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## Alanus Anglicus and the Summa 'Induent sancti'\*

The curious lack of any clear influence by Alanus Anglicus upon the Anglo-Norman canonists at the end of the twelfth century has perplexed historians for some time. Because of the accepted dating of the first redaction of Alanus's *Apparatus Ius naturale* as a product of the first decade of the thirteenth century, the search for Alanus material existing prior to the end of the twelfth century has centered upon the possibility of connecting Alanus's teachings with Anglo-Norman glosses bearing the siglum 'secundum al.'<sup>1</sup> Somewhat more productive suggestions were made by Brian Tierney and by Rudolf Weigand, both of whom noted that the *Summa Induent sancti* appears to be related to *Ius naturale*, but neither of whom explored the precise nature of that relationship.<sup>2</sup> Tierney was misled by Kuttner's dating of the first recension of the *Apparatus Ius naturale* somewhat before 1210.<sup>3</sup> Subsequently, Alfons Stickler questioned this date, venturing an opinion that there was no reason to date the first recension much after 1192.<sup>4</sup> This dating now appears very reasonable in light of the relationship between the first recension of Alanus's *apparatus* and the *Summa Induent sancti*. Weigand, having adopted an uncertain date for *Ius naturale*, somewhere between 1192 and 1205, noted the dependence of *Induent sancti* upon Alanus's teaching regarding natural law, but he did not explore the matter further.<sup>5</sup> It remained for new research to examine more fully the nature and extent of Alanus's influence upon *Induent sancti* and thence upon the *Summa Prima primi*, and therefore to suggest a connection between Alanus's first recension and the later works of the Anglo-Norman school.

The *Summa Induent sancti* is currently being prepared for an eventual edition by the undersigned. Although it clearly is important, the text has not been

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<sup>1</sup> S. Kuttner and E. Rathbone, 'Anglo-Norman canonists of the twelfth century: An introductory study', *Traditio* 7 (1949-51) 317.

<sup>2</sup> B. Tierney, 'Two Anglo-Norman Summae', *Traditio* 15 (1959) 489 n. 19. R. Weigand, *Die Naturrechtslehre der Legisten und Dekretisten von Irnerius bis Accursius und von Gratian bis Johannes Teutonicus* (Munich 1967) 238 n. 1.

<sup>3</sup> S. Kuttner, 'Bernardus Compostellanus Antiquus: A study in the glossators of the canon law', *Traditio* 1 (1943) 289.

<sup>4</sup> A. Stickler, 'Alanus Anglicus als Verteidiger des monarchischen Papsttums', *Salesianum* 21 (1952) 371.

<sup>5</sup> Weigand, *Naturrechtslehre* 238.

much discussed in print.<sup>6</sup> Its superficial characteristics appear very much like those of earlier transalpine works. The citations include a galaxy of Bolognese civilians and canonists, including Placentinus, Iohannes Bassianus, Petrus, Martinus, Garnerius (Irnerius), Bulgarus, Huguccio, and Iohannes Faventinus.<sup>7</sup> Like the *Summa decretalium quaestionum* of Magister Honorius, *Induent sancti* illustrates a point of theory — in this case, the question of plurality of benefices — by referring to practice in French dioceses.<sup>8</sup> Like Magister Honorius, the author of *Induent sancti* almost certainly wrote his *summa* in France, although the later influence of *Induent sancti* appeared in a product of the English school, indicating that the connection between the English and the French schools must have remained close, as it had been in the preceding years.<sup>9</sup>

As was characteristic of decretist works in the 1190's, *Induent sancti* used *Compilatio prima* as the text for citing papal documents and referred to Huguccio as the standard commentary upon Gratian's *Decretum*.<sup>10</sup> Decretal citations number more than two hundred, of which only eight fail to appear in the standard edition of the *Compilatio prima*. Of these eight, each decretal can be located in some other early collection, but no single collection, such as that of Gilbert or Alanus, the *Collectio Bambergensis*, or the extant French variants of *Compilatio prima*, contains all of the decretal letters which appear in *Induent sancti* and not in the standard *Compilatio prima*. One therefore concludes that the author of the

