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Pope John XXII and the Michaelists: the scriptural title of evangelical poverty in
Quia vir reprobus

Abstract

The theoretical poverty controversy in 1322-1323 concerned the question of the Franciscan doctrine that Christ and the apostles had renounced both individual and communal property. This article examines Pope John XXII's final and often neglected text on the question of Franciscan poverty, the bull *Quia vir reprobus* published in 1329. It was only in this late bull that the pope addressed the question of the scriptural title of Franciscan poverty, and he used the bull to establish the (temporal) dominion of Christ through biblical exegesis. The middle section of John's bull constitutes an almost completely self-contained treatise on the role of dominion in Scripture, and it is therefore as close as we can get to a personal statement of the pope on his own definition of both the dominion and the poverty of Christ. The pope's preoccupation with the reconstruction of Christ's lordship and poverty from biblical texts shows a different aspect of John XXII's relationship with the Franciscans from the primarily legal argumentation in his earlier bulls, and it illustrates that his dissatisfaction with the Franciscan poverty ideal went beyond legal and administrative concerns.

Keywords:

Church history; Franciscan order; Biblical exegesis; Pope John XXII (1316-1334); Poverty controversy; origins of private property

I. Introduction

When Pope John XXII declared the doctrine of the absolute poverty of Christ heretical in his bull *Cum inter nonnullos* in November 1323, he may have thought that this was the end of the controversy over Franciscan poverty. And while it was his final decision in the matter of the Franciscan ideal, the debate about the poverty of Christ was far from finished. John's declaration, its implications, and his authority to make such a decision formed part of a continuing discussion of Franciscan poverty at the curia. Although the focus of the debate shifted to the issue of the extent and limits of papal authority, the original topic of discussion proposed by the pope in 1322 did not completely disappear. Even after 1323, a great deal of polemical energy was expended on the question of whether it was heretical to assert that Christ and the apostles had had no property, either individually or in common, and a number of prominent thinkers, such as Pierre de la Palud, only joined the debate after the publication of *Cum inter nonnullos*.¹ When the Franciscan Minister General Michael of Cesena fled from Avignon and, together with Bonagratia of Bergamo, Heinrich of Thalheim, Francesco d'Ascoli, and William of Ockham, joined Ludwig the Bavarian in 1328, the debate entered a new phase. Michael of Cesena attempted to justify his actions in a letter to his order, the *Littera excusatoria*, and also published two formal appeals: the *Appellatio in forma maiori* (18 September

¹ On the relationship between John XXII and the Franciscans, and especially the poverty controversy, see particularly Patrick Nold, *Pope John XXII and his Franciscan Cardinal: Bertrand de la Tour and the Apostolic Poverty Controversy* (Oxford, 2003); Malcolm Lambert, *Franciscan Poverty: The Doctrine of the Absolute Poverty of Christ and the Apostles in the Franciscan Order 1210-1323*, 2nd ed. (St. Bonaventure, N.Y., 1998), pp. 221-40; Malcolm Lambert, 'The Franciscan Crisis under John XXII', *Franciscan Studies* 32 (1972), 123-43; Thomas Turley, 'John XXII and the Franciscans: A Reappraisal', in *Popes, Teachers, and Canon Law in the Middle Ages*, ed. J. R. Sweeney and Stanley Chodorow (Ithaca, N.Y., 1989), pp. 74-88; David Burr, *The Spiritual Franciscans: From Protest to Persecution in the Century after Saint Francis* (University Park, 2001), especially pp. 191-204. For a brief survey, see also most recently Jürgen Miethke, 'Der "theoretische Armutsstreit" im 14. Jahrhundert. Papst und Franziskanerorden im Konflikt um die Armut', in *Gelobte Armut. Armutskonzepte der franziskanischen Ordensfamilie vom Mittelalter bis zur Gegenwart*, ed. Heinz-Dieter Heimann, Angelica Hulsebein, Bernd Schmies and Christoph Stiegemann (Paderborn, 2012), pp. 243-83.

