<sup>357</sup> *End*

<sup>358</sup> *The following is a complex adaptation of Nider, Form. 5.12 (245C):* Indirecte autem quodam modo demone obsessus potest virtute melodie vel herbe vel corporalis rei sibi a naturali proprietate inexistente cerebrum vel partem corporis lesi a demone sanare vel reducere vt tollerabilius habeant, *to which is added 244D-245A:* . . . patet illud Thobie vi, vbi Raphael ait Thobie: "Cordis particulam," scilicet de pisce, quem cepisti, "si super carbones ponas, fumus eius extrahit omne genus demoniorum siue a viro siue a muliere, vt vltra non accedat ad eos." Idem in effectu patet ibidem (viii) vbi magister in *Historia* sic addidit: "Nec super hoc mirari debemus, cum fumus cuiusdam arboris aduste eandem vim habere perhibetur." Ymo beatus Jeronimus dicit "Demonium sustinenti, licet petras vel herbas habere sine incantatione," et habetur in fo<sup>o</sup> xxvi, q. vij "Demonium sustinenti." Ad idem allegat dominus Wilhelmus Parisiensis (vltima parte Summe De vniuerso).

<sup>359</sup> *Nider:* quem

<sup>360</sup> *Pause*

<sup>361</sup> *This clause replaces a more extensive indication of the opinions of Albert and Nicholas in Nider (245D).*

Paulus<sup>362</sup> Burdegalensis (super *i Regum* xvi) hanc conclusionem tenet quod non solum concedendum videtur quod per aliqua sensibilia possunt afflicti a demonibus releuari, sed etiam per sensibilia aliqua possunt totaliter liberari – sed hoc intellige quando non atrociter affliguntur – et probat per rationem. “Nam cum demones non possint materiam corporalem secundum suam voluntatem transmutare, sed debita actiua debitis passiuis coniungendo, vt Nicolaus dicit, eadem ratione per aliquam rem sensibilem potest dispositio causari in corpore humano, per quam non fiet aptum ad suscipiendum actionem demonis. Verbi gratia: nam mania est maxime dispositiua ad alienationem mentis secundum medicos, et per consequens ad suscipiendum afflictionem demoniacam. Que quidem demoniaca passio vbi penitus curatur, penitus afflictio demonis actiua recedente passiuia in possesso recederet.

Jdem posset dici de iecore piscis, idem de melodia Dauid, ratione cuius licet primo refocillaretur Saul et leuius haberet, tamen totaliter expulsus fuit per ipsam. Vnde dicit litera: ‘Recedebat ab eo spiritus malignus,’ nec consonum est litere dicere quod hoc fiebat ex merito Dauid seu per orationes eius, quia non est verisimile quod hoc scriptura taceret, cum esset in laude eius notabiliter dictum.” Hec de Paulo prefato.<sup>363</sup> Licet nos posuerimus supra in questione quinta prime partis quod quia prefigurabatur<sup>a</sup> virtus crucis per expansionem venarum corporis Christi, ideo liberabatur Saul, et plura ibi etiam continentur que presenti speculationi seruire possunt, tantum concludamus quod rerum sensibilibus applicatio

<sup>a</sup> *Ed. prin.*: -agatur

<sup>362</sup> *Resume adaptation (245D–246C)*: . . . tenet Paulus Burgensis in additionibus super Primo Regum xvi hanc conclusionem, videlicet: non solum concedendum videtur quod aliqua sensibilia possunt afflicti a demonibus leuius ferre, vt scilicet Nicholaus de Lira tenet, sed quod per sensibilia aliqua a demonibus afflicti possunt totaliter liberari, quod probatur per eandem rationem quam Nicolaus adducit. Nam cum demones non possunt materiam corporalem secundum suam voluntatem transmutare, sed mediantibus actiuis qualitatibus que disponunt materiam ad suscipiendum actionem afflictiuam in corporibus ab eis obsessis, vt Nicolaus dicit, eadem ratione per aliquam rem sensibilem potest dispositio causari in corpore humano, per quam non fiet aptum ad suscipiendum actionem demonis. Verbi gratia: nam mania est maxime dispositiua ad alienationem mentis secundum medicos, et per consequens ad suscipiendum afflictionem demoniacam. Que quidem demoniaca passio, sicut potest alleuari per sensibilia medicamina, sic et penitus curari, et per consequens curata esset talis dispositio in corpore humano ad suscipiendum afflictionem demonum correspondentem tali dispositioni, et sic recedet penitus afflictio demonis actiua recedente passiuia in possesso. Jdem potest dici de iecore piscis Thobie, idem de melodia Dauid, ratione cuius licet primo refocillaretur Saul et leuius haberet, tamen totaliter expulsus fuit per eam. Vnde dicit littera: “Recedebat ab spiritu malignus.” Nec consonum est litere dicere quod fiebat ex merito Dauid seu per orationes eius, quia non est verisimile quod hoc scriptura taceret, cum esset in laudem Dauid notabiliter, de quo tamen nullam mencionem facit. Hec de Paulo.

<sup>363</sup> *End*

in exorcismis licitis non est superstitiosum. Jam autem expedit de ipsis exorcismis | aliqua disserere.

170D

REMEDIA PER LICITOS EXORCISMOS ECCLESIE<sup>a</sup> CONTRA  
QUASCUNQUE INFIRMITATES A MALEFICIS ILLATAS, ET DE  
MODO EXORCIZANDI MALEFICIATOS

Capitulum Sextum

QUIA, VT IN SUPERIORIBUS tactum est, malefice omne genus infirmitatis corporalis inferre possunt, quare et sub generali regula concludere oportet quod quicquid remedij in verbis vel operibus alijs infirmitatibus supra notatis applicari potest, hoc etiam quibuscunque alijs infirmitatibus in precedentibus non expressis, vt vbi epilentia aut lepra esset inflictā, conuenire potest, et quia inter remedia verborum exorcismi liciti computantur, de ipso etiam sepe mentio tanquam de quodam generali remedio habita est, tria principaliter de ipso sunt practicanda: primo an non habens exorcistatus ordinem, vt laicus vel secularis persona, valeat licite demones aut eius maleficia exorcizare, vbi tres alie annectuntur, qualiter videlicet sunt liciti, et de septem conditionibus que requiruntur ad carmina et ad benedictiones, vt quis valeat secum talia deferre, et tertio qualiter morbus | sit exorcisandus et demon coniurandus; secun- 171A  
dum principale: quid agendum, vbi gratia sanitatis per exorcismos non obtinetur; et tertio quo ad remedia non iam verborum sed operum, cum solutionibus certorum argumentorum.

Ad primum. Est doctoris Thome in *Quarto* (di. xxiiij) sententia: “Jn<sup>364</sup> ordine,” inquit, “exorcistatus et in alijs minoribus ordinibus omnibus, cum conferuntur, recipitur potestas, vt quis hoc vel illud ex officio facere possit, puta exorcizare, et idem a non habentibus ordinem licite fieri potest, quamuis illi hoc non habeant ex officio, sicut in domo non consecrata potest dici missa, quamuis consecratio ecclesie ad hoc ordinetur,

<sup>a</sup> Ed. prin.: eccie-

<sup>364</sup> *Start of Nider*, Form. 5.5 (215C), which begins: Ad primum di. xxiiij, quod sic in Quarto: “Jn ordine,” inquit . . . [Nider’s quotation of Aquinas is not in fact a direct quote; *Aq.*, Sent. 4.24.2.2. *Ra4*: . . . sed hoc [sc. the assertion that beads receive power from God to keep people from entering the church] magis pertinet ad gratiam gratis datam quam ad gratiam sacramenti. Et ideo dicendum quod suscipit potestatem vt ex officio hoc agere possit, quamuis etiam et hoc ab alijs fieri possit, sed non ex officio, et ita est in omnibus actibus minorum ordinum, quod possunt per alios licite fieri, quamuis illi non habeant ad hoc officium, sicut etiam in domo non consecrata potest dici missa, quamuis consecratio ecclesie ad hoc ordinetur vt in ea missa dicatur.]

vt in ea missa dicatur. Sed hoc tunc magis pertinet ad gratiam gratis datam quam ad gratiam sacramenti.”<sup>365</sup> Ex quibus verbis dici potest quod licet ad liberationem maleficiati bonum est concurrere exorcistam habens<sup>a</sup> potestatem exorcisandi morbos maleficiales, tamen etiam interdum deuote persone absque exorcismis vel cum ipsis fugare possunt huiusmodi morbos.

171B Nam fertur de quadam virgine pauperula et [et] ideo plurimum deuota, cuius<sup>366</sup> dum amicus | in pede maxime per maleficium lesus fuerat, quod iudicio medicorum patuit, eo etiam quia nullis medicaminibus sanari poterat, contigit vt virgo infirmum visitaret. Qui et statim ab ea petiuit vt pedi benedictionem aliquam applicaret: annuit illa et silenter tantummodo orationem dominicam et apostolorum symbolum cum geminatis viuifice crucis signis applicuit. Tunc statim infirmus curatum se sentiens scire voluit in remedium futurorum quid carminationis virgo applicasset. Que respondit: “Vos debili fide! Diuinis et approbatis exercitijs ecclesie non inheretis, et carmina ac remedia prohibita crebro vestris infirmitatibus applicatis: idcirco raro in corpore curamini, quia semper in anima ledimini.”<sup>367</sup> Sed si in orationum et signorum licitorum efficaciam speraretis, facillime sepe curaremini. Nihil enim vobis applicui nisi dominicam orationem et apostolorum symbolum, et iam sanatus estis.”<sup>368</sup>

171C Gratia huius exempli queritur an non alie benedictiones et carminationes seu etiam coniurationes per exorcismos habeant efficaciam, cum hic videantur reprobari: respondetur quod hec virgo non reprobauit nisi illicita carmina cum illicitis coniurationibus et exorcismis.

Pro cuius intellectu considerare oportet vnde<sup>369</sup> huiusmodi habuerunt originem et quomodo ad abusum deuenerunt. Nam principium horum fuit sanctissimum, sed sicut omnia demonis instinctu deprauantur mediantibus demonibus et malis hominibus, ita et diuina nomina. Apostoli enim et sancti viri secundum illud (*Marci* ultimo):<sup>370</sup> “In nomine meo demonia eijcient” infirmos visitarunt et orationes super eos per

<sup>a</sup> *Ed. prin.*: hbs; sc. habentem

<sup>365</sup> *End*

<sup>366</sup> *Start of Nider*, Form. 5.4 (207D), which begins: Huius [sc. veterane virginis] amicus in pede graui lesus fuit maleficio, a quo nulla arte sanari poterat. Post multa autem in cassum adhibita remedit, visitaui predicta virgo infirmum . . .

<sup>367</sup> *Nider*: . . . idcirco raro in corpore et semper in anima per talia ledimini.

<sup>368</sup> *End*

<sup>369</sup> *Start of Nider*, Praec. 1.11.27 (Hh), which begins: Vnde ortum habeant benedictiones et carminationes quas vetule hodie super infirmos et viri quidam faciunt? Respondetur quod principium horum . . .

<sup>370</sup> *Nider*: xvi (which amounts to the same thing, since the last chapter is the sixteenth)

sacra verba fuderunt; deinde successu temporis sacerdotes deuoti similia rite peregerunt. Propter quod deuotissime orationes et sancti exorcismi reperiuntur in antiquis hodie ecclesijs ad omnia que homines facere vel pati poterant per deuotos viros applicati olim sine omni superstitione, sicut etiam hodie literati et sacre theologie doctores reperiuntur qui infirmos visitantes similia verba egrotis applicant, et non solum demoniacis. Sed – heu!<sup>371</sup> – superstitiosi homines a se multa vana et illicita ad instar horum inuenerunt quibus hodie vtuntur circa infirmos et iumenta, nec clerus amplius ex sua desidia licitis vtitur verbis visitando infirmos, propter quod | Guilhelmus dictus Durandi, glosator Raimundi, dicit quod talia prefata sacerdos religiosus aut discretus aut etiam laicus vir siue mulier excellentis vite, probate discretionis facere potest, fusa oratione licita super infirmum, non super pomum aut super cingulum et similia, sed super infirmantes iuxta illud euangeliste:<sup>372</sup> “Super egros manus imponent” etc. Nec sunt huiusmodi persone prohibende a talibus nisi forte timeatur quod ad exemplum illorum indiscreti et superstitiosi alij carminationis sibi vsurpent abusum, tuentes se exemplo illorum.<sup>373</sup> Hi ergo superstitiosi carminatores reprehenduntur a predicta virgine, et dixit illos habere debilem fidem, imo malam qui tales consulerent.

Iterum autem gratia huius declarationis queritur quibus verbis carmina et benedictiones censentur licite vel superstitiose, et de modo quo debent applicari, et an demon sit coniurandus et morbus exorcisandus.

Ad primum.<sup>a</sup> Quod quia hoc dicitur licitum in cultu christiane religionis quod non est superstitiosum,<sup>b</sup> et superstitiosum<sup>c</sup> dicitur,<sup>374</sup> vt notatur ex glosa super illo *Ad Collosenses* secundo (“Que sunt rationem habentia in superstitione”), quod supra | modum religionis seruatur, vnde ibi dicitur: “Superstitio est religio supra modum seruata, id est religio modis vel circumstantijs malis et defectuosis<sup>375</sup> practicata,” etiam superstitiosum est quicquid traditione humana nomen religionis vsurpat absque superioris auctoritate, vt imnos iungere ad missas defunctorum, prefationem interrumpere, symbolum in missa cantandum abbreviare

<sup>a</sup> *Ed. prin.*: primum

<sup>b</sup> *Ed. prin.*: superstitiosum

<sup>c</sup> *Ed. prin.*: superstitiosum

<sup>371</sup> *Not in Nider!*

<sup>372</sup> *For illud euangeliste Nider has: dictum Marci vlti.*

<sup>373</sup> *End*

<sup>374</sup> *Start of adaptation of Nider, Praec. 1.11.23 (Dd) (see n. 461).*

<sup>375</sup> *End*

aut in organis et non in choro decantare, in missa respondentem non habere, et his similia.

Sed ad propositum nostrum. Modo quando fit aliquod opus ex virtute religionis christiane, vt vbi quis vellet infirmo subuenire per aliquam orationem vel benedictionem per verba sacra, de qua materia nunc intendimus, talis habet considerare septem conditiones, que si reperiuntur, talis benedictio consetur licita, et si fiat per modum adiurationis per virtutem diuini nominis et per virtutem operum Christi, que ex sua natiuitate, passione, preciosa morte et ceteris innotuerunt, per que etiam diabolus victus et eiectus fuit, dicentur<sup>a</sup> ille benedictiones, carmina et exorcismi liciti et hi qui practicant possunt dici exorciste aut  
 172B incantatores liciti iuxta<sup>376</sup> Jsidorum (viii *Ethimologiarum*): “Incantatores dicuntur qui artem aliquam verbis peragunt.”

Est prima conditio consideranda, vt ex doctrina sancti Thome (*Secunda Secunde* q. xcii) elicitur, vt verba non contineant aliquid quod pertineat ad inuocationem demonum, expressam vel tacitam.<sup>377</sup> Quid sit “expressa” patet, quid “tacita”: hoc consideratur ex intentione et ex opere: intentione, vt vbi operans non curat siue a deo siue a diabolo habeat in suo opere intentum, dummodo finem optatum consequatur; opere, vt vbi opus quod facit non habet aliquam proprietatem ex natura ad producendum talem effectum, de qua non solum medici et astrologi imo et theologi habent iudicare per quem modum nigromantici faciunt imagines, anulos et lapides artificiales, que vtique nullam habent naturalem inclinationem ad effectos quos ipsi expectant sepiissime, vnde et in eorum operibus diabolus se habet immiscere.

Secundo<sup>378</sup> considerandum<sup>379</sup> est ne benedictiones seu carmina contineant alique nomina ignota, quia secundum Crisostomum talia metuenda sunt ne in eis aliquid superstitionis lateat.

<sup>a</sup> *Ed. prin.*: -ent

<sup>376</sup> *Start of Nider, Praec. 1.11.26 (Gg), which begins: Questio xxxvi: vtrum licitum sit per carmina scripta vel verba sacra benedicere infirmos homines vel iumenta, et an licitum sit eadem secum deferre et portare que incantationis speciem habere videntur. Incantatores enim dicuntur qui artem aliquam verbis peragunt, vt dicit Jsidorus (viii Ethimo.). Respondet Thomas (Secunda Secunde, vbi supra) quod sic, septem conditionibus seruatis. Vna est vt videaturne verba aliquid contineant quod pertineat ad inuocationes demonum expressas vel tacitas.*

<sup>377</sup> *Pause*

<sup>378</sup> *Resume (Nider begins: Secunda: ne contineant ignota nomina, quia secundum . . .)*

<sup>379</sup> *From here to the end of quotation, Nider adapts Aq., Summa 2/2.96.4. Co.: Similiter etiam videtur esse cauendum, si contineat ignota nomina, ne sub illis aliquid illicitum lateat. [Quote of Chrysostom omitted.] Est etiam cauendum ne aliquid falsitatis contineat, quia sic eius effectus non posset expectari a deo, qui non est testis falsitatis. Deinde secundo cauendum est ne cum verbis sacris contineatur ibi aliqua vana, puta aliqui characteres inscripti preter signum crucis, aut si spes habeatur in modo scribendi aut ligandi aut in quacumque huiusmodi vanitate que ad diuinam reuerentiam non pertineat, quia hoc iudicaretur superstitiosum.*

Tertio<sup>380</sup> ne materia verborum aliquid falsitatis contineat, quia sic eius effectus non posset expectari a deo, cum | ipse non sit testis falsitatis. Sic enim quedam vetule in suis carminibus vtuntur rigmatizando: “Beata virgo Jordanem transiuit<sup>a</sup> et tunc sanctus Stephanus ei obuiauit, eam interrogauit,” et multas alias fatuitates. 172C

Quarto<sup>381</sup> ne ibi contineantur vana et caracteres inscripti preter signum crucis.<sup>382</sup> Vnde breuia que portantur a soldatis reprehenduntur.

Quinto<sup>383</sup> ne spes habeatur in modo scribendi aut ligandi aut in quacunque huiusmodi vanitate, que ad diuinam reuerentiam non pertineat, quia hoc iudicaretur superstitiosum.<sup>384, 385</sup>

Sexto<sup>386</sup> vt in alligatione, prolatione diuinorum verborum vel scripture sacre respectus solum habeatur ad ipsa sacra verba et ad intellectum eorum et ad dei reuerentiam seu ad virtutem diuinam a qua expectatur effectus vel ad sanctorum reliquias a quibus etiam prefata expectantur secundo, licet a deo principaliter.

Septimo<sup>387</sup> vt committatur effectus qui expectatur diuine voluntati, qui scit vtrum sanitas vel tribulatio plus prosit inuocanti vel minus vel an obsit, et hanc conditionem ponit Thomas | in *Prima Secunde* in materia 172D de gratia et (di. xv) in *Quarto*.

Vnde<sup>388</sup> concludamus quod si nulla dictarum conditionum opus inferat, illud erit licitum: probat Thomas super illud (*Marci vltimo*): “Signa eos qui crediderint” et post “In nomine meo demonia eijcient”

<sup>a</sup> Ed. prin.: tras-

<sup>380</sup> Nider: -a

<sup>381</sup> Nider: -a

<sup>382</sup> Pause

<sup>383</sup> Resume (Nider begins: Quinta ne . . .)

<sup>384</sup> Nider (and Aq.) add: esse

<sup>385</sup> End of Aq.

<sup>386</sup> Nider: -a

<sup>387</sup> Nider: -a

<sup>388</sup> From here on Nider is adapted: Alias erit licitum si nulla dictarum septem conditionum opus inferat. Probat Thomas per illud Mar. vlt., Christo dicente: “Signa eos qui crediderint, hec sequentur: in nomine meo demonia eijcient, linguis loquentur nouis, serpentes tollent” etc. Item non minoris sanctitatis sunt verba dei quam sanctorum reliquie, dicente Augustino: “Non est minus verbum dei quam corpus Christi.” Sed secundum omnes licet reliquias sanctorum secum reuerenter portare: ergo qualitercunque nomen dei inuocetur rite per orationem dominicam, per salutationem angelicam vel alio modo licito, spes haberi potest in eo committendo effectum diuine voluntati. Ex predictis elicit fatuus doctor quod predictis seruatis conditionibus per diuina verba licitum est arcece serpentes, et eadem ratione, vt dicit, quecunque animalia, si solus respectus habeatur ad sacra verba et ad diuinam virtutem. De serpentibus tamen caute est agendum in incantationibus, quia, vt dicit, sepe tales habent illicitas obseruantias, et per demones sortiuntur effectum, precipue in serpentibus, quia serpens fuit primum demonis instrumentum ad hominem decipiendum.

etc., “serpentes tollent”: ex quo elicit quod predictis seruatis conditionibus per diuina verba licitum est arcere serpentes.<sup>389</sup> Jtem probat premissa ulterius: non<sup>390</sup> minoris sanctitatis sunt verba dei quam sanctorum reliquie, dicente Augustino: “Non est minus verbum dei quam corpus Christi,” sed secundum omnes licet reliquias sanctorum secum reuerenter portare: ergo<sup>391</sup> qualitercunque nomen dei inuocetur rite per orationem dominicam, per salutationem angelicam, per eius natiuitatem,<sup>a</sup> passionem, per quinque vulnera, per septem verba que protulit in cruce, per titulum triumphalem, per tres clauos, et aliorum armorum militie Christi contra diabolum et eius opera, omnino erunt licita et spes potest haberi in eis, committendo effectum diuine voluntati – et hoc quod dic-  
 173A tum est de coartatione serpentium, idem intellige de alijs animalibus – quando solus respectus habetur ad sacra verba et ad diuinam virtutem. De ipsis tamen caute est agendum in incantationibus, quia, vt dicit doctor, tales<sup>392</sup> incantatores sepe habent illicitas obseruantias et per demones sortiuntur effectum, precipue in serpentibus, quia serpens fuit primum demonis instrumentum ad hominem decipiendum.<sup>393</sup>

Nam in ciuitate Saltzburgensi quidam incantator erat: hic quadam die ad spectaculum aliorum cunctos serpentes ad quandam foueam incantare voluit et interimere ex spacio, vt fertur, vnus miliaris. Congregatis ergo vndique serpentibus dum ipse supra foueam staret, nouissime quidam ingens et horribilis serpens foueam intrare difficultabat, et sepe quasi ipsum abscedere permetteret et libere serpere quo vellet motibus innuebat. Sed cum ille ab incantatione eius desistere nolebat, alijs omnibus in fouea interemptis, quia statim ibi moriebantur et necesse erat vt et ille horribilis intraret, stans serpens ex opposito incantatoris  
 173B supra foueam saltum fecit et in ipsum incantatorem irrulit et ventrem eius vt cingulum<sup>b</sup> stringens ipsum incantatorem secum in foueam traxit et interemit. Qua ex re perpenditur non nisi pro vtilitate, ad fugandum videlicet ab hominum habitationibus, talia sunt virtute diuina practicanda, et cum dei timore et reuerentia.

<sup>a</sup> *Ed. prin.*: -e

<sup>b</sup> *Ed. prin.*: ζ- (=z-)

<sup>389</sup> *This sentence is a paraphrase of Aq., Summa 2/2.96.4.Ag1 and Rut*

<sup>390</sup> *Start of adaptation of Aq., Summa 2/2.96.4.Ag3: . . . non minoris . . . corpus Christi. Sed reliquias sanctorum licet homini collo suspendere vel qualitercumque portare ad suam protectionem. Ergo pari ratione licet homini verbo vel scripto verba sacre scripture ad suam tutelam assumere.*

<sup>391</sup> *End of Aq.*

<sup>392</sup> *Start of adaptation of Aq., Summa 2/2.96.4.Raz: Sed plerumque tales precantationes habent illicitas obseruantias et per demones sortiuntur effectum, et precipue in serpentibus, quia serpens fuit primum demonis instrumentum ad hominem decipiendum.*

<sup>393</sup> *End of Nider (and Aq.)*

Quo ad secundum, videlicet quomodo sunt huiusmodi exorcismi<sup>a</sup> vel carmina deferenda et ad colla suspendenda vel in vestimentis insuenda. Videtur autem quod talia sint illicita. Nam Augustinus (ij *De Doctrina Christiana*): "Ad superstitionem pertinent mille<sup>394</sup> magicarum artium et ligature et remedia, que medicorum quoque disciplina condemnat, siue in precantationibus siue in quibusdam notis quos characteres vocant siue in quibusdam rebus suspendendis atque insignandis."<sup>395</sup> Item Crisostomus (*Super Matheum*): "Quidam aliquam partem euangelij scriptam circa collum portant. Sed nonne quotidie euangelium in ecclesia legitur et auditur ab omnibus? Cui ergo in auribus euangelia posita nihil prosunt, quomodo eum possunt circa collum suspensa saluare? Deinde, vbi est virtus euangelij: in figuris litterarum an in intellectu sensuum? Si in figuris, | bene circa collum suspendis; si in intellectu, ergo melius in corda posita prosunt quam circa collum suspensa."<sup>396</sup> 173C

Sed hic est responsio doctorum, precipue sancti Thome (vbi supra, ar. iiij, vbi querit an suspendere diuina verba ad collum sit illicitum): quod in omnibus incantationibus vel scripturis suspensis duo<sup>397</sup> cauenda videntur. Primo quidem quid sit quod scribitur: vtrum sit ad inuocationes demonum pertinens manifeste. Tunc non solum superstitiosum imo illicitum et apostasia a fide iudicatur, vt supra tactum fuit sepe. Similiter etiam cauendum ne contineat ignota nomina etc. (accipe condiciones supra positas), et tunc sicut licitum est huiusmodi super infirmos ore proferre, ita licitum est illa secum deferre.<sup>398</sup>

Prefati autem doctores respectum habent et damnant quando quis ad figuras et literas scriptas maiorem<sup>b</sup> haberet aduertentiam et respectum quam ad intellectum verborum. Et si dicatur quod laicus non intelligens verba non potest habere respectum ad intellectum eorum, respondetur: habeat respectum ad virtutem diuinam, et illam committat diuine voluntati, vt faciet quidquid placitum fuerit sue pietati. 173D

Quo ad tertium, an simul demon sit coniurandus et morbus exorcisandus vel econuerso aut vnum sine altero. Responsio. Hic plura sunt

<sup>a</sup> *Ed. prin.*: -issmi

<sup>b</sup> *Ed. prin.*: -c

<sup>394</sup> *Aq.*: molimina.

<sup>395</sup> *Quotation from Aq.*, Summa 2/2.96.2.SC

<sup>396</sup> *Quotation from Aq.*, Summa 2/2.96.4.SC

<sup>397</sup> *Start of adaptation of Aq.*, Summa 2/2.96.4.Co.: ... cauendum est ne cum verbis sacris contineantur ibi aliqua vana, puta aliqui characteres inscripti, preter signum Christi. Aut si spes habeatur in modo scribendi aut ligandi aut in quacunq[ue] huiusmodi vanitate, que ad diuinam reuerentiam non pertineat, quia hoc iudicaretur superstitiosum.

<sup>398</sup> *End*

aduertenda: primo an demon semper sit quando maleficiatus affligitur; secundo cuiusmodi res possit exorcisari aut adiurari; tertio de modo exorcisandi.

Ad primum. Cum iuxta Damascenum demon ibi est vbi operatur, videtur quod maleficiato semper presens sit, cum eum affligat. Item in legenda beati Bartholomei. Tunc videtur sanare demon quando cessat a lesione. Responsio. Quod demon presens sit maleficiato et afflicto, hoc potest intelligi dupliciter, vel quo ad suum esse vel quo ad suum effectum. Primo modo presens est in principio dum maleficium intromittit; secundo modo per se non dicitur presens in suo effectum, sicut etiam cum doctores querunt an diabolus cum qualibet culpa mortali hominem substantialiter inhabitat, dicunt quod non per se sed per suum effectum, sicut dominus inhabitare dicitur seruum quantum ad suum dominium. Aliud tamen de obsessis.

174A Quo ad secundum, cuiusmodi res possunt exorcizari. Notandum est super doctoris Thome in *Quarto* (dist. vi) sententiam, vbi dicit quod<sup>399</sup> quia propter peccatum hominis diabolus accipit potestatem in hominem et in omnia que in vsum hominis veniunt in ipsius nocumentum, et cum etiam nulla conuenientia<sup>400</sup> est Christi ad Belial, ideo quodocumque aliquid sanctificandum est ad cultum diuinum, prius exorcizatur, vt liberatum a potestate diaboli, qua illud in nocumentum hominis assumere poterat, deo consecratur. Et hoc patet in benedictione aque, in consecratione templi et in omnibus huiusmodi. Vnde cum prima sanctificatio qua homo deo consecratur sit in baptismo, oportet quod etiam homo prius exorcizetur quam baptisetur: multo fortiori ratione quam alie res, quia in ipso homine est causa quare diabolus potestatem accepit in alia que sunt propter hominem, scilicet peccatum originale vel actuale, et hec significant ea que in exorcismo dicuntur, vt cum dicitur: "Recede ab eo, Sathana," et huiusmodi<sup>a</sup> et similiter ea que ibi fiunt.<sup>401</sup>

174B Ad propositum ergo conqueritur an morbus sit exorcisandus et demon adiurandus et quid illorum primo. Respondetur: morbus non exorcisatur, sed ipse homo morbatus et maleficiatus, sicut in puero non exorcisatur infectio fomitis sed puer infectus; item sicut prius puer exorcisatur et post diabolus adiuratur vt recedat, ita maleficiatus prius exorcisatur et post diabolo et eius facture imperat vt recedat; item sicut sal

<sup>a</sup> *Ed. prin.*: huius

<sup>399</sup> *Start of Aq.*, Sent. 4.6.2.3a.Co. (also quoted in *Nider*, Form. 5.6 (214B-D), but the fuller form here derives from the text of *Aq.* himself)

<sup>400</sup> *Aq.*: conuentio

<sup>401</sup> *End*

et aqua exorcisantur, ita maleficiato omnia que in ipsius vsum conuerti possunt, vt cibaria et potagia, exorcisare et benedicere plurimum expedit. Jtem licet ritus exorcismi tenet in baptisandis, vt fiat exufflatio versus occidentalem partem et abrenunciatio, secundo manuum<sup>a</sup> ad celum erectio cum sacra fidei confessione et professione christiane religionis, et tertio oratio, benedictio et manus impositio, et quarto denudatio et oleo sancto vnctio et post baptismum communitio et candide<sup>b</sup> vestis induitio,<sup>c</sup> tamen non est necesse vt hec<sup>d</sup> circa maleficiatum exorcisandum fiant, sed quod primo pure et debite sit confessus, candelam accensam, si potest, teneat et sacram communionem recipiat, et loco vestis candide candela<sup>174C</sup> benedicta in longitudine corporis Christi aut ligni crucis nudo corpore circumligatus maneat.

Dici ergo potest: "Exorciso te Petrum (aut Barbaram) infirmam, sed sacro fonte baptismatis regeneratam, per deum viuum + per deum verum + per deum sanctum + per deum qui te suo precioso sanguine redemit, vt fias homo exorcisatus, vt effugiat atque discedat a te omnis fantasia et nequitia diabolice fraudis, omnisque spiritus immundus adiuratus per eum qui venturus est iudicare viuos et mortuos et seculum per ignem. Amen.

"Oremus. Deus misericordie, deus clemens, qui secundum multitudinem miserationum tuarum quos diligis corripis et quos recipis pie ad emendationem coerces: te inuocamus, domine, vt famulo, qui in corpore patitur membrorum debilitatem, gratiam tuam conferre digneris, vt quicquid terrena fragilitate corruptum, quicquid diabolica fraude violatum est, vnitati corporis ecclesie membrum redemptionis annecte.<sup>e</sup> Miserere, domine, gemituum, miserere lachrymarum eius, et non habentem fiduciam nisi in misericordia tua ad tue sacramentum reconciliationis<sup>174D</sup> admitte. Per Christum, dominum nostrum. Amen.

"Ergo, maledicte diabole, recognosce sententiam tuam. Da honorem deo viuo et vero, da honorem domino Jesu Christo, vt recedas ab hoc famulo cum tua factura, quem dominus noster Jesus Christus suo precioso sanguine redemit."

Demum secundo et tertio iterum exorcisat (vt supra) eum orationibus: "Oremus. Deus qui facture tue semper pio<sup>f</sup> dominaris affectu, inclina aurem tuam supplicationibus nostris, et famulum tuum ex aduersa

<sup>a</sup> *Ed. prin.*: -n

<sup>b</sup> *Ed. prin.*: -didore (cf. 174C)

<sup>c</sup> *Sc.* -dutio

<sup>d</sup> *Ed. prin.*: hic

<sup>e</sup> *So ed. prin.* (imperative in place of annectas?)

<sup>f</sup> *Ed. prin.*: -e

valitudine corporis laborantem placatus respice et visita et salutari tuo et<sup>a</sup> celestis gratie presta ei medicinam. Per Christum dominum nostrum. Amen.

“Ergo, maledicte diabole,” etc. vt supra.

Pro tertio exorcismo oratio: “Deus, infirmitatis humane singulare presidium, auxilij tui super infirmum nostrum ostende virtutem, vt ope misericordie tue adiutus (vel adiuta) ecclesie tue sancte incolumis representari mereatur. Per Christum dominum nostrum. Amen.”

Et semper aspergat cum aqua benedicta.

175A Et nota quod hic modus prescribitur, non quod omnino ita fieri debeat aut quod alij exorcismi non sint maioris efficacie, | sed vt modus exorcizandi et adiurandi habeatur. In antiquis enim historijs et ecclesiarum libris interdum deuotiores et efficaciores exorcismi reperiuntur. Sed quia in omnibus dei reuerentia sit preponenda, agat secundum hoc vnusquisque quantum expediens fuerit.

Conclusiue ex premissis concludendo propter simplices. Sit modus iste exorcizandi maleficiatum, vt primo puram faciat confessionem iuxta capitulum allegatum sepe “Si per sortiarias”; demum fiat diligens inquisitio per singulos angulos et in lectisternijs, culcitris et sub limine hostij, si fortassis instrumenta maleficij caute possent inueniri: inuenta etiam statim sunt ad ignem proijcienda. Expediret etiam vt cuncta renouarentur in lectisternijs et indumentis; habitationem etiam et domum mutaret.

175B In casu vero quo nil inuentum fuerit, tunc exorcizandus, si potest, ecclesiam intrabit mane, et quanto dies sanctiores, vt festa beate virginis aut vigilie existunt, tanto melius. Sacerdos etiam confessus et in bono statu amplius proficiet. Teneat itaque exorcizandus candelam in manu benedictam melius quo poterit, sedendo aut genua flectendo, et qui assunt deuotas orationes pro eius liberatione fundant. Et incipiat letaniam inchoando: “Adiutorium nostrum in nostro domino,” et habeat respondentem: aspergat ipsum aqua benedicta, et stola circumdabit colulum et subinferat psalmum: “Deus in adiutorium,” et prosequatur letaniam vt moris est super infirmos, dicendo ad inuocationem sanctorum: “Ora pro eo (vel orate), et propitius esto. Libera eum, domine,” singula prosequendo vsque ad finem, vbi orationes sunt dicende. Tunc loco orationum incipiat exorcismum, et continuabit modo prescripto vel alio meliori, vt sibi videbitur. Possent etiam huiusmodi exorcismi continuari ad minus ter in septimana, vt sic multiplicatis intercessoribus gratia obtineatur sanitatis. Verum post omnia communicandus est

<sup>a</sup> *Seemingly unnecessary*

eucharistie sacramento, licet quidam ante exorcismum hoc faciendum putant.

Et in confessione attendat confessor si aliquo vinculo excommunicationis esset innodatus vel si vnquam temere innodatus absolutionem a suo iudice non recepisset. Tunc enim licet ad cautēlam eum absoluat, <sup>175C</sup> tamen reddita sospitate a suo iudice qui eum ligauerat querat.

Attendendum quod vbi exorcista non habet ordinem exorcistatus,<sup>a</sup> tunc procedere potest per orationes et si legere nouit scripturas legat euangelia quattuor prima euangelistarum; item euangelium: “Missus est angelus,” et passionem domini, que omnia magnam habent virtutem ad expulsionem operum diaboli. Item euangelium sancti Johannis: “In principio erat verbum” scribatur et ad collum infirmi suspendatur. Et sic gratia sanitatis a deo expectetur.

Verum<sup>402</sup> si quis quereret de differentia inter aque benedictę asperisionem et exorcismum, cum vtrumque in effectu contra demonis molestiam ordinatur, respondit sanctus Thomas (vbi supra, dist. vi): Diabolus impugnat nos ab exteriori et interiori: aqua ergo benedicta ordinatur contra impugnationem diaboli que est ab exteriori, sed exorcismus contra impugnationem diaboli que est ab interiori. Vnde illi contra quos datur dicuntur energumini ab “en,” quod est “intra,” et “geron,”<sup>b</sup> “labor,”<sup>403</sup> quasi intus laborantes.<sup>404</sup> In maleficiato | ergo exorcizando vtrumque <sup>175D</sup> adhibetur cum vtrobique molestentur.

Verum quo ad secundum principale: quid agendum vbi gratia sanitatis per exorcismos non obtinetur. Responso. Licet sex<sup>405</sup> ex causis hoc fieri possit, est tamen vna septima super quam iudicium nostrum suspenditur. Nam quod aliquis non liberatur, aut hoc est propter paruitatem fidei circumstantium aut ipsum egrotum offerentium aut propter peccata maleficium sustinentium aut propter accomoda remedia adhibere negligentium<sup>c</sup> aut propter exorciste aliquod in fide vitium aut propter

<sup>a</sup> Ed. prin.: t̄xor-

<sup>b</sup> So ed. prin.; Aq.: ergon

<sup>c</sup> So Nider, sc. -am (cf. 176A)

<sup>402</sup> *Start of Nider, Form. 5.6 (215B), which begins:* (Piger): Habeo adhuc dubia de exorcismo . . . secundo qua sit differentia inter effectum aque benedictę et exorcismi, cum vtrumque contra demonis molestiam ordinetur. . . (Theologus): . . . Ad secundum respondet [sc. sanctus doctor] (dist. vi), dicens: Diabolus . . .

<sup>403</sup> *The words ab . . . labor are intruded into Nider's quote of Aq. from the original text of Aq., Sent. 2.6.2.3a. Ra3*

<sup>404</sup> End

<sup>405</sup> *Start of Nider, Form. 5.2 (198B), which begins:* Sex ex causis non liberatur [i.e., a woman whose possession by a demon could not be cured by exorcism] aut propter paruitatem fidei offerentium aut propter peccata demonium sustinentium aut propter accomoda remedia adhibere negligentium . . .

reuerentiam virtutum in alio existentium aut propter purgationem vel meritum maleficium patientium. De primis quattuor<sup>406</sup> docet euangelica veritas (*Mathei xvij* et *Marci ix*) in patris<sup>a</sup> vnici<sup>b</sup> filij sui lunatici et discipulorum Christi presentia. Primo enim offerens et turba fide carebat, vnde pater cum lachrymis orauit: “Credo, domine! Adiuua incredulitatem meam.” Et ad turbam Jesus ait: “O generatio incredula et peruersa, quousque | ero vobiscum?”  
176A

De secundo, videlicet de sustinente demonem. Jesus increpabat eum, scilicet filium, quia, vt beatus Jeronimus ibi dicit, propter peccata sua a demone fuerat oppressus.

De tertio, de neglectu debitorum remediorum, patet quia non fuerunt presentes boni et perfecti viri, vnde Crisostomus ibi dicit: “Columne fidei, videlicet Petrus, Iacobus et Johannes, non aderant, sicut in transfiguratione Christi presentes erant, nec oratio et ieiunium aderat, sine quibus, Christus ait: ‘Hoc genus demoniorum non eijcitur.’” Vnde Orige<sup>c</sup> ibi dicit: “Si aliquando oportuerit circa<sup>407</sup> curationem aliquid patientium remanere, non admiremur, neque interrogemus neque loquamur quasi audienti spiritui in mundo, sed abigamus ieiunijs et orationibus nostros spiritus malignos.” Et glosa dicit: “Hoc genus demonij, id est, ista carnalium voluptatum mutabilitas, ad quam scilicet spiritus ille inclinabat, non vincitur nisi spiritus oratione confirmetur et caro per ieiunium maceretur.”

De quarto, exorciste vitio, presertim in fide, patet ibidem de Christi  
176B discipulis presentibus, vnde postea | secreto discipuli querentes<sup>d</sup> causam sue impotentie, respondit: “Propter incredulitatem vestram. Amen dico vobis: si habueritis fidem, sicut granum sinapis, dicetis monti huic tollere” etc. Vbi<sup>408</sup> Hilarius: “Crediderunt quidem apostoli, sed nondum erant perfecti in fide. Nam domino in monte morante cum alijs tribus, et illis cum turba residentibus, quidam tepor eorum fidem relaxauerat.”

De quinto patet in *Vitas Patrum*, vbi legimus aliquando obsessos non liberatos per sanctum Anthonium sed per eius discipulum Paulum fuisse liberatos.

<sup>a</sup> So Nider; ed. prin.: p̄ris (unice suggests that this was interpreted as partis.)

<sup>b</sup> So Nider; ed. prin.: -e

<sup>c</sup> Sc. Origenes (cf. 47A)

<sup>d</sup> So Nider; sc. discipulis querentibus

<sup>406</sup> Nider: primis

<sup>407</sup> Nider: nos circa

<sup>408</sup> Nider: vnde

De sexto<sup>409</sup> patuit supra, quia non semper cum quis liberatur a culpa, liberatur a pena, sed remanet interdum pena in vindictam et satisfactionem precedentis delicti.

Et adhuc aliud remedium, de quo fertur quod plures fuerint liberati, videlicet quod maleficiati de nouo fuerunt baptisati, licet sub conditione. Super quo, vt premisi, nil determinare audemus, verissimum tamen existit quod cum debite quis ante baptismum non fuit exorcisatus, vtique diuina permissione diabolus semper maiorem recipit in talem potestatem.

Patet ex premissis, nec ambiguum est, quin plures negligentie siue 176C a sacerdotibus non bene dispositis, vbi iam quantum impedimentum prenotatum tangitur, videlicet exorciste vitium, committuntur, siue a vetulis que tempore necessitatis debitum modum baptisandi non seruant. Nec tamen asserere volo quin sacramenta a malis conferri possint, et quod imo quantumcunque malus baptizat et conficit, dummodo debite sub debita forma verborum, materia in intentione baptizat ordinatus et conficere intendat:<sup>410</sup> sic a simili in exorcizando rite procedat, non suffusus aut violentus. Vnde et sine actuali vel habituali intentione – et vtinam non cespitando et verba necessaria obmutendo! – huiusmodi sacris officijs se immisceant.<sup>a</sup> Reuera sicut ad conficiendum quattuor essentialia deseruiunt, scilicet materia, forma, intentio, ordo, modis tamen preactis, et vbi vnum defuerit, nec conficere poterit, ita circa exorcismos suo modo asserere oportet.

Nec obiectio valet quod sine exorcismis in primitiua ecclesia baptizabantur aut etiam quod nunc characterem baptismalem sine eo valeat 176D baptizatus recipere, quia sic Gregorius inuanum<sup>b</sup> exorcismos instituisset et ecclesia in suis cerimonijs potius erraret. Quare nec ausus sum omnino reprehendere qui maleficiatos sub conditione vellent rebaptizare et neglecta fortassis recuperare. Fertur etiam de illis qui nocturno tempore in somnis per alta edificia sine lesione solent incedere, quod vtique opus esse maligni spiritus tales sic deferentis<sup>c</sup> plures asserunt. Hi cum rebaptizantur, melius habere noscuntur, et mirum quod vbi nominibus proprijs annuuntur, subito ad terram colliduntur ac si fortassis illud nomen non debite in baptismo fuerit impositum.

<sup>a</sup> *The verb lacks the necessary negative, which has perhaps been omitted through confusion caused by non in the parenthetical clause.*

<sup>b</sup> *Sc. in vanum (treated as a single word; cf. incassum)*

<sup>c</sup> *Ed. prin.: -es*

<sup>409</sup> *End (Nider adds: patebit infra, vbi de maleficiatis habebimus)*

<sup>410</sup> *Cf. Aq., Sent 4.6.1.2a. Co.: . . . et ideo requiritur intentio baptizantis, et similiter in omnibus alijs sacramentis requiritur intentio ministri cum debita materia et forma. . .*

Expedit lectorem esse attentum super sex illa impedimenta. Licet enim super energuminos aut possessos et non super maleficiatos sonant, tamen quia equa virtus vtrobique requiritur diuina, imo dici potest quod maioris sit difficultatis maleficiatum curare quam energuminum aut possessum, ideo illa impedimenta si ibi possunt habere locum et a fortiori super maleficiatos.

- 177A Quod tali ratione | probatur. Nam vt supra patuit (capitulo decimo), aliqui possidentur interdum pro nullo proprio delicto sed pro leui alieno et varijs alijs de causis, in maleficio autem quando adulti maleficiuntur, vt plurimum eis contingit, quia in anime necationem grauissime a demone ab intus possidentur. Vnde duplex labor circa maleficiatos, vbi simplex circa possessos ab extra, requiritur de hac grauissima possessione. Cassianus<sup>411</sup> (*Collatione Abbatis Sereni*)<sup>412</sup> dicit: “Illi sunt vere miseri ac miserabiles iudicandi qui cum se vniuersis criminibus flagicijsque contaminant: non solum nullum in eis verisimiliter<sup>413</sup> signum diabolice suppletionis ostenditur, sed nec<sup>414</sup> aliqua quidem operibus eorum condignatentatio nec vllum flagellum correptionis infertur. Non enim merentur celerem temporis istius expeditamque medicinam, quorum duricia et impenitens cor penam vite presentis excedens thesaurizant sibiipsis iram
- 177B et indigationem in die ire et reuelationis iusti iudicij dei, | in quo vermes<sup>a</sup> eorum non <moriantur et ignis non><sup>b</sup> extinguetur.” Et iterum idem Cassianus comparando<sup>415</sup> corporalem possessionem ad<sup>416</sup> anime per peccatum paulo ante dicit: “Multo grauius,” inquit, “constat illos vehementiusque vexari, qui cum corporaliter ab ipsis affligi<sup>417</sup> minime videantur, animo tamen perniciosius possidentur, eorum scilicet vicijs et voluptatibus inuoluti. Secundum apostoli nanque sententiam, a quo quis superatur, eius seruus efficitur nisi quod in hoc isti desperatius egrotant, quod cum sint eorum mancipia, nec impugnari se ab illis nec dominatum eorum ferre cognoscunt.”<sup>418</sup> Ex quibus elicitur quod a fortiori maleficiati in corpore, non tamen possessi a demone ab extra sed ab intra quo ad anime necationem, grauius propter plura impedimenta sanantur.

<sup>a</sup> So Nider; ed. prin.: -is

<sup>b</sup> So Nider

<sup>411</sup> Start of Nider, Form. 5.12 (246C–D)

<sup>412</sup> Nider: Sereni prima

<sup>413</sup> Nider: visibiliter

<sup>414</sup> Nider: ne

<sup>415</sup> Nider (erroneously): operando

<sup>416</sup> Nider: et

<sup>417</sup> Nider: supplere (i.e., -eri)

<sup>418</sup> End

Quo ad tertium principale, scilicet quo ad remedia non iam verborum sed operum. Super cuiusmodi remedia notandum quod quia opera illa sunt duplicia, licita omnino et non suspecta aut suspecta et non omnino licita, et de primis | supra tactum est immediate capitulo quinto circa 177C finem, vbi dubitatio ponitur super herbas aut petras, vt maleficia repellant, quomodo hoc licitum sit, de secundis vero remedijs, que videntur esse suspecta, non tamen omnino illicita, nunc tractandum. Aduertere oportet capitula que in secundo principali huius secunde partis operis tacta sunt, de quatuor remedijs quorum tria censentur illicita, quartum autem non omnino illicitum sed vanum. De quo et canoniste loquuntur quod licitum est vana vanis contundere, sed quia nos inquisitores huius opinionis sumus cum sanctis doctoribus, quod in casu quo remedia per sacra verba et exorcismos licitos non sufficiunt, et hoc propter impedimenta superius tacta in numero sex aut septem, quod tunc tales maleficiati hortandi sunt ad patientiam equanimiter ad tollerandum mala presentis vite in suorum criminum purgationem, et non vltius querere quocunque modo supersticiosa et vana remedia, ideo si quis premissis 177D licitis exorcismis non contentus ad huiusmodi vana adminus remedia, de quibus supra tactum est, se transferre voluerit, sciat hoc non nostra voluntate aut admissione fieri.

Sed quod posita et enucleata fuerunt ibidem talia remedia, factum fuit vt tantorum doctorum, vt Scoti, Hostiensis, etc., ex parte vna et aliorum theologorum ex parte altera dicta quocunque modo concordarentur, fatemur ergo cum sancto Augustino in quodam sermone contra sortilegos et diuinatores (et intitulatur *Sermo de Augurijs*), vbi dicit: “Fratres,<sup>419</sup> nostis me frequentius supplicasse vt consuetudines paganorum et maleficorum minime seruare deberetis, sed hoc proficit apud aliquos parum. Et quia si vobis non dixero pro me et pro vobis, redditurus sum in die iudicij rationem et vobiscum mihi necesse erit eterna supplicia sustinere, ergo apud deum me absoluo dum iterum atque iterum ammoneo et contestor vt nullus ex vobis diuinos aut sortilegos requirat, nec eos de | qualibet re aut causa aut infirmitate interroget, quia quicunque fecerit hoc malum, statim peribit in eo baptismi sacramentum 178A

<sup>419</sup> *Start of adaptation of Augustine, Fragmentary Sermon 278.r*: Bene nostis, fratres carissimi, me vobis frequentius supplicasse et paterna sollicitudine commonuisse, pariter et contestatum esse vt illas sacrilegas paganorum consuetudines obseruare minime deberetis, sed quantum ad me multorum relatione peruenit, apud aliquos parum proficit admonitio mea: quia si vobis ego non dixero, et pro me et pro vobis malam sum redditurus rationem in die iudicij, et vobiscum mihi erit necesse eterna supplicia sustinere, ego me apud deum absoluo dum iterum atque iterum admono pariter et contestor vt nullus ex vobis caragos vel diuinos vel sortilegos requirat, nec de qualibet eos aut causa aut infirmitate interroget...

et continuo sacrilegus et paganus efficitur, et nisi penitentia subuenerit, statim in eternum peribit.”<sup>420</sup> Et postea subdit: “Nullus<sup>421</sup> dies exeundi et redeundi obseruat. Fecit enim deus omnia bona valde et<sup>a</sup> qui vnum diem et alterum statuit. Sed quotiens necessitas vrget faciendi aliquid aut exeundi, signate vos in nomine Christi, et symbolum vel orationem dominicam fideliter dicentes securi in dei adiutorio agatis.”<sup>422</sup>

His autem quidam supersticiosi et filij huius seculi non contenti errores erroribus accumulare volentes vltra intellectum et intentionem Scoti et canonistarum his argumentis se defendere conantur. Quia<sup>423</sup> enim res naturales habent quasdam virtutes occultas, quarum ratio ab homine assignari non potest, sicut quod adamas trahit ferrum et multa alia que Augustinus (xxi *De Ciuitate Dei*) enumerat, ideo<sup>424</sup> inquirere de huiusmodi rebus pro sanitate acquirenda, vbi exorcismi et naturales  
178B medicine deficiunt, non erit illicitum, licet videatur vanum. Hoc autem fieret, vbi quis per imagines non nigromanticas sed astrologicas vel per annulos et huiusmodi<sup>b</sup> sanitatem in se vel in alio procurare vellet.

Item arguunt: sicut<sup>425</sup> corpora naturalia subduntur corporibus celestibus, ita etiam corpora artificialia,<sup>c</sup> puta imagines, sortiuntur quasdam virtutes occultas speciem consequentes ex impressione corporum celestium: ergo etiam corpora artificialia, puta imagines, sortiuntur aliquam virtutem occultam a corporibus celestibus ad aliquos effectus cau-sandos. Ergo vti eis et alijs huiusmodi<sup>d</sup> non est illicitum.<sup>426</sup>

Preterea,<sup>427</sup> demones possunt multipliciter corpora transmutare, vt Augustinus (iij *De Trinitate*) dicit et patet in maleficiatis: ergo licet vti etiam eorum virtute ad tollendum illa.<sup>428</sup>

<sup>a</sup> *Unnecessary (clumsy adaptation)*

<sup>b</sup> *Ed. prin.*: huius

<sup>c</sup> *Ed. prin.*: -ilia

<sup>d</sup> *Ed. prin.*: huius

<sup>420</sup> *Pause*

<sup>421</sup> *Resume*: Nullus ex vobis obseruet qua die de domo exeat, qua die iterum reueratur, quia omnes dies deus fecit, sicut scriptura dicit, et factus est primus dies et secundus dies et tertius, similiter et quartus et quintus et sextus et sabbatum, et illud: fecit deus omnia bona valde . . . sed quoties vobis in quacunque parte fuerit necessitas properandi, signate vos in nomine Jesu Christi, et symbolum vel orationem dominicam fideliter dicentes securi de dei adiutorio iter agite.

<sup>422</sup> *End*

<sup>423</sup> *Start of Aq.*, Summa 2/2. 96.2. Ag1

<sup>424</sup> *End (Aq. adds*: videtur quod vti huiusmodi rebus ad corpora immutanda non sit illicitum)

<sup>425</sup> *Start of Aq.*, Summa 2/2. 96.2. Ag2

<sup>426</sup> *End*

<sup>427</sup> *Start of adaptation of Aq.*, Summa 2/2. 96.2. Ag3: Preterea, demones etiam multipliciter possunt corpora transmutare, vt dicit Augustinus (iij *De Trinitate*). Sed eorum virtus a deo est. Ergo licet vti eorum virtute ad aliquas huiusmodi immutationes faciendas.

<sup>428</sup> *End*

Sed reuera in oppositum sunt dicta omnium sanctorum doctorum, vt satis et sparsim hincinde patuit. Vnde ad primum<sup>429</sup> dicitur quod si res naturales simpliciter adhibentur ad aliquos effectus producendos ad quos putantur habere naturalem virtutem, non est illicitum. Si vero adiungantur vel characteres aliqui vel aliqua quecunque ignota et vane obseruationes,<sup>430</sup> que manifestum est naturalem non habere super hoc efficaciam, erit superstitiosum et illicitum.<sup>431</sup> Vnde sanctus Thomas (*Secunda Secunde*, q. xcvi, ar. ij in pede questionis) tractans hanc materiam dicit quod<sup>432</sup> in his que fiunt ad aliquos effectus corporales inducendos, vt puta sanitatem vel aliquid huiusmodi,<sup>a</sup> considerandum est vtrum videantur naturaliter posse tales effectus causare, et quia licet causas naturales adhibere ad suos effectus, ideo non est illicitum;<sup>433</sup> si autem videantur non posse naturaliter tales effectus<sup>b</sup> causare, consequens est quod non adhibentur ad hos effectus causandos tanquam cause, sed solum quasi signa, et sic pertinent ad pacta significationum cum demonibus inita. Vnde Augustinus (xxi *De Ciuitate Dei*): “Alliciuntur demones per creaturas quas non ipsi sed deus condidit delectabilibus pro sua diuersitate diuersis, non vt animalia cibus, sed vt spiritus signis per varia genera lapidum, herbarum, lignorum, animalium, carminum, rituum.”<sup>434</sup> 178C

Ad secundum dicit idem doctor: virtutes<sup>435</sup> naturales corporum naturalium consequuntur eorum formas substantiales quas sortiuntur ex impressione corporum celestium, et ideo ex eorundem impressione sortiuntur quasdam virtutes actiuas. Sed corporum artificialium forme procedunt ex conceptione artificis, et cum nihil aliud sint quam compositio, ordo et figura, vt dicitur i *Phisicorum*, non possunt habere naturalem virtutem ad agendum. Et inde est quod ex impressione celestium corporum nullam virtutem sortiuntur in quantum sunt artificialia, sed solum secundum materiam naturalem. Falsum est ergo quod Porphyrio videbatur, vt Augustinus dicit (x *De Ciuitate Dei*): herbis, lapidibus et animantibus et sonis certis, quibusdam etiam vocibus et figurationibus atque figmentis, quibusdam etiam obseruatis in celi auersione motibus siderum, fabricari in terra ab hominibus potestates idoneas varijs effectibus siderum 178D

<sup>a</sup> *Ed. prin.*: huius

<sup>b</sup> *Ed. prin.*: -cttus

<sup>429</sup> *Start of Aq.*, Summa 2/2.96.2. *Ra1*, which begins: Ad primum ergo dicendum quod...

<sup>430</sup> *For* aliqua... obseruationes *Aq. has*: aliqua nomina vel alique quecunque varie obseruationes

<sup>431</sup> *End*

<sup>432</sup> *Start of Aq.*, Summa 2/2.96.2. *Co*.

<sup>433</sup> *For*... quia... illicitum *Aq. has*: ... sic enim non erit illicitum licet enim causas...

<sup>434</sup> *End*

<sup>435</sup> *Start of Aq.*, Summa 2/2. 96. 2. *Ra2*

exequendis,<sup>a</sup> quasi effectus magicarum artium ex virtute celestium corporum provenirent. Sed sicut Augustinus ibi subdit, totum hoc ad demones pertinet ludificatores animarum sibi subditarum.

179A Vnde etiam imagines quas astronomicas vocant ex operatione demonum habent effectum. Cuius signum est quod necesse est eis inscribi quosdam characteres, qui<sup>b</sup> naturaliter nihil operantur. Non enim est figura principium actionis naturalis, sed in hoc distant astronomicæ imagines a nigromanticis, quod in nigromanticis fiunt expresse inuocationes,<sup>436</sup> vnde et ad expressa pacta cum demonibus<sup>c</sup> inita pertinent; astronomicæ ad tacita pacta propter figurarum et characterum signa.<sup>437-438</sup>

Ad<sup>439</sup> tertium. Non est homini potestas super demones commissa, vt eis licite vti possit ad quodcumque voluerit, sed est ei contra demones bellum indictum. Vnde nullo modo licet homini demonum auxilio vti per pacta tacita vel expressa.<sup>440</sup> Hec Thomas.

Ad propositum. Quia dicit “nullo modo,” nec etiam quibuscunque vanis, quibus videlicet se demon quocunque modo possit immiscere. Si tamen sunt adeo vana vt et fragilitas humana pro recuperanda sanitate illa aggreditur, doleat de preteritis, caueat de futuris, orat<sup>d</sup> vt sibi debitum dimittatur et in tentationem non amplius inducatur, inquit Augustinus  
179B in fine regule.

REMEDIA CONTRA GRANDINES ET SUPER IUMENTA  
MALEFICIATA

Capitulum Septimum

QUALITER DENIQUE IUMENTA MALEFICIATA possint remediari; similiter et tempestates aeris. Notanda sunt primo quedam remedia illicita que a quibusdam practicantur. Nam quidam verbis aut factis superstitiosis, vt qui vermes in digitis aut membris per quedam verba et

<sup>a</sup> *So Aq.; ed. prin.: -as*

<sup>b</sup> *So Aq.; ed. prin.: que*

<sup>c</sup> *Ed. prin.: do-*

<sup>d</sup> *Sc. -et*

<sup>436</sup> *Aq.: inuocationes et prestigia quedam*

<sup>437</sup> *This clause appears in Aq. as: sed in alijs imaginibus sunt quedam tacita pacta per quedam figurarum seu characterum signa*

<sup>438</sup> *End*

<sup>439</sup> *Start of Aq., Summa 2/2. 96. 2. Ra 3, which begins: Ad tertium dicendum quod ad dominium pertinet diuine maiestatis, cui demones subsunt, vt eis vtatur deus ad quodcumque voluerit. Sed homini non est potestas . . .*

<sup>440</sup> *End*

carmina illicita curant, de quibus carminibus qualiter cognoscuntur ut sint licita vel non in precedenti capitulo tactum est. Alij sunt qui super iumenta maleficiata non aquam benedictam spargunt, sed ori infundunt.

Primum remedium verborum esse illicitum ultra premissa Guilhelmus (sepe allegatus) sic demonstrat. Si<sup>441</sup> enim verbis inesset virtus (et dicamus verbis ut verbis), tunc ex quinque modis esset vnus: vel ex parte materie, id est, aeris; aut ex parte forme, hoc est, soni; aut ex modo significandi; aut ex parte omnium simul. Non primum, quia aer } non interficit nisi sit venenosus. Sonus etiam non, quia excellens obiectum 179C corrumpit potentiam. Nec tertium, quia tunc hoc nomen "diabolus" vel "mors," "infernus" illa nocerent semper, et "sanitas," "bonitas" semper prodessent. Item nec omnia simul, quia totum aggregatum ex partibus inualidis etiam totum est inualidum.<sup>442</sup>

Nec valet si obijcitur: deus contulit vim verbis, sicut herbis et lapidibus, quia si que virtutes insunt quibusdam verbis aut sacramentalibus aut alijs benedictionibus et carminibus licitis, has habent in se non ut verba, sed ex institutione et ordinatione diuina et ex pacto dei, sicut si dominus diceret: quicumque hoc fecerit, faciam ei hanc gratiam, et sic verba in sacramentis efficiunt quod signant, quamuis secundum alios etiam habent virtutem intrinsecam. Sed prima opinio quia iam deseruit, ideo amplectitur.

De alijs autem verbis et carminibus patet ex premissis quod ut verba sunt verba composita vel prolata aut figurata nihil efficiunt, sed inuocatio nominis diuini et obsecratio, que est persacra quedam protestatio <ad> committendum effectum diuine voluntati, prosunt.

Remedia etiam operum, que illicita videntur, ut supra tactum est. Et etiam vbi in partibus Suevie plurimum practicatur quod prima die may ante ortum solis mulieres villane exeunt et ex siluis vel arboribus

<sup>441</sup> *Start of adaptation of William of Auvergne. De Legibus 27: Si enim ista virtus inesset verbis, esset eis ex necessitate uno quatuor modorum, hoc est, vel a parte materie sue, hoc est, aere, aut a parte forme sue, hoc est, soni siue sonationis, aut a parte significatorum aut ex omnibus his aut aliquibus illorum. De primo quidem modo manifestum est tibi quia impossibile est nisi cum aer veneno aut alia causa corruptus fuerit, ut mortem inferat. . . [second method entirely changed] . . . Tertia via similiter erronea est et impossibilis, videlicet ut a parte signati sit huiusmodi virtus verbis atque nominibus. Si enim malitia et nocumenta signati prestarent hanc virtutem nocendi verbis atque nominibus, nomen mortis atque inferni mortem et tormentum intolerabile necessario inferrent audientibus. Amplius. Bonitas atque salubritas signati secundum hoc virtutem praestarent verbis atque nominibus, et hoc iuxta magnitudinem siue immensitatem bonitatis. Quare tanta virtus esset vnique nominum creatoris ut ad prolationem ipsorum et omnia mala tollerentur ab audientibus et omnia bona prestarentur eisdem. . . Quarte vero vie impossibilitas ex precedentibus facile patefiet. Cum enim ad predictam virtutem prestandam nullum iuuat, malifstum esse debet tibi quia nec omnia illa simul prestare possunt.*

<sup>442</sup> *End*

deferunt ramos de salicibus vel alios frondes et ad modum circuli plectentes in introitu stabuli suspendunt, asserentes quod per integrum annum iumenta cuncta illesa a maleficis remanent et preseruantur: hoc quidem remedium secundum opinionem illorum qui dicunt vana vanis contundere posse non esset illicitum, sicut nec etiam qui per carmina ignota morbos expellerent. Sed sine offensione procedendo dicamus quod si prima die vel secunda mulier vel quicumque egrediatur non habens respectum ad solis occasum vel ortum colligit herbas, frondes aut ramos cum oratione dominica aut simbolo fidei, suspendit illa super hostium stabuli bona fide committens effectum custodie diuine voluntati, non erit reprehensibilis, vt supra in precedenti capitulo ex verbis 180A Hieronimi<sup>443</sup> (et habetur | xxvi q. vlti.):<sup>444</sup> "Licet herbas et petras habere etiam sustinenti demonium sine incantatione."<sup>445</sup>

Ad idem. Sunt qui intra vineas aut segetes signum crucis, frondes aut flores benedictos in die palmarum continent, erigunt et asserunt quod vndique frugibus per grandines lesis segetes in eorum campis illesi remanserunt, de quibus iuxta distinctionem tactam discernendum videtur.

Ad idem. Sunt qui pro conseruatione lactis, ne videlicet vacce per maleficia priuentur, integrum liquorem lactis quem die sabbati colligunt pauperibus gratis pro deo distribuunt, et per huiusmodi elemosinam asserunt vaccas etiam sub vbertate ampliori lactis a maleficis preseruari. In quo opere nihil supersticiosum iudicatur, dummodo pietatis causa<sup>a</sup> quam pauperibus exhibent etiam diuinam pietatem implorare pro conseruatione iumentorum taliter proponunt vt tamen effectum custodie diuine prouidentie pro suo beneplacito relinquunt.

180B Preterea, Nider in suo *Preceptorio* (precepto primo, ca. xi) dicit quod etiam per<sup>446</sup> carmina scripta et verba sacra licet iumenta sicut homines infirmos benedicere et per ea que incantationis speciem habere videntur, dummodo septem premissae conditiones seruantur.<sup>447</sup> Dicit etiam quod a<sup>448</sup> deuotis personis et virginibus experientiam habuerit<sup>449</sup> quod adhibito signo crucis super vaccam et dominica oratione cum salutatione angelica trines vel circiter cessat opus demonis, si est per maleficium.<sup>450</sup>

<sup>a</sup> *Ed. prin.*: cām (=causam)

<sup>443</sup> *Start of Nider, Praec. 1.11.28 (Ii), which begins:* Vnde xxvi, q. vlti. dicitur (et est auctoritas beati Hieronimi)

<sup>444</sup> *Ed. prin.*: vlti., a false reading that appears in *Nider, Praec. 1.11.9 (E)*; the correct reference (vij) appears when the same passage is quoted in *Praec. 1.11.28 (Ii)*

<sup>445</sup> *End*

<sup>446</sup> *Start of adaptation of Nider, Praec. 1.11.26 (Gg) (quoted in n. 376)*

<sup>447</sup> *End*

<sup>448</sup> *Start of Nider, Praec. 1.11.34 (Oo)*

<sup>449</sup> *For experientiam habuerit Nider has: expertum habeo*

<sup>450</sup> *End*

Et in suo *Formicario*: "Constat<sup>451</sup> quod malefici de ritibus ecclesie veneratis et seruatis sua maleficia prepediri fatentur, vt per aque benedictae aspersionem, per salis consecrati sumptionem, per candelarum in die purificationis et palmarum in die palmarum consecratarum vsum licitum et per similia, quia ad hoc talia ecclesia exorzisat, vt vires demonis imminuant.<sup>452-453</sup>

Preterea, quia malefice, quando volunt iumentum priuare liquore lactis, solent ex illa domo in qua iumentum moratur modicum lactis vel butiri ex illo iumento coagulatum<sup>a</sup> petere, vt et sic consequenter valeant per suam artem iumentum maleficari, ideo sint caute mulieres a quibus suspecte huiusmodi petunt, ne eis in minimo mutuent aut donent. 180C

Preterea, sunt certe mulieres que dum sentiunt quod in coagulando butirum nil proficiunt, sicut in vasis oblongis<sup>b</sup> ad hoc aptis laborare solent, tunc si subito ex suspecte malefice domo modicum butiri habere possunt, tria frustra seu bolos ex illo butiro faciunt, et sub sanctissime trinitatis inuocatione (patris et filij et spiritussancti) illa frustra in vasculum projiciunt et sic omne maleficium fugatur. Vbi iterum incidit vanum vanis contundere, tantummodo ex eo quod butirum a malefica suspecta habet mutuare: quod si absque hoc sub inuocatione sanctissime trinitatis orationem dominicam adiungendo, etiam si de proprio butiro siue alieno, si proprium non haberet, tres pecias immitteret, effectum diuine voluntati committens, irreprehensibilis maneret, licet commendanda non esset, propter tres videlicet pecias butiri immissas; commendanda autem si per aspersionem aque benedictae, salis exorcizati immisionem cum oratione, vt supra, maleficium fugaret. 180D

Preterea, quia sepe omnia iumenta maleficijs interficiuntur, aduertere debent quibus talia accidunt, vt sub limine hostij stabuli aut persepe<sup>c</sup> vel<sup>d</sup> vbi adaquantur terra amoueatur et alia terra cum aspersione aque benedictae ad illa loca reponatur, quia sepe malefice fesse sunt maleficij aliqua instrumenta ad illa loca occultasse, fesse quod ad instantiam demonum tantummodo foueam facere habebant, demon autem maleficium reposuisse,<sup>e</sup> quod quidem maleficium res vilissima erat, vt lapis, lignum vel mus aut serpens aliquis. Constat enim quod diabolus maleficia operatur

<sup>a</sup> Sc. -i

<sup>b</sup> Ed. prin.: -lang-

<sup>c</sup> Ed. prin.: pre- (in pleno)

<sup>d</sup> Unnecessary (cf. 143D)

<sup>e</sup> Sc. reposuit

<sup>451</sup> *Start of Nider, Form. 5.4 (20&A)*

<sup>452</sup> *Nider: min-*

<sup>453</sup> *End*

per se nec in illis rebus indiget consensum aut et perditionem malefice querit, vnde et ipsam aliquo modo cooperari cogit.

181A Contra grandines vero et tempestates vltra ea que supra de signo crucis erecto hoc remedium practicitur. Lapilli enim tres ex grandine in ignem sub inuocatione sanctissime trinitatis proijciuntur, oratio dominica cum angelica salutatione bis aut ter adiungitur. Euangelium Johannis: “In principio erat verbum” cum signo crucis vndique contra tempestatem ante et retro et ex omni parte terre subinfertur, et tunc cum in fine replicat trinies: “Verbum caro factum est,” et trinies ex post dixerit: “Per euangelica dicta fugiat tempestas ista,” subito, si quidem tempestas ex maleficio fuit procurata, cessabit. Hec verissima experimenta nec suspecta iudicantur. Hoc ipsum enim quod lapilli in ignem proijciuntur, si absque inuocatione diuini nominis fieret, supersticiosum censeretur.

Quod si dicatur: nunquid sine illis lapillijs sedari posset tempestas, responderetur vtique per alia sacra verba. Proijciens autem intendit diabolium molestare, dum eius facturam per inuocationem sanctissime trinitatis destruere conatur, ad ignem potius quam ad aquam proijcit, quia cicius dum resoluuntur, eo etiam cicius eius factura destruitur, effectum<sup>a</sup> tamen custodie diuine voluntati committit.

181B Est ad hoc quod malefica<sup>454</sup> quedam, a iudice interrogata an per aliquem modum tempestates a maleficis concitate sedari potest, respondit: “Possunt, per hoc videlicet: | ‘Adiuuro vos grandines et ventos per quinque vulnera Christi et per tres clauos qui eius manus et pedes perforarunt et per quattuor euangelistas sanctos, Matheum, Marcum, Lucam et Johannem, vt in aquam resoluti descendatis.’”<sup>455</sup> Fatentur<sup>456</sup> etiam multe, licet quedam sponte, quedam in torturis et difficulter, quod quinque sunt per que multum impediuntur, aliquando in toto, aliquando in parte, aliquando ne in persona<sup>b</sup> hominis fiant, aliquando ne in suis amicis: et sunt<sup>c</sup> fidem integram vel dei precepta<sup>457</sup> seruantibus,

<sup>a</sup> *Ed. prin.*: -ctñ

<sup>b</sup> *So Nider; ed. prin.*: -ā

<sup>c</sup> *Nider*: videlicet (et sunt *appears to be a clumsy or abortive attempt to change the following participial clauses to a parenthetical comment with finite verbs, but the necessary changes were not made*)

<sup>454</sup> *Start of adaptation of Nider, Form. 5.4 (208D), which begins*: Subintulit iudex tercio querendo: “Possuntne per aliqua tempestates tales remediari a vobis concitate et a demonibus?” Respondit: “Possunt . . .”

<sup>455</sup> *End*

<sup>456</sup> *Start of Nider, Form. 5.4 (207B), which begins*: Nam ita fatebantur [sc. maleficos multipliciter impediiri posse] multi in torturis et dificulter quidam, alij vero sponte. Et quantum ex predicti Petri verbis in Summa collegi, quinque sunt . . .