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<sup>6</sup> A complete bibliography includes only Tierney, 'Two Anglo-Norman Summae'; Weigand, *Naturrechtslehre* 238-42; G. Fransen, 'Les manuscrits canoniques de l'Abbaye d'Orval', *Aureavallis: Mélanges historiques réunis à l'occasion du neuvième centenaire de l'abbaye d'Orval* (Liege 1975); Tierney, 'Pope and Council: Some new decretist texts', *Mediaeval Studies* 19 (1957) 217; Kuttner, *Traditio* 13 (1957) 466 and *ibid.* 17 (1961) 534; 18 (1962) 448. The manuscripts of the *Summa Induent sancti* are: Douai Bib. Mun. MS 649, fol. 96-140 (hereafter D); Luxembourg Bib. Nat. MS 135, fol. 174-206 (hereafter L); and a text recently discovered in Den Haag, Museum Meermanno-Westreenianum MS 10 B 33 (hereafter H). An analysis of the new manuscript, together with suggestions about the identity of the author, will be published by Dr. Boeren in *Archives d'histoire doctrinale et littéraire du moyen âge*.

<sup>7</sup> Placentinus, C.2 q.1, C.3 q.2; Iohannes Bassianus, C.4 q.1, C.15 q.8, C.28 q.2; Petrus, C.3 q.11; Martinus D.45, C.3 q.11; Garnerius, C.12 q.2; Bulgarus, C.3 q.5; Huguccio, C.15 q.2, C.16 q.5, and *passim*; Iohannes Faventinus, D.94, C.2 q.1, and *passim*.

<sup>8</sup> C.21 q.1, naming Chartres and Paris. The *Summa Omnis qui iuste* and Honorius's *Summa decretalium quaestionum* cited the same two dioceses. Cf. Kuttner-Rathbone, 'Anglo-Norman canonists' 316 n. 81; L. Saltet, *Les réordinations* (Paris 1907) 319, mentions a citation of Chartres and Paris in the *Quaestiones Bambergenses* I of MS Can. 45; H. Singer, 'Beiträge zur Würdigung der Decretistenlitteratur', AKKR 69 (1893) 413, noted a reference to the same two dioceses in the *Summa Monacensis*. The numerous citations probably stem from the close association of the transalpine *magistri* with these two dioceses and from the diversity of practice between them.

<sup>9</sup> Tierney, 'Two Anglo-Norman Summae' 486, following Kuttner-Rathbone, 'Anglo-Norman canonists' 288, 296-303, and 315.

<sup>10</sup> Kuttner-Rathbone, 'Anglo-Norman canonists' 327.

*summa* used a manuscript of Bernard of Pavia's *Breuiarium* with some sort of appendix or insertions.

The decretal letters are important because they establish the date of the completion of the *summa* at least roughly, and thus throw light upon the dating of Alanus's first recension. The latest decretal cited in the *Summa Induent sancti* is a letter of Celestine III, *Prudentiam*, dated 1193 and addressed to the dean of Rouen.<sup>11</sup> This citation appears only in the Hague manuscript. The inclusion of the letter *Prudentiam* fixes the *terminus a quo* for the completion of the final draft of *Induent sancti* at 1193, while the inclusion of no later material indicates that the last version of the *summa* was most likely completed shortly after *Prudentiam* was promulgated by Celestine. This supposition, though far from conclusive, is strengthened by the large number of decretal citations, which indicates that the author of *Induent sancti* was concerned to include recent papal legislation in his explication of Gratian's text. Fortunately, this suggestion is corroborated by two other datable references in the *summa*.

The first of these references concerns the holding of *precaria* at Chartres, which the *summa* mentions in connection with plurality of benefice, in parallel with the office of *prepositura* at Paris.<sup>12</sup>

Immo si non haberet titulatum secundam, nulla est dispensatio. Cum enim commendatur alicui ecclesia donec eligatur prelatus, uel aliquod beneficium datur alicui clerico ad tempus, puta precaria Carnoti uel prepositura Parisius, nulla est ibi dispensatio quia nullius iuris relaxatio. Non dico tamen quin mortale peccatum sit accipere secundam si prima sufficiat.

