REPORTATIO OF A LECTURA ON THE TITLE DE ACTIONIBUS
(INST. 4.6 rub. – 6) OF GUIDO DE CUMIS
(MS Vat. lat. 2689, fol. 5)*

by

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The MS Vat. lat. 2689, of which the most important and longest section is the Concordia utriusque iuris of Pascipoverus (fols. 6ra-215rb), also includes 5 initial folios and 2 at the end, containing other texts by different authors1. On fol. 5 is a commentary on Inst. 4.6 rub. – 6 by Guido de Cumis. This text was identified for the first time by Peter Weimar2. The folio is of French origin, from the beginning of the fourteenth century. Undecorated, it is written in gothic script, different from the rest of the MS. Within it there seem to be several hands, at least two. Contrary to what happened in the rest of the MS, the initials are present. The lemmata are underlined. The folio has two columns on each side, but only about one fourth of column vb is filled. The number of lines by column is: ra 82; rb 82; va 95; vb 24. Even since seeing it for the first time ten years ago, I thought that its publication would be of interest. After studying it, I am convinced of its importance for a better knowledge of Guido de Cumis and his works.

Guido de Cumis (or de Guinis) was one of the founders, or at least one of the first professors, of the Studium Aurelianense3. He was of Lombard origin and studied at the university of Bologna in the first third of the XIIIth century. Among his professors were Umbertus de Bobio and Iacobus Balduini, the latter very often quoted in his classes and commentaries. We know that at one time, Guido passed an examination in the presence of the great Accursius4, possibly before 12345. The sources quoted by R. Feenstra attest that he was lombardus.

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2. He graciously gave us that information in his letter of March 12, 1976.
5. Cf. G. Gualandi, Un gustoso episodio della vita di Accursio e la data della 'Glossa
This fact was among the reasons which moved R. Feenstra to decide that de Cumi
mis was his real patronymic. He considers de Guinis a misreading or a corruption of de Cumi
six.

E.M. Meijers is of the opinion that very soon after finishing in Bologna, Guido
began teaching at the Law School in Orléans, and by the middle of the XIIIth century he became the most illustrious professor of that school. He was already
in Orléans in 1241; there he presented a response to a consultation occasioned
by the death of Gregory IX in this same year. There are sound reasons for be
lieving that he was still a professor in that city in 1263.

Among the works of Guido there is the Casus Institutionum, discovered by
E.M. Meijers and very successfully studied by R. Feenstra in the article so often
quoted here. In reality, it is necessary to say that the kind of juridic literature
called Casus, was not something the professors wrote by themselves. They were
rather the work of their students. They wrote them down after listening to the
regular classroom course given by the professors on the Institutes of Justinian.
It seems that Guido had, among other pedagogical resources, the trick of present
ing his explanations of the Institutes in the form of a dialogue with Justinian. In
this dialogue, Guido (or the interlocutor) presents himself as an ignorant ques
tioner who demands enlightenment from the Emperor. This method may be ob
served in our MS. In it Justinian usually answers Guido, calling him frater, rather
than amice, as is often the case in other versions of the Casus.

One of the students, the reportator, wrote down the casus explained by the
professor, with the intention many times of reelaborating on it, adding other ele
ments like continuationes and divisiones, and thus creating something like a com
mentary or a paraphrase to the Justinian text. Such is the case with our MS.
It is clearly the result of a lectura on the title De actionibus given by Guido at
the Studium Aurelianense, and composed by a student or reportator, who also
contributed something of his own understanding, as one can see in the paragraph
beginning ‘In primis sciem dum est’ (l. 162), which he ended with the words: ‘Ad
ditio mea est’ (l. 173). But we do not find in this MS such instances of criticism

convegno internazionale di studi accursiani, Bologna, 21-26 Ottobre 1963, II (Milano 1968)
459-492; p. 483).
8. Cf. G. Gualandri, Un gustoso episodio, 482 (320); R. Feenstra, Les ‘Casus Institution
num’ 232.
10. Cf. E.M. Meijers, Etudes III 32, 236-237; N. Horn, Die legistische Literatur der
Kommentatoren und der Ausbreitung des gelehrt Rechts, in Handbuch der Quellen und
Literatur der neueren europäischen Privatrechtsgeschichte I, ed. by H. Coing (München
1973) 328-330; P. Weimar, Die legistische Literatur der Glossatorenzeit, ib. 213-215 and
221; R. Feenstra, Les ‘Casus Codicis’ 180 n. 18.
11. Because of the early date of the reportatio of MS Vat. lat. 2689, the use of frater
instead of amice, makes more real the hypothesis sustained by Meijers, who thought
there was a first version of the Casus Institutionum in which only amice was present. Cf.
R. Feenstra, Les ‘Casus Institutionum’ 242 n. 3. It is also interesting to note that the Casus
Longi super Instituta (Freiburg 1494), the Lectura Institutionum (Venice 1492) and MS
Leipzig 911 (as we shall see later), also use frater in the short fragment in which they coin
cide among themselves and with our MS.