<sup>457</sup> *Nider*: precepta in caritate

se signo crucis et oratione munientibus, ritus et ceremonias ecclesie colentibus, publicam iusticiam bene exequentibus et Christi passionem verbo vel mente ruminantibus.<sup>458</sup> Vnde et Nider (vbi supra): "Ea de causa vniuersaliter vel communiter<sup>459</sup> in ecclesia campane contra auram pulsantur, tum vt tanquam <per><sup>a</sup> tubas deo consecratas demones recedant a suis maleficijs, tum etiam vt populus excitatus deum contra tempestates inuocet. Et eandem ob causam cum altaris sacramento et sacris verbis ad auram sedandam proceditur|communiter ex antiquissima consuetudine 181C ecclesiarum in Gallia et in Germania."<sup>460</sup>

Sed quia hic modus circa deortationem sacramenti ad auram sedandam videtur multis quoddam superstitiosum, non intelligentes<sup>b</sup> quod<sup>c</sup> regulas per quas agnoscitur aliquid superstitiosum vel non, ideo considerandum<sup>461</sup> est quod quinque dantur regule seu considerationes per quas quilibet cognoscere potest an opus deo exhibitum sit superstitiosum, id est, supra modum christiane religionis obseruatum vel sit ad debitum cultum et honorem deo exhibendum, tam in cordis quam corporis actibus ex vera virtute religionis progrediens. Jsta enim eliciuntur ex glosa super illud apostoli (*Ad Collosenses* ij): "Que sunt rationem habentia sapientie in superstitione," que dicit: "Superstitio est religio supra modum seruata," vt etiam supra tactum est.

Prima est: quod in omnibus operibus nostris cum gloria dei debeat esse principalis finis noster iuxta illud: "Siue manducatis siue bibitis siue aliud quid faciatis, omnia in gloriam dei facite," ideo in omni opere ad religionem pertinens<sup>d</sup> christianam attendatur|an opus sit ad gloriam dei, 181D et homo in opere det principaliter gloriam deo, ita quod per ipsum opus

<sup>a</sup> So Nider

<sup>b</sup> Sc. -ibus

<sup>c</sup> Grammatically unnecessary

<sup>d</sup> Sc. -enti

<sup>458</sup> End

<sup>459</sup> Start of Nider, Praec. 1.11.34 (Pp)

<sup>460</sup> End

<sup>461</sup> Start of adaptation of Nider, Praec. 1.11.23 (Dd): Questio xiiij: anne possunt alique regule dari per quas agnoscatvr vtrum aliquid sit superstitiosum vel non. Dicitur autem superstitio, vt patet Coll. ij super illo: "Que sunt rationem habentia sapientie in superstitione." Glosa enim dicit ibi quod superstitio est religio supra modum seruata, id est, modis vel circumstantijs malis et defectuosis. Est vero religio virtus inclinans ad exhibendum deo ratione sue excellentie debitum cultum et honorem tam in cordis quam in corporis actibus. Et respondetur secundum Thomam (Secunda Secunde, q. xcij) quod sic, saltem in genere et literatis, prout ex verbis elicitur eius sancti. Et sunt quinque. Prima est: cum gloria dei sit finis noster principalis, quem in omnibus querere debemus, attendatur an opus sit ad gloriam dei, et homo in opere deo det principaliter gloriam per ipsumque opus mens hominis deo subijcitur iuxta illud (1 Cor. x): "Siue manducatis siue bibitis siue aliud quid faciatis, omnia in dei gloriam facite."

et mens hominis deo subijciatur.<sup>462,463</sup> Et quidem licet propter hanc regulam cerimonialia vel etiam iudicialia veteris testamenti iam in nouo non exercentur, cum sciamus illa sub figura, hec autem in veritate iam esse propalata, tamen deportatio sacramenti vel reliquiarum ad auram sedandam non videtur contra hanc regulam militare.

Item cum secunda<sup>464</sup> regula sit quod attendatur an opus quod fit sit ad corporis exercitium vel refrenatiuum concupiscentie vel abstinencie corporalis, modo tamen virtuti debito, hoc est, secundum ritum ecclesie vel secundum moralem doctrinam, quia apostolus dicit (*Ad Romanos* xij): “Rationabile sit obsequium vestrum,”<sup>465</sup> et<sup>466</sup> propter hanc secundam regulam fatue faciunt vouentes non pectinare caput sabbato vel ieiunare die dominico tanquam meliori die et similia,<sup>467</sup> non videtur iterum quod deportatio sacramenti etc. sit supersticiosum.

182A Item cum tertia<sup>468</sup> regula sit quod attendatur an opus sit secundum statutum vniuersalis ecclesie vel secundum sacre scripture testimonium vel saltem secundum particularem<sup>469</sup> ecclesie ritum aut de consuetudine generali, que secundum Augustinum pro lege habenda est<sup>470</sup> – vnde<sup>471</sup> et beatus Gregorius scribit Anglorum episcopo conquerenti quod sunt diuerse ecclesie consuetudines in missarum celebratione, respondit Gregorius: “Placet vt siue in Romana siue in Galliarum seu in quacunque ecclesia aliquid inuenisti quod plus omnipotenti deo possit placere, sollicitate eligas”;<sup>472</sup> diuerse<sup>473</sup> enim consuetudines ecclesie in cultu diuino in nullo veritati repugnant, et ideo seruande, et eas preterire illicitum est<sup>474</sup> – ideo vt in principio tactum est, antiquissime consuetudines ecclesiarum Gallie et quarundam Germanie cum decreuerint eucharistiam ad

<sup>462</sup> For ideo . . . subijciatur, cf. *Aq.*, Summa 2/2.93.2.Co.: . . . quicquid homo faciat ad gloriam dei, et ad hoc quod mens hominis deo subijciatur et etiam corpus per moderatam refrenationem concupiscentiarum secundum dei et ecclesie ordinationem et consuetudinem eorum quibus homo conuiuit non est superfluum in diuino cultu.

<sup>463</sup> Pause

<sup>464</sup> Resume (*Nider begins*: Secunda: videatur an opus quod fit et quod pertinet ad aliquam abstinenciam corporalem vel corporis exercitium vtrum sit refrenatiuum concupiscentie modo virtuti debito secundum ritum . . .)

<sup>465</sup> Pause (*Nider adds*: loquendo de corporalibus exercitijs)

<sup>466</sup> Start of a later passage in same question of *Nider*, which begins: Propter idem [*sc. the first rule*] et propter regulam secundam fatue faciunt . . .

<sup>467</sup> End

<sup>468</sup> Resume quotation of the earlier passage of *Nider*, which begins: Tertia: videatur an opus . . .

<sup>469</sup> *Nider*: -is

<sup>470</sup> Cf. *Aq.*, Summa 2/2.93.2.Co.: . . . consuetudinem communem, que secundum Augustinum pro lege habenda est . . .

<sup>471</sup> Start of *Nider's* quotation of *Aq.*, Summa 2/2.93.1.Ag3

<sup>472</sup> Pause in *Nider* (and end of *Aq.*)

<sup>473</sup> Start of *Aq.*, Summa 2/2.93.1.Ra3

<sup>474</sup> End

auram <sedandam> deportare, non poterit hoc esse illicitum, verum quod non in patulo sed in sacrario abscondito et incluso.

Item cum quarta<sup>475</sup> regula sit quod inspiciatur quod opus quod fit habeat naturalem proprietatem ad effectum qui expectatur<sup>476</sup> – alias enim si hoc non habet, censetur superstitiosum, ex | qua consideratione 182B  
caracteres ignoti et nomina suspecta, etiam imagines astronomice et nigromantice refutantur omnia tanquam suspecta<sup>477</sup> – ideo et ex hac consideratione non possumus dicere quod deportatio reliquiarum aut eucharistie contra diabolicas infestationes sit superstitiosum, imo religiosissimum, cum ibi tota salus nostra contra aduersarium contineatur.

Item cum quinta<sup>478</sup> regula sit vt attendatur quod opus quod fit non prebeat occasionem scandali vel ruine, quia tunc licet non esset superstitiosum, tamen propter scandalum esset dimittendum vel differendum vel occulte sine scandalo faciendum:<sup>479</sup> ideo si deportatio talis sine scandalo fieri potest, vel saltem occulte, tunc non est obmittendum. Ex ista enim regula sepe obmittuntur benedictiones per verba deuota, siue super infirmos siue vt ad collum alligentur, et hoc a secularibus. “Obmittuntur” dico quod saltem non publice fiunt vbi occasionem ruine in alijs simplicibus prestare possent.

Hec sufficiant quo ad remedia contra grandines per | verba et opera 182C  
licita.

#### REMEDIA QUEDAM OCCULTA CONTRA QUASDAM OCCULTAS DEMONUM INFESTATIONES

##### Capitulum Octauum

SED IAM ITERUM SUSPEDITUR iudicium ad scribendum remedia contra quedam terre frugum nocumenta que per vermes interdum et scinifes per turmas ad longissima terrarum spacia in aere volantes, ita vt superficiem terre cooperire videantur, radicitus cuncta virentia tam in

<sup>475</sup> *Resumed adaptation of Nider:* Quarta: inspiciatur an opus adhibitum vel exercitium ad effectum qui expectatur habeat naturalem proprietatem vel non, de quo phisici, medici et astrologi, inquantum tales multa iudicare possunt, et theologi.

<sup>476</sup> *Pause*

<sup>477</sup> *Cf. Ag., Summa 2/2.96.2.Rat.:* . . . si simpliciter adhibentur res naturales ad aliquos effectus producendos ad quos putantur naturalem habere virtutem, non est superstitiosum neque illicitum. Si vero adiungatur vel characteres aliqui vel aliqua nomina vel alie quecunque varie obseruationes que manifestum est naturaliter efficaciam non habere erit superstitiosum et illicitum.

<sup>478</sup> *Resume (Nider begins:* Quinta: consideretur si opus non est merito res alicuius scandali dati prebens occasionem . . .)

<sup>479</sup> *End*

vinetis quam segetibus et graminibus consummatos<sup>a</sup> immittuntur. Item remedia contra pueros opere demonum cambitos.

Ad primum tamen dicendum iuxta sanctum Thomam (*Secunda Secundae*, q. xc, vbi petit an<sup>480</sup> liceat adiurare irrationalem creaturam): respondit quod sic, per modum tamen compulsionis. Que referri tunc debet ad diabolum, qui in nocumentum nostrum vtitur irrationalibus creaturis, et talis est modus adiurandi in ecclesie exorcismis per quos  
 182D demonum potestas | excluditur ab irrationalibus creaturis. Si enim intentio referretur quo ad irrationalem creaturam, quo ad se, que nihil intelligit, vana esset.<sup>481</sup> Ex quo datur intelligi quod per exorcismos licitos et adiurationes possunt depelli, diuina tamen assistente clementia taliter vt prius populo ieiunia, processiones et alie deuotiones iniungantur. Propter adulteria enim et multiplicationem criminum huiusmodi mala immittuntur, vnde et ad confessiones homines inducendi sunt. In nonnullis etiam prouincijs excommunicationes fulminantur, sed tunc vim adiurationis super demones sortiuntur.

Est et alia horribilis dei permissio super homines, vbi interdum mulieribus subtractis proprijs filijs et pueris alieni a demonibus supponuntur. Et hi quidem pueri vulgariter campsores (in almanico “wechs-elkind”) nuncupati sunt in triplici differentia. Nam aliqui sunt semper macilenti eiulantes, cum tamen quattuor mulieres nulla vbertate lactis  
 183A vnum | lactare sufficerent. Aliqui vero sunt incuborum demonum opere producti, quorum tamen filij non sunt sed proprie illius hominis et viri cuius semen receperunt vt succubi vel in somnis viros polluentes. Hos enim pueros interdum diuina permissione supponunt subtractis proprijs filijs. Est et tertium genus vbi interdum demones in specie paruulorum apparentes nutricibus se coniungunt. Commune in omnibus tribus quod multo ponderosi: macillentes non crescunt et nulla vbertate lactis, vt premissum est, lactantur. Et sepius dicuntur euanuisse.

Quare autem diuina pietas talia permittit? Dici potest quod ex duplici causa: primo, quia parentes pueros nimis diligunt, vnde propter eorum vtilitatem talia permittuntur; secundo, quia presumendum est quod huiusmodi mulieres quibus talia accidunt vt plurimum sunt supersticiose, et in multis alias a demonibus seducuntur. Vnde et dominus verus zelotes secundum rectum zelum, qui est vehemens amor in propriam  
 183B sponsam, ex quo alium non solum | accedere non patitur, sed nec signa

<sup>a</sup> Sc. consumentes

<sup>480</sup> *Start of Nider, Praec. 1.11.30 (LL), which begins: Questio xxx: vtrum licet adiurare irrationem creaturam. Respondet Thomas (ibidem) quod sic . . .*

<sup>481</sup> *End*

adulterij vel suspicionis vt maritus zelosus super animam quam precioso sanguine emit et per fidem desponsauit, sustinere potest in tactu, colloquio, appropinquatione quocunque modo cum inimico diabolo et aduersario salutis. Et si signa adulterij maritus zelosus non patitur, quantum tunc turbatur quando adulterium committit? Vnde non mirum si proprij subtrahantur filij et adulterini supponuntur.

Et quidem vt fortius ista imprimantur, et quantum deus animam zelatur et non vult nec signa suspensionem causantia pati, patet ex antiqua lege, vbi vt populum suum funditus elongaret ab idolatria, prohibuit non solum idolatriam sed multa alia que occasionem possent prebere ad idolatriam et que etiam in se non videntur habere vitilitatem, quam tamen in suo mistico sensu mirabiliter retinent. Vnde non solum dixit (*Exodi* xxij): "Maleficos non patieris viuere super terram," sed et hoc adiunxit: "Non habitet<sup>182</sup> in terra tua, ne forte peccare te faciat,"<sup>183</sup> sicut copulatrix occiditur et peruagari inter homines non permittitur. Nota 183C zelum dei: (*Deuteronomi* xxij) deus precepit, nidum cum ouis aut pulis, desuper cubantem matrem non deberent simul seruare, sed matrem permittere auolare, quia hoc gentiles ad fecunditatem vel sterilitatem vertebant. Zelotes dominus in suo populo noluit tale signum adulterij pati. Sic iam vetule inuentionem denarij signum magni fortunij et per oppositum vbi thesaurum somniarent iudicant.

Item precepit omnia vasa cooperiri et vasculum non habens operculum immundum censer. Error erat vt venientes de nocte demones<sup>a</sup> aut, vt vetule dicunt, "die seeligen" (sed sunt malefice vel demones in earum effigijs) debent omnia consumere, vt post abundantius tribuant. Colorant quidam et dicunt "schrettil": sunt contra determinationem doctorum quod preter homines et angelos non sunt alie creature rationales, vnde non sunt nisi demones.

Item *Leuitici* xviiiij: "Ne in rotundum attondetis comam nec radetis barbam." Jlla enim | faciebant ydolatre in venerationem idolorum. 183D

Item *Deuteronomi* xxij: vt viri non induerentur vestibus mulierum nec econuerso, quod ille in venerationem dee Veneris et alij in venerationem Martis et dee Priapis.

Item ea de causa iussit destrui aras idolorum, et Ezechias destruxit serpentem eneam quando populus ei voluit offerri, dicens: "Cuprum est." Et ea de causa inhibuit somnia non obseruari et auguria et precepit

<sup>a</sup> *Ed. prin.*: -ibus

<sup>182</sup> *Vulgate* Ex. 22:33: -ent

<sup>183</sup> *Vulgate*: -ant

vt vir aut mulier in quo phitonicus spiritus esset occideretur, sicut iam sunt “warsegerin” nuncupati.

Que omnia quia suspicionem generant ad adulterium spirituale, ideo, vt dictum est, ex zelo quem deus habet ad animas sibi desponsatas, sicut sponsus ad sponsam, inhibuit. Sic etiam et nos predicatorum et animarum rectores aduertere debemus quod nullum sacrificium deo magis acceptum quam zelus animarum, vt Hieronimus (*Super Ezechielem*) attestatur.

184A Vnde et consequenter in tertia parte operis de exterminio maleficarum quo | ad vltima remedia tractandum erit. Hoc ipsum enim vltimum ecclesie refugium ad quod etiam ex diuino obligatur, vt dictum est, precepto: “Maleficos ne patiaris viuere super terram.” Vbi et remedia contra maleficos sagittarios includuntur, cum et hoc ipsum genus nisi per seculare brachium poterit exterminari.

*Remedium dum quis intuitu commodi temporalis se ex toto  
demoni deuouit<sup>a</sup>*

Sicut experientia sepe docuit per veram confessionem, licet a diaboli potestate liberabantur, tamen diu exposit grauissime molestati, et precipue nocturnis temporibus, fuerunt, et hoc in eorum penam deus permisit. Signum autem quod liberati erant ex illo agnoscebatur, quia pecunia in bursis aut capsulis post confessionem deficiebat. Super quo plurima gesta deduci possent, sed breuitatis causa obmittuntur.

<sup>a</sup> Capitulum Nonum *should follow*

PARS 3



SEQUITUR TERTIA PARS TOTIUS OPERIS SUPER MODOS  
EXTERMINANDI VEL ADMINUS PUNIENDI PER DEBITAM  
IUSTICIAM IN FORO ECCLESIASTICO ET CIUILI, ET  
HABEBIT QUESTIONES XXXV, GENERALIS TAMEN ET  
INTRODUCTORIA PREMITTITUR

VTRUM MALEFICE ET EARUM fautores, receptores et defensores ita 184B  
subijciuntur iudicio ecclesiastico diocesanorum et ciuili quod ab earum  
inquisitione valeant heretice prauitatis inquisitores esse exonerati.

Et arguitur quod sic. Nam in c. "Accusatus" § "Sane" (*Libro Sexto*)  
dicitur: "Sane cum negocium fidei, quod summe priuilegiatum existit,  
per occupationes alias non debeat impediri, pestis inquisitores heretice  
a sede apostolica deputati de diuinationibus aut sortilegijs, nisi heresim  
saperent manifeste, intromittere se non debent nec punire talia exer-  
centes, sed relinquere suis iudicibus puniendos." Nec videtur ob stare  
quod heresis maleficarum hic non exprimitur, tum quia eisdem penis in  
foro conscientie puniuntur ("De Consecratione," di. ij "Pro Dilectione":  
"Si diuinorum et maleficorum peccatum occultum sit, interponitur  
penitentia xl dierum; si notorium, eucharistia denegatur, et quorum<sup>a</sup> in  
eadem pena etiam idem iudicium decernitur") tum etiam quia eadem  
vtrouque videtur esse culpa, cum sicut | sortilegi iudicium sortiuntur,<sup>b</sup> 184C  
ita malefice nocumenta creaturarum a demonibus expectant et exigunt,  
vtrouque quod a solo deo querendum est a creaturis illicite requirentes,  
vnde vtrouque peccatum ydolatrie, ad quem sensum *Ezechie* xxi notatur  
quod rex Babylonis stetit in biuio in capite duarum viarum, commiscens  
sagittas interrogauit idola.<sup>1</sup>

Preterea, si dicatur quod capitulum restringit diuinatores et sortilegos  
super crimen heresis in quo subesse debent iudicio inquisitorum, cum  
dicit "nisi heresim saperent manifeste," ita quod adminus diuinatores  
et sortilegi hereticales sint eis subiecti, contra, quia tunc essent dandi  
diuinatores artificiales, de quibus nullibi in scripturis fit mentio.

Preterea, si malefice sunt inquisitorum iudicio subiecte, hoc erat  
propter crimen heresis, sed quia facta maleficarum sine heresi possunt  
fieri, probatur: nam sicut conculcare corpus Christi in luto, quod valde  
horrendum esset peccatum, potest fieri sine errore in intellectu, et per  
consequens etiam sine heresi, quia stat firmiter aliquem credere ibi esse 184D

<sup>a</sup> *Either sc. eis qui or delete the following in (presumably clumsy adaptation)*

<sup>b</sup> *Ed. prin.: -unt*

<sup>1</sup> *Quotation from Nider, Pracc. 1.10 (F)*

corpus, proijcere<sup>a</sup> tamen in lutum ad complacendum demoni ex aliquo pacto, ideo vt optatum finem, puta thesauri inventionem vel simile, obtineret, ita et facta maleficarum sine errore fidei, licet non absque grandi peccato, fieri possunt. Vnde in illo casu vtique iudicium inquisitorum subterfugiunt et suis iudicibus relinquuntur.

Preterea, sicut Salomon dijs suarum vxorum reuerentiam exhibuit propter complacentiam, nec tamen propterea apostasiam perfidie incurrebat, quia mente fidelis et veram fidem semper retinuit, ita et malefice propter reuerentiam quam exhibent diabolo propter pactum initum mente fidem retinentes non sunt propterea heretice nuncupande.

Preterea, si dicatur quod omnes malefice fidem habent abnegare, vnde et heretice iudicande, contra, quia in casu quo etiam mente et corde abnegarent adhuc non heretice sed apostate nuncupantur, et cum sit  
185A differentia inter hereticum et apostatam, et heretici inquisitorum iudicio subijciuntur, vtique malefice eorum iudicium subterfugere habent.

Preterea, (xxvi, q. v) dicitur: “Episcopi eorumque ministri omnibus modis elaborare studeant vt perniciosam et a zabulo inuentam sortilegam et magicam artem ex parrochijs suis penitus eradicare studeant,<sup>2</sup> et si aliquem virum aut mulierem huius sceleris sectatorem inuenerint, turpiter dehonestatum de suis parrochijs eijciant” etc., vnde cum capitulum dicat “suis iudicibus relinquunt,” et quia loquitur in plurali tam de ecclesiastico quam ciuile iure, ideo adminus per capitulum allegatum subijciuntur diocesanorum iudicio.

Quod si diocesani etiam seipsos exhonorare<sup>b</sup> vellent, prout inquisitores prefatis iam tactis argumentis rationabiliter facere videntur velentque maleficarum punitionem ad temporales iudices retorquere, his argumentis probabiliter hoc facere possent.

Habetur in c. “Vt inquisitionis” § “Prohibemus”: “<Prohibemus> quoque destrictius prefatis<sup>3</sup> dominis temporalibus et rectoribus ipsorumque officialibus, ne ipsi de hoc crimine, cum sit mere ecclesiasticum, quoque<sup>c</sup> modo cognoscant vel iudicent” et loquitur de crimine heresis. Sequitur ergo quod vbi crimen non est mere ecclesiasticum, sicut est crimen in huiusmodi maleficis, que<sup>d</sup> propter damna temporalia que ab eis inferuntur a ciuili et non ab ecclesiastico debent puniri.

<sup>a</sup> *Ed. prin.*: -eret

<sup>b</sup> *Sc. exon-*

<sup>c</sup> *Sc. quam (so canon)*

<sup>d</sup> *Unnecessary and obstructive of the sense*

<sup>2</sup> *Canon*: eradicent

<sup>3</sup> *Canon*: potestatibus, dominis

Preterea, (C. "De iudeis" l. vlti. in fine) dicitur: "Cernat preterea bona sua proscrip̄ta et mox sanguinis pena destinandus qui fidem Christi<sup>4</sup> expugnabit peruersa doctrina." Quod si dicatur quod lex loquitur de iudeis conuersis et post redeuntibus ad ritum Iudeorum, instantia non valet, imo argumentum amplius per hoc fortificatur, eo quod cum tales propter apostasiam a fide iudex ciuilis habet punire, ergo etiam maleficas fidem abnegantes, cum abnegatio fidei in toto vel in parte sit fundamentum maleficarum.

Preterea, licet in solutione dicatur quod pro eodem apostasia et heresis sit capienda, adhuc tamen ecclesiasticus iudex non se habet de eis introumittere | sed ciuilis. Nam occasione questionis heresum nullus debet populum commouere, sed preses debet per se prouidere (in *Autentico*, "De man. princ.," id est, "De mandatis principum," Colla. iij § "Neque occasione," vbi dicitur: "Neque occasione religionum heresumque questionis permittas alicui prouinciam commouere aut aliter quadam preceptione iniungi prouinciam<sup>5</sup> cui presides, sed ipse prouidebis cum competenti vtilitate fiscalibus et que alia sunt perscrutari et non permittere aliquid fieri circa nostras preceptiones occasione religionum"). Patet ex his quod de expugnante fidem nullus debet se introumittere nisi preses.

Preterea, si cognitio, iudicium et punitio talium maleficarum non spectaret totaliter ad ciuilem iudicem, quomodo leges de his tribus se introumittere possent? Nam C. "De maleficis" lex "Nemo," lex "Culpa," lex "Nullus" omnes illos quos vulgus maleficos vocat capitali pena subiicit, et etiam lex<sup>a</sup> "Militi"<sup>b</sup> bestijs obijcere decernit qui magica arte vite innocentum insidiantur; item quod questionibus et tormentis ad interrogandum subijci debeant, et quod ad eorum accusationem quilibet admitti debeat, et quod nullus fidelium sub pena exilij et amissione omnium bonorum cum eis participat cum multis alijs penis annexis, que legenti illas leges occurrunt.

Econtrario vero et pro veritate legum doctores talium maleficarum punitionem in ecclesiasticum iudicem possunt retorquere, vt simul copulatiue habeant cognoscere et iudicare, et hoc sic probatur. In crimine canonico preses cum metropolitano habet discernere et non metropolitanus per se sed adiuncto preside: patet in *Autentico*, "De mandatis principum" § "Si vero": "<Si vero> canonicum sit quod queritur, vna cum metropolitano prouincie hoc disponere et decernere providebis, siue alij

<sup>a</sup> *Ed. prin.*: et e.l.

<sup>b</sup> *Sc.* multi

<sup>4</sup> *Code.* alterius

<sup>5</sup> *Code.* quandam preceptionem iniungi prouincie

episcopi<sup>a</sup> dubitant” (glosa: “id est, in fide, quo casu solus cognoscet”) “siue alij quidam” (glosa: “tunc episcopus cum preside solus cognoscet”) 186A “et cause deo dare amabilem et decibilem | terminum, qui et decen- ter orthodoxam custodiat fidem et indemnitate[m] procuret fiscalibus et nostos subiectos seruet inuolatos” (glosa: “id est, eos non corrumpat in fide”).

Preterea, princeps secularis, licet puniat pena sanguinis, non tamen per hoc iudicium ecclesie excludit, cuius est cognoscere et diffinire, imo necessario presupponit, vt patet C. “De summa trinitate et fide catholica,” lege prima in fine et *Extra*, “De hereticis,” c. “Ad abolendam” et c. “Vergentis” et c. “Excommunicamus” primo et secundo. Jmo eadem pena est et secundum leges et secundum canonem, vt patet C. “De hereticis,” lege “Manacheos” et lege “Arriani,” vnde et ad eos pertinet, precipue insimul et non diuisim, talium punitio.

Preterea, sicut leges decernunt clericos a proprijs iudicijs emendari et non a temporalibus seu secularibus, eo quod crimen ecclesiasticum in eis censetur, ita et maleficarum crimen cum sit partim ciuile et partim ecclesiasticum propter damna temporalia et fidem quam violant: ideo ad vtriusque partis iudices pertinet ad cognoscendum, iudicandum et puniendum.

186B Et fortificatur ratio in *Autentico* (“Vt clerici apud proprios iudices” § “Si vero” coll. vi), vbi dicitur: “Si vero ecclesiasticum sit delictum egens castigatione ecclesiastica et mulcta, deo amabilis episcopus hoc discernat nihil communicantibus clarissimis prouincie iudicibus. Neque enim volumus talia negocia omnino scire ciuiles iudices, cum oporteat talia ecclesiastice examinari et emendari animas delinquentium per ecclesiasticam mulctam secundum sacras et diuinas regulas, quas et nostre sequi non dedignantur leges.” Hec ibi). Vnde et per oppositum crimen mixtum ab vtrisque est puniendum.

186C Responso. Cum principalis intentio nostra in hoc opere sit ab inquisitione maleficarum, quantum cum deo fieri posset, nos inquisitores partium superioris Almanie exonerare suis iudicibus ad puniendum relinquendo, et hoc propter negocij arduitate[m], dum tamen indemnitate<sup>b</sup> fidei et saluti animarum non eo minus prouideretur, quare et presens opus aggressi sumus, ipsis iudicibus modos cognoscendi, diffiniendi et sententiandi relinquendo, ideo ad ostendendum<sup>c</sup> quod episcopi contra maleficas in multis procedere possint etiam seclusis inquisitoribus, licet ipsi episcopi sine temporali et ciuili iudicio, vbi punitio transit in

<sup>a</sup> So *Code; ed. prin.*: quidam

<sup>b</sup> *Ed. prin.*: -e

<sup>c</sup> *Ed. prin.*: ostend-

vindictam sanguinis, non ita procedere valeant, expedit certas opiniones aliorum inquisitorum in diuersis regnis Hispanie in medium deducere et illas, salua eorum semper reuerentia, cum sub ordine vno predicatorum militamus, infringere, vt eo clarior in singulis habeatur intellectus.

Est itaque eorum opinio quod omnes malefici, sortilegi, diuinatores, nigromantici et breuiter sub quocunq[ue] genere diuinationum existant et qui fidem sacram semel susceperunt et professi sunt iudicio inquisitorum subiaceant, taliter vt in tribus que notantur in c. “Multorum querela” (in principio “De hereticis” in *Clementinis*) nec inquisitor sine episcopo nec episcopus sine inquisitore procedere habeat, licet in quinque alijs vnus sine altero procedere valeat (si cui placet, capitulum legat et inueniet). Vnum autem e tribus | est sententia diffinitiu[a] ad quam vnus 186D sine altero non debet procedere, et hoc vbi prefati heretici sunt habendi. Addunt insuper blasphemos et quocunq[ue] modo demones inuocantes, et excommunicatos qui in excommunicatione stetissent per annum animo contumaci in causa fidei vel etiam in non causa fidei sub certis casibus, et plura alia includunt per que autoritas ordinariorum nimis eneruatur, et nobis inquisitoribus ampliora onera imponuntur, minus securi<sup>2</sup> coram tremendo iudice qui vtique districtam a nobis supercommissi officij exiget rationem.

Et quia eorum opinio non infringitur nisi eorum fundamentum sit annullatum, ideo notandum quod principale fundamentum per glosatores canonum et precipue super c. “Accusatus” et § “Sane” et super verba “heresim sapiant manifeste” accipitur. Fundant insuper se super dicta theologorum Thome, Alberti, Bonauenture in *Secundo Sententiarum* (distin. vij): ex his specialiter aliqua expedit recitare.

Nam vbi capitulum dicit, vt in argumento primo deductum est, 187A quod inquisitores heretice prauitatis de sortilegijs et diuinationibus se non debent intromittere nisi heresim sapiant manifeste, dicunt quod<sup>6</sup> sortilegi vel diuinatores sunt duplices, scilicet artificiales et hereticales,

<sup>2</sup> Sc. securis

<sup>6</sup> *Start of adaptation of Eym. 2. 42 (336 1A-C):* . . . hic distinguendum est de diuinatores et sortilegis, scilicet quod diuinatores et sortilegi sunt in duplice genere. Quidam sunt sortilegi et diuinatores meri, sicut sunt qui agunt mere ex arte chyromantie, qui ex manus lineamentis diuinant et iudicant de effectibus naturalibus et conditionibus hominis, vel qui ex equalitate vel inequalitate festucarum aliquid presens sed absconsum ab eis iudicatum [*variant: iudicant*] diuinando, et consimiles. Et isti candunt in tit. “De Sorc. et Diui” et istis non se habet intromittere inquisitor per frequenter allegatum c. “Accusatus.” Et de his loquitur c. “Ex tuarum” (Extra “De sortileg”), vbi dicitur quod Vlricus presbyter cum quodam infami, hoc est diuinatore (dicit glosa), ad secretum locum perrexit, non ea intentione vt demonem inuocaret sed vt cum inspectione astrolabij furtum quoddam inueniret, quasi dicat quod est mere diuinatio vel sortilegium. Quidam autem sunt sortilegi et diuinatores non meri sed ad hereses contracti, vt sunt demonibus honorem latrerie vel dulie impendentes, puerum rebaptizantes vel similia facientes, et hoc pro diuinando futura

et primi dicuntur meri diuinatores, quia videlicet mere ex arte agunt, de quibus etiam loquitur capitulum “Ex Tenore” (*Extra*, “De Sortilegijs”), vbi dicitur quod Vldaricus presbiter cum quodam infami (“hoc est, diuinatore” dicit glosa) ad secretum locum perrexit, non ea intentione vt demonem inuocaret, quasi dicat quia hoc fuisset hereticum, sed vt cum inspectione astrolabij furtum quoddam inueniret, quasi dicat quod est mera diuinatio vel sortilegium. Secundi vero hereticales dicuntur diuinatores qui in eorum arte demonibus aliquem honorem latræ vel dulie impendunt, qui diuinando futura predicere conantur vel aliquid simile quod heresim sapiat manifeste exercent, et tales iudicio inquisitorum, sicut et alij heretici, subiacent.<sup>7</sup>

187B Et<sup>8</sup> quod hec sit mens capituli probant per canonistas glosantes verbum “saperent.” Nam Johannes Andree super allegato capitulo “Accusatus” et verbum “saperent” dicit ita: “Saperent,” sicut est circa aras idolorum nepharias preces emittere, sacrificia offerre, demones consulere, eorumque responsa suscipere: vel associant sibi propter sortes exercendas hereticos, vel faciunt predicta cum sanguine vel cum corpore Christi, vel in sortibus vt possint habere responsa puerum rebaptizant, vel his similia.”<sup>9</sup> Ad eundem sensum allegant archidiaconum super eodem capitulo et § “Sane” et super eodem verbo “saperent.”<sup>10</sup> Jtem allegant Johannem Monachi, Raymundum, Guilhelmum de Monte Lauduno.<sup>11</sup>

Jtem probant<sup>12</sup> per determinationem ecclesie ex concilio Acquirensi: (xxvi q. v) “Episcopi”, vbi huiusmodi mulieres supersticiose infideles

seu cordis intima penetrando, que quidem sapiunt heresim manifeste. Et tales sortilegi et diuinatores inquisitoris iudicium non euadunt, sed hereticorum legibus puniuntur per allegatum c. “Accusatus.”

<sup>7</sup> End

<sup>8</sup> *Start of Eym. 2.43 (340 1A–C)*, which begins: Secundo probatur hec eadem conclusio ex dictis doctorum canonistarum. Nam Ioannes Andree super c. “Accusatus” § “Sane” verbo “Saperent” (*Extra* “De Heret” lib. sex.) dicit ita . . .

<sup>9</sup> End

<sup>10</sup> *Cf. Eym. 2.43 (340 1C)*: Archidiaconus vero super eodem. c. et § “Sane” et verbo “Saperent . . .”

<sup>11</sup> *Cf. Eym. 2.43 (340 1D)*: . . . Ioannes autem Monachus super eodem c. et § et verbo “Saperent” dicit sic . . . ; (2D): . . . Guillelmus de monte Lauduno super antedicto verbo “Saperent” dicit ita . . . Bartholomeus Raymundi super eodem verbo “Saperent” dicit ita . . .

<sup>12</sup> *Start of Eym. 2.43 (340 2D–341 1D)*: Tertio eadem conclusio seu casus probatur ex dictis ecclesie determinationum. Nam xxvi questio. v capitu. “Episcopi” dicitur sic: [extensive quotation of the canon]. Ex his apparet quod perdicte scelerate mulieres in perfidia perseuerant, a recta via deuiant atque fide, et earum mentibus infidelibus demones obijciunt et deludunt. Si ergo iste mulieres, de quibus non constat quod sacrificia offerant demonibus inuocatis, perfidie et infideles et a recta via deuiantes in prefato decreto in concilio Acquirensi dicte et habite sunt, et per consequens, si baptizate sunt, vt heretice habende sunt, quia christianum a recta via et fide deuiare et infidelitatem recipere est proprie hereticare: quanto magis christiani honorem latræ exhibentes et sacrificantes demonibus inuocatis dicendi et habendi sunt perfidi, a recta via deuiantes, et infideles infidelitate christianorum, que est heresis, et per consequens heretici sunt habendi?

nominantur, cum dicitur: "Vtinam he sole in sua perfidia perissent!" Et perfidia in christiano dicitur heresis, vnde et inquisitorum hereticorum iudicio sunt subiecti.<sup>a-13</sup>

Probant insuper per theologos:<sup>14</sup> primo<sup>15</sup> per sanctum Thomam in *Secundo Sententiarum*, distinctione vij, vbi querit | vtrum vti auxilio demonis sit peccatum, vbi inter alia hec verba dicit super illud *Isaie viij* ("Nunquid non populus a deo suo requiret visionem?"): "In omnibus in quibus complementum operis ex virtute demonis expectatur est apostasia a fide propter pactum initum cum demone, vel verbotenus, si inuocatio intersit, vel facto aliquo, etiam si sacrificia desint."<sup>16</sup> Ad idem allegant Albertum (in eodem suo scripto et distin.);<sup>17</sup> item Petrum de Tharenthesia;<sup>18</sup> item Petrum de Bona Ventura nouiter canonizatum<sup>b</sup> (qui tamen non Petrus nominatur, cum fuerit verum nomen suum); item Alexandrum de Halis et Guidonem ordinis Carmelitarum.<sup>19</sup> Qui omnes dicunt quod demones inuocantes sunt apostate et per consequens heretici, vnde inquisitorum hereticorum iudicio subiecti.

Sed quod prefati inquisitores per hec et per quecunque ab eis allegata non possunt sufficienter probare quin etiam prefati sortilegi etc. iudicio ordinariorum seu episcoporum seclusis inquisitoribus possunt subiacere, et quod inquisitores a talium diuina<sup>torum</sup>, nigromanticorum seu etiam maleficorum <inquisitione><sup>c</sup> se possunt exonerare, non

<sup>a</sup> *Ed. prin.*: -ietti

<sup>b</sup> *Ed. prin.*: -o

<sup>c</sup> *Cf.* 186B, 192D, 193C

<sup>13</sup> *End*

<sup>14</sup> *Cf. Eym. 2.43 (339 1A)*: Hec conclusio seu casus potest deduci tripliciter: primo ex dictis sanctorum doctorum theologum...

<sup>15</sup> *Start of adaptation of Eym. 2.43 (339 2B-D)*: Idem sanctus Thomas (ij *Sententiarum*, dist. vij, articulo vltimo in corpore questionis, vbi querit vtrum vti auxilio demonis sit peccatum) dicit sic: "Respondeo dicendum quod ea que sunt supra facultatem humane nature a solo deo requirenda sunt, et ideo sicut grauiter peccant qui illud quod est dei creature impendunt per idolatrie cultum, ita etiam grauiter peccant qui ea que a deo expectanda sunt auxilio demonum implorant. Et huiusmodi est vaticinatio de futuris, vt dicitur *Isaie viij*: 'Nunquid non populus a deo suo requirit visionem pro viuus et mortuis'" etc. Et similiter etiam in alijs operibus magicis in quibus complementum operis ex virtute demonis expectatur. In omnibus enim est apostasia a fide propter pactum initum cum demonibus vel verbotenus, si inuocatio intersit, vel facto aliquo, etiam si sacrificia desint."

<sup>16</sup> *End*

<sup>17</sup> *Cf. Eym. 2.43 (339 2D)*: Dominus etiam Albertus doctor magnus ordinis fratrum predicatorum, qui fuit archiepiscopus Ratisponensis, super ij *Sententiarum*, distin. seprima, articulo vltimo in corpore questionis...

<sup>18</sup> *Cf. Eym. 2.43 (340 1A)*: Idem tenet dominus Petrus de Tarantasia ordinis predicatorum, qui postmodum fuit papa Innocentius V...

<sup>19</sup> *Cf. Eym. 2.43 (340 1A)*: Et dominus Petrus de Bonauentura, qui fuit cardinalis, et etiam Alexander de Alex de ordine fratrum minorum omnes predictis assentiuntur super ij *Sententiarum* dist. vij, et nonnulli alij magistri in theologia, et specialiter dominus frater Guido de ordine Beate Marie de Carmelo, episcopus Maioricensis et post Elnensis...

quod illi inquisitores male faciunt inquirendo super tales vbi episcopi non inquirunt, in quo casu potius inquisitores illi sunt commendandi, sic probatur. Inquisitores non habent se intromittere nisi super crimen heresis, et cum hoc oportet quod illud crimen sit manifestum: patet per frequenter allegatum capitulum “Accusatus” et § “Sane.” Quo stante tunc iterum arguitur: cum quis aliqua committit que absque vicio heresis committere potest, quantuncunq̄ illa sunt graua et enormia, adhuc non est vt hereticus iudicandus, licet sit puniendus. Ex quo sequitur quod vbi quis non est iudicandus vt hereticus sed vt malefactor puniendus, inquisitor non se debet intromittere, sed debet talem iuxta tenorem canonis suis iudicibus ad puniendum relinquere. Quo iterum stante, sequitur quod omnia inducta per glosatores, canonistas et theologos, vt  
 188A demones inuocare, eis sacrificare etc., | vt supra tactum est, nisi ex vicio heresis processerint, inquisitores non se debent intromittere, sed suis iudicibus, vt supra, relinquere. Quo iterum stante, cum prefata sepissime sine vitio heresis fieri possunt, in quo<sup>a</sup> casu talia facientes non sunt vt heretici habendi aut condonandi: subscriptis probatur autoritatibus et rationibus.

Nam ad hoc quod aliquis sit proprie hereticus quinque requiruntur. Primum est vt sit error in ratione. Secundum est quod error ille sit circa ea que sunt fidei vel contra veritatem determinationis ecclesie in his que pertinent ad fidem vel bonos mores et necessaria ad consecutionem vite eterne. Tertium est quod error talis sit in illo qui catholicam fidem professus est. Alias enim esset iudeus vel paganus, non hereticus. Quartum est quod talis error in eo qui fidem suscepit sit taliter quod aliquam veritatem de Christo confiteatur pertinentem ad diuinitatem vel humanitatem:<sup>b</sup> alias si totum discrederet, esset apostata. Quintum est vt talem errorem pertinaci voluntate et obstinata eligat et sequatur.

188B Et quod de heresi et heretico sic sumpto capitulum “Accusatus” et verbum “Saperent” intelligatur, glosas tamen canonistarum non reprobando sed saluando, sic probatur. Nam quod primum requiratur, scilicet error in intellectu, hoc notum est omnibus per communem regulam; duo requiruntur vt quis dicatur hereticus: vnum materiale, scilicet error in ratione, alterum formale, scilicet pertinacia in voluntate. Patet et per Augustinum: “Hereticus est qui nouas et falsas opiniones aut gignit aut sequitur.”

Ratio etiam adest, quia heresis est species infidelitatis, et infidelitas est in intellectu subiectiue, sicut et fides (sibi contraria et opposita habent fieri circa idem). Quo stante, factum vel opus quodcunq̄ sine errore

<sup>a</sup> Sc. eo?

<sup>b</sup> Ed. prin.: diuinitatem (cf. 191D)

non facit hereticum, vt puta si quis fornicatur aut mechatur: licet agat contra veritatem que dicit: "Non mechaberis," ex hoc non est hereticus nisi credat vel opinetur fornicari esse licitum.

Et ratio est, quia quandocunque aliqua duo necessario requiruntur ad constitutionem alicuius, deficiente altero eorum impossibile est illud esse, quia dato opposito | quod sine illo possit esse, iam non neces- 188C  
sario requiretur ad constitutionem illius, sicut quia ad constitutionem domus necessario requiritur fundamentum, paries, tectum, ideo altero deficiente non habetur domus.

Sic ergo quia ad heresim constituendam requiritur error in intellectu necessario, nullum factum absolute sine errore in intellectu facit hereticum, et propter hoc nos inquisitores Germanie dicimus cum beato Antonino in secunda parte *Summe* sue hanc materiam pertractantis quod baptizare<sup>20</sup> imagines, adorare demones, eis thurificare, conculcare corpus Christi in luto et omnia huiusmodi que sunt valde horrenda peccata, nisi sit error in intellectu, non faciunt hominem hereticum. Et ideo si quis faceret ista, vt puta baptizaret imaginem, non male sentiens de sacramento baptismi nec de eius effectu nec credens istum baptismum esse aliquid nec habere effectum ex vi sua, sed facit hoc propter aliquem finem facilius assequendum a demone cui querit propter hoc complacere, ita quod aliquo pacto implicito vel expresso illud agat vt demon sibi vel 188D  
alicui faciat quod petit, secundum quod characteribus et figuris secundum artes magicas ab hominibus demones pacto expresso vel tacito inuocantur ad desideria eorum explenda, dummodo non petant a demone quod sit supra facultatem eius nec quantum ad potentiam nec quantum ad cognitionem, sic scilicet quod non male sentiat de potestate aut cognitione demonis, sicut essent illi qui crederent quod demon possit necessitare liberum arbitrium hominis, vel illi qui crederent quod demon omnino ex tali pacto et in omnem euentum quantuncunque a deo non permissus posset facere quod petunt, vel qui crederent quod posset omnino scire alteram partem futuri contingentis vel effectum aliquem facere qui est proprius soli deo: tales enim non est dubium quod haberent errorem in intellectu et male de potestate demonis sentirent et per consequens suppositis alijs conditionibus que requiruntur ad heresim essent heretici<sup>21</sup> et ordinariorum simul et inquisitorum iudicio subiecti.

Sed<sup>22</sup> si ex causis predictis facerent non male sentientes de baptismo | 189A  
et alijs predictis, prout communiter fit, eo quod ipso facto malefici

<sup>20</sup> *Start of Ant., Summa 3.12.5 (1163A-1164A)*

<sup>21</sup> *Pause*

<sup>22</sup> *Resume*

et nigromantici, cum sciunt ipsum diabolum esse inimicum fidei et aduersarium salutis, iam coguntur in eorum cordibus sentire magnam vim esse in fide, et quod nulli falsitati subiacere potest, cui pater mendacij tantum preesse noscitur, ideo licet talia facientes peccarent grauissime, non tamen essent heretici. Et ratio est, quia non male sentiunt de sacramento, licet eo male et sacrilege vtantur, vnde sunt magis sortilegi quam heretici<sup>23</sup> et de numero illorum de quibus allegatum capitulum “Accusatus” pretendit non subiacere iudicio inquisitorum, cum non manifeste sapiant heresim, imo vix occulte et quasi nullo modo.

Et<sup>24</sup> eodem modo de adorantibus demonem et sacrificantibus ei, quia si hoc faciunt credentes diuinitatem esse in demonibus vel credentes quod cultus latræ sit eis exhibendus vel quod omnino ex exhibitione talis cultus assequantur quod requirunt a diabolo, non obstante dei prohibitione seu etiam permissione, tales essent heretici. Sed si ista faciunt  
189B non ita sentientes de demone, sed vt aliquo pacto cum demone facilius per ista exequantur ab ipso quod intendunt, tales non sunt heretici ex natura rei, licet grauiter peccent.<sup>25</sup>

Et quidem pro maiori declaratione sunt alique obiectiones mouende.

Nam<sup>26</sup> obstare videtur quod secundum iura symoniacus non<sup>a</sup> est hereticus, vt (i q. i) “Quisquis per pecuniam,” et tamen non habet errorem in intellectu. Nam symoniacus non est hereticus proprie sed large propter quandam similitudinem, quia ex quo vendit vel emit sacra, ita agit ac si estimaret donum gratie pecunia posse possideri secundum Thomam.<sup>27</sup> Sed non hoc estimando, sicut communiter accidit, non est hereticus, quia non hoc credit, sed bene verum esset si hoc crederet, scilicet donum gratie posse pecunia possideri.

Item, obstare videtur<sup>28</sup> quod dicitur (“De hereticis,” “Quicumque” et allegato c. “Accusatus”) quod adorans hereticum est hereticus: sed grauius peccat qui adorat demonem quam qui adorat hereticum, ergo etc.<sup>29</sup>

<sup>a</sup> *Logically unnecessary*

<sup>23</sup> *Pause*

<sup>24</sup> *Resume*

<sup>25</sup> *Pause*

<sup>26</sup> *Resume (Ant. begins: Non obstat quod secundum iura . . .)*

<sup>27</sup> *Cf. Aq., Sent. 4.25.3.1b.Co.: . . . simoniaci non sunt proprie et per se loquendo heretici, cum non habeant aliquam falsam opinionem, sed dicuntur heretici propter similitudinem actus, quia ita operantur ac si estimarent donum spiritussancti pecunia possideri, que estimatio esset heretica.*

<sup>28</sup> *For obstare videtur Ant. has: non obstat*

<sup>29</sup> *Pause (Ant. gives a short discussion of whether someone who adores a heretic is a heretic, which is transferred to 190D)*

Item,<sup>30</sup> qui iudicandus est vt hereticus videtur esse hereticus, quia iudicium debet sequi rei veritatem. Sed talis iudicandus est hereticus. 189C  
 Nam ecclesia non potest iudicare nisi de his qui patent – occultorum enim cognitor est deus et iudex (dist. xxxiiij, “Erubescant”) – sed ea que sunt in intellectu non possunt patere nisi ex factis extrinsecis visis vel probatis: ergo talis faciens talia est iudicandus hereticus.

Preterea, impossibile videtur quod aliquis faciens talia, scilicet conculcando corpus Christi et huiusmodi, nisi male sentiat de corpore Christi: probatur hoc, quia impossibile est maliciam esse in voluntate, quin sit error in intellectu, cum et secundum philosophum omnis malus est ignorans seu errans. Cum ergo talia facientes habeant maliciam in voluntate, ergo habent errorem in intellectu.

Respondetur ad ista.

Et primo super primum et tertium quia coincidunt.<sup>31</sup>

Duplex est iudicium, scilicet dei qui videt interiora, hominum qui non possunt iudicare de interioribus nisi per exteriora, vt argumentum fatetur tertium.<sup>32</sup> Modo ille qui iudicatur vt hereticus iudicio dei est vere hereticus ex natura rei. Deus enim nullum iudicat hereticum nisi habentem errorem fidei in intellectu. Sed ille qui iudicatur hereticus iudicio hominum non | oportet quod sit hereticus 189D  
 ex natura rei, sed quod fecerit tale factum per quod apparet ipsum male sentire de fide, et per consequens iuris presumptione hereticus reputatur.

Et si queratur an ecclesia habet statim iudicare tales qui sic adorant demones vel baptizant imagines hereticos et punire sicut hereticos,<sup>33</sup> responsiones nota: primo quod ad discernendum istud magis pertinet ad canonistas quam theologos. Canoniste dicunt: iuris presumptione hereticus reputatur et vt hereticus est puniendus; theologus dicit:<sup>34</sup> primo<sup>35</sup> iudicio sub correctione sedis apostolice quod non, quantum est ex natura rei, quicquid sit iuris presumptione. Et ratio potest esse ista: quia quancumque aliquis effectus dependere potest ex duplici causa, nunquam ex natura rei ex illo effectum potest iudicari precise altera causa. Cum igitur iste effectus qui est adorare demonem vel eius auxilium ad maleficandum

<sup>30</sup> *Resume (1164A, which begins: Item si arguatur in contrarium sic: qui iudicandus...)*

<sup>31</sup> *For et... coincidunt Ant. has: ad primum*

<sup>32</sup> *Clause not in Ant.*

<sup>33</sup> *End of direct quotation*

<sup>34</sup> *For canoniste... dicunt Ant. has: respondeo quod istud magis pertinet ad canonistas quam ad theologos tamen...*

<sup>35</sup> *Direct quotation resumed*

190A postulare imaginem baptizando<sup>a</sup> vel infantem viuum offerendo vel occi-  
dendo vel aliud huiusmodi,<sup>b</sup> potest<sup>c</sup> procedere ex duplici causa, scilicet  
vel credendo demonem | adorandum et sibi sacrificandum et imagines  
capere sacramentales effectus, vel quia aliquo pacto facto cum demone  
facio vt facilius obtineam quod volo a demone in his que non sunt supra  
facultatem suam, vt supra tactum est,<sup>36</sup> non debeo statim iudicare ex tali  
effectu precise alteram causam, scilicet quod hoc faciat vt male sentiens  
de fide. Vnde quando constat de huiusmodi effectu, vltius inquirendum  
est de causa, et si ex errore et peruersitate fidei hoc fecit, iudicandus  
est hereticus<sup>37</sup> et iudicio inquisitorum cum ordinarijs subiacebit, sed si<sup>38</sup>  
ex alia causa, iudicandus vt sortilegus et vilissimus peccator.<sup>39</sup>

190B Alia responsio ad nostrum propositum. Quicquid sit ex omnibus dic-  
tis et allegatis, constat quod omnes diuinares et malefici, qui iudicantur  
heretici iuris presumptione et non ex natura rei, ordinariorum iudicio et  
non inquisitorum subiacent, nec prefati inquisitores aliorum regnorum  
per allegationes canonum et glosatorum se tueri possunt, eo quod tales  
demonibus sacrificantibus<sup>d</sup> et adorantibus<sup>e</sup> iudicant hereticos iuris pre-  
sumptione et non ex natura rei. Textus autem dicit quod debeant sapere  
heresim manifeste, id est, sapere intrinsece et ex natura rei, et sufficiet  
nobis inquisitoribus de hereticis ex natura rei infectis se intromittere,  
alios suis iudicibus relinquendo.

Et quia dictum est quod inquirendum est de causa, vtrum ex errore  
fidei hoc fecerit vel non, vtique hoc facile erit. Nam sicut<sup>40</sup> habitus  
fidei cognoscitur per actum fidei, qui est credere et confiteri ea que sunt  
fidei, et habitus castitatis per caste viuere, ita ecclesia potest iudicare  
aliquem hereticum inquirendo si habet actum discredendi<sup>f</sup> seu male  
sentiendi de aliquo articulo fidei:<sup>41</sup> sic etiam et malefica que fidem in toto

<sup>a</sup> *Ed. prin.*: baptz-

<sup>b</sup> *Ed. prin.*: huius

<sup>c</sup> *So Ant.*; *ed. prin.*: possunt (*in pleno*)

<sup>d</sup> *Sc.* -es

<sup>e</sup> *Sc.* -es

<sup>f</sup> *So Ant.*; *ed. prin.*: discernendi

<sup>36</sup> *Clause not in Ant.*

<sup>37</sup> *Pause*

<sup>38</sup> *Resume*

<sup>39</sup> *Pause*

<sup>40</sup> *Resume (Ant. begins: Sed dices: quomodo ecclesia iudicabit aliquem hereticum si ex facto statim non potest iudicare, cum interiora non possit? Respondeo: hereticus cognoscitur per actus et distinctus habitus per distinctos actus. Sicut habitus. . .)*

<sup>41</sup> *End*

vel in parte abnegauit vel corpus Christi vilissime tractauit, homagium prestitit, vtrum huiusmodi ad complacendum demoni tantum fecerit, imo si in toto abnegauit etiam corde, iam iudicabitur vt apostata et deficiet quarta conditio que habet concurrere ad hoc vt quis proprie dicatur hereticus.

Quod si huic determinationi obijcitur bulla et commissio nobis ab Innocentio octauo facta, vbi malefice iudicio inquisitorum subijciuntur, respondetur: per illa non excluditur quin et dyocesani etiam vsque ad sententiam diffinitiuam contra eas procedere possint per illa antiqua iura, vt dictum est, cum hec bulla potius in partem sollicitudinis nobis inquisitoribus tradita sit, quam et operi<sup>a</sup> quantum possumus cum dei adiutorio exhibemus.

Vnde et primum argumentum non suffragatur inquisitoribus illis, sed potius contrarium concludit, cum tales simoniaci tantummodo iuris presumptione censentur heretici, de quibus ordinarij per se iudicare possunt irrequisitis inquisitoribus, imo nec inquisitores de simoniacijs varijs se intromittere habent et pari ratione de alijs qui tantum iuris presumptione heretici iudicantur. Nam contra episcopos scismaticos procedere non possunt et prelatos alios superiores, vt patet in c. "Inquisitionis" ("De hereticis," *Libro Sexto*), vbi sic dicitur: | "Inquisitores heretice prauitatis ab apostolica sede seu alijs quibuslibet deputati<sup>b</sup> de huiusmodi crimine inquirere contra episcopos<sup>c</sup> nequeunt aut eius pretextu procedere contra eos, nisi in literis commissionis sedis apostolice quod hoc possint continetur expresse. Si tamen inquisitores ipsi episcopos vel alios superiores prelatos sciuerint vel inuenerint circa crimen hereseos commisisse aut eos de huiusmodi diffamatos existere vel suspectos, id tenebuntur sedi apostolice nunciare."

Ad secundum similiter patet ex prehabitis responsio. Nam<sup>42</sup> adorans hereticum est tunc hereticus si adoret ipsum credens esse adorandum seu honorandum propter suam doctrinam et opinionem;<sup>43</sup> si autem honorat ipsum propter aliquod temporale sine aliquo errore fidei in intellectu, non est proprie hereticus, sed iuris fictione vel presumptione seu similitudinarie, quia agit sicut male sentiret de fide, sicut ille quem adorat,<sup>44</sup> vnde nec inquisitorum iudicio subiacebit.

<sup>a</sup> *Ed. prin.*: -e

<sup>b</sup> *So canon; ed. prin.*: -is

<sup>c</sup> *So canon; ed. prin.*: eos vt (presumably a misunderstood abbreviation)

<sup>42</sup> *Start of Ant.*, Summa 3.12.5 (1163E-1164A)

<sup>43</sup> *Seu . . . opinionem: not in Ant.*

<sup>44</sup> *End*

191A Ad tertium patet ex premis̄sis, quia licet<sup>45</sup> iudicatur ab ecclesia vt hereticus propter facta extrinseca visa et probata, non tamen sequitur quod semper sit hereticus ex natura rei, sed iuris presumptione sic reputatur,<sup>46</sup> vnde et in illo casu inquisitorum iudicium subterfugit, quia non sapit heresim manifeste.

Ad quartum dicendum<sup>a</sup> quod falsum presupponit, quia non<sup>47</sup> est possibile quod aliquis conculcet corpus Christi absque hoc quod male sentiat vel peruersitatem fidei habeat de corpore Christi, quia potest hoc facere sciens se peccare et credens firmiter ibi esse corpus Christi, facit tamen hoc vt placeat demoni et facilius obtineat quod vult ab eo. Et licet omnis malus erret, non tamen errore intellectus, qui est heresis, seu errans male sentiens de his que sunt fidei<sup>48</sup> sed de his que sunt virtutis alicuius cuius contrarium in vicijis operatur, et tantum de primo principali quod ad heresim proprie sumptam<sup>b</sup> requiritur et secundum quod iudicio inquisitorum debet hereticus subiacere.

191B Nec obstat si dicatur: tamen etiam contra diffamatos aut suspectos leuiter, vehementer aut violentēter de heresi et qui non videntur sapere heresim manifeste inquisitor potest procedere. Respondetur: inquirere potest et procedere super tales inquantum sunt suspecti aut diffamati de heresi proprie dicta, de qua eciam nunc loquimur, vt sepe tactum est, que habet errorem in intellectu et alia quatuor sequentia annexa.

Quorum secundum<sup>49</sup> est vt talis error sit circa ea que sunt fidei vel contra veritatem determinationis ecclesie in his que pertinent ad fidem et bonos mores et necessaria ad consecutionem vite eterne. Si enim error sit de his que non pertinent ad fidem, puta quod credat quis solem non maiorem terra et huiusmodi, non est periculosus error. Error autem contra sacram scripturam, contra articulos fidei, contra determinationem ecclesie, vt supra, est heresis (arguitur xxiiij q. i: “Hec est fides”).

Jtem quia determinatio dubiorum circa fidem pertinet principaliter ad ecclesiam et precipue ad pontificem summum, Christi vicarium, Petri

<sup>a</sup> *Ed. prin.*: -dnm

<sup>b</sup> *Ed. prin.*: -um

<sup>45</sup> *Start of Ant.*, Summa 3.12.5 (1165A–1166A), which begins: Non ergo ex natura rei talis iudicandus est hereticus, etsi iuris presumptione secundum glosatores iuris iudicetur. Posset tamen ecclesia statuere valde rationabiliter quod talia facientes, scilicet adorantes demones vel imagines baptizantes et huiusmodi, etsi non haberent errorem fidei in intellectu, vt heretici punirentur.

<sup>46</sup> *Pause*

<sup>47</sup> *Resume*

<sup>48</sup> *Pause*

<sup>49</sup> *Resume (Ant. begins: Secundum quod requiritus ad heresim est quod error sit circa . . .)*

successorem, vt expresse dicitur (xxiiij q. i) "Quotiens," et contra determinationem ecclesie nullus doctor vel sanctus suam sententiam defendit, vt dicit Thomas (*Secunda Secunde*), nec Hieronimus nec Augustinus nec alius, sicut ergo asserens pertinaciter contra fidem est hereticus, ita et contra determinationem ecclesie in his que pertinent ad fidem et necessaria ad salutem pertinaciter asserens est hereticus. Ipsa enim ecclesia nunquam errasse in fide probatur, vt dicitur (xxiiij q. i) "A recta" et alijs capitulis. Signanter autem dicitur quia asserens contra determinationem ecclesie non simpliciter sed in his dumtaxat que pertinent ad fidem et salutem est hereticus. Nam in alijs contrarium sentiens non est hereticus, sicut quod ius non potest separari ab vsu in rebus vsu consumptibilibus, quod declarauit et determinauit Johannes xxij in *Extrauagantis*<sup>50</sup> "Ad conditorem," vbi dicit contradicentes huic sententie esse contumaces et rebelles ecclesie, non hereticos.

Tertium quod requiritur est quod error sit in illo qui catholicam veritatem est professus. Si quis enim nunquam esset professus fidem christianam, non esset proprie hereticus sed simpliciter infidelis, vt iudeus et gentilis, qui foris sunt. Vnde Augustinus (*De Ciuitate Dei*): "Videns diabolus genus humanum a cultura idolorum et demonum liberari, hereticos mouit qui sub vocabulo christiano doctrine resisterent christiane." Oportet ergo quod error sit in illo qui in baptismo suscepit fidem christianam ad hoc vt sit hereticus.

Quartum quod requiritur est quod talis error sit in eo qui fidem suscepit taliter quod aliquam veritatem de Christo confiteatur pertinentem ad diuinitatem vel humanitatem. Si enim nullam veritatem penitus confiteretur, magis proprie apostata quam hereticus censeretur (sic Julianus apostata), et distinguitur vnum ab altero, licet aliquando vnum sumatur pro alio.<sup>51</sup> Sub hac conditione reperiuntur certi qui intedum egestate et molestijs varijs afflictis corpus et animam tradunt diabolo et fidem abnegant, dummodo in eorum necessitatibus et ad possidendum diuitias et honores dyabolus eis assistat. Nouimus certos nos inquisitores et post aliquos penitentes qui vtique absque errore fidei in intellectu, quia tantummodo propter commoda temporalia talia commiserunt, vnde nec heretici proprie nec iterum apostate ex corde, vt Julianus, licet magis apostate censentur.

Ex corde vero apostate si<sup>52</sup> nolunt resilire, vt heretici impenitentes tradentur curie seculari. Si autem velint, recipiuntur prout heretici

<sup>50</sup> Ant.: -i

<sup>51</sup> End

<sup>52</sup> Start of Eym. 2.49 (364 2E-365 1A)

penitentes iuxta c. “Ad abolendam,” § “Presenti” (“De hereticis,” *Libro Sexto*). Concordat Raymundus (ti. “De apostatis,” c. “Reuertentes”), vbi dicit quod reuertentes ab apostasie perfidia cum fuerint heretici tanquam reuertentes ab heresi sunt recipiendi,<sup>53</sup> et hic sumitur vnum pro alio, vt prius tactum est. Et subdit: “Illi<sup>54</sup> vero qui metu mortis fidem abnegant”<sup>55</sup> – hic tu accipe: “qui propter comodum temporale diabolo fidem abnegant et erroribus non credunt” – “licet<sup>56</sup> iure<sup>57</sup> heretici non sint”<sup>58</sup> – nota hic quod non sunt proprie heretici; subdit – “postquam<sup>59</sup> non habent in mente errorem, iudicio tamen ecclesie que<sup>a</sup> habet per exteriora de interioribus iudicare, heretici habendi sunt”<sup>60</sup> – nota hic iuris fictionem<sup>b</sup> – “et<sup>61</sup> si reuertantur, vt penitentes heretici recipiendi sunt. Non enim metus mortis est metus cadens in constantem virum ad fidem Christi abnegandam.”<sup>62</sup> Sic et tu accipe propter comoda temporalia. Vnde concludit: “Sanctius<sup>63</sup> est mori quam abnegare vel vesci ydoloticis, vt dicit Augustinus (et recitatur xxxij q. iij).”<sup>64</sup> Simile iudicium de maleficis fidem abnegantibus esset, vt vbi resilire vellent, reciperentur vt penitentes absque hoc quod curie seculari relinquerentur. Omnibus tamen modis ad gremium ecclesie recipiuntur, vbi petunt, et curie seculari, si non traduntur, relinquuntur, et hoc propter damna temporalia illata, prout in modis sentiendi patebit.

Et omnia prefatus ordinarius exequitur, ita quod etiam inquisitor suas vices illi committere potest in hoc dumtaxat casu apostasie. Secus est in alijs casibus sortilegiorum.

192C Quintum<sup>65</sup> quod requiritur ad hoc<sup>66</sup> vt quis proprie sit hereticus est vt talem errorem firmata voluntate et obstinata eligat et pertinaciter sequatur opiniones. Vnde secundum Hieronimum heresis ab electione est dicta, et ideo secundum Augustinum non qui falsas opiniones gignit

<sup>a</sup> *So Eym.; ed. prin.: -i*

<sup>b</sup> *Ed. prin.: -e*

<sup>53</sup> *Pause*

<sup>54</sup> *Resume*

<sup>55</sup> *Pause (Eym. adds: et erroribus non credentes)*

<sup>56</sup> *Resume*

<sup>57</sup> *Eym.: in re (variant reading of vere)*

<sup>58</sup> *Pause*

<sup>59</sup> *Resume*

<sup>60</sup> *Pause*

<sup>61</sup> *Resume*

<sup>62</sup> *Pause*

<sup>63</sup> *Resume (Eym. begins with: nam)*

<sup>64</sup> *End*

<sup>65</sup> *Start of Ant., Summa 3.12.5 (1166 1A–B)*

<sup>66</sup> *Ad hoc: not in Ant.*

vel sequitur, sed qui pertinaciter defendit hereticus est censendus. Vnde si quis non pertinaci malicia sentiret aliquid contra fidem sed ignorantia, paratus corrigi si quid<sup>67</sup> sentit falsum ostenderetur<sup>a</sup> sibi esse contra fidem vel sacram scripturam vel determinationem ecclesie (xxiiiij, q. iij “Dixit apostolus”), et ideo ipse Augustinus dicebat: “Errare potero, hereticus non ero,” quia scilicet paratus corrigi, cum sibi fuerit ostensus error, et constat quod quotidie inter doctores circa diuina sunt varie opiniones et aliquando contradictorie, ita quod necesse est alteram esse falsam, et tamen nulla earum reputatur falsa donec per ecclesiam fuerit determinata (arguitur xxiiiij, q. iij, “Qui in ecclesia”).<sup>68</sup>

Ex quibus omnibus concluditur quod probare<sup>b</sup> maleficos subiacere iudicio inquisitorum vel etiam alios quocunque modo demones inuocantes per dicta canonistarum super allegatum verbum | “saperent” in c. 192D “Accusatus” comprehensum non sufficienter probatur, cum tales ab eis heretici iudicantur quadam iuris fictione, nec etiam per dicta theologorum, cum et ipsi tales nominant apostatas verbo vel opere, non autem mente et corde, de quo errore verbum “saperent” pretendit.

Et licet iudicantur vt heretici, non tamen propter hoc sequitur quod episcopus sine inquisitore non possit ad sententiam diffinitiuam contra eos procedere aut carceri ad penam deputare aut tormentis exponere, imo in casu quo hec decisio non videatur sufficere ad hoc vt nos inquisitores simus a maleficarum inquisitione exonerati, nolumus tamen hoc via iuris exigere, cum vices nostras in his dumtaxat super sententiam ferendam ipsis dyocesanis committere possumus. Hoc enim habetur in<sup>69</sup> c. “Multorum querela” in principio (“De hereticis” in *Clementinis*), vbi sic dicitur: “Multorum querela . . .” et infra: “vt negocium inquisitionis huiusmodi eo prosperetur felicius, quo deinceps eiusdem labis indago 193A sollertius,<sup>70</sup> diligentius et cautius peragetur, ipsum tam per diocesanos episcopos quam per inquisitores a sede apostolica deputatos omni carnali <amore>,<sup>c</sup> odio vel timore aut cuiusmodi<sup>71</sup> commodi temporalis

<sup>a</sup> So *Ant.*; *ed. prin.*: -tendetur

<sup>b</sup> *Unnecessary and to be ignored*

<sup>c</sup> *So canon*

<sup>67</sup> *Ant.*: quod

<sup>68</sup> *End*

<sup>69</sup> *Start of Eym. 3.97 (577 2A–C), which begins: Vtrum inquisitor possit procedere sine episcopo siue diocesano ordinario, et episcopus sine inquisitore. Respondemus quod sic, nisi in tribus casibus in quibus vnus sine alio non potest, vt patet in c. “Multorum” in principio, “De her.” in Clem. vbi dicitur sic: “Multorum querela” et infra: “Vt . . . [first part of quotation follows].”*

<sup>70</sup> *Canon: solennius*

<sup>71</sup> *Canon: cuiuslibet*

affectione semotis decernimus exerceri, sic quod quilibet de predictis sine alio citare et arrestare seu capere ac tute custodie mancipare ponendo in compedibus et manicis ferreis, si ei visum fuerit faciendum, super quibus<sup>a</sup> ipsius conscientiam oneramus, necnon inquirere contra illos de quibus pro huiusmodi negotio secundum deum et iusticiam viderit expedire. Duro tamen tradere carceri<sup>72</sup> qui potius<sup>73</sup> ad penam quam ad custodiam videatur<sup>b</sup> vel tormentis exponere illos aut ad sententiam procedere contra eos episcopus sine inquisitore aut inquisitor sine diocesano aut eius <officiali vel><sup>c</sup> episcopali sede vacante capituli super hoc delegato, si sui ad inuicem copiam habere valeant, infra octo dierum spacium<sup>d</sup> postquam iniucem se requisierint, non valebit, et si secus presumptum fuerit, nullum sit et irritum ipso iure.<sup>74</sup> Post sequitur ad nostrum 193B propositum:<sup>75</sup> “Verum si episcopus vel eius seu capituli sede vacante delegatus<sup>e</sup> cum inquisitore aut inquisitor cum altero eorundem propter premissa nequeat aut noluerint<sup>76</sup> personaliter conuenire, potest episcopus vel eius seu capituli sede vacante delegatus inquisitori et inquisitor episcopo vel eius delegato seu sede vacante illi qui ad hoc fuerit per capitulum deputatus super illis committere vices suas vel suum<sup>f</sup> significare per litteras consilium et consensum.” Ex<sup>77</sup> quo patet quod licet in quinque casibus vnus sine altero, in tribus vero minime procedere possit,<sup>78</sup> quia tamen vnus alteri vices suas committere potest, presertim quo ad sententiam ferendam, ideo et nos hoc per presentes facere decreuimus alijs inquisitoribus in suis limitibus remanentibus.

Ad argumenta ergo respondendo.

Patet ex premissis ad sex prima argumenta pro inquisitoribus militanti decisis quod eorum inquisitioni malefice et sortilegi non videntur subijci.

<sup>a</sup> Canon: faciendum super quo; ed. prin.: super quibus faciendum

<sup>b</sup> For this elliptical expression, cf. magis esse ad in 82C

<sup>c</sup> So canon

<sup>d</sup> So canon; ed. prin.: -o

<sup>e</sup> So canon; ed. prin.: -o

<sup>f</sup> So canon; ed. prin.: -as

<sup>72</sup> Canon adds: ac arcto

<sup>73</sup> Canon: magis

<sup>74</sup> Pause

<sup>75</sup> The subsequent quotation is from Eym. 3.99 (580 1E), it being noted in 1D that this is a continuation of the quotation given in 3.97

<sup>76</sup> Canon: nolint

<sup>77</sup> Resume

<sup>78</sup> End (Eym. continues: Quod autem vnus sine alio procedere ad sententiam non possit, ante istam Clementinam iam erat cautum in c. “Per hoc” (“De Heret.,” Lib Sex.), sed perfectius habetur hic in c. “Multorum” allegato.)