The difference between these capitular holdings at Chartres and Paris was terminated by an episcopal charter of Chartres dated 1193, which ordered that the four *precariae* of Chartres were to be discontinued and four *prepositurae* established in their place.<sup>13</sup> This action was confirmed in 1193 by Philip Augustus and in 1195 by Celestine III.<sup>14</sup> Unless the author of the *Summa Induent sancti* were ignorant of these changes, which seems unlikely, the conversion of the capitular holdings at Chartres marks the *terminus ad quem* for the completion of *Induent sancti*, around the year 1195.

The second datable reference in the *summa* provides no crucial information, but reconfirms the general impression already established. The *summa* cites an unnamed *dominus Albanensis* to the effect that clerics through the rank of

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<sup>11</sup> H fol. 125r. *Prudentiam* (JL 17019) is found in several early collections after 1 Comp.; eventually it was included in 2 Comp. 1.12.3 and X 1.29.21.

<sup>12</sup> D fol. 127vb; L fol. 198ra; H fol. 143v.

<sup>13</sup> E. de Lépinos and L. Merlet, eds., *Cartulaire de Notre-Dame de Chartres* (Chartres 1865) no. cxix.

<sup>14</sup> L. Amiet, *Essai sur l'organisation du chapitre cathédral de Chartres du XI<sup>e</sup> au XVIII<sup>e</sup> siècle* (Thèse, Université de Paris, publ. Chartres, 1922) 119.

subdiaconate might licitly bear arms against infidels, so long as the cleric in question does not wish to proceed into major orders.<sup>15</sup>

Ex hoc uidetur quod in peregrinatione liceat eis arma portare, sicut et tabernam intrare . . . et uestem mutare . . . Item si dominus papa eis concesserit, qui nouas leges condere potest . . . Ex hoc forte dominus Albanensis etiam subdiaconis crucem gerentibus concedebat, ut contra paganos licite arma ferrent et eos occiderent, si tamen in suo officio non uellent ulterius ministrare uel ad maiores ordines conscendere.

This must refer to a ruling by Henri de Marcy, cardinal-bishop of Albano and papal legate, who was charged with preparations for the Third Crusade and who died in 1189.<sup>16</sup> Therefore, the datable material in the *Summa Induent sancti* indicates that it was completed in the years 1193-1195.

The date of the *summa* is interesting in its own right, but it is also important for the light it throws upon the dating of Alanus's first recension of the *Apparatus Ius naturale*. The dependence of the *summa* upon the *apparatus* is extensive, and a few instances of textual borrowing will suffice to establish the point.<sup>17</sup>

At D.1 v. *Humanum genus*:<sup>18</sup>

Alanus:	Induent sancti:
Tractaturus de iure canonico Gratianus incipiens a primis secundum naturam	Tractaturus de iure canonico Gratianus a primis secundum naturam incipiens
quasdam iuris diuisiones premittit, iuris species quasdam describendo quasdam exemplificando, usque ad quartam di. ostendit. In quarta di. aperit iuris officium, causam et modum constitutionis. A v. di. differentias inter iuris species assignat aggressurus in xv. di. propositum principale.	quasdam iuris diuisiones premittit, iuris species quasdam describendo quasdam exemplificando, usque ad iiii. di. ostendit, in qua aperit iuris officium, causam et constitutionis modum. A v. di. differentias inter iuris species assignat aggressurus in xv. di. propositum principale.

At D.1 c.7 v. *Ius naturale*, Alanus presented his definition of natural law, in contrast with Huguccio's quadripartite definition. The *Summa Induent sancti* followed Alanus and borrowed his reference to Plato's *Timaeus*. The dependence

<sup>15</sup> D fol. 130vb; L fol. 200ra; H fol. 147r.