1328) and the *Appellatio in forma minori* (12 December).² While both appeals, as well as most other Michaelist texts produced from then on, repeated the old arguments about Christ's poverty, the focus of the polemical writings shifted to a defence of the actions of the dissident Franciscans and to the attempt to prove the heresy of the pope.³ But any discussion of the Franciscan ideal of absolute poverty did eventually require an exploration of the nature and origin of property as well,⁴ and the biblical, theological and legal foundations of Franciscan poverty therefore never entirely disappeared from the discussion.

The polemical literature on the nature of Christ's poverty in the late 1320s is often repetitive and tedious in nature, and modern scholarship has therefore focused on the new material introduced in these texts, such as the discussion of papal authority and the power of the keys, and the implications of the debate for the development of natural rights theories.⁵ Brevity is also not generally a feature of these contributions to the debate on Franciscan poverty, and this is certainly true of John XXII's final word

² *Littera excusatoria* in *Nicolaus Minorita: Chronica. Documentation on Pope John XXII, Michael of Cesena, and the Poverty of Christ with Summaries in English: A Sourcebook*, ed. Gedeon Gál and David Flood (St. Bonaventure, N.Y., 1996), pp. 207-11. See also Eva Luise Wittneben, *Bonagrata von Bergamo. Franziskanerjurist und Wortführer seines Ordens im Streit mit Papst Johannes XXII*. [Studies in Medieval and Reformation Thought, 90] (Leiden, 2002), pp. 287-90. The *Appellatio in forma maiori* is edited in *Nicolaus Minorita*, pp. 227-424, the *Appellatio in forma minori* in *Nicolaus Minorita*, pp. 429-56.

³ See Wittneben, *Bonagrata* (see above, n. 2), p. 290 for a discussion of this point with special reference to Michael's *Littera excusatoria*. For Ockham, see also John Kilcullen, 'The Political Writings', in *The Cambridge Companion to Ockham*, ed. Paul Vincent Spade (Cambridge, 1999), 302-25 (p. 319).

⁴ On this point, see Jonathan Robinson, 'Property Rights in the Shift from "Community" to "Michaelist"', *Rivista internazionale di diritto comune* 22 for 2011 (2012), 141-81 (p. 167).

⁵ The scholarship on the implications of the poverty debate for the development of theories of papal authority is vast. For some general overviews, see James Heft, *John XXII and Papal Teaching Authority* [Texts and Studies in Religion, 27] (Lewiston, N.Y., 1986); Ulrich Horst, *Evangelische Armut und päpstliches Lehramt: Minoritentheologen im Konflikt mit Papst Johannes XXII. (1316-34)* (Stuttgart, 1996) and Brian Tierney, *Origins of Papal Infallibility, 1150-1350: A Study on the Concepts of Infallibility, Sovereignty and Tradition in the Middle Ages*, 2nd ed. (Leiden, 1988). On the importance of the debate for natural rights theories, see for instance Annabel S. Brett, *Liberty, Right and Nature: Individual Rights in Later Scholastic Thought* [Ideas in Context, 44] (Cambridge, 1997) and Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law 1150-1625* (Atlanta, Ga., 1997).

on the question: *Quia vir reprobus* was published on 16 November 1329, and it is long, tedious, and full of repetition. While the text has often been mined for information on John's legal and ecclesiological case against the Franciscan ideal, it has rarely been treated as a whole, and the only part of the bull that has received much attention is the pope's argument that dominion was a divine institution which predated the Fall.⁶ The explicit aim of *Quia vir reprobus* was to correct Michael of Cesena's account of papal intentions and actions: John XXII devoted a lot of space to a discussion of the intentions of his earlier bulls, mostly in the context of his extensive complaints about the fact that the former minister general had deliberately misunderstood, misrepresented and misquoted him.⁷ The pope also revisited his earlier arguments about evangelical poverty, and even though he did not substantially change any of his main points, he added new examples and new supporting arguments. It was only in this final bull, however, that John addressed the scriptural