Ad alia autem argumenta pro diocesanis in casu quo et ipsi a maleficarum inquisitione se exonerare vellent et ciuili iudicio relinquere, patet quod non possunt hoc eadem facilitate qua<sup>a</sup> inquisitores facere, quia in crimine heresis iuxta c. "Ad abolendam" et c. "Vergentis" et c. "Excommunicamus" (vtrumque) (*Extra*, "De hereticis") iudicis ecclesiastici est cognoscere et iudicare et iudicis secularis exequi et punire, vbi sententia transit in vindictam sanguinis, secus vbi ad alias penas penitentiales. Videtur etiam quod in heresi maleficarum, licet non in alijs heresibus, etiam ipsi diocesani suas vices ad agnoscendum et iudicandum in foro ciuili committere valeat, tum <quia> vt in argumentis tangitur, hoc crimen maleficarum non est mere ecclesiasticum, imo potius ciuile propter damna que inferuntur temporalia, tum etiam quia leges speciales in punitionem maleficorum quo ad omnem viam punitionis edite cernuntur. Videtur denique quod hec via plurimum in exterminium maleficarum deseruiret et in maximum releuamen ordinariorum coram tremendo iudice super districtum examen quod exigetur, cum teste scriptura iudicium durissimum his qui presunt imminet.

193C

193D

Et secundum hanc differentiam procedemus, videlicet quod iudex secularis cognoscere et iudicare potest vsque ad sententiam diffinitiuam ad penitentiam quam ab ordinarijs recipiet, secus super sanguinem, quam per se ferre potest.

VT ERGO IUDICES TAM in foro ecclesiastico quam ciuili modos cognoscendi, iudicandi et sentiendi semper in promptu habere valeant, consequenter circa tria principaliter procedendum erit: primo quis modus inchoandi processum fidei; secundo quis modus continuandi; tertio quis modus terminandi et sentiendi in hac materia maleficarum.

Circa primum quinque difficultates: prima quis inter tres modos procedendi qui in iure tanguntur sit magis competens; secunda de numero testium; tertia an possint compelli ad iurandum; quarta de conditione testium; quinta an inimici capitales ad testificandum admittuntur.

194A

Secunda pars continet questiones vndecim: prima qualiter testes sunt examinandi et quod semper quinque persone debent esse presentes; item qualiter malefice sint interrogande generaliter et particulariter, et erit sexta in ordine libri, cum numerus mutatur eo vt lector facilius reperiet materiam optatam; secunda varia dubia declarat super responsiones negatiuas et quando sit incarceranda et quando pro manifeste

<sup>a</sup> *Ed. prin.*: -o

deprehensa in heresi maleficarum <sit habenda>;<sup>a</sup> tertia de modo capiendi maleficas; quarta de duobus que post captionem facienda sunt iudici et an deponentium nomina sint ei manifestanda et defensiones concedende; quinta qualiter defensiones cum deputatione aduocati sint concedende; sexta quid faciet aduocatus cum sibi testium nomina non publicantur et vbi inimiciam capitalem allegat coram iudice; septima qualiter iudex inimiciam capitalem inuestigare habet; octaua de his que iudex habet aduertere antequam delatam tormentis exponat; nona  
 194B de modo sentiendi ad | questiones et tormenta; decima super tormenta continuanda et qualiter sint tormentande et de cautelis et signis contra maleficium taciturnitatis; vndecima super finales interrogationes et cautelas a iudice obseruandas.

Tertia pars continet primo questiones tres quas iudex debet aduertere et ex quibus omnis sententia diffinitiuā debet procedere: prima an super examen candentis ferri possit sentiari; secunda de modo quo omnis sententia est ferenda; tertia ex quibus suspicionibus potest iudicare et qualiter super vnam quaque suspicionem debet sentiari.

Demum super vltimam partem de viginti modis sentiendi: quorum<sup>b</sup> tredecim sunt communes super omnem heresim, reliqui specialiter super heresim maleficarum, et quia locis suis patebunt, causa breuitatis hic non assignantur.

#### QUESTIO PRIMA SUPER MODUM INCHOANDI PROCESSUM

194C QUERITUR ERGO PRIMO QUIS sit modus competens ad inchoandum processum fidei contra maleficas.

Respondetur. Cum inter tres modos qui tanguntur *Extra*, “De accusationibus” denuncia et inquisitio, et primus est<sup>79</sup> quando aliquis accusat aliquem de crimine heresis vel fautoria coram iudice, offerendo illud se probaturum et inscribit se ad penam talionis nisi probet,<sup>80</sup> et secundus<sup>81</sup> modus quando aliquis denunciat aliquem, ita tamen quod non offert se probaturum nec vult facere partem, sed dicit quod denunciat zelo fidei

<sup>a</sup> Cf. 202A

<sup>b</sup> *Ed. prin.*: quarum

<sup>79</sup> *Start of Eym. (413 2E), which begins*: Primus modus procedendi et processum incipiendi in causa fidei est per modum accusationis, et est quando . . .

<sup>80</sup> *End*

<sup>81</sup> *Start of adaptation of Eym. (415 2C)*: Secundus modus procedendi et processum incipiendi in causa fidei est per modum denuntiationis, et est quando aliquis denunciat aliquem de heresi vel fautoria vel alijs ad fidem pertinentem ipsi inquisitori sine hoc quod denunciat ratione sententie excommunicationis late per inquisitorem contra non denuntiantes.

vel ratione sententie excommunicationis late per ordinarium vel eius vicarium aut ratione pene temporalis quam secularis iudex contra non denunciante<sup>s</sup>,<sup>a.82</sup> et tertius<sup>83</sup> modus per inquisitionem, hoc est, quando non est aliquis accusator nec denunciator, sed fama laborat in aliqua ciuitate vel loco quod sint malefice, et tunc iudex habet non ad instantiam partis sed etiam ex officio procedere:<sup>84</sup> ideo aduertendum<sup>85</sup> quod primum modum procedendi iudex non | libenter admittat, tum quia non est in causa fidei vsitatus nec etiam in causa maleficarum, qui<sup>b</sup> sua maleficia occulte exercent, tum etiam quia est accusanti multum periculosus propter penam talionis que plecteretur vbi in probatione deficeret, tum etiam quia est multum litigiosus.<sup>86</sup>

Incipiat processum per citationem generalem, affigendo illam ad valuas ecclesie parochialis vel pretorij per modum qui sequitur. "Cum<sup>87</sup> nos vicarius talis ordinarij (aut iudex talis domini) totis nostris affectibus

<sup>a</sup> fert *should be supplied (clumsy adaptation)*

<sup>b</sup> Sc. que

<sup>82</sup> End

<sup>83</sup> *Start of adaptation of Eym. (416 2E):* Tertius modus procedendi et processum incipiendi in causa fidei est per modum inquisitionis, et est quando non est aliquis accusator nec denunciator, sed fama laborat in aliqua ciuitate vel loco quod aliquis dixit vel fecit aliqua contra fidem . . . et tunc inquisitor inquirat non ad instantiam partis sed ex officio.

<sup>84</sup> End

<sup>85</sup> *Start of adaptation of Eym. (414 1A):* Et attendat inquisitor quod illum modum procedendi non libenter admittat, tum quia non est in causa fidei vsitatus, tum quia est accusanti multum periculosus, tum quia est multum litigiosus.

<sup>86</sup> End

<sup>87</sup> *Start of adaptation of Eym. (409 1A-D):* "Nos, frater N. ordinis predicatorum, in dominio talis domini inquisitor heretice prauitatis a sancta sede apostolica specialiter delegatus, totis nostris affectibus inhiantes ac ex omnibus nostris precordijs affectantes populum Christianum in vnitatem et sinceritatem catholicam fidei confoueri ac ab omni peste prauitatis heretice visceraliter elongari: idcirco nos, frater N., inquisitor prefatus, cui ex iniuncto nobis officio hec incumbunt, ad gloriam et honorem recolendi nominis Jesu Christi et ad exaltationem sancte fidei orthodoxe atque ad deprensionem heretice prauitatis, vniuersis et singulis cuiuscunque gradus, conditionis, status, ordinis, religionis ac dignitatis existant, qui sunt infra terminos huius ciuitatis Talis ac Talis aut circum illam ad duas leucas, ad quorum noticiam nostra peruenerint hec mandata, auctoritate apostolica ac iniuncti sancti nobis officij, qua fungimur in hac parte, in virtute sancte obedientie ac sub excommunicationis pena precipimus et mandamus ac mandando requirimus et monemus, quatenus infra duodecim dies proxime computandos, quorum primos quatuor pro primo et reliquos quatuor primis quatuor immediatos pro secundo et vltimos quatuor pro tertio termino peremptorio ac trina monitione canonica assignamus, vt nobis reuelent si sciunt, viderunt vel audierunt aliquam personam esse hereticam, diffamatam de heresi vel suspectam aut peruerse sapientem de articulis fidei seu ecclesiasticis sacramentis ac alias a communi conuersatione, fidelium vita et moribus dissidentem, et in speciali talem heresim nunc vigentem defendere, approbare vel alias dogmatizare (ponatur que est illa vel illa): alias si nostris immo verius apostolicis antefatis monitis et mandatis non paruierint cum effectu, premissa infra pretaxatum terminum reuelando, sciant se excommunicationis mucrone percussos, quam excommunicationis sententiam in omnes in singulos taliter, vt predicatur, contumaces prefata nostra monitione canonica precunte et eorum inobedientia requirente, nunc vt extunc et tunc vt

inhiantes ac ex omnibus nostris precordijs affectantes populum christianum nobis commissum in vnitate et serenitate catholice fidei confoueri ac ab omni peste prauitatis heretice visceraliter elongari, idcirco nos, iudex prefatus, cui ex iuncto officio hec incumbunt ad gloriam et honorem recolendi nominis Jesu Christi et ad exaltationem sancte fidei orthodoxe atque ad depressionem heretice prauitatis, precipue in maleficis vniuersis et singulis cuiuscunque conditionis, status” (hic nota: | 195A si ecclesiasticus iudex inquirat, addat: “ordinis, religionis”) “aut dignitatis existant, qui sunt infra terminos huius ciuitatis aut circa illam aut opidi ad duo miliaria, ad quorum noticiam peruenerint hec mandata” (ecclesiasticus iudex adiungat: “autoritate qua fungimur in hac parte in virtutem<sup>a</sup> sancte obedientie,<sup>b</sup> ac sub pena excommunicationis”) “precipimus et mandamus ac mandando requirimus et monemus quatenus infra xij dies proxime computandos” (hic secularis iudex modo suo mandabit et penis eis consuetis) “quorum primos quattuor pro primo et reliquos quattuor primis quattuor immediatos pro secundo et vltimos quatuor pro tercio termino peremptorio<sup>c</sup> ac trina monitione canonica assignamus: nobis reuelant si quis scit, vidit vel audiuit aliquam esse personam hereticam et maleficam diffamatam vel susceptam et in speciali talia praticantem que in nocumentum hominum, iumentorum aut terre frugum 195B et damnum reipublice cedere valleant. Quod si nostris antefatis monitis et mandatis non paruerit cum effectu premissa infra taxatum terminum non reuelando, sciat se” (iudex ecclesiasticus addat: “excommunicationis mucrone percussus;” secularis iudex addat penas temporales) “quam excommunicationis sententiam in omnes et singulos taliter vt predictur contumaces prefata nostra monitione canonica preeunte et eorum obedientia requirente, nunc vt extunc et tunc vt exnunc ferimus in his scriptis absolutionem harum sententiarum nobis tantummodo reseruandum.”<sup>d</sup> (Concludat iudex secularis modo suo.) “Datum” etc.<sup>88</sup>

Nota insuper super secundum modum quod cum, vt dictum est, secundus<sup>89</sup> modus procedendi et processum fidei incipiendi est per modum denunciationis,<sup>90</sup> vbi denuncians non<sup>91</sup> offert se probaturum

<sup>a</sup> Sc. -e (so Eym.)

<sup>b</sup> Ed. prin.: -ieutie

<sup>c</sup> So Eym.; ed. prin.: -empif

<sup>d</sup> Sc. -antes (so Eym.)

(fn. 87 cont.) exnunc ferimus in his scriptis, absolutionem harum sententiarum nobis et domino nostro pape tantummodo reseruando. Datum etc.”

<sup>88</sup> End

<sup>89</sup> Start of Eym. (415 2C)

<sup>90</sup> End

<sup>91</sup> Start of Eym. (415 2C), which begins: sine hoc quod offert.

nec vult facere partem, sed dicit quod denunciatur ratione sententie excommunicationis late vel zelo fidei<sup>92</sup> et propter bonum reipublice, ideo secularis iudex hoc debet in sua citatione generali aut premissa monitione specificare quod nemo estimet se penalem fieri, etiam si in probatione defecerit, quia non offert se vt accusans sed vt denunciatus. 195C

Et tunc quia plures comparebunt ad denunciandum iudici, notare debet iudex vt procedat modo qui sequitur: primo habeat notarium et duas honestas personas siue sint clerici siue layci, vel si notarius non posset haberi, tunc loco notarij sint duo viri idonei.<sup>93</sup> Hoc enim tangitur in c. "Vt officio" § "Verum" (*Libro Sexto*), vbi ita dicitur: "Verum quia in [causa]<sup>a</sup> graui crimine cum multa oporteat cautela procedi vt in reos sine vllo proferatur errore dure ac digne seueritas vltionis, volumus et mandamus vt in examinatione testium quos recipi super hoc crimine predicto ipsumque contingentibus oportuerit adhibeatis duas religiosas et discretas personas" (hic archidiaconus in glosa: "Possunt intelligi persone honeste siue sint clerici siue layci")<sup>94</sup> sequitur: "in quarum presentia per publicam, si commode habere potestis, personam aut per duos viros idoneos fideliter eorum depositiones testium describantur." Nota ergo quod his personis adhibitis mandet denunciati iudex quod det in scriptis vel saltem dicat verbo, et tunc notarius seu iudex incipiat processum per modum qui sequitur. 195D

"JN<sup>b</sup>.<sup>95</sup> NOMINE DOMINI. AMEN. Anno a natiuitate domini etc. tali die talis mensis in presentia mei notarij et testium infra scriptorum Talis de Tali loco et Talis diocesis (vt supra)<sup>96</sup> comparuit personaliter in Tali loco coram honorabili iudice<sup>97</sup> et obtulit eidem cedulam<sup>c</sup> tenoris

<sup>a</sup> Not in the canon (presumably an interlinear note that has been introduced into the text)

<sup>b</sup> The compositor neglected to leave space within the text for the drawn capital, which had to be crammed into the narrow blank column between the two columns of text.

<sup>c</sup> Sc. sc(h)edulam

<sup>92</sup> End

<sup>93</sup> This section is a conflation of Eym. (414 1A): Quo facto [i.e., the inquisitor institutes a proceeding by accusation] ipse inquisitor . . . habito notario publico et duabus personis religiosis, si commode potest, vel saltem duabus honestis sibi assistentibus iuxta ca. "Vt officium" incipiat processum, et scribat notarius per modum qui sequitur; with 3.63 (whether the inquisitor can examine the witnesses or accused by himself with a notary) (602 1B-C), which has the same quote of "Vt officio" and gloss from the Archdeacon.

<sup>94</sup> Cf. Eym. (602 1C): Religiose persone possint hic intelligi persone honeste, siue sint clerici siue laici, sed magis videtur quod loquatur de religiosis, qui religionis habitum receperunt, vt dicit Archid. ibi in glosa.

<sup>95</sup> Start of Eym. (415 2D-416 1D)

<sup>96</sup> Parenthetical words not in Eym. (and seemingly pointless here)

<sup>97</sup> For iudice Eym. has: et religioso viro, fratre N., in terris ac dominio talis domini inquisitore heretice prauitatis a sancta sede apostolica specialiter delegato

sequentis” – inseratur tota. Si autem non per cedula[m] sed per verbo, ponatur sic: “. . . comparuit” etc.<sup>98</sup> “et denunciauit eidem<sup>99</sup> quod talis de tali loco diocesis talis asseruit et dixit<sup>100</sup> quod sciret hoc” vel “quod fecerit talia nocumenta sibi vel suis in rebus vel alijs personis.” Quo<sup>101</sup> facto in continenti faciet iurare ipsum denunciantem modo consueto vel ad quatuor dei euangelia vel super crucem erectis digitis tribus et  
 196A duobus depressis in testimonium sancte trinitatis et damnationem anime et corporis de dicenda veritate super denunciatis.

Et prestito iuramento interrogabit eum, vnde scit esse vera que denunciauit et si vidit vel audiuit. Si dicat se vidisse<sup>102</sup> aliquid, vt puta quia ibi repertus tali hora tempestatis, vel quia tetigit iumentum, vel quia intrauit stabulum, interrogabit<sup>103</sup> iudex, vbi eum<sup>104</sup> vidit et quando et quotiens et per quem modum et qui erant presentes. Si dicat quod non vidit sed quod audiuit, interrogabit eum, a quibus audiuit et vbi et quando et quotiens et quibus presentibus audiuit, formando articulos de quolibet predictorum singulariter et diuisim.

Et notarius seu scriptor ponat totum in actis seu in processu<sup>a</sup> immediate post predictam denunciationem, continuando sic: “Qua quidem denunciatione, vt premititur, facta, ipse inquisitor in continenti fecit iurare ad quatuor dei euangelia” etc. vt supra<sup>105</sup> “ipsum denunciantem de dicenda veritate super denunciatis, et interrogauit eundem, vnde  
 196B et quomodo ea que denunciauerat nouerat vel suspicionem habeat<sup>106</sup> esse vera. Respondit, quia vidit (vel audiuit). Interrogauit, vbi vidit (vel vbi audiuit), et dixit quod tali die talis mensis talis anni in tali loco. Interrogauit, quotiens vidit (vel audiuit)” etc. Et formentur articuli vt dictum est, et totum ponatur in processu. Et specialiter interrogatur,<sup>107</sup> qui sciunt cum eo in tali causa et qui possunt scire. Quibus omnibus sic peractis vltimo interrogabitur si denunciat mala voluntate, odio vel rancore, vel obmittat aliquid fauore et amore, vel alias denunciat rogatus vel subordinatus. Et postremo iniungetur ei virtute iuramenti prestiti tenere secretum quicquid ibi dixit vel per iudicem sibi dictum fuit. Et

<sup>a</sup> So *Eym.*; ed. prin.: -um

<sup>98</sup> Etc. appears in *Eym.*, but he is less drastic in his excision, adding after comparuit: personaliter in tali loco coram honorabili et religioso

<sup>99</sup> *Eym.* adds: domino inquisitori

<sup>100</sup> *Pause (Eym. continues: talia contra fidem et tenet et defendit (ponatur prout denunciabit))*

<sup>101</sup> *Resume*

<sup>102</sup> *Pause*

<sup>103</sup> *Resume*

<sup>104</sup> *Eym.*: cum vbi

<sup>105</sup> Vt supra: not in *Eym.*

<sup>106</sup> vel suspicionem habeat: not in *Eym.*

<sup>107</sup> *Eym.*: requiratur

ponetur totum in processu et in actis. Et omnibus expletis ponatur paulo infra: "Acta sunt hec in Tali loco tali die talis mensis et tali anno in presentia mei notarij vel scriptoris (adiuncto mihi Tali in vigorem officij tabellionatus)<sup>108</sup> et talium testium ad hoc vocatorum et rogatorum."<sup>2, 109</sup>

TERTIUS<sup>110</sup> MODUS PROCESSUM INCIPIENDI, qui etiam est communis et vsitatus modus, et cum hoc secretus esset,<sup>b</sup> vbi nullus accusator vel denunciator se offeret, sed fama laboraret in aliqua ciuitate vel loco de aliqua malefica et etiam tali, et propter famam iudex absque citatione generali (de qua supra) seu monitione ex officio procedere vellet, eo quod talis clamor frequens perueniret ad aures eius, tunc iterum inchoare potest processum in presentia personarum, vt supra:

"In nomine domini. Amen. Anno a natiuitate domini tali de mense tali (seu mensibus talibus) ad aures Talis officialis aut iudicis Talis<sup>111</sup> loci peruenit pluries fama publica referente ac clamosa insinuatione producente quod Talis de Tali loco dixit vel fecit talia<sup>112</sup> ad maleficia pertinentia contra<sup>113</sup> fidem<sup>114</sup> ac communem vtilitatem reipublice" et ponatur<sup>115</sup> totum prout fama laborat. Et paulo infra: "Acta sunt hec die tali mensis talis de anno tali in presentia testium Talium vocatorum et | rogatorum<sup>196D</sup> et mei notarij Talis autoritate<sup>116</sup> (seu scriptoris vigore tali)."

Sed antequam secunda pars inchoetur, videlicet qualiter huiusmodi processus est continuandus, premittenda sunt aliqua super testes examinandos, quot in numero esse debeant, et cuius conditionis.

<sup>a</sup> *Ed. prin.*: erog-

<sup>b</sup> *For this anomalous subjunctive cf. secundus modus esset in 208C.*

<sup>108</sup> *For vel . . . tabellionatus Eym. has: talis loci auctoritate talis et scriptoris domini inquisitoris*

<sup>109</sup> *End*

<sup>110</sup> *Start of Eym. (416 2E-417 1C), which begins: Tertius modus procedendi et processum incipiendi in causa fidei est per modum inquisitionis, et est quando non est aliquis accusator nec denunciator, sed fama in aliqua ciuitate vel loco, quod aliquis dixit vel fecit aliqua contra fidem, et clamor ad aures inquisitoris peruenit pluries publica fama deferente et clamosa insinuatione producente . . . Et hic est etiam communis et vsitatus modus procedendi. Et cum talis clamor frequens peruenit ad aures inquisitoris . . . incipiat processum per modum qui sequitur. In nomine domini. Amen. Anno a natiuitate domini tali die de mense tali ad aures religiosi viri, fratris talis, ordinis talis, domini inquisitoris heretice prauitatis a sancta sede apostolica specialiter delegati peruenit pluries fama publica referente ac clamosa insinuatione producente quod talis de tali loco dixit vel fecit talia contra fidem . . .*

<sup>111</sup> *For Talis officialis . . . loci Eym. has: venerabilis et digni viri, domini fratris Talis, ordinis talis, in dominio domini Talis domini inquisitoris heretice prauitatis a sancta sede apostolica specialiter delegati.*

<sup>112</sup> *Pause*

<sup>113</sup> *Resume*

<sup>114</sup> *Pause*

<sup>115</sup> *Resume*

<sup>116</sup> *End (Eym. continues: Talis et scriptoris domini inquisitoris et sacri officij inquisitionis)*

## QUESTIO SECUNDA DE NUMERO TESTIUM

QUIA DICTUM EST IN secundo modo de dictis testium qualiter inscribi debeant, scire numerum et conditionem illorum opus est: queritur<sup>117</sup> vtrum iudex <depositione><sup>a</sup> duorum testium legitimorum non singularium possit licite aliquam de heresi maleficarum<sup>118</sup> condemnare vel plures quam duo necessario requirantur.<sup>119</sup> (Et dicuntur testes singulares quando in dictis sunt partiales, concordant tamen in substantia seu effectu rei, vt si diceret maleficiavit mihi vaccam, alter puerum, concordarent in maleficio. Hic autem queritur vbi testes non sunt partiales sed omnino concordant.) Et respondetur<sup>120</sup> quod quamuis videantur sufficere | duo testes de iuris rigore, quia regula est quod in ore duorum vel trium stat omne verbum, tamen de iuris equitate non videntur in hoc crimine duo sufficere, tum propter criminis immanitatem – in criminibus enim probationes debent esse luce clariores (ff. “De probationibus,” “Si autem”),<sup>121</sup> et heresis precipue<sup>122</sup> talis inter maiora crimina enumeratur, et si dicatur quod in hoc crimine sufficiunt leuiore probationes, quia leui argumento quis detegitur<sup>123</sup> (C. “De hereticis,” l. ij: “leui argumento recedendo a iudicio catholice religionis et tramite hereticum se facit”), respondetur: verum<sup>124</sup> est ad presumendum, non autem ad condemnandum – tum propter iuris ordinis in hoc crimine detruncationem. In hoc enim ordo iudiciarius in fauorem fidei detruncatur, quia nec delatus videt testes iurare, nec etiam sibi publicantur, vbi posset eis graue periculum imminere, vt in c. “Statuta” (“De hereticis,” *Libro Sexto*), propter quod delatus non potest diuinare, sed tenetur  
 197A  
 197B ipse iudex per se et ex officio de testium inimicitia perquirere,<sup>125</sup> quia | excluduntur, vt infra patebit,<sup>126</sup> et etiam si deposuerunt confuse de causa scientie, eos<sup>127</sup> iterum interrogare, quod potest facere (*Extra*, “De restibus,” “Per tuas” et ff. “De questionibus,” “Repeti”). Nam quanto

<sup>a</sup> *So Eym.*

<sup>117</sup> *Start of Eym. 3.71 (614 1D–2C), which begins: Septuagesimaprima questio est vtrum . . .*

<sup>118</sup> *Not in Eym.*

<sup>119</sup> *Pause*

<sup>120</sup> *Resume (Eym. begins: Respondemus quod . . .)*

<sup>121</sup> *For si autem Eym. has: Sciant (which is correct, so the text copied here must have been corrupt)*

<sup>122</sup> *For et . . . precipue Eym. has: heresis autem*

<sup>123</sup> *Pause*

<sup>124</sup> *Resume*

<sup>125</sup> *Eym.: inquirere*

<sup>126</sup> *quia . . . patebit: not in Eym.*

<sup>127</sup> *Eym.: eorum*

magis via defendendi delato subtrahitur, tanto magis incumbit iudici<sup>128</sup> sollicitudo diligentius inquirendi.

Vbi ergo inuenirentur duo testes concordēs et legitimi contra quenquam, nec ex hoc vellem eum de tanto crimine condemnare, sed purgationem, si esset diffamatus, indicere, vel propter vehementem suspicionem, que oritur ex dictis duorum testium, facere eum abiurare,<sup>129</sup> vel questionare seu sententiam differre. Non enim videtur tutum ad vocem duorum testium hominem bone fame de tanto crimine condemnare (secus si fuerit male fame).<sup>130</sup>

De hoc archidiaconus plenius in c. “Vt officium” § “Verum” in principio (“De hereticis,” *Libro Sexto*) super verbo “Testium,” et in c. “<Jn><sup>a</sup> fidei” in fine glose illius capituli; et Johannes Andree ibidem. In c. etiam “Excommunicamus itaque” (*Extra*, “De hereticis”) § “Addicimus” dicitur quod faciat episcopus iurare tres vel plures boni testimonij viros de dicenda veritate, si sciuerint in parrochia tales hereticos ibi esse.<sup>131</sup>

AD IDEM. QUOD SI queritur<sup>132</sup> vtrum iudex per testes singulares solum vel saltem cum infamia posset iuste de tali heresi aliquem condemnare, respondetur<sup>133</sup> quod non, nec per testes singulares solum nec etiam cum infamia (*Extra*, “De testibus,” “Tam<sup>b</sup> litteris”), presertim cum in criminibus probationes debent esse luce clariores, vt supra patuit,<sup>134</sup> et in hoc crimine nemo sit ex presumptione damnandus (*Extra*, “De presumptionibus,” “Litteras”): ergo tali<sup>135</sup> indicitur purgatio ratione infamie, et abiuratio ratione suspicionis vehementis, que consurgit ex dictis testium;<sup>136</sup> tamen vbi testes sunt singulares, concordant tamen in substantia facti et euentia<sup>c</sup> facti concurrunt, tunc iudicis conscientia ibi oneratur.

Et in *Directorio*<sup>d</sup> habetur questio quotiens possint testes examinari.

<sup>a</sup> So *Eym.*

<sup>b</sup> So *Eym.*, canon; ed. prin.: cum

<sup>c</sup> Construed as neut. pl. (cf. 124A, 207C, D)

<sup>d</sup> Ed prin.: ex indirectorio; conceivably ex and in were alternatives and one was meant to be deleted.

<sup>128</sup> *Eym.*: inquisitori

<sup>129</sup> For facere . . . abiurare *Eym. has:* abiurare . . . facere

<sup>130</sup> *Eym. adds:* Concordat his Guido Fulcodius, postmodum Clemens Papa iij in q. xv questionum ad inquisitores.

<sup>131</sup> *End*

<sup>132</sup> Start of *Eym.* 3.72 (615 2D–E), which begins: Septuagesimasecunda questio est: vtrum . . .

<sup>133</sup> *Eym.*: respondemus

<sup>134</sup> For this citation *Eym. has:* C. “De probationes,” l. “Sciant cuncti”

<sup>135</sup> *Eym.*: sibi

<sup>136</sup> *End*

## QUESTIO TERCIA

197D QUOD SI QUERITUR<sup>137</sup> VTRUM iudex | testes possit compellere ad iurandum de dicenda eidem in causa fidei seu maleficarum veritatem,<sup>a</sup> et etiam pluries eos examinare, respondetur quod sic, presertim ecclesiasticus iudex, vt supra patuit in c. “Vt officium” § “Verum,” et quod testes cogendi sunt in causis ecclesiasticis veritatem deponere medio iuramento (*Extra*, “De testibus cogendis” c. “Peruenit”): alias testimonium non valebit. Et *Extra*, “De hereticis,” c. “Excommunicamus itaque” § “Addicimus”<sup>138</sup> dicitur quod archiepiscopus vel episcopus<sup>139</sup> parrochiam in qua fama fuerit hereticos habitare circumeat et ibi tres vel plures boni testimonij viros vel etiam, si expedire videbitur, totam vicinam iurare compellat. Et sequitur infra: “Si qui vero ex his iuramenti religionem obstinatione damnabili respuentes iurare forte noluerint, ex hoc ipso tanquam heretici reputentur.”

Quod autem pluries possit examinari, ita dicit<sup>140</sup> archidiaconus in c. “Vt officium” § “Verum” super verbo “Testium,” vbi dicitur sic: “Inquisitor” (hic autem iudex)<sup>141</sup> “debet | esse sollicitus vt si testes confuse deposuerunt, et de causa scientie minus plene requisiti fuerunt, quod iterato cum eis inquirat.” Nam hoc de iure fieri potest (*Extra*, “De testibus cogendis”, vt supra tactum est,<sup>142</sup> et ff. “De questionibus,” “Repeti”).<sup>143</sup>

## QUESTIO QUARTA DE CONDITIOE TESTIUM

QUESTIO SUPER CONDITIOES TESTIUM. Nota quod<sup>144</sup> excommunicati, item participes et socij criminis, item infames et criminosi

<sup>a</sup> Sc.-e (so *Eym.*)

<sup>137</sup> *Start of Eym. 3.62 (600 1A–C), which begins:* Sexagesimasecunda questio est vtrum inquisitor possit compellere ad iurandum de dicenda eidem in causa fidei veritate ac etiam pluries examinari. Respondemus quod sic. Nam inquisitor potest et debet inquirere super heretica prauitate et in tali inquisitione testes examinare, de qua testium examinatione habetur in cap. “Vt officium,” § “Verum,” “De heret.,” Lib. vi, vbi dicitur sic: “Verum quia in tam graui crimine cum multa oportet cautela procedi, vt in reos sine vllo proferatur errore dure ac digne scueritatis vltio, volumus et mandamus vt in examinatione testium, quos recipi super crimine predicto, ipsumque contingentibus oportuerit, etc. Testes autem cogendi sunt.

<sup>138</sup> *Eym.:* adjicimus

<sup>139</sup> *Eym. adds:* et idem de inquisitore

<sup>140</sup> *Eym.:* docet

<sup>141</sup> *Parenthesis not in Eym.*

<sup>142</sup> *For this clause Eym. has:* “Per tuas”

<sup>143</sup> *End*

<sup>144</sup> *Start of adaptation of Eym. 3.64 (603 1A–B):* Sexagesimaquarta questio est vtrum inquisitor excommunicatos seu participes vel socios criminis possit licite admittere ad agendum et testificandum in causa fidei. Respondemus quod sic in probationum aliarum defectu, vt patet in c. “In fidei” [quotation as in text] . . .

serui contra dominos admittuntur ad agendum et testificandum in causa fidei quacunque; item sicut hereticus contra hereticum ad testificandum admittitur, ita maleficus contra maleficum, in defectu tamen aliarum probationum et semper contra et non pro; vxor etiam et filij et familiares contra et non pro (arguitur per c. "Filij"), et hoc ideo quia eorum testimonium est magis efficax ad probandum.

De primis patet in c. "Jn fidei" ("De hereticis" ibidem): "Jn fidei fauorem concedimus vt in negotio inquisitionis heretice prauitatis excommunicati et participes vel socij criminis ad testimonium admittantur in defectu aliarum probationum contra hereticos, creditores, receptatores, fautores et defensores eorum, si ex verisimilibus coniecturis et ex numero testium aut personarum tam deponentium quam eorum contra quos agitur et deponitur qualitate aut alijs circumstantijs sic testificantes non falsa dicere presumantur."<sup>a, 145</sup>

De periuris quando<sup>146</sup> presumitur quod deponunt zelo fidei patet in c. "Accusatus" § "Licet" (vbi supra),<sup>147</sup> vbi dicitur:<sup>148</sup> "Licet vero periuri<sup>149</sup> et<sup>150</sup> post penitentiam repellantur, si tamen hi qui coram" – et infra:<sup>151</sup> "si ex manifestis indicijs apparuerit tales non animi leuitate aut odij fomite seu corruptione pecunie sed zelo fidei orthodoxe dictum suum vellent<sup>b</sup> corrigere ac modo que prius tacuerant reuelare, in fauorem fidei, nisi aliud obstiterit, stari debet tam contra se quam reliquos attestacionibus eorundem."<sup>152</sup>

Et quod infami et criminosi et serui contra dominos admittuntur, archidiaconus<sup>153</sup> in c. allegato "Accusatus" in § "Licet" super | verbo "exceptum" dicit ita: "Tanta est labes criminis heresis quod ad eius actionem etiam serui aduersus dominos suos et quilibet criminosus, etiam infames, aduersus quemlibet admittuntur, vt ij questione vij "Huic opponitur."<sup>154</sup>

<sup>a</sup> So *Eym., canon: ed. prin.*: -ant (*Presumably the ending of this verb was accidentally truncated at the end of the excerpt.*)

<sup>b</sup> *Eym. (and canon):* velle

<sup>145</sup> End

<sup>146</sup> Start of *Eym. 3.65 (605 1B-D)*, which begins: Sexagesima quinta questio est vtrum inquisitor periuros possit licite admittere ad testificandum in causa fidei seu agendum. Respondemus quod sic, vbi presumat quod deponant . . .

<sup>147</sup> For this reference *Eym. has*: "De heret.," lib. vi.

<sup>148</sup> *Eym. adds*: sic

<sup>149</sup> *Canon adds*: a testimonio

<sup>150</sup> *Canon*: etiam

<sup>151</sup> *Eym. quotes the text in full*

<sup>152</sup> End

<sup>153</sup> Start of *Eym. 3.66 (606 2A)*, which begins: Sexagesimasexta questio est vtrum inquisitor infames et criminosos aut seruos contra dominos possit licite admittere ad agendum seu testificandum in causa fidei. Respondemus quod sic, vnde archidiaconus in c. "Accusatus" . . .

<sup>154</sup> End

QUESTIO QUINTA: AN INIMICI CAPITALES AD  
TESTIFICANDUM ADMITTUNTUR

SI VERO QUERITUR<sup>155</sup> VTRUM iudex inimicos capitales alicuius delati possit in tali causa ad testificandum seu agendum admittere contra illum, respondemus quod non, vnde archidiaconus (vbi supra): “Non tamen intelligas quod in hoc crimine inimicus capitalis admittitur ad actionem (iii q. v c. ij et “De simonia”, “Licet Heli” in fine);” de hoc etiam satis notat Hostiensis in *Summa* (“De accusationibus” § “Quis possit”).<sup>156</sup>

Sed qui dicuntur inimici capitales? Nota quod quia solum ratione<sup>157</sup> inimicie quis repellitur et non quicumque repellit<sup>a</sup> sed capitalis, intelligitur quia mors inter eos est de facto illata vel fuit intentata seu ea que  
198D sunt ad mortem | inductiua aut via vel vulnera grauia et letalia sunt secuta et similia que ad peruersitatem et malignitatem agentis contra passum iudicant manifeste, propter quod presumitur quod sicut intentauit contra istum mortem corporalem per illum modum, scilicet vulnerando, intentaret etiam per istum, crimen heresis imponendo, et sicut voluit ei auferre vitam, vellet auferre famam. Quare tales inimici capitales a testimonio legitime expelluntur.

Alie vero<sup>158</sup> inimicie, presertim graues,<sup>159</sup> et prout etiam faciliter mulieres ad inimicias commouentur,<sup>160</sup> etsi non repellunt totaliter, tamen dictum eorum debilitant aliquantulum, vt non sit plena fides eorum attestationibus adhibenda, sed cum alijs adminiculis et aliorum testium dictis possunt plenam facere probationem,<sup>161</sup> presertim vbi iudex delatum interrogat anne putet se habere inimicum qui tale crimen ad mortem sibi ex inimicia imponere auderet. Si dicet ita, interrogabit que illa  
199A sit persona, et tunc iudex aduertet si illam personam | de qua suspicio est quod ex inimicia deposuerit denotauit. In tali enim casu, vbi iudex etiam de causa inimicie per alios honestos informatur, et alia

<sup>a</sup> Sc. -itur (*clumsy adaptation*)

<sup>155</sup> *Start of Eym. 3.67 (607 1A), which begins:* Sexagesimaseptima questio est vtrum inquisitor inimicos capitales alicuius delati possit in causa fidei ad testificandum seu agendum admittere contra illum. Respondemus quod non, vnde archidiaconus in c. “Accusatus” § “Licet” “De here.” lib vi super verbum “exceptum” premissio quomodo in crimine heresis et alijs criminibus exceptis admittuntur ad testificandum, agendum serui contra dominos, et criminosi et infames contra quemlibet, vt habitum est supra in questione proxima, dicit sic: “Non tamen . . .”

<sup>156</sup> *End*

<sup>157</sup> *Start of Eym. (446A–C), which begins:* . . . repellit igitur sola inimicia, non quecunque sed capitalis, vtpote quia mors inters eos . . .

<sup>158</sup> *Eym.:* autem

<sup>159</sup> *Pause*

<sup>160</sup> *Pause*

<sup>161</sup> *End (for the rest of the parag. cf. 208C–209A).*

adminicula non occurrunt et aliorum testium dicta, poterit secure talem restem repellere. Si vero delata persona diceret: "Non spero aliquem talem habere inimicum, licet interdum brigas cum mulieribus habuerim," vel si diceret: "Habeo inimicum," et non expressit debite sed quendam alium qui fortassis non deposuit, tunc dicta talis testis, etiam si alij dicerent quod causa inimicie deposuisset, iudex tamen non debet repellere sed ad plenam probationem cum alijs amminiculis conseruare.

Reperiuntur quamplures minus prouidi et circumspecti, qui huiusmodi depositiones mulierum refutare et annihilare querunt, dicentes illis standum non esse, eo quod sepissime, cum rixose sint, ex inuidia deponere solent: hi, quia ignorant astutias et cautelas iudicum, loquuntur vt ceci de coloribus, de quibus astutijs in vndecima et duodecima questione patebit.

SECUNDA PARS: QUALITER PROCESSUS EST |  
CONTINUANDUS (QUESTIO SEXTA), ET QUALITER TESTES  
SUNT EXAMINANDI IN PRESENTIA QUATTUOR ALIARUM  
PERSONARUM, ET QUALITER DELATA EST INTERROGANDA  
DUPLICITER

199B

JAM NUNC SEXTO QUERITUR qualiter processus huiusmodi aduersus maleficas in causa fidei sit continuandus. Considerandum<sup>162</sup> est primo<sup>163</sup> quod quia in causa fidei proceditur summarie, simpliciter et de plano, et absque aduocatorum et iudiciorum strepitu et figura, vt patet c. "Statuta" (*Libro Sexto*): qualiter etiam ista verba intelligantur patet *Extra*, "De verborum significatione," c. "Sepe contingit" in *Clementinis*,<sup>164</sup> vbi<sup>165</sup> dicitur: "Sepe contingit quod causas committimus et in earum<sup>a</sup> aliquibus simpliciter et de plano ac sine strepitu et figura iudicij procedi mandamus. De quorum significatione verborum a multis contenditur et qualiter procedi debeat dubitatur. Nos autem dubitationem huiusmodi, quantum est nobis possibile, decidere cupientes hac in perpetuum valitura constitutione sancimus vt iudex cui taliter causam committimus necessario libellum non exilgat, litis contestationem non postulet, tempore feriarum ob necessitates hominum indultarum a iure procedere

199C

<sup>a</sup> So *Eym.*, canon; ed. prin.: eorum

<sup>162</sup> Start of *Eym.* (417 2D-418 1A)

<sup>163</sup> Not in *Eym.*

<sup>164</sup> Pause (At this point *Eym.* only cites the chapter "Saepe contingit;" here the citation is provided in full from elsewhere in *Eym.*, after which the present section of *Eym.* resumes)

<sup>165</sup> Start of full quotation of "Saepe contingit" from *Eym.* 3:55 (588 1C-D)

valeat, amputet dilatationem, materiam litis, quantum poterit, faciat breuiorem, exceptiones, appellationes et dilationes frustratorias repellendo, partium aduocatorum et procuratorum contentiones et iurgia, testiumque superfluum multitudinem refrenando: non sic tamen iudex litem obruat, quin probationes necessarie admittentur. Citationem vero ac protestationem<sup>166</sup> iuramenti de calumnia siue de dicenda veritate ne veritas occultetur per commissionem huiusmodi<sup>a</sup> intelligimus non excludi.<sup>167</sup> Hec ibi.

Et<sup>168</sup> quia processus, vt visum est supra, est tripliciter incipiendus, quia vel propter instantiam accusatoris<sup>169</sup> vel propter zelum denunciatoris vel propter clamorem fame laborantis,<sup>170</sup> et processus<sup>b</sup> qui sit ad instantiam partis accusantis iudex in hac materia non debet acceptare, cum maleficarum facta opere demonum occultantur, nec accusator per euidenciam facti, sicut in alijs criminalibus, procedere et se defendere potest, imo |  
 199D consulere debet accusatori quod amoueat verbum accusationis et ponat denunciationis, et hoc propter accusatoris graue periculum: ideo super secundum<sup>171</sup> modum, qui et vsitatus, et similiter super tertium, in quibus proceditur <ex officio><sup>c</sup> et non ad instantiam partis, notandum quod quia dictum est in precedentibus quod iudex specialiter debet interrogare denunciantem qui sciunt cum eo in tali causa et qui possunt scire, ideo iudex faciet citari illos testes quos denuncians intimauit et qui magis videntur scire in facto.

Et scriptor continuabit processum scribendo sic: “Post que attendens ipse iudex denunciata sibi hereticalia antedicta fore ex sui natura esse<sup>d</sup>

<sup>a</sup> So *Eym.*, canon; ed. prin.: huius

<sup>b</sup> Sc. -um

<sup>c</sup> So *Eym.* (cf. 194C)

<sup>d</sup> Not in *Eym.* (perhaps a gloss on fore) and to be ignored

<sup>166</sup> *Eym.*, canon: prestationem

<sup>167</sup> End of quotation

<sup>168</sup> Resume

<sup>169</sup> Preceded by partis seu in *Eym.*

<sup>170</sup> End

<sup>171</sup> Start of adaptation of *Eym.* (423 2B–C): Secundus processus, scilicet ille qui sit ad denuntiationem alterius partem non facientis sed tantum denuntiantis, in quo proceditur ex officio et non ad instantiam partis, continuatur sic. Nam postquam denuntiatio est facta contra aliquem de heresi coram inquisitore et in scriptis redacta et in processu inserta, pro fundamento processus secundum modum de quo dictum est prius inquisitor faciet citari testes quos denuntians intimauit, et presertim illos qui magis videntur scire in facto, et continuabitur processus sic. Post que attendens inquisitor ipse denunciata sibi hereticalia antedicta fore ex sui natura talia et tam graua, que non possunt nec debent conniuentibus oculis tolerari, cum cedant in opprobrium diuine maiestatis et fidei catholice detrimentum, descendit ad se informandum et testes examinandum per modum qui sequitur. Talis testis citatus, iuratus, interrogatur etc. (vt supra).

talía et tam grauíá que non possunt nec debent conuiuentibus<sup>a</sup> oculis tollerari, cum cedant in obprobrium diuine maiestatis et tam fidei catholice quam reipublice detrimentum, descendit ad se informandum et ad testes examinandum per modum qui sequitur.<sup>172</sup>

*Interrogatoria super testes*<sup>173</sup>

“TALISTESTIS DE TALI loco citatus iuratus et interrogatus si cognoscit 200A  
Talem – (exprimendo nomen delati) – et dixit quod sic.

“Item interrogatus de causa cognitionis: et dixit quod pro eo quod vidit et locutus est sibi pluries (vel sic vel alias) quia fuerunt socij (et exprimentur cause cognitionis).

“Item interrogatus de cognitionis tempore: et dixit quod sunt decem anni (vel tot).

“Item interrogatus de fama illius (et presertim ad ea que sunt fidei): et dixit quod quo ad moralia est homo bone fame (vel male), quantum autem ad ea que sunt fidei dixit quod est fama in Tali loco quod practicat alique contra fidem vt maleficus.

<sup>a</sup> *Ed. prin.*: conuiuent-

<sup>172</sup> *End*

<sup>173</sup> *Start of adaptation of Eym. (418 1D–2C)*: Forma examinationis testium. Talis de talis loco, testis productus, citatus, iuratus et interrogatus si cognoscit Talem (exprimendo nomen accusati) dixit quod sic. Item interrogatus de causa cognitionis dixit quod pro eo quod vidit et locutus est cum eo pluries, et etiam quia sic vel sic. (Exprimat causas, vtpote si est de genere suo vel fuerint socij, et sic de alijs causis cognitionis.) Item interrogatus de tempore cognitionis dixit quod sunt decem anni (vel tot). Item interrogatus de fama illius Talis, et presertim quo ad ea que sunt fidei, dixit quod quo ad moralia est homo bone fame (vel male fame, vt testificabitur). Quantum autem ad ea que sunt fidei dixit quod est fama in Tali loco quod dixit vel fecit talia contra fidem catholicam, vel quod est talis secte et eam tenet et defendit, vel quia est bone fame quo ad ea que sunt fidei. Interrogatus quid est fama dixit quod est id quod communiter dicitur. Item interrogatus si vidit aut audiuit Talem dicentem vel facientem aliquid contra fidem dixit quod sic: talia etc. Interrogatus vbi vidit fieri supradicta vel dici dixit quod in Tali loco. Interrogatus in quorum presentia dixit quod in presentia Talium et Talium. Interrogatus quotiens vidit dici vel fieri supradicta dixit quod totiens. Item interrogatus de modo quo Talis fecit vel dixit supradicta dixit quod modus fuit talis. Nam etc. Item interrogatus si attentis omnibus antedictis que dixit vel fecit ipse Talis, si videntur ipsi testi quod dictus Talis predicta dixerit seu fecerit trufatorie seu dixerit recitatiue seu animo indeliberato, dixit quod credit quod fecerit vel dixerit supradicta iocose et trufatorie seu recitatiue et non animo sic credendi seu assertiue, vel quod dixit animo deliberato seu assertiue. Item interrogatus de causa credentie dixit quod credit pro eo quod ille talia dicebat ridendo vel sic vel sic, vel pro eo quia cum super talibus reprehenderetur, adhuc perseuerabat et iterabat etc. Et hoc est diligenter inquirendum, quia nonnulli quandoque dicunt aliqua contra fidem recitando aliorum verba et trufando et burlando vel disputando et conferendo vel interdum asserendo et affirmando etc. Item interrogatus si hoc deponit odio vel rancore, seu dimittit aliquid amore vel fauore dixit quod etc. Et sequitur: Iniunctum est sibi tenere secretum. Et paulo infra: Acta sunt hec in Tali loco, die tali mensis talis, anno tali, in presentia Talium testium vocatorum et rogatorum et mei notarij.

“Jtem interrogatus quid est fama: et dixit . . .

“Jtem interrogatus si vidit vel audiuit talem talia facientem: et dixit . . .

“Jtem interrogatus vbi audiuit dici supradicta: et dixit quod in Tali loco.

“Jtem interrogatus in quorum presentia: et dixit quod illorum.

200B “Jtem interrogatus si ex sua consanguinitate aliqui propter maleficia fuissent dudum incinerati vel suspecti habiti: et dixit . . .

“Jtem interrogatus an cum suspectis maleficis habuit familiaritatem: et dixit . . .

“Jtem interrogatus de modo et causa quod dicta fuerunt: et dixit quod ea de causa et tali modo.

“Jtem interrogatus si videtur sibi quod Talis dixerit<sup>a</sup> seu fecerit trufatorie seu recitatorie seu animo indeliberato vel potius assertiue et animo deliberato: et dixit quo credit quod fecerit supradicta iocose et trufatorie seu recitatiue et non animo sic credendi vel assertiue.

“Jtem interrogatus de causa credentie huius: et dixit quod credit pro eo sic, quia ille qui decebat ridendo dixit.” Et de istis est multum diligenter inquirendum, quia nonnunquam dicunt aliqui recitando aliorum verba vel trufando vel conferendo vt alios alliciant vel incitent, licet etiam interdum asserendo vel affirmando.

200C “Jtem interrogatus si hec deponit odio vel rancore seu dimittit amore vel fauore: et dixit quod . . .”

Etc.

Et sequitur: “Jniunctum est sibi tenere secretum.

“Acta sunt hec in Tali loco die tali in presentia Talium testium vocatorum et rogatorum et mei notarij<sup>174</sup> (seu scriptoris).”

Vbi semper aduertendum quod in<sup>175</sup> tali examine adminus persone quinque debent presentes esse, scilicet iudex inquirens, testis vel denunci-cans respondens vel ipse delatus postea comparens, tertius est notarius (seu scriptor vbi deest notarius), et tunc adiungat sibi alium honestum qui duo supplebunt vices notarij, vt supra tactum est, et hoc apostolica autoritate, qua in illo actu funguntur, vt supra in c. “Vt officium” (“De hereticis,” *Libro Sexto*), et duo honesti viri tanquam testes eorum qui

<sup>a</sup> So *Eym.*; ed. *prin.*: dixit

<sup>174</sup> *End*

<sup>175</sup> *Start of adaptation of Eym. (425 2A-D):* . . . persone quinque in tali examine debent presentes esse, scilicet iudex inquirens, testis vel delatus respondens, notarius scribens et duo religiosi assistentes . . . Secunda persona est testis seu delatus qui examinatur. Quilibet horum debet prius iurare de dicenda veritate: alias depositio careret omnimoda firmitate . . . Tertia persona est scriptor . . . et hic debet esse publica persona vtpote quod sit notarius habens auctoritatem, siue laicus siue clericus siue religiosus, vnde non solum laicus et secularis clericus immo etiam religiosus . . . vt patet in capit. “Vt officium” (“De heret,” *Lib. Sexto*), et tunc agit auctoritate apostolica.

deponunt. Item aduertendum quod testis citatus debet etiam esse iuratus, id est, vt prestat iuramentum modo quo supra de dicenda veritate (alias false inscriberetur "citatus et iuratus").<sup>176</sup>

Consimiliter<sup>177</sup> examinentur alij testes, quibus examinatis si iudex videat factum esse probatum plene, vel si non plene, tamen esse maxima indicia et suspiciones vehemente – et nota quod loquimur non de leui suspicione que ex leuibus coniecturis oritur sed quod multum diffamata est super maleficia puerorum, iumentorum etc. – tunc iudex si timet de fuga delati vel delate, faciat eum capi. Si autem non timet de fuga, faciat eum citari. Et siue capiatur siue non, prius faciat iudex eius domum improuise scrutari et cuncta scrinia aperiri et in angulis pixides et omnia instrumenta tolli que reperiuntur, et sic constituto iudex collectis his de quibus est delatus et de<sup>a</sup> his de quibus est per testes conuictus vel habitus suspectus formet interrogatoria super illis ac inquireat habito secum notorio etc. (vt supra) prestito prius corporali iuramento ad quatuor dei euangelia de dicenda veritate tam de se quam de alijs, et hoc per modum qui sequitur:<sup>178</sup> conscribantur etiam singula.

*Interrogatoria<sup>179</sup> generalia super maleficam aut maleficum  
(et est primus actus)*

"TALIS DE TALI LOCO delatus iuratus super quatuor dei euangelia<sup>b</sup> corporaliter tacta tam de se quam de alijs dicere veritatem, et [vnde]<sup>c</sup>

<sup>a</sup> Not in Eym. and obstructive of the sense

<sup>b</sup> Ed. prin.: -eila

<sup>c</sup> Not in Eym. and unnecessary

<sup>176</sup> End

<sup>177</sup> Start of adaptation of Eym. (418 2D-E): Consimiliter examinentur alij testes omnes, quibus examinatis si inquisitor viderit factum esse probatum plene vel esse maxima indicia contra accusatum et timetur de fuga accusati, vtpote si accusatus sentiat quod contra eum de heresi inquiritur, faciat eum citari, et accusato coram inquisitore personaliter constituto, collectis his de quibus est accusatus et his de quibus est per testes conuictus vel habitus suspectus, formet interrogatoria super illis et interroget illum ac inquireat cum eodem, habito secum notario et duabus personis religiosis seu honestis, vt dictum est supra, et hoc per modum qui sequitur. prestito prius corporali iuramento ad quatuor dei euangelia de dicenda veritate.

<sup>178</sup> End

<sup>179</sup> Start of adaptation of Eym. (421 2B-E), which directly follows the preceding quotation in Eym.'s original text: Modus interrogandi reum accusatum. Talis de Tali loco, delatus predictus iuratus, ad quatuor dei euangelia coporaliter tacta tam de se quam de alijs dicere veritatem, et interrogatus vnde est seu vnde originem trahit respondit quod de Tali loco Talis diocesis. Item interrogatus qui sunt eius parentes, et si sunt viui vel mortui, respondit quod vocantur taliter et quod sunt viui in Tali loco (vel mortui). Item interrogatus vbi fuit nutritus, et vt in pluribus conuersatus dixit quod in Tali loco vel Tali. Et si videat inquisitor quod mutauit locum proprium et conuersatus est in alieno, et presertim in locis in quibus consueuerunt hereses vigere, interrogabit eum sic. Item interrogatus quare mutauit locum sue natiuitatis et se transtulit ad commorandum in Tali

interrogatus vnde est seu vnde originem traxit: et respondit<sup>a</sup> quod Tali loco | Talis diocesis.

“Item interrogatus qui sunt eius parentes, si sunt viui vel mortui: et respondit quod viui in Tali loco (vel mortui in Tali).

“Item interroga.<sup>b</sup> vtrum naturali morte vel incinerati: et dixit quod tali.” Vbi nota quod hoc fit quia vt plurimum, vt in secunda parte operis patuit, malefice proprios infantes demonibus offerunt aut eos instrunt, et communitur tota progenies existit infecta. Et vbi deponentes affirmassent et ipsa negaret, iam esset suspecta.

“Item interrogatus vbi fuit nutritus et vt in pluribus conuersatus: et dixit quod in Tali loco vel Tali.” Et si videat quod mutauit locum proprium quia forte mater non fuit suspecta nec aliquis ex parentela et tamen conuersatus in alieno et presertim in locis in quibus consueuerunt malefice vigere, interrogabitur sic:

“Item interrogatus quare mutauit sue natiuitatis locum et se transtulit ad commorandum in Tali loco vel Talibus: et dixit quod ex tali causa.

Item interrogat. si in dictis locis vel alibi audiuit loqui de materia maleficarum” – puta quod tempestates concitate vel iumenta maleficiata et vacce liquore lactis priuate etc. – de tali materia de qua est delata. Et si dicit quod sic, interrogetis:

“Item interroga. quid audiuit loqui” et scribantur singula que dicet.

Si autem negat et dicit se nihil audiuisse, tunc sic:

“Item interroga. si credit maleficas esse et quod talia possint fieri que referuntur, vt tempestates concitare, iumenta inficere et homines: et dixit . . .”<sup>180</sup>

<sup>a</sup> *Ed. prin.*: pp̄dit

<sup>b</sup> *In the source material, Eym. is giving an example of questioning a suspected heretic, and hence the gender of the accused is in the generalizing masculine. As this passage continues in its adapted form here, it becomes clear that Institoris has it in mind that the accused is actually a female, and to avoid the incongruity while still not completely abandoning the fiction that the generalizing masculine is being used, he anomalously abbreviated the word interrogatus since for the most part this is the only form in each article that is marked for gender. (It is noteworthy that this abbreviation is used in passages that have no correspondence in Eym.) Hence, the ambiguous abbreviation is retained.*

(*fn. 179 cont.*) loco vel Talibus dixit quod ex tali causa. Et secundum responsiones formabuntur articuli quousque ad propositum venit. Item interrogatus si in dictis locis vel alibi audiuit loqui de tali materia (exprimendo materiam de qua est accusatus), vtpote si audiuit loqui de paupertate Christi vel apostolorum seu de visione beatorum etc., et si dicat quod sic, interrogetur diligenter quid audiuit loqui de materia antedicta, et scribantur eius responsiones: dixit etc. Item interrogatus quid ipse super hoc aliquando est locutus respondit et dixit etc. Item interrogatus quid ipse credit super hoc quod etc. dixit. Et sic prudens inquisitor interrogabit et formabit sibi articulos secundum materiam de qua est accusatus et de qua per testes est conuictus vel suspectus habitus, taliter vt veritas habeatur. Qua confessione perfecta scribatur paulo post: Acta sunt hec in Tali loco etc.

<sup>180</sup> *Pause*

Et nota quod malefice vt plurimum negant prima fronte, vnde suspicio oritur magis quam si responderent: "Si sint aut non sint, committo superioribus." Vnde si negant, tunc interrogentur:

"Jtem interro.: 'Quid ergo vbi comburuntur: tunc innocenter condemnantur?' et dixit . . ."

*Interrogatoria particularia super eosdem*

ADUERTAT IUDEX QUOD NON procrastinet subsequentes interrogaciones, sed indelate proponat.

"Jtem interrogatus<sup>a</sup> cur communis populus eam timeret: et dixit . . .

"Jtem interrogatus an sciret se esse diffamatam et quod odio haberetur: et dixit . . .

"Jtem interroga. cur illi persone obiecit, dicendo: 'Tu non transibis impune': et dixit . . .

201C

"Jtem interroga. quid mali sibi fecisset illa persona quod talia verba in eius damnum protulisset: et dixit . . ."

Et nota quod hec interrogatio est necessaria vt deueniatur ad fundamentum inimicie, quia in fine delata allegabit inimiciam. Sed vbi non est capitalis sed modo muliebri concitata, non impedit. Hoc enim est maleficarum proprium concitare aduersum se vel verbis inutilibus aut factis, puta quia petit sibi prestari aliquid aut infert ei damnum aliquod in orto et similia, ad hoc vt occasionem recipiant, et se manifestant in verbo vel in opere, quam manifestationem habent facere ad instantiam demonum, vt sic peccata aggraentur iudicum dum manent impunita.<sup>b</sup> Nota etiam quod talia faciunt non in aliorum presentia, vt, si deponens vellet testes producere, non haberet. Nota etiam quod incitantur a demonibus, vt a multis maleficis et post incineratis experti sumus, ita quod contra ipsarum voluntatem habent incitare et maleficare.

"Jtem interro. quomodo effectus potuit consequi super minas, vt puer aut iumentum tam cito maleficiaretur: et dixit: . . .

201D

"Jtem interro. iterum: 'Et quare dixisti quod nunquam deberet habere sanum diem et ita factum est?': et dixit . . .

Jtem si omnia negat, interrogetur de alijs maleficijs alijs testibus illatis, puta in iumentis vel pueris.

<sup>a</sup> Note the confusion in this and the next question, where interrogatus is followed by eam and diffamatam.

<sup>b</sup> Sc. -e? (It is the sorceress and not the judges' sins that remain unpunished, though perhaps the sorceresses' sins are to be understood.)

“Jtem interro. cur visa fuerit in campis vel in stabulo cum iumentis, tangendo prout interdum solent facere: et dixit . . .

“Jtem interr. cur tetigit puerum et quod postea male habuit: et dixit . . .

“Jtem interr. quid egit in campis tempore tempestatis” et sic de multis alijs.

“Jtem vnde quod cum habeat vnam vaccam aut duas, quod plus abundant in lacte quam vicine habentes quatuor aut sex?

“Jtem cur manet in statu adulterij aut concubina?”

Licet non deseruiant ad propositum, tamen suspicionem generant amplius quam super probas et honestas delatas.

Et nota quod sepius super articulos contra eam delatos interroganda<sup>a</sup> est, vtrum maneat in eodem proposito aut non.

Qua<sup>181</sup> confessione peracta et scripta, siue ad partem negatiuam siue affirmatiuam siue sub ambiguo, scribatur postea: “Acta sunt hec in Tali loco”<sup>182</sup> (etc., vt supra).

202A    **QUESTIO SEPTIMA, IN QUA VARIA DUBIA DECLARANTUR  
SUPER PREMISSA INTERROGATORIA ET RESPONSIONES  
NEGATIUIAS, AN DELATA SIT INCARCERANDA, ET QUANDO  
PRO MANIFESTE DEPREHENSA IN HERESI MALEFICARUM  
SIT HABENDA (ET EST ACTUS SECUNDUS)**

QUERITUR PRIMO QUID AGENDUM si, vt plurimum contingit, persona delata omnia negat. Respondetur: iudex habet circa tria attendere, scilicet super infamiam, super indicia facti et super dicta testium, si videlicet omnia insimul concurrunt aut non. Si omnia insimul, vt plurimum etiam contingit, eo quod malefice statim propter forefacta in aliqua villa aut ciuitate infamantur. Indicia etiam facti sunt pre oculis, puta in pueris maleficiatis aut in iumentis que sepius inficiuntur aut lacte priuantur. Numerus etiam testium est inscriptus, qui licet<sup>183</sup> sint singulares, puta quia vnus deposuit quod puerum sibi maleficauerit, alius vero iumentum, tercius vero super infamiam, et sic de alijs, tamen in

202B substantia facti concordant, puta | in maleficijs et quod vt malefica sit

<sup>a</sup> *Ed. prin.*: -ātia

<sup>181</sup> *Resume*

<sup>182</sup> *End*

<sup>183</sup> *Start of adaptation of Eym. 3.120 (616 1A): [After answering that no one can be convicted on the evidence of conflicting witnesses, Eym. quotes a letter from a cardinal to inquisitors:] Quando vero testes singulares sunt in dictis, tamen concordant in substantia seu in effectu, relinquunt inquisitoris arbitrio, vt sicut ei secundum deum videbitur, sic procedat, maxime si fama consistat et idoneitas et fides deponentium contra eum contra quem fuerit inquirendum.*

suspecta. Et isti testes licet non sufficiant ad condemnandum absque infamia vel etiam cum infamia, vt supra tactum est questione tertia, tamen cum indicijs facti posset ex his tribus insimul reputari non vt suspecta vehementer aut violenter, de quibus suspicionibus inferius declarabitur, sed reputari vt manifeste deprehensa in heresi maleficarum, vbi videlicet testes idonei, id est, non ex inimicitia et sufficientes in numero, puta sex, octo vel decem, iurati concurrerent,<sup>184</sup> et consequenter deberet penis in c. "Ad abolendam" § "Presenti" ("De hereticis") subiaceret et c. "Excommunicamus" secundo, et hoc siue crimen sit facta siue non.

Et hec sic probantur. Nam quod dictum est quod vbi omnia tria prefata concurrunt, tunc pro manifeste deprehensa in heresi debet reputari, non est intelligendum quod<sup>a</sup> necessario omnia tria insimul concurrere, sed probatur sic per argumenta a fortiori. Nam si vnumquodque per se inter illa duo, que sunt indicium facti et testium productio legitima, potest reddere aliquem vt pro deprehenso in heretica prauitate habeatur, quanto magis vbi ambe probationes pariter concurrunt? Nam iuriste vbi querunt<sup>185</sup> quot modis de iure aliquis habetur pro manifeste deprehenso in heretica prauitate, respondent quod tribus, vt notat Bernardus in glosa ordinaria in c. "Ad abolendam" § "Presenti" et verbo "deprehensi" (*Extra*, "De hereticis"), et tactum est supra in questione prima in principio operis, scilicet facti euidencia, puta quia publice predicauit heresim – hic autem ponimus indicium facti propter publicas minas quas intulit, dicendo: "Nunquam sanos dies habebis" vel simile, et effectus fuit subsecutus; sequitur: – vel legitima probazione per testes vel tercio ex propria confessione.<sup>186</sup> Vnde si vnumquodque illorum per se facit et reddit aliquem tanquam manifeste suspectum, quanto magis insimul iungendo infamiam et indicia facti cum testium depositione, licet ibi dicatur euidens factum et hic indicium facti? Et hoc est quia diabolus non manifeste operatur sed occulte, damna autem et instrumenta maleficij que reperiuntur dant indicium facti, vnde vbi euidens factum in alia heresi solum sufficeret, hic adiungimus tria.

<sup>a</sup> *Grammatically unnecessary*

<sup>184</sup> *End*

<sup>185</sup> *Start of adaptation of Eym. 3. 89 (638 1A-B):* Octuagesimanona questio est: episcopus et inquisitor quot modis et quibus debeant de iure habere aliquem manifeste pro deprehenso in heretica prauitate. Respondemus quod tribus, vt dicit Bernardus in glosa ordinaria in c. "Ad abolendam" § "Presenti" et verbo "Deprehensi" . . . Dicit nanque sic: "Deprehensus": facti euidencia, puta quia publice predicat heresim (ff. "De ritu nup.," "Palam" § "VI.") vel legitima probazione, puta per tres testes, vel ex sua confessione.

<sup>186</sup> *End*

De secundo vero, quod talis deprehensus licet negaret, tamen iuxta illa capitula esset puniendus, sic probatur. Nam deprehensus<sup>187</sup> facti euidencia vel per testes aut fatetur crimen vel non: si fatetur et est penitens, tradendus est brachio seculari vltimo supplicio feriendus iuxta c. “Ad abolendam” (vt supra), est carceri perpetuo detrudendus iuxta c. “Excommunicamus” secundo;<sup>a</sup> si autem non fatetur sed stat in negatiua, est vt impenitens tradendus potestati curie secularis animaduersione debita puniendus, vt notat Hostiensis in *Summa* (ti. “De Hereticis,” “Qualiter deprehendantur”).<sup>188</sup>

Sic ergo concluditur quod si iudex isto modo procederet super interrogatoria et testium depositiones, cum, vt dictum est, in causis fidei summarie, simpliciter et de plano procedi potest, et ipsam delatam carceri deputaret ad tempus vel ad annos plures, si forte post annum squaloribus carceris depressa crimina fateretur, non iniuste sed iuste procederet. Attamen, ne videatur sententiam precipitare, imo secundum omnem equitatem procedere, queritur quid consequenter agendum sit.

203A

QUESTIO OCTAUA ET PRECEDENTI ANNEXA, AN SIT  
INCARCERANDA, ET DE MODO CAPIENDI (ET EST ACTUS  
TERCIUS IUDICIS)

AN VERO SUPER NEGATIUIAS responsiones malefica sit carceri ad custodiam mancipanda, vbi prefata tria concurrunt, scilicet fama, indicia facti et productiones testium, aut sub cautione fideiussorum dimittenda vt denuo citata respondeat.<sup>189</sup> Responderi potest ex tribus opinionibus.

Primo enim aliquorum sententia est quod carceribus sit mancipanda et nullo modo sub cautione dimittenda, et hic innituntur rationi tacte in

<sup>a</sup> Sc. -um

<sup>187</sup> *Start of adaptation of Eym. 3.90 (638 2B–C):* Nonagesima questio est vtrum inquisitor deprehensum in heretica prauitate et ex hoc captum possit licite tradere cautioni vel manuleute. Respondemus quod non. Nam vel est deprehensus propria confessione vel non: si sic et est impenitens, tradendus est curie seculari vltimo supplicio feriendus iuxta c. “Ad abolendam” § “Presenti” (“De here”); si autem est penitens, est in carcerem perpetuum detrudendus iuxta c. “Excommunicamus” ij (“Hereti.”). Non igitur cautioni dandus vel liberandus. Si autem non sed stat in negatiua, est vt impenitens tradendus potestati curie secularis animaduersione debita puniendus, vt Host. in Sum., tit. “De heret.” § “Qualiter deprehendantur.”

<sup>188</sup> *End*

<sup>189</sup> *This section is inspired by the topic of Eym. 3.90 (638 2A–C) (vtrum inquisitor deprehensum in heretica prauitate et ex hoc captum possit licite tradere cautioni vel manuleute) but apart from the topic, there is no verbal similarity.*

precedenti questione, quia videlicet habetur pro manifeste deprehensa vbi illa tria concurrunt.

Alij vero quod ante incarcerationem potest cautioni fideiussorum relinqui, ita quod si fugam caperet, quod tunc pro conuicta haberetur, licet post incarcerationem super negatiuas responsiones non sit cautioni vel manulente<sup>a</sup> relinquenda, quando videlicet illa tria concurrunt supra notata, eo quod tunc non posset sententari et plecti ad mortem. Et hic innititur consuetudini.

203B

Tercij sunt qui dicunt quod non sit danda infallibilis regula, sed iudici sit relinquendum vt secundum dicta testium et infamiam persone, et si indicia facti concurrunt, tanto grauius discernatur per modum patrie, seruando et consuetudinem, concludentes quod si non posset habere fideiussores notabiles et fortassis suspecta de fuga, quod tunc carceri mancipetur.

Et hec tertia videtur rationabilior, sic tamen quod debitus seruetur modus qui stat in tribus: primo vt domus eius, quantum possibile est, perlustretur sub et supra, in omnibus angulis, fossis et scrinijs, et si quidem famosa malefica existit, tunc absque dubio, nisi prius sint ab ea occultata, varia instrumenta reperiuntur, sicut supra tactum est; secundo vt si habet ancillam aut consodales, quod et ille vel illa seorsum includantur, etiam si non sint delate: presumitur eas non latere secreta aliqua illius delate; tercio quod in capiendo si in domo propria capitur, quod non detur ei spacium intrandi cameram, eo quod tunc solent certa maleficia accipere et secum deferre pro taciturnitate procuranda.

203C

Ratione cuius incidit dubium an modus capiendi maleficas qui ab aliquibus obseruatur, vbi a famulis subito a terra eleuatur et in sporta siue in spatulis, ne terram vltra tangat, defertur, sit licitus. Responderi potest ex canonistarum et quorundarum theologorum sententia quod licitum sit hoc triplici respectu: primo quia, vt in questione introductoria huius tertie partis patuit, plurimorum sententia, imo talium doctorum quorum dicta reprobare nemo audet, vt Hostiensis, Gofridus, est quod licitum est vana vanis contundere; experientia denique imo et maleficarum fassiones demonstrant quod sepius per talem modum capte taciturnitatis maleficium amiserunt, imo quam plures incinerande petentes vt saltem pede vno terram tangere permitterentur, dum eis fuisset denegatum et in fine scissitatum<sup>b</sup> cur tamen terram tangere oprassent, responsum quod si tetigissent, seipsas liberassent, multis alijs fulminibus interempris.

<sup>a</sup> Eym.-leute (216D shows that the "n" is intentional)

<sup>b</sup> Sc. scisci-

203D Alia causa. Nam hoc ipsum manifestum existit, vt in secun<sup>d</sup>a parte operis patuit, quod in publica iustitia omnes vires maleficij franguntur quo ad preterita, sed quo ad futura nisi de nouo ei a diabolo succurratur in maleficio taciturnitatis, omnia crimina fatetur. Dicamus ergo iuxta apostolum: “Quecunque verbo vel opere agimus, omnia in nomine domini nostri Jesu Christi fiant.” Et si quidem innocens fuerit, hec captio non ei nocebit.

Tertio respectu quia si secundum doctores licitum est per vana opera maleficia tollere, quia in hoc concordant omnes, licet discrepant in illo quod illa vana non debeant esse illicita, vnde dictum Hostiensis, vbi dicit quod licitum sit vana vanis contundere, glosatur ab alijs: “Nota quod dicit vanis, non autem illicitis”: a fortiori licitum est maleficia impedire ad quod impedimentum hic respectus habetur et non ad aliquid illicitum exercendum.

204A Notat<sup>a</sup> insuper iudex quod est duplex incarcerationio: vna ad penam, vbi criminosi ponuntur, altera ad custodiam tantum, et hec in pretorio fit – et he due custodie notantur in c. “Multorum querela” | (vt supra) – vnde ad minus ad custodiam est incarcerationanda.

Si autem leuia essent pro quibus esset accusata, ita quod non esset infamata nec essent indicia facti in pueris et iumentis, tunc remittatur ad domum, sed quia familiaritatem habuit forte cum maleficis et nouit eorum secreta, det fideiussores, quos si habere non potest, iuramentis et penis astricta domum non exeat nisi vocata.

Ancille autem et domestice, de quibus supra, ad custodiam et non ad penam detineantur.