<sup>16</sup> Y. Congar, 'Henri de Marcy, abbé de Clairvaux, cardinal-évêque d'Albano et légat pontifical', *Studia Anselmiana* 43 (1958) 77-90.

<sup>17</sup> Readings from *Ius naturale* are taken from Paris B.N. MS 3909 (hereafter P<sub>1</sub>), whose text is closer to that of *Induent sancti* than are the other manuscripts of Alanus.

<sup>18</sup> P<sub>1</sub> fol. 1r; L fol. 174vb; H fol. 100v. This text from *Ius naturale* is printed in S. Kuttner, *Repertorium* 72-3. The corresponding passage of Huguccio appears beside the Alanus text, *loc. cit.*

of one text upon the other is proved by the occurrence of an erroneous legal citation in both texts, citing *Inst. de rerum diuisione § Vendite* for *Inst. 2.1.11*.<sup>19</sup>

At D.6:<sup>20</sup>

Alanus:	Induent sancti:
Pollucio— —ex infirmitate . . . non prohibet a perceptione sacramenti uel consecratione. —ex crapula . . . prohibet a consecratione nisi instet necessitas, non a perceptione si sit sine turpi imaginatione.  —ex precedenti cognitione prohibet ab utroque.	Est enim distinctio Gregorii talis quia ex infirmitate contingens illusio non prohibet a sacramenti perceptione uel consecratione. Ex crapula prohibet a consecratione nisi instet necessitas, non a perceptione si tamen sine ymaginatione turpi. Ex precedenti cogitatione prohibet ab utroque.

A comparison of these virtually identical texts with the text of Huguccio at D.6 c.1 v. *testamentum*, reveals that the author of *Induent sancti* clearly depended upon Alanus rather than upon Huguccio. Huguccio's *Summa* contains precisely the same teaching as that contained in *Ius naturale*, but less succinctly phrased:<sup>21</sup>

In hoc capitulo ostendit Gregorius quod nocturna pollutio tribus modis contingit. Aliquando ex infirmitate nature, aliquando de crapula, aliquando ex precedenti turpi cogitatione. Prima non prohibet a perceptione uel a consecratione eucharistie. Tertia ab utroque prohibet. Secunda distinctionem recipit. Si enim cum turpi imaginatione et concussione fit, ab utroque prohibet. Alias autem, idest si non sic fit, a perceptione eucharistie non prohibet, set a confectione remouet nisi instet necessitas.

At D.10:<sup>22</sup>

Alanus:	Induent sancti:
Ostenso ius positium cedere iuri naturali, ostendit legem cedere canoni.	Ostenso ius positium cedere iuri naturali, ostendit legem cedere canoni.

Once again the corresponding text in Huguccio expressed the same ideas in somewhat lengthier form:<sup>23</sup>

Hic intitulatur x. di., in qua Gratianus ostendit quod constitutio secularis cedit constitutioni ecclesiastice. Et procedit ordine congruo. In precedenti namque di. ostendit quod tam constitutio ecclesiastica quam constitutio secularis cedit iuri naturali. Modo consequenter ostendit eas constitutiones et ostendit que cui preualet . . .

<sup>19</sup> P<sub>1</sub> fol. 1ra; L fol. 174 va; H fol. 100r. These texts are printed in Weigand, *Naturrechtslehre* 225-6, 239. A marginal distinction in L at fol. 174r follows Huguccio's definition.

<sup>20</sup> P<sub>1</sub> fol. 1va (written in form of a stemma); H fol. 103r. This text does not appear in L or D.

<sup>21</sup> Vat. lat. MS 2280, fol. 6va.

<sup>22</sup> P<sub>1</sub> fol. 2ra, printed in Stickler, 'Alanus als Verteidiger' 351. D fol. 96ra; L fol. 175vb; H fol. 103v.

<sup>23</sup> Vat. lat. MS 2280, fol. 10ra.

At D.11:<sup>24</sup>

Alanus:

Consuetudinum alia generalis alia specialis. Generalis lege deficiente seruatur pro lege, ut supra di.i. Consuetudo, et infra e. di. In his rebus. Immo legem scriptam abrogat, ut ff. de le. l. De quibus . . . .