⁶ *Quia vir reprobus* has been edited in *Nicolaus Minorita* (see above, n. 2), pp. 553-613 and *Bullarium Franciscanum Romanorum pontificum constitutiones, epistolas, ac diplomata continens tribus ordinis minorum, clarissarum et poenitentium*, 7 vols (Rome, 1759-1904), 5:408-49. For ease of comparison between the bull and Michael of Cesena's appeal to which it responded, I will refer to the edition in Nicolaus Minorita for the remainder of this study; discrepancies with the version provided in Ockham's *Opus nonaginta dierum* have been noted when they go beyond differences in spelling and punctuation: see *Opus nonaginta dierum*, in *Guillelmi de Ockham Opera Politica*, ed. Hilary Seton Offler, 3 vols (Manchester, 1940-1963), 2:375-858. On the text and edition of the chronicle of Nicolaus Minorita, see Jürgen Miethke, 'Der erste vollständige Druck der sogenannten "Chronik des Nikolaus Minorita" (von 1330/1338). Bemerkungen zur Präsentation eines "Farbbuches" des 14. Jahrhunderts', *Deutsches Archiv für Erforschung des Mittelalters* 54 (1998), 623-42. The bull itself has been discussed in Bernhard Töpfer, 'Die Anschauungen des Papstes Johannes XXII. über das "dominium" in der Bulle "Quia vir reprobus"', in *Folia diplomatica, 1 (Festschrift Jindrich Sébanek zum 70. Geburtstag)*, ed. Sáša Duškova [Opera Universitatis Purkynianae Brunensis: Facultas Philosophica, 158] (Brno, 1971), pp. 295-306 and John Oakley, 'John XXII and Franciscan Innocence', *Franciscan Studies* 46 (1986), 217-26 (p. 224-6). For a very brief discussion, see also Roberto Lambertini, 'Das Geld und sein Gebrauch. *Pecunia* im Streit zwischen Michael von Cesena und Papst Johannes XXII.', in *Geld im Mittelalter. Wahrnehmung – Bewertung – Symbolik*, ed. Klaus Grubmüller and Markus Stock (Darmstadt, 2005), pp. 216-43 (pp. 221-3). For a discussion of John's views on dominion, see also Gordon Leff, *Heresy in the Later Middle Ages: The Relation of Heterodoxy to Dissent, c. 1250-1450* (Manchester, 1967), pp. 247-9.

⁷ See for instance "iste haereticus [...] verba constitutionis praedictae truncate recitat" (*Quia vir reprobus* (see above, n. 2), p. 586) and "Profecto iste haereticus imponit constitutioni quod ipsa non dicit" (*Quia vir reprobus* (see above, n. 2), p. 589).

title of Franciscan poverty in detail. His lack of overt engagement with the biblical foundations of the Franciscan ideal of absolute poverty has generally been interpreted as being in keeping with the pope's reputation as an administrator whose objections to the order's ideal were primarily practical and legal.⁸

This study will examine John XXII's discussion of the scriptural title of Franciscan poverty and his attempt to establish the (temporal) dominion of Christ through biblical exegesis. The biblical foundations of John's argument are often underestimated, partly because they only surface very late in the debate; it is only in *Quia vir reprobus* that the pope referred to, and quoted from, scriptural authorities to support his views on evangelical poverty. Overall, John XXII devoted less space to his biblical arguments than to his legal case, and his unease about the scriptural foundations of the Franciscan ideal was only one of his many objections to the doctrine of the absolute poverty of Christ. Nevertheless, the belief that the Franciscan doctrine of the absolute poverty of Christ and the apostles was not supported by the Bible underpinned the pope's legal and ecclesiological arguments. It is clear that John XXII did have an interest in scriptural studies: he had a number of works of biblical commentary dedicated to him,⁹ and he was also fond of long lists of biblical quotations, especially in his later years.¹⁰ It should not be forgotten that the future pope had spent some time studying at the theological faculty of Paris, although