QUESTIO NONA: QUID AGENDUM POST CAPTIONEM,  
ET AN DEPONENTIUM NOMINA SINT EI MANIFESTANDA  
(ET EST ACTUS QUARTUS)

DUO AUTEM POST CAPTIONEM fiunt, sed quid primum inter illa, iudici relinquitur, scilicet defensionum concessio et in loco torture, non tamen per torturam, examinatio. Primum non datur nisi petierit; secundum non fit nisi prius ancille seu consodales, si habuit in domo, examinatur. Procedamus tamen ordine posito.

204B Si delata dicat se innocentem et quod false sit delata et quod libenter velit tales accusatores inspicere et eos audire, tunc signum est quod<sup>b</sup>

<sup>a</sup> Sc. -et (cf. 214C)

<sup>b</sup> Ed. prin.: q3 (=que)

perit defensiones, sed an iudex teneatur ei deponentes manifestare et ad conspectum eius presentare: hic aduertat iudex quod nullum illorum tenetur facere, nec nomina manifestare nec ad conspectum presentare nisi deponentes per se et sponte ad hoc se offerunt, vt videlicet eorum aspectibus presententur et ea que deposuerunt eis in faciem obijcere.

Quod autem non tenetur iudex, et hoc propter periculum deponentium, probatur. Nam licet<sup>190</sup> diuersi summi pontifices diuersa senserunt, nullus tamen vnquam sensit quod iudex teneretur in tali causa delato nomina deponentium manifestare nec etiam accusatorum (licet hic non procedimus per modum accusationis), sed potius aliqui senserunt quod in nullo casu liceret, aliqui vero quod in aliquo: tandem autem Bonifacius octauus statuit, vt patet in c. "Statuta" § "Jnhibemus" (*Libro Sexto*), vbi sic dicitur: "Jnhibemus tamen quod si accusatoribus vel testibus in causa heresis interuenientibus seu deponentibus propter potentiam personarum contra quas inquiritur videant episcopus et inquisitor" – nota tu pro inquisitore et episcopo iudicem quencunque contra | maleficas procedentem ex consensu episcopi et inquisitoris, 204C quia idem est et vices suas committere possunt, vt in questione introductoria patuit, vnde et talis iudex quicunque etiam secularis procedit apostolica autoritate et non solum imperatoria. Sequitur: "Graue periculum imminere si contingat fieri publicationem, eorundem ipsorum nomina non publicent" etc. Et sequitur infra: "Cessante vero periculo supradicto accusatorum vel testium nomina, prout in alijs fit iudicijs, publicentur."

Attendat etiam circumspectus iudex de potentia personarum, quia illa est triplex, scilicet potentia generis et familie, potentia pecunie et potentia malicie, que plus timenda est quam alie due, quod ex illa testibus grauia pericula possent imminere si eis contra quas deposuerunt eorum nomina publicarentur. Et ratio est: maius enim est periculum nomina testium

<sup>190</sup> *Start of adaptation of Eym. 3.75* (an nomina testium et denuntiatorum sint delatis publicanda) (627 2A-C): . . . de ista materia diuersi summi pontifices diuersa responderunt. Aliqui dixerunt quod in nullo casu, aliqui in aliquo: ideo tandem Bonifacius octauus statuit quid agendum, vt patet in c. "Statuta" § "Jubemus" ("De hereticis," *Libro Sexto*), vbi sic dicitur: [*quote follows: a sentence in Eym. between the two sections quoted is omitted here*]. Attendat tamen circumspectus inquisitor de potentia personarum. Nam est potentia generis seu familie, est potentia pecunie, est etiam potentia malicie. De certo rarissime est, quia graue periculum imminet testibus, si eorum eis contra quos deponunt nomina publicentur, et qui vidit et sciuit, ita dicit. Maius enim est periculum nomina testium publicare alicui delato pauperi habenti in malis complicibus rebelles et homicidas, qui nihil habent nisi personam, quam generoso vel diuiti in temporalibus abundanti. Quale autem est tale periculum graue, declarat Ioan. And. super predicto versus: "Periculum": quia timetur mors vel detruccio ipsorum vel filiorum vel parentum suorum vel deuastatio substantie ipsorum vel his similia."

publicare alicui delato pauperi habenti in malis complices rebelles et homicidas qui nihil habent nisi personam perdere quam generoso vel diuiti abundantanti in temporalibus.

204D Quid autem sit graue periculum et quale, declarat Johannes Andree super predicto verbo “periculum,” dicens ita: “Periculum: | quia timetur mors vel detruncatio ipsorum vel filiorum vel parentum suorum vel deuastatio substantie vel his similia.”<sup>191</sup>

Aduertat insuper iudex quod cum apostolica autoritate ex beneplacito ordinarij in his procedit, quod ad illud secretum, scilicet de non reuelando testificantium nomina, tam ipse quam omnes alij assessores qui depositionibus testium interfuerunt aut in futurum circa sententiam ferendam interesse poterunt tenetur sub pena excommunicationis quam contra eos, si oppositum fecerint, episcopus fulminare poterit, et ita ne reuelent a principio processus ad minus implicite fulminauit.<sup>192</sup> Vnde in allegato c. “Statuta” § “Et vt eorundem” ita dicitur: “Et vt eorundem accusatorum et testium periculis efficacius occurratur et cautius <in><sup>a</sup> inquisitionis negocio procedatur, presentis constitutionis autoritate permitimus quod episcopus et inquisitores” – tu intellige sicut supra – “<secretum>”<sup>193</sup> possint indicere illis quibus, vt premissum est, processum huiusmodi explicabunt, et in eos, | <si><sup>b</sup> archana<sup>c</sup> consilij seu processus sibi sub secreto ab eisdem episcopo et inquisitoribus patefacta preter ipsorum licentiam alijs patefacerent, excommunicationis sententiam quam ex secreti violatione ipso facto incurrant, si eis videbitur, promulgare.”

205A Notandum vlterius quod sicut<sup>194</sup> pena annexa est vbi nomina testium indebite publicarentur, ita pena est annexa vbi indebite occultarentur, scilicet illis quibus merito sunt manifestanda, scilicet peritis et

<sup>a</sup> So *Eym.*, canon

<sup>b</sup> So *Eym.*, canon

<sup>c</sup> Sc. arcana

<sup>191</sup> End

<sup>192</sup> This paragraph is inspired by *Eym.* 3.81 (632 2E–633 1A) (vtrum episcopus et inquisitor, quando predictis peritis deferentium nomina et testificantium publicabunt, possint eis secretum indicere quatenus illorum nomina non reuelent ac in eos sententiam excommunicationis ferre si reuelauerint), but apart from the general sense and the quote from the canon, there is no verbal similarity.

<sup>193</sup> So *Eym.*, canon (presumably omitted by accident as a result of the process of putting the preceding insertion into the text).

<sup>194</sup> Start of *Eym.* 3.76 (629 1D–630 2A), which begins: Septuagesimasexta questio est vtrum episcopus et inquisitor non publicando delato deferentium ac testificantium nomina seu publicando vbi non debent incurrant aliquam penam et quam. Respondemus quod sic, quia per dominum papam eorum conscientie onerantur, ac eis precipitur quatenus puram et prouidam intentionem habeant in predictis, vnde in c. “Statuta” (“De heret.,” Lib. Sex.) circa finem sequitur sic: “Ceterum in his omnibus precipimus . . .”

assessoribus de quorum consilio est ad sententiam procedendum, vel ubi non publicarent ubi sine periculo testium publicari possent, ut in dicto c. "Statuta;" circa finem sequitur: "Ceterum in omnibus precipimus tam episcopos quam inquisitores puram et prouidam intentionem habere ne accusatorum vel testium nomina supprimendo,<sup>195</sup> ubi est securitas periculum esse dicant, nec in eorum discrimine securitatem asserant, ubi tale periculum immineret, super hoc conscientias eorum<sup>196</sup> onerantes." Vbi archidiaconus ita dicit: "O tu quicumque iudex in tali casu, bene aduerte verba ista. | Nam non dicit 'leue periculum,' si dicit <sup>205B</sup> 'grauē.' Noli igitur reum priuare iuris ordine sine magna causa, quoniam hoc fieri non potest sine offensione dei."<sup>197</sup>

Et notandum est lectori quod quia omnia precedentia et etiam sequentia vsque quo perueniatur ad modos sententiandi absque pena sanguinis, in quibus ecclesiasticus iudex iudicare habet, fieri possunt cum consensu diocesanorum per secularem iudicem, ideo non impediatur lectori si in capitulo allegatur iudex ecclesiasticus et non secularis, qui modos sententiandi super sanguinem capiet ex modis sententiandi et penitentionandi ordinariorum.

QUESTIO DECIMA: QUALITER SUNT DEFENSIONES  
CONCEDENDE CUM DEPUTATIONE ADUOCATI (ET EST  
ACTUS QUINTUS)

SI<sup>198</sup> IGITUR DEFENSIONES PETIT, quomodo concedi possunt, ubi nomina testium omnino occultantur? Dicendum quod defensio stat in tribus: primo, ut ei aduocatus deputetur; secundo, ut illi aduocato nomina testium non publicentur, nec ad secretum etiam tenendum sub prestito iuramento, sed informetur de singulis contentis in processu; <sup>205C</sup> tertio, delati causa, quantum potest, in meliorem partem interpretetur, sine tamen scandalo fidei et damno iusticie, ut parebit. Et procurator pari forma, cui processus totius copia suppressis tamen testium et deponentium nominibus,<sup>a</sup> et idem aduocatus etiam procuratoris nomine procedere poterit.

<sup>a</sup> tradatur should be supplied (cf. 206B) (clumsy adaptation)

<sup>195</sup> For accusatorum . . . supprimendo Eym. (and canon) has: ad accusatorum . . . suppressenda

<sup>196</sup> For conscientias eorum Eym. (and canon) has: eorundem conscientias

<sup>197</sup> End

<sup>198</sup> This question is inspired by Eym. (446 1C-2A): . . . concedentur sibi [sc. the accused] aduocatus probus tamen et de legalitate non suspectus, vir vtriusque legis peritus et fidei zelator, et procurator pari forma, ac processus totius copia suppressis tamen testium et deponentium ac accusantibus nominibus . . . to which is added information from a legal textbook.

Quo ad primum. Notatur quod aduocatus non deputatur ad beneplacitum delati, puta quia vellet habere vnum ad suum placitum: de illo omnino caueat iudex, non concedere hominem litigiosum, maliuolum, qui faciliter pecunijs posset corrumpi, prout sepe tales inueniuntur, sed concedat sibi virum probum et de legalitate non suspectum.

Et notare debet iudex quatuor in aduocato, que si obseruata fuerint ab aduocato, permittat eum aduocare; alias habet eum refutare. Nam aduocatus primo debet examinare qualitatem cause, et si viderit eam iustam, tunc si voluerit, assumat eam, si vero iniustam, rennuat. Vnde diligenter cauere debet ne causam assumat iniustam et desperatam. Verum quod si 205D igno|ranter ab inicio acceptauit causam et cum hoc pecuniam, in processu tamen cognouit causam desperatam, tunc si clientulo suo, id est, delato pro quo causam assumpsit, non consuluit vt cederet, salarium receptum tenetur restituere secundum Gofridum, quod probare videtur per C. “De iudicijs,” “Rem non novam,”<sup>a</sup> licet Hostiensis dicat oppositum, scilicet de salario <non><sup>b</sup> restituendo nisi industrie fecisset. Vnde si nequam aduocatus clientulum suum scienter inducat ad defendendum causam iniquam, ad damna et ad expensas tenetur (C. “De administratione tutorum,” “Non est ignotum”).

Secundum quod obseruare debet vt seruet in aduocando tria: primo modestiam, vt non procaciter nec conuiciando nec vociferando proponat (C. eodem “Quoniam”); secundo veritatem, scilicet vt non mentiatur falsas rationes vel probationes inducendo nec falsos testes aut iura, si peritus esset, nec dilationes petat, presertim in hac causa, vbi summarie, simpliciter et de plano, vt supra in questione sexta tactum est et tangitur 206A iij q. vij “Hec tria”; et tertium quod obseruatur est ex parte | salarij, quod moderatur secundum consuetudinem regionis, de qua materia tractatur iij q. vij § “Arcentur” et § “Tria.”

Sed ad nostrum propositum redeundo. Iudex ita prescriptas condiciones aduocato proponat, et in fine adiungat ne fautoriam heresis incurrat, quia tunc excommunicatus esset iuxta c. “Excommunicamus” primo<sup>c</sup> § “Credentes.”

Nec valet si dicat iudici quod non defendit errorem sed personam, quia non debet defendere quouis modo vt non procedatur summarie, simpliciter et de plano, quod faceret si petere vellet omnino dilationes vel immiscere appellaciones, que omnia refutantur, vt ibi in questione

<sup>a</sup> *Ed. prin.:* -a

<sup>b</sup> *Logically necessary, though its absence may be the result of clumsy adaptation.*

<sup>c</sup> *Sc.* -um

sexta recitatur, quia licet errorem non defendat, cum sic damnabilior ipsis maleficis esset et potius heresiarcha quam hereticus maleficus, vt patet xxiiij q. iij "Qui illorum," tamen<sup>a</sup> quia indebite defendit iam suspectum de heresi, tanquam fautorem se facit et non solum leuiter sed et vehementer secundum defensionem quam fecit et debet abiurare publice coram episcopo iuxta c. "Accusatus" frequenter allegatum.

Hec ad longum | posita sunt nec paruipendat ista iudex, quia ex aduocato seu procuratore, vbi false procedere nititur, plurima pericula euenire solent. Vnde iudex omnino debet eum refutare et procedere secundum acta et probata, vbi reprehensibilis aduocatus fuerit. Veruntamen si iudex habuerit aduocatum irreprehensibilem pro delato, virum zelosum et iusticie amatorem, nomina testium ei indicare poterit, ad secretum tamen tenendum sub prestito iuramento.

QUESTIO VNDECIMA: QUID FACIET ADUOCATUS CUM SIBI  
NOMINA TESTIUM NON PUBLICANTUR (ACTUS VI)

QUOD SI QUERITUR: QUID ergo aduocatus etiam procuratorio nomine pro delato faciet, vbi nec sibi nec clientulo suo nomina testium publicantur, quam tamen publicationem delatus summe affectaret, responsio: informationem capiat a iudice de singulis in processu contentis, et si quidem copiam habere velit, suppressis tamen nominibus testium tradatur sibi, et sic informatus accedat delatum et singula sibi proponat, et si materia postulat, vtpote quia multum | onerosa delato, <sup>206C</sup> tum<sup>b</sup> ad patientiam, quantum potest, hortetur. Et delatus vbi iterum atque iterum instat vt sibi testes publicentur, respondere potest: "Ex factis que contra te delata sunt coniecturare testes poteris. Nam Tali maleficiatus est puer aut iumentum." Aut: "Tali mulieri seu viro dixisti, eo quod talem rem quam petebas tibi comperare <sup>no</sup>lebar: 'Tu senties quod melius fuisset vt mihi rem accomodasses.' Post que verba talis infirmatus subito. Facta tua vt testimonia clamant, que plus ponderantur quam testimonia verborum." Vel: "Etiam tu scis te infamaram et a longo tempore suspectam de multis maleficijs et damnis hominibus illatis." Et sic replicando finaliter ad hoc deueniet quod ipsa aut inimicias allegabit, asserens sibi ex inimicia obiecta, aut dicit: "Fateor me dixisse hec verba, sed non animo nocendi."

<sup>a</sup> Ed. prin.: tum (tñ misread as tū?)

<sup>b</sup> Ed. prin.: cum

Quare aduocatus tunc iudici et assessoribus de primo, videlicet de inimicia, habet proponere et iudex inquirere, et si quidem illa capitalis inueniretur, vtpote quia inter maritos vel consanguineos fuisset mors intentata vel secuta vel alicuius criminis inculpatio, vnde quis foret plectendus | per publicam iusticiam vel fuerunt vulnera grauia ex contrauersijs et brigis illata, tunc prouidus iudex cum suis assessoribus discutiet an ex parte delate inimicia aggrauatur vel ex parte deponentis, puta quia maritus aut amici delate alios ex parte deponentis iniuste oppresserunt: tunc quidem si non assunt indicia facti in pueris seu iumentis siue hominibus maleficiatis, nec etiam assunt alij testes aut etiam quod publica infamia non laborat, tunc presumitur quod ratione vindicte contra eam deposuerit, et est delata omnino absoluenda et libere dimittenda sub debita cautione de non vindicando etc., vt moris iudicum est.

Sed queritur: Katherina habet puerum maleficiatum, seu ipsa per se est maleficiata, seu in iumentis percepit plurima damna, et suspicatur super illam cuius maritus aut consanguinei etiam perprius iniuste suum maritum aut consanguineum oppresserunt in publico iudicio, vnde cum hoc duplex sit inimicia ex parte deponentis, quia inimicatur ratione maleficij illati et ratione infamie iniuste obiecte suo marito aut consanguineo: estne eius depositio repellenda aut non? Et quidem ex vna | parte videtur quod sic, quia inimicia ibi est, ex altera quod non, quia profert indicia facti. Respondetur quod in casu quo non assunt alij deponentes nec etiam publica laborat infamia contra delatam, tunc non statur eius depositioni tantum, sed repellitur, et delata tamen redditur suspecta, si et in quantum morbus est maleficiosus et non ex naturali defectu (et qualiter hoc cognoscitur inferius patebit), quod<sup>a</sup> canonicè est purganda.

Sed si iterum queritur an alij deponentes etiam habent super indicia facti primum deponere que ipsis aut alijs contigerunt aut solum super infamiam, respondetur quod si super aliqua indicia facti deponunt, bene quidem; si autem tantum super infamiam et ita in re existit, tunc iudex, licet repulerit deponentem propter inimiciam, tamen indicium facti quod protulit et ostendit iudex ex alijs testibus que super infamiam deposuerunt capiet pro intersigno super suspicionem vehementem, ex qua ipsa delata detenta iudicari poterit a iudice super triplicem penam, scilicet canonicè purgationis propter infamiam iuxta c. “Jnter sollicitudines” (*Extra*, “De purgatione canonica”), item super abiurationem propter

<sup>a</sup> Sc. ita quod

suspicionem iuxta c. "Accusatus" in principio et secundum varias suspensiones ad varias abiurationes, vt patebit in quarto modo sententiandi.

Et propter indicia facti, si crimen fatetur et penitet, non relinquitor brachio seculari ad punitionem sanguinis, sed per ecclesiasticum iudicem ad perpetuos carceres iudicatur: per secularem tamen iudicem, non obstante quod ad perpetuos carceres sit per ecclesiasticum iudicem iudicatus, potest tamen ipsum propter damna temporalia tradere igni iuxta c. "Ad abolendam" § "Presenti" et iuxta c. "Excommunicamus" secundo<sup>a</sup> ("De hereticis"), que omnia patebunt inferius circa sextum modum sententiandi.

Epilogando. Attendat iudex primo quod non sit facilis ad credendum aduocato, vbi pro delata allegat inimiciam capitalem, eo quod rarissime in tali crimine quis deponit sine inimicicia, cum malefice semper exose omnibus habeantur.

Secundo attendat quod cum quatuor modis malefica potest conuinci, scilicet per testes, per euidencia<sup>b</sup> facti, per indicia | facti et per confes-<sup>207C</sup> sionem propriam, et hoc vel super infamiam tantum, quod tantum fieret hoc per testes, vel super suspicionem, tunc per euidencia facti aut indicia facti fieret, ex quibus suspicio potest iudicari leuis vel vehemens vel violenta, et hec omnia absque confessione propria, que si concurrerent,<sup>c</sup> tunc, vt dictum est, procederetur.

Tercio applicet premissa ad suum propositum super personam detentam ad obuiandum aduocato, sed videlicet sit tantummodo super infamiam delata aut quod ibi concurrant aliqua indicia, vnde redditur suspecta vehementer vel leuiter, et tunc aduocato super inimiciam allegatam respondere poterit.

Et hec quantum ad illam partem vbi aduocatus pro delato in inimiciam deponentium allegauit, sed vbi allegat secundum, videlicet quod illa verba que protulit contra deponentem: "Tu senties in breui que tibi euenient" aut "Tu non habebis plures dies sanos" aut "Veniet in breui quod tu velles mihi talem rem accomodasse (aut vendidisse)" et similia,<sup>207D</sup> tunc aduocatus adiungat: licet malum aliquid fuerit subsequutum deponenti in rebus vel corporibus, non tamen propter hoc sequitur quod illa delata huius mali sit causa tanquam malefica, eo quod infirmitates varijs modis accidere possunt, item allegat quod commune est mulierum verbis huiusmodi mutuo contendere etc., super istas allegationes iudex

<sup>a</sup> Sc. -um

<sup>b</sup> Construed as neut. pl. (cf. 124A, 197C)

<sup>c</sup> So Schnyder (1993) 247; ed. prin.: -et

habet obuiare per hunc modum: si quidem infirmitas ex defectu nature accidit, tunc excusatio locum habere poterit, sed quia ex signis et experimentis oppositum constat, utpote quia nullo remedio naturali curari potuit, item quia iudicio medicorum iudicatur ut morbus maleficialis (vulgariter “nachtschaden”), item iudicio fortassis incantatricum aliarum que asserunt seu asseruerunt morbum esse maleficalem, item quia subito superuenit absque aliqua preuia debilitatione, cum tamen naturales infirmitates successiue solent debilitare, item quia fortassis curata fuit ideo quia reperit certa instrumenta sub lecto aut indumentis seu alijs locis et illis amotis subito sanitati restituta fuit, prout sepiissime contingit, ut  
 208A supra in secunda | parte operis patuit, ubi de remedijs tractatur. Et per hec seu similia iudex facillime potest obuiare quod talis infirmitas potius ex maleficio quam naturali defectu contigit. Et per minas obiectas suspicatur de maleficio, sicut a simili si quis diceret: “Volo tibi comburere horreum” et effectus subsequitur, utique violentam causat suspicionem quod ille qui minas protulit horreum succenderit, licet fortassis alius et non ipse combusserit.

SEQUITUR AD IDEM QUESTIO DUODECIMA, MAGIS  
 DECLARANS QUALITER SIT INIMICICIA CAPITALIS  
 INUESTIGANDA (ACTUS SEPTIMUS)

ATTENTO QUOD A TESTIMONIO ferendo tantummodo inimici capitales repelluntur, ut supra quinta questione tactum fuit, inimiciciam autem talem declarare ex his que in capitulo precedenti tacta sunt iudici fortassis nimis obscurum et difficile videtur, attento quod delatus vel  
 208B eius procurator nollent faciliter eius acquiescere decisioni super materiam tactam, que dicatur inimicicia capitalis et que non, ideo exprimendi sunt alij modi quibus in noticiam talis inimicicie iudex deueniret, ut insontem sic minime damnaret, quod tamen reum per debitam iustitiam puniret. Et hi modi, licet sint cautelosi seu etiam dolosi, tamen iudex illos praticare potest in bonum fidei et reipublice, cum et apostolus dicat: “Cum essem astutus, dolo eos<sup>199</sup> cepi.” Specialiter etiam hi modi praticantur super delatos non diffamatos publice seu etiam non notatos per aliquod indicium facti, licet etiam iudex super quoscumque delatos ubi inimicicias contra deponentes allegarent et nomina testium omnino scire vellent.

<sup>199</sup> 2 Cor. 12:16: vos

Primus<sup>200</sup> modus est: nam datur delato seu suo aduocato copia processus ad partem vnam, scilicet seorsum, et nomina deponentium seu deferentium ad partem aliam, non tamen eo ordine quo deponunt, sed isto modo vt nomen testis qui est primus in copia sit sextus vel septimus in cedula, et qui secundus sit, penultimus vel | vltimus, et sic delatus 208C quis hoc deponat vel illud et quis sit primus vel secundus in sua copia <cognoscere non valebit>.<sup>a.201</sup> Quo stante aut dabit omnes inimicos aut non: si omnes, eo citius reprehendetur delatus de mendacio, vbi causa inimicie per iudicem scrutabitur; si quosdam vero, tunc facilius causa inimicie inuestigabitur.

Secundus<sup>202</sup> modus esset a simili, vbi daretur aduocato processus copia ad partem vnam et deponentium nomina ad partem aliam, et adiunctis alijs extraneis que alibi a maleficis fuerunt perpetrata et non a deponentibus seu testibus inscriptis deposita: sic delatus non poterit assertiue dicere illum vel istum inimicum capitalem, quia nescit que sint ab illis contra eum deposita.<sup>203</sup>

Tertius<sup>204</sup> modus, qui et supra tactus capitulo quinto: nam quando delatus examinatur in fine secundi examinis, antequam petat defensiones et antequam aduocatus sibi deputatur, interrogetur an reputet se habere inimicos capitales qui omni diuino timore postposito falso imponerent sibi labem heresis maleficarum. Et tunc forte impremeditatus ac improuisus et non | visis deponentium attestationibus respondet quod 208D non reputet se habere tales inimicos; vel si dicit: "Puto me habere," tunc nominat,<sup>205</sup> et illi inscribantur et causa etiam inimicie, vt postmodum

<sup>a</sup> So Eym. (Presumably the omission of these words from the end of the quotation was accidental.)

<sup>200</sup> *Start of adaptation of Eym. (449 2A):* Primus est quod predictorum nomina non in ipsa processus copia sed in aliqua particulari cedula conscribantur, non tamen eo ordine quo deponunt, et talis delato cedula conferatur, sic vt nomen testis qui est primus in copia sit sextus vel septimus in cedula, et qui secundus in copia sit vltimus vel penultimus in cedula, et sic de alijs nominum ordinem transmutando. Et sic delatus quis hoc deponat vel quis illud et quis primus et quis secundus in sua copia cognoscere non valebit.

<sup>201</sup> *End*

<sup>202</sup> *Start of adaptation of Eym. (449 2D):* Secundus modus est: nam datur delato processus copia ad partem vnam et deponentium nomina seu deferentium ad partem aliam, et admiscentur cum illis alia extranea eorum qui nunquam deposuerunt contra in illa materia. Et per hunc modum potest dicere contra illum et contra istum, et non venit in cognitionem eius qui deposuit contra eum.

<sup>203</sup> *End*

<sup>204</sup> *Start of adaptation of Eym. (449 2E-450 1A):* Tertius modus est: nam quando delatus examinatur in fine sue confessionis, antequam sibi copia processus concedatur, interrogatur an reputet se habere inimicos capitales qui omni diuino timore postposito falso imponerent sibi labem heretice prauitatis, et tunc impremeditatus ac improuisus et non visis deponentium attestationibus respondet quod non reputat se habere tales inimicos, vel si dicat quod reputat se habere, nominat aliquos vt occurrunt.

<sup>205</sup> *End*

iudex valeat eo certius inuestigare postquam copia processus et nomina seorsum fuerint tradita modis quibus supra.

Est<sup>206</sup> et quartus modus, vt iterum in fine secundi examinis aut confessionis, de qua in sexta questione circa secunda interrogatoria, antequam dentur sibi defensiones, interrogatur de testibus qui grauius deposuerunt contra eum per hunc modum: “Cognoscis tu Talem?” vnum nominando de testibus qui grauiora deposuit: et tunc dicit quod sic vel quod non. Si dicit quod non, tunc non poterit exposit dando<sup>a</sup> sibi defensiones et aduocatum ponere illum capitalem inimicum, cum dixerit medio iuramento prius oppositum, scilicet non noscere illum. Si autem dicit quod sic, tunc interrogatur si scit vel audiuit quod ipse vel ipsa egerit aliquid  
 209A contra fidem, sicut malefice solent facere. Si dicit quod sic: | “Talia et talia fecit,” interrogatur si est eius amicus vel inimicus: statim respondebit quod amicus, et hoc ideo vt eius testimonio stetur, et extunc in illa causa non potest dare illum inimicum capitalem per suum aduocatum, cum medio iuramento per antea dixit eum amicum. Si autem respondeat quod nihil scit de eo, tunc interrogatur, an sit eius amicus vel inimicus, et ipse statim respondebit quod amicus, quia allegare inimicum de quo nil mali nouit non facit. Dicit ergo: “Sum suus amicus. Attamen si scirem aliqua, non obmitterem quin illa reuelarem.” In tali ergo causa non poterit eum ponere exposit inimicum.<sup>207</sup> Vel adminus allegabit causas inimicitie capitalis a principio, et tunc aduocato adhibebitur fides.

Quintus<sup>208</sup> modus est: nam datur delato seu aduocato copia processus suppressis nominibus deponentium, et vbi aduocatus informabit

<sup>a</sup> *Dangling participle or used abusively in a passive sense*

<sup>206</sup> *Start of adaptation of Eym. (450 1A–C):* Quartus modus est: nam in fine sue confessionis, antequam dentur sibi defensiones, interrogatur de testibus qui grauiora deposuerunt contra eum, vt de delatis, per hunc modum. “Cognoscis tu talem?” nominando vnum de testibus qui grauiora deponunt contra eum. Et dicit quod non vel quod sic. Si dicit quod non, non potest extunc dando defensiones illum ponere capitalem inimicum, cum dixerit se medio iuramento non cognoscere illum. Si dicat quod sic, interrogatur si scit vel audiuit quod iste dixerit vel egerit aliquid contra fidem, et si responder quod sic, talia vel talia, interrogatur si est eius amicus vel inimicus, et statim respondebit quod amicus, vt eius testimonio stetur, et extunc in illa causa non potest dare illum inimicum capitalem, cum medio iuramento dixerit amicum. Si autem respondet quod non, interrogatur si est eius amicus vel inimicus, et respondebit quod amicus, tamen non staret propter hoc quod si aliquid sciret quin diceret et extunc in illa causa non poterit eum ponere inimicum. Et post sit idem de alijs testibus.

<sup>207</sup> *End*

<sup>208</sup> *Start of adaptation of Eym. (450 1D):* Quintus modus est: nam datur delato copia processus suppressis nominibus deponentium, et ipse visis depositionibus coniecturatur quis vel qui deposuerunt contra eum, et frequenter venit in cognitionem et dat quamplures quos dicit inimicos esse suos capitales, assignat rationes, et producit testes. His omnibus exhibitis et taliter actiratis inquisitor considerat si aliquos diuinat seu cognoscit, et si sic, attendit ad causas



quia defendendo dicit se habere inimicos capitales, et fortassis causas inimicitiarum varias allegat, siue in re ita sint siue non, congregat tamen iudex consilium peritorum cuiuscunque facultatis, si commode habere potest, vel ad minus ex prouidis et honestis personis quibuscunque, quia ad hoc tenetur iuxta capitulum “Statuta” frequenter allegatum, et illis totum processum integraliter et perfecte per notarium seu scriptorem legi faciat, et cum testium seu deponentium nomina publice exponat, ita tamen quod ad tenendum secretum sub prestito iuramento | omnes astringat (et de illo<sup>a</sup> an hoc facere velint, prius habet inquirere, quia alias omnino non sunt eis nomina illa exponenda), ex post dicat qualiter per talem et talem modum inquirendo de inimicitia nullam potuerit perpendere. Attamen subinferat: si videbitur, fiat e duobus vnum: aut per consilium discernatur, qui sint ex deponentibus repellendi tanquam inimici capitales et quomodo, aut elegantur tres, quattuor aut quinque qui amplius nouerunt in villa aut oppido amicitiam vel inimicitiam delati et testium et qui non sunt presentes in consilio, et publicentur illis tantummodo nomina delati et testium, non autem articuli processus, et stabitur iudicio eorundem.<sup>211</sup>

Ex primo non poterunt bene testes repellere, attento quod iudex suos modos inquirendi practicauit. Ex secundo vero totaliter se immunem faciet et omnem a se sinistram suspicionem excutiet. Tenetur etiam hunc vltimum modum seruare vbi delatus in alieno loco et patria esset captus.

Et hec sufficiant ad discernendum super inimicitiam.

210A

QUESTIO DECIMAQUARTA SUPER EA QUE  
ANTE INTERROGATORIA IN LOCO CARCERIS ET  
TORTURE PROPONENDA HABET IUDEX ADUERTERE  
(ET EST ACTUS NONUS)

QUID DENIQUE IUDICI<sup>b</sup> AGENDUM sit, clare patet. Si enim, vt communis exigit iusticia, ad penam sanguinis non iudicatur nisi propria

<sup>a</sup> *This prepositional phrase is pointless and unidiomatic in Latin (generated by some German idiom in which the indirect question is anticipated with an adverbial expression like darüber?)*

<sup>b</sup> *Ed. prin.: -e*

*(fn. 210 cont.)* eorundem consiliariorum eligentur duo, tres vel quattuor probi viri de villa dicti delati, qui cognoscant plene delatum, quorum saltem vnus vel duo sint sacerdotes parochiani, et alius, si potest commode, religiosus, et alij laici probi viri veritatis zelatores. Isti per episcopum et inquisitorem secretius vocabuntur, et per iuramentum vel excommunicationis sententiam de dicenda veritate interrogabuntur de delati et testium amicitia vel inimicitia capitali, publicando eis nomina istius et illorum, et stabitur iudicio eorundem . . .

<sup>211</sup> *End*

confessione conuincatur, quamuis ex alijs duobus habetur pro manifeste deprehensa in heretica prauitate, scilicet ex euidencia seu indicio<sup>a</sup> facti et ex testium productione legitima, vt supra questione septima tactum fuit, et de tali etiam delata ad presens agitur, tunc vtique questionibus et tormentis pro criminum fassione exponetur. Et vt questio clara sit, ponatur casus qui et Spire contigit et ad multorum noticiam peruenit.

Quidam honestus dum quandam mulierem pertranseundo non ei ad nutum in venditione cuiusdam rei venalis complacere voluisset, illa indignata post tergum clamauit: "In breui optasses vt annuisses." Et est vsitatus sic modus loquendi maleficarum vel a simili sensu quando 210B maleficium per ausamenta volunt inferre. Tunc ille indignatus et non immerito super eam vultum post tergum vertit vt eam quo animo verba protulisset inspiceret, et – ecce! – subito maleficio percussus<sup>b</sup> os suum in obliquum horribili deformitate vsque ad aures extenditur, nec retrahere potuit, sed multo tempore in illa deformitate perstitit. Hic euidentis factum iudici proponitur.

Casum ponimus, et an pro manifeste deprehensa in heresi maleficarum sit habenda queritur: respondere oportet ex verbis Bernardi in glosa ordinaria et in c. "Ad abolendam," vt supra questione notata tangitur, quod sic, eo quod tribus modis, vt ibi tangitur, quis vt taliter deprehensus iudicatur, et illa etiam tria non copulatiue, id est, quod omnia tria habent insimul concurrere, sed vnumquodque per se, scilicet euidencia facti, testium legitima productio et propria confessio, reddit maleficam vt manifeste deprehensam reputari. Iudicium autem facti differt ab euidencia, quia cum minus sit quam euidencia, tamen capitur etiam ex verbis et operibus maleficorum, vt in illa questione septima 210C tangitur, et iudicatur ex maleficijs non ita subito sed processu temporis illatis, per minas tamen etiam precedentes.

Sicque concludamus quod de similibus maleficis delatis, et que sub defensionibus, vt premissum est, defecerunt, vel etiam<sup>c</sup> non defecerunt, eo quod non fuerunt concesse, non concesse autem quia non fuerunt petite, iam nostra questio versatur: quid iudici agendum, et qualiter ad questionem sit procedendum pro dicenda veritate in punitionem sanguinis, vbi plura sunt iudici propter ingentes labores contra maleficium taciturnitatis aduertenda,<sup>d</sup> que etiam successiue per capita deducuntur.

<sup>a</sup> *Ed. prin.*: -a

<sup>b</sup> *Dangling participle*

<sup>c</sup> *Ed. prin.*: etiam vel

<sup>d</sup> *Ed. prin.*: -o

Et primum est quod ad maleficam questionandam non sit pronus, habeat tamen ad certa signa que sequentur aduertentiam. Quare autem non debet esse facilis, causa est quia nisi diuina coactio per sanctum angelum vt maleficium diaboli abscedat concurrat, ita insensibilis in illis doloribus efficitur, vt membratim citius discerperetur quam aliquid veritatis fateri valeat. Nec <ea> propter<sup>a</sup> obmittendum, tum quia non |  
 210D equaliter omnes sunt huiusmodi maleficijs irretite, tum etiam quia diabolus sponte interdum non coactus <a><sup>b</sup> sancto angelo maleficam fateri crimina permittit. (Pro cuius intellectu ea que supra in secunda parte operis de modo prestandi homagium diabolo tacta sunt aduertenda.) Sunt nanque que sub certis annis prius diabolo militant, vt sex, octo aut decem annis, antequam sibi homagium prestant, scilicet in corpore et anima se eis deuouendo, vbi tamen alie a principio sibi profitendo fidei abnegationem etiam subito homagium prestant.

Cur autem diabolus hoc spacium temporis postulatum acceptat? Vtique ea de causa: vt illo intermedio maleficam experiatur an ore tantum et non corde fidem abnegando, simili modo etiam homagium sibi prestaret. Nam cum diabolus intima cordis non nisi per exteriora et coniecturaliter cognoscere habet, vt in prima parte operis sub difficultate an demones ad odium vel amorem mentes hominum immutare possunt,<sup>c</sup> plures etiam reperiantur que necessitate aliqua aut egestate  
 211A inducte per alias maleficas et sub spe confessionis et euasionis | a fide in toto vel in parte apostatant: tales vtique etiam non coactus a sancto angelo relinquit. Vnde et faciliter sua crimina fatentur, cum tamen alie que sicut ore imo et corde sibi adhererunt, pro viribus ab eo defendantur et indurantur ad taciturnitatis maleficium.

Et per hec patet solutio ad questionem, vnde prouenit quod certe malefice de facili fatentur, alie vero minime: quia vbi diuinitus diabolus non repellitur, adhuc tamen sponte illas relinquit, vt per temporalem confusionem et horribilem mortem ad desperationem inducat quos<sup>d</sup> corde allicere nunquam poterat. Patent hec etiam ex sacramentalibus earum confessionibus, in quibus asserunt se nunquam voluntarie adhesisse et plura maleficia coacte<sup>e</sup> a demonibus intulisse.

Est et alia differentia, quod cernuntur alique post fassionem criminum sibiipsis mortem intentare, vt laqueo vel suspendio vitam sibiipsis

<sup>a</sup> Ea propter is used repeatedly later (e.g., 221C, 225C, 226B)

<sup>b</sup> Cf. 211A

<sup>c</sup> *Ed. prin.*: p̄t (=potest) in place of p̄nt

<sup>d</sup> Sc. quas

<sup>e</sup> Sc. -as

auferant, quod vtique inimicus ille operatur, ne per sacramentalem confessionem veniam a deo consequantur, et hoc precipue illis que non voluntarie sibi adhererunt, licet et alijs que sibi voluntarie adhererunt post criminum fassionem intentat, sed tunc cernitur quod diabolus coacte maleficam habuit relinquere. 211B

Concludamus<sup>a</sup> quod tantus vel etiam maior presupponitur labor ad questionandum pro dicenda veritate maleficam quantus ad exorcizandum a demone possessum: ideo iudex nec voluntarius nec facilis ad hec esse debet nisi, vt dictum est, in punitionem sanguinis. Sed et in hac causa faciat diligentiam, prout sequitur, primo ferendo sententiam.

QUESTIO QVINDECIMA DE MODO SENTENDIANDI  
DELATAM AD QUESTIONES, ET QUOMODO PRIMA DIE SIT  
QUESTIONANDA, ET AN POSSIT CONSERUATIONEM VITE  
COMPROMITTERE (ACTUS DECIMUS)

QUID DENIQUE SECUNDO LOCO iudex habet aduertere.<sup>b</sup> Stat post<sup>c</sup> actus in eo quod feret sententiam per modum qui sequitur.

“Nos<sup>212</sup> iudex et assessores, attendentes meritis (seu considerantes merita)<sup>d</sup> processus facti per nos contra te Talem Talis loci Talis diocesis, et diligenter omnibus<sup>e</sup> examinatis, inuenimus<sup>f</sup> quod tu es varius in tuis confessionibus, vtpote quia dicis tales minas protulisse, non autem eo nocendi animo, et tamen nihilominus sunt indicia varia que sunt sufficientia te ad exponendum questionibus et tormentis, ea propter vt veritas ab ore tuo proprio habeatur et vt deinceps aures iudicum non offendas: interloquendo declaramus, iudicamus et sententiamus die presenti et 211C

<sup>a</sup> Ed. prin.: concln-

<sup>b</sup> Ed. prin.: -ettere

<sup>c</sup> Without specifying how exactly, Snyder (1993) 253 suggests, on the basis of the adverbial numeral in following phrases (secundo, tertio, quarto stat actus in . . . : 211C, 212C, 212D), that the phrase here should be emended accordingly, presumably to primo. There is no paleographical reason why primo should be misread as post, the word order argues against this suggestion, and the initial procedure could well lack the numeral, since there is no preceding indication that a series of procedures will be laid out. Hence, post can be understood in an adverbial sense (e.g., 213D).

<sup>d</sup> The words seu . . . merita are an intrusion into Eym.'s original text (perhaps some sort of gloss?).

<sup>e</sup> et and omnibus are unnecessary additions to Eym.'s original text that were perhaps added in a vain attempt to repair the damage caused by the addition of words referred to in the preceding note.

<sup>f</sup> Another unnecessary addition to Eym.'s original text

<sup>212</sup> Start of Eym. (480 2D), which begins: Nos, N., miseratione diuina episcopus Talis ciuitatis, et frater N., in terris ditioni Talis domini subiectis, a sancta apostolica sede delegatus, attendentes meritis processus facti per nos contra te, Talem Talis loci, Talis diocesis, diligenter examinatis quod tu varius in tuis confessionibus, et sunt nihilominus indicia multa que sunt sufficientia ad te exponendum . . .

hora tali te supponendum questionibus et tormentis. Lata fuit sententia” etc.<sup>213</sup>

Secundo stat actus in eo quod, vt premissum est, adhuc non<sup>214</sup> sit voluntarius ad questionandum, sed carceribus ad penam mancipatus<sup>a</sup> et non iam ad custodiam tantum, vt prius, et adhibitis eius amicis vt penas subterfugiat et quod fortassis morti non tradetur, licet alias punietur, vbi veritatem fatetur, illis proponat et quod ad hoc ipsum delatum inducere velint hortatur. Nam meditatio frequens et carceris calamitas ac replicata informatio proborum virorum disponunt ad veritatem erudiendam,<sup>215, 216</sup> et a nobis expertum est quod per huiusmodi informationes malefice taliter confortate fuerunt vt in signum resistentie in terram spuentes quasi in faciem diaboli dicebant: “Exeas, maledicte diabole! Faciam quod iustum erit,” et consequenter crimina sua fatebantur.

Si<sup>217</sup> vero conuenienter delato expectato et tempore congruenter prorogato et multipliciter informato credat iudex<sup>218</sup> bona fide ipsum delatum negare veritatem, questionent eum moderate, vtpote sine sanguinis effusione, scientes quod questiones sunt fallaces, et sepius, vt tactum est,<sup>219</sup> inefficaces.<sup>220</sup>

Est autem modus incipiendi talis: vt dum ministri<sup>221</sup> se disponunt ad questionandum, post expolient eum, vel si est mulier, prius antequam ad carceres penosos ducetur, ab alijs mulieribus honestis et bone fame

<sup>a</sup> *Dangling participle*

<sup>213</sup> *End*

<sup>214</sup> *Start of adaptation of Eym. (481 1A):* Non sit tamen inquisitor multum voluntarius ad questionandum aliquem. Nam questiones et tormenta non inferuntur nisi in defectu aliarum probationem, et ideo perquirat alias probationes. Quod si non inuenerit, et tenet probabiliter quod delatus est culpabilis sed metu negat veritatem, bonis modis et quandoque cautelosis, et interdum adhibitis eius amicis inducentibus ad veritatem, faciat suam diligentiam, vt ab ore eius habeat veritatem. Et negotium non festinet. Nam meditatio frequens et carceris calamitas et replicata informatio proborum virorum disponunt ad veritatem eruendam.

<sup>215</sup> *For erudiendam Eym. has: eruendam (this recurs in 227D, but 228A has erudiendam)*

<sup>216</sup> *End*

<sup>217</sup> *Start of Eym. (481 1B), which begins:* Quod si delato conuenienter expectato . . .

<sup>218</sup> *For credat iudex Eym. has: credant episcopus et inquisitor*

<sup>219</sup> *sepius . . . est: not in Eym.*

<sup>220</sup> *End*

<sup>221</sup> *Start of adaptation of Eym. (481 2C–D):* Cum autem lata fuerit sententia, mox ministri se disponunt ad questionandum delatum, et cum disponunt se, episcopus et inquisitor per se et per alios bonos viros fidei zelatores inducant questionandum ad fatendam libere veritatem, quod si fateri noluerit, mandent ministris quod expolient eum, et illi statim obtemperant, non leti sed quasi turbati. Et expedire expolient eum, et dum spoliatur, inducatur fateri veritatem. Quod si renuerit, per aliquos probos viros trahatur ad partem spoliatus et inducatur, et inducendo informetur quod non tradetur morti sed iurabit ne de cetero reueratur ad delictum. Nam de certo, vt experientia pluries me docuit, multi faterentur veritatem nisi metu mortis terrentur, et si promittatur eis quod non tradetur morti, fatebuntur. Et audacitet episcopus et inquisitor promittant ei, quia possunt conuertere nisi ageretur de relapsu . . .

expolietur, ea de causa vt<sup>a</sup> si maleficium aliquod insutum esset vestimentis, prout sepe ex informatione demonum practicant ex membris pueri non baptisati, in finem vt pueri visione beatifica priuentur. Et dum instrumenta disponuntur, iudex per se et per alios bonos | viros fidei 212A zelatores inducant questionandum ad fatendum veritatem libere, et si fateri noluerit, mandet ministris quod ad cordas ligetur vel ad alia instrumenta applicetur, et ibi statim obtemperet, non leti sed quasi turbati. Post iterum soluatur ad petitionem aliquorum et ad partem trahatur et iterum inducatur et inducendo informetur quod non tradetur morti.<sup>222</sup>

Vbi queritur an hoc iudex super delatum infamatum et per testes et indicia facti legitime conuictum, cum nihil desit nisi vt ore proprio crimen fateatur, possit licite in conseruationem vite compromittere, cum tamen si crimen fateretur, vltimo supplicio puniatur, responderetur: a varijs varia sentiuntur.

Nam quidam ita sentiunt quod si delata est plurimum infamata et super indicia facti violenter suspecta, et quod<sup>b</sup> ipsa in magnum nocumentum sit tanquam aliarum maleficarum magistra, etiam tunc securari posset de vita sub his circumstanijs: vt perpetuis carceribus in pane et aqua adiudicaretur, dummodo alias maleficas sub certis et verissimis signis manifestaret, nec | tamen illa penitentia carceris, vt ponitur, ei 212B manifestanda esset, sed dumtaxat securitas vite promittenda. Et aliquali penitentia punianda per exilium vel alio modo punianda. Et sine dubio pro maleficis famosis et presertim que maleficis medicaminibus insistent et maleficiatos superstitiosis actibus curant, taliter seruande essent, vt aut maleficiatis subuenirent aut maleficas proderent. Nec tum eorum prodicioni staretur, eo quod diabolus mendax <est>,<sup>c</sup> nisi pariter et alia indicia facti cum testibus concurrerent.

Alijs videtur ad idem: in casu quo sic carceribus deputata, esset ad tempus promissio seruanda et post spacium temporis incineranda.

Tercij sunt qui dicunt iudicem secure posse in conseruationem vite compromittere, ita tamen quod exposit a sententia ferenda se exoneraret et in suum locum alium substitueret.

Inter quos modos primus, licet videretur vtilis propter maleficiatorum curationem, tamen quia non est licitum maleficia per maleficia seu illicita opera tollere, licet, vt in questione prima et introductoria huius

<sup>a</sup> This *ut*-clause lacks a verb.

<sup>b</sup> Grammatically unnecessary

<sup>c</sup> Ed. *prin.*: mēdaxi

<sup>222</sup> End

212C tercię partis | patuit, plurimorum opinio sit quod licitum sit maleficia per opera vana et superstitiosa tollere, sed quia<sup>223</sup> in his magis docet iudices experientia atque vsus et negociorum varietas quam ars alicuius seu doctrina,<sup>224</sup> ideo relinquitur hoc iudicibus. Certum<sup>225</sup> est autem, vt experientia pluries docuit, multi faterentur veritatem nisi quod metu<sup>a</sup> mortis retrahuntur.<sup>226</sup>

Tercio stat actus in isto quod<sup>227</sup> si nec minis nec talibus promissis fateri voluerit veritatem, tunc ministri sententiam latam exequantur, et questionetur consuetis modis et non nouis nec exquisitis, leuius vel fortius secundum quod crimen exigit delinquentis. Et dum questionatur, de certis articulis super quibus questionatur interrogetur, et hoc sepe et frequenter a leuioribus incipiendo, quia citius concedet leuia quam grauiora.

Et dum hec fiunt, notarius totum scribat in processu, et quomodo questionatur, et de quibus interrogatur, et quomodo respondetur.<sup>228</sup>

212D Et nota quod si fatetur per tormenta, ducatur postea ad alium locum, vt denuo recognoscat et quod non tantummodo vi tormentorum cognouerit.

Quarto stat actus in isto quod<sup>229</sup> si questionatus decenter noluerit fateri veritatem, ponantur alia tormentorum genera coram eo dicendo quod oporteat eum sustinere nisi fateatur veritatem. Quod si nec sic poterit ad terrorem vel etiam ad veritatem induci, tunc pro secunda aut tercia die questionandi<sup>b</sup> – ad continuandum tormenta, non ad

<sup>a</sup> *Ed. prin.:* -o

<sup>b</sup> *Ed. prin.:* -a

<sup>223</sup> *Start of adaptation of Eym. (481 2B):* Et poterunt iudices multas cautelas licitas adhibere et in verbis et in factis, vt veritas habeatur, quas magis docebit experientia atque vsus et negotiorum varietas quam ars alicuius seu doctrina.

<sup>224</sup> *End*

<sup>225</sup> *Start of adaptation of Eym. (481 1D):* Nam pro certo, vt experientia pluries me docuit, multi faterentur veritatem nisi metu mortis terrentur, et si promittantur eis quod non tradentur morti, fatebuntur.

<sup>226</sup> *Pause (Eym. continues:* et audacter episcopus et inquisitor promittant ei quia possunt cum veritate nisi ageretur de relapsu, et tunc non est promittendum)

<sup>227</sup> *Resume*

<sup>228</sup> *Pause*

<sup>229</sup> *Resume as adaptation:* Quod si questionatus decenter noluerit faceteri veritatem, ponantur alia tormentorum genera coram eo dicendo quod oporteat eum transire per omnia nisi prodat veritatem. Quod si nec sic, poterit ad terrorem vel etiam ad veritatem secunda dies vel tercia assignari, ad continuandum tormenta, non ad iterandum, quia iterari non debent nisi nouis superuenientibus indicijs contra eum, quia tunc possunt, sed continuari non prohibentur. Dicitur ergo sic: "Nos, N., episcopus et inquisitor prefati, assignamus tibi, tali, diem talem ad questiones continuandum, vt a tuo ore proprio veritas eruatur." Et totum ponatur in procesu a notari. Et infra tempus eidem assignatum et per se et per alios probos viros inducent eum ad fatendum veritatem.

iterandum, quia iterari non debent nisi noua superuenissent indicia – feretur coram eo sententia in modum qui sequitur. “Et nos prefati iudex (vt supra) assignamus tibi, Tali, diem talem ad questiones continuandum, vt a tuo ore proprio veritas oriatur.” Et totum ponatur in processu a notario.

Et infra illud tempus assignatum iudex per se aut per alios probos viros inducent<sup>a</sup> eum ad fatendum veritatem<sup>230</sup> modo premisso cum securitate vite, si ita videbitur expedire. Aduertat etiam iudex vt infra illud tempus continue apud eam sint custodes, vt videlicet sola non relinquatur, quia a demone frequentabitur, vt sibijsi mortem inferat si et in quantum diabolus | ipsam deserere intendit aut ad deserendum ipsam diuinitus 213A arceatur. Hoc ipsum enim diabolus melius noscere potest quam aliquis scriptis reserare.

QUESTIO QUINTADECIMA SUPER TORMENTA  
CONTINUANDA ET DE CAUTELIS ET SIGNIS QUIBUS  
COGNOSCERE POTEST IUDEX MALEFICAM, ET QUOMODO  
SE AB EARUM MALEFICIJS DEBET PREMUNIRE,  
ET QUOMODO SINT ABRANDENDE, ET VBI SUA  
HABENT MALEFICIA ABSCONDITA, CUM  
DECLARATIONIBUS VARIJS AD OBUIANDUM MALEFICIO  
TACITURNITATIS, ET EST ACTUS XI

QUID<sup>b</sup> AUTEM CONSEQUENTER RESTAT iudici super tormenta continuanda? Est aduertendum primo quod sicut<sup>231</sup> non omnium morborum est eadem medicina, sed potius diuersorum et singulorum sunt diuerse et singulares medicine, sic nec ad omnes hereticos seu de heresi delatos idem modus interrogandi, inquirendi et examinandi quo ad articulos est seruandus, sed secundum veritatem sectarum et personarum<sup>232</sup> varius et diuersus modus examinandi: idcirco ipse<sup>233</sup> prudens iudex, vt | medicus qui putrida membra et scabiosas oues resecaere et 213B sequestrare ab innoxijs nititur, iam esimare potest delatam maleficio taciturnitatis infectam,<sup>234</sup> quam taciturnitatem euellere non potest vna

<sup>a</sup> Sc. -et (clumsy adaptation)

<sup>b</sup> The initial (hand-written) was written erroneously as an “S” in the copy used for Schnyder’s facsimile.

<sup>230</sup> End

<sup>231</sup> Start of Eym. (428 2B)

<sup>232</sup> Eym.: ac personarum et errorum

<sup>233</sup> End

<sup>234</sup> In an omitted section of Eym. (428 2C) this comparison appears simply as: vt prudens medicus animarum.

et infallibilis depingi regula siue modus,<sup>235</sup> imo etiam dare non esset tutum, eo quod cum illum modum consequenter assuetum ac regulam generalem, dum tenebrarum filij preuiderent, ipsum tanquam laqueum sue perditionis facilius euitarent, seu etiam precauerent. Curet<sup>236</sup> igitur prudens ac industrius iudex occasionem et modum interrogandi accipere siue ex testium responsis seu attestationibus siue ex his que alias experientia eum docuit siue ex his que proprij ingenij acumen aperit,<sup>237</sup> subscriptis cautelis vtendo.

Nam si inuestigare affectat an maleficio taciturnitatis sit inuoluta, aduertat an lachrymare coram eo stando queat aut tormentis exponendo. Hoc ipsum enim pro certissimo signo ex fidedignorum antiqua relatione ac propria experientia docente adeo repertum est, quod etiam si  
 213C ad lachrymandum coniurationibus hortetur et compellatur, si malefica existit, hoc ipsum, scilicet lachrymas emittere, non potest. Dabit quidem flebiles voces et ex sputo genas et oculos linire ac si fleret attentabit, super quo a circumstantibus caute aduertendum erit.

Modus autem coniurandi ad lachrymas veras, si innoxia fuerit, et cohibere lachrymas falsas talis vel consilimis in sententia practicari potest a iudice seu presbitero: manum super caput delati seu delate ponendo, “Coniuro te per amorosas lachrymas a nostro saluatore domino Jesu Christo in cruce pro salute mundi effusas ac per ardentissimas lachrymas ipsius gloriosissime virginis Marie, matris eius, super vulnera ipsius hora vesperina sparas et per omnes lachrymas quas hic in mundo omnes sancti et electi dei effuderunt et a quorum oculis iam omnem lachrymam abstersit, vt, inquantum sis innoxia, lachrymas effundas; si nocens, nullo modo. In nomine patris et filij et spiritussancti. + Amen.”

Experientia docuit: quanto amplius coniurabantur, tanto minus flere poterant, cum tamen vehementer se ad fletum stimulabant et genas sputo  
 213D humectabant. | Possibile tamen vt post in absentia iudicis et extra locum et tempus torture coram custodibus flere valeant.

Quod si causa impediendi fletus in maleficis queritur, potest dici quod quia gratia lachrymarum in penitentibus precipuis donis ascribitur, cum celum penetrare et inuincibilem vincere humilis lachryma

<sup>235</sup> *In the omitted passage on the varying methods of investigating different sorts of heretics, Eym. has:* Non enim potest super istis vna et infallibilis depingi inquirendi regula siue modus.

<sup>236</sup> *Start of adaptation of Eym. (428 2D–E):* Curet ergo prudens et industrius inquisitor occasionem et modum accipere inquirendi hereticos et delatos, siue ex accusantium vel denuntiantium dictis siue ex testium responsis siue ex his que experientia docuit siue ex his que proprij ingenij acumen aperuit.

<sup>237</sup> *End*

a Bernardo asseritur,<sup>a</sup> nulli dubium quin et inimico salutis plurimum displicere noscitur, vnde et summis conatibus illas impedire nemo ambigat vt finalis impenitentia potius introducat.

Sed quid si astitucia diaboli deo permittente etiam maleficam flere contingeret, cum flere, nere et decipere etiam proprium mulierum esse dicatur? Responderi potest: cum occulta sint dei iudicia, si alias non posset conuinci per legitimos testes super aliqua indicia facti, nec etiam suspecta esset grauiter aut violenter, vtique esset absoluenda, et pro leui suspitione in qua staret propter infamiam quam testes deposuerunt haberet heresim maleficarum abiurare, vt in secundo modo sentiendiandi discutietur.

Secunda cautela non solum post hanc primam obseruanda, verum |<sup>214A</sup> etiam omni tempore iudici et omnibus assessoribus aduertenda: quod non permittant se ab ea tangi corporaliter, presertim super nudam iuncturam manuum et brachiorum, sed omnino secum deferant sal exorcizatum in die dominico, palmam et herbas benedictas. He enim res insimul cum cera benedicta inuoluta et in collo deportata, vt supra in secunda parte operis de remedijs contra maleficiales infirmitates et defectus patuit, miram habent efficaciam preseruandi non solum ex maleficarum testimonijs verum etiam ex vsu et consuetudine ecclesie, que in hunc finem huiusmodi exorcizat et benedicit, vt patet in earum exorcismis, cum dicitur ad affugendam omnem potestatem inimici etc.

Et non videatur extraneum de tactu iuncturarum seu membrorum, quia diuina permissione interdum per tactum, aliquando per visum aut per auditum verborum ab eis prolatorum maleficari operatione demonum possunt, precipue eo in tempore vbi questionibus exponuntur. Experientia nos edocente nouimus quasdam in castris detentas que nil aliud a castellanis instantissimis precibus flagitabant nisi vt in aduentu iudicis aut alterius presidentis eis concederetur vt primum intuitum visus |<sup>214B</sup> in ipsum iudicem dirigere possent, antequam ab eo vel alijs essent vise, ex quo intuitu etiam sortite quod talis iudex aut alij sui assessores ita alienati in eorum cordibus fuerunt quod omnem si quam habuerant indignationem ammisserunt, nec ipsas molestare quoquo modo presumebant, sed libere abire permiserunt. Qui scit et expertus est verum dat testimonium, et vtinam talia procurare non possent! Non peruipendant iudices talia auisamenta et remedia, cum vilipensio talium post tanta auisamenta in eternam eis cedet damnationem iuxta saluatoris dictum: "Si non inuenissem"<sup>238</sup> et locutus eis non fuissem, peccatum non haberent. Nunc

<sup>a</sup> *Ed. prin.*: -tnr

<sup>238</sup> *Vulgate John 15:22*: ven-

autem excusationem non habent pro peccato.” Muniat ergo se premissis ex ecclesie institutione.

Et si commode fieri potest ipsa a tergo dorsum vertendo ad iudicem et assessores introducat, et non solum in presenti actu verum in omnibus precedentibus et sequentibus: signo crucis se muniendo<sup>a</sup> et viriliter aggre-  
214C diendo<sup>b</sup> frangentur cum dei adiutorio vires antiqui | serpentis. Nec quis estimat<sup>c</sup> superstitiosum vt a tergo introducat, cum, vt sepe tactum est, canoniste ad tollendum et impediendum maleficia maiora concedunt et vana vanis contundere semper dicant esse licitum.

Tercia cautela in presenti actu vndecimo obseruanda, vt pili ex omni parte corporis abradantur, et est eadem ratio, sicut supra de vestimentis exuendis. Habent enim interdum pro maleficio taciturnitatis aliquas superstitiosas alligaturas quarundam rerum siue in vestimentis siue in pilis corporis et interdum in locis secretissimis non nominandis.

Quod si obijceretur: nunquid diabolus absque huiusmodi ligaturis rerum posset mentem malefice indurare vt crimina non valeat fateri, sicut et alij scelerosi sepius inueniuntur sub quibuscunque maximis tormentis, quantumcunque per indicia facti aut per testes sint conuicti?, responderetur: vtique verum esse quod absque rebus quibuscunque demon valeat talem taciturnitatem procurare, illis tamen rebus vtitur in animarum perditionem et offensam maiorem diuine maiestatis.

214D Quod vt clarius | pateat, malefica quedam in oppido Hagenowie, de qua et supra in secunda parte operis tactum est, tale maleficium taciturnitatis procurare sciebat. Vt masculus recenter natus et non baptisatus et cum hoc primogenitus interemptus et in fornace assatus et cum alijs rebus quas exprimere non expedit incineratus et puluerisatus: si qua malefica aut flagiciosus ex his quicquam secum deferret, nullo modo sua crimina fateri posset. Hic clarum est quod si centum milia pueri adhiberentur, ex naturali inclinatione nunquam talem effectum<sup>d</sup> taciturnitatis causare possent, vtitur tamen, vt cuique intelligenti patet, in animarum perditionem et diuine maiestatis offensionem.

Sed et hoc quod allegatur quod sepe flagiciosi homines et non malefici talem penes se taciturnitatem retinent: dicendum est quod talis taciturnitas triplici ex causa prouenire potest: primo ex naturali quodammodo duricia mentis, quia sicut aliqui sunt <ita><sup>e</sup> molles corde seu vecordes, quod ad leuem torturam omnia concederent, etiam quecunque

<sup>a</sup> *Ed. prin.*: mnu-

<sup>b</sup> *This and the preceding gerund are dangling.*

<sup>c</sup> *Sc.-et (cf. 203D)*

<sup>d</sup> *Ed. prin.*: -crū

<sup>e</sup> *Cf. ita duri a few words down and in 228A*

falsa, ita aliqui sunt ita duri quod quantumcunque vexentur, veritas |<sup>215A</sup>  
 ab eis non habetur, et precipue illi qui alias fuerunt questionati, quo-  
 rum brachia cito sicut trahuntur, ita et flectuntur; secundo provenit ex  
 maleficio penes se retento, prout dictum est, siue in vestimentis seu in  
 pilis corporis; tercio quod interdum licet penes se non habeant maleficia  
 insuta aut allegata, maleficiuntur tamen ab alijs maleficis quantumcunque  
 remotis, prout malefica quedam in Ijßbruck se iactare solebat quod vbi  
 adminus filum ex vestimentis alicuius detenti haberet, tantum efficere  
 posset quod quantumcunque tormentaretur, etiam vsque ad mortem,  
 nihil fateri posset. Quare patet responsio ad obiectionem.

Sed quid in diocesi Ratisbonensi casus contigisse asseritur? Quod  
 dum quidam heretici ex propria confessione deuicti non solum vt impen-  
 itentes imo vt defensores illius perfidei morti fuissent adiudicati, accidit  
 vt illesi in igne remanerent: tandem per aliam sententiam ad submer-  
 sionem adiudicati nihil proficere potuerunt, stupentibus omnibus, et  
 fidem ipsorum vt iustam defendere dum quidam conabantur,<sup>a</sup> sollicitus  
 presul super gregem triduanum ieiunium indixit. Quo deuote expleto <sup>215B</sup>  
 cuidam notificatur quod in certo loco corporis, videlicet sub brachio  
 vno, maleficium quoddam inter pellem et carnem insutum haberent,  
 quo reperto et ammoto continuo incendio consumpti fuerunt, licet ab  
 alijs opinatur quod quidam nigromanticus ex demonis consultatione qui  
 sibi hoc indicauerat prodidisset. Sed quocunque modo factum fuerit,  
 verisimile est quod diuina virtute demon coactus, dum semper ad sub-  
 uersionem fidei machinatur, hoc manifestauerit.

A simili, vbi talis iudici accideret casus, quid faciendum foret elicere  
 potest, si videlicet ad diuinum recurreret<sup>b</sup> presidium: vt ieiunijs et  
 orationibus deuotarum personarum hoc genus demoniorum a maleficis  
 expellatur in casu quo nec per mutationem indumentorum aut tonsuram  
 pilorum ad veritatem fatendam sub tortura induci valeant.

Et licet in Alemanie partibus talis abrasura, presertim circa loca se-  
 creta, plurimum censetur inhonesta, qua de causa nec nos inquisitores vsi  
 sumus, sed tonsis capillis capitis cum calice aut cippo aque benedicte gut-  
 tulam cere benedicte immitendo et |<sup>215C</sup> sub inuocatione sanctissime trinitatis  
 ieiuno stomacho trinies in potum ministrando per dei gratiam a plerisque  
 taciturnitatis maleficium abstulimus, tamen in alijs regnis inquisitores  
 talem per totum corpus abrasuram fieri mandant, vnde et cumanus  
 inquisitor nobis insinuauit quod anno elapso, qui fuit mccccxxxv, xl  
 et vnam maleficas<sup>c</sup> incinerari mandasset, omnibus per totum corpus

<sup>a</sup> Ed. prin.: cono-

<sup>b</sup> Ed. prin.: -ere

<sup>c</sup> Ed. prin.: malefesi-

abrasis, et hoc in districtu et comitatu Burbie (vulgariter Wurmßer Bad) in confinibus dominij archiducis Austrie versus Mediolanum.

Quod si queritur an tempore necessitatis quo nullis remedijs congruis maleficium ammoueri, vt premissum est, <posset>, licitum foret diuinatrices, que etiam maleficia curare et tollere solent, pro ammotione talis maleficij consulere, respondetur: quicquid sit de negotio Ratisbone peracto, exhortamur in domino vt in nullo casu quantumcunque necessario pro republica diuinatrices consulerentur, et hoc propter magnam offensam diuine maiestatis, cum tot alia sint nobis remedia concessa per que omnino assequi poterimus aut in propria petiti forma aut in equiualenti, ita quod omnino veritas experietur vel ab eius ore vt incinerari valeat vel deus auferet ipsam de medio, aliam mortem super eam permittendo.

Hec autem <a> nobis remedia proponuntur, vt primo<sup>239</sup> faciat homo id quod potest ex propria industria et ex propria virium suarum exercitatione, modis supra tactis insistendo pluries et presertim certis diebus, vt iam in sequenti questione patebit (*ij Corinthiorum ix*: “Abundetis in omne opus bonum”); secundo, quod si deficit, recursum habeat pro consilio ad alios homines, qui forte sibi remedium de quo nunquam cogitauerat impertirentur,<sup>a</sup> eo quod varij sunt modi ad maleficia tollenda; tercio, si predicta deficiunt, habeat recursum ad deuotas personas iuxta illud (*Ecclesiastici xxxvij*): “Cum viro sancto assiduus esto quemcunque agnoueris obseruantem timorem dei”; item, vt sancti in patria inuocentur per eos. Que si omnia defecerint, recursum habeat immediate ad deum iudex et omnis populus ieiunijs et orationibus vt tale maleficium sua pietate ammoueat, sicut Josaphat (*ij Paralipomenon xx*:

<sup>a</sup> *Ed. prin.*: -etur

<sup>239</sup> *Start of adaptation of Nider, Praec. 1.9 (E)*: Quo ad tertium dubitatur que sunt remedia licita homini pro adeptione bonorum quorumcunque et pro euitandis malis quibuscunque: respondetur quinque. Primo faciat homo id quod potest ex propria industria, ex propria potentia et virium suarum exercitatione, quod apostolus (*ij Cor. ix*), dicens: “Abundetis in omne opus bonum.” Secundo homo recursum habeat pro consilio ad alios homines qui sint in hoc prudentiores, et super hoc imploret auxilium potentioris, vt cum perito in arte medicandi, si est infirmitas naturalis. Ideo *Ecclesiasticus xxxvij*: “Honora medicum propter necessitatem. Etenim eum creauit altissimus” et cet. A deo enim est omnis medela. Tertio se commendet precibus iustorum huius vite. Vnde *Ecclesiastici xxxvij*: “Cum viro sancto assiduus esto quemcunque agnoueris obseruantem timorem dei, cuius anima est secundum animam tuam.” Quarto deuote inuocet sanctos patrie, de quo *Iob v* dicitur: “Voca si est qui tibi respondeat,” et ad aliquem sanctorum peruertere. Quinto ad deum immediate pro adiutorio recurat humiliter, sicut in veteri testamento sancta virgo Sara fecit (*Thob. iij*), que ait: “Hoc pro certo habet omnis qui colit te, quia vita eius si in probatione fuerit, coronabitur, si autem in tribulatione fuerit, liberabitur, et si in correptione fuerit, ad miseriam tuam peruenire licebit.” Et Josaphat rex Iuda in tribulatione inimicorum existens (*ij Paral. xx*) ait: “Cum ignoremus quid agere debeamus, hoc solum habemus residui, vt oculos nostros dirigamus ad te.”

"Cum ignoramus quid agere debeamus, hoc solum habemus | residui, <sup>216A</sup> vt oculos nostros dirigamus ad te"),<sup>240</sup> et sine dubio deus in necessarijs nostris non deficiet. Vnde<sup>241</sup> et Augustinus (et habetur xxvi, q. vij, "Non obseruabitis"): "Qui has et quascunque diuinationes aut fata aut auguria obseruat aut attendit aut consentit obseruantibus aut talibus credit," scilicet opere prosequendo,<sup>242</sup> "aut ad domum earum vadit aut in domum suam introducit aut interrogat, sciat se fidem christianam et baptismum preuaricasse, et paganum et apostatam et dei inimicum iram dei in eternum grauiter incurrere nisi ecclesiastica penitentia emendatus deo reconcilietur."<sup>243</sup> Non deficiat ergo iudex semper licitis vtendo iuxta premissa remedijs et finaliter<sup>a</sup> subscriptis cautelis.

QUESTIO SEDECIMA: DE TEMPORE ET DE SECUNDO MODO  
INTERROGANDI, ET EST ACTUS XIJ, SUPER FINALES  
CAUTELAS A IUDICE OBSERVANDAS

SUPER<sup>b</sup> PREMISSA SUNT ALIQUA aduertenda: primo quod sacra-  
toribus diebus et infra missarum solennia sunt interrogande, ita vt et <sup>216B</sup>  
populus adhortetur ad implorandum diuinum auxilium in generali, nihil  
specificando nisi vt contra quascunque demonum infestationes sancti  
inuocentur; secundo ea que supra tacta de sale et alijs rebus benedictis  
cum septem verbis que Christus protulit in cruce in cedula conscrip-  
tis et insimul colligatis: collo eius alligentur, longitudo Christi super  
nudum corpus ex cera benedicta circumcingatur, si quidem longitudo  
ipsa commode haberi potest: experientia docuit miro modo his rebus  
ipsas molestari vixque retinere, precipue autem reliquias sanctorum.

His sic dispositis et aqua benedicta in potum porrecta, disponatur  
iterum ad questiones, continue exhortando<sup>c</sup> vt prius. Dum autem a terra  
eleuatur, si per talem modum tormentatur, iudex<sup>244</sup> legat vel legi faciat

<sup>a</sup> Sc. finalibus (cf. the immediately following title)

<sup>b</sup> The initial (hand-written) capital was written erroneously as an "N" in the copy used for Schryder's facsimile.

<sup>c</sup> Dangling gerund

<sup>240</sup> End

<sup>241</sup> Start of *Nider*, Praec. 1.9 (C), which begins: Item beatus Augustinus dicit, et habetur xxvi q. vij

"Non obseruabitis," vbi enumeratis multis superstitionibus sic concludit: "Qui has et ..."

<sup>242</sup> This clause not in *Nider*

<sup>243</sup> End

<sup>244</sup> Start of adaptation of *Eym.* 433 2E-434 1A: Tertia cautela inquisitoris est vt si videat inquisitor hereticum siue delatum nolle detergere errorem suum et stare in negatiua, et scit ipsum per testes conuictum, inquisitor legat vel legi faciat sibi dicta testium suppressis nominibus, taliter quod cognoscat se conuictum per testes. Et non intelligat qui sunt deponentes. vbi periculum deponentibus possit imminere: alias explicare potest et facie ad faciem adfrontare, vt sic rubore et verecundia veritatem fateatur...