Induent sancti:

. . . consuetudo alia generalis est alia specialis, et generalis quidem lege deficiente pro lege obseruatur, ut di.i. Consuetudo, e. di. In rebus. Immo etiam abroget legem, ut ff. de legibus. De quibus.

Huguccio's text at D.11 bears the familiar relationship to *Ius naturale* and *Induent sancti*. Precisely similar ideas appear in all three texts, but Huguccio's phrasing varies from that of Alanus, which the author of *Induent sancti* adopted:<sup>25</sup>

In hac di. ostendit quod constitutio cedit legi tam seculari quam ecclesiastice, si ei contradicit. Si enim uero ei consonat, honoranda est et seruanda . . . Consuetudo duplex est. Quedam est uniuersalis uel generalis, quedam specialis uel particularis, ut l.e. Catholica, et di.xii. Illa.

At D.40 c.6 v. *nisi deprehendatur a fide deuius*:<sup>26</sup>

Alanus:

Item si publicus fenerator esset nunquid accusari potest?  
Possit secundum quosdam  
*de omni notorio*, qui large accipiunt peccare  
*in fide, idest contra doctrinam fidei* nostre,

sicut

*omnis mortaliter peccans dicitur Christum negare, ut infra xi. q.iii. Existimant. Set secundum hoc nullum esset hic pape priuilegium . . . .*

. . . licet cogi non possit, tamen amonitus

*iudicem eligere debebit et sub eo litigare. Quamuis enim legibus solutus sit secundum leges tamen uiuere debet.*

Induent sancti:

Quod autem dicitur papam posse accusari si fuerit in fide deuius, large accipit Y. nomen fidei ut etiam possit accusari  
*de omni crimine notorio* et dicitur tunc deuiare a fide, idest facere contra doctrinam fidei. Largius etiam extenditur nomen fidei, ut dicantur preces contra fidem, idest contra consuetam loquendi regulam . . . . Sic etiam *omnis mortaliter peccans dicitur Christum negare, ut xi. q.iii. Existimant. Set secundum hoc nullum uel modicum esset pape priuilegium . . . .*

Et quid si contendat heresim non esse quod predicat?

*Debet iudicem eligere et sub eo de hoc litigare. Licet enim legibus solutus sit debet tamen legibus uiuere.*

A comparison of the explications of D.40 produces a clear notion of the precise relationship between Huguccio's *Summa*, the first recension of *Apparatus Ius naturale*, and the *Summa Induent sancti*. Huguccio taught that the pope could be accused and condemned for heresy, and that the rubric *deuiare a fide* included any notorious crime, for which a pope might also be condemned. Alanus objected

<sup>24</sup> P<sub>1</sub> fol. 2rb; D fol. 96rb; L fol. 176ra; H fol. 103v.

<sup>25</sup> Vat. lat. MS 2280, fol. 11rb.

<sup>26</sup> P<sub>1</sub> fol. 8va; D fol. 99ra; L fol. 177vb; H fol. 107v. These texts are printed in Tierney, 'Pope and Council' 217-8. Huguccio's gloss on D.40 c.6 appears in Tierney, *Foundations of the conciliar theory* (Cambridge 1955) 248-50.

that in the absence of a superior judge, the pope could not be tried for any crime, however notorious, except for heresy, because heresy endangered the entire Church. Alanus therefore rejected Huguccio's contention that a pope could be obliged to undergo trial for notorious crimes and allowed only that the pope ought (*debebit*) to appoint a judge before whom to litigate any criminal accusations. Evidently, the author of the *Summa Induent sancti* borrowed from Alanus, insofar as Alanus's teaching contradicted the broad interpretation given by Huguccio to the phrase *nisi deprehendatur a fide dei*. Having sided with Alanus to dispose of Huguccio's disagreeable teaching, the author of *Induent sancti* asserted that the pope 'in nullo casu accusari potest propter defectum iudicis superioris'. Then he denied Alanus's assertion that an heretical pope could be condemned, because 'simul et papa et hereticus esse non potest'. Therefore, the last phrase borrowed from Alanus, stating that the pope ought to select a judge before whom to contest his case, was applied in a different context by each author. Alanus believed that the pope ought to submit to judicial procedure for a serious crime, while being obliged to undergo trial if accused of heresy. The author of the *summa* applied the verb *debet* to the preferred procedure in case the pope were accused of heresy, but he denied that the pontiff could be forced to defend himself against any charge at all. The logical pitfalls of this argument were discussed by Professor Tierney and need not detain us here.<sup>27</sup>