⁸ See John Oakley, 'John XXII, the Franciscans, and the Natural Right to Property' (unpublished doctoral dissertation, Cornell University, 1987), p. 20 and his discussion of the prevailing view that John was 'temperamentally incapable of understanding Franciscan spirituality'. See also Lambert, *Franciscan Poverty* (see above, n. 1), p. 238.

⁹ For John's interest in biblical studies, see for instance Beryl Smalley, 'John Baconthorpe's Postill on Matthew', *Mediaeval and Renaissance Studies* 4 (1958), 91-145 (p. 91), discussing works dedicated to the pope by Dominic Grima, Guido Terreni and Enrico del Carreto.

¹⁰ Heft, *Papal Teaching Authority* (see above, n. 5), p. 56 has drawn attention to this; it should be noted, however, that these long lists of biblical quotations only appear in the later stages of John's pontificate: Heft has used the pope's writings in the controversy over the Beatific Vision as an example, but the only bull to exhibit this characteristic in the poverty controversy was *Quia vir reprobus* (1329).

without qualifying for a degree.¹¹ Theological training at Paris in the initial stages of a degree focused on biblical studies,¹² and John XXII does not seem to have gone beyond that; his use of the Bible in the controversy was restricted to a discussion of its literal meaning, and this may reflect a more general rejection of the use of any interpretation of the Bible beyond the literal sense for argument rather than edification.¹³ John's legal training influenced his approach to the biblical passages and his view of the Franciscan ideal, but his argumentation with regard to dominion in the Bible and the poverty of Christ remained firmly exegetical, even if often framed in legal terminology. Nevertheless, the pope's preoccupation with the reconstruction of Christ's lordship and poverty from biblical texts needs to be taken seriously on its own terms, even if his interpretation was not accepted by the Franciscan theologians who were his opponents. The discussion of the scriptural title of Franciscan poverty shows a different aspect of John XXII's relationship with the Franciscans from the primarily legal argumentation in his earlier bulls, and it illustrates that his dissatisfaction with the Franciscan poverty ideal went beyond legal and administrative concerns.

¹¹ See Noël Valois, 'Jacques Duèse, pape sous le nom de Jean XXII', in *Histoire Littéraire de la France*, 42 vols (Paris, 1865-1995), 34:391-630 (pp. 393-4) and John E. Weakland, 'John XXII before his Pontificate, 1244-1316: Jacques Duèse and his Family', *Archivum Historiae Pontificiae* 10 (1972), 161-85 (pp. 163-4). The evidence for his time at Paris comes mostly from a letter written by John XXII to the university of Paris on 5 September 1316: 'nimirum ad prosperitatem ipsius ex eo etiam specialiori affectu dirigimur quod olim, dum nos minor status haberet, in ejus laribus obversati de ipsius dulcedine grata libavimus per aliquantos annos secus decursus sedentes ipsius' (*Chartularium Universitatis Parisiensis*, ed. Heinrich Denifle, 4 vols (Paris, 1889-97), 2:234-6, there p. 235).

¹² See William J. Courtenay, 'The Bible in the Fourteenth Century: Some Observations', *Church History* 54 (1985), 176-87 (p. 184); and Ian Christopher Levy, 'The Literal Sense of Scripture and the Search for Truth in the Later Middle Ages', *Revue d'histoire ecclésiastique* 104 (2009), 783-827.

¹³ See Heft, *Papal Teaching Authority* (see above, n. 5), p. 56, especially note 32, and Smalley, 'Baconthorpe' (see above, n. 9), pp. 142-3, especially p. 143 note 1 on the difference between John XXII and Boniface VIII in this respect.