216C dicta testium submissis nominibus, taliter dicendo: “Ecce, per testes coniucta es.” Jtem si testes vellent se facie ad faciem adfrontare, | tunc iudex interrogaret an fateri vellet si testes sibi in faciem presentarentur, vbi si annueret, tunc inducendi testes essent et coram ea<sup>a</sup> statuendi, si forte rubore seu verecundia quicquam fateretur.<sup>245</sup> Vltimo si videat ipsam non velle detegere flagicia sua, interrogabit an pro sua innocentia iudicium candentis ferri vellet subire, et quia illud omnes affectant, scientes quod per demones a lesione preseruantur, vnde etiam quod vere malefice existant cognoscuntur, replicabit iudex qua temeritate se tantis periculis submittere possit, et omnia conscribantur. Sed quod illud candentis ferri iudicium non sit eis concedendum, inferius patebit.

Aduertat etiam iudex quod sextis ferijs, precipue vsque dum sit compulsus pro expiratione nostri saluatoris, interrogate sepe fasse fuerunt.

216D Sed quia super extremum<sup>b</sup> nos procedere oportet, videlicet super omnimodam eius negatiuam, in qua si perstiterit, iudex relaxabit eam, et sequentibus adhuc vtatur cautelis, educendo eam de carcere penoso ad alium, pro custodia tamen bene munitum, ita tamen quod sibi omnino caueat quod nullo<sup>246</sup> modo tradatur cautionibus seu fideiussionibus nec alias manulento<sup>c</sup> decreto, quia a talibus manulente<sup>d</sup> datis veritas nunquam haberetur, imo semper peiores efficiuntur.

Sed hoc primo procuret quod humaniter in cibo et potu tractetur, et interim intrent honesti et non suspecti qui etiam frequenter de diuersis impertinentibus<sup>e</sup> ei colloquantur, et tandem vt confidenter consulant

<sup>a</sup> *Ed. prin.*: eo

<sup>b</sup> *Ed. prin.*: -mu

<sup>c</sup> *Ed. prin.*: -a

<sup>d</sup> *Cf.* 203A

<sup>e</sup> *Ed. prin.*: in per-

<sup>245</sup> *End*

<sup>246</sup> *Start of adaptation of Eym. 434 2A–2F*: Septima cautela inquisitoris est vt si videat hereticum nullatenus velle prodere veritatem, nullo modo tradat eum canonibus [*error for cautionibus?*] nec fideiussionibus nec alias manuleute. Nam de cetero a talibus manuleute datis veritas non habetur, immo tunc peiores efficiuntur et malignantur et procurant multa propter que inquisitoris officium atque iudicium retardantur. Octaua cautela inquisitoris est vt si videat hereticum in negatiua taliter perseuerantem, blandis sermonibus eum alloquatur quo ad cibum et potum, tractet eum humaniter et procuret quod aliqui probi viri nullatenus de fide suspecti ad eundem intrent et frequenter et de diuersis et impertinentibus eidem loquantur et tandem persuadeant vt confideat de illis et consulant sibi quod fateatur veritatem, promittendo quod inquisitor faciet sibi gratiam. Et ponent se quasi mediatores. Et inquisitor intrabit ad finem cum eis et promittet sibi facere gratiam, et faciat. Nam totum est gratiosum quod fit pro conuersione hereticorum, et penitentie sunt gratie et medele. Et vbi delatus petat gratiam et quod detegerit errorem suum, dicatur sibi quod amplius fieri sibi quam ipse petat et quedam verba generalia, taliter vt veritas habeatur et hereticus conuersatur et fiat verbi gratia quod ad misericordiam admittatur.

quod fateatur veritatem, promittendo quod iudex sibi faciet gratiam, et quod velint esse tanquam mediatores. Et in finem huius intrabit iudex et promittet facere gratiam, subintelligendo vel sibi aut reipublice in cuius conseruationem totum quod fit est gratiosum.

Si vero sibi ad vitam promitteret, que supra questione quartadecima super tres modos tacta sunt, scribantur singula a notario et sub qua forma verborum ac intentione sit gratia promissa, et si quidem delata sic gratiam petierit et facta detexerit, dicantur verba generalia, quod amplius fiet sibi quam petierit, in finem vt ampliori confidentia loquatur.<sup>247</sup> 217A

Secunda cautela in hoc actu, quod si omnino noluerit detegere veritatem, habeat iudex, vt supra tactum de eius complicitibus sine ipsius scitu examinatis, et si quid huiusmodi deposuissent per que conuinci posset, hec iudex proponat et diligenter de singulis inuestiget.<sup>248</sup> Et ad idem si qua instrumenta vel vnguenta et pixides in domo fuissent reperta, sibi offerantur, et ad que vsa fuerit, etc.

Tercia<sup>249</sup> cautela: si adhuc perseuerat in sua pertinacia et habeat con-sodales examinatas que contra et non pro ea deposuissent, vel si non habet, procuret alium fidedignum quem nouit detente non ingratum sed tanquam amicum et fautorem, qui quodam sero intrat ad maleficam, prorahendo locutiones, et tandem, si quidem non est de complicitibus, fingat nimis esse tarde pro recessu et remaneat in carcere cum eadem, et de nocte pariter colloquantur. Si vero de complicitibus, tunc edentes et bibentes mutuo etiam conferunt de rebus | commissis. Et tunc sit 217B  
ordinatum quod stent extra carcerem in loco congruo explorantes eos auscultantes et verba colligentes, et si opus fuerit, scriptor sit cum eisdem.

Quarta cautela vt si tunc incipiet dicere veritatem, nullo modo dimi-diet iudex recipere eius confessionem, etiam media nocte, sed continuet

<sup>247</sup> *Pause (resumed after next paragraph)*

<sup>248</sup> *Cf. Eym. 434 1A–B: Quarta cautela inquisitoris est vt si videat inquisitoris hereticum vel delatum nolle detegere veritatem et scit eum per testes non esse conuictum et secundum indicia videtur eidem esse verum quod deponitur contra eum, quod quando negat hoc vel hoc, quod inquisitor accipiat processum et reuoluat eum. Et post dicat: En, clarum est quod non dicis verum... [Eym. then goes on to show how the inquisitor can trap the heretic on the basis of the depositions.]*

<sup>249</sup> *Resume (434 2C): Nona cautela inquisitoris est vt si videat hereticum nullatenus velle prodere veritatem, habeat inquisitor vnum de complicitibus suis seu alium bene ad fidem conuersum et de quo inquisitor bene confidere possit, illi capto non ingratum, et permittat illum intrare et faciat quod ille loquatur sibi, et si opus fuerit, fingat se de secta sua adhuc esse sed metu abiurasse vel veritatem inquisitori prodidisse. Et cum hereticus captus confiderit in eo, intret quodam sero ad hereticum illum captum, prorahendo locutiones cum eodem, et tandem fingat nimis esse tarde pro recessu et remaneat in carcere cum eodem, et de nocte pariter colloquantur, vt dicant sibi mutuo que commiserunt, illo qui superintrauit inducente ad hoc captum. Et tunc sit ordinatum quod stent extra carcerem in loco congruo explorantes eos, auscultantes et verba colligentes, et si opus fuerit, notarius cum eisdem.*

quantum potest, et si in die, non curet si proroget prandium vel cenam, sed instet quoadusque dixerit veritatem, saltem quo ad principalia. Nam per dimidiationes et interruptiones frequentius est repertum quod redeunt ad vomitum et non aperiunt veritatem quam detegere inceperant, habito consilio deteriori.<sup>250</sup>

Et aduertat iudex quod post confessionem nocumentorum hominibus aut iumentis illatorum inquirat quot annis incubum demonem habuerit, et a quanto tempore fidem abnegauerit, quia sicut de his nunquam fatentur nisi prius alia fuerint fassae, ita etiam omnino in fine sunt interrogande.

217C Quinta cautela: si predicta omnia deficerent, tunc si fieri potest, ducatur ad aliquod castrum et ibi certis diebus custodie mancipata: fingat se catellanus ad partes longinquas peregrinaturum<sup>251</sup> et interim familiares aliqui vel etiam mulieres honeste eam visitantes promittant ei quod velint eam omnino dimittere libere abire, dummodo informet eos vel eas de certis experimentis. Et aduertat iudex quod sepiissime per talem modum fassae fuerunt et conuicte.

Et nouissime in diocesi Argentinensi prope oppidum Sletstat et castro Kynnigßheim malefica detenta nullis tormentis et questionibus induci poterat ad fatendum sua crimina: tandem modo supradicto de castellano seruato, licet presens erat in castro, ipsum tamen malefica estimabat abesse. Tres familiares intrabant et ei liberam relaxationem promiserunt, dummodo super certa experimenta eos informaret. Et licet prima fronte rennueret et quod dolose cum ea agerent proponeret, tandem interrogans de quibus informari vellent, vnus dixit super grandinem excidandum, 217D alter super carnalia facta: tandem vbi super grandinem illum informare volebat et scutella aqua plena apportata malefica sibi iniunxisset vt digito paululum aquam moueret, et ipsa certa verba protulisset, subito ad locum quem explorator nominauerat, scilicet siluam adiacentem castro, tanta tempestas et grandio repleuit sicut a multis annis visum non fuerat.

In casu tamen quo omnia deficerent vel etiam in casu quo crimina fateretur, quid vltterius iudici per sententiam faciendum sit, vt totus processus finiatur,<sup>a</sup> in quo vltima pars huius operis terminatur, restat declarare.

<sup>a</sup> *Ed. prin.*: -eatur

<sup>250</sup> *End*

<sup>251</sup> *Cf. Eym. 434 1C*: Quinta cautela inquisitoris est vt si videat sic hereticum in negatiua perseuerantem, fingat se longius debere ire, et dicat sibi . . . [*Eym. instructs the inquisitor to express his feigned sorrow that he has to leave the prisoner in an unhealthy cell while he is supposedly away on pressing (but non-existent) business. The point is to get the accused to confess to avoid this fate.*]

SEQUITUR TERCIA PARS HUIUS VLTIME PARTIS OPERIS:  
 QUALITER PROCESSUS ISTE FIDEI SIT DEBITO FINE PER  
 SENTENTIAM DIFFINITIUM TERMINANDUS

PER DEI GRATIAM HIS expeditis que ad cognitionem proprietatum super heresim maleficarum deseruiunt, simul etiam qualiter processus fidei aduersus illam sit iniciandus et continuandus, restat nunc discutere qualiter talis processus per debitam sententiam sit congruo fine terminandus.

Vbi primo notandum quod cum heresis hec, vt in principio huius <sup>218A</sup> vltime partis tactum est, pre alijs heresibus simplicibus hoc habeat quod non est pura sed mixta crimine ecclesiastico et ciuili, vt de se patet, ideo de modis sentiendi tractando, primo tractandum est de quadam sententia ad quam malefice solent appellare, de qua secularis iudex per se irrequisito ordinario agit; secundo de his in quibus sine ordinario agere non potest; et sic tercio quomodo ordinarij se exonerare possunt patebit.

QUESTIO DECIMASEPTIMA: SUPER PURGATIONEM  
 VULGAREM ET PRECIPUE SUPER EXAMEN CANDENTIS  
 FERRI AD QUOD MALEFICE APPELLANT

AN<sup>a</sup> AUTEM MALEFICA VULGARI purgatione, de qua ij q. iij "Consuluisti" et c. "Monomachiam," sit super reatum tentatiue purganda et per iudicem secularem ad hoc astringenda vel admittenda ad iudicium candentis ferri si ad hoc appellat.

Et videtur quod sic. Nam sicut duellum ad conseruationem vite proprie in causa criminali vel rerum suarum in causa ciuili ordinatur, ita et iudicium candentis ferri per tactum vel aque | bullientis per potum, <sup>218B</sup> sed primum licitum est in aliquo casu iuxta sanctum Thomam *Secunda Secunde* (q. xcv in fine vltimi articuli), vbi dicit quod tunc duellum potest esse licitum vbi ad communem rationem sortium appropinquat: ergo etiam in aliquo casu iudicium ferri candentis.

Item multi principes sancte vite et qui bonorum consilio vtebantur, vt sanctus Henricus imperator erga coniugem virginem Kunigundam, quam de adulterio suspectam habuerat, exercuit.

Item sicut iudex, qui habet curam communitatis, licite potest minora mala permittere ad vitandum peiora, vt meretrices in ciuitatibus ne omnia turbentur libidinibus iuxta Augustinum in *Libero Arbitrio*: "Tolle

<sup>a</sup> The initial (hand-written) capital was written erroneously as an "T" in the copy used for Jerowschek's facsimile.

meretrices et omnia turbabis libidine,” ita per tale iudicium vbi quis ab insultibus et iniurijs alicuius communitatis super causam criminalem aut ciuilem liberari posset.

Item quia minus est lesio manuum per candens ferrum quam vite interfectio per duellum, ideo et si duellum admittitur vbi consuetudo habetur, a fortiori et examen candentis ferri.

218C Contrarium habetur ij q. v “Monomachiam,” vbi dicitur: “Hec et huiusmodi sectantes deum tentare videntur.” Vbi | attendendum esse dicunt doctores quod quia non solum a malo iuxta apostolum (*i Thesalonicensium* v) sed etiam ab habente spem mali abstinendum est,<sup>252</sup> ideo non dicitur in illo capitulo: “Omnes hec sectantes tentant deum,” sed “videntur tentare,” vt intelligatur quod posito casu quod aliquis talia exercens intendat alium finem forte rectum, quia tamen apparentia est mala, cauendum est.

Responsio. Quod tale iudicium seu examen sit illicitum, precipue candentis ferri, deducitur ex duobus: primo quia<sup>253</sup> ordinatur ad iudicandum occulta, que diuino iudicio reseruantur; secundo etiam quia huiusmodi iudicium non est auctoritate diuina aut etiam documentis sanctorum patrum sancitum, vnde in c. “Consuluisti” (ij q. v): “Quod sanctorum patrum documento sanctum non est, superstitiosa adinventionem<sup>254</sup> est presumendum,” et Stephanus papa (in eodem c.): “Spontanea confessione vel testium approbatione<sup>255</sup> delicta concessa sunt vestro<sup>256</sup> regimini iudicari. Occulta enim et incognita illi sunt relinquenda qui solus nouit corda<sup>257</sup> hominum.”

218D Est tamen differentia inter duellum et ferri candentis examen seu etiam potum bullientis aque, quia duella magis accedunt ad communem rationem sortium, vtpote quia | pugiles sunt penitus pares virtute et arte, quam examen candentis ferri, quia licet vtrumque ordinatur ad alicuius facti occulti inquisitionem per aliquod factum ab homine, tamen quia in iudicio candentis ferri aliquis miraculosus effectus expectatur, quod

<sup>252</sup> *Vulgate 1 Thess. 5:22*: ab omni specie mala abstinete vos

<sup>253</sup> *Start of adaptation of Aq., Summa 2/2.95.8.Ra3*: . . . iudicium ferri candentis vel aque feruentis ordinatur quidem ad alicuius peccati occulti inquisitionem per aliquid quod ab homine fit, et in hoc conuenit cum sortibus; in quantum tamen expectatur aliquis miraculosus effectus a deo, excedit communem rationem. Vnde huiusmodi iudicium illicitum redditur, tum quia ordinatur ad iudicandum occulta, que diuino iudicio reseruantur, tum etiam quia huiusmodi iudicium non est auctoritate diuina sanctum. Vnde ij q. v in decreto Stephani pape [*quote follows*]. Et eadem ratio videretur esse de lege duellorum nisi quod plus accedit ad communem rationem sortium in quantum non expectatur ibi miraculosus effectus, nisi forte quando pugiles sunt valde impares virtute vel arte.

<sup>254</sup> *Decretum 2.2.5.20 adds: non*

<sup>255</sup> *Aq. (and the canon) adds: publicata*

<sup>256</sup> *Aq. (and some MSS of the canon): nostro; other MSS omit this word*

<sup>257</sup> *Aq. (and the canon) adds: filiorum*

non contingit in duello, vbi solummodo contingit interfectio vnus vel amborum, ideo examen illud est omnino illicitum, licet duellum non sit ita illicitum.<sup>258</sup>

Incidentaliter tamen propter principes et iudices seculares super duellum admittendum est notandum quod occasione horum verborum sancti Thome, qui hanc distinctionem ponit, Nicolaus de Lira in postilla sua super bibliam (*i Regum xvij*) occasione etiam duelli seu conflictus ipsius Dauid cum philisteo vult elicere quod in aliquo casu duellum possit esse licitum, ideo quod hoc non sit de mente doctoris Thome, sed potius oppositum probat Paulus Burdegalensis contra Nicolaum prefatum, cuius probationem bene aduertere debent principes et iudices seculares: primo per hoc quia duellum, sicut et examen alterum, ordinatur ad iudicandum occulta, que diuino iudicio reseruantur, vt supra tactum | est, nec potest dici quod institutionem habuerit ex conflictu<sup>a</sup> 219A Dauid, quia sibi reuelatum fuit a domino interiori instinctu vt tale certamen inire deberet et quod iniuriam sibi illatam per eum vindicare contra philisteum volebat, quod ex verbis Dauid elicitor: “Ego venio contra te in nomine dei viuentis,” et sic non fuit proprie duellator sed diuine iusticie executor; secundo ex hoc quod precipue iudicibus est aduertendum: quia enim in duello datur potestas vel saltim conceditur licentia vtrique interficiendi se mutuo, et cum alter eorum sit innocens, ideo prestatur auctoritas vel saltim licentia interficiendi innocentem, quod cum simpliciter est illicitum, quia contra dictamen iuris naturalis et diuinum preceptum, ideo omnino illicitum tam ex parte appellantis quam recipientis, quam etiam iudicantis et consulentium, qui omnes homicide reputantur; tercio ex hoc quia cum duellum sit singularis pugna duorum vt per victoriam vnus appareat iusticia tanquam per diuinum iudicium et alterius iniusticiam, non obstante quod tunc deus tentatur, vnde redditur illicitum ex parte appellantis et recipientis, tamen cum ipsi iudices alijs | 219B medijs iustum iudicium aut terminationem litis procurare possent: cum hoc non faciunt sed consulunt seu omnino permittunt, cum prohibere possent, vtrique ad interfectionem innocentis consentiunt. Verum quia non est verisimile postillatorem Nicolaum hec latuisse aut ignorasse, ideo vbi dicit in aliquo casu duellum absque peccato committi mortali, loquitur ex parte iudicantium aut consulum, vbi non per ipsorum inductionem aut consilium sed per ipsos appellantem et recipientem tale examen exercetur siue alio respectu.

<sup>a</sup> Ed. prin.: -o

<sup>258</sup> End

Et quia non est nostre speculationis his immorari sed de ipsis maleficis disserere, clare patet quod si in alijs criminalibus causis circa furtum aut latrocinium tale examen inhibetur, quanto magis hic vbi constat maleficas cuncta maleficia auxilio demonum procurare, siue in lesionibus inferendis siue curandis seu tollendis aut impediendis? Nec mirum quod opere demonum a lesionibus in tali examine preseruantur malefice, cum, vt naturales tradunt, succus cuiusdam herbe, vbi manus inunguntur, a combustione possit preseruare, et cum ipsum demonem virtutes herbarum minime latent: dato quod per interpositionem alicuius corporis inter manus deferentis et ipsum ferrum lesionem non interciperet, prout inuisibiliter procurare potest, tamen per huiusmodi naturales rerum proprietates hoc efficere posset. Vnde minus quam quibuscunque alijs malefactoribus ipsis maleficis<sup>a</sup> propter intimam familiaritatem quam cum demonibus tenent tali examine sunt purgande, sed ipso facto, vbi ad hoc appellant, iam vt suspecte malefice sunt habende.

Deseruit ad hoc factum quod in Constantiensi diocesi tribus annis vix iam elapsis contigisse fertur. Nam in dominio comitum de Firstenberg partium Nigre Silve, malefica quedam famosa et plurimum ab incolis diffamata, vbi per comitem ad instantiam plurimorum fuisset comprehensa et de plurimis indicijs super varia maleficia delata, tandem inter tormenta et questiones interrogaretur, manus omnium volens euadere, ad examen candentis ferri appellauit. Juuenis comes, nec multum in his expertus, examen admisit, et dum candens ferrum per tres dumtaxat passus deferre ad iudicata fuisset, per sex deportauit, offerens se denuo id ipsum longiori spacio deportare. Qua ex re dum manifestum habuissent indicium maleficij iudicare, quia nullus sanctorum presumpsisset taliter diuinam assistentiam tentare, ipsa tamen absoluta a vinculis et illesa vsque in presens non vtique in paruum fidei scandalum perseuerat.

QUESTIO DECIMAOCTAUA: DE SENTENTIA DIFFINITIUA IN SE, ET QUALITER EST FERENDA

CONSEQUENTER AD TRACTANDUM DE his in quibus secularis iudex per se cognoscere et sententiare potest diocesanis, si libet, manentibus exoneratis. Hoc ipsum enim presupponimus vt nedum nos ipsi inquisitores salua fide et iusticia simus ab his sententiandi modis exonerati, verum et ipsos diocesanos eadem sinceritate exoneratos affectamus, ipsorum facultatem et iurisdictionem minime amputando, qua

<sup>a</sup> Sc. quicumque alij malefactores ipse malefice

tamen si vti vellent, necesse foret et nos inquisitores iuxta c. "Multorum querela" ("De hereticis" in *Clementinis*) pariter concurrere. Attendant tamen quod quia hoc crimen maleficarum non est mere|ecclesiasticum, <sup>220A</sup> vnde<sup>a</sup> nec potestatibus et dominis temporalibus ad iudicandum et sententiandum, vt in c. "Vt inquisitionis" § "Prohibemus" ("De hereticis," *Libro Sexto*), interdictum, in quibus tamen prefata potestas diffinire et cognoscere sine diocesanis non potest, similiter deducet.

Sed primo videndum de ipsa sententia in se, secundo qualiter sit ferenda, tercio quot modis.

De primo. Cum secundum Augustinum, vt ij q. i. c. i, "Nos inquam sententiam ferre non possumus nisi aut<sup>b</sup> conuictum aut sponte confessum," et sententia sit triplex, dicit glosa summaria in principio questionis: "scilicet interlocutoria, diffinitiuia et precepti," et Raymundus exemplificans dicit: "Interlocutoria sententia dicitur que non super principali sed super alijs questionibus profertur inter principium cause et finem emergentibus, vt est de teste repellendo vel de dilatione danda vel non et huiusmodi, vel forte dicitur interlocutoria quia inter partes loquendo profertur sine scripture solennitate; diffinitiuia autem sententia dicitur quando principalis questio diffinitur (ff. "De re iudicata," l. i); sententia precepti est quando maior precipit minori." De primis duabus nostra consequenter erit speculatio, precipue super sententiam diffinitiuam. <sup>220B</sup>

Notandum secundo quod licet in glosa prefata dicatur quod si sententia diffinitiuia fuerit lata obmisso ordine iuris, ipso iure nulla est (ij q. vi "Si quando" § "Diffinitiuia"), et post dicatur: "Scias quod duplex est ordo iuris: vnus qui est de necessaria substantia iudiciorum, vt fiat litis contestatio et testes recipiantur; si contra hunc ordinem feratur sententia, non tenet. Est alius ordo qui non est de substantia iudiciorum, vt scilicet sententia non feratur sub conditione et vt prius non pronuncietur de possessione quam de proprietate: si tamen hoc non seruetur, tenet sententia, vt ij q. vi 'Anteriorum' § 'Biduum'." In hac tamen causa, quia est causa fidei et heresis crimen, licet mixtum, proceditur summarie, <sup>220C</sup> simpliciter et de plano, vt patet in c. "Statuta" (*Libro Sexto*) – et qualiter ista verba intelligantur, habes supra questione sexta – et vt ibi deducitur, "iudex necessario libellum non exigat, litis contestationem non postulet" etc.; sequitur: "Probationes tamen necessarias admitat, similiter citationem et protestationem iuramenti de calumnia" etc., vnde et alius modus procedendi iam per iura noua declaratur.

<sup>a</sup> Sc. ideo?

<sup>b</sup> So canon; ed. prin.: autem (presumably a misreading of aut as the abbreviation aut)

De secundo<sup>a</sup> autem, qualiter sit ferenda, nota quod proferri debet a iudice et non ab alio: alias non valet; item in loco publico et honesto, etiam sedendo, vt iij, q. iij “Inducie” § “Spacium”; et similiter de die et non in tenebris, et sic de multis que ibi notantur; tum quia ibi continetur quod non diebus feriatis, et quod in scriptis feratur, notandum quod quia hic summarie, simpliciter et de plano, vt supra tactum est, proceditur, et “De verborum significatione” c. “Sepe contingit” in *Clementinis* dicitur quod tempore feriarum ob necessitates hominum indultarum a iure  
 220D procedere valeat, et quod | iudex amputet dilationem, ideo si iudici libet, seruare illa poterit. Nec scripto proferre tenetur, cum secundum Johannem Andree plures sint casus in quibus sine scripto sententia valet, et inter illos enumeratur consuetudo loci vel fori (di. xi “Consuetudinis”). Episcopus, etiam si est iudex, potest per alium sententiam recitare ad instar illustrium.

Item nota quod licet in actionibus criminalibus executio sententie non sit differenda, fallit tamen hoc in certis casibus, precipue quatuor, sed pro hac materia capiuntur duo: primum si lata est in muliere pregnantante – differtur enim vsque ad tempus partus (ff. “De re iudicata,” l. “Pregnantis”) – item cum quis est confessus crimen et postea negat: intellige si confessio prius non fuit reiterata modo quo supra tactum fuit questione quintadecima.

De tercio autem, quot scilicet modis sit ferenda. Quia consequenter vsque in finem operis de his tractabimus, sunt tamen adhuc aliqua premitenda de modis quibus persona delata redditur suspecta, eo quod varie sententie super varias suspensiones sunt ferende.

221A    QUESTIO DECIMANONA: QUOT MODIS CAPITUR SUSPITIO  
 PRO SENTENTIA FERENDA

SUSPECTI DE HERESI VEL alio crimine quot modis et quibus dicendi sunt, et an in casu pro tali crimine ex illis iudicandi et sentiendi sint vbi queritur, respondendum est et per antiqua et per noua iura. Nam glosa super c. “Nos in quenquem” in precedenti questione allegato dicit quod quattuor sunt modi conuincendi reum, aut scilicet iure, vt instrumentis et testibus, aut facti euidentia (*Extra*, “De cohabitatione clericorum,” ca. “Tua”) aut iuris interpretatione, vt sepius citatum esse reum (iij q. ix “Decreuimus”), aut violenta suspitione (xxxij q. i “Dixit”). Notant etiam canoniste quod triplex est suspitio: prima temeraria, de qua canon: “Nullum iudicetis suspensionis arbitrio” (ij, q. i “Primo”);

<sup>a</sup> *Ed. prin.*: -a

secunda probabilis, et hec purgationem inducit, non autem prima, vt ij, q. iij “Presbiter;” tertia est violenta, que condemnationem inducit, et de hac intelligitur dictum Hieronimi quod vxor dimitti potest propter fornicationem aut fornicationis suspitionem (xxxij, q. i “Dixit”). Nota insuper quod secunda, que est probabilis, admittitur ad semiplenam probationem, vt *Extra*, “De presumptionibus” in multis, vnde coadiuuat ad probationem si assint alia amminicula, vnde non solum admittitur ad purgationem indicendam. 221B

De violenta etiam, que ad condemnationem sufficit, nota quod est duplex, dum quedam iuris et de iure, vt cum ius fingit et statuit aliquid super facto et contra hanc non admittitur probatio: *Extra*, “De sponsalibus,” “Nec qui fidem”, vbi dicitur quod si quis dederit fidem mulieri de contrahendo matrimonium cum ea et postea copula sequitur, matrimonium esse presumitur, et probatio in contrarium non admittitur; quedam est iuris sed non de iure, vt vbi ius presumit sed non statuit aliquid, vt si vir diu mulieri cohabitauit, presumitur ab eo cognita (xxxij q. i “Dixit”), et contra hanc admittitur probatio. 221C

Applicando ad propositum nostrum super heresim maleficarum et super noua iura, dicimus quod<sup>259</sup> in iure triplex suspitio super crimen heresis habetur:<sup>260</sup> prima est modica, secunda magna, tertia maxima. Prima, que est modica, in iure vocatur suspitio leuis: ita habetur c. “Accusatus” (*Libro Sexto*, “De hereticis”) in principio, vbi dicitur: “Si autem leuis et modica suspitio illa fuit, quanquam ex hoc sit grauius puniendus, non tamen debet pena in heresim relapsorum puniri.” Et hec suspitio ideo dicitur modica siue leuis, tum quia modica et leui defensione tollitur, tum quia ex modicis et leuibz oritur coniecturis, vnde dicitur modica a modicis indicijs, et dicitur leuis a leuibz coniecturis, vtpote in simplici heresi circa fidem<sup>261</sup> si aliqui reperiantur occulta conuenticula celebrantes vel vita vel<sup>262</sup> moribus a communi conversatione fidelium deuiantes, vt patet c. “Excommunicamus” primo (*Extra*, “De hereticis”).<sup>263</sup> Circa maleficarum heresim simili modo vbi conuenticula in angarijs aut sacratoribus anni temporibus in campis aut siluis, siue de die siue de nocte conuenirent, aut alique seorsum reperirentur aut non frequentare diuina temporibus consuetis et modis consuetis aut cum suspectis maleficis familiaritates secretas contrahere. Tales<sup>264</sup> enim<sup>265</sup> 221D

<sup>259</sup> *Start of Eym. 2.55 (376 2D–378 2A)*

<sup>260</sup> *For super . . . habetur Eym. has: de heresi requiritur*

<sup>261</sup> *in . . . fidem: not in Eym.*

<sup>262</sup> *Eym.: ac*

<sup>263</sup> *Pause (Eym adds: in fine, et similia exercentes)*

<sup>264</sup> *Resume*

<sup>265</sup> *Eym.: namque*

leuiter ad minus de heresi habentur suspecti, eo quod talia frequenter [facere] huiusmodi heretici facere comprobantur, de qua etiam<sup>266</sup> leui suspitione habetur C. “De hereticis,” l. ij in fine, vbi dicitur: “Hereticorum<sup>267</sup> vocabulo continentur, et latis aduersus eos sententijs<sup>268</sup> debent succumbere, qui vel leui argumento a<sup>269</sup> iudicio catholice regionis et tramite detecti fuerint deuiare.” Et huic sententie concordat Hostiensis in *Summa* (ti. “De presumptionibus” § “Finali”), vbi dicit: “Notandum quod quanuis heretici leui argumento detegantur, scilicet ad hoc quod suspecti habeantur, tamen non debent vt heretici haberi,” et probat per precedentia.<sup>270</sup>

222A Secunda suspitio, que est magna, in iure vocatur “vehemens” siue “fortis,” de qua iterum in allegato c. “Accusatus” in principio: iterum sic habetur: “Accusatus de heresi vel suspectus, contra quem de hoc crimine magna et vehemens suspitio orta erat” etc. Jbi enim hec coniunctio “et” non tenetur copulatiue sed expositiue, vt notat Johannes Andree (ibidem): “‘Vehemens’ autem idem est quod ‘fortis,’ vt dicit archidiaconus super allegato c. ‘Accusatus’ et verbo ‘vehemens,’ vt dicit Papias. Et Hugutio quod<sup>271</sup> ‘vehemens’ idem est quod ‘fortis’ siue ‘grandis,’ allegat etiam Gregorium<sup>272</sup> (primo *Moralium*): ‘Ventus vehemens irruit <a regione deserti.’ Et glosa super illo verbo (*Actuum* ij): ‘Factum est repente de celo sonus tanquam aduenientis spiritus vehementis’ dicit: ‘Hoc est ventus fortis.’ Et in libro *Catholicon*, qui est de dictionibus et earum significationibus, dicitur ita: “‘Vehemens’ dicitur ‘fortis,’”<sup>a</sup> vnde dicimus aliquem vehementem habere casum, cum habet fortem.” Hec ibi. Ergo suspitio magna dicitur “vehemens” siue “fortis.”

Et sic nominatur<sup>273</sup> quia non nisi vehementibus et fortibus defensionibus repellitur, et etiam<sup>274</sup> quia ex magnis et vehementibus ac fortibus oritur coniecturis, argumentis et indicijs, vtpote in simplici heresi<sup>275</sup> si  
222B aliqui comperiantur qui eos quos scilunt hereticos fore occultant, fauorem

<sup>a</sup> So *Eym.* (Conceivably these words were omitted intentionally, but it seems more likely to be a mistake—perhaps already in the MS of *Eym.* — since the truncation of the quote of Gregory makes the sense hard to understand.)

<sup>266</sup> For eo quod . . . etiam *Eym. has*: talia enim heretici frequenter facere comprobantur. De huiusmodi . . .

<sup>267</sup> So *Eym.*; *Code* 1.5.2.1 adds autem

<sup>268</sup> *Eym.* (and *Code*): sanctionibus

<sup>269</sup> So *Eym.*; not in *Code*

<sup>270</sup> For tamen . . . precedentia *Eym. has*: vt patet C. “De heret.” l. ij, non tamen debent” et cet.

<sup>271</sup> For vt dicit . . . Hugutio *Eym. has*: Dicit enim: “Dicunt Papias et Hagusio . . .”

<sup>272</sup> For allegat . . . Gregorium *Eym. has*: Idem Greg.

<sup>273</sup> For sic nominatur *Eym. has*: hec suspitio dicitur magna, vehemens, siue fortis tum

<sup>274</sup> For et etiam *Eym. has*: tum

<sup>275</sup> si . . . heresi: not in *Eym.*

impendant, associant, visitant, munera offerant, recipiant, defensant, et similia exercentes. Tales nanque vehementer de heresi suspecti sunt<sup>276</sup> et similiter cognoscuntur circa heresim maleficarum, eo quod suspitio oritur quod participant cum eis in crimine, et precipue notantur. Hic mulierisant viri, qui ad amorem vel odium inordinatum, licet non ad alias lesiones hominum tendant aut iumentorum, solent maleficare. Similia enim, vt premissum est, in quacunque heresi exercentes vehementer sunt suspecti, vt<sup>277</sup> patet per allegatum c. "Accusatus" et § "Illo vero" et per notata ibidem per archidiaconum, cum non sit dubium eos talia facere in fauorem illius heretice prauitatis.

Tercia suspitio. Hec est maxima, et in iure vocatur "violenta" c. "Cum contumacia" et c. "Accusatus" (*Libro Sexto*, "De hereticis") et per notata per Archidiaconum et Johannem Andree super c. "Accusatus," verbo "Vehemens," vbi dicunt: "Dicit 'vehemens,' non [tamen] 'violenta' (supra <sup>222C</sup> "De presumptionibus" c. "Litteras")." De hac suspitione loquitur canon (distin. xxxiiiij "Quorundam"). Et hec presumptio seu suspitio dicitur "violenta," tum quia violentat, cogit et arrat iudicem ad credendum, nec tergiuersatione refellitur qualicunque, tum quia ex violentibus conuincitibus atque cohercentibus oritur coniecturis: exempli gratia, in simplici heresi<sup>278</sup> si aliqui reperiantur qui hereticos adorauerint, id est, reuerentiam suo amore exhibuerint, consolationem vel communionem ab eis acceperint, vel similia que ad ritum eorum pertinent perpetrauerint: tales nanque violenta suspitione de heresi et hereticorum credentia sunt conuicti per c. "Filij" et per c. "Accusatus" ("De hereticis," *Libro Sexto*) et per notata per Archidiaconum super c. "Quicunque hereticos" et verbo "Credientes" (eodem,<sup>279</sup> *Libro Sexto*), cum non sit dubium eos talia facere in credentiam heretice prauitatis.<sup>280</sup>

Super heresim vero maleficarum a simili qui perpetrant ea que ad ritum maleficarum pertinent, | et talia cum sint varia, videlicet ali- <sup>222D</sup> quando per verba solum contumeliosa, dicendo: "Tu senties in breui<sup>a</sup> que tibi euenient" vel similia in effectu, vel per tactum solum, tangendo hominem aut bestiam manibus, aut per visum tantum, se manifestando nocturno vel diurno tempore certis dormientibus in cubilibus, et hoc vbi homines aut iumenta nituntur maleficari, licet circa grandines varios alios obseruant modos, se alijs offerendo cerimonijs, circa flumen

<sup>a</sup> Ed. prin.: -ni

<sup>276</sup> Pause

<sup>277</sup> Resume

<sup>278</sup> For exempli . . . heresi Eym. has: vt pote

<sup>279</sup> Eym.: Extra "De heret."

<sup>280</sup> Pause

aliquod se agitando diuersimode, vt in precedentibus circa modos maleficia inferendi patuit: tales vtique violenta suspitione super heresim maleficarum, vbi reperiuntur et fama laborat, sunt conuicti, presertim vbi effectus est subsecutus in maleficio siue statim siue per successum temporis, quia tunc euidentis factum concurrat siue indicium<sup>a</sup> facti, vbi instrumenta maleficij in aliquo loco reposita<sup>b</sup> reperirentur, licet successus temporis non ita aggrauaret ad euidentiam facti, manet tamen suspecta vehementer et a fortiori amplius quam circa simplicem heresim.

223A Et si queritur nunquid|diabolus absque visu<sup>c</sup> aut tactu mulierum maleficiare posset homines seu iumenta, responderetur: vtique si deus permittit, sed quia maior dei permissio vbi creatura deo dicata per fidei abnegationem et alijs horrendis sceleribus concurrat, ideo et diabolus amplius<sup>d</sup> talem modum maleficiandi creaturas affectat, imo et dici potest quod diabolus, etiam si absque malefica posset, adhuc summe per maleficam talia exercere affectat varijs respectibus, vt in precedentibus patuit.

Epilogando ad nostrum propositum super modos ex presumptionibus iudicandi: dicendum<sup>281</sup> quod super prefatam distinctionem suspecti de heresi maleficarum sunt in triplice genere, cum quidam leuiter, quidam vehementer et quidam violenter.

Leuiter sunt suspecti qui talia modica vel leuia peragunt, quod ex eis oritur modica vel leuis suspitio contra eos de tali heresi, et licet, vt dictum est, vbi quis sic inuenitur suspectus, non sit hereticus habendus, tamen debet sibi indici canonica purgatio vel iniungi tanquam pro leui abiuratio. Et quidem<sup>282</sup> quod purgatio possit sibi indici habetur c. “Excommunicamus” primo in principio (*Extra*, “De hereticis”), vbi dicitur: “Qui autem inuenti fuerint sola suspitione notabiles” (“Suspitione probabili, hoc est, leui et que leuiter apparet,” dicit Hostiensis); sequitur:<sup>283</sup> “nisi iuxta considerationes suspitionis qualitatemque persone propriam innocentiam congrua purgatione monstrauerint, anathematis gladio feriantur, et vsque ad satisfactionem<sup>e</sup> condignam ab omnibus euitentur,

<sup>a</sup> *Ed. prin.*: iu-

<sup>b</sup> *Ed. prin.*: -o

<sup>c</sup> *Ed. prin.*: -o

<sup>d</sup> *Ed. prin.*: -uis

<sup>e</sup> *Ed. prin.*: -factiōem

<sup>281</sup> *Resume (Eym. begins:* Secundum hanc distinctionem dicendum quod suspecti de heresi sunt in triplice, cum quidam leuiter, quidam vehementer et quidam violenter. Leuiter sunt suspecti qui talia leuia et modica peragant, quod ex eis oritur leuis et modica suspitio contra eos de aliqua heresi vel errore. Et vbi quis sic inuenitur de heresi leuiter suspectus, nullatenus est hereticus nec habendus sed debet sibi . . .)

<sup>282</sup> et quidem: *not in Eym.*

<sup>283</sup> *Not in Eym.*

ita quod si per annum in excommunicatione persistierint, extunc vel heretici condemnentur." Hec ibi. Et nota quod indicta sibi purgatione canonica, siue consentiat<sup>a</sup> siue non, siue deficiat siue non, est per omnia iudicandum, sicut de diffamato de heresi, cui est purgatio canonica indicenda.

Sed et hoc quod abiuratio possit tali indici tanquam leuiter suspecto de heresi, patet per c. "Accusatus" in principio, vbi dicitur: "Accusatus de heresi vel suspectus, contra quem de hoc crimine magna<sup>b</sup> et vehemens suspitio orta erat, si heresim in iudicio abiurauit et | postea committit in ipsa, censi debet quadam iuris fictione relapsus, licet ante abiurationem suam heresis crimen probatum non fuerit contra ipsum. Si autem modica et leuis fuit suspitio illa, quanquam ex hoc sit grauiter puniendus, tamen non debet in heresim relapsorum pena puniri." Hec ibi. 223C

Quidam autem cum sint suspecti vehementer, et sunt illi qui talia vehementia et fortia peragunt quod ex eis oritur vehemens et magna suspitio, et tales licet etiam non sint heretici nec vt heretici condemnandi, eo quod, vt expresse habetur *Extra*, "De presumptionibus," c. "Litteras" § "Quocirca," nullus pro suspitione vehementi est de tanto crimine condemnandus – nam ibi ita dicitur: "Quocirca mandamus, quatenus cum propter solam suspitionem, quanuis vehementem, nolumus illum de tam graui crimine condemnari" – tamen de tali sic vehementer suspecto debet sibi mandari quod abiuret generaliter omnem heresim et specialiter in quam incidit tanquam | vehementer suspectus per allegatum c. "Accusatus" in principio, vt est dictum, et per c. "Inter sollicitudines" (*Extra*, "De purgatione canonica") et per c. "Litteras" (*Extra*, "De presumptionibus"). 223D

Quod si postmodum relabatur, vel in pristinam vel in aliam, vel in eos quos scit maleficos aut<sup>284</sup> hereticos associet, visitet vel deducat, vel consulat munera donando, vel mittat, seu fauorem eis impendat,<sup>285</sup> relapsorum penam non euadet per allegatum c. "Accusatus," vbi dicitur sic: "Eum vero qui in vna heresis specie vel secta commisit aut in vno fidei articulo seu sacramento ecclesie errauit et postmodum heresim simpliciter vel generaliter abiurauit, si extunc in aliam speciem heresis<sup>286</sup> siue sectam ac<sup>287</sup> alio articulo seu sacramento committat, volumus

<sup>a</sup> *Ed. prin.*: cosen-

<sup>b</sup> *So Eym.*, canon; *ed. prin.*: magis

<sup>284</sup> maleficos aut: *not in Eym.*

<sup>285</sup> *Eym. adds*: qui excusari non possit, etiam sine adoratione, ad modum solliciti quo sancti viri ab omnibus reuerentur et honorantur

<sup>286</sup> *For speciem heresis Eym. has*: etiam heresis speciem

<sup>287</sup> *Eym.*: seu; *canon*: aut

vt relapsum<sup>a</sup> in heresim iudicari: ille ergo<sup>288</sup> de cuius lapsu in heresim ante abiurationem constiterit<sup>289</sup> vel nunc constat, si post illam abiurationem recepat hereticos,<sup>290</sup> deducat, visitet siue associet, ac dona vel munera eis donet vel mittat, | [vel mittat] seu fauorem eis impendat” – et infra:<sup>291</sup> “merito debet iudicari relapsus, cum illum ex approbato a se prius errore<sup>292</sup> non sit dubium illud fecisse.” Hec ibi.

Ex quibus verbis apparet quod in tribus casibus in genere suspectus de heresi vehementer, postquam abiurauit, pena plectitur relapsorum. Primus est quando relabitur in eandem et pristinam heresim de qua suspectus fuerat vehementer; secundus, quando heresim simpliciter vel generaliter abiurauit, et relabitur tamen in aliam heresim, esto quod de ea antea nunquam suspectus habitus fuerit nec delatus; tertius, quando hereticos recepat et eos deducit et fauorem impendit, et hic casus complectitur multos casus et habet multos sinus, vt patet in allegato § “Eum vero” in c. “Accusatus” frequentius repetito.

Sed queritur quid agendum si talis vehementer suspectus<sup>293</sup> ad mandatum sui iudicis <non><sup>b</sup> consenserit continue<sup>294</sup> abiurare, an tradendus sit<sup>295</sup> secularis<sup>c</sup> arbitrio potestatis animaduersione debita puniendus per c. “Ad abolendam” § “Presenti vero.” Respondetur:<sup>296</sup> | nequaquam, quia capitulum illud<sup>297</sup> et § eius expresse loquitur non de suspectis sed de manifeste deprehensis in heresi etc.,<sup>298</sup> et rigorosius contra deprehensos manifeste quam contra suspectos tantummodo est agendum.

Et si queritur: qualiter ergo sit procedendum contra talem, respondetur quod procedetur<sup>299</sup> contra eum per c. “Excommunicamus” i et per § “Qui vero sola suspitione” etc. superius inserto.<sup>d</sup> Et excommunicabitur, in qua excommunicatione si per annum sterit, est vt hereticus condemnandus per allegatum capitulum.

<sup>a</sup> So *Eym. canon; ed. prin.*: -us

<sup>b</sup> So *Eym.*

<sup>c</sup> So *Eym.*: *ed. prin.*: -i

<sup>d</sup> *Sc.* -um

<sup>288</sup> *Eym. (and canon)*: quoque

<sup>289</sup> *Eym.*: -erat (-erit is a variant for the canon's text)

<sup>290</sup> For abiurationem . . . hereticos *Eym. (and the canon) has*: hereticos recepat

<sup>291</sup> For et infra *Eym. (and the canon) has*: qui excusari non possit, etiam sine adoratione (vt verbis vestris vtamus)

<sup>292</sup> For approbato . . . errore *Eym. (and the canon) has*: approbati a se prius erroris consequentia.

<sup>293</sup> For queritur . . . suspectus *Eym. has*: quid agetur si aliquis suspectus de heresi vehementer

<sup>294</sup> *Eym.*: -ō

<sup>295</sup> For an . . . sit *Eym. has*: numquid tradetur

<sup>296</sup> *Eym. adds*: quod

<sup>297</sup> For capitulum illud *Eym. has*: illud cap.

<sup>298</sup> For de suspectis . . . etc. *Eym. has*: in suspectis sed in conuictis. Nam dicit sic: “Presenti nihilominus ordinatione sancimus vt quicumque manifeste fuerit in heresi deprehensus” et cet.

<sup>299</sup> For Et si . . . procedetur *Eym. has*: Procedetur ergo

Quidam autem suspecti sunt violenter, et sunt illi qui talia violentia peragunt quod ex illis oritur violenta suspitio contra eos: talis<sup>300</sup> vt hereticus est habendus, et sicut de deprehenso in heresi, est de eo per omnia iudicandum<sup>a</sup> per c. "Excommunicamus" i (*Extra*, "De hereticis") § "Qui vero" et per c. "Cum contumacia" et per c. "Vt officium" (*Libro Sexto*). Nam vel fatentur crimen vel non: si sic et volunt redire et heresim abiurare ad penitentiam, recipiendi sunt per c. "Ad abolendam" et per c. "Excommunicamus" ij § "Finali." Quod si non consenserint abiurare, tradendi sunt curie seculari animaduersione debita puniendi<sup>224C</sup> per c. "Ad abolendam" (§ primo allegato). Si autem non fatentur crimen, postquam est conuictus, nec consensit abiurare, est vt hereticus impenitens condemnandus per c. "Ad abolendam." Violenta enim suspitio ad condemnandum sufficit et probationem in contrarium non admittit, vt habetur *Extra*, "De presumptionibus" c. "Literas" et c. "Afferte."<sup>301</sup>

Et cum hec discussio locum habet in simplici heresi absque euidentia aut indicio<sup>b</sup> facti, sicut etiam in sexto modo sentiendi patebit, vbi quis vt hereticus condemnatur, etiam si non sit hereticus in re: quanto magis circa heresim maleficarum, vbi semper concurrat aut euidentia factum in pueris, hominibus aut iumentis maleficiatis, aut indicium facti, puta per instrumenta reperta? Et licet in simplici heresi penitentes et abiurantes ad penitentiam et ad perpetuos carceres recipiantur, vt tactum est, in hac tamen heresi, licet ecclesiasticus iudex recipiat vt sic ad penitentiam, ciuilibus tamen propter forefacta circa damna temporalia vltime supplicio punire potest, | nec ecclesiasticus ipsum impedit, qui licet non eum<sup>224D</sup> tradat ad puniendum, tamen relinquere potest.

QUESTIO VICESIMA: SUPER PRIMUM MODUM  
SENTENTIANDI

QUIA ERGO DELATA PERSONA:

- vel<sup>302</sup> reperitur immunis et absoluenda totaliter,
- vel reperitur solum diffamata de heresi generaliter,
- vel reperitur vltra infamiam questionibus et tormentis exponenda  
aliquaqualiter,
- vel reperitur suspecta de heresi leuiter,

<sup>a</sup> *Ed. prin.*: -audum

<sup>b</sup> *Ed. prin.*: -ū

<sup>300</sup> *Eym.*: de aliqua heresi vel errore. Et vbi sic quis inuenitur de heresi violenter suspectus. pro conuicto de heresi ac

<sup>301</sup> *End*

<sup>302</sup> *Start of Eym.* (473 B-474 1A) (where the adjectival agreement is in the generalizing masculine)

vel reperitur suspecta de heresi vehementer,  
 vel reperitur suspecta de heresi violenter,  
 vel reperitur diffamata de heresi et suspecta insimul et communiter,  
 vel reperitur confessa heresim et penitens et non relapsa veraciter,  
 vel reperitur confessa heresim et penitens sed relapsa probabiliter,<sup>a</sup>  
 225A vel reperitur confessa heresim et impenitens sed non relapsa realiter,  
 vel reperitur confessa heresim et impenitens atque relapsa certitudi-  
 naliter,  
 vel reperitur non confessa sed conuicta de heresi legitimis testibus et  
 alias iudicialiter,  
 vel reperitur conuicta de heresi sed fugitiua vel absens contumaciter,<sup>303</sup>  
 vel reperitur ab alia malefica incineranda vel incinerata delata,  
 vel reperitur maleficia non inferendo sed tollendo per remedia illicita  
 et incongruenter,  
 vel reperitur vt maleficus sagittarius et armorum incantator interi-  
 mendo letaliter,  
 vel reperitur vt malefica obstetrix infantes demonibus execrando hos-  
 tiliter,  
 vel reperitur remedio appellationis se tuendo friuole et fraudulententer.

Et si quidem reperitur immunis totaliter, erit per sequentem modum  
 225B sententianda finaliter. Vbi notandum quod persona delata tunc | reperit-  
 ur immunis totaliter, quando<sup>304</sup> processus meritis diligenter cum bono  
 consilio peritorum discussis non conuincitur nec confessione propria  
 nec facti euidentia nec testium productione legitima, quia videlicet  
 discrepant in principali, nec etiam alias illa persona fuit suspecta aut  
 diffamata publice de antedicto crimine, quia secus, si de aliquo alio  
 crimine esset diffamata,<sup>305</sup> nec etiam sunt indicia facti contra talem  
 personam: circa talem talis practica seruatur, quia absoluenda est per  
 episcopum aut iudicem<sup>306</sup> per sententiam tenoris sequentis.

“Nos, N(OMEN), MISERATIONE DIUINA episcopus Talis ciuitatis  
 (aut iudex Talis etc.),<sup>307</sup> attendentes quod tu, Talis de Tali loco et Talis  
 diocesis, fuisti nobis delatus (vel delata)<sup>308</sup> de tali heretica prauitate,

<sup>a</sup> *Ed. prin.*: -biter

<sup>303</sup> *End*

<sup>304</sup> *Start of Eym. (474 1C–2B), which begins:* Primus modus processum fidei terminandi et finiendi est quando . . .

<sup>305</sup> quia . . . diffamata: *not in Eym.*

<sup>306</sup> *For* quia . . . iudicem *Eym. has:* Talis enim per episcopum et inquisitorem . . . absoluitur

<sup>307</sup> *In Eym., the formula begins:* Nos, frater N. ordinis fratrum predicatorum, inquisitor heretice prauitatis in terris talis domini a sancta sede apostolica specialiter delegatus, attendentes quod . . .

<sup>308</sup> *Parenthetical words not in Eym.*

scilicet maleficarum,<sup>309</sup> attendentes etiam illa esse talia quod non valebamus nec debuimus conniuentibus oculis pertransire, descendimus ad inquirendum si predicta fulcirentur aliqua veritate, testes recipiendo, te examinando et alia faciendo | que decebant secundum canonicas sanctiones: ea propter visis et diligenter examinatis omnibus actis et actitatis in hac causa, habitoque consilio peritorum in iure ac etiam in theoloica facultate, illoque sepius repetito, sedentes pro tribunali more iudicis iudicantis ac habentes pre oculis solum deum et negocij veritatem sacrosanctis euangelijis positis coram nobis, vt de vultu dei iudicium nostrum prodeat et oculi nostri videant equitatem, ad nostram diffinitiuam sententiam procedimus in hunc modum: Christi nomine inuocato, quia per ea que vidimus aut audiuius et producta et oblata, acta et actitata sunt coram nobis in presenti causa non inuenimus aliquid contra te legitime probatum fore de his de quibus delatus fueras coram nobis, pronunciamus, declaramus et sententialiter diffinimus contra te non esse actum legitime coram nobis propter quod possis et debeas vt hereticus aut maleficus<sup>310</sup> iudicari, nec suspectus haberi aliquo modo de heretica prauitate. Quare a presenti instantia inquisitione et iudicio totaliter te relaxamus. Lata fuit hec sententia” etc.<sup>311</sup>

Caueatur<sup>312</sup> vt non ponatur in sententia quacunq[ue] quod delatus sit insons vel immunis, sed quod non fuit probatum legitime contra eum, quia si postmodum temporis processu iterum deferatur et legitime probatur, potest non obstante predicta absolutoria sententia condemnari. Nota etiam quod eisdem modis absoluendus est quis quando est delatus de receptatione, defensione seu alia fautoria<sup>313</sup> heretice prauitatis, vbi<sup>314</sup> nihil probatur legitime contra eum.<sup>315</sup>

Secularis iudex commissione episcopi modo suo iudicabit.

QUESTIO XXI: SUPER SECUNDUM MODUM SENTENTIANDI  
DELATAM ET TANTUMMODO DIFFAMATAM

SECUNDUS<sup>316</sup> MODUS SENTENTIANDI EST quando delatus (vel delata)<sup>317</sup> processus meritis deligenter discussis cum bono consilio

<sup>309</sup> scilicet maleficarum: *not in Eym.*

<sup>310</sup> aut maleficus: *not in Eym.*

<sup>311</sup> *End*

<sup>312</sup> *Start Eym. 474 2D-E*

<sup>313</sup> *Eym. adds: hereticorum seu*

<sup>314</sup> *Eym.: cum*

<sup>315</sup> *End*

<sup>316</sup> *Start of Eym. (475 2D-E), which begins: Secundus modus processus fidei terminandi et finiendi est quando . . .*

<sup>317</sup> *For delatus . . . delata Eym. has: delatus de heresi*

peritorum reperitur tantummodo de tali heresi diffamatus in aliqua villa, ciuitate vel prouintia, et hoc est quando delatus Talis non conuincitur nec propria confessione nec facti euidencia nec testium productione legitima, nec sunt quecumque | indicia alia probata contra eum nisi precise sola infamia,<sup>318</sup> ita quod in speciali nullum probatur maleficium perpetratum, quod quidem probare potest super vehementem aut violentam suspicionem, quando verba comminatorie super lesionem inferendam protulisset, dicendo in effectu vel in sententia: “In breui tu senties que tibi euinient,” et post effectus aliquis fuisset subsecutus in lesione corporum aut iumentorum.

Circa<sup>319</sup> istum igitur contra quam nil probatur nisi precise infamia talis practica est seruanda. In tali enim casu, quia sententia non potest pro delato ferri absoluendo eundem, sicut in primo modo tactum est,<sup>320</sup> sed contra indicendo sibi canonicam purgationem,<sup>a</sup> ideo episcopus<sup>321</sup> (seu eius officialis) aut iudex aduertant primo quod in causa heresis non refert si aliquis sit tantummodo apud bonos et graues personas diffamatus, imo attenditur hic quod etiam apud quoscunque viles et simplices sit diffamatus. Et ratio est: quia a quibus quis potest accusari in crimine heresis, apud illos etiam potest quis infamari, sed quilibet hereticus potest a quibuscunque personis accusari, cum tantummodo inimici capitales, vt supra paluit, excipiuntur, ergo apud illos potest infamari.

Feret<sup>322</sup> ergo episcopus seu iudex super canonicam purgationem sententiam per hunc modum vel consimilem.

“Nos, N(OMEN), MISERATIONE DIUINA episcopus Talis ciuitatis (aut iudex Talis domini),<sup>323</sup> considerantes quod meritis processus facti per nos contra te, Talem Talis diocesis, nobis delatum de tali heretica prauitate diligenter discussis (etc.), non inuenimus te confessum nec conuictum de predicta labe nec alias suspectum adminus leuiter nisi quod te reperimus legitime et veraciter in Tali villa, ciuitate vel diocesi et apud bonos et malos publice diffamatum: ea propter ad purgandum

<sup>a</sup> *Ed. prin.*: portionē

<sup>318</sup> *Pause*

<sup>319</sup> *Resume (Eym. begins: Circum istum talis practica est seruanda in tali casu. Quia sententia . . .)*

<sup>320</sup> *Clause not in Eym.*

<sup>321</sup> *End (Eym. then discusses how the bishop and inquisitor should cooperate)*

<sup>322</sup> *Start of Eym. (476 1A–2D), which begins: Ferant sententiam per hunc modum vel similem in effectu.*

<sup>323</sup> *For the parenthetical words Eym. has: et frater N. ordinis predicatorum inquisitor heretice prauitatis in terris talis domini a sancta sede apostolica specialiter delegatus*

huiusmodi infamiam et vt bonus odor in cetu fidelium existas, tibi indicimus canonicam purgationem, vt est iuris, assignando tibi talem diem talis mensis et talem horam talis diei, in qua<sup>a</sup> compareas personaliter coram nobis vt purges tuam infamiam tanta manu ordinis tui, qui quidem compurgatores sint homines fide catholici ac vita probati et qui conuersionem tuam ac vitam | nouerunt non tam moderno <sup>226C</sup> tempore quam transacto, significantes quod si in purgatione defeceris, te habebimus pro conuicto, prout volunt canonicæ sanctiones."

HIC AUTEM CONSIDERANDUM EST quod quando aliquis reperitur legitime de aliqua heresi publice diffamatus et contra eum aliquid non probatur nisi infamia ipsa sola, indicitur sibi canonica purgatio, hoc est, quod habeat aliquos viros, septem, decem vel viginti vel triginta secundum quod plus vel minus, et in locis pluribus vel paucioribus, magis vel minus insignibus<sup>b</sup> fuerit diffamatus, qui sunt sue conditionis seu ordinis, vt si diffamatus religiosus et illi sint religiosi, si clericus secularis, et illi clerici seculares, si miles,<sup>c</sup> et illi milites, qui purgant eum a crimine de quo est diffamatus. Qui compurgatores dicuntur esse homines fide catholici et vita probati, qui et illius conuersionem et vitam non tam moderno tempore quam antiquo nouerunt, vt habetur (*Extra*, "De purgatione canonica") "Inter<sup>324</sup> sollicitudines."

Si autem se purgare noluerit, excommunicetur, quam excommunicationem si per annum sustinuerit animo indurato, extunc vt hereticus <sup>226D</sup> condemnatur iuxta c. "Excommunicamus itaque" § "Qui autem."

Si autem se purgare decreuerit, sed in purgatione<sup>d</sup> defecerit, hoc est, quod compurgatores tales et tantos, prout ei iniunctum fuit, qui eum purgant non inuenerit, pro conuicto habetur, et sic vt hereticus condemnatur, vt habetur (*Extra*, "De hereticis") "Excommunicamus" i § "Adijcimus" et verbo<sup>325</sup> "qui non<sup>326</sup> se" et ("De purgatione canonica") <ca.><sup>e</sup> "Cum dilectus."

Considerandum autem est hic<sup>327</sup> quod quando dicitur quod indicatur diffamato quatenus purget se trina vel quarta manu ordinis sui, quod

<sup>a</sup> *So Eym.; ed. prin.:* q̄s

<sup>b</sup> *So Eym.; ed. prin.:* in si-

<sup>c</sup> *So Eym.; ed. prin.:* milites

<sup>d</sup> *Ed. prin.:* pur|pur-

<sup>e</sup> *So Eym.*

<sup>324</sup> *Eym. has:* c. "Inter..."

<sup>325</sup> *Eym.:* versibus

<sup>326</sup> *Canon:* nisi

<sup>327</sup> *For autem...* *Eym. has:* etiam hic est

ordo sumitur ibi in genere et non in specie, vnde si episcopus purgandus est, non negatur quin cum episcopis <in> purgatione possint<sup>a</sup> admitti abbates et religiosi presbiteri, et in alijs pari forma (“De purgatione canonica” <ca.> “Quotiens”).

Purgabit autem se diffamatus per modum qui sequitur, vt colligitur (*Extra*, “De purgatione canonica”) <ca.> “Quotiens” § “Porro” et c. “Accepimus”.

Quo ad secundum.<sup>328</sup>

227A ADUENIENTE AUTEM TERMINO EIDEM diffamato ad se purgandum canonice assignato comparebit personaliter purgandus cum suis compurgatoribus coram episcopo et inquisitore in loco | vbi noscitur infamatus, et ille qui diffamatus est, ponens manum super librum euangeliorum ante eum positum, dicet sic: “Ego iuro super ista quattuor euangelia sancta dei quod talem heresim” – exprimendo eam – “de qua sum diffamatus nunquam tenui nec credidi nec docui nec teneo nec credo.” Negabit scilicet illud cum iuramento de quo est diffamatus, quicquid sit illud. Quo facto omnes compurgatores ponent manum super librum predictum euangeliorum, et quilibet dicet ita: “Et ego iuro<sup>b</sup> super ista sancta dei euangelia quod credo ipsum verum iurasse.” Et tunc canonice est purgatus.

Considerandum est etiam: diffamatus de heresi ibi est purgandus vbi noscitur diffamatus, et si fuerit in multis locis infamatus,<sup>329</sup> imponatur sibi quod in omnibus illis fidem catholicam publice profiteatur et detestetur heresim de qua noscitur infamatus (“De purgatione canonica” <ca.> “Jnter sollicitudines”).

227B Nec contemnat qui canonice se de heresi purgauit. Nam si post<sup>c</sup> purgationem incidit in heresim iam purgatam, pro lapsu habetur et vt relapsus tradendus est curie seculari iuxta c. “Excommunicamus” i § “Adicimus” et verbum “Vel si post purgationem” et c. “Ad abolendam” § “Jllos quoque.” Secus autem si in aliam heresim incidit de qua se ante non purgauit iuxta capitulum allegatum.<sup>330</sup>

<sup>a</sup> in . . . possint: *so Eym.; ed. prin.:* ep–is purgandus possit (*presumably Institoris’ text of Eym. was defective or misread*)

<sup>b</sup> *Ed. prin.:* -a

<sup>c</sup> *Ed. prin.:* post

<sup>328</sup> *For this heading Eym. has:* Forma purgationis canonice a diffamato de heresi faciende

<sup>329</sup> *Eym.:* diffamatus

<sup>330</sup> *End*

QUESTIO XXI: SUPER TERTIUM MODUM SENTENTIANDI  
DIFFAMATAM ET QUESTIONIBUS EXPONENDAM

TERTIUS<sup>331</sup> MODUS PROCESSUM FIDEI finiendi et terminandi est quando delatus de heresi processus meritis diligenter consideratis cum bono consilio peritorum reperitur varius vel habens indicia contra se ad questiones, vt scilicet exponatur questionibus et tormentis, vt si questionatus nihil concesserit, pro immuni et innocente habeatur, et hoc est quando delatus non est deprehensus nec propria confessione nec facti euidencia nec testium legitima productione, nec sunt indicia ad talem suspicionem vt habeat heresim abiurare, est tamen in suis confessionibus varius, vel alias sunt indicia sufficientia ad questiones et tormenta.

Circa istum talis practica est seruanda. In tali autem casu, quia sententia interlocutoria est contra delatum ferenda et non pro eo, ideo per<sup>332</sup> inquisitorem coniunctim et non diuisim est ferenda iuxta c. "Multorum."<sup>333</sup> Imprimis si talis steterit in negatiua firmiter et nullatenus, licet inductus per probos viros, fateri voluerit veritatem, feretur sententia que videtur sapere vim diffinitiuę sententię per modum tenoris sequentis.<sup>334</sup> 227C

"Nos, N(OMEN), MISERATIONE DIUINA episcopus Talis ciuitatis (aut iudex in terris ditioni Talis domini subiectis),<sup>335</sup> attendentes meritis processus facti per nos contra te, Talem Talis loci <et><sup>a</sup> Talis diocesis [et] diligenter examinatis, quod tu est varius in tuis confessionibus et nihilominus sunt indicia multa que sunt sufficientia te ad exponendum questionibus et tormentis, ea propter, vt veritas ab ore tuo proprio habeatur et vt deinceps aures iudicum non offendas, interloquendo declaramus, iudicamus et sententiamus die presenti et hora tali te supponendum questionibus et tormentis.

"Lata fuit hec sententia . . ." <sup>336</sup>

Si questionandus reperiatur varius et insimul sint inditia alia ad questiones sufficientia, ponetur<sup>337</sup> vtrumque in sententia, vt in predicta 227D

<sup>a</sup> So *Eym.* (Presumably the conjunction was first accidentally omitted, then erroneously inserted after dioceses.)

<sup>331</sup> Start of *Eym.* (480 2A-481 1C) (in *Eym.*'s original text this directly follows the preceding section)

<sup>332</sup> *Eym.* adds: episcopum et

<sup>333</sup> *Eym.* adds: in Clementinis

<sup>334</sup> *Eym.* adds the heading: Forma sententię interlocutorie ad supponendum aliquem questionibus et tormentis

<sup>335</sup> For the parenthetical words *Eym.* has: et frater N. in terris ditioni Talis domini subiectis a sancta sede apostolica specialiter delegatus

<sup>336</sup> *Eym.* adds: etc., then the heading: Instructio acutissima circa questiones reorum

<sup>337</sup> *Eym.*: ponatur

positum est. Si autem hec duo non concurrant, sed vnum tantum, vt pote varietas sine alijs indiçijs vel alia indicia sine varietate, ponetur in sententia vt inuenitur.

228A Sententia autem lata mox exequatur vel exequi simuletur. Non sit tamen iudex multum voluntarius ad questionandum aliquem. Nam questiones et tormenta non inferuntur nisi in defectu aliarum probationum, et ideo perquirat alias probationes. Quod si non inuenit et tenet probabiliter quod delatus est culpabilis sed metu negat veritatem, bonis modis et quandoque cautelosis interdum adhibitis, eius amicis inducentibus ad veritatem dicendam, faciat suam diligentiam vt ab ore eius habeat veritatem. Et negocium non festinet: nam meditatio frequens et carceris et<sup>a</sup> calamitas ac replicata informatio proborum virorum disponunt ad veritatem erudiendam.<sup>338</sup> Quod si delato conuenienter expectato et tempore congruenter prorogato ac delato multipliciter informato, credant fide bona episcopus et iudex<sup>339</sup> omnibus consideratis ipsum delatum negare veritatem, questionent eum moderate, sine tamen effusione sanguinis, scientes quod questiones sunt fallaces et inefficaces. Nam aliqui sunt ita moles corde et vecordes quod ad leuem torturam omnia concederent, quecunque falsa. Aliqui autem sunt ita pertinaces quod quantumcunque vexarentur, ab eis veritas non haberetur. Aliqui sunt qui fuerunt alias questionati, et istorum aliqui melius sustinent questiones, quia statim brachia trahuntur et flectuntur; aliqui autem remanent debiliores et sic minus sustinent questiones. Aliqui etiam sunt maleficiati et in questionibus maleficijs vtuntur qui ante morerentur quam aliquid faterentur. Efficiuntur enim quasi insensibiles. Quare in questionibus cum maxima prudentia est agendum et ad conditionem questionandi quam plurimum attendendum.

228B Cum autem lata fuerit, mox ministri se disponant ad questionandum delatum, et cum disponunt se, episcopus aut iudex<sup>340</sup> et per se et per alios bonos viros, fidei zelatores, inducant questionandum ad fatendum libere,<sup>341</sup> etiam compromittendo ad conseruationem vite si opus sit, vt supra tactum est. Quod<sup>342</sup> si nec sic poterit ad terrorem vel etiam ad veritatem fatendam induci, poterunt secundam diem vel tertiam assignare ad continuandum tormenta, non ad iterandum, quia iterari non debent

<sup>a</sup> Not in Eym. (and unnecessary)

<sup>338</sup> So too in 211C; Eym.: eruenda

<sup>339</sup> Eym.: inquisitor

<sup>340</sup> Eym.: inquisitor

<sup>341</sup> End (Eym. adds: veritatem; then comes a long passage that is reproduced in 211D–212D)

<sup>342</sup> Start of Eym. (481 2A–C)

nisi nouis superuenientibus indicijs contra eum, et tunc possunt, sed continuari non prohibetur. Dicent ergo sic.

“Et nos, N(omen), episcopus, et N(omen), iudex (si assit),<sup>343</sup> prefati, assignamus tibi, Tali, diem talem ad questiones continuandum, vt a tuo ore proprio veritas eruatur,” et totum ponatur in processu.

Et infra tempus eidem assignatum et per se et per alios probos viros inducent eum ad fatendum veritatem. Quod si fateri noluerit, die assignata poterunt questiones continuari, et sic questionetur eisdem vel alijs generibus<sup>a</sup> tormentorum fortius vel leuius secundum maiorem culparum grauitatem. Et poterunt iudices multas cautelas licitas adhibere et in verbis et in factis, vt veritas habeatur, quas magis docet experientia atque vsus et negociorum varietas quam ars alicuius seu doctrina.

Vbi autem decenter questionatus et tormentis expositus noluerit <sup>228C</sup> detegere veritatem, amplius non vexetur, sed libere abire dimittatur.<sup>344</sup> Si<sup>345</sup> autem perstiterit in ipsa confessione et prodiderit<sup>b</sup> veritatem, culpam propriam cognoscendo<sup>346</sup> et ab ecclesia veniam postulando, tanquam deprehensus in heresim<sup>c</sup> propria confessione sed penitens iuxta c. “<Ad><sup>d</sup> abolendam” § “Presenti” abiuret et sententialiter vt deprehensus publice condemnetur per modum quo condemnantur in heresim<sup>e</sup> deprehensi propria confessione, vt dicitur infra<sup>347</sup> in octauo modo expediendi huiusmodi deprehensos (videatur ibi).

Vbi vero veritatem prodiderit<sup>f</sup> et non penituerit,<sup>g</sup> sed in heresi pertinaciter perstiterit et relapsus non fuerit, condemnabitur iuxta c. “Ad abolendam” § “Presenti,” et expectatus competenter, informatus decenter tradetur brachio seculari vltimo supplicio feriendus, vt dicitur infra in decimo modo. Si autem relapsus fuerit, condemnabitur per modum quo dicitur infra in vndecimo<sup>h</sup> modo processum aliquem terminandi (videatur ibi).

<sup>a</sup> So Eym. (cf. 212D); ed. prin.: grauibus

<sup>b</sup> So Eym.; ed. prin.: proderit

<sup>c</sup> So Eym.; sc. -i

<sup>d</sup> So Eym.

<sup>e</sup> So Eym.; sc. -i

<sup>f</sup> So Eym.; ed. prin.: proderit

<sup>g</sup> So Eym.; ed. prin.: -erint

<sup>h</sup> So Eym.; ed. prin.: decimo

<sup>343</sup> For iudex . . . assit Eym. has: inquisitor

<sup>344</sup> End (Eym. goes on to say that someone who has refused to confess must be given a statement, if he so requests, to the effect that no proof of the charges has been found, and then he explains that in the case of a confession it must be repeated afterwards without torture)

<sup>345</sup> Start of Eym. (481 2D-482 1B)

<sup>346</sup> Eym.: recog-

<sup>347</sup> Not in Eym.