One might cite numerous other examples showing the dependence of the *Summa Induent sancti* upon the *Apparatus Ius naturale*, but the foregoing texts amply illustrate the point. The author of *Induent sancti* borrowed from Alanus when a doctrine was more crisply explained in *Ius naturale* than in Huguccio's *summa*, and when Alanus's opinion could be useful in contradicting Huguccio at some point of dispute. This was the case regarding the definition of natural law at D.1, and again in the explication of D.40 c.6. Having relied on Alanus, nevertheless, the author of *Induent sancti* did not fear to reject the teaching expressed in *Ius naturale*. *Induent sancti* therefore retained an individual character and a significance beyond that of a mere restatement of Alanus's opinions.

Sometime between its completion and the composition of the later *Summa Prima primi*, the *Summa Induent sancti* appears to have been imported into England. There it was used after 1203 by the author of *Prima primi*, and its function was much the same as that which *Ius naturale* had served in the composition of *Induent sancti*. That is to say, the author of *Prima primi* relied upon *Induent sancti* when he wished to contradict or to expand upon his other source, the *Summa* of Huguccio. Likewise, *Prima primi* sometimes rejected the teaching contained in *Induent sancti* and counterposed an original opinion. Thus, *Prima primi* ignored the subtleties of *Induent sancti* and of Huguccio regarding natural law and settled for a common-sense definition: 'Dicatur ius naturale quod proce-

<sup>27</sup> The texts of Alanus and *Induent sancti* at D.40 c.6 are discussed by Tierney, 'Pope and Council' 208-9. Tierney explains Huguccio's explication of D.40 in *Foundations* 57-63.



dit ex prima natura sine corruptione, secundum quod scilicet homo uiueret si Adam non peccasset . . .'.<sup>28</sup> Inevitably, some influence of Alanus's thought and phrasing was transmitted to *Prima primi* through *Induent sancti*. This can most easily be exemplified by referring to a text of Alanus already discussed, at D.40 c.6, which appears in *Prima primi* only slightly altered:<sup>29</sup>

Hoc enim casu debet iudicem eligere et sub eo litigare.

Licet enim legibus sit solutus debet tamen legibus uiuere.

The full extent of this transmission of material from Alanus to *Prima primi* is not yet clear. A thorough investigation will have to await completion of the edition of the *Summa Induent sancti* and further research regarding *Prima primi*. Although the investigation of Alanus Anglicus, *Induent sancti*, and *Prima primi* remains incomplete, some interesting conclusions have already emerged. Certainly the *Summa Induent sancti* depended upon Alanus's first recension of the *Apparatus Ius naturale*. This fixes the date for the first recension of *Ius naturale* in the earlier years of the 1190's, as Stickler previously suggested. The connection between *Induent sancti* and the *Summa Prima primi* suggests that the Anglo-Norman school at the end of the twelfth century retained the intimate links with the French school which had characterized the earlier years of canonical study. More generally, the transmission of Alanus's text from Bologna to France and thence to England underscores the close connections between geographically distant canonists at the end of the twelfth century.

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<sup>28</sup> London B.L. MS Royal 11 D II, fol. 321ra, discussed by Tierney, 'Two Anglo-Norman Summae' 485, and Weigand, *Naturrechtslehre* 214.

<sup>29</sup> London B.L. MS Royal 11 D II, fol. 322ra, cited by Tierney, 'Two Anglo-Norman Summae' 490.