II. *Quia vir reprobus*

Quia vir reprobus was the longest and last papal bull produced in the theoretical poverty controversy, and the text itself has a rather strange status. It is normally described as a bull, and John XXII himself later referred to it as such,¹⁴ but it does seem to be too long and unwieldy to have been intended as a public declaration. Gordon Leff has argued that it was essentially a learned treatise in which the pope's case was argued in detail.¹⁵ Whatever the precise details of its canonical status and publication process, the text of the bull was directed specifically against Michael of Cesena, and it provided a lengthy and detailed refutation of Michael's *Appellatio in forma minori* which had attacked John's previous Franciscan bulls *Ad conditorem canonum* (1322), *Cum inter nonnullos* (1323) and *Quia quorundam mentes* (1324) and had examined nine dogmatic errors on the part of the pope in detail.¹⁶ The bull overall was concerned with two major points: a refutation of the Michaelist position and a defence of John's own concept of dominion. *Quia vir reprobus* responded to Michael's criticisms in three sections, each amounting to a defence of one of his previous bulls.¹⁷

¹⁴ In a letter sent to the papal legate and a number of archbishops and bishops the pope called for the publication of the text, which he referred to as "libello bulla nostra munito" (*Bullarium Franciscanum* (see above, n. 6), V:449-50). See Töpfer, 'Anschauungen' (see above, n. 6), p. 295 who has argued that it is formally a bull. This view has generally been accepted although there have been no studies of the remaining archival copies of the text in order to verify this. The chronicle of Nicolaus Minorita places the text in line with John's other Franciscan bulls, and points out that the pope had the bull "publice promulgavit" (*Nicolaus Minorita* (see above, n. 2), p. 553). In his response to the bull, William of Ockham pointed out that the consent of the cardinals was not mentioned in the text at all: see *Opus nonaginta dierum* (see above, n. 6), p. 857.

¹⁵ Leff, *Heresy in the Later Middle Ages* (see above, n. 6), p. 247. Jürgen Miethke, *Ockhams Weg zur Sozialphilosophie* (Berlin, 1969), p. 76 also draws attention to the fact that the pope "läßt sich in einem [...] überraschend hohen Grade auf eine argumentierende Diskussion ein."

¹⁶ *Appellatio in forma minori* (see above, n. 2), pp. 429-56. See Wittneben, *Bonagratia* (see above, n. 2), p. 291 and Oakley, 'Franciscan Innocence' (see above, n. 6), p. 224.

¹⁷ In a similar way, William of Ockham's *Opus nonaginta dierum* (c. 1332) is a point-by-point refutation of *Quia vir reprobus*, quoting John XXII's bull in sections and providing an alternative theological and legal exegesis of the pope's argument. In discussing the *Opus nonaginta dierum*, it needs to be kept in mind, however, that it is what John Kilcullen has called a 'recitative' work, where Ockham collated the opinions of those opposed to *Quia vir*

In his short appeal, Michael of Cesena had accused the pope of nine major errors, five of which referred specifically to *Ad conditorem canonum*. The initial refutation of Michael of Cesena's critique of the argumentation of *Ad conditorem canonum* makes up more than half of *Quia vir reprobus*, and in this section the pope answered Michael's criticisms in turn.¹⁸ The five errors attributed to the pope in the short appeal were John's assertion that simple use could not be separated from ownership in the case of consumables, that bare use was not possible at all in the case of consumable items, and that bare use without the right to do so (the *ius utendi*) was illicit. Michael also criticised John's metaphysical argument of use as a process rather than an act and the pope's claim that Franciscan poverty was purely verbal.¹⁹ In both Michael's appeal and in *Quia vir reprobus* this was where most of the legal discussion took place although the former Franciscan minister general also questioned whether it was appropriate to use arguments from civil law in this context.²⁰ The final papal errors identified by Michael focused on the bull *Quia quorundam mentes* and dealt with the pope's understanding of the power of the keys as well as his assertion that he had the right to change his predecessors' legislation.²¹ Having discussed the power of the keys in the previous bull, the pope reiterated his points, but does not seem to have felt the

reprobus, without necessarily identifying his own views, and that it is therefore not always possible to ascribe the arguments used in the *Opus* to Ockham himself: Kilcullen, 'Political Writings' (see above, n. 3), p. 307.