HIC AUTEM EST DILIGENTIUS attendendum quod ille qui questionandus est ante questiones interdum contra se nihil | confitetur nec<sup>348</sup>  
 228D aliquid probatur propter quod possit nec debeat heresim abiurare nec propter heresim condemnari, et de talibus agitur hic et dictum est statim, interdum autem<sup>a</sup> ipse delatus est in heresim<sup>b</sup> deprehensus vel alias sunt alia contra eum probata indicia propter que debet abiurare vt leuiter vel vehementer de heresi suspectus, propter que non est questionandus, sed si<sup>349</sup> vltra hoc negat aliqua que non probantur, sed sunt indicia sufficientia ad questiones, et cum pro talibus questionatur, sed<sup>350</sup> nihil propter questiones confiteatur, nihilominus<sup>351</sup> ista<sup>352</sup> non est absoluenda<sup>353</sup> iuxta primum modum, sed secundum probata contra eam procedatur. Et abiurabit vel vt suspectus vel vt deprehensus (si vir),<sup>354</sup> prout processus merita exigent<sup>355</sup> et requirent.<sup>356</sup> Si vero propter questiones confiteatur illa vel eorum aliqua propter que questionatur, tunc abiurabit hec et illa et pro istis et illis sententia contra eum est ferenda.<sup>357</sup>

QUESTIO XXIIJ: SUPER QUARTUM MODUM SENTENTIANDI  
 DELATAM ET SUSPECTAM LEUITER<sup>358</sup>

QUARTUS<sup>359</sup> MODUS PROCESSUM FIDEI sententiandi<sup>360</sup> et terminandi est quando delatus de heresi processus meritis | diligenter discussis cum bono consilio in iure peritorum reperitur tantum suspectus de heresi leuiter, et hoc est quando delatus de heresi non deprehenditur nec confessione propria nec facti euentia nec testium productione legitima,

<sup>a</sup> So *Eym.*; *ed. prin.*: at

<sup>b</sup> *Eym.*: -i

<sup>348</sup> *Eym. adds:* contra eum

<sup>349</sup> Not in *Eym.* (presumably inserted in an attempt to make sense of this sentence, which is not well composed in *Eym.*)

<sup>350</sup> *Eym.*: sed (presumably another change meant to improve the sense)

<sup>351</sup> Not in *Eym.*

<sup>352</sup> *Eym.*: iste

<sup>353</sup> *Eym.*: -us

<sup>354</sup> Parenthetical phrase not in *Eym.* (presumably a clumsy way of returning to the masculine forms in *Eym.* after the temporary use of the feminine)

<sup>355</sup> *Eym.*: -unt

<sup>356</sup> *Eym.*: -unt

<sup>357</sup> End

<sup>358</sup> Corresponding heading in *Eym.*: De quarto modo terminandi processum fidei per abiurationem de leui

<sup>359</sup> Start of *Eym.* (486 1C–D)

<sup>360</sup> So 100 Mem. (476); *Eym.*: finiendi (which is clearly correct)

nec alias sunt indicia fortia seu vehementia de illa heresi contra eum, sed tantummodo modica et leuia et talia esse per consilium iudicata<sup>a</sup> propter que vt suspectus leuiter de heresi potest et debet vt talis illam heresim de qua delatus extitit abjurare. Et talis, si relabatur, pena relapsis<sup>b</sup> debita non punitur, licet grauius tunc fuerit puniendus quam si non in ante abiurasset iuxta c. "Accusatus" in principio ("De hereticis," *Libro Sexto*).

Circa istum talis practica est seruanda. Talis enim si habetur suspectus publice, abiurabit publice in ecclesia<sup>361</sup> per modum qui sequitur in sententia.

"EGO,<sup>362</sup> TALIS, DIOCESIS TALIS, habitator ciuitatis vel loci Talis, in iudicio consitutus coram vobis, domino episcopo Talis ciuitatis,<sup>363</sup> sacrosanctis euangelijs positus coram me et proprijs manibus eis per me tactis, iuro me credere corde et profiteor ore illam sanctam fidem catholicam et apostolicam | quam sacrosancta romana ecclesia credit, confitetur, 229B predicat et obseruat.

"Item, iuro me credere corde et profiteor ore quod dominus Jesus Christus<sup>364</sup> cum omnibus sanctis detestatur heresim pessimam maleficarum et quod omnes illam insequentes seu illi adherentes eternis ignibus crutiabuntur cum diabolo et angelis eius eternaliter nisi resipiscant et ecclesie sancte per penitentiam reconciliati fuerint.

"Et<sup>365</sup> consequenter abiuro, abnego et reuoco illam heresim de qua habetis me suspectam vos domini episcopus et officialis,<sup>366, 367</sup> videlicet quod familiaritatem cum maleficis habui, eorum<sup>c</sup> errorem ignoranter defendi, odio habui inquisitores et illarum persecutores, seu etiam quod eorum<sup>d</sup> crimina non detexi.

<sup>a</sup> So *Eym.*; ed. prin.: in- (cf. 230A)

<sup>b</sup> So *Eym.*; ed. prin.: -i

<sup>c</sup> Sc. carum

<sup>d</sup> Sc. earum

<sup>361</sup> End (*Eym.* then gives information about where the abjuration is to take place if the denounced person was not publicly suspected)

<sup>362</sup> Start of *Eym.* (486 2C-487 1E), which has the heading: Forma abiurandi heresim quando delatus est suspectus leuiter

<sup>363</sup> *Eym.* adds: et fratre N., inquisitore heretice prauitatis in terris ditioni talis domini subiectis

<sup>364</sup> Pause (*Eym.* continues: exprimatur articulus catholicus contra heresim de qua leuiter est suspectus, verbi gratia [an example is set out]. Et post abiuret heresim contrariam sic.)

<sup>365</sup> Resume

<sup>366</sup> For officialis *Eym.* has: inquisitor

<sup>367</sup> Pause

“Item,<sup>368</sup> iuro quod nunquam predictam heresim credidi neque credo nec illi adhesi nec adhereo nec vnquam credam neque adherebo<sup>a</sup> nec illam docui nec docere intendo.

“Quod si aliquid predictorum fecerim<sup>369</sup> in futurum – quod deus auertat! – penis iuris taliter abiura<nti debi><sup>b</sup>tis prompto animo me submitto, paratus subire omnem penitentiam quam pro his que feci et dixi <pro quibus><sup>c</sup> merito me habetis suspectum volueritis mihi  
229C iniungere,<sup>d</sup> <et><sup>e</sup> illam iuro | pro viribus adimplere et<sup>f</sup> nullatenus contrahere. Sic<sup>g</sup> me deus adiuuet et hec euangelia sacrosanta.”

Predicta autem abuiratio fiat in vulgari, vt ab omnibus intelligatur. Qua facta iudex, si adest, aut officialis<sup>370</sup> potest sibi dicere publice in vulgari talia verba vel similia in effectum.

“Fili (vel filia),<sup>371</sup> tu suspicionem quam <de><sup>h</sup> te habebamus et<sup>i</sup> non immerito abiurasti et purgasti per abiurationem prelibatam: de cetero caueas tibi quod non incidas in hanc heresim abiuratam. Nam licet si peniteres non tradereris<sup>j</sup> brachio seculari, quia abiurasti tanquam suspectus leuiter et non vehementer, tamen tunc multo fortius punieris quam si non abiurasses et amodo pro modico habereris<sup>k</sup> suspecta<sup>372</sup> vehementer, et vbi vt talis abiurares et prolabereris,<sup>l</sup> pena relapsis debita punieris et absque misericordia tradereris<sup>m</sup> curie seculari vltimo supplicio ferienda.”

Si autem abiurat secrete in camera<sup>373</sup> episcopi vel in camera iudicis,<sup>374</sup> quando scilicet non est factum publicum, modo consimili abiurabit.

Quibus peractis feretur sententia in hunc modum.<sup>375</sup>

<sup>a</sup> So Eym.; ed. prin.: here-

<sup>b</sup> So Eym.

<sup>c</sup> So Eym.

<sup>d</sup> Ed. prin.: iniuu-

<sup>e</sup> So Eym.

<sup>f</sup> So Eym.; ed. prin.: vt

<sup>g</sup> So Eym.; ed. prin.: sicut (perhaps through confusion with the abbreviation sic; cf. 231A)

<sup>h</sup> So Eym.

<sup>i</sup> So Eym.; ed. prin.: vt (cf. 231A)

<sup>j</sup> So Eym.; ed. prin.: traderis

<sup>k</sup> So Eym.; ed. prin.: haberis

<sup>l</sup> So Eym.; ed. prin.: -laberis

<sup>m</sup> So Eym.; ed. prin.: traderis

<sup>368</sup> Resume

<sup>369</sup> Eym.: -ero

<sup>370</sup> For iudex . . . officialis Eym. has: inquisitor

<sup>371</sup> Parenthetical words not in Eym.

<sup>372</sup> Eym.: -us

<sup>373</sup> Eym.: palatio

<sup>374</sup> For iudicis Eym. has: eiusdem inquisitoris

<sup>375</sup> Eym. adds the heading: Forma ferendi sententiam seu iungendi penitentiam ei qui abiuravit vt suspectus leuiter

“NOS, MISERATIONE DIUINA EPISCOPUS Talis ciuitatis (aut 229D iudex, si adest, in terris Talis domini ditioni subiectis),<sup>376</sup> attendentes quod visis et diligenter consideratis processus meritis per nos facti contra te, Talem, delatum nobis de heretica prauitate, reperimus te talia et talia commisisse” – dicantur illa – “que te reddunt suspectum leuiter de heresi et propter que te talem merito habentes, te fecimus vt leuiter suspectum de predicta labe eandem heresim abiurare. Verum ne predicta per te commissa remaneant impunita<sup>3</sup> et vt efficiaris caucior in futurum, de multorum et magnorum consilio in iure peritorum ac etiam religiosorum in et super his habito maturo pariter et digesto, habentes pre oculis solum deum ac irrefragibilem sancte fidei catholice veritatem sacrosanctis euangelijs positis coram nobis, vt de vultu dei iudicium nostrum prodeat et oculi nostri videant equitatem, sedentesque pro tribunali more iudicum iudicantium, te, Talem, hic in nostra presentia personaliter constitutum, per modum qui sequitur condemnamus, sententiamus seu potius penitentiamus, scilicet ne de cetero vnquam scienter teneas, associates, verbis defendas,<sup>377</sup> legas seu habeas talem,<sup>378</sup> et ne deinceps” etc. (Ponantur illa que commisit propter que suspecta fuit habita<sup>379</sup> de predicta heretica prauitate.) Lata fuit hec sententia (seu penitentia) . . .<sup>380</sup>

Caueatque notarius quod in processu ponat quod talis abiuratio est facta tanquam per suspectum habitum de heresi leuiter et non vehementer: alias periculum magnum esse posset.<sup>381</sup>

QUESTIO XXIIIIJ: SUPER QUINTUM MODUM SENTENTIANDI  
SUSPECTAM VEHEMENTER<sup>382</sup>

QUINTUS MODUS PROCESSUM FIDEI finiendi et terminandi est quando delata de heresi processus meritis diligenter discussis cum bono consilio in iure peritorum reperitur suspecta de heresi vehementer, et hoc est quando delata de heretica prauitate non reperitur legitime deprehensa nec confessione propria nec facti euidencia nec testium productione legitima, sed sunt magna et grauia probata indicia contra eam, et

<sup>3</sup> *Ed. prin.*: ipnni-

<sup>376</sup> *For the parenthetical words Eym. has:* et frater etc. vt in predictis

<sup>377</sup> teneas . . . defendas: *not in Eym.*

<sup>378</sup> *Eym. adds:* librum.

<sup>379</sup> *For suspecta . . . habita Eym. has:* suspectus habitus fuit

<sup>380</sup> *Eym. adds:* etc.

<sup>381</sup> *End*

<sup>382</sup> *Start of Eym. (492 2B–494 2A), which begins with the heading:* De quinto modo terminandi processum fidei per abiurationem de vehementi; *then:* Quintus modus . . .

230B talia per consilium iudicata<sup>a</sup> que illam reddunt suspectam | vehementer de predicta heretica prauitate.<sup>383</sup>

Circa istum talis practica est seruanda. Talis nanque debet vt suspectus vehementer de tali heresi abiurare illam hereticam prauitatem, ita quod si postmodum relabatur, pena relapsis<sup>b</sup> debita puniatur, hoc est, quod tradatur brachio seculari vltimo supplicio ferienda iuxta c. “Accusatus” in principio (“De hereticis,” *Libro Sexto*). Et abiurabit publice vel secrete secundum quod suspectus est habitus publice vel secrete et apud plures vel pauciores et graues vel leues, vt dictum est statim de illo qui est suspectus leuiter de heresi, et habet vt talis<sup>c</sup> heresim abiurare.

Modus autem disponendi ad abiurationem talis est.<sup>384</sup> Adueniente<sup>385</sup> nanque<sup>386</sup> die dominica ad abiurationem faciendam et ad audiendam sententiam (seu penitentiam) abiurando imponendam, predicator<sup>387</sup> sermonem faciet generalem. Quo facto legantur publice per notarium<sup>388</sup> vel clericum ea de quibus ipse abiurandus est conuictus et alia ex quibus habitus suspectus de heresi vehementer. Post dicetur sibi per iudicem vel officialem:<sup>d</sup><sup>389</sup> “Ecce quod ex hic recitatis tu es nobis suspectus de tali heresi vehementer, quare oportet quod tu purges te et abiures heresim supradictam.” Et tunc ponetur coram abiurando liber euangeliorum, et ipse ponet manum super illum, et si scit legere competenter, tradetur sibi sequens abiuratio in scriptis et leget coram omni populo. Si autem nesciat legere competenter, notarius<sup>390</sup> legat<sup>391</sup> ea spaciose et abiurandus respondebit alta et intelligibili voce per hunc modum. Nam notarius vel clericus dicet sic: “Ego Talis de Tali loco,” et iste respondebit per eadem verba; et ille: “in iudicio constitutus,” et iste respondebit per eadem verba (in vulgari semper), et sic quousque abiuratio sit finita. Et abiurabit per formam tenoris sequentis.<sup>392</sup>

“Ego, Talis de Tali loco, Talis diocesis, in iudicio personaliter constitutus coram vobis venerandis dominis episcopo Talis ciuitatis et Tali

<sup>a</sup> *So Eym.; ed. prin.: in- (cf. 229A)*

<sup>b</sup> *So Eym.; ed. prin.: -i*

<sup>c</sup> *So Eym.; ed. prin.: -ē (cf. 229A, C)*

<sup>d</sup> *Ed. prin.: officium (cf. 229C)*

<sup>383</sup> *In Eym., all the forms in this parag. that refer to the suspect are masculine.*

<sup>384</sup> *Pause (Eym. then gives a section on public notification of the impending abjuration)*

<sup>385</sup> *Resume (493 1B)*

<sup>386</sup> *Eym.: autem*

<sup>387</sup> *Eym.: inquisitor*

<sup>388</sup> *Eym. adds: vel aliquem fratrem*

<sup>389</sup> *For iudicem . . . officialem Eym. has: inquisitorem*

<sup>390</sup> *Eym. adds: vel aliquis religiosus seu clericus*

<sup>391</sup> *Eym.: -et*

<sup>392</sup> *Eym. adds the heading: Forma abiurandi heresim quando delatus est suspectus vehementer*

iudice<sup>393</sup> in terris ditioni Talis domini subiectis, sacrosanctis euangelijs positis coram me proprijs manibus per me tactis, iuro me credere corde et profiteor ore illam sanctam fidem catholicam et apostolicam quam sacrosancta romana ecclesia docet, profitetur, predicat et tenet.

230D

“Item, iuro me credere corde et profiteor ore quod” etc.

Explicetur articulus catholicus contrarius illi heresi de qua vehementer est suspectus, vt verbi gratia<sup>394</sup> si est de heresi maleficarum, dicitur sic: “Juro me credere quod non solum simplices heretici aut scismatici eternis ignibus crutiabuntur, verum super omnes heresi maleficarum infecti, demonijs fidem quam in sacro fonte baptismatis perceperunt abnegantes et spurcitijs diabolicis pro implendis eorum<sup>a</sup> prauis desiderijs insistent hominibus, iumentis, terre frugibus plurima nocumenta inferentes.

“Et<sup>395</sup> consequenter abiuro abnego et reuoco illam heresim seu potius infidelitatem que false et mendaciter asserit<sup>396</sup> non aliquam maleficam in terris et quod nemo credere debeat illas posse nocumenta inferre auxilio demonum, cum talis infidelitas expresse militat, vt iam cognosco, aduersus determinationem sancte matris ecclesie et omnium catholicorum doctorum, imo et aduersus leges imperiales, que huiusmodi comburendas decreuerunt.

“Item,<sup>397</sup> iuro quod nunquam predicte heresi credidi” – supple “per-<sup>231A</sup> tinaciter”<sup>398</sup> – “neque nunc credo neque credam nec adhereo de presenti nec adherere intendo nec docui nec docere intendo nec docebo.

“Item iuro et promitto quod talia et talia” – exprimentur – “propter que habetis me suspectum de huiusmodi heresi vehementer nunquam faciam nec operam vt fiant dabo.

“Quod si aliquid de predictis fecero in futurum – quod deus auertat! – penes de iure relapsis debitis prompto animo me submitto, paratus subire omnem penitentiam quam pro his que feci et dixi propter que habetis me suspectum de dicta heresi vehementer decreueritis mihi iniungere, et illam iuro et promitto pro viribus adimplere et nullatenus contraire.

“Sic me deus adiuuet et hec euangelia sacrosancta!”

Predicta autem abiuratio fiat in vulgari, vt ab omnibus capiatur, nisi fieret solummodo coram personis ecclesiasticis qui linguam latinam

<sup>a</sup> Sc. earum

<sup>393</sup> For iudice Eym. has: fratre, inquisitore heretice prauitatis

<sup>394</sup> Pause (Eym. then gives an example, from which the following dicitur sic is borrowed)

<sup>395</sup> Resume (493 2A)

<sup>396</sup> End (Eym. gives details that are modified here)

<sup>397</sup> Resume

<sup>398</sup> Clause not in Eym.

intelligerent competenter. Si autem abiurauerit secreta, scilicet in palacio episcopi<sup>399</sup> vel camera episcopi,<sup>400</sup> quando scilicet factum non est publicum, modo consimili abiurabit.

231B Facta autem predicta abiuratione<sup>401</sup> iudex aliusabit eum (vt supra) quod non incidat relabendo in penam relapsorum.

Sit<sup>402</sup> cautus notarius quod ponat in actis quomodo talis abiuratio facta est per talem, vt per suspectum de heresi vehementer,<sup>403</sup> ad hoc vt si relaberetur, sciretur qualiter puniretur,<sup>a</sup> quia pena relapsis debita.

Quibus peractis feretur sententia seu penitentia in hunc modum.<sup>404</sup>

231C “NOS, N(OMEN), EPISCOPUS TALIS ciuitatis, et frater (si assit),<sup>405</sup> N(omen), inquisitor heretice prauitatis, in terris Talis domini ditioni subiectis a sancta sede apostolica specialiter delegatus, attendentes quod tu, Talis de Tali loco et Talis diocesis, talia et talia commisisti” – dicantur illa – “vt ex processu meritis diligenter discussis legitime nobis constat, propter que merito habemus te suspectum vehementer de tali heretica prauitate, et<sup>406</sup> vt taliter suspectum te fecimus abiurare de magno consilio in iure peritorum iustitia suadente. Verum vt efficiaris cautior in futurum et ne reddaris procliuior ad similia peragenda et ne crimina permaneant impunita vt sis ceteris | delinquentibus in exemplum, de multorum et magnorum in iure consilio peritorum ac etiam in facultate theologica magistrorum seu doctorum, in et super his habito maturo et digesto, habentes pre oculis solum deum ac sancte fidei catholice et apostolice veritatem sacrosanctis euangelijs positis coram nobis, vt de vultu dei iudicium nostrum prodeat et oculi nostri videant equitatem, sedentesque pro tribunali more iudicum iudicantium, te, Talem, hic in nostra presentia personaliter consitutum, forma que sequitur condemnamus seu potius penitentiamus, videlicet ne deinceps talia vel talia facere vel dicere aut docere presumas.” Ponantur illa que conuincitur commississe propter que fuit suspectus habitus de predicta heresi vehementer et nonnulla que si committeret, incideret leuiter in relapsum. Sed alia sibi

<sup>a</sup> *Ed. prin.*: puu-

<sup>399</sup> *Eym. adds*: vel in capitulo fratrum

<sup>400</sup> *Eym. adds*: vel inquisitoris

<sup>401</sup> *Pause* (*Eym. continues with a warning similar to the one in 229C that the inquisitor may say to the abjurer; the rest of the sentence gives the general sense*)

<sup>402</sup> *Resume* (493 2D)

<sup>403</sup> *Eym. adds*: et non solum leuiter

<sup>404</sup> *Eym. adds the heading*: Forma sentiendi eum qui abiurauit vt suspectus vehementer

<sup>405</sup> *Parenthetical words not in Eym.*

<sup>406</sup> *Eym.*: illam

imponantur, prout negocij varietas expostulat et requirit, vtpote quod nunquam scienter habeat talia exercitia vel ne eos quos sciuerit abiurasse receptet et similia. "Lata fuit hec sententia . . ." <sup>407</sup>

Attendum <sup>408</sup> autem quod suspecti de heresi | et non deprehensi, <sup>231D</sup> siue sint suspecti vehementer siue leuiter, non debent perpetuo incarcerari nec perpetuo immurari, quia hec est pena illorum qui fuerunt heretici et postea penituerunt, vt patet in c. "Excommunicamus" ij ("De hereticis," *Libro Sexto*), sed possunt propter illa que commiserunt, ex quibus habiti sunt suspecti, ad certum tempus carceri mancipari et postmodum, prout videbitur, dispensari iuxta c. "Vt commissi" ("De hereticis," *Libro Sexto*).

Nec huiusmodi suspecti sunt crucibus consignandi. Nam cruces sunt insignia heretici penitentis, suspecti autem non fuerunt heretici habiti, quare non sunt consignandi. Potest tamen eis imponi quod stent certis diebus solennibus in valuis talium ecclesiarum, vel circa altaria dum missarum solennia celebrantur, habentes in manibus cereum ardentem tanti ponderis, vel quod vadant ad talem peregrinationem et similia, prout negocij qualitas expetit et requirit. <sup>409</sup>

QUESTIO XXV SUPER SEXTUM MODUM SENTENTIANDI  
DELATAM VIOLENTER SUSPECTAM

SEXTUS <sup>a, 410</sup> MODUS PROCESSUM FIDEI <sup>411</sup> terminandi est quando <sup>232A</sup> delatus de heretica prauitate processus meritis diligenter discussis cum bono consilio in iure peritorum reperitur de heresi suspectus violenter, <sup>b</sup> et hoc est quando delatus ipse non reperitur legitime deprehensus confessione propria nec facti euidencia nec testium productione legitima, sed sunt indicia non leuia solum vel vehementia sed fortissima et violentissima que ipsum delatum reddunt merito suspectum de dicta heresi violenter et propter que talis debet vt suspectus violenter de <sup>412</sup> dicta heresi iudicari.

<sup>a</sup> The initial (hand-written) capital was written erroneously as a "T" in the copy used for Schryder's facsimile.

<sup>b</sup> So Eym.; ed. prin.: vehementer

<sup>407</sup> Pause (Eym. adds: etc., then gives a paragraph about the next three steps that an inquisitor may take)

<sup>408</sup> Resume (494 1E)

<sup>409</sup> End

<sup>410</sup> Start of Eym. (495 1E-498 1B) (in Eym.'s original text this directly follows the previous section and begins with the heading: De sexto modo terminandi processum fidei in casu violenter suspecti)

<sup>411</sup> Eym. adds: finiendi et

<sup>412</sup> Pause (Eym. continues: heresi abiurare)

Et vt modus iste clarius intelligatur, demus exempla tam de simplici heresi in fide quam et de heresi maleficarum. Nam in simplici heresi casus contingeret quando delatus ipse non reperitur legitime deprehensus confessione propria etc. (vt supra), tamen propter<sup>413</sup> aliquid quod dixit vel egit, vtpote citatus in non causa fidei sustinuit excommunicationem per annum vel plus, talis iam est suspectus leuiter de heresi, quia hoc non caret scrupulo heretice prauitatis (“De Penis” c. 232B “Grauem”); citatus<sup>414</sup> autem responsurus de fide vbi<sup>415</sup> non compareret, sed rennuit contumaciter comparere, propter quod excommunicatur: tunc fit suspectus de heresi vehementer. Nam tunc<sup>416</sup> leuis suspicio transit in vehementem. Et si sustinet illam excommunicationem per annum animo pertinaci, tunc fit suspectus de heresi violenter. Nam et tunc<sup>417</sup> vehemens suspitio transit in violentam, contra quam non admittitur defensio, imo ex tunc talis est vt hereticus condemnandus, vt patet per c. “Cum contumacia” et notatur ibidem (*Libro Sexto*).<sup>418</sup>

In heresi vero maleficarum exemplificatur super violentam suspicionem quando dixit et egit aliqua que a maleficis practicantur quando volunt aliquem maleficari, et quia hoc commune est vt verbis comminatorijs aut factis per visum vel tactum se habeant manifestare, et triplici ex causa, vt peccatum in iudicibus aggrauetur, et vt simplices eo facilius seducantur, et vt deus peramplius offendatur et maior seuiendi in homines sibi facultas relinquatur, vnde violenter malefica fit<sup>a</sup> suspecta quando post verba comminatoria, dicendo: “Faciam tibi que in breui senties” vel similia in sententia, et post verba effectus aliquis in ipso vel in alio fuit subsecutus. Tunc enim non leuiter fit suspecta, sicut 232C qui propter familiaritatem habitam cum maleficis fuerunt | suspecti aut qui procare ad amorem inordinatum aliquem voluissent (vide supra de tribus suspicionibus: leui, vehementi et violenta).

Nunc videndum est qualis<sup>419</sup> practica sit cum talibus seruanda. Nam circa violenter suspectum in simplici heresi hec practica seruatur. Nam

<sup>a</sup> *Ed. prin.*: fit, but cf. *exc.* in the next sentence and in 232B

<sup>413</sup> *Resume (Eym. begins*: vtpote propter aliquid quod dixit vel egit, vt quia sustinuit excommunicationem per annum vel plus in causa fidei. Qui enim sustinet excommunicationem per annum vel plus, licet in non causa fidei, est suspectus leuiter de heresi, quia hoc non caret scrupulo heretice prauitatis (“De penis,” c. “Grauem”).

<sup>414</sup> *For* citatus autem *Eym. has*: et si

<sup>415</sup> *Not in Eym.*

<sup>416</sup> *Not in Eym.*

<sup>417</sup> et tunc: *not in Eym.*

<sup>418</sup> *Pause*

<sup>419</sup> *Resume (495 2C) (Eym. begins*: Circa istum talis practica est seruanda. Iste enim licet fortasse . . .)

licet in re fortassis non sit hereticus, vtpote quia non habet errorem in mente nec de illo pertinaciam in voluntatem,<sup>a</sup> vt notat archidiaconus super c. allegato, nihilominus est vt hereticus condemnandus propter predictam suspicionem violentam contra quam non est probatio admit-tenda.

Condemnatur autem heretica sic<sup>20</sup> quod si nolit resilire et heresim abiurare et satisfactionem condignam exhibere,<sup>b</sup> traditur brachio seculari animaduersione debita puniendus iuxta c. "Ad abolendam" § "Presenti." Si autem velit et consentiat, cum effectu abiurat<sup>c</sup> heresim et carceri perpetuo mancipatur iuxta c. "Excommunicamus" ij ("De hereticis").

Pari forma ille qui sic est suspectus de heresi violenter.<sup>21</sup>

Circa suspectum autem violenter super heresim maleficarum, licet idem modus esset obseruandus, tamen mitiori modo procedendo, aduertendum quod | si stabit in negatiua, asserens, prout facere solent, quod 232D non ea intentione verba illa protulerit sed ex vehementi et muliebri passione, vnde et iudici non videtur ipsam igni posse adiudicare non obstante violenta suspitione, tunc iudex ea in carceribus detenta inquirat et proclamare<sup>d</sup> faciat si in similibus dudum notata fuisset, et si sic, vtrum publice sit de tali heresi diffamata, ex quibus procedere ad vteriora potest, taliter vt ante omnia questionibus <et><sup>e</sup> tormentis exponatur, et si indicia apparuerint super talem heresim aut super maleficium taciturnitatis, puta quia lachrymas non effudit, imo et quasi insensibilis ad tormenta reperitur, quia videlicet cito post tormenta omnibus viribus restituitur, tunc procedat per varias cautelas supra positas, vbi de similibus agitur.

Et in casu quo omnia deficerent, tunc aduertat quod si similia dudum perpetravit, tunc omnino non est dimittenda, sed per annum adminus squaloribus carceris mancipanda et crutianda, sepissime etiam exami-nanda, precipue sacratoribus diebus. Si autem diffamata cum hoc, licet tunc iudex per ea que super tacta sunt circa simplicem heresim ipsam posset igni adiudicare, precipue propter multiplicationem testium et

<sup>a</sup> Sc. -e (so Eym.)

<sup>b</sup> Sc. exhi-

<sup>c</sup> Ed. prin.: ad-

<sup>d</sup> Classical Latin would require a passive infinitive, but the construction here follows many western European languages in using an active one after a verb of command.

<sup>e</sup> So repeatedly in the Mem.

<sup>420</sup> For condemnatur . . . sic Eym. has: hereticus autem taliter condemnatur

<sup>421</sup> Pause (Eym. gives a long discussion of how to treat someone who refuses to make the required abjuration)

233A quia sepius in similibus vel in alijs maleficijs fuit notata, tamen | quia cum pietate procedere vult, ideo indicet ei canonicam purgationem, vt videlicet xx aut xxx compurgatores habeat, et procedat, prout in secundo modo sententiandi tactum est, ita videlicet indicando sibi quod si in purgatione defecerit, quod tunc tanquam rea igni adiudicabitur. Et secundum hoc iudex procedere potest.

In casu vero quo se purgaret, tunc abiurationem omnis heresis cum pena relapsorum ac perpetua penitentia per modum<sup>a</sup> qui sequitur in sententia formanda faciat, et modus disponendi ad abiurationem talis est<sup>422</sup> vt dictum est in quarto et quinto modis precedentibus processum fidei terminandi.

Nota etiam quod in sequentibus modis omnibus sententiandi, vbi iudices per viam pietatis procedere vellent, tunc per modum iam tactum procedere possent, sed quia seculares iudices varijs suis vtuntur modis iuxta rigorem et non semper iuxta equitatem procedentes, ideo ipsis infallibilis regula et modus assignari non potest, sicut iudici ecclesiastico qui abiurationem recipere potest sub perpetua penitentia per modum qui sequitur.

233B “Ego,<sup>423</sup> Talis de Tali loco, Talis diocesis, in iudicio personaliter constitutus coram vobis, venerabilibus dominis episcopo Talis ciuitatis et iudicibus,<sup>424</sup> | sacrosantis euangelijs positus coram me eis que proprijs manibus per me corporaliter tactis, iuro me credere corde et profiteor ore illam sanctam fidem catholicam et apostolicam quam sacrosancta romana ecclesia tenet, profitetur, credit, predicat atque docet, et consequenter abiuro omnem heresim et abnego et reuoco<sup>425</sup> extollentem se aduersus sanctam romanam et apostolicam ecclesiam, cuiuscunque secte fuerit vel erroris.<sup>426</sup>

“Item,<sup>427</sup> iuro et promitto talia et talia” – exprimantur illa – “que egi seu dixi propter que et ex culpa mea habetis me suspectum de dicta heresi violenter deinceps nunquam faciam vel dicam vel<sup>428</sup> quod fiant operam dabo.

<sup>a</sup> *Ed. prin.*: -nm

<sup>422</sup> *Cf.* modus autem disponendi talis erit, which introduces the omitted details about treating someone who refuses to abjure

<sup>423</sup> *Resume* (496 1E). A second version of the text 233A–B follows immediately afterwards in 233B–D (presumably only one of the alternative versions was meant to be included in the final draft but both were accidentally included).

<sup>424</sup> *For* iudicibus *Eym. has:* fratre N., inquisitore heretice prauitatis in terris talis domini a sancta sede apostolica specialiter delegato

<sup>425</sup> *For* abiuro . . . reuoco *Eym. has:* abiuro, abnego et reuoco omnem

<sup>426</sup> *Pause* (*Eym.* then gives extensive details relating to the heresy being abjured)

<sup>427</sup> *Resume* (496 2C)

<sup>428</sup> *Eym.*: nec (omitted in second version and perhaps not in *Institoris's* copy of *Eym.*)

"Item, iuro et promitto quod omnem penitentiam quam mihi iniungere volueritis pro predictis <pro><sup>a</sup> viribus adimplebo nec contraueniam in aliquo.

"Sic me deus adiuuet et ista sacrosancta euangelia!

"Quod si contra abiurata<sup>429</sup> fecero in futurum<sup>430</sup> – quod deus auertat! – extunc<sup>431</sup> penis de iure relapsis debitis nunc pro tunc obligo et astringo quatenus illis ferior."<sup>432</sup>

Sit cautus notarius quod scribar<sup>433</sup> in actis quod dicta abiuratio est facta per vnum<sup>434</sup> de heresi violenter suspectum, vt si probaretur<sup>435</sup> post relapsus, vt tunc<sup>436</sup> talis iudicaretur talis et traderetur<sup>437</sup> brachio seculari.<sup>438</sup>

"Ego,<sup>439</sup> Talis de Tali loco, Talis diocesis, in iudicio personaliter constitutus coram vobis, | venerabilibus dominis N(omine) episcopo Talis ciuitatis <et><sup>440</sup> iudicibus<sup>441</sup> in terris Talis domini, sacrosantis euangelijs positus coram me eis que proprijs manibus per me corporaliter tactis, iuro me credere corde et profiteor ore illam sanctam fidem catholicam et apostolicam quam sacrosancta romana ecclesia tenet, profiteretur, credit, predicat atque docet, et consequenter abiuro, abnego et reuoco omnem heresim extollentem se aduersus sanctam romanam et apostolicam ecclesiam, cuiuscunque secte fuerit vel erroris."<sup>442</sup>

"Item,<sup>443</sup> iuro et promitto et<sup>b</sup> talia et talia" – exprimantur illa – "que egi seu dixi propter que et ex culpa mea habetis me suspectum de dicta heresi violenter deinceps nunquam faciam vel doceam <nec><sup>c</sup> quod fiant operam dabo.

<sup>a</sup> So Eym.

<sup>b</sup> Not in Eym. and unnecessary

<sup>c</sup> So Eym. (oddly, this appears as vel in the preceding version of the formula)

<sup>429</sup> Eym. adds: vel iurata

<sup>430</sup> Eym. adds: diabolo instigante, which appears in the second version

<sup>431</sup> Not in Eym.

<sup>432</sup> Eym.: feriar; he adds: cum legitime constiterit me contrafecisse, which appears in the second version

<sup>433</sup> Eym.: inscrib-

<sup>434</sup> Eym.: talem

<sup>435</sup> Eym. adds: abiurans

<sup>436</sup> Not in Eym.

<sup>437</sup> For vt . . . traderetur Eym. has: vt si probaretur, abiurans relapsus iudicaretur, et vt talis tradetur (so too, with a minor variant, in the second version)

<sup>438</sup> End of first version

<sup>439</sup> Start of second version of the text in 233B-C

<sup>440</sup> So Eym. (presumably omitted by accident)

<sup>441</sup> Eym.: fratre N., inquisitore heretice prauitatis in terris talis domini a sancta sede apostolica specialiter delegato

<sup>442</sup> Pause (Eym. then gives extensive details relating to the heresy being abjured)

<sup>443</sup> Resume (496 2C)

“Item, iuro et promitto quod omnem penitentiam quam mihi iniungere volueritis pro predictis pro viribus adimplebo nec contraueniam in aliquo.

“Sic me deus adiuuet et ista sacrosancta euangelia!

“Quod si contra abiurata vel iurata fecero in futurum diabolo instigante – quod deus auertat! – penis de iure relapsis debitis nunc pro tunc me obligo et astringo quatenus illis ferior,<sup>444</sup> cum legitime constiterit me contra fecisse.”<sup>a</sup>

<sup>233D</sup> Sit cautus notarius quod scribat<sup>b</sup> in actis quod dicta abiuratio est | facta per Talem tanquam per habitum suspectum de heresi violenter, vt si probaretur, abiuratus<sup>445</sup> relapsus iudicaretur et vt talis traderetur brachio seculari.<sup>446</sup>

QUIBUS<sup>447</sup> SIC ACTIS ABSOLUAT eum a sententia excommunicationis de qua est suspectus habitus violenter, quod inciderit sicut<sup>448</sup> in heresibus supradictis. Vnde sicut hereticus, cum redijt et abiurat, est a sententia excommunicationis absoluendus, quia omnis hereticus est excommunicatus iuxta c. “Excommunicamus” i et ij (“De hereticis”) et etiam iuxta c. “Ad abolendam” in principio, sic talis de quo agitur, cum sit vt hereticus condemnandus, vt dictum est prius, postquam abiurauerit, est ab excommunicationis sententia absoluendus.<sup>449</sup>

Et<sup>450</sup> absolute facta feretur sententia seu penitentia per modum tenoris sequentis.<sup>451</sup>

“NOS, N(OMEN), EPISCOPUS TALIS ciuitatis et” – si adest – “iudex Talis<sup>452</sup> Talis domini, attendentes quod tu, Talis de Tali loco Talis diocesis, fuisti nobis delatus de talibus et talibus fidem sanctam tangentibus” – exprimantur illa – “et quod nos processimus ad informandum nos super illis, vt iustitia suadebat, et meritis processus diligenter examinatis et omnibus actis et actitatis in causa presenti, inuenimus te talia

<sup>a</sup> *Ed. prin.*: -esse

<sup>b</sup> *Ed. prin.*: as-

<sup>444</sup> *Eym.*: feriar

<sup>445</sup> *Eym.*: abiurans

<sup>446</sup> *Pause (and end of second version of the abjuration) (Eym. then gives details about subsequent procedure that repeat material already presented; cf. 231A–B with 229C)*

<sup>447</sup> *Resume (497 1B)*

<sup>448</sup> *Not in Eym. (perhaps added in an attempt to clarify Eym. 3 unclearly composed sentence)*

<sup>449</sup> *Pause (Eym. then gives the details of lifting the excommunication)*

<sup>450</sup> *Resume (497 2A)*

<sup>451</sup> *Eym. adds the heading: Forma ferendi sententiam siue iniungendi penitentiam ei qui fuit habitus suspectus de heresi violenter*

<sup>452</sup> *For si . . . talis Eym. has: frater N., inquisitor heretice prauitatis in terris talis domini a sancta sede apostolica specialiter delegatus*

et talia commisisse” – explicentur illa – “ea propter et non immerito<sup>a</sup> de tali heresi” – explicentur illa – “te suspectum violenter habentes fecimus | te vt taliter suspectum omnem heresim generaliter publice ab-  
 234A  
 iurare, prout nobis mandant canonice sanctiones. Sane cum secundum eadem canonica instituta omnis talis sit vt hereticus condemmandus et tu saniori consilio inherendo et ad gremium sancte matris ecclesie redeundo abiuraueris” – vt premittitur – “omnem hereticam prauitatem, propter quod absoluimus te a sententia excommunicationis qua vt obnoxius dei ecclesie astrictus merito tenebaris, si tamen de corde vero et fide non ficta reuersus es ad ecclesie vnitatem, idcirco inter penitentes deinceps computaris,<sup>453</sup> ad misericordie sinum sacrosancta ecclesia te recipiens<sup>454</sup> de presenti. Verum quia indignum valde existit offensas diuinas impunitas conuiuentibus<sup>b</sup> oculis pertransire et iniurias hominum castigare, cum grauius sit diuinam quam humanam ledere maiestatem, et ne tua crimina incentiuum existant alijs delinquendi et vt<sup>455</sup> efficiaris cauior in futurum ac minus procliuus reddaris in posterum ad predicta seu similia committenda, vt<sup>456</sup> in futuro seculo leuius patiaris, nos, episcopus et | iudex<sup>457</sup> prefatus,<sup>458</sup> prehabito in et super his sano  
 234B  
 et maturo consilio peritorum, sedentes pro tribunali more iudicum iudicantium, habentes pre oculis solum deum et sancte fidei irrefragabilem veritatem, sacrosanctis euangelijs positis coram nobis, vt de vultu dei iudicium nostrum prodeat et oculi nostri videant equitatem, te, Talem, in nostra presentia personaliter constitutum, hac die et hora tibi in antea assignatis sententialiter per modum qui sequitur condemnamus seu potius penitentiamus: in primis quod statim induaris super vestes omnes quas defers veste liuida ad modum scapularis monachi sine caputio facta, ante et retro habente cruces de panno croceo longitudinis palmarum trium et latitudinis duorum, quam vestem deferre habeas super omnes vestes alias per tantum tempus” – exprimat: vnus anni vel duorum vel plus vel minus, prout culpa exegerit<sup>c</sup> delinquentis – “et nihilominus cum dicta veste et crucibus stes in porta talis ecclesie tali et tanto tempore, scilicet in quattuor festis principalibus virginis |  
 234C  
 gloriose (vel talibus et talibus festiuitatibus) in valuis talis et talium

<sup>a</sup> *Ed. prin.:* -eto

<sup>b</sup> *So Eym.; ed. prin.:* conuiuent-

<sup>c</sup> *So variant of Eym. (the main text has: exiget); ed. prin.:* -igerit

<sup>453</sup> *Eym.:* computaberis

<sup>454</sup> *Eym.:* recipiente

<sup>455</sup> *Eym. adds:* tu

<sup>456</sup> *Eym.:* et vt

<sup>457</sup> *Eym.:* inquisitor

<sup>458</sup> *Eym.:* prefati

ecclesiarum, teque ad talem carcerem ad perpetuum (vel ad tale tempus) sententialiter condemnamus.” Ponantur illa que videbuntur magis ad honorem fidei expedire, attenta culpe maioritate vel minoritate<sup>459</sup> seu contumacia delinquentis; et sequatur: “retinentes nobis ex certa scientia et expresse, vt nobis concedunt canonica instituta, quatenus dictam penitentiam possumus mitigare, aggrauare, mutare, tollere in toto et in parte, totiens quotiens nobis visum fuerit faciendum. Lata fuit hec sententia . . .”<sup>460</sup>

Qua lecta mox executioni debite demandetur et induatur veste predicta cruces huiusmodi continente.<sup>461</sup>

QUESTIO XXVI: SUPER MODUM SENTENTIANDI DELATAM<sup>a</sup>  
SUSPECTAM ET DIFFAMATAM

234D SEPTIMUS<sup>462</sup> MODUS PROCESSUM FIDEI finiendi et terminandi est quando delatus de heretica prauitate processus meritis diligenter discussis cum bono consilio peritorum in iure reperitur suspectus de heresi et etiam diffamatus, et hoc est quando delatus ipse non reperitur legitime deprehensus nec propria confessione nec facti euidencia nec testimonium legitima productione, sed reperitur publice diffamatus ac etiam reperiuntur indicia contra eum que ipsum reddunt suspectum alias de heretica prauitate leuiter vel vehementer, vtpote quia habuit magnam familiaritatem cum hereticis, qualis fuit ille de quo agitur in capitulo “Jnter sollicitudines” (“De purgatione canonica”). Et tali ratione infamie est indicenda canonica purgatio, et ratione suspicionis debet heresim aburrare iuxta c. allegatum “Jnter sollicitudines.”

Circum istum talis practica est seruanda. Talis enim sic publice de heresi diffamatus et vltra infamiam ex alijs indicijs suspectus habitus de heretica prauitate in primis purgabit se publice per modum<sup>463·464</sup> quo in secundo modo tactum est. Qua<sup>465</sup> purgatione expleta per ipsum diffamatum mox idem diffamatus, vt suspectus aliter et ex alijs indicijs heresim<sup>b</sup>

<sup>a</sup> *Ed. prin.*: debitam

<sup>b</sup> *So Eym.; ed. prin.*: -i

<sup>459</sup> *For culpe . . . minoritate Eym. has: culpa maiori vel minori*

<sup>460</sup> *Eym. adds: etc.*

<sup>461</sup> *End (Eym. then gives details of final words to be said to the convict and the audience)*

<sup>462</sup> *Start of Eym. (500 2B–507 1B) (in Eym.'s original text this directly follows the preceding section)*

<sup>463</sup> *Eym.: hunc modum*

<sup>464</sup> *Pause (Eym. then gives details of the purgation)*

<sup>465</sup> *Resume (501 1B)*

de qua est suspectus habitus predictum habens librum<sup>466</sup> euangeliorum coram positus<sup>a</sup> | abiurabit per hunc modum.<sup>467</sup>

235A

"Et<sup>468</sup> ego, Talis de Tali loco, Talis diocesis, coram vobis venerabilibus dominis meis, N(omine), episcopo talis ciuitatis et iudice<sup>469</sup> in terris talis domini, in iudicio consitutus personaliter, sacrosanctis euangelijs positus coram me eisque proprijs manibus corporaliter per me tactis, iuro me credere corde ac profiteor ore illam sanctam fidem catholicam quam romana ecclesia credit, profitetur, predicat et obseruat, et consequenter abiuro, abnego et reuoco omnem heresim extollentem se aduersus sanctam et apostolicam ecclesiam, cuiuscunque secte fuerit<sup>b</sup> seu erroris."<sup>470</sup> Et postea, vt supra tactum est.

"Jtem,<sup>471</sup> iuro et promitto quod talia et talia que egi propter que et merito sum de tali diffamatus et vltra vos me habetis suspectum" – exprimentur illa – "nunquam deinceps faciam seu dicam neque operam dabo quod fiant.

"Jtem, iuro et promitto quod omnem penitentiam quam mihi iniungere decreueritis pro predictis pro viribus adimplebo nec contraveniam in aliquo.

"Sic me deus adiuuet et ista euangelia sacrosancta!

"Quod si contra predicta iurata et abjurata fecero in futurum – quod<sup>235B</sup> deus auertat! – a<sup>c</sup> penis talibus de iure debitis me nunc pro tunc libere suppono, obligo et astringo, quatenus illis plectar, cum probatum legitime extiterit me talia commisisse."

Aduertendum tamen hic quod si indicia sunt talia et tam fortia quod cum infamia predicta vel absque ea reddant predictum diffamatum suspectum de heresi vehementer, tunc abiurabit omnem heresim generaliter, vt habitum est, et si relabatur<sup>d</sup> in quamcunque heresim, pena relapsi debita punietur, vt in c. "Jnter sollicitudines" ("De purgatione canonica") et in c. "Accusatus" ("De hereticis," *Libro Sexto*).

<sup>a</sup> Sc. –um (cf. next sent.): Eym.: se

<sup>b</sup> So Mem. (474), Eym.; ed. prin.: -int (cf. 233C)

<sup>c</sup> Not in Eym and obstructive of the sense

<sup>d</sup> So Eym. and Mem. (485); ed. prin.: -antur

<sup>466</sup> Eym.: libellum

<sup>467</sup> Eym. adds the heading: Forma heresim abiurandi per illum qui est de heresi diffamatus et suspectus alias de eadem

<sup>468</sup> Not in Eym.

<sup>469</sup> Eym.: fratre N., inquisitore heretice prauitatis in terris talis domini a sancta sede apostolica specialiter delegato

<sup>470</sup> Pause (Eym. then gives details relevant to regular heresy)

<sup>471</sup> Resume (501 2B)

Si autem indicia illa sunt ita modica et leuia quod etiam cum predicta infamia non reddant eum suspectum de heresi vehementer sed solum leuiter, tunc sufficiet quod abiuret non generaliter nec simpliciter sed singulariter heresim de qua habitus est suspectus, ita quod si prolabatur in aliam speciem heresis, pena relapsis debita non punietur, sed si in eadem,<sup>a</sup> ratione abiurationis, quia scilicet suspectus<sup>b</sup> leuiter abiurauit, 235C pena relapsis debita non punietur,<sup>472</sup> licet | durius quam si alias non abiurasset, vt<sup>473</sup> omnia hec patent in c. “Accusatus” in principio (“De hereticis,” *Libro Sexto*).

Ratione autem purgationis canonice est dubium an si post purgationem canonicam in eandem speciem heresis de qua se purgauit canonice prolabatur, pena relapsis debita, hoc est, vltimo supplicio, feriat, et videtur quod sic per c. “Excommunicamus” i § “Addijcimus,” verbum “Vel si post purgationem” et per c. “Ad abolendam” § “Illos quoque” (“De hereticis” in antiquis).<sup>474</sup>

Sit cautus notarius quod scribat in actis an talis abiurauerit tanquam suspectus de heresi leuiter vel vehementer, quia multum interest, vt alias frequenter<sup>475</sup> dictum est.<sup>476</sup>

Quibus<sup>477</sup>·<sup>478</sup> factis feretur sententia seu penitentia per formam tenoris sequentis.<sup>479</sup>

235D “NOS, N(OMEN), EPISCOPUS TALIS ciuitatis (aut iudex in terris ditioni Talis domini subiectis),<sup>480</sup> diligenter attendentes quod tu, Talis de Tali loco et Talis diocesis, fuisti delatus nobis de tali heretica prauitate” – exprimentur illa – “et<sup>481</sup> nos volentes, vt tenebatur, iudicialiter informari an tu | incidisses in predictam heresim condemnatam, ad inquirendum, testes examinandum, teque citandum et interrogandum medio iuramento et ad alia facienda que fienda erant per nos descendimus

<sup>a</sup> Sc. eandem

<sup>b</sup> Ed. prin.: sns-

<sup>472</sup> For sed si . . . non punietur (so 100 Mem. [485]), Eym. has only: ratione abiurationis (presumably the words were inserted to make sense of an unclear passage, though they rather obscure the sense)

<sup>473</sup> Eym.: et

<sup>474</sup> Ed. prin.: antiq; so 100 Mem. (486); not in Eym.

<sup>475</sup> Eym.: supra

<sup>476</sup> Pause (Eym. then gives details about the manner of making the abjuration)

<sup>477</sup> Eym. adds: sic

<sup>478</sup> Resume (502 1B)

<sup>479</sup> Eym. adds the heading: Forma ferendi sententiam vel iniungendi penitentiam diffamato de heresi et suspecto alias de eadem

<sup>480</sup> For the parenthetical words, Eym. has: frater N. ordinis predicatorum, inquisitor heretice prauitatis in terris tali ditioni talis domini subiectis a sancta sede apostolica specialiter delegatus

<sup>481</sup> Not in Eym.

et processimus, vt decebat: quibus peractis, visis et diligenter inspectis pariter et discussis processus meritis huiusmodi<sup>482</sup> cause et omnibus et singulis productis, actis et actitatis<sup>483</sup> habitoque in et super illis theologorum atque in iure peritorum pluries maturo consilio ac digesto reperimus te de predicta heresi in Tali loco (seu Talibus locis) apud bonos et graues publice diffamatum, propter quod, vt nobis mandant canonica instituta, indiximus tibi purgationem canonicam, qua coram nobis hic publice te purgasti et ipsi compurgatores pariter te purgarunt; inuenimus etiam te talia commisisse” – exprimantur illa – “propter que et non immerito suspectum te habuimus vehementer (vel<sup>484</sup> leuiter)” – dicatur si est istud vel illud – “et hoc de predicta heretica prauitate, propter que<sup>485</sup> fecimus te vt taliter | suspectum heresim abiurare” – dicatur: “omnem heresim,”<sup>236A</sup> si abiurauit vt suspectus vehementer, vel “heresim supradictam,” si vt suspectus leuiter. “Verum quia non possumus et<sup>486</sup> debemus talia que peregisti nullatenus<sup>487</sup> tollerare, sed cogimus ea vitare iustitia suadente, ad hoc vt reddaris cautior in futurum et vt crimina non remaneant impunita et vt ceteri non reddantur procliuiore ad similia committenda, et vt creatoris iniurie non equanimiter tollerentur, ea propter <te>,”<sup>a</sup> Talem predictum purgatum et abiuratum hic in nostra presentia personaliter constitutum in hoc loco et hora tali tibi in antea assignatis, nos, episcopus (aut iudex)<sup>488</sup> prefati, sedentes pro tribunali more iudicum iudicantium, sacrosanctis euangelijs positos coram nobis, vt de vultu dei iudicium nostrum prodeat et oculi nostri videant equitatem, sententiamus seu penitentiamus per modum qui sequitur, scilicet quod tenearis” etc. Ponantur illa que videbuntur magis ad honorem fidei esse et exterminationem heretice prauitatis, vtpote quod certis diebus dominicis et festiuis habeat stare ad portam talis vel talis | ecclesie cum cereo<sup>236B</sup> tanti ponderis in manu dum missarum solennia celebrantur, capite discooperto et pedibus nudatis, et offerre ad altare cereum antedictum, et quod habeat sextis ferijs ieiunare et quod certo tempore locum illum non audeat exire sed certis diebus ebdomade se habeat episcopo vel iudici<sup>489</sup>

<sup>a</sup> *So Eym., Mem. (487)*

<sup>482</sup> *Eym. and Mem. (486): huius*

<sup>483</sup> *Eym. and Mem. (486) add: equa lance librat*

<sup>484</sup> *For vehementer (vel leuiter) Eym. has: vehementer seu leuiter, Mem. (486) has: leuiter vel vehementem*

<sup>485</sup> *So 100 Mem. (486); Eym.: quod*

<sup>486</sup> *Eym. and Mem. (486): nec*

<sup>487</sup> *Eym. and Mem. (486): villa-*

<sup>488</sup> *For the parenthetical words Eym. has: et inquisitor*

<sup>489</sup> *Eym.: inquisitori*

presentare, et similia que iniungenda<sup>a</sup> videbuntur secundum culparum exigentiam et varietatem, quia non potest dari regula vna generalis. "Lata fuit hec sententia . . ." <sup>490</sup>

Qua lata exequatur poteritque dispensari vel mitigari vel commutari secundum quod negocium, penitentis correctio et humilitas hec<sup>491</sup> requirunt, quia potestatem habent episcopus et iudex,<sup>492</sup> et hoc de iure, vt in c. "Vt commissi" ("De hereticis," *Libro Sexto*).<sup>493</sup>

QUESTIO XXVIJ: SUPER MODUM SENTENTIANDI HERESIM  
CONFESSAM SED PENITENTEM

OCTAUIUS<sup>494</sup> MODUS PROCESSUM FIDEI terminandi et sententiandi, finiendi<sup>b</sup> est quando delatus de heretica prauitate meritis processus diligenter discussis cum bono consilio in iure peritorum reperitur confessus heresim sed penitens et alias non relapsus veraciter, et hoc est <sup>236C</sup> quando delatus ipse confitetur iudicialiter coram episcopo et<sup>495</sup> inquisitore medio iuramento fore verum quod ipse tanto tempore stetit et perseuerauerit<sup>496</sup> in illa seu alia de qua delatus est heretica prauitate et illi credit et adhesit, sed postmodum ad informationem episcopi et aliorum<sup>497</sup> vult resilire et ad gremium ecclesie redire et illam et omnem aliam heresim abiurare et satisfacere, prout ipsi voluerunt<sup>498</sup> ordinare, et non reperitur quod nunquam<sup>c</sup> aliam<sup>499</sup> heresim aliquam abiurauerit, sed nunc abiurare prompto<sup>d</sup> animo est paratus.

Circa istum talis practica est seruanda. Talis enim esto quod multis annis steterit in heresim<sup>e</sup> predicta ac etiam alijs quibuscunque, illasque<sup>500</sup>

<sup>a</sup> So *Eym.*; *ed. prin.*: -e

<sup>b</sup> For sententiandi, finiendi: *Eym.* has only finiendi, while *Mem.* (487) has only sententiandi (presumably the latter was a gloss or variant of the former in *Institutoris*'s text of *Eym.* adapted here, but by accident both wound up in the text).

<sup>c</sup> So 100 *Eym.*; *Mem.* (487): vn-

<sup>d</sup> *Ed. prin.*: -u

<sup>e</sup> Sc. -i (so *Eym.*, *Mem.* (487))

<sup>490</sup> *Eym. adds*: seu penitentia etc.

<sup>491</sup> So 100 *Mem.* (487); *Eym.*: hoc

<sup>492</sup> *Eym. has*: inquisitor, adding: etiam si non retineant

<sup>493</sup> *End*

<sup>494</sup> *Start of Eym.* (503 1C–507 1B) (in *Eym.*'s original text this directly follows the preceding section)

<sup>495</sup> So 100 *Mem.* (487); *Eym.*: vel

<sup>496</sup> So *Eym.*; *Mem.* (487): -auit

<sup>497</sup> *Eym.*: inquisitoris tandem

<sup>498</sup> *Eym.*, *Mem.* (487): -erint

<sup>499</sup> So 100 *Mem.* (487); *Eym.*: alias

<sup>500</sup> So 100 *Mem.* (487); -que not in *Eym.*

crediderit, practicauerit, multosque induxerit in errores, si tandem cum effectu illas hereses consenserit abiurare et satisfactionem congruam ad arbitrium episcopi et iudicis ecclesiastici<sup>501</sup> exhibere, non est tradendus brachio seculari ultimo supplicio feriendus, nec, si est clericus, degradandus, sed est ad misericordiam admittendus iuxta c. "Ad abolendam" § "Presenti" (*Extra*, "De hereticis") et abiurata primitus heretica prauitate est in perpetuum carcerem retrudendus<sup>502</sup> | iuxta c. "Excommunicamus" ij § "Si quis," ei absolutionis beneficio imperitito et iniuncto eidem quod talibus iniungi consuevit iuxta c. "Vt officium," prouiso ramen sollerter ne simulata fictione redeat fraudulenter.<sup>503</sup> Seculare etiam brachium impedire non possunt.

Modus autem abiurandi est vt supra tactum est: tantummodo additur vt coram populo festiuo die in ecclesia crimina sua ore proprio confiteatur, ita videlicet vt dum ab officiali interrogatur: "Tu tot annis perseuerasti in tali heresi maleficarum?" et ille respondebit: "Jta," et post: "Tu hec et hec fecisti, vt confessus es?" et ille respondebit: "Jta," et sic consequenter. Et tunc post omnia abiurabit flexis genibus.

[et<sup>504</sup> qui suspecti de heresi nullatenus habeantur]<sup>a</sup>

Et quia iste qui est sic deprehensus in heretica prauitate est excommunicatus iuxta c. "Excommunicamus" primo<sup>b</sup> et secundo<sup>c</sup> ("De hereticis") et per abiurationem redijt ad gremium ecclesie, ideo est ei absolutionis beneficium impendendum iuxta c. "Vt officium" in principio ("De hereticis," *Libro Sexto*), quare post predictam abiurationem<sup>505</sup> est absolendus, vt modum habent episcopi absoluendi a maiori | excommunicatione, quia vtuntur apostolica auctoritate,<sup>506</sup> et<sup>507</sup> statim feratur<sup>508</sup> sententia per hunc modum.<sup>509</sup>

<sup>a</sup> Evidently, something went awry in the process of adaptation and the excerpt was accidentally begun eight words too soon (note that this half sentence begins with the letters et qui, which is exactly how the passage meant to be copied begins; perhaps someone started copying in the wrong place).

<sup>b</sup> Sc. -um

<sup>c</sup> Sc. -um

<sup>501</sup> For iudicis ecclesiastici *Eym. has:* inquisitoris

<sup>502</sup> So 100 Mem. (487); *Eym.:* de-

<sup>503</sup> Pause (*Eym adds:* et episcopum et inquisitorem immo seipsum fallendo sub agni specie lupum gerat)

<sup>504</sup> Resume (505 1D)

<sup>505</sup> Pause (*Eym then gives further ceremonial for the abjuration*)

<sup>506</sup> For et absoluendus . . . auctoritate cf. the conclusion of the omitted ceremonial (*Eym. [505 2B]. Mem. [491]:* Et ego auctoritate apostolica qua fungor in hac parte absoluo te a sententia excommunicationis maioris qua fuisti innodatus . . .)

<sup>507</sup> Resume (505 2D)

<sup>508</sup> So 100 Mem. (491); *Eym.:* -etur

<sup>509</sup> *Eym. adds the heading:* Forma sententie contra eum qui abiurauit vt hereticus penitens

“NOS, TALIS,<sup>510</sup> EPISCOPUS TALIS ciuitatis (aut iudex in terris Talis domini ditioni subiectis),<sup>511</sup> attendentes quod tu, Talis de Tali loco, Talis diocesis, fuisti nobis fama publica referente ac fidedignorum insinuatione delatus de heretica prauitate, et quia<sup>512</sup> illa<sup>513</sup> infectus fueras<sup>514</sup> multis annis in magnum tue anime detrimentum, que delatio nostra precordia acrius vulnerauit, nos, quibus incumbit ex officio nobis tradito sanctam fidem catholicam in cordibus hominum complantare ac prauitatem hereticam ab eorum mentibus eneruare, volentes, vt tenebamur et tenemur, in et super his certius informari et videre si clamor qui ad aures nostras peruenerat veritate aliqua fulciretur, vt si sic veritas se haberet, prouideremus de salubri remedio oportuno, descendimus ad inquirendum, testes examinandum teque vocandum ac, vt congruentius potuimus, in et super contra te denunciatis te interrogandum  
 237B medio iuramento et ad peragendum omnia et singula que per nos erant fienda iustitia exigente, ac vt nobis mandant canonice sanctiones. Sane cum vellemus cause tue huiusmodi congruum finem dare et videre clare quid compertum fuerat, an scilicet ambulares in tenebris vel in luce et an fores infectus heresis labe necne, processus meritis, actitatis solenne tam in sacra theologia<sup>a</sup> facultate quam in iure canonico et ciuili peritorum coram nobis consilium ordinauimus congregari, scientes quod secundum canonica<sup>b</sup> instituta integrum est iudicium quod plurimorum sententijs confirmatur, et habito in et<sup>c</sup> super omnibus et singulis actis et actitatis in causa presenti sano, maturo ac digesto consilio peritorum predictorum<sup>515</sup> visisque ac diligenter inspectis processus meritis omnibusque et singulis in eo contentis<sup>516</sup> libratis, inuenimus te propria confessione in iudicio recepta<sup>d</sup> per nos medio iuramento in multiplici prauitate maleficarum<sup>517</sup> deprehensum<sup>518</sup> – exprimantur articuli.

<sup>a</sup> So 100 Mem. (492); sc. sacre theologie (so Eym.)

<sup>b</sup> So Eym., Mem. (492): ed. prin.: -as

<sup>c</sup> in et: so Eym., Mem. (492); ed. prin.: et in

<sup>d</sup> So Eym.: ed. prin.: -o

<sup>510</sup> Eym., Mem. (491): N. (Talis is normally used of the name of the accused)

<sup>511</sup> For the parenthetical words Eym. has: frater N. ordinis predicatorum, inquisitor heretice prauitatis in terris talis domini tali ditioni subiectis a sancta sede apostolica specialiter delegatus

<sup>512</sup> Eym.: quod

<sup>513</sup> quia illa: not in Mem. (492)

<sup>514</sup> So 100 Mem. (492); Eym.: fueris

<sup>515</sup> So 100 Mem. (492); not in Eym.

<sup>516</sup> Eym., Mem. (492) add: equa lance

<sup>517</sup> Not in Mem. (492) or Eym.

<sup>518</sup> Pause (Eym. then gives details of the heresy ascribed to the accused)

“Verum<sup>519</sup> cum misericors et miserator dominus nonnullos prolabi permittat aliquando in hereses et errores non solum vt viri catholici literati in sacris eloquijs exercentur,<sup>520</sup> verum etiam vt fide lapsi humiliores deinceps fiant ac in penitentie operibus excitentur, eiusdem processus meritis diligenter discussis, reperimus quod tu ad informationem nostram frequentem nostrequē<sup>3, 521</sup> et aliorum proborum adherendo consilio saniori ad gremium sancte matris ecclesie et ad eiusdem vnitatem salubriter euolasti, predictos errores et hereses detestando ac fidei sancte catholice agnoscens irrefragabilem veritatem tuis internis<sup>522</sup> visceribus infligendo,<sup>523</sup> propter quod illius vestigijs inherentes qui neminem vult perire,<sup>524</sup> te admisimus ad adiuratoriam et abiuratoriam publicam cautionem, faciendo te in presentiarum prefatas hereses et aliam omnem heresim publice abiurare, qua completa<sup>525</sup> absoluius te a sententia excommunicationis maioris qua ex lapsu in heresim extitisti<sup>526</sup> innodatus, et te reconciliando sancte matri ecclesie restituimus ecclesiasticis sacramentis, dum tamen de corde vero et fide non ficta redieris ad ecclesie vnitatem, prout te fecisse credimus et speramus.

“Sane cum indignum valde existat dominorum temporalium iniurias vlscisci deumque<sup>b</sup> celorum creatoris omnium iniurias equanimiter tolerare, cum multo grauius sit eternam quam temporalem ledere maiestatem, et vt ipse peccatorum miserator tui misereatur sisque<sup>527</sup> ceteris in exemplum, et vt crimina non remaneant impunita et vt efficiaris cautior in futurum et vt non reddaris procliuior sed difficilior ad predicta et quecunque alia illicita committenda, nos, episcopus et iudex (seu iudices)<sup>528</sup> in causa fidei antefati, sedentes pro tribunali more<sup>529</sup> — vt supra: “quod induatur veste liuida” etc.

<sup>a</sup> Sc. -oque

<sup>b</sup> So 100 Mem. (493); Eym.: dominique (which must be correct; perhaps the reading here derives from a misinterpretation of the abbreviation dñmque.)

<sup>519</sup> Resume (506 1C)

<sup>520</sup> Eym.: -cantur

<sup>521</sup> For nostram . . . nostrequē (so 100 Mem. [492]), Eym. has only: frequentem nostram, which may be erroneous

<sup>522</sup> So 100 Mem. (492); Eym.: intimis

<sup>523</sup> So 100 Mem. (492); Eym.: infig-

<sup>524</sup> illius . . . perire: so 100 Mem. (492); not in Eym.

<sup>525</sup> So 100 Mem. (492); Eym.: ex-

<sup>526</sup> So 100 Mem. (493); Eym.: extiteras

<sup>527</sup> So 100 Mem. (493); Eym.: et vt sis

<sup>528</sup> For iudex seu Eym. has: inquisitor

<sup>529</sup> Pause (Eym. then gives details of the sentence, the first provision beginning with the four words quoted here)

“Item,<sup>530</sup> te sententialiter condemnamus ad perpetuum carcerem,<sup>531</sup> vt ibi semper pane doloris et aqua angustie crucieris, retinentes nobis ex certa scientia et expresse quatenus<sup>532</sup> possimus libere dictam sententiam seu penitentiam mitigare, aggrauare, commutare, tollere totaliter vel in parte, si et quando et prout nobis et totiens quotiens videbitur faciendum.

“Lata fuit hec sententia” etc.

Qua lecta iudex assumet<sup>533</sup> per puncta et dicat<sup>534</sup> sententiato hec vel similia in effectu: “Fili, sententia vel penitentia tua stat in hoc, quod scilicet portes toto tempore vite tue cruces, quod stes in scala cum eis  
238A in porta talium | ecclesiarum, et quod sis in carcere perpetuo ad panem et aquam, sed, fili, ne sit tibi graue, quia certifico te quod si patienter tolleres, misericordiam apud nos inuenies: non dubites nec desperes, sed firmiter speres.”<sup>535</sup>

Quibus dictis sententia executioni debite demandetur, et statim vestis predicta sibi induatur et in scala in alto ponatur, vt ab egredientibus eminenter<sup>536</sup> videatur, circulantibus eum ministris curie secularibus.<sup>537</sup> Hora autem prandij ducatur a ministris ad carcerem et post fiant alia, prout ponuntur in sententia.

Dum autem ipse induitur et ad portam ecclesie deducitur,<sup>538</sup> iudex ecclesiasticus non se amplius intromittat. Si curia secularis contentatur, bene quidem; si non, agat ad libitum.

QUESTIO XXVIIJ SUPER MODUM SENTENDIANDI HERESEM<sup>a</sup>  
CONFESSAM SED RELAPSAM, LICET PENITENTEM

NONUS<sup>539</sup> MODUS PROCESSUM FIDEI terminandi et sententiandi<sup>540</sup>  
238B est quando delatus pro heretica prauitate processus meritis diligenter discussis cum bono consilio in iure peritorum reperitur confessus heresim

<sup>a</sup> Ed. prin.: -i

<sup>530</sup> Resume (506 2D)

<sup>531</sup> For ad . . . carcerem (so 100 Mem. [493]), Eym. has: carceri tali ad perpetuum

<sup>532</sup> So 100 Mem. (493); Eym.: quod

<sup>533</sup> Mem. (494): sumat

<sup>534</sup> So 100 Mem. (493); Eym. -et

<sup>535</sup> So 100 Mem. (494); Eym.: species, which is surely erroneous

<sup>536</sup> So 100 Mem. (494); Eym.: euidenter

<sup>537</sup> Not in Eym.; Mem. (494): secularis, which must be correct

<sup>538</sup> End (Eym. then gives a long discussion of procedural matters)

<sup>539</sup> Start of Eym. (510 2A–512 1D), which follows directly after the preceding section in Eym.'s original text

<sup>540</sup> So 100 Mem. (495); Eym.: finiendi

et penitens sed relapsus realiter, et hoc est quando delatus ipse confitetur iudicialiter coram episcopo aut iudicibus<sup>541</sup> alias se omnem heresim abiurasse, et ita legitime reperitur, et quod post credidit<sup>542</sup> tali heresi seu errori, vel quod specialiter heresim abiuravit,<sup>a</sup> scilicet maleficarum,<sup>543</sup> et post redijt in eandem, sed post adherens consilio saniori<sup>b</sup> penitet, credit catholice et reuertitur ad ecclesie vnitatem. Tali enim non sunt, si humiliter petat, deneganda<sup>c</sup> penitentiae et eucharistie sacramenta, sed quantumcunque peniteat, nihilominus vt relapsus est tradendus brachio seculari vltimo supplicio feriendus. Hoc autem intelligitur vbi reperitur quod abiurauerit tanquam deprehensus in heresim<sup>d</sup> seu tanquam suspectus de heresi vehementer, non autem leuiter tantum.

Circa autem istum talis practica est seruanda. Nam concluso in consilio peritorum maturo pariter et digesto et, si oportuerit, replicato, quod predictus delatus de iure est relapsus, episcopus aut iudex<sup>544</sup> mittent ad dictum relapsum delatum in carcere inclusum duos vel tres probos viros, et presertim religiosos seu clericos, fidei zelatores, eidem relapso<sup>238C</sup> non suspectos nec ingratos sed familiares et gratos, et isti intrabunt ad eum captata hora competenter, et loquentur sibi de contemptu mundi et miserijs vite presentis et gaudijs ac gloria paradisi, et demum his premissis indicabunt sibi ex parte episcopi seu iudicis<sup>545</sup> quod non potest euadere mortem temporalem et ideo quod curet de salute anime sue ac disponat de peccatorum suorum confessione et sacramenti eucharistie perceptione.<sup>546</sup> Et isti frequentabunt<sup>e</sup> eum, inducentes<sup>547</sup> illum ad penitentiam ac etiam<sup>548</sup> ad patientiam, confirmantes eum pro viribus in catholica veritate, taliter vt ipsum diligenter faciant confiteri ac conferri eidem petenti humiliter eucharistie sacramentum. Nam huiusmodi sacramenta non sunt talibus deneganda iuxta c. "Super eo" ("De hereticis," *Libro Sexto*).

<sup>a</sup> *Ed. prin.*: ad-

<sup>b</sup> *Ed. prin.*: sen-

<sup>c</sup> *So Eym.*, Mem. (495); *ed. prin.*: -e

<sup>d</sup> *Sc.* -i (*so Eym.*, Mem. [495])

<sup>e</sup> *So Eym.*, Mem. (496); *ed. prin.*: -bant

<sup>541</sup> *For* aut iudicibus *Eym. has.*: et inquisitore

<sup>542</sup> *Eym. adds.*: illi

<sup>543</sup> *Clause not in Eym.* or Mem. (495)

<sup>544</sup> *For* seu iudex *Eym. has.*: et inquisitor

<sup>545</sup> *For* seu iudicis *Eym. has.*: et inquisitoris

<sup>546</sup> *So too* Mem. (496); *Eym.*: re-

<sup>547</sup> *So too* Mem. (496); *Eym.*: inducenda

<sup>548</sup> *So too* Mem. (496); *not in Eym.*

Quibus sacramentis receptis, eo quod<sup>a</sup> bene disposito ad salutem iudicio predictorum, post duos vel tres dies, in quibus per predictos in fide catholica confirmetur et ad patientiam inducatur, episcopus seu iudex<sup>549</sup> loco eius mandabunt balliuo<sup>b</sup> loci seu potestati curie secularis quatenus tali die et hora, scilicet non festiua, sit cum sua familia in tali platea seu loco, extra ecclesiam tamen, ad recipiendum de foro suo quendam relapsum, quem ipsi episcopus et iudex<sup>550</sup> tradent ei, et nihilominus quod die prefixa de mane seu precedente faciat publice preconisari per ciuitatem seu locum in locis illis seu vicis in quibus preconisationes alie communiter solent fieri, quod tali die et hora in tali loco predicator<sup>551</sup> pro fide sermonem faciet et episcopus et alij iudices<sup>552</sup> condemnabunt quendam relapsum in hereticam prauitatem, tradendo eum brachio seculari.

Considerandum autem hic est quod iste qui sic relapsus est, si fuerit in sacris ordinibus constitutus vel alias sacerdos vel cuiuscunque<sup>c</sup> ordinis seu religionis obumbratione fuscatus,<sup>d</sup> prius antequam tradatur, est totius ecclesiastici<sup>e</sup> ordinis preprogiua nudandus, et sic omni officio et beneficio ecclesiastico expoliatus relinquatur seculari arbitrio potestatis animaduersione debita puniendus, vt in capitu. “Ad abolendam”<sup>f</sup> § “Presenti” (“De hereticis”).

239A Quando<sup>553</sup> igitur<sup>554</sup> talis est a suis ordinibus degradandus<sup>5</sup> et seculari curie derelinquendus,<sup>555</sup> episcopus<sup>h</sup> conuocet prelatos et viros religiosos sue diocesis, quia, licet non olim, nunc tamen solus episcopus cum prelati et alijs varis religiosis et peritis sue diocesis potest in sacris ordinibus constitutum degradare, cum est relinquendus brachio seculari vel perpetuo immurandus pro heretica prauitate iuxta c. “Quoniam” (“De hereticis,” *Libro Sexto*).

<sup>a</sup> *So 100 Mem. (496); Eym. coque*

<sup>b</sup> *So Eym., Mem. (496); ed. prin.: ballino (This form is repeated in 240D and 244A, but the presence of the expected “n” in the Mem. perhaps makes the “n” a persistent mistake of the compositor.)*

<sup>c</sup> *Ed. prin.: -cnnque*

<sup>d</sup> *So Eym., Mem. (496); ed. prin.: -cutus*

<sup>e</sup> *Ed. prin.: -asti*

<sup>f</sup> *Ed. prin.: -um*

<sup>g</sup> *So Eym.; ed. prin.: -os; Mem.: -atus*

<sup>h</sup> *So Eym., Mem. (496); ed. prin.: -os*

<sup>549</sup> *For seu iudex Eym. has: et inquisitor*

<sup>550</sup> *Eym.: inquisitor*

<sup>551</sup> *Eym.: inquisitor*

<sup>552</sup> *For alij iudices Eym. has: inquisitor*

<sup>553</sup> *So 100 Mem. (496); Eym.: Cum*

<sup>554</sup> *So 100 Eym.; Mem. (496): ergo*

<sup>555</sup> *Eym.: relin-; Mem. (496): delin-*

Adueniente<sup>a</sup> autem die prefixa degradando relapso ac tradendo, si fuerit in sacris ordinibus constitutus, [in]<sup>b</sup> brachio seculari, aut relinquendo,<sup>556</sup> si fuerit laicus, ad audiendum diffinitiuam sententiam in aliqua platea seu loco extra ecclesiam populo congregato et facto sermone per inquisitorem ac ipso<sup>c</sup> relapso inibi in alto loco constituto et presenti curia seculari, si degradandus ipse relapsus fuerit, episcopus in pontificalibus indutus et prelatis sue diocesis eidem assistentibus ipsum degradandum coram eo existentem et indutum ac dispositum ac si<sup>557</sup> deberet in suo ordine ministrare a suo ordine degradabit, a superiori ordine incipiendo et sic gradatim vsque ad infimum, et sic<sup>d</sup> confere-  
239B  
ndo ordinem verbis vtitur episcopus ad hoc per ecclesiam ordinatis, ita degradando in qualibet dispositione et casule et stole, et sic de alijs poterit vti aliquibus verbis contrarijs primis.

Qua quidem degradatione facta, vbi fienda sit per modum secundum quem de iure seu consuetudine<sup>e</sup> est fienda, officialis<sup>558</sup> mandabit notario seu religioso vel clerico quatenus legat sententiam, que sententia, siue relapsus laicus, siue clericus est degradatus, feretur per modum tenoris sequentis.<sup>559</sup>

“Nos, N(OMEN), MISERATIONE DIUINA episcopus Talis ciuitatis et iudex in terris Talis domini ditioni subiectis,<sup>560</sup> attendentes, legitime informati,<sup>561</sup> quod tu, Talis de Tali loco et Talis diocesis, fuisti coram nobis” – si ita fuerit – “(seu contra Talibus, episcopo et iudicibus)<sup>562</sup> delatus de tali heretica prauitate (seu talibus),” – explicentur – “in quibus heresibus, vt legitime fuit compertum, fuisti a<sup>f</sup> confessione propria reprehensus ac etiam testibus conuictus, et quod in illis persisteras tanto

<sup>a</sup> *Ed. prin.*: -o

<sup>b</sup> *Not in Eym. or Mem. (496) and meaningless*

<sup>c</sup> *So Eym., Mem. (496); ed. prin.*: -i

<sup>d</sup> *So 100 Mem. (496); sc. sicut (so Eym.)*

<sup>e</sup> *So Eym., Mem. (496); ed. prin.*: -nis

<sup>f</sup> *Not in Eym. or Mem. (497) and meaningless*

<sup>556</sup> degradando . . . relinquendo *was a confused passage. Eym. has: pro degradando relapso, si fuerit in sacris ordinibus constitutus, ac tradendo brachio seculari aut relinquendo. while Mem. (496) has: degradando relapso ac tradendo, si fuerit in sacris ordinibus constitutus, aut brachio seculari relinquendo*

<sup>557</sup> *For ac si (so 100 Mem. (496)), Eym. has: sicut*

<sup>558</sup> *Eym.*: inquisitor

<sup>559</sup> *Eym. adds the heading: Forma ferendi sententiam contra eum qui in heresim est relapsus sed penitens et vt relapsus traditur curie seculari*

<sup>560</sup> *For iudex . . . subiectis Eym. has: frater N. ordinis predicatorum, inquisitor heretice prauitatis in terris talis domini ditioni subiectis a sancta sede apostolica specialiter delegatus*

<sup>561</sup> *So 100 Mem. (497); Eym.*: informari

<sup>562</sup> *For iudicibus Eym. has: inquisitore*

- 239C tempore animo indurato,” – dicatur, | prout fuit – “sed post adherens<sup>563</sup> consilio saniori illas hereses in Tali loco publice abiurasti, in forma ecclesie consueta abnegasti et reuocasti,<sup>564</sup> propter que predicti episcopus et inquisitor, credentes te veraciter conuersum ad gremium ecclesie sancte dei, te ab excommunicationis sententia qua astrictus tenebaris absoluentes, si tamen de corde vero et fide non ficta reuersus esses ad sancte ecclesie vnitatem, iniunxerunt tibi penitentiam salutarem, verum post omnia supradicta et tot annorum curriculis iam elapsis, nunc nouiter iterum delatus nobis<sup>565</sup> extitisti, quod iterum incideras in tales hereses abiuratas” – explicentur – “nosque, licet displicenter de te talia audissemus, tamen iustitia nos cogente descendimus ad inquirendum, testes examinandum, reque vocandum et interrogandum medio iuramento necnon ad omnia et singula facienda que per nos fienda erant secundum canonica instituta. Sane cum vellemus presentem causam fine debito terminare, solenne consilium tam in theoloica<sup>a</sup>.<sup>566</sup> facultate quam in iure canonico ac ciuili peritorum iussimus congregari et habito predictorum<sup>567</sup> consilio maturo pariter et digesto in et
- 239D super omnibus et singulis actis et actitatis ac visis et diligenter discussis processus<sup>b</sup> meritis et omnibus equa lance libratis, prout fieri exigebat, reperimus legitime tam per testes quam per propriam tuam confessionem iudicialiter receptam, quod tu<sup>568</sup> reincidisti in hereses abiuratas. Nam reperimus quod talia et talia dixisti (vel fecisti),” – explicentur omnia – “propter que et merito de predictorum consilio te habuimus et habemus pro relapso iuxta canonica instituta, quod dolenter referimus et referendo dolemus, sed quia ad informationem nostram et proborum virorum catholicorum diuina gratia inspirante iterum es reuersus ad gremium ecclesie et ad eiusdem fidei veritatem,<sup>569</sup> predictos errores et hereses detestando et credendo catholice fidemque catholicam protestando, admisimus te ad recipiendum penitentie et eucharistie petita per te humiliter ecclesiastica sacramenta.<sup>570</sup> Verum cum ecclesia

<sup>a</sup> loica is a common medieval form for logica.

<sup>b</sup> Ed. prin.: -is

<sup>563</sup> So 100 Mem. (497); Eym. adds: vt videbatur

<sup>564</sup> So 100 Mem. (497); abnegasti et reuocasti are placed after abiurasti in Eym.

<sup>565</sup> So 100 Mem. (497); Eym. adds: fuisti et

<sup>566</sup> So 100 Mem. (497); Eym.: theologie

<sup>567</sup> So 100 Mem. (497); Eym.: predicto

<sup>568</sup> So 100 Mem. (497); not in Eym.

<sup>569</sup> For eiusdem . . . veritatem (so 100 Mem. [497]), Eym. has: eiusdem vnitatem

<sup>570</sup> So 100 Mem. (497); Eym. adds: prout relapsis penitentibus et humiliter petentibus conceduntur canonice sanctiones

dei in te et circa te vltra non habeat quid faciat, cum ita misericorditer se habuerit erga te, vt prediximus, et tu illa abusus fueris in | abiuuras hereses incidendo: ea propter nos episcopus et<sup>571</sup> iudices antefati, sedentes pro tribunali more iudicum iudicantium, sacrosanctis euangelijis positus coram nobis, vt de vultu dei iudicium nostrum prodeat et oculi nostri videant equitatem, habentes<sup>572</sup> pre oculis solum deum et sancte fidei irrefragabilem veritatem ac exstirpationem heretice prauitatis, te, Talem, hoc loco die et hora tibi ad audiendam diffinitiuam sententiam in antea assignatis sententialiter iudicamus te<sup>573</sup> esse veraciter relapsum in hereticam prauitatem, licet penitentem, et vt veraciter relapsum in eandem de foro nostro ecclesiastico te proijcimus et relinquimus brachio seculari traditus.<sup>a</sup> Rogamus tamen et<sup>b</sup> efficaciter dictam curiam secularem quatenus<sup>574</sup> circa te citra sanguinis effusionem et mortis periculum suam sententiam moderetur.<sup>575</sup>

Et<sup>576</sup> sic episcopus et sui assessores<sup>577</sup> recedentes<sup>c</sup> curia secularis suum officium exequetur.<sup>578</sup>

Attendendum est:<sup>579</sup> quanuis episcopus et inquisitor debeant esse summopere diligentes et per se et per alios facere vt relapsus | peniteat et ad fidem catholicam conuertatur, tamen postquam penituerit et conclusum fuerit in consilio quod licet peniteat, nihilominus veraciter est relapsus et vt talis tradendus est brachio seculari, ipsi personaliter quod tali sententia debet plecti eidem non indicent, quia facies iudicis terret condemnandum et verba sua magis inducunt plectendum ad impenitentiam quam ad patientiam, et ideo<sup>580</sup> nec extunc nec ante sententiam nec post eum sibi faciant presentari, vt non moueatur animo contra eos, quod in casu tali mortis diligentius est cauendum, sed, vt est dictum, mittant ad eum aliquos viros probos, presertim religiosos seu clericos, ei non ingratos sed gratos,<sup>581</sup> qui futuram sententiam atque

<sup>a</sup> brachio . . . traditus: so 100 Mem. (498); Eym.: seu brachio seculari tradimus

<sup>b</sup> Unnecessary but in Eym.

<sup>c</sup> So 100 Mem. (498); Eym.: recedant et

<sup>571</sup> Eym. adds: inquisitor

<sup>572</sup> So 100 Mem. (497); Eym. adds: -que

<sup>573</sup> So 100 Mem. (498); not in Eym.

<sup>574</sup> So 100 Mem. (498); Eym.: quod

<sup>575</sup> Pause (Eym. then gives procedural details)

<sup>576</sup> Resume (512 1B)

<sup>577</sup> For sui assessores Eym. and Mem. (498) have: inquisitor

<sup>578</sup> So 100 Mem. (498); Eym.: -atur

<sup>579</sup> Eym. adds: tamen quod; Mem. (498) adds: quod

<sup>580</sup> So 100 Mem. (498); et ideo: not in Eym.

<sup>581</sup> So 100 Mem. (498); sed gratos: not in Eym.

mortem infligendam<sup>a</sup> indicant,<sup>582</sup> eum ad fidem confirment, ad patientiam exhortentur et post sententiam eum associant, consolentur, cum eo exorent et ab eo non discedant<sup>583</sup> donec spiritum reddiderit creatori: sint igitur<sup>584</sup> cauti et auisati ne quid agent seu dicant propter quod relapsus morte preueniatur et ipsi efficiantur irregulares et, vnde debebant<sup>585</sup>

240C m̄ritum deportare, deferant secum penam pariter atque culpam.

Considerandum est etiam quod tales<sup>b</sup> sententie tradendi aliquem curie seculari non consueuerunt fieri die festiua vel solenni, nec etiam<sup>586</sup> in ecclesia sed extra in aliqua platea, quia sententia est que ducit ad mortem et honestius est quod feratur in die feriali et extra ecclesiam, cum dies festiua et ecclesia domino sint dedicata.<sup>587</sup>

QUESTIO XXIX: SUPER MODUM SENTENDIANDI HERESIM  
CONFESSAM SED IMPENITENTEM ET <NON> TAMEN  
RELAPSAM

DECIMUS<sup>588</sup> MODUS PROCESSUM FIDEI terminandi et sentiendi<sup>589</sup> est quando delatus de heretica prauitate processus meritis diligenter discussis cum bono consilio peritorum in iure reperitur confessus heresim et impenitens, non tamen relapsus,<sup>590</sup> sed quia rarissime inuenitur talis casus, licet interdum nobis inquisitoribus contigerit, tamen episcopus et iudices cum tali non debent festinare, sed bene custoditam et compeditam ad conuersionem inducere etiam per plures

240D menses, proponendo quod<sup>591</sup> in corpore et anima sic impenitens<sup>592</sup> damnabitur.<sup>593</sup> Qui<sup>594</sup> si tandem nec prosperis nec aduersis nec minis nec blandicijs poterit emolliri vt resiliat ab erroribus suis et fuerit predicto congruo tempore expectatus, episcopus et iudices<sup>595</sup> disponent se

<sup>a</sup> So *Eym. (and Mem.)*; ed. *prin.*: -gandem

<sup>b</sup> So *Eym.*, Mem. (498); ed. *prin.*: -is

<sup>582</sup> So 100 Mem. (498); *Eym.* -ent

<sup>583</sup> *Eym.*: recedant; Mem. (498): recedent

<sup>584</sup> For sint igitur *Eym. and Mem. (498) haue*: qui tamen

<sup>585</sup> For vnde debebant *Eym. has*: vnde deberent; Mem. (498) *has*: vbi debeant

<sup>586</sup> So 100 Mem. (498); not in *Eym.*

<sup>587</sup> End

<sup>588</sup> Start of *Eym. (514 1D-515 2E)* (in *Eym.*'s original text this directly follows the preceding section)

<sup>589</sup> So 100 Mem. (498); *Eym.*: finiendi

<sup>590</sup> Pause (*Eym. gives a definition of impenitence, then describes at length how the accused heretic is to be kept in strict custody and induced to repent*)

<sup>591</sup> Resume (514 2C)

<sup>592</sup> For sic impenitens *Eym. has*: concremabuntur ac perpetuo

<sup>593</sup> Pause (*Eym. then gives some methods of coaxing the impenitent heretic to repent*)

<sup>594</sup> Resume (514 2D)

<sup>595</sup> *Eym.*: inquisitor

ad tradendum eum seu relinquendum brachio seculari, et mandabunt per cedula[m] nuncio seu<sup>596</sup> balliuo<sup>a</sup> seu potestati curie secularis<sup>b</sup> quatenus tali die non festiua et tali hora sit in tali loco, extra ecclesiam tamen, cum sua familia, et<sup>597</sup> ipsi tradent sibi quendam hereticum impenitentem, et nihilominus quod ex parte eorum faciat publice preconisari in illis vicis seu locis in quibus alie preconisationes sunt fieri consuete, quod die et hora ac loco predictis predicator<sup>598</sup> faciet sermonem pro fide<sup>599</sup> ac tradet hereticum quendam brachio seculari, et ideo quod omnes veniant et sint<sup>c</sup> et habebunt indulgentiam consuetam.<sup>600</sup>

Quibus expletis tradetur<sup>601</sup> curie seculari per modum tenoris sequentis,<sup>602</sup> sepius tamen ammonendo per prius vt resiliat<sup>d</sup> et peniteat, quod si omnino noluerit, fertur sententia.<sup>e</sup>

“Nos,<sup>603</sup> N(OMEN), MISERATIONE DIUINA episcopus Talis ciui- 241A  
tatis, et iudex in terris Talis domini,<sup>604</sup> attendentes quod tu, Talis de Tali loco et Talis diocesis, fuisti nobis delatus fama publica deferente ac fidedignorum insinuatione de heretica prauitate<sup>605</sup> – explicentur hereses – “et<sup>f</sup> quod in illis heresibus et factis perstiteras multis annis in tue anime detrimentum, nosque quibus ex officio incumbere prauitatem hereticam exstirpare, volentes, vt tenebamur, in et super his certius informari,<sup>606</sup> videre an ambulares in tenebris vel<sup>607</sup> in luce, diligenter inquisiuimus de predictis teque citantes ac efficaciter interrogantes, reperimus te predicta infectum heretica prauitate.<sup>608</sup> Sane cum pre cunctis nostre

<sup>a</sup> *Ed. prin.*: -no

<sup>b</sup> *So Eym.*; *ed. prin.*: -i

<sup>c</sup> *Ed. prin.*: sunt (cf. 244A); *Eym.*: intersint

<sup>d</sup> *Ed. prin.*: -eat

<sup>e</sup> *So Jerauscheck's facsimile; Schnyder's bas.*: -ie (This change does not involve the correction of broken type: both letters are very clear.)

<sup>f</sup> Unnecessary (clumsy adaptation)

<sup>596</sup> *Eym.*: seu nuncium (presumably, at some point in the tradition of Inquisitor's text of *Eym.*, seu was erroneously inserted behind rather than in front of nuncium, which was then "corrected")

<sup>597</sup> *Eym.*: vbi

<sup>598</sup> *Eym.*: inquisitor

<sup>599</sup> *Eym. adds.*: et de fide

<sup>600</sup> Pause (*Eym.* then gives procedural details)

<sup>601</sup> Resume (515 1D) (*Eym.* begins: ... degradatione expleta tradetur ...)

<sup>602</sup> Pause; *Eym.* then gives the heading: Forma tradendi hereticum pertinacem, alias non relapsam, curie secular.

<sup>603</sup> Resume

<sup>604</sup> For iudex . . . domini *Eym. has.*: frater N. ordinis predicatorum, inquisitor heretice prauitatis in terris talis domini a sancta sede apostolica specialiter delegatus

<sup>605</sup> *Eym. adds.*: scilicet quod asserebas et affirmabas publice quod sic et sic

<sup>606</sup> *Eym. adds.*: et

<sup>607</sup> *Eym.*: an

<sup>608</sup> *Eym. adds.*: ac eandem defensantem coram nobis animo pertinaci

mentis desiderabilibus insidat cordi nostro fidem sanctam catholicam in populorum precordijs complantare eradicata heretica prauitate, modos diuersos, varios et congruos tam per nos quam per alios adhibuimus, quatenus resilires ab heresibus et erroribus antedictis, in quibus steteras  
 241B atque stabas, prout et<sup>609</sup> nunc stas, contumaciter ac pertinaciter animo indurato. Verum cum humani generis inimico tuis precordijs assistente teque in dictis erroribus voluente et inuolente nolueris neque velis a sepe dictis heresibus resilire, plus eligens mortem anime incurrere gehennalem et corporis temporalem quam antefatas hereses abiurare ac<sup>610</sup> ad gremium ecclesie aduolare et animam lucrifacere, in reprobum sensum datus: ea propter cum sis ab ecclesia sancta dei excommunicationis vinculo innodatus et merito et numero<sup>a</sup> a grege dominico separatus ac participatione bonorum ecclesie priuatus, et ecclesia circa te non habeat vltra quid faciat, cum ad te conuertendum fecerit iuxta posse, nos, episcopus et<sup>611</sup> iudices in causa fidei sepe fati, sedentes pro tribunali more iudicum iudicantium, sacrosanctis euangelijis positis coram nobis, vt de vultu dei iudicium nostrum prodeat et oculi nostri videant equitatem habentesque pre oculis solum deum et sancte fidei veritatem ac extirpationem heretice prauitatis, hac die, hora et loco tibi in antea assignatis ad audien-  
 241C dam sententiam diffinitiuam condemnamus | ac sententialiter iudicamus te esse veraciter hereticum impenitentem et vt veraciter talem tradendum et relinquendum brachio seculari et sic vt hereticum impenitentem per hanc nostram sententiam de foro nostro ecclesiastico te proijcimus et tradimus seu relinquimus brachio seculari ac potestati curie secularis, dictam curiam secularem efficaciter deprecantes quatenus circa te citra sanguinis effusionem et mortis periculum suam sententiam moderetur. Lata fuit hec sententia . . . ”<sup>612</sup>

QUESTIO XXX: SUPER HERESIM CONFESSAM ET RELAPSAM  
 ET IMPENITENTEM

VNDECIMUS<sup>613</sup> MODUS PROCESSUM FIDEI terminandi et finiendi est quando delatus de heretica prauitate processus meritis diligenter discussis cum bono consilio in iure peritorum reperitur confessus

<sup>a</sup> et numero: *not in Eym. and meaningless (perhaps a gloss on grege that has intruded into the text)*

<sup>609</sup> *Not in Eym.*

<sup>610</sup> *Eym.: et*

<sup>611</sup> *Eym. adds: inquisitor*

<sup>612</sup> *Pause (Eym. adds: etc.)*

<sup>613</sup> *Resume (519 1B)*

heresim ac impenitens et relapsus, et hoc est quando delatus ore proprio confitetur iudicialiter talia et talia se credere<sup>614</sup> et practicas se.<sup>a</sup>

Circa istum est practicandum vt supra et feratur sententia [coram episcopo et iudicibus que tamen | sunt hereticalia manifeste]<sup>b</sup> per<sup>615</sup> 241D formam tenoris sequentis.<sup>616</sup>

“NOS, N(OMEN), MISERATIONE DIUINA episcopus Talis ciuitatis (aut iudex in terris Talis domini),<sup>617</sup> attendentes quod tu, Talis de Tali loco, Talis diocesis, fuisti nobis (seu Talibus predecesoribus nostris) delatus de heretica prauitate,” – explicentur – “in quibus, vt legitime est compertum, fuisti confessione propria<sup>618</sup> iudicialiter ac<sup>619</sup> fidedignis testibus deprehensus et quod in illis persisteras tanto tempore animo indurato” – dicatur, prout fuit – “sed quod post sano consilio inherendo illas hereses publice abiurasti in Tali loco in forma ecclesie consueta, propter que predicti episcopus et iudex,<sup>620</sup> credentes te veraciter resillis ab erroribus antefatis<sup>c</sup> et ad gremium ecclesie, credendo catholice, aduolasse, tibi absolutionis beneficium impartirunt,<sup>621</sup> absoluentes te ab excommunicationis sententia qua astrictus in antea tenebaris, si tamen de corde vero et fide non ficta conuersus extiteris ad sancte ecclesie vnitatem, tibi salutarem penitentiam iniungentes | ad misericordiam receperunt, 242A quia ecclesia sancta dei <non><sup>d</sup> claudit gremium reuertenti. Verum post omnia antedicta fuisti nobis delatus, quod displicenter accepimus, quod iterum incideris in damnatas hereses per te publice in antea abiuratas (seu talia et talia commisisti contra abiurationem<sup>e</sup> prelibatam) in tue anime detrimentum,” – explicentur – “nosque quanquam displicentia

<sup>a</sup> Some verb like *obseruare* has to be supplied.

<sup>b</sup> The bracketed words appear in *Eym.* directly after *credere*, the word with which the direct quotation in the previous sentence ends. Presumably, these first few words of the section to be omitted were erroneously left in when the preceding twelve words were added after *credere* (cf. exactly the same mistake in 243D).

<sup>c</sup> So *Eym.*; ed. prin.: -latis

<sup>d</sup> So *Eym.*

<sup>e</sup> So *Eym.*; ed. prin.: -atam

<sup>614</sup> End

<sup>615</sup> Start of *Eym.* (519 2C-520 2A) (in *Eym.*'s original text this directly follows the preceding section)

<sup>616</sup> *Eym.* adds the heading: Forma relinquendi seu tradendi impenitentem hereticum et relapsum brachio seculari

<sup>617</sup> For iudex . . . domini *Eym.* has: frater N. ordinis predicatorum, inquisitor heretice prauitatis in terris talis domini a sancta sede apostolica specialiter delegatus

<sup>618</sup> *Eym.* adds: ac

<sup>619</sup> *Eym.*: et

<sup>620</sup> *Eym.*: inquisitor

<sup>621</sup> *Eym.* -ierunt

sauciati, quod de te talia audissemus, nihilominus iustitia nos cogente descendimus ad inquirendum, testes examinandum, teque vocandum et interrogandum, vt decebat, medio iuramento et ad faciendum omnia et singula que per nos fienda erant secundum canonica instituta. Sane cum vellemus presentem causam fine debito terminare, solenne tam peritorum in theologica facultate quam in iure canonico et ciuili consilium fecimus congregari, et habito cum predictis in et super omnibus et singulis in presenti causa productis, deductis, actis et actitatis consilio maturo pariter et digesto ac etiam replicato, visisque ac diligenter discussis<sup>622</sup> processus meritis huius cause ac omnibus <equa lance libratis>,<sup>a</sup> prout  
 242B ius et iustitia suadebant, conperimus<sup>623</sup> legitime tam per testes dignos fide quam per tuam confessionem propriam pluries per nos receptam te incidisse ac recidisse in hereses abiuratas. Nam reperimus quod talia et talia dixisti vel egisti” – explicentur omnia – “propter que et merito de predictorum consilio te habemus tuis exigentibus excessibus pro relapso secundum canonicas sanctiones, quod dolenter referimus et referendo dolemus – nouit ille qui nihil ignorat, cordium intima omnium intuetur – et cum totis nostris precordijs cuperemus, prout adhuc cupimus, te reducere ad sancte ecclesie vnitatem ac eneruare<sup>b</sup> a tuis visceribus prefatam hereticam prauitatem, vt sic saluares animam tuam ac mortem euaderes corporis et anime gehennalem, conatus nostros exercuimus, ad te salubriter conuertendum modos congruos varios adhibentes, sed tu in reprobum sensum datus maligno spiritu ductus pariter et seductus preelegisti torqueri diris ac perpetuis cruciatibus in infernum,<sup>c</sup> et hic<sup>d</sup> temporalibus ignibus corporaliter consumari quam adherendo consilio saniori ab erroribus damnabilibus ac pestiferis resilire et ad gremium  
 242C et ad<sup>624</sup> misericordiam | sancte matris ecclesie aduolare: ea propter cum ecclesia dei vltra non habeat erga te quid faciat, cum ad te conuertendum totum exercuit posse suum, nos, episcopus et<sup>625</sup> iudices in hac fidei causa memorati, sedentes pro tribunali more iudicum iudicantium, sacrosanctis euangelijs positis coram nobis, vt de vultu dei iudicium nostrum prodeat et oculi nostri videant equitatem, habentesque pre oculis

<sup>a</sup> *So Eym.*

<sup>b</sup> *So Eym.; ed. prin.: enumerare*

<sup>c</sup> *So Eym.; sc. inferno*

<sup>d</sup> *So Eym.; ed. prin.: hoc*

<sup>622</sup> *Eym.: inspectis*

<sup>623</sup> *Eym.: re-*

<sup>624</sup> *For et ad Eym. has: ac*

<sup>625</sup> *Eym. adds: inquisitor*

solum deum et honorem sancte fidei orthodoxe, hac die, hora et loco ad audiendam sententiam diffinitiuam tibi in antea assignatis te, Talem in nostra presentia constitutum, sententialiter condemnamus et condemnando iudicamus<sup>626</sup> esse veraciter impenitentem hereticum et relapsum et vt talem realiter tradendum seu relinquendum brachio seculari, et sic vt vere hereticum impenitentem pariter et relapsum per hanc nostram sententiam diffinitiuam de foro nostro ecclesiastico te projicimus et tradimus seu relinquimus brachio seculari ac potestati curie secularis, deprecantes efficaciter secularem curiam antefatam<sup>627</sup> quatenus citra sanguinis effusionem et mortis periculum erga te suam sententiam moderetur. Lata fuit hec sententia . . . <sup>628</sup>

242D

QUESTIO XXXI: SUPER CONUICTUM ET DEPREHENSUM,  
OMNIA TAMEN NEGANTEM

DUODECIMUS<sup>629</sup> MODUS PROCESSUM FIDEI terminandi et finiendi est quando delatus de heretica prauitate processus meritis diligenter discussis cum bono consilio in iure peritorum reperitur in heresim<sup>b</sup> deprehensus facti euidencia vel testium productione legitima, non tamen confessione propria, et hoc est quando ipse delatus conuincitur legitime de aliqua heretica prauitate vel facti euidencia, vtpote quia heresim publice practicauit<sup>630</sup> vel per testes legitimos contra quos excipere delatus legitime non potuit, tamen ipse sic conuictus et deprehensus persistit firmiter in negatiua [et confitetur constanter]<sup>c</sup> iuxta notata per Hostiensem in *Summa* (ti. "De hereticis" § "Qualiter quis in heresim<sup>d</sup> deprehendatur") et patuit supra (q. xxxiiiij).<sup>631</sup>

Circa istum talis practica est seruanda. Talis duro carcere est tenendus in compedibus et cathena, frequenter ab officialibus<sup>632</sup> | coniunctim et 243A

<sup>a</sup> *Ed. prin.*: -latam

<sup>b</sup> *Sc.* -i (so *Eym.*)

<sup>c</sup> *Mem.* (500) ends this passage at negatiua. After constanter *Eym.* adds: catholicam sanctam fidem. Jste talis, quandiu sic persistit in negatiua, hereticus impenitens est censendus, and since the meaning of confitetur used absolutely without the omitted words is contrary to the sense of the passage, I suspect that the words et confitetur constanter were meant to be included in the excision and were mistakenly left in the excerpt.

<sup>d</sup> *Sc.* -i (so *Eym.*)

<sup>626</sup> *Eym.* adds: te

<sup>627</sup> *Eym.*: predictam

<sup>628</sup> *End* (*Eym.* adds: etc.)

<sup>629</sup> *Start of Eym.* (521 2C-524 2A) (in *Eym.*'s original text this directly follows the preceding section)

<sup>630</sup> *Eym.*: predicauit

<sup>631</sup> *Eym.*: par. ij, q. xxxiiiij

<sup>632</sup> *Eym.*: episcopo et inquisitore

diuisim et per se et per alios et efficaciter admonendus quod eis detegat veritatem, indicendo<sup>633</sup> ei quod sic faciat et confiteatur errorem suum, quod ad misericordiam admittetur, abiurando<sup>a</sup> primitus illam hereticam prauitatem; si autem noluerit sed steterit in negatiua, quod ad finem relinquatur brachio seculari et mortem non poterit euadere temporalem.

Quod si diutius informatus<sup>b</sup> et expectatus steterit in negatiua, episcopus et officiales<sup>634</sup> modo coniunctim, modo diuisim, nunc per se, nunc per alios probos viros, trahant ad se modo vnum testem, modo alium, informando eum vt attendat quid deposuit, et si dixit verum vel non, quia non seipsum damnat eternaliter et alium temporaliter,<sup>635</sup> et quod vereatur saltem eis secrete dicere, ne ille delatus moriatur iniuste. Et verba talia studeant ei<sup>636</sup> dicere, vt clare videant si deposuerunt veritatem necne.

243B Quod si testes sic<sup>c</sup> informati steterint in affirmatiua et delatus in negatiua, nec ad<sup>637</sup> hoc statim velint episcopus et officiales<sup>638</sup> negocium per sententiam determinare et<sup>639</sup> tradendo taliter deprehensum brachio seculari, sed diutius eum teneant, nunc inducendo | deprehensum ad affirmatiuam, nunc testes, diuisim tamen, ad excutiendum bene conscientiam suam. Et singulariter attendant episcopus et officiales<sup>640</sup> ad illum testem quem viderint melius dispositum ad bonum et qui videatur melioris conscientie, et circa illum instent diutius, si res ita se habuit vt deposuit necne, eius conscientiam onerando. Et si viderint testem aliquem vacillare vel alias habeant indicia contra eum propter que suspensus quod falsitatem dixerit merito habeatur, de bono consilio peritorum arrestent eum et procedant vt iustitia suadebit.

Compertum nanque est frequenter et frequentius quod sic deprehensus testibus fidedignis, postquam in negatiua diu perstitit, ad cor reductus, presertim veraciter informatus quod non tradetur brachio seculari sed ad misericordiam admittitur, suam detegit prauitatem et veritatem, quam iam diutius negauit, tunc libere confitetur. Et frequenter reperitur quod testes malitia agitati ac inimicicia superati se adinuicem

<sup>a</sup> *So Eym.; ed. prin.:* ad-

<sup>b</sup> *So Eym.; ed. prin.:* infamatus

<sup>c</sup> *So Eym.; ed. prin.:* sicut (*presumably a mistaken expansion of the abbreviation sic*)

<sup>633</sup> *Eym.:* -ando

<sup>634</sup> *Eym.:* inquisitor

<sup>635</sup> *For quia . . . temporaliter Eym. has:* quia si non, seipsum damnat eternaliter et alium temporaliter

<sup>636</sup> *Not in Eym.*

<sup>637</sup> *Eym.:* ex

<sup>638</sup> *Eym.:* inquisitor

<sup>639</sup> *Not in Eym.*

<sup>640</sup> *Eym.:* inquisitor

colligarunt ad imponendum insonti hereticam prauitatem, postque<sup>a</sup> ad informationem frequentem episcopi et officiales<sup>b.641</sup> remorsu conscientie fatigati ac diuinitus inspirati reuocant quod<sup>c</sup> dixerunt et fatentur malitiose se illi imposuisse tantam labem, propter quod talis et taliter deprehensus non est per sententiam festinandus sed diutius, quia per vnum annum et plures expectandus, antequam sic tradatur curie seculari. 243C

Quo expectato tempore competenti et adhibita diligentia condecanti, si sic delatus legitime deprehensus recognouerit culpam suam ac confessus fuerit iudicialiter se fuisse illaqueatum tanto tempore prefata heretica prauitate, ac illam<sup>d</sup> ac omnem heresim consenserit<sup>642</sup> abiurare et satisfactionem<sup>e</sup> ad arbitrium episcopi et inquisitoris congruam<sup>f</sup> exhibere, tanquam in heresim<sup>g</sup> deprehensus et propria confessione et testimonii legitima productione vt hereticus penitens abiuret omnem heresim publice per formam de qua agitur octauo modo supra posito processum fidei terminandi.<sup>643</sup>

Si vero sit<sup>h</sup> confessus quod incidit sic in heresim, sed stat in illa animo pertinaci, vt impenitens relinquatur brachio seculari, et agatur circa illum per modum quo supra agitur in decimo modo processum fidei terminandi, | vbi de talibus agitur. 243D

Si autem ipse deprehensus steterit constanter in negatiua, sed ipsi testes resilierint<sup>644</sup> a sua affirmatiua, suum testimonium reuocando ac culpam suam recognoscendo, quia insonti tantam labem imposuerunt rancore et odio agitati, prece seu pretio seducti, ipso<sup>i</sup> delato vt immune a iudicio relaxato punientur ipsi vt falsi testes, accusantes seu deferentes, vt notat Paulus super c. "Multorum" et verbo "Illos" in principio ("De hereticis" in *Clementinis*), et feretur sententia seu penitentia contra eos<sup>645</sup> ad arbitrium episcopi et iudicum, omnino tamen

<sup>a</sup> *Ed. prin.*: postq̄ (=postquam); *Eym.*: postea vero

<sup>b</sup> *Sc.* -ium

<sup>c</sup> *So Eym.*; *ed. prin.*: qua

<sup>d</sup> *So Eym.*; *ed. prin.*: -a

<sup>e</sup> *So Eym.*; *ed. prin.*: -facere

<sup>f</sup> *So Eym.*; *ed. prin.*: -um

<sup>g</sup> *Sc.* -i (*so Eym.*)

<sup>h</sup> *So Eym.*; *ed. prin.*: sic

<sup>i</sup> *Ed. prin.*: -e

<sup>641</sup> *Eym.*: inquisitoris

<sup>642</sup> *Eym.*: non contempserit

<sup>643</sup> *Eym. adds.*: vbi de talibus agitur

<sup>644</sup> *Eym.*: -erunt

<sup>645</sup> *Pause (Eym. then gives an extensive formula for sentencing false witnesses, which is greatly abridged)*

ad<sup>646</sup> perpetuos carceres tales falsos testes condemnando et in pane et in aqua ad dies vite penitentiando, ponendo etiam post ad scalas ante portas ecclesie tales etc. Habent tamen potestatem episcopi mitigare aut etiam aggrauare post annum et tempora.<sup>647</sup> [per formam tenoris sequentis]<sup>a</sup>

SI<sup>648</sup> AUTEM TALITER DEPREHENSUS per annum vel<sup>649</sup> plus vel alio maiori congruo tempore expectatus perstiterit in negatiua continue, et testes legitimi in affirmatiua, disponant se episcopus et iudices<sup>650</sup>  
 244A ad relinquendum eundem brachio seculari, mittendo eidem aliquos probos viros, fidei zelatores, et presertim religiosos, eidem non ingratos sed familiares et gratos, qui sibi indicent quod mortem non potest euadere temporalem dum sic stat in negatiua, sed tradetur tali die vt hereticus impenitens potestati curie secularis. Et nihilominus episcopus et officiales mittant<sup>b</sup> balliuo<sup>c</sup> seu potestati curie secularis quatenus tali die et hora et in tali loco, extra ecclesiam tamen, veniat cum familia sua ad recipiendum quendam hereticum impenitentem, quem tradent ei, et etiam quod faciet<sup>651</sup> publice preconisari in locis illis in quibus preconisationes alie fieri consueuerunt, quod omnes sint tali die et hora in tali loco ad audiendum sermonem quem predicator<sup>652</sup> faciet de fide, et tradent episcopus et officiales<sup>653</sup> quendam hereticum pertinacem brachio seculari.

Adueniente autem die predicta ad ferendum sententiam assignata<sup>d</sup> erunt episcopus et officiales<sup>654</sup> in loco predicto, ipso tradendo ibidem

<sup>a</sup> The bracketed words appear in *Eym.* directly after *contra eos*, the words with which the immediately preceding direct quotation end. Presumably, these first few words of the section to be omitted were erroneously left in when the paraphrase was inserted after *contra eos* (cf. exactly the same mistake in 241 D).

<sup>b</sup> *So Eym.; ed. prin.:* -at

<sup>c</sup> *Ed. prin.:* -no

<sup>d</sup> *So Eym.; ed. prin.:* -ā

<sup>646</sup> *Start of paraphrase of Eym. (523 1C; part of the omitted sentence to be passed against a false witness):* . . . ad carcerem perpetuum talem . . . condemnamus, in quo sub vinculis ferreis in pane doloris et aqua angustie quandiu vixeris agas penitentiam de premissis . . . et nihilominus quod statim ponaris et eleueris in scala in tali ecclesia, in tali porta huius ecclesie . . . reseruantes nobis . . . quatenus dictam penitentiam libere valeamus mitigare, relaxare, aggrauare et mutare, si et quando et quotiens nobis visum fuerit faciendum.

<sup>647</sup> *End of paraphrase*

<sup>648</sup> *Direct quotation resumed (523 1D)*

<sup>649</sup> *Eym.:* seu

<sup>650</sup> *Eym.:* inquisitor

<sup>651</sup> *Eym.:* -iat

<sup>652</sup> *Eym.:* inquisitor

<sup>653</sup> *Eym.:* inquisitor

<sup>654</sup> *Eym.:* inquisitor

existente in alto, clero et populo congregato, vt eminenter ab omnibus videatur ac presente potestate curie secularis, stante<sup>a</sup> ipso tradendo.<sup>655</sup>

Quibus<sup>656</sup> | lectis feretur sententia per hunc modum.

244B

“NOS, MISERATIONE DIUINA EPISCOPUS Talis ciuitatis (aut iudex in terris Talis domini),<sup>657</sup> attendentes quod tu, Talis de Tali loco, Talis diocesis, fuisti nobis delatus de tali heretica prauitate” – exprimantur – “et vellemus<sup>b</sup> certiorari an<sup>658</sup> ea que de te et contra te nobis dicta fuerant veritate aliqua fulcirentur et an tu ambulares in tenebris aut in luce, descendimus ad nos informandum, testes diligenter examinandum teque vocandum ac interrogandum sepius medio iuramento defensionesque exhibendum ac ad omnia et singula faciendum que per nos fienda erant secundum canonicas sanctiones. Verum cum vellemus presens tuum negocium fine debito terminare, solenne consilium tam in theologica facultate quam in iure canonico et ciuili <peritorum><sup>c</sup> coram nobis fecimus congregari, et visis ac diligenter discussis processus meritis et omnibus et singulis in presenti causa productis, deductis, actis et actitatis,<sup>659</sup> predictorum consilio digesto pariter et maturo, reperimus contra te | legitime probatum quod<sup>244C</sup> fuisti tanto tempore infectus heretica prauitate, et iam<sup>660</sup> reperimus quod fecisti et dixisti talia et talia” – exprimantur – “ex quibus apparet manifeste quod es legitime deprehensus in predictam hereticam prauitatem.<sup>d</sup> Sane cum cuperemus, prout adhuc cupimus, te veritatem fatendo resilire ab heresi antedicta et reduci ad gremium ecclesie sancte ac ad sancte fidei vnitatem, vt sic saluares animam tuam et tam anime quam corporis mortem euaderes gehennalem tam per nos quam per alios nostram diligentiam exercentes ac te per<sup>e</sup> longa tempora expectantes, tu, in reprobum sensum datus, contempsisti acquiescere nostro consilio saniori, imo perstitisti et persistis in negatiua pertinacia

<sup>a</sup> So *Eym.*; *ed. prin.*: stando

<sup>b</sup> So *Eym.* (!); *sc.* volentes (cf. 235B, 237A, 241A)

<sup>c</sup> Not in *Eym.* (!), but clearly necessary (cf. 237B, 239C, 242A, 247C)

<sup>d</sup> *Sc.* predicta heretica prauitate (so *Eym.*)

<sup>e</sup> So *Eym.*; *ed. prin.*: per te

<sup>655</sup> *Pause* (*Eym.* then gives procedural details)

<sup>656</sup> *Resume* (523 2C)

<sup>657</sup> For aut . . . domini *Eym. has:* et frater N. ordinis predicatorum, inquisitor heretice prauitatis in terris talis domini ditioni subiectis a sancta sede apostolica specialiter delegatus

<sup>658</sup> *Eym.*: in (surely a misprint)

<sup>659</sup> *Eym. adds:* equa lance libratis

<sup>660</sup> For et iam *Eym. has:* nam

ac contumacia<sup>661</sup> animo indurato, quod dolentes referimus et referendo plangimus ac dolemus. Verum cum ecclesia dei tanto tempore expectauerit quatenus resilires, recognoscendo propriam tuam culpam, et nolueris neque velis, et non habeat vltra quid tibi gratie faciat ac mercedis: ea propter, vt sis certis in exemplum, et alij ab huiusmodi heresibus  
 244D) arceantur, et tanta facinora non remaneant impunita, nos, episcopus et iudices<sup>662</sup> in causa fidei memorati, sedentes pro tribunali more iudicum iudicantium, sacrosanctis euangelijs positis coram nobis, vt de vultu dei iudicium nostrum prodeat et oculi nostri videant equitatem, habentes pre oculis solum deum et sancte fidei gloriam et honorem, te, Talem, in nostra presentia constitutum, hac die hora et loco ad audiendam diffinitiuam sententiam assignatis diffinimus, declaramus ac sententiamus te esse hereticum impenitentem tradendum seu relinquendum vt talem brachio seculari ac<sup>663</sup> per nostram sententiam vt vere hereticum pertinacem et<sup>664</sup> impenitentem a foro ecclesiastico te proijcimus et tradimus seu relinquimus brachio seculari ac potestati curie secularis, eandem curiam secularem efficaciter deprecantes quatenus circa te citra sanguinis effusionem et mortis pericula suam sententiam moderetur. Lata est hec sententia . . . ”<sup>665</sup>

POTERUNT<sup>666</sup> AUTEM EPISCOPUS ET iudices<sup>667</sup> disponere quod  
 245A) aliqui probi viri, fidei zelatores, ipsi relicto curie | seculari non ingratos<sup>a</sup> sed familiares et gratos<sup>b</sup> associent dictum relictum dum curia secularis in eum suum officium exequetur, qui eum consolentur et adhuc inducant quod fatendo veritatem et recognoscendo culpam suam, resiliat ab erroribus suis.

Quod si forsan post sententiam et iam relictus ad locum vbi est comburendus deductus dixerit se velle fateri veritatem et recognoscere culpam suam, et ita fecerit ac<sup>668</sup> paratus fuerit huiusmodi heresim et omnem aliam abiurare, licet presumatur quod hoc faciat plus metu mortis quam amore veritatis, crederem<sup>669</sup> quod ex<sup>670</sup> misericordia possit recipi vt

<sup>a</sup> Sc. -i (so Eym.)

<sup>b</sup> Sc. -i (so Eym.)

<sup>661</sup> For pertinacia . . . contumacia Eym. has: pertinaciter

<sup>662</sup> Eym.: inquisitor

<sup>663</sup> Eym.: et

<sup>664</sup> Eym.: ac

<sup>665</sup> Pause (Eym. adds: etc., then gives a short paragraph on the indulgence to be given to the audience)

<sup>666</sup> Resume (524 1D)

<sup>667</sup> Eym.: inquisitor

<sup>668</sup> Eym.: et

<sup>669</sup> Eym. adds: vt dicta est supra in decimo modo processum fidei terminandi

<sup>670</sup> Eym.: de

hereticus penitens et perpetuo immurari iuxta glosam super c. "Ad abolendam," § "Presenti" et verbo "audientia" et c. "Excommunicamus" ij ("De hereticis"), quanuis<sup>671</sup> de rigore iuris nec tali conuersioni<sup>672</sup> est magna fides a iudicibus fidei adhibenda,<sup>673, 674</sup> imo et propter damna temporalia illata ipsum semper punire possunt.

QUESTIO XXXIJ: SUPER CONUICTUM SED FUGITIUM VEL  
SE CONTUMACITER ABSENTANTEM

TREDECIMUS<sup>675</sup> ET VLTIMUS MODUS processum fidei terminandi <sup>245B</sup>  
et sentiendi<sup>676</sup> est quando delatus de heretica prauitate processus  
meritis diligenter discussis cum bono consilio in iure peritorum reperitur  
conuictus de heretica prauitate, est tamen fugitiuus seu absens  
contumaciter, sed congruo tempore expectatus, et hoc est in tribus  
casibus. Primus est quando delatus est deprehensus in heresim<sup>a</sup> vel confessione  
propria vel facti euidencia vel testium productione legitima, sed fugerit<sup>677</sup>  
vel se absentauerit<sup>678</sup> et citatus legitime noluerit<sup>679</sup> comparere. Secundus  
casus est quando aliquis est delatus<sup>680</sup> et receptus<sup>b</sup> aliquali informatione  
contra eum habetur aliquid seu leuiter suspectus et sic citatur<sup>c</sup> responsurus  
de fide, et quia rennuuit contumaciter comparere, excommunicatur, et  
excommunicatus sustinet illam excommunicationem<sup>681</sup> animo pertinaci et  
semper contumaciter se absentat. Tercius casus est quando aliquis impediuit  
directe<sup>682</sup> sententiam seu processum fidei episcopi vel iudicum<sup>683</sup> vel qui ad hoc  
dederit auxilium, consilium <sup>245C</sup>  
vel fauorem: talis est excommunicationis mucrone percussus, quam si  
sustinuerit per annum animo indurato, extunc est vt hereticus condemnandus  
per c. "Vt inquisitionis" § "Prohibemus." ("De hereticis," *Libro*

<sup>a</sup> Sc. -i (so Eym.)

<sup>b</sup> Sc. -a (so Eym. and Mem. [503]) (cf. the same mistake appears in 246B)

<sup>c</sup> So Eym. and Mem. (503); ed. prin.: -etur

<sup>671</sup> Eym. adds: non vt puto

<sup>672</sup> Eym. adds: vt dictum est ibi

<sup>673</sup> adhibenda placed after fides in Eym.

<sup>674</sup> End

<sup>675</sup> Start of Eym. (528 2C-531 1A) (in Eym.3 original text this directly follows the preceding section)

<sup>676</sup> So 100 Mem. (503); Eym.: finiendi

<sup>677</sup> Eym. and Mem. (503): fugit

<sup>678</sup> Eym. and Mem. (503): absentauit

<sup>679</sup> Eym. and Mem. (503): noluit

<sup>680</sup> Eym. and Mem. (503) add: de heretica prauitate

<sup>681</sup> So 100 Mem. (503); Eym. adds: per annum

<sup>682</sup> So 100 Mem. (503); Eym. adds: iudicium

<sup>683</sup> Eym.: inquisitoris

*Sexto*) [et contumaciter se absentauit].<sup>a</sup> In primo casu ille talis est impenitens hereticus condemnandus iuxta c. “Ad abolendam” § “Presenti;” in secundo casu et tercio non est hereticus impenitens iudicandus, sed tanquam seu vt penitens hereticus condemnandus iuxta c. “Cum contumacia” et per c. “Vt inquisitionis” § “Prohibemus” (“De hereticis,” *Libro Sexto*).

Circa quemlibet istorum talis practica est seruanda. Talis enim congruo tempore expectatus citetur per episcopum et officialem<sup>684</sup> in ecclesia cathedrali illius diocesis in qua<sup>b</sup> deliquit et in alijs ecclesijs illius loci vbi domicilium contrahebat et specialiter vnde fugit, et citabitur per formam tenoris sequentis.<sup>685</sup>

“NOS, N(OMEN), MISERATIONE DIUINA episcopus Talis ciuitatis” – etc. – “(aut iudex)<sup>686</sup> <Tali><sup>c</sup> Talis diocesis spiritum consilij sanioris. 245D Pre<sup>d</sup> cunctis nostre mentis desiderabilibus | illud potissimum infigitur cordi nostro ne temporibus nostris in dicta Tali diocesi vberem florentemque ecclesiam, vineam, inquam, domini Sabaoth, quam summi patris dextera virtuosius<sup>e</sup> complantauit, quam eiusdem patris filius proprij ac viuifici vnda cruoris vberius irrigauit, quam ipse almus spiritus paraclitus miris ineffabilibusque donis intimius<sup>f</sup> fecundauit, quam tota ipsa incomprehensibilis atque inattingibilis trinitas beata grandissimis varijsque priuilegijs sanctius dotauit pariterque ditauit, aper de silua, qui est et dicitur hereticus quilibet, absorbeat et depascat, fructus fidei vberes deuastando ac lacerantes heresum<sup>g</sup> vepres palmitibus inserendo serpensque tortuosus nostri improbus humani generis inimicus, efflans virus, qui est Sathanas et diabolus, eiusdem vinee dominice palmites inficiat atque fructus virus prauitatis heretice immittendo. Nec<sup>687</sup> etiam ager ipse dominicus, populus, inquam, catholicus, ad quem excolendum

<sup>a</sup> Not in *Eym. or Mem.* (503), this clause makes no sense here and presumably has been in some way erroneously inserted here on the model of the preceding sentence.

<sup>b</sup> *Ed. prin.*: -o

<sup>c</sup> So *Eym.*, who continues: seu talis ordinis seu religionis; presumably when the latter text was excised, tali was also accidentally removed (though indispensable to the sense).

<sup>d</sup> So *Eym.*; *ed. prin.*: preterea

<sup>e</sup> So *Eym.*; *ed. prin.*: -osis

<sup>f</sup> So *Eym.*; *ed. prin.*: -mus

<sup>g</sup> So *Eym.*; *ed. prin.*: -im

<sup>684</sup> *Eym.*: inquisitorem

<sup>685</sup> *Eym.* adds the heading: Forma citandi conuictum de heresi absentem vel fugitiuum contumacem ad sententiam

<sup>686</sup> For etc. . . iudex *Eym. has*: et frater N., inquisitor heretice prauitatis in terris Talis domini ditioni subiectis a sancta sede apostolica specialiter delegatus

<sup>687</sup> *Eym.*: ne

pariter et serendum descendit de summorum polorum arce dei | patris 246A  
 vnigenitus atque primogenitus: seminavit miris sanctisque predicationibus, discurrit per villas et castella, docens non sine magnis fatigationibus, elegit apostolos viros vtrique operarios industrios ac conduxit, ditans illos eternis retributionibus, expectans ipse dei filius de agro isto magno illo<sup>a</sup> die iudicij extremo vberes manipulos colligere et per manus sanctorum angelorum recondere in celesti horreo sancto suo, Sampsonisque vulpecule incertate,<sup>b</sup> que, sicut persone labe heretica deprauate, facies quidem habentes diuersas sed caudas ignitas adinuicem colligatas, quia de varietate<sup>688</sup> flamme conueniunt in id ipsum: segetem dominicam iam albam ad messem, splendoribus fidei relucentem morsu amarissimo demoliantur ac discursu subtilissimo perdant<sup>c</sup> impetuque validissimo accedant pariter et accendant, dissipent et deuastant, sinceritatem sancte fidei catholice subtiliter et damnabiliter subuertendo.

“Ea propter cum tu, Talis, incideris in damnatas hereses maleficarum illas publice in Tali loco practiando<sup>689</sup> (seu taliter)” – dicatur – “(seu fueris per testes legitimos conuictus de heretica prauitate siue propria 246B deprehensus confessione in iudicio per nos receptus)<sup>d</sup> et post captus fugeris, medicinam refutans salutarem, citauerimus<sup>690</sup> te vt de et super his coram nobis manifestius responderes, tuque ductus maligno spiritu pariter et seductus renueris<sup>e</sup> comparere.” Vel sic: “Ea propter cum tu, Talis, delatus nobis de heretica prauitate et recepta informatione contra te alias de eadem esses nobis suspectus leuiter quoniam<sup>691</sup> fores infectus labe predicta, citauimus te quatenus coram nobis personaliter compareres<sup>f</sup> de fide catholica responsurus, cumque citatus renueris comparere contumaciter, excommunicauimus te ac excommunicatum fecimus publicari, in qua<sup>692</sup> stetit per annum (seu annos tot) animo pertinaci, latitans <fugiens hinc><sup>g</sup> et inde, ita quod nunc quo te duxerit spiritus malignus ignoramus, et cum te expectauerimus misericorditer et

<sup>a</sup> So *Eym.*: ed. *prin.*: -a

<sup>b</sup> Meaningless distortion of the correct reading of *Eym.*: intricate

<sup>c</sup> So *Eym.*: ed. *prin.*: -gant

<sup>d</sup> *Sc.* -a (so *Eym.*) (cf. same mistake in 245B)

<sup>e</sup> *Ed. prin.*: renuu-

<sup>f</sup> So *Eym.*: ed. *prin.*: comparēs

<sup>g</sup> So *Eym.*

<sup>688</sup> *Eym.*: vanitate

<sup>689</sup> For in . . . practicing *Eym.* has: damnatas hereses manifeste, illas publice in tali ecclesia predicando (the necessary change of hereses to the singular was neglected in the adaptation)

<sup>690</sup> *Eym.* adds: vero

<sup>691</sup> *Eym.*: quod

<sup>692</sup> *Eym.* adds: excommunicatione

benigne vt reuertereris<sup>a</sup> ad gremium <ecclesie sancte dei et ad><sup>b</sup> sancte fidei vnitatem, tu facere contempsisti, in reprobum sensum datus. Sane  
 246C volumus,<sup>c</sup> vt tenemur, iustitia nos cogente causam tuam huiusmodi fine debito terminare, nec valeamus tam nephanda crimina conuiuentibus<sup>d</sup> oculis tolerare: nos episcopus et<sup>693</sup> iudices in causis fidei supradictis te, Talem, sepe fatum latitantem profugum et fugitium, per presens nostrum edictum publicum requirimus pariter et citamus peremptorie<sup>e</sup> quatenus die tali talis mensis de tali anno in tali ecclesia cathedrali Talis diocesis hora terciarum compareas pesonaliter coram nobis diffinitiuam sententiam auditurus, significantes quod siue comparueris siue non, procedemus ad nostram diffinitiuam sententiam contra te, prout ius et iustitia suadebunt.

“Et vt prius nostra citatio perueniat ad tui noticiam nec valeas ignorantie velamine te tueri, presentes literas dictas requisitionem et citationem nostras in se continentes volumus et mandamus affigi in valuis publice talis predicte ecclesie cathedralis.

“In quorum testimonium singulorum presentes nostras literas impressione nostrorum sigillorum iussimus communiri.

“Datum . . . ”<sup>694</sup>

ADUENIENTE AUTEM DIE PREFIXA ad audiendam diffinitiuam  
 246D sententiam assignata, si profugus comparuerit et consenserit | publice omnem heresim abiurare, humiliter petens<sup>f</sup> admitti ad misericordiam postulando, si relapsus non fuerit, admittetur. Et si fuerit deprehensus propria confessione vel testium legitima productione, abiurabit et penitebit vt hereticus penitens secundum modum<sup>695</sup> quo agitur supra in octauo modo processum fidei terminandi, vbi de talibus agitur.

Sed si fuerit suspectus violenter, ita quod citatus responsurus de fide noluit comparere<sup>g</sup> et fuit ex hoc excommunicatus et stetit in excommunicatione per annum animo pertinaci et penitebit, admittetur et abiurabit

<sup>a</sup> *So Eym.; ed. prin.:* -uerteris

<sup>b</sup> *So Eym.*

<sup>c</sup> *Sc. cum velimus (so Eym.)*

<sup>d</sup> *Ed. prin.:* conuiuent-

<sup>e</sup> *So Eym.; ed. prin.:* -emptf

<sup>f</sup> *So ed. prin., Mem. (503); Eym.:* penitens

<sup>g</sup> *So Eym. and Mem. (503); ed. prin.:* -are

<sup>693</sup> *Eym. adds:* inquisitor

<sup>694</sup> *Eym. adds:* etc.

<sup>695</sup> *So 100 Mem. (503); Eym. adds:* de

omnem heresim et penitebit vt hereticus suspectus de heresi violenter penitens secundum modum<sup>696</sup> quo agitur supra in sexto modo processum fidei terminandi.

Si autem comparuerit et non consenserit abiurare, tradetur <vt><sup>a</sup> verus hereticus impenitens brachio seculari per modum<sup>697</sup> quo dictum est supra, et agitur in decimo modo processum fidei terminandi.

Si autem contumaciter rennerit comparere,<sup>698</sup> tunc formetur sententia<sup>699</sup> per modum tenoris sequentis.<sup>700</sup>

“NOS, N(OMEN), EPISCOPUS MISERATIONE diuina Talis ciuitatis,<sup>b</sup> attendentes quod tu, Talis de Tali loco, Talis diocesis, fuisti nobis | de 247A heretica prauitate fama publica referente (seu fide dignorum insinuatione) delatus, nos quibus ex officio decumbit,<sup>701</sup> descendimus ad videndum ac inquirendum an clamor qui ad aures nostras peruenerat veritate aliqua fulciretur,<sup>702</sup> verum cum inuenissemus te in heresim<sup>c</sup> deprehensum deponentibus contra te quampluribus testibus fidedignis, te coram nobis aduocatum iussimus detineri.”<sup>703</sup> Dicatur, sicut factum fuit, an videlicet comparuerit et medio iuramento interrogatus fassus fuerit vel non.<sup>704</sup> “Sed<sup>705</sup> post maligni spiritus consilio ductus et seductus metuens tua vulnera vino et oleo salubriter confoueri,<sup>706</sup> aufugisti,” – aut ponatur, si ita est – “carcerem<sup>707</sup> et arrestum fregisti pariter et aufugisti, latitans hinc et inde, et quo te malignus spiritus duxerit antefatus totaliter ignoramus.” Vel sic: “Verum cum inuenissemus contra te” – taliter vt predicatur – “nobis delatum de heretica prauitate multa indicia propter que suspectum leuiter de heretica prauitate predicta te merito habeamus,

<sup>a</sup> So *Eym. and Mem.* (504)

<sup>b</sup> *Eym. adds:* et frater N., inquisitor heretice prauitatis in terris talis domini ditioni subiectis a sancta sede apostolica specialiter delegatus: *presumably, this was to be replaced with the usual et iudex (vel sim.), but the new text was inadvertently left out.*

<sup>c</sup> Sc. -i (so *Eym.*)

<sup>696</sup> So 100 Mem. (504); *Eym. adds:* de

<sup>697</sup> So 100 Mem. (504); *Eym. adds:* de

<sup>698</sup> *Pause (Eym. then gives procedural details about degrading a heretical cleric)*

<sup>699</sup> *Resume (530 1E)*

<sup>700</sup> *Eym. adds the heading:* Forma ferendi sententiam contra absentem vel fugitiuum declarandum hereticum impenitentem

<sup>701</sup> *Eym.:* in-

<sup>702</sup> *Eym. adds:* et an tu sic delatus ambulares in tenebris vel in luce

<sup>703</sup> *Pause*

<sup>704</sup> *This sentence is a paraphrase of the bishop's recapitulation of the fugitive's confession, which ends:* dicatur vt fuit

<sup>705</sup> *Resume (530 2B)*

<sup>706</sup> *Pause*

<sup>707</sup> *Resume*

- 247B citauimus te per | publicum edictum in talibus et talibus ecclesijs Talis diocesis quatenus infra certum terminum nobis<sup>a</sup>, <sup>708</sup> prefixum coram nobis in Tali loco personaliter compareres in et super predictis contra te depositis et alias de fide catholica et eius articulis responsurus, tu vero insano consilio adherendo<sup>709</sup> rennuisti contumaciter comparere, cunque iusticia exigente te excommunicauerimus ac fecerimus excommunicatum publice denunciari, tu medicinam refutas<sup>710</sup> salutarem, dictam excommunicationem vltra quam per annum sustinuisti et adhuc sustines, in reprobum sensum datus, animo pertinaci et profugus latitans hinc et inde,<sup>711</sup> vt quo te malignus spiritus duxerit, ignoramus. Sane cum longo tempore, quia tanto die,<sup>b</sup> te expectauerit ecclesia sancta dei misericorditer et benigne quatenus ad eius misericordie gremium euolares, ab erroribus resiliendo et iuxta fidem catholicam professam operando,<sup>712</sup> ipsaque te clementie<sup>c</sup> vberibus enutriet, malignorum seductus consilio
- 247C acquiescere recusasti, in tua pertinacia perseuerans. Verum | cum velle-mus, prout volumus et debemus iusticia nos cogente, causam tuam fine debito per sententiam terminare, citauimus te quatenus hac die et hora et hoc loco compareres personaliter coram nobis diffinitiuam sententiam auditurus, et quia rennuisti contumaciter comparere, merito te ostendis velle perpetuo in tuis heresibus et erroribus remanere, quod dolentes referimus et referendo dolemus. Sed cum non possimus<sup>d</sup> nec velimus iusticiam subterfugere, nec tantam inobedientiam et contumaciam ad dei ecclesiam tollerare, ad exaltationem fidei orthodoxe<sup>713</sup> et ad extirpationem heretice prauitatis, iusticia exigente et tua inobedientia et<sup>714</sup> contumacia requirente, hac die, hora et loco tibi in antea ad audiendam diffinitiuam sententiam peremptorie<sup>e</sup> assignatis, prehabito multorum consilio peritorum tam in theologica facultate quam in iure canonico et ciuili,<sup>715</sup> processus meritis visis et diligenter discussis,<sup>716</sup> sedentes

<sup>a</sup> Sc. a nobis

<sup>b</sup> Eym: tandiu; the variant tanto quanto may have something to do with the false reading here.

<sup>c</sup> So Eym.; ed. prin.: -a

<sup>d</sup> So Eym.; ed. prin.: -sumus

<sup>e</sup> So Eym.; ed. prin.: -emptf

<sup>708</sup> Eym.: per nos

<sup>709</sup> Eym.: in-

<sup>710</sup> Eym.: -ans

<sup>711</sup> Eym. adds: ita

<sup>712</sup> For iuxta . . . operando Eym. has: fidem catholicam profitendo

<sup>713</sup> Eym.: catholice

<sup>714</sup> Eym.: ac

<sup>715</sup> For tam . . . ciuili Eym. has: tam in iure canonico quam in theologie facultate siue in iure ciuile

<sup>716</sup> Eym. adds: omnibusque in eis contentis equa lance libratis, nos

pro tribunali more iudicum iudicantium, sacrosanctis euangelijs | positis <sup>247D</sup>  
 coram nobis vt de vultu dei iudicium nostrum prodeat et oculi nos-  
 tri videant equitatem, habentesque pre oculis solum deum et sancte  
 fidei irrefregabilem veritatem, contra te, Talem, absentem vt presentem,  
 beati Pauli apostoli vestigia imitantes, sententiam diffinitiuam taliter  
 ferimus in his scriptis: Christi nomine inuocato, nos, episcopus, et<sup>717</sup>  
 iudices in causa fidei memorati, attendentes in causa ista fidei ac pro-  
 cessibus inde confectis ordinem iuris fore seruatum, attendentes etiam  
 quod legitime citatus non comparuisti nec per te nec per alium te ali-  
 qualiter excusasti, attendentes etiam quod in prefatis heresibus longo  
 tempore contumaciter perstitisti et adhuc etiam perseueras ac excom-  
 municationem per tot annos in causa fidei sustinuisti, prout et nunc  
 sustines, animo indurato, attendentes etiam quod ecclesia sancta dei  
 non habet vltra erga te quid faciat, cum perseueres et perseuerare velis  
 in excommunicatione et heresibus prelibatis: ea propter beati Pauli apo-  
 stoli vestigia sectantes declaramus, diffinimus ac sententiamus te, Talem, <sup>248A</sup>  
 absentem vt presentem esse hereticum pertinacem et vt talem relinquen-  
 dum brachio seculari, et per nostram sententiam diffinitiuam te a foro  
 ecclesiastico expellimus et relinquimus potestati curie secularis, eandem  
 curiam affectuose deprecantes vt si quando te habuerit in sua potestate,  
 erga te citra<sup>a</sup> sanguinis effusionem et mortis periculum suam sententiam  
 moderetur.

“Lata fuit hec sententia etc.”

Considerandum est hic quod si iste profugus et contumax fuerit de-  
 prehensus in heresi<sup>718</sup> vel propria confessione vel testibus legitimis, et  
 ante abiurationem fugit,<sup>719</sup> est per sententiam vere hereticus impenitens  
 iudicandus, et ita in sententia ponendum est. Si autem aliter non fuit de-  
 prehensus nisi quia delatus et suspectus habitus fuit citatus responsurus  
 de fide, et quia rennuit comparere, fuit excommunicatus, et in excom-  
 municatione stetit vltra quam per annum animo indurato et tandem  
 noluit<sup>720</sup> comparere, iste non est iudicandus hereticus sed | vt hereticus <sup>248B</sup>  
 et vt talis<sup>721</sup> condemnandus, et ita ponendum est in sententia, vt dictum  
 est prius.<sup>722</sup>

<sup>a</sup> *Bebringer et al. (2000) 769 n. 429 suggest ultra, but the whole phrase is formulaic (cf. 240A, 241C, 242C, 244D), and their reasoning is unclear to me.*

<sup>717</sup> *Eym. adds: inquisitor*

<sup>718</sup> *Eym.: -im*

<sup>719</sup> *Eym.: au-*

<sup>720</sup> *Eym.: noluerit*

<sup>721</sup> *Eym.: talibus (surely a mistake)*

<sup>722</sup> *End*

QUESTIO XXXIIJ SUPER PERSONAM DELATAM AB ALIA  
MALEFICA INCINERATA VEL INCINERANDA: QUALITER SIT  
SENTENTIANDA

QUARTUSDECIMUS MODUS PROCESSUM FIDEI terminandi et sententiandi est quando delatus de heretica prauitate processus meritis circa deponentem diligenter discussis cum bono consilio in iure peritorum reperitur de tali heretica prauitate tantummodo ab altera malefica incinerata vel incineranda delatus vel delata, et hoc contingere potest tredecim modis tanquam per tredecim casus: quia sic delatus

- vel reperitur immunis et absoluendus totaliter,
- vel reperitur cum hoc diffamatus de tali heresi generaliter,
- vel reperitur vltra infamiam questionibus exponendus aliqualiter,
- vel reperitur suspectus de heresi leuiter,
- vel reperitur suspectus de heresi vehementer,
- 248C vel reperitur suspectus de heresi violenter,
- vel reperitur diffamatus et suspectus insimul et communiter,

et sic consequenter in alijs casibus, prout in vicesima questione tactum est, vsque ad tredecimum inclusiue.

Primus modus fit quando tantummodo ab ipsa malefica detenta delatus est, et non conuincitur nec confessione propria nec testium production legitima,<sup>2</sup> nec alias reperiuntur indicia ex quibus verisimiliter tanquam suspectus iudicari posset. Talis omnino venit absoluendus, etiam per ipsum iudicem secularem qui deponentem aut incinerauit aut incinerare propria autoritate aut ex commissione episcopi iudicis ordinarij habuit, et absoluetur per sententiam in primo modo processum fidei terminandi circa vicesimam questionem contentam.

Secundus modus incidit quando vltra hoc quod a detenta delatus est etiam per totam illam villam seu ciuitatem diffamata existit, ita quod tantummodo infamia precise et sola laborauit semper, licet de post per depositionem detente malefice infamia sit aggrauata.

- 248D [Circa talem talis practica est seruanda. Quia iudex considerando quod vltra infamiam nihil in particulari aduersus eam ab alijs fidedignis in villa aut opido probatur, licet forte detenta certa grauia aduersus eum deposuit, quia tamen fidem perdidit abnegando illam diabolo, vnde et difficiliter eius dictis a iudicibus fides adhibetur nisi ex alijs circumstantijs illa infamia aggrauaretur, et tunc in tertium iam sequentem modum incideret, ideo canonica purgatio erit tunc indicenda, et procedetur per

<sup>2</sup> *Ed. prin.: -e*

sententiam in secundo modo processum fidei terminandi circa vicesimamsecundam questionem contentam.

Et si iudex ciuilis illam purgationem coram episcopo decreuerit fieri et solenniter in finem vt si deficeret, vt tunc per ecclesiasticum et ciuilem iudices in exemplum aliorum eo firmiori sententia puniretur, bene quidem fit. Si autem per se voluerit exequi, mandet vt decem vel viginti compurgatores ordinis sui habeat, et procedat vt in secundo modo sententiandi tales tactum est, nisi quod vbi excommunicandus esset, quod tunc ad ipsum ordinarium recursum habeat, et hoc contingeret vbi se purgare nollit. 249A

Tertius modus incidit super talem delatum vbi licet non vincatur confessione propria nec testium productione legitima nec facti euidentia, nec etiam sunt indicia super aliquod factum in quo vnquam notatus fuisset ab alijs inhabitatoribus ville aut opidi nisi quod infamia tantum laborauit apud eos, aggrauatur autem infamia ex detente malefice depositione, vtpote quia asseruit illum vel illam in omnibus fuisse sociam et secum in criminibus participasse, hoc ipsum tamen sicut constanter delata negat, ita et alijs inhabitatoribus vel non est notum vel de nulla nisi de honesta conuersatione seu etiam participatione ipsis constat.

Circa talem talis practica seruatur: primo quod adfrontare se habent facie ad faciem et obiectiones mutue et responsiones diligenter sunt considerande, et si quidem varietas aliqua in verbis incideret, vnde iudex verisimiliter ex concessis et negatis presumere potest ipsam delatam merito questionibus exponendam, procedatur per sententias in tertio modo processum fidei terminandi circa vicesimamtertiam questionem contentas, ipsam tormentis leuiter exponendo, adhibitis cautelis alijs quamplurimis et necesarijs, de quibus circa principium huius tercie partis supra patuit ad longum et ex quibus presumitur talem esse aut innoxiam aut ream. 249B

Quartus modus incidit vbi talis delatus inuenitur suspectus leuiter, et hoc vel confessione propria vel depositione alterius detente. Et sunt qui ad hanc leuem suspicionem reducunt illos qui ad procandum mulieres maleficas consulissent, vel vbi inter coniugatos odio se mutuo persequentes amorem procurassent, aut etiam pro aliquo commodo temporali apud maleficas laborassent. Sed quia tales<sup>723</sup> vtique excommunicati sunt

<sup>723</sup> *Start of adaptation of Eym. 2.50 (366 1D):* Et isti sunt excommunicati iuxta cap. "Excommunicamus" i § "Credentes" ("De heret." Liber Sextus). Et etiam sunt heretici et tales habendi sunt, vt in eo. tit. cap. "Excommunicamus" ij in fine, vbi premissis varijs hereticorum sectis dicitur sic: "Credentes autem eorum erroribus hereticos similiter iudicamus."

249C tanquam hereticorum credentes iuxta c. “Excommunicamus” primo<sup>a</sup> § “Credentes” (*Libro Sexto*, “De hereticis”), vbi dicitur: “Credentes autem eorum erroribus hereticos similiter iudicamus”<sup>724</sup> – quia<sup>725</sup> etiam ex factis presumitur de affectu; ad hoc arguitur xxxij q. ij “Qui viderit”<sup>726</sup> – ideo videtur quod acrius sint puniendi et sentiendi quam illi qui de heresi leuiter habentur suspecti, prout iudicandi sunt aliqui ex leuibus coniecturis, puta quia eis sericia exhibuissent, litteras detulissent, eorum erroribus sic nullam fidem adhibuissent, quod tamen illos non manifestassent, alimonia ab eis accepissent.

Sed siue illi siue isti intelligantur, hoc quod in consilio peritorum conclusum fuerit, super leuem suspicionem prosequendum erit a iudice per talem practicam. Talis<sup>727</sup> enim aut abiurabit aut canonicè se purgabit secundum quod in quarto modo processum fidei terminando<sup>b</sup> sub questione vicesimaquarta tangitur, sed tamen quia potius videtur quod abiuratio sit indicenda, et hoc propter allegatum c. “Excommunicamus” primo<sup>c</sup> § “Qui vero”<sup>728</sup> inuenti fuerint sola suspicione notabili<sup>d</sup>.<sup>729</sup> etc., tamen non debent, si relabantur, pena relapsorum puniri, et procedetur prout in quarto modo processum fidei terminando<sup>c</sup> circa vicesimamquartam questionem tactum est.

249D Quintus modus incidit vbi talis delatus inuenitur suspectus vehementer, et hoc simili modo vel confessione propria vel depositione alterius malefice detente. Et sunt qui ad hanc leuem<sup>f</sup> suspicionem reducunt impeditores<sup>730</sup> iudicum directe vel indirecte, eorum officium inquirendo<sup>g</sup> maleficas impediendo, dummodo hoc scienter fecerint, ex c. “Vt inquisitionis negocium” (*Libro Sexto*, “De hereticis”).<sup>731</sup> Item,

<sup>a</sup> Sc. -um

<sup>b</sup> Sc. -i

<sup>c</sup> Sc. -um; *Eym.*: -i

<sup>d</sup> Sc. -es (so *Eym.*, canon)

<sup>e</sup> Sc. -i

<sup>f</sup> Sic! (clearly a slip for vehementem)

<sup>g</sup> Sc. -i

<sup>724</sup> End

<sup>725</sup> Start of *Eym.* 2.50 (366 1B), which begins: Ex factis enim presumitur . . .

<sup>726</sup> End

<sup>727</sup> Start of adaptation of *Eym.* 2.50 (366 2D): . . . est eis abiuratio seu purgatio indicenda iuxta cap. “Excommunicamus” i § “Qui vero inuenti fuerint sola suspicione notabiles” etc.

<sup>728</sup> Canon: autem

<sup>729</sup> End

<sup>730</sup> Start of adaptation of *Eym.* 2.56 (380 2C): Secundus casus est quod quicumque impedit inquisitionis officium directe vel indirecte aut etiam quouis modo, et hoc scienter . . . Patet per cap. “Vt inquisitionis negocium” (Extra, “De heret.” Lib. vi) § vlt.

<sup>731</sup> End

reducunt omnes qui<sup>732</sup> impediētibz prestant scienter auxilium, consilium vel fauorem: patet per allegatum c. "Vt inquisitionis."<sup>733</sup> Item, reducunt qui<sup>734</sup> citatos aut captos hereticos instruunt de celanda veritate et vt illam subtrahant vel falsitatem asserant, et hoc ex c. "Accusatus" et § "Si."<sup>735</sup> Item, reducunt omnes<sup>736</sup> qui eos quos sciunt hereticos receperant scienter, deducunt, visitant vel associant, munera mittunt seu fauorem impendunt, que omnia in fauorem non persone sed culpe fiunt, vbi scienter fiunt.<sup>737</sup> Et ideo dicunt quod vbi delata persona participat de premissis, et hoc per consilium ita iudicatum fuerit, tunc iuxta quintum modum processum fidei terminandi sub questione vicesimaquinta 250A sententianda est, taliter vt omnem heresim sub pena relapsorum, vbi recidiuaret, habeat abiurare.

Possumus tamen asserere adijciendo quod iudices respectum habeant super vnus cuiusque malefice incinerate aut detente familiam, prolem seu etiam progeniem, eo quod vt plurimum tales reperiuntur infecte, cum malefice etiam proprios infantes ex demonum informatione ipsis habent offerre, vnde et indubie in quibuscunque flagicijs informare. Patent hec ex prima parte operis. Probatur et ex eo quod<sup>738</sup> sicut in simplici heresi propter agnitorum hereticorum familiaritatem dum quis de heresi infamatus existit, etiam consequenter ratione familiaritatis est de heresi vehementer suspectus, ita et in hac heresi maleficarum. Prefatus autem<sup>739</sup> casus patet in c. "Int̄ sollicitudines" (*Extra*, "De purgatione canonica"), vbi apparet quod ratione infamie de heresi fuit decano cuidam indicta purgatio canonica, et ratione familiaritatis hereticorum abiuratio publica, et ratione scandali fuit priuatus beneficio quousque scandalum sopiretur.<sup>740</sup>

<sup>732</sup> *Start of adaptation of Eym. 2.56 (380 2E)*: Tertius casus est quod prestantes scienter auxilium, consilium vel fauorem impediētibz inquisitionis negotium antefatum suspecti de heresi sunt habendi vehementer... Patet per c. "Vt inquisitionis negotium" in § finali.

<sup>733</sup> *End*

<sup>734</sup> *Start of adaptation of Eym. 2.56 (381 1A)*: Quartus casus est quod quicumque instruxerit per inquisitores citatos hereticos vel eorum credentes quod subtrahant veritatem vel vt asserant falsitatem suspecti de heresi vehementer sunt habendi... Hoc patet per ca. "Accusatus" in § finali.

<sup>735</sup> *End*

<sup>736</sup> *Start of adaptation of Eym. 2.56 (381 2B)*: Octauus casus est quod quicumque eos quos scit hereticos scienter receperat, deducit, visitat siue associat ac dona seu munera eis dat seu mittit, seu alias fauorem eis impendit, qui excusari non possit quin sit in fauorem magis culpe quam persone: suspecti tales vehementer de heresi sunt habendi...

<sup>737</sup> *End*

<sup>738</sup> *Start of Eym. 2.51 (381 2A), which begins*: Septimus casus est quod quicumque propter agnitorum hereticorum familiaritatem est de heresi infamatus ratione dicte familiaritatis vehementer de heresi est suspectus...

<sup>739</sup> *Eym.:* hic

<sup>740</sup> *End*

250B Sextus modus | incidit vbi talis delatus efficitur suspectus violentiter. Hoc autem fit non ad simplicem vel nudam depositionem alterius malefice detente sed ad indicia facti que eliciuntur ex quibusdam verbis et factis a malefica detenta perpetratis et prolatis, quibus adminus delata asseritur interfuisse et operibus deponentis communicasse. Pro quorum intelligentia aduertenda sunt ea que supra questione decimanona tacta sunt, precipue super violentam suspicionem quomodo ex violentibus et conuincentibus oritur coniecturis et qualiter iudex violentatur ad credendum ex sola suspitione aliquem esse hereticum, qui tamen fortassis bonus catholicus in corde existit, sicut canoniste exemplificant circa simplicem heresim de eo qui<sup>741</sup> citatus in causa fidei ad respondendum rennuit comparere contumaciter, propter quam contumaciam excommunicatur, in qua vbi per annum perseuerauit, efficitur de heresi suspectus violentiter.<sup>742</sup> Quare et a simili circa talem delatam aduertenda sunt indicia facti ex quibus efficitur violenter suspecta.

250C Et ponatur casus: detenta malefica asseruit illam | interfuisse suis maleficijs, que tamen delata constanter negat. Quid ergo faciet? Vtique opus erit considerare an ex aliquibus operibus sit vehementer suspecta et an vehemens supicio in violentam valeat transire: sicut in prefato casu citatus responsurus, vbi non comparet sed rennuit contumaciter, fit suspectus leuiter de heresi, etiam vbi citatus fuit in non causa fidei, si autem in causa fidei citatus rennuit comparere et propter contumaciam excommunicatur, tunc fit suspectus vehementer, quia tunc leuis suspicio transit in vehementem, et si per annum persistat, tunc vehemens transit in violentam, ita considerabit iudex si ratione familiaritatis contracte cum detenta malefica fit delata vehementer suspecta,<sup>a</sup> vt immediate supra in quinto modo incidendi tactum fuit: tunc opus erit considerare an ipsa vehemens suspicio in violentam transire possit. Presumitur enim quod transire possit, id est, quod flagicijs detente ipsa delata interfuit, vbi familiaritatem cum ea frequenter habuit. Est ergo procedendum iudici iuxta sextum  
250D modum processum | fidei terminandi, prout in vicesimasexta questione tangitur.

Quod si queritur quid faciet iudex si adhuc talis delata ab altera malefica detenta omnino persistat in negatiua, non obstantibus quibuscunque indicijs aduersus eam productis, respondetur: primo iudex

<sup>a</sup> *Ed. prin.*: -cca

<sup>741</sup> *Start of adaptation of Eym. 2.55 (381 1B)*: Quintus casus est quod omnis excommunicatus ex causa fidei, vtpote . . . citatus contumaciter se absentauit . . . Quam excommunicationem si sustinuerit per annum animo pertinaci, sit ipso iure vt hereticus condemnandus.

<sup>742</sup> *End*

debet aduertere super negatiuas responsiones, an ex vicio seu maleficio taciturnitatis proueniant siue non. Et quidem, vt in primis questionibus (q. xv et xvi) huius tercię partis patuit, iudex cognoscere potest si flere et lacrimas emittere non valeat, et vbi in questionibus quasi insensibilis redditur, ita quod ad pristinas vires faciliter redit, tunc quidem violenta suspicio aggrauatur, et omnino non est libere dimittenda, sed vt in sexto modo sentiendi et processum fidei terminandi patuit supra allegato, perpetuis carceribus ad penitentiam peragendam deputanda.

Si vero maleficio taciturnitatis non sit infecta propter vehementes dolores quos in questionibus sustinet vere et realiter, cum tamen alie ex maleficio taciturnitatis quasi insensibiles redduntur, vt dictum est, tunc vltimum refugium iudex habere potest super canonicam purgationem, <sup>251A</sup> que si a seculari iudice indicitur, dicitur vulgaris licita, quia non de numero illarum purgationum vulgarium de quibus ij. q. iij. "Consuluisti" et c. "Monomachia" tractatur. In qua purgatione si defecerit, vt reus vel rea iudicabitur.

Septimus modus incidit vbi delatus ipse non reperitur legitime deprehensus nec propria confessione nec facti euidencia nec testium legitima productione, sed tantum reperitur a detenta malefica delatus vel delata, et cum hoc reperiuntur indicia que ipsum reddunt suspectum leuiter vel vehementer, vtpote quia solummodo habuit magnam familiaritatem cum maleficis: tunc tali ratione infamie est indicenda canonica purgatio iuxta c. allegatum "Inter sollicitudines," et ratione suspicionis heresim abiurare, cum pena relapsorum, vbi recidiuaret, si vehementer suspectus, vel sine illa, si leuiter. Et procedatur vt in septimo modo processum fidei terminando<sup>a</sup> circa vicesimamseptimam questionem tactum est.

Octauus modus incidit vbi sic delatus reperitur confessus heresim <sup>251B</sup> illam sed penitens et nunquam relapsus. Vbi notandum: quod consequenter vbi agitur de relapsis et non relapsis, penitentibus et non penitentibus, tales distinctiones facte sunt propter ecclesiasticos iudices qui de vltimis inferendis supplicijs non se intromittunt, ideo ciuilis iudex super confessam, siue peniteat siue non, siue relapsa fuerit siue non, per ciuiles et imperiales leges procedere potest vt iusticia suadebit, tantummodo recursum ad ipsos tredecim modos sentiendi habere potest et secundum illos se resoluere, vbi aliquod ambiguum interueniret.

<sup>a</sup> Sc. -i

QUESTIO XXXIIIIJ: SUPER MODUM SENTENTIANDI  
 MALEFICAM MALEFICIA TOLLENTEM; INSUPER ETIAM  
 SUPER MALEFICAS OBSTETRICES ET MALEFICOS  
 SAGITTARIOS

QUINTUSDECIMUS MODUS PROCESSUM FIDEI terminandi et  
 sententiandi est quando delatus de heretica prauitate reperitur maleficia  
 non inferentem sed tollentem.<sup>a</sup> Circa istum talis practica est seruanda,  
 251C quia aut vtitur | remedijs licitis aut illicitis, et si quidem licitis, non  
 vt maleficus sed vt christicola est iudicandus, de quibus licitis remedijs  
 supra circa principium huius tercie partis ad longum patuit. Si vero illicitis,  
 tunc distinguendum, quia aut sunt illicita simpliciter aut secundum  
 quid: si simpliciter, adhuc dupliciter, quia vel nocumento proximi vel  
 sine nocumento, vtroque tamen modo semper cum expressa demonum  
 inuocatione. Si vero illicita secundum quid, puta quia absque expressa,  
 licet non absque tacita, demonum inuocatione fiunt, talia iudicantur  
 vana potius quam illicita nominari a canonistis et certis theologis, vt  
 supra in prima questione huius vltime partis totius operis patuit. Iudex  
 ergo quicumque, siue ecclesiasticus siue ciuilis, licet primos et vltimos  
 non habeat reprobare, et signanter primos potius commendare et vltimos  
 tollerare, prout canoniste asserunt licitum esse vana vanis contundere,  
 illos tamen qui cum expressa demonum inuocatione maleficia auferunt  
 nullo modo tollerare debent,<sup>b</sup> precipue illos qui cum nocumento proximi  
 251D talia committunt. Et dicuntur cum nocumento proximi praticare,  
 quando maleficium ita ab vno aufertur quod alteri infertur, nec obstat si  
 illa cui infertur sit malefica per se siue non, et siue sit illa que maleficium  
 intulit siue non, et siue sit homo siue quecunque alia creatura. Patent  
 super hec omnia acta et gesta in prima questione supra allegata deducta.

Sed queritur: quid faciet iudex vbi talis asserit se maleficia tollere  
 per licita et non illicita remedia, aut quomodo possit talia veraciter  
 iudex cognoscere? Respondetur quod citato illo interrogetur quibus  
 remedijs<sup>c</sup> vtatur, nec tamen verbis suis standum erit. Sed ecclesiasticus  
 iudex cui ex officio incumbit diligenter inquirat, siue per se siue per  
 plebanum aliquem qui a singulis parrochianis exacte sub prestito iuramento  
 quod exigere potest perquirat, quibus remedijs vtatur, et si quidem  
 inuenta fuerit, prout communiter inueniuntur, cum superstitiosis

<sup>a</sup> *Sc.* Inferens . . . tollens

<sup>b</sup> *Ed. prin.:* -et

<sup>c</sup> *Ed. prin.:* medijs (*cf. next sentence*)

remedijs, omnino non sunt propter horribiles penas a canonibus inflig-  
tas, vt inferius patebit, tollerande.

Et si queritur vnde possunt remedia licita ab illicitis discerni, cum  
semper asserunt se quibusdam orationibus et herbarum applicationibus <sup>252A</sup>  
huiusmodi amouere, respondetur: hoc facile foret, dummodo diligens  
inquisitio fieret. Nam quia necesse habent sua supersticiosa remedia  
occultare, eo vt non reprehendantur seu vt facilius mentes simplicium  
illaqueare valeant, ideo huiusmodi verbis aut herbarum applicationibus  
insistunt: tamen ex quattuor supersticiosis eorum<sup>a</sup> actibus tanquam sor-  
tilige et malefice manifeste reprehenduntur.

Sunt enim de occultis diuinantes et ea que non nisi malorum spiri-  
tuum reuelatione scire possunt reserantes: exempli gratia vbi pro sanitate  
acquirenda frequentantur a lesis, causam lesionis aut maleficij aperire et  
manifestare sciunt, vt si ratione altercationis cum vicina acciderit vel  
aliqua ex causa alia, hoc ipsum perfectissime noscunt et indicare fre-  
quentantibus sciunt.

Secundo, vbi ad vnus nocumenti seu maleficij curam se intromittunt,  
alterius vero minime, prout in diocesi Spirensi malefica quedam in loco <sup>252B</sup>  
quodam Zun Hofen nuncupato existit, que licet plures sanare videatur,  
certos tamen minime se posse curare fatetur, nullam ob aliam de causa<sup>b</sup>  
nisi, vt ab incolis fertur, quod maleficia talibus illata sint tam fortiter  
ab alijs, vt asserit, maleficis impressa, et hoc vtrique virtute demonum,  
quod illa amouere non valeat,<sup>c</sup> quia videlicet demon non semper demoni  
cedere potest aut non vult.

Tertio, vbi super huiusmodi<sup>d</sup> maleficia illata singulares exceptiones  
facere noscuntur, prout in ipsa ciuitate Spirensi contigisse noscitur: dum  
quedam honesta persona maleficiata in tibijs huiusmodi diuinatricem  
ob sanitatis gratiam aduocasset, illa domum ingressa et eam dum intuita  
fuisset, talem exceptionem fecit. "Si," inquit, "squamos et capillos in vul-  
nere non habueris, reliqua omnia extrahere potero." Causam etiam lesio-  
nis aperuit, licet ex rure et ad duo miliaria aduentasset, dicens: "Quia cum  
vicina altercasti tali die, ideo tibi accidit." Preter squamos etiam et pilos  
alias quamplures diuersorum generum res extraxit et sanitati restituit.

Quarto, vbi supersticiosis insistunt aut | insistere faciunt ceremonijs, <sup>252C</sup>  
vt si ante solis ortum vel alio determinato tempore se frequentari volunt,

<sup>a</sup> Sc. earum

<sup>b</sup> nullam . . . causa: apparently a conflation of nullam ob aliam causam and nulla alia de causa  
(presumably one or the other was meant to be deleted)

<sup>c</sup> Ed. prin.: -eant

<sup>d</sup> Ed. prin.: huius

dicentes quod infirmitates vltra angariam illatas sanare nequeant aut quod tantummodo duas aut tres personas per annum sanare valeant, licet non sanando sed a lesionibus cessando sanare videantur.

Possunt et addi quamplures alie considerationes circa talium personarum conditiones, quia vt plurimum retroactis temporibus male et reprehensibilis vite fuerunt, diffamate seu adultere aut maleficarum superstites, vnde ex nulla sanctitate vite hec gratia sanitatis a deo collata.

Incidentaliter reducuntur et obstetrices malefice omnes alias maleficas in flagicijs excedentes, de quibus et in prima parte operis deductum est, quarum etiam tantus numerus, vt ex earum confessionibus compertum est, quod non estimatur villula vbi huiusmodi non reperiantur existit.<sup>a</sup> Cui periculo vtique a presidentibus foret in parte succurrendum, vt non nisi iurate obstetrices a presidentibus deputarentur, cum alijs remedijs  
252D que in secunda | parte operis tacta sunt.

Incidit et de maleficis sagittarijs in contumeliam vtique christiane religionis tanto periculosius degentes,<sup>b</sup> quanto et securiores habent in terris optimatum et principum receptatores, fautores et defensores. Sed quod omnes tales receptatores, fautores etc. omnibus maleficis plerunque in certis casibus damnabiliores existunt, sic declaratur. Nam<sup>743</sup> talium defensores a canonistis et theologis in duplici genere assignantur. Quidam nanque errorem, alij vero personam sunt defendentes, et hi quidem qui errorem damnabiliores ipsis qui errant existunt, cum non solum heretici imo heresiarchi habendi sunt, vt patet xxiiiij q. iij, “Qui illorum,” et de his defensoribus communiter non loquuntur iura, eo quod ab alijs hereticis non distinguuntur: in quibus etiam habet locum c. “Ad abolendam” § “Presenti” sepe allegatum. Quidam alij sunt qui, licet non defendunt errorem, defendunt tamen personam errantem, vtpote qui resistunt viribus et potentia, ne tales malefici seu quicunque alij heretici veniant ad manus iudicis fidei ad examinandum vel puniendum, et similia.<sup>744</sup>

253A Simili | modo etiam fautores<sup>745</sup> talium sunt in duplici genere. Quidam nanque sunt qui publica funguntur autoritate, hoc est, publice persone, vt domini temporales seu etiam spirituales temporalem iurisdictionem

<sup>a</sup> Sc. existere

<sup>b</sup> Sc. -ibus

<sup>743</sup> *Start of Eym. 2.52 (370 2B), which begins:* Ad hanc [sc. questionem: hereticorum defensores qui sunt, et si heretici dicendi sunt] respondemus quod hereticorum defensores sunt in duplici genere. Quidam namque sunt qui defendunt hereticorum errorem, et ii damnabiliores illis qui errant, et non solum . . .

<sup>744</sup> *End*

<sup>745</sup> *Start of Eym. 2.53 (371 2D–372A), which begins:* Ad hanc respondemus quod fauentes hereticis sunt in duplici . . .

habentes, qui etiam<sup>746</sup> fautores esse possunt duobus modis, obmittendo et committendo: obmittendo scilicet facere ea circa maleficos<sup>747</sup> vel suspectos, infamatos vel credentes, receptatores, defensores et fautores, ad que ex eorum officio obligantur, cum tamen ab episcopis vel inquisitoribus vel eorum altero<sup>a</sup> requiruntur, vtpote si eos non capiant, vel captos non diligenter custodiant, vel infra districtum suum ad locum de quo eis mandatur non deducant, aut executionem promptam de eis non faciant, et similia, vt patet in c. "Vt inquisitionis" in principio (*Libro Sexto*, "De hereticis"); committendo autem vtpote si captos huiusmodi sine episcopi aut iudicis eius<sup>748</sup> licentia vel mandato a carcere liberent vel processum, iudicium vel sententiam eorum directe vel indirecte impediunt, vel similia peragunt, vt patet c. allegato "Vt inquisitionis" § "Prohibemus."<sup>749</sup> Pene<sup>750</sup> tallium in precedentibus circa 253B

secundum principale huius operis et circa finem, vbi de maleficis sagittarijs et alijs armorum incantatoribus tactum est, declarate sunt. Ad presens sufficiat quod omnes tales ipso iure sunt excommunicati et duodecim magnas penas incurrunt:<sup>b</sup> patet (*Extra*, "De hereticis") "Excommunicamus" primo § "Credentes" et c. allegato "Vt officium" § "Prohibemus," in qua excommunicatione si per annum persistierint animo pertinaci, extunc sunt vt heretici condemnandi, vt eodem c. et § allegato.<sup>751</sup>

Qui<sup>752</sup> vero dicendi sunt receptatores et an habendi sunt vt heretici: respondetur quod recipientes huiusmodi maleficos sagittarios aut quoscunque armorum incantatores, nigromanticos seu maleficos hereticos, de quibus in toto opere tractatum est, sunt in duplici genere,<sup>753</sup> sicut etiam de eorum defensoribus et fautoribus tactum est. Quidam<sup>754</sup> nanque sunt qui non tantum semel vel bis sed pluries et frequenter tales suscipiunt, et isti proprie et secundum vim vocabuli dicuntur receptatores a receptando, quod est verbum frequentatiuum. | Et tales receptatores 253C

quandoque sunt sine culpa, vtpote si ignoranter hoc faciunt nec aliquid

<sup>a</sup> So *Eym.*; *ed. prin.*: -i

<sup>b</sup> *Ed. prin.*: -ruut

<sup>746</sup> For seu . . . etiam *Eym. has*: eorum balliui, veguerii et officiales ceteri et tales fauent et

<sup>747</sup> *Eym.*: hereticos

<sup>748</sup> For aut . . . eius *Eym. has*: et inquisitoris vel alterius ipsorum

<sup>749</sup> *End of direction quotation*

<sup>750</sup> *Continue as paraphrase*: Omnes isti fautores sunt, et etiam excommunicati ipso iure, in qua si per annum persistierint, extunc vt heretici condemnantur, vt clare patet cap. et § alleg.

<sup>751</sup> *End*

<sup>752</sup> *Start of Eym. 2. 51 (368 2D-369 1A), which begins*: Quinquagesimaprima questio est: hereticorum receptatores qui dicendi sunt, et si heretici habendi sunt. Ad hanc respondemus quod recipientes hereticos in domibus suis sunt in duplici genere . . .

<sup>753</sup> *Pause*

<sup>754</sup> *Resume*

vnquam sinistri de eis<sup>755</sup> suspicati sunt. Aliquando sunt in culpa, vtpote quando eorum errores sciunt et non ignorant quod ecclesia tales semper persequitur tanquam crudelissimos fidei hostes, et nihilominus domini terrarum eos receptant, tenent, defendunt etc.:<sup>756</sup> tales<sup>757</sup> proprie sunt et dicuntur hereticorum receptatores, et de talibus etiam loquuntur iura, et quod sunt excommunicati iuxta c. “Excommunicamus” primo<sup>a</sup> § “Credentes.”<sup>758</sup>

Quidam<sup>759</sup> autem non pluries et frequenter sed tantum semel vel bis huiusmodi maleficos aut hereticos receperunt, et isti non videntur proprie dici receptatores, quia non frequentarunt, sed receptores, quia eos receperunt et non receptauerunt, licet archidiaconus dicat contrarium in c. “Quicumque” super verbo “receptatores,”<sup>760</sup> de quo tamen non est magna vis, quia non de verbis sed de factis curandum est.<sup>761</sup>

253D Ponitur tamen differentia inter receptatores et receptores, eo quod domini terrarum semper dicuntur talium receptatores, vbi simplices qui eos expellere non habent nec possunt, etsi receptores sint, sunt tamen sine culpa.

Vltimo autem de impeditoribus officij inquisitionis episcoporum contra huiusmodi maleficos hereticos: qui<sup>762</sup> sunt et si heretici dicendi sunt, ad quod respondetur quod huiusmodi impeditores sunt in duplici genere.

Quidam nanque sunt qui impediunt directe, vt qui captos pro heresis crimine a carcere propria temeritate liberant vel processus inquisitionis lacerant, testes in causa fidei pro eo quia testificati sunt vulnerant, vel si dominus temporalis statuatur quod nullus nisi ipse de hoc crimine cognoscat aut quod nullus nisi sibi de hoc crimine accusari possit nec testificari nisi coram eo, et similia, et isti impediunt directe iuxta notata per Johannem Andree in c. “Statutum” super verbo “directe” (*Libro*

<sup>a</sup> Sc.-um

<sup>755</sup> For nec . . . eis *Eym. has*: vt quia eorum errores nesciunt nec aliquid sinistrum de eis audierunt

<sup>756</sup> For non . . . etc. *Eym. has*: et quod ecclesia pro illis eos persequitur non ignorant, et nihilominus eos latenter et frequenter receptant ne ad manus ecclesie perueniant

<sup>757</sup> *Eym. adds*: enim

<sup>758</sup> *Pause* (*Eym. then has a paragraph about the ramifications of whether or not the harbinger believes in the heretic's errors*)

<sup>759</sup> *Resume* (369 1B)

<sup>760</sup> *Eym. adds*: et etiam Guido Fulcodius predictus in Consultationibus ad Inquisitores Heretice Prauitatis (q. xi), qui volunt tales etiam dici et esse receptatores (*these words could have been dropped accidentally through haplography, but since the excision consists of a complete sense unit whose loss does not affect the overall sense, the omission may have been intentional*)

<sup>761</sup> *End* (*Eym.*: non de verbis curamus sed de factis)

<sup>762</sup> *Start of Eym. 2.54* (374 2D–375 1D), which begins: Quinquagesima quarta questio est: impeditores officij inquisitionis heretice prauitatis qui sunt . . .

Sexto,<sup>a</sup> "De hereticis"), et qui processum, iudicium vel sententiam in tali causa fidei directe impediunt vel qui ad hec agenda prestiterint auxilium, consilium vel fauorem.

Et tales licet sint multum culpabiles, | non tamen ex hoc sunt <sup>254A</sup> heretici iudicandi nisi aliter appareret quod essent consimilibus erroribus maleficorum inuoluti cum pertinaci voluntate.<sup>763</sup> Sunt tamen ipso iure excommunicationis mucrone percussi iuxta c. "Vt inquisitionis" § "Prohibemus," sic quod si in illa excommunicatione steterint per annum animo pertinaci, extunc sunt vt heretici condemnandi, vt patet c. et § allegato.

Quidam vero sunt qui impediunt indirecte, vtpote qui statuunt quod nullus portet arma ad capiendum hereticos<sup>764</sup> nisi de familia domini temporalis,<sup>765</sup> et similia iuxta notata per Johannem Andree in ca. "Statutum" super verbo "indirecte," et tales sunt minus culpabiles quam primi, nec sunt heretici sed sunt excommunicati iuxta allegatum c. "Vt inquisitionis," et etiam prestantes ad hoc consilium, auxilium vel fauorem, taliter<sup>766</sup> quod si steterint in illa excommunicatione per annum animo pertinaci, extunc velut heretici sunt condemnandi per allegatum c.<sup>767</sup> et<sup>768</sup> § "Prohibemus." Quod sic est<sup>769</sup> intelligendum<sup>770</sup> quod heretici <sup>254B</sup>condemnatur taliter quod si volunt redire,<sup>771</sup> recipiuntur | ad misericordiam, errore prius abiurato; alias vt impenitentes traduntur curie seculari, vt patet per c. "Ad abolendam" § "Presenti."<sup>772</sup>

Epilogando: malefice obstetrices, prout alie malefice maleficia inferentes, secundum qualitatem criminum condemnantur et sententiantur, et a simili malefice maleficia supersticiose, vt dictum est, opere diaboli tollentes, cum non dubium sit quod sicut auferre, ita et inferre possunt, vnde et quodam pacto taliter malefice ex demonum informatione conueniunt, vt he quidem ledere, alie vero sanare debeant, vt sic eo facilius mentes simplicium illaqueando suam perfidiam augmentant.

<sup>a</sup> So Eym.: ed. prin.: v

<sup>763</sup> For maleficorum . . . voluntate Eym. has: in mente et pertinaciam in voluntate

<sup>764</sup> ad . . . hereticos: not in Eym.

<sup>765</sup> Eym. adds: Nam consequenter qui sunt de familia inquisitoris non possunt portare, quod est indirecte impedire, vel quod nullus possit capere aliquem vel capi facere nisi dominus temporalis. Nam consequenter qui sunt de familia inquisitoris non possunt capere.

<sup>766</sup> Not in Eym.

<sup>767</sup> Eym. adds: "Vt inquisitionis"

<sup>768</sup> Eym.: in

<sup>769</sup> sic est: est sic in Eym.

<sup>770</sup> Eym. adds: vt dictum est supra (q. 47)

<sup>771</sup> For heretici . . . redire Eym. has sicut heretici si velint redire

<sup>772</sup> Pause

Sagittarij vero et alij armorum incantatores malefici cum non nisi ex fauore, defensione, receptatione presidentium sustentantur, omnes tales penis prescriptis subiacent, et qui officiales quoscunque contra huiusmodi maleficos aut eorum fautores etc. in eorum officio impedirent, simili modo excommunicati sunt et omnibus penis vti fautores subiacent. Verum vbi steterint<sup>773</sup> per annum in illa excommunicatione animo pertinaci, si redire voluerint, abiurant impedimentum et fautoriam et ad misericordiam admittuntur; alias vt impenitentes heretici traduntur brachio seculari. Et vbi non stent per annum, nihilominus contra impedidores huiusmodi potest procedi vt contra fautores hereticorum (arguitur c. "Accusatus" § vltimo).<sup>774</sup>

Et quod dictum est de fautoribus, defensoribus, receptatoribus et impeditoribus super maleficos sagittarios etc., idem et per omnia intelligendum est erga quascunque maleficas aut maleficos hominibus, iumentis aut terre frugibus varia nocumenta inferentibus.<sup>a</sup> Verum et ipsi malefici quicunque vbi in foro penitentie spiritu contrito et humiliato peccata deflentes et pure confitentes veniam petierint, ad misericordiam recipiuntur: alias vbi innotescunt, contra eos procedere debent quibus ex officio incumbit, citando, arrestando, capiendo et procedendo in omnibus iuxta criminum qualitatem vsque ad sententiam diffinitiuam inclusiue, vt tactum est, si et in quantum huiusmodi presidentes eterne damnationis laqueum propter excommunicationem eis ab ecclesia inflictam euadere velint.

QUESTIO XXXV HUIUS VLTIME PARTIS: SUPER MODOS  
SENTENTIANDI MALEFICOS QUOSCUNQUE FRIUOLE AUT  
ETIAM IUSTE APPELLANTES

SÍ VERO AD APPELLATIONIS remedium finaliter delatum confugere iudex cerneret, notandum primo quod hec<sup>775</sup> interdum valida atque iusta, interdum friuola atque nulla decernitur. Cum enim in negocijs

<sup>a</sup> *Sc. -es*

<sup>773</sup> *Resume (Eym. begins: sic tales qui vt impedidores fuerunt excommunicati et steterunt per annum in illa excommunicatione...)*

<sup>774</sup> *End*

<sup>775</sup> *Start of Eym. (453 2D–456 1D), which begins: Quartum quod prorogat et dilatat iudicium, sententiam et processum inquisitoris est delati ab inquisitore appellatio, et hec interdum est aliqua atque iusta, interdum friuola et nulla. Quando enim delatus sentit ab inquisitore realiter et de facto contra ius et iustitiam aggrauatum, vt pote quia non vult eum ad se defendendum admittere vel solus sine episcopo seu eius vicario pronuntiauit delatum questionare et similia non fienda.*

fidei summarie, simpliciter et de plano sit procedendum, vt ex precedentibus sepe tactum est ex c. "Multorum querela" in *Clementinis*, vbi et appellationis remedium interdicitur, attamen quia iudices interdum sponte propter negocij arduitatem libenter ipsum prorogant et dilant, ideo aduertere possunt quod vbi delatus sentiret se a iudice realiter et de facto contra ius et iusticiam aggrauatum, vtpote quia eum ad se defendendum admittere noluit, vel quia solus sine consilio aliorum vel etiam sine assensu episcopi vel eius vicarij pronunciauit delatum questionare, cum alias sufficientes probationes pro et contra habere potuisset, et huius similia,<sup>776</sup> tunc quidem appellatio foret iusta; alias non.

Secundo notandum quod iudex,<sup>777</sup> appellatione huiusmodi sibi presentata, tunc absque perturbatione et motu debet petere copiam appellationis, protestando verbo quod non currat sibi tempus, et cum ipse delatus tradiderit sibi copiam appellationis, aduertat quod<sup>778</sup> adhuc habet duos dies ad respondendum et post hec duos adhuc triginta ad apostolos exhibendum. Et licet statim possit respondere et apostolos dare istos vel illos, vbi sit multum expertus et peritus, tamen vt cautius procedatur, melius est aliquem terminum x vel xx aut xxv dierum eidem ad dandum pariter et recipiendum apostolos, quales dare decreuerit, assignare cum potestate prorogandi <infra tempus iuris>.<sup>a, 779</sup>

Tercio notandum est iudici quod [infra tempus iuris] et<sup>780</sup> infra tempus assignatum debet diligenter attendere et discutere causas appellationis seu grauamina allegata, et si videt habito bono consilio peritorum quod iniuste et indebite delatum aggrauauit, ad se defendendum<sup>781</sup> non admittendo vel questionibus non debito tempore exponendo<sup>782</sup> vel similia, adueniente termino assignato corrigat errorem suum et reducat processum ad punctum et statum in quo erat quando defensiones ille petiuit vel terminum ad interloquendum assignauit et similia, et tollat gravamen, quo ablato procedat prout ante, quia per ammotionem grauaminis

<sup>a</sup> So *Eym.* (The following phrase tercio . . . quod was accidentally inserted before rather than after the phrase *infra tempus iuris* in *Eym.*'s original text.)

<sup>776</sup> Pause

<sup>777</sup> Resume (*Eym.* begins: . . . et appellat ab inquisitore huiusmodi grauamina allegando atque apostolos sepe et sepius postulando, tunc inquisitor appellatione huiusmodi sibi presentata sine turbatione atque metu debet petere copiam appellationis protestans verbo quod non currat sibi tempus . . .)

<sup>778</sup> aduertat quod: not in *Eym.*

<sup>779</sup> Pause

<sup>780</sup> Resume

<sup>781</sup> For ad . . . defendendum *Eym.* has: se ad defendendum eum

<sup>782</sup> For questionibus . . . exponendo *Eym.* has: solus et per se sine episcopo vel eius vicario eundum delatum questionandum pronunciando

appellatio que erat aliqua fit nulla iuxta c. “<Cum><sup>a</sup> cessante” (*Extra*, “De appellationibus”).

Sed hic attendat<sup>783</sup> circumspectus et prouidus iudex<sup>784</sup> quod quedam sunt grauamina reparabilia, et sunt illa<sup>785</sup> de quibus iam<sup>786</sup> dictum est, et tunc habent locum ea que dicta sunt.<sup>787</sup> Quedam autem sunt irreparabilia, utpote si delatus fuerit questionatus realiter et de facto et post euadens appellat, vel si clenodia et aliqua vtilia simul cum vasis et instrumentis quibus | malefici vtuntur fuerunt recepti et combusti,<sup>b, 788</sup> et similia que nequeunt reparari nec reuocari, et tunc non habet locum predictus modus, scilicet processum ad statum reducere<sup>789</sup> in quo fuit grauamen huiusmodi<sup>c</sup> irrogatum.<sup>790</sup>

Quarto notandum iudici est quod<sup>791</sup> licet a die responsionis habeat xxx dies ad apostolos exhibendum iuxta c. “<Ab eo><sup>d</sup>” (“De appellationibus,”)<sup>792</sup> et possit petenti assignare vltimum diem iuris, hoc est, tricesimum,<sup>e</sup> ad apostolos recipiendum, tamen ne videatur quod velit vexare delatum et de vexatione indebita reddat <se><sup>f</sup> suspectum, et ne videatur confirmare grauamen sibi impositum propter quod extitit appellatum, melius est quod assignet infra tempus iuris terminum competentem, utpote decimum diem vel vicesimum,<sup>793</sup> et potest postmodum, si expedire noluerit,<sup>794</sup> adueniente termino prorogare, dicendo se fuisse alijs negocijs implicatum vel huiusmodi.<sup>795</sup>

Quinto notandum iudici quod<sup>796</sup> quando prefigit terminum appellanti et apostolos petenti, quod non assignet solum ad apostolos dandum, sed ad dandum pariter et recipiendum, quia si assignaret ad dandum

<sup>a</sup> So *Eym.*, canon

<sup>b</sup> Sc. recepta et combusta (*clumsy adaptation: the adjs. agree with libri in Eym.'s original text.*)

<sup>c</sup> So *Eym.*: ed. prin.: huius

<sup>d</sup> So *Eym.*

<sup>e</sup> Ed. prin.: -nm

<sup>f</sup> So *Eym.*

<sup>783</sup> For sed . . . attendat *Eym. has: Attendat autem*

<sup>784</sup> *Eym.*: inquisitor

<sup>785</sup> *Eym.*: ista

<sup>786</sup> *Eym.*: statim

<sup>787</sup> For habent . . . sunt *Eym. has: habet modus predictus*

<sup>788</sup> For clenodia . . . combusti *Eym. has: vel si libri sunt ab eo recepti pariter et combusti*

<sup>789</sup> *Eym.*: -eret

<sup>790</sup> *Pause*

<sup>791</sup> *Resume (Eym. begins: Attendat etiam inquisitor quod . . .)*

<sup>792</sup> *Eym. adds: Libro Sexto*

<sup>793</sup> For decimum . . . vicesimum *Eym. has: decem dierum vel viginti*

<sup>794</sup> *Eym.*: viderit

<sup>795</sup> *Pause*

<sup>796</sup> *Resume (Eym. begins: Attendat etiam inquisitor quod . . .)*

tantum,<sup>797</sup> tunc iudex<sup>798</sup> a quo appellaretur haberet appellanti mittere. Assignabit ergo ei terminum, hoc est, talem diem talis anni<sup>799</sup> ad dandum ei<sup>a</sup> et recipiendum a iudice<sup>800</sup> apostolos tales quales dare<sup>801</sup> decreuerit.<sup>802</sup>

Sexto notare debet quod<sup>803</sup> in assignatione huius<sup>804</sup> termini non dicat respondendo quod dabit apostolos negatiuos aut<sup>805</sup> affirmatiuos, sed vt plenius deliberare possit dicet quod exhibebit<sup>b</sup> tales quales tunc decreuerit exhibendos.

Attendat etiam<sup>806</sup> quod in assignatione huius<sup>807</sup> termini appellanti, vt tollatur omnis cautela<sup>808</sup> et astucie et malicie appellantis, assignet locum in specie, diem et horam, vtpote quod assinget xx diem augusti anni presentis et horam vesperarum, et cameram ipsius iudicis<sup>809</sup> in domo tali<sup>810</sup> Talis ciuitatis vel loci sitam Tali appellanti ad dandum et recipiendum apostolos tales quales decreuerit exhibendos.<sup>811</sup>

Septimo notat quod<sup>812</sup> si decreuit in animo suo detinere delatum crimine requirente et iusticia exigente, in assignatione | termini ponat 256A quod assignat talem terminum ad dandum vel recipiendum personaliter apostolos ipsi appellanti assignetque Talem locum eidem appellanti ad dandum eidem et recipiendum ab eo apostolos, de quo sit in potestate iudicis<sup>813</sup> appellantem libere retinere, datis tamen prius statim apostolis negatiuis; alias non.<sup>814</sup>

Septimo<sup>c</sup> notat iudex ne<sup>815</sup> aliquid innouet circa appellantem, ipsum capiendū vel questionando seu a carcere liberando vel alias, ab hora qua

<sup>a</sup> So *Eym.*; *ed. prin.*: eis

<sup>b</sup> *Sc.* exhibebat (*and so regularly later*)

<sup>c</sup> *Sic!*

<sup>797</sup> *Not in Eym.*

<sup>798</sup> *Eym.*: inquisitor

<sup>799</sup> *Eym. adds:* vtpote vigesimam mensis augusti

<sup>800</sup> *Eym.*: inquisitore.

<sup>801</sup> *Eym.*: se daturum.

<sup>802</sup> *Pause*

<sup>803</sup> *Resume (Eym. begins: Attendat etiam inquisitor quod...)*

<sup>804</sup> *Eym.*: huiusmodi

<sup>805</sup> *Eym.*: nec quod dabit

<sup>806</sup> *Eym. adds:* inquisitor

<sup>807</sup> *Eym.*: huiusmodi

<sup>808</sup> *Eym. adds:* et prouidenter

<sup>809</sup> *Eym.*: inquisitoris

<sup>810</sup> *Eym.*: predicatorum

<sup>811</sup> *Pause*

<sup>812</sup> *Resume (Eym. begins: Attendat etiam astutus et circumspetus inquisitor quod...)*

<sup>813</sup> *Eym.*: inquisitoris

<sup>814</sup> *Pause*

<sup>815</sup> *Resume (Eym. begins: Attendatque inquisitor quod...)*

fuit sibi appellatio presentata vsque ad horam qua tradidit apostolos negatiuos.<sup>816</sup>

Epilogando. Nota: sepe contingit quod delatus quando dubitat<sup>a</sup>,<sup>817</sup> quod contra eum feratur sententia, quia constat<sup>b</sup> sibi de culpa sua, frequenter recurrit ad appellationis remedium, vt sic subterfugiat iudicis<sup>818</sup> sententiam, vnde ab ipso appellat et causas friuolas assignat, vtpote quod iudex<sup>819</sup> eum captum tentuit et cautioni idonee eum tradere noluit et similia friuola colorata. Qua<sup>820</sup> appellatione iudici<sup>821</sup> presentata, copiam  
 256B appellationis petat, qua |habita statim vel post duos dies <respondeat, in qua><sup>c</sup> responsione, diem, horam et locum appellanti ad dandum et recipiendum apostolos tales quales decreuerit prefigat, infra terminum tamen iuris, vtpote x, xv, xx vel xxx<sup>822</sup> diem talis mensis. Infra quem terminum assignatum iudex<sup>823</sup> copiam appellationis et grauamina seu causas propter quas appellat diligenter discutiatur et cum bono consilio iurisperitorum<sup>824</sup> deliberet an exhibeat appellanti apostolos negatiuos, hoc est, responsiones negatiuas, appellationem non admittendo vel affirmatiuos,<sup>d</sup> hoc est, responsiones affirmatiuas et reuerentiales mittendas ad iudicem ad quem appellat, appellationi deferendo. Si enim videatur quod cause appellationis sunt false vel friuole atque nulle et quod appellans non vult nisi iudicium subterfugere seu prorogare, det apostolos negatiuos siue refutatorios. Si autem videatur quod grauamina sunt vera et iniuste sibi illata et non sunt reparabilia,<sup>e</sup> vel dubitat si est ita, vel alias  
 256C fatigatus propter maliciam appellantis vult se a tanto onere liberare, exhibeat appellanti apostolos affirmatiuos seu reuerentiales.

Adueniente igitur appellanti termino assignato, si iudex<sup>825</sup> nondum formauit apostolos seu responsiones, vel alias non est dispositus,

<sup>a</sup> So Eym.; ed. prin.: dubit|bitat

<sup>b</sup> Ed. prin.: cos-

<sup>c</sup> So Eym.

<sup>d</sup> So Eym.; ed. prin.: -as

<sup>e</sup> So 100 Eym.; Schnyder (1993) 287 asserts (wrongly: see Eng. notes) that the context demands: ... grauamina sunt ... iuste sibi illata et sunt irreparabilia or grauamina non sunt vera ... et sunt reparabilia

<sup>816</sup> Pause

<sup>817</sup> Resume (Eym. begins: Quando vero delatus dubitat quin contra eum)

<sup>818</sup> Eym.: inquisitoris

<sup>819</sup> Eym.: inquisitor

<sup>820</sup> Eym.: quia (surely a mistake)

<sup>821</sup> Eym.: inquisitori

<sup>822</sup> Eym.: vigesimumquintum

<sup>823</sup> Eym.: inquisitor

<sup>824</sup> Eym.: peritorum

<sup>825</sup> Eym.: inquisitor

peremptorie potest prorogare simul vel successiue vsque ad xxx<sup>826</sup> diem, qui est vltimus terminus iuris ad exhibendum apostolos assignatos.<sup>a</sup> Si autem formauit et est dispositus, potest statim dare apostolos appellanti.

Si igitur decreuerit dare apostolos negatiuos seu refutatorios, adueniente termino peremptorio assignato, exhibebit per modum qui sequitur in scriptis.<sup>827</sup>

“ET DICTUS IUDEX<sup>828</sup> RESPONDENS prefate interiecte appellationi, si dici appellatio mereatur, dicit quod ipse iuste et secundum canonicas sanctiones” – seu etiam “imperialia statuta seu leges”<sup>829</sup> – “processit et procedere intendit, et a iuris vtriusque<sup>830</sup> tramite non discessit, nec discedere intendit, minusque<sup>831</sup> ipsum appellansem aggrauauit nec aggrauare intendit aut intellexit, quod patet per causas coloratas allegatas,” – singulas decernendo.<sup>832</sup> “Non enim grauauit<sup>833</sup> in hoc quod eum<sup>834</sup> cepit et captum tenuit, quia cum sit sibi delatus de tali heretica prauitate et testes multos habeat contra eum, merito ipsum tanquam conuictum de heresi” – vel “sibi vehementer suspectum” – “captum tenere debuit atque debet. Nec grauauit eum, quia dare ipsum noluit cautioni. Nam cum crimen heresis sit crimen de maioribus et ipse appellans esset conuictus et starer<sup>b</sup> in negatiua, nequaquam erat nec est cautioni etiam maxime dandus, sed est et erat in carceribus detinendus.” Et sic discurret per alias rationes. Quo facto dicat sic: “Quare apparet quod ipse iudex<sup>835</sup> debite et iuste processit et a iuris semitis<sup>c</sup> minime deuiavit, minusque ipsum in aliquo aggrauauit, sed ipse appellans per causas coloratas atque fictas nititur subterfugere iudicium iniuste et indebite appellando, propter que eius appellatio est friuola atque nulla, vt pote a nullo grauamine interiecta, peccans in materia et forma, et cum appellationibus friuolis nec iura deferant nec sit a iudice deferendum, ideo dicit ipse iudex quod interiectam appellationem non admittit nec admittere

<sup>a</sup> So too *Eym.*; sc. -us

<sup>b</sup> So *Eym.*; ed. prin.: statū

<sup>c</sup> So *Eym.*; sc. -ite

<sup>826</sup> *Eym.*: vigesimum (manifestly an error)

<sup>827</sup> *Eym.* adds the heading: Forma dandi apostolos negatiuos

<sup>828</sup> *Eym.*: inquisitor

<sup>829</sup> For imperialia . . . leges *Eym. has:* ac consulta ad inquisitores et priuilegia eorundem

<sup>830</sup> Not in *Eym.*

<sup>831</sup> *Eym.*: neque (but minusque is noted as a variant)

<sup>832</sup> *Eym.*: discurrendo

<sup>833</sup> *Eym.* adds: eum

<sup>834</sup> *Eym.*: ipsum

<sup>835</sup> *Eym.*: inquisitor

intendit, nec ei defert nec deferre proponit, et hanc responsionem offert dicto Tali sic indebite appellanti pro apostolis negatiuis, et mandat inseri statim immediate post appellationem predictam eidem presentatam.”

Et sic tradat notario, qui appellationem eidem presentauit.<sup>836</sup>

QUIBUS<sup>837</sup> APOSTOLIS NEGATIUIS SIC adhibitis appellanti, statim iudex<sup>838</sup> continuando ipsum suum officium exequat, mandando eundem capi seu detineri vel ipsum arrestando vel terminum ad comparendum coram se eidem assignando vel aliquid simile propter quod appareat quod non desinit esse iudex, continuabitque processum suum contra appellantem quousque a iudice<sup>839</sup> ad quem est<sup>840</sup> appellatum sit prohibitum<sup>841</sup> ne procedat. Caueat tamen iudex<sup>842</sup> quod nullam nouitatem faciat contra appellantem<sup>843</sup> personam, nec ipsum capiendo nec si captus | est a carcere liberando nec alias ab hora qua<sup>844</sup> fuit sibi appellatio presentata quousque apostolos ei<sup>845</sup> tradiderit negatiuos, sed extunc, vt predicatur, poterit, si iustitia hoc requirat, quousque sit prohibitus a iudice ad quem fuerat appellatum, et tunc<sup>846</sup> cum processibus clausis et sigillatis et cum fida ac tuta custodia<sup>847</sup> idonea cautione, si oportuerit, remittat eum ad iudicem antedictum.

Si autem iudex<sup>848</sup> exhibere decreuerit apostolos affirmatiuos et reuerentiales, adueniente eidem termino peremptorio assignato ad dandum et recipiendum apostolos, exhibebit per modum qui sequitur in scriptis.<sup>849</sup>

“ET DICTUS IUDEX<sup>850</sup> RESPONDENDO prefate interiecte appellationi,<sup>851</sup> si dici appellatio mereatur, dicit quod ipse iuste et prout debuit<sup>852</sup> in causa presenti processit<sup>a</sup> et non alias, nec dictum aggrauatum

<sup>a</sup> So *Eym.*; *ed prin.*: -um

<sup>836</sup> Pause (*Eym.* then gives an alternative formula of rejection)

<sup>837</sup> Resume

<sup>838</sup> *Eym.*: inquisitor

<sup>839</sup> For a iudice *Eym. has*: per iudicem

<sup>840</sup> *Eym.*: fuerat

<sup>841</sup> *Eym.*: prohibitus

<sup>842</sup> *Eym.*: inquisitor

<sup>843</sup> *Eym.*: -antis

<sup>844</sup> *Eym. adds*: appellantis

<sup>845</sup> For apostoli ei *Eym. has*: eidem appellanti apostolos

<sup>846</sup> Not in *Eym.*

<sup>847</sup> The order of the two cum-clauses is reversed in *Eym.*

<sup>848</sup> *Eym.*: inquisitor

<sup>849</sup> *Eym. adds the heading*: Forma concedendi appellanti apostolos affirmatiuos

<sup>850</sup> *Eym.*: inquisitor

<sup>851</sup> For interiecte appellationi *Eym. has*: interiectioni appellationis

<sup>852</sup> *Eym. adds*: de iure

se appellasse aggrauare<sup>a</sup> intendit, quod patet ad allegatas rationes” – singulas discurrendo. “Non enim ipsum aggrauauit in hoc[quod dicit] etc.: 257C discurrat per causas singulas appellationis meliori modo et cum veritate qua poterit respondendo. Concludendo sic: “Quare apparet quod ipse iudex<sup>853</sup> dictum appellansem nullatenus aggrauauit nec causam dedit eidem appellanti, metuens ne secundum eius demerita ad iustitiam procedatur<sup>b</sup>, propter quod eius appellatio est friuola atque nulla, quia a nullo grauamine interiecta, nec ei est iure a iudice deferendum. Verum<sup>854</sup> propter reuerentiam sedis apostolice, ad quam extitit appellatum, dicit ipse iudex<sup>855</sup> quod dictam appellationem admittit eique defert et deferre intendit, totum presens negocium ad sanctissimum dominum nostrum papam et sanctam sedem apostolicam remittendo, assignando eidem appellanti certum tempus, scilicet tot menses proxime subsequentes,<sup>856</sup> infra quos cum processibus clausis et sigillatis sibi per ipsum iudicem<sup>857</sup> tradendis vel<sup>858</sup> alias data idonea cautione de presentando se in romana curia vel cum fida et tuta custodia eidem per ipsum iudicem<sup>859</sup> exhibenda habeat se in romana curia presentare domino nostro pape.” 257D

Et hanc responsionem offert ipse iudex<sup>860</sup> eidem appellanti pro apostolis affirmatiuis, et mandatur eam inseri immediate post interiectam appellationem eidem presentatam. Et sic tradet eam notario, qui appellationem eidem presentauit.<sup>861</sup>

ATTENDAT<sup>862</sup> AUTEM PRUDENS IUDEX<sup>863</sup> quod mox vt apostolos reuerentiales appellanti exhibuit in causa illa pro qua ille appellauit, statim ipse desinit esse iudex, nec potest amplius de illa cognoscere nisi sibi causa remissa per sanctissimum dominum nostrum papam, quare de causa illa se amplius intromittat nisi mittendo dictum appellansem

<sup>a</sup> For aggrauatum . . . aggrauare *Eym. has: appellansem aggrauasse (seemingly Iustitioris text of Eym. was defective).*

<sup>b</sup> For appellanti . . . procedatur *Eym. has: appellandi, sed ipse appellans, metuens ne secundum eius demerita ad iustitiam procedatur, appellauit. (The present text represents someone's attempt to restore sense to a defective passage; probably at some point appellandi was misread as appellanti, and then the following text was reworded to bring it into conformity with the misreading.)*

<sup>853</sup> *Eym.: inquisitor*

<sup>854</sup> *Eym. adds: ergo*

<sup>855</sup> *Eym.: inquisitor*

<sup>856</sup> *Eym.: seque-*

<sup>857</sup> *Eym: inquisitorem*

<sup>858</sup> *Eym.: et*

<sup>859</sup> *Eym.: inquisitorem*

<sup>860</sup> *Eym.: inquisitor*

<sup>861</sup> *Pause (Eym. then gives an alternative formula for granting the appeal)*

<sup>862</sup> *Resume*

<sup>863</sup> *Eym: inquisitor*

per modum predicatum ad dominum nostrum papam, assignando eidem terminum competentem, vtpote vnus mensis, duorum vel trium, quatenus interim possit se ad eundem disponere et parare recipiatque  
 258A ab eo de comparendo et se presentando in romanam<sup>864</sup> | curiam<sup>865</sup> infra eundem terminum assignatum idoneam cautionem,<sup>a</sup> vel si appellans non potest illam prestare, mittatur cum fida<sup>b</sup> et tuta custodia,<sup>866</sup> vel obliget se melius quo poterit quatenus se infra terminum assignatum in romanam<sup>867</sup> curiam<sup>868</sup> presentabit domino nostro pape, vel per ipsum non stabit.

Si autem iudex<sup>869</sup> habet causam aliam ac procedit contra eam<sup>870</sup> in alia causa in qua delatus non appellauit, in ipsa illa causa<sup>871</sup> iudex remanet prout ante iudex:<sup>872</sup> etiam<sup>873</sup> si post admissam appellationem et datis apostolis reuerentialibus ipse appellans accusatur et<sup>874</sup> denunciatur iudici<sup>875</sup> de alijs heresis<sup>876</sup> criminibus, de quibus non agitur in causa pro qua appellauit, non desinit esse iudex, imo potest procedere se ad<sup>c</sup> informandum et testes examinandum libere, prout prius. Et finita prima causa in romana curia vel ad iudicem remissa, potest procedere<sup>877</sup> libere in secunda.<sup>878</sup>

Aduertant autem iudices quod processus<sup>879</sup> clausos et sigillatos ad  
 258B romanam curiam mittant iudicibus assignatis qui iustitiam faciant processus meritis actitatis, nec inquisitores ibi curent | agere contra appellantes, sed dimittant eos predictis suis iudicibus iudicandos. Qui iudices, si inquisitores nolunt facere partem contra appellantes, procedent ex officio ad procuracionem appellantium, si voluerint expediti.<sup>880</sup>

<sup>a</sup> So *Eym.*; *ed. prin.*: idonea cautione

<sup>b</sup> So *Eym.*; *ed. prin.*: -e

<sup>c</sup> *Ed. prin.*: pro se ad; *Eym.*: procedere ad se

<sup>864</sup> *Eym.*: -a

<sup>865</sup> *Eym.*: -a

<sup>866</sup> For fida . . . custodia *Eym. has*: fida custodia et tuta

<sup>867</sup> *Eym.*: -a

<sup>868</sup> *Eym.*: -a

<sup>869</sup> *Eym.*: inquisitor

<sup>870</sup> *Eym.*: eum

<sup>871</sup> *Eym. adds*: inquisitor

<sup>872</sup> Not in *Eym.*

<sup>873</sup> *Eym.*: et

<sup>874</sup> *Eym.*: vel

<sup>875</sup> *Eym.*: inquisitori

<sup>876</sup> *Eym.*: heresibus vel

<sup>877</sup> *Eym. adds*: vt prius

<sup>878</sup> End

<sup>879</sup> Start of *Eym.* (460 1B–2B), which begins: . . . inquisitores dictos processus clauses . . .

<sup>880</sup> Pause

Aduertant etiam iudices quod si ad<sup>881</sup> appellantium instantiam citentur personaliter et compareant, caueant tamen<sup>882</sup> omnino litem non iurare, sed attendant processus exhibere et totam causam ad illos reducere et procurent, vt citius poterunt, remeare, ne ibi tedijs, miserijs, laboribus et expensis damnabiliter fatigentur. Sequuntur nanque damna ecclesie,<sup>883</sup> et heretici confortantur, et exposit non inueniunt iudices tantum fauorem et reuerentiam, nec timentur, prout eorum presentia facit.<sup>884</sup> Item ipsi heretici alij quicumque, videntes<sup>885</sup> iudices<sup>886</sup> in romana curia fatigari et detineri, erigent sibi cornua et contemnent<sup>a</sup> ac malignabuntur et audacius hereses seminabunt, et vbi agitur contra eos, simili modo<sup>887</sup> appellabunt.<sup>888</sup> Alij etiam iudices efficiuntur<sup>889</sup> debiliores ad negocia fidei prosequendum,<sup>890</sup> et ad hereticos extirpandum, metuentes ne per<sup>258C</sup> consimiles<sup>891</sup> appellationes tedijs et<sup>892</sup> miserijs<sup>893</sup> fatigentur,<sup>894</sup> et hec omnia cedent in<sup>895</sup> magnum preiudicium fidei et ecclesie sancte dei.<sup>896</sup> A quibus singulis sponsus ipsius ecclesie eam preseruare dignetur!

Sit laus deo, exterminium hereticis,<sup>b</sup> pax viuus, requies eterna defunctis. Amen.

<sup>a</sup> Ed. prin.: -et

<sup>b</sup> Ed prin.: heresis

<sup>881</sup> Resume (Eym. begins: Vbi autem inquisitores ad appellantium)

<sup>882</sup> Not in Eym.

<sup>883</sup> Pause (Eym. adds: sancte multa, quando inquisitores in romana curia propter causas huiusmodi longo tempore trahunt moram)

<sup>884</sup> The end of this passage replaces a section (460 1D) stating that in the absence of inquisitors, bishops are unable to suppress heresy so well because of their many other duties (the phrase non . . . facit is an adaptation of a phrase about bishops: nec inueniunt tantum fauorem nec reuerentur nec timentur prout inquisitores)

<sup>885</sup> Resume (Eym. begins: Secundum damnum est quo heretici, seu de heresi diffamati, delati vel suspecti, videntes . . .)

<sup>886</sup> Eym.: inquisitores

<sup>887</sup> For simili modo Eym. has: per diocesanos vel inquisitorum commissarios consimiliter

<sup>888</sup> Pause (Eym. adds: vt sic negocia fidei inuoluantur et securius hereses inserantur)

<sup>889</sup> Resume (Eym. begins: Tertium damnum est quia inquisitores sic in romana curia fatigati cum redierint et inquisitores aliarum partium huiusmodi illorum fatigationem audierint, efficiuntur debiliores . . .)

<sup>890</sup> Eym.: promouendum

<sup>891</sup> Eym. adds: delatorum de heresi

<sup>892</sup> Not in Eym.

<sup>893</sup> Eym. adds: paupertatibus, expensis et laboribus

<sup>894</sup> Pause (Eym. adds: et sic non curabunt negocia fidei promouere nec hereses extirpare, sed quiescent a laboribus suis)

<sup>895</sup> Resume

<sup>896</sup> End

## Appendix: Draft of the Bull Summis Desiderantes

223r Sicut<sup>a</sup> non sine anime nostre graui perturbatione accepimus, licet in prouincijs, ciuitatibus et diocesibus Muguntinensi, Coloniensi, Treuerensi, Salzburgensi et Bremensi<sup>b</sup> ac ceteris partibus Alamanie superioris quamplures utriusque sexus persone a fide catholica deuiantes cum demonibus incubis et succubis abutuntur ac suis incantacionibus, carminibus, coniuracionibus et alijs nephandis et anathematizatis superstitijs et sortilegijs, excessibus, criminibus et delictis mulierum partus, animalium fetus, terre fruges, uinearum uuas et arborum fructus necnon homines, mulieres, iumenta, pecora et pecudes et alia diuersorum generum animalia, uineas, pomeria, prata, pascua, blada, frumenta et alia perire, suffocari et extinguere et depriuere<sup>c</sup> faciant et procurarent, necnon homines, mulieres, iumenta, pecora, pecudes et alia animalia huiusmodi<sup>d</sup> diris intrinsecis et extrinsecis doloribus, tormentis, dampnis et incommodis afficiant et affligent, ac homines ne generare, et mulieres ne concipere, et viri ne uxori, et uxor ne viro reddere possent coniugales actus impediantur,<sup>e</sup> et fidem catholicam abnegarent, Henricus Institoris et Iacobus Sprenger, ordinis fratrum predicatorum et theologie professores, heretice prauitatis inquisitores in partibus Alamanie superioris dictorum prouincie, ciuitates et dioceses<sup>f</sup> predictae fore noscuntur<sup>g</sup> per sedem apostolicam deputati existunt: quia tamen prouincie, ciuitates<sup>h</sup> et dioceses<sup>i</sup> predictae nominatim et specificè expresse non fuerunt, et de talibus personis, excessibus, criminibus et delictis in litteris apostolicis deputationis

<sup>a</sup> Marginal correction of *quamuis*

<sup>b</sup> *Ed. prin.*: all these adjectives of towns in Germany are transcribed as ending in *-sis*

<sup>c</sup> *So ed. prin.*

<sup>d</sup> *Ed. prin.*: *huius*

<sup>e</sup> *Ed. prin.*: *-atur*

<sup>f</sup> *As the final version shows, in quibus is expected here*

<sup>g</sup> *Ed prin.*: *-ter*

<sup>h</sup> *Ed. prin.*: *-is*

<sup>i</sup> *Ed prin.*: *-is*

dictorum oratorum <non> precise mentionem<sup>a</sup> habetur, nonnulli clerici et alie persone laycales insipientes et minus docti dictis oratoribus non licere ad<sup>b</sup> inquisitionem, punitionem, correctionem, castigationem et emendationem de talibus excessibus, criminibus et delictis necessarias et oportunas ac de iure ordinatas descendere nec ad hoc eos admitti debere minus iuste asserere nituntur et satagunt. Cupientes igitur, ut excessus, crimina atque delicta a fidei abnegatione huiusmodi celeriter et prouide reprimantur, et abominationibus, que Christiana fide<sup>c</sup> profitentur, procul assistant, uolumus et apostolica auctoritate statuimus quod dicti inquisitores accersito secum Iohanne Gremper, clerico Constantiensis diocesis prouincie Maguntiensis, magistro in artibus, eorum notario, contra quascumque personas laycales et ecclesiasticas de talibus pestiferis excessibus, criminibus et delictis suspectas in prouincijs, ciuitatibus et diocesibus predictis commorantes, cuiuscumque conditionis et preeminentie fuerint, ad inquisitionem descendere ac eas punire, corrigere, castigare et emendare, et quod iustum fuerit facere, et<sup>d</sup> ex equo possint et ualeant, ac in quibuscumque supra dictarum prouinciarum ecclesijs parochialibus dei uerbum orthodoxis publice predicare admittantur in omnibus et per omnia, ac si de premissis excessibus, criminibus et delictis ac eorum qualitatibus in litteris predictis [de premissis] mentio facta fuisset.

Et nihilominus uenerabili fratri nostro episcopo Argentinensi auctoritate apostolica committimus et mandamus quatenus inquisitionibus predictis in premissis<sup>e</sup> oportune de eius presidio, quoties pro parte dictorum inquisitorum super hoc requisitus fuerit, assister ac una cum dictis inquisitoribus et notario per se uel alium inquirat, puniat, castigat, corrigit et emendat iuxta excessum<sup>f</sup> criminum et delictorum ac personarum huiusmodi qualitatis<sup>g</sup> ac faciat<sup>h</sup> eosdem inquisitores una cum eodem notario in prouincijs, ciuitatibus et diocesibus in partibus predictis ad inquisitionem, punitionem, castigationem, emendationem et correctionem huiusmodi admitti faciat ac contradictores tum seculares quam spirituales seu quocumque nomine, contione aut titulo censeatur, et censuram ecclesiasticam compescat, necnon legitimis super hijs per

<sup>a</sup> *Sc. mentio*

<sup>b</sup> *Ed. prin.: ab*

<sup>c</sup> *Christiana fide: so ed. prin.; sc. -am... -em*

<sup>d</sup> *Unnecessary*

<sup>e</sup> *So ed. prin.*

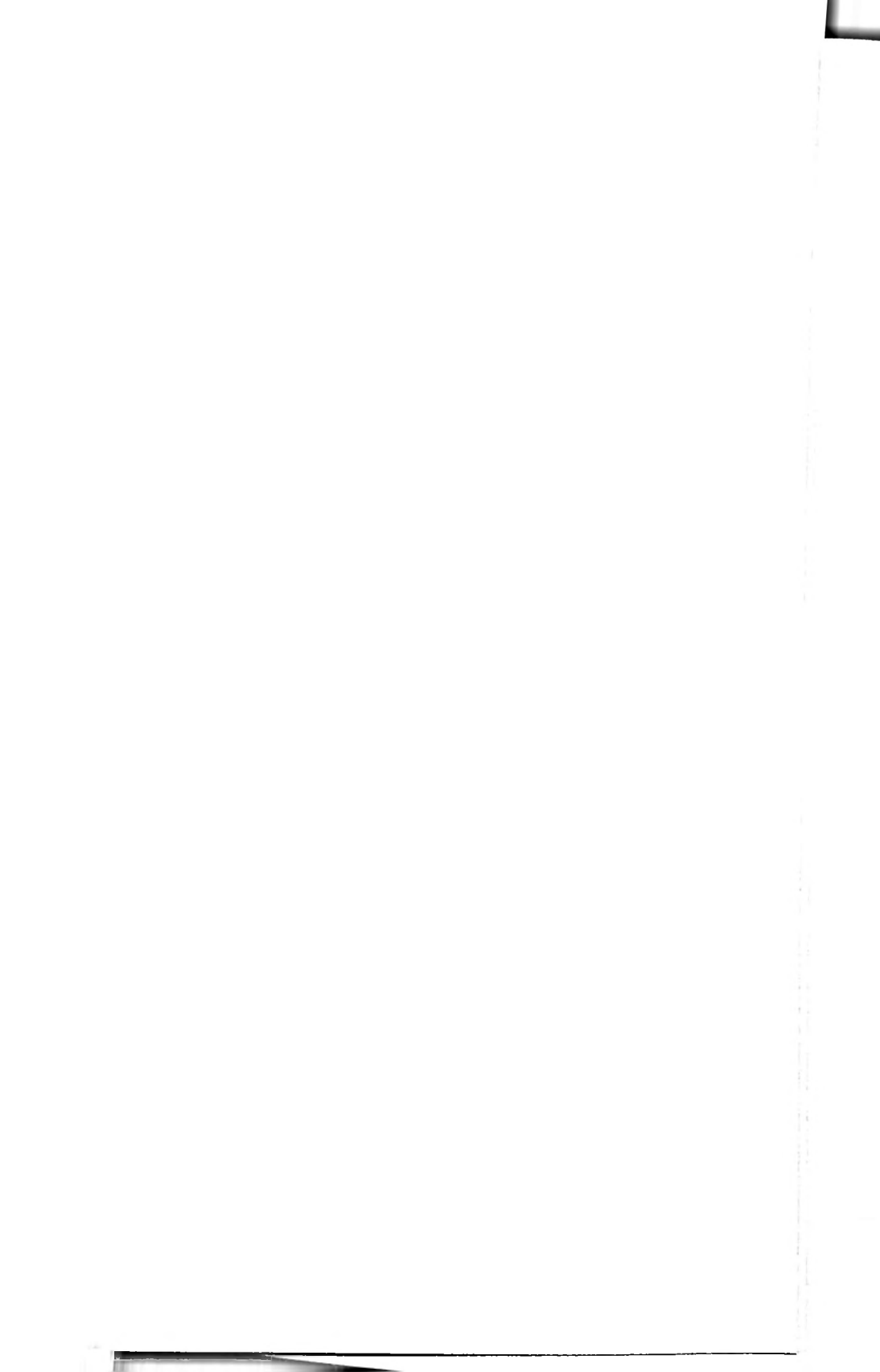
<sup>f</sup> *So ed. prin.; sc. -uum*

<sup>g</sup> *So ed. prin.; sc. -em*

<sup>h</sup> *Either this or the subsequent faciat should have been deleted*

eum habendis saluatis processibus illos, quoties opus fuerit, aggrauare et auxilium brachij secularis super hoc, si opus fuerit, inuocet. In contrarium facientibus . . . non obstantibus quibuscumque . . . cum clausulis oportunis.

Fiat ut petitur. I(nnocentius). Et quod episcopus predictus assistat, inquiret etc. per se uel alium etc., ut prefertur. Item cum inuocatione brachij secularis, et de uoluntate statuto, et alijs premissis, et cum potestate reaggrauandi etc., ut supra. Datum Rome apud sanctum Petrum, quarto, nonis decembris, anno primo.



The *Malleus Maleficarum* is the most famous early modern text on witches and witch hunting. Often known as "Hammer of Witches," the *Malleus* consists of a demonstration of the existence of witchcraft and a discussion of both the practice of witchcraft and cures for the injuries caused by it, together with a recommended method of exterminating it judicially. It was republished twenty-six times in the early modern period, and remained a standard text on witchcraft for centuries. Yet this key text has never before been available in a reliable modern scholarly edition. This fully annotated edition is based on the first edition of 1486–7 and presents the Latin text together with a full textual apparatus. The extensive introduction discusses the authorship, method of composition, and intellectual background of the work. The second volume provides the only accurate English translation available, together with detailed explanatory notes. This important edition makes this vital text accessible to historians of the period and offers extraordinary insights into the attitudes and prejudices inspired by the fear of witches.

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