¹⁸ *Quia vir reprobus* (see above, n. 2), pp. 553-613. The refutation of the criticism of *Ad conditorem canonum* can be found on pp. 555-88.

¹⁹ *Appellatio in forma minori* (see above, n. 2), pp. 430-43. For an attempt to show that it was possible to use consumable items licitly without *dominium* by drawing on the Roman concept of a *res nullius*, see Alexander Lee, 'Roman Law and Human Liberty: Marsilius of Padua on Property Rights', *Journal of the History of Ideas* 70 (2009), 23-44.

²⁰ Civil law dealt with civil actions which were forbidden to the apostles; by implication, civil law was not appropriate in a discussion of the relationship of Christ and the apostles with material goods: *Appellatio in forma minori* (see above, n. 2), p. 437. For an oblique response to this, see John's discussion of the apostles' right to litigate: *Quia vir reprobus* (see above, n. 2), pp. 605-10.

²¹ *Appellatio in forma minori* (see above, n. 2), pp. 449-54.

need to elaborate on them to the extent that he did in the defence of his legal arguments.²²

The middle section of John's bull dealt with the two objections raised by Michael of Cesena specifically against *Cum inter nonnullos*, and it is this middle section that will provide the main focus of this paper. Michael claimed that *Cum inter nonnullos* had made Christ and the apostles (individual) owners of material goods and therefore contradicted Nicholas III's declaration *Exiit qui seminat* (1279), and that the pope had argued that the apostles carried money after they returned from preaching.²³ It was in the answer to these two objections that John's pattern of argumentation changed. *Cum inter nonnullos* was a short bull with little discursive treatment of the question; it announced the pope's decision that Christ and the apostles had not renounced communal property.²⁴ According to the pope, his decision was based on the fact that the Franciscan ideal of the absolute poverty of Christ and the apostles was contradicted by Scripture although John did not develop this point at all in *Cum inter nonnullos*.²⁵ Unlike the other two sections of *Quia vir reprobus*, this middle part did not address Michaelist criticisms one by one, but provided an almost completely self-contained treatise on the origin and nature of *dominium* as it was portrayed in Scripture.²⁶ After a summary of Michael of Cesena's main points and a complaint that Michael had not only missed the point of the bull, but had quoted selectively in order to distort the bull's true

²² See John's discussion of papal power(s) in *Quia quorundam mentes* (Extra. Io. XXII 14.5) in *Extravaugantes Iohannis XXII*, ed. Jacqueline Tarrant [Monumenta Iuris Canonici, Series B: Corpus Collectionum, 6] (Vatican City, 1983), pp. 257-87 (pp. 260-3); see also the summary of his position in *Quia vir reprobus* (see above, n. 2), pp. 610-3.

²³ *Appellatio in forma minori* (see above, n. 2), pp. 443-9, especially p. 444: "Prima est quia intellexit [=John XXII] quod Christus et apostoli non solum in communi sed etiam in speciali proprietatem et dominium rerum temporalium habuerunt."

²⁴ For the text of *Cum inter nonnullos* (Extra. Io. XXII 14.4), see *Extravaugantes Iohannis XXII* (see above, n. 22), pp. 255-7.

²⁵ "cum utique de usu gestis seu factis Redemptoris nostri dei filii sentire nefas est et sacre scripture contrarium et doctrine catholice inimicam": *Cum inter nonnullos* (Extra. Io. XXII 14.4) (see above, n. 22), p. 256.

²⁶ *Quia vir reprobus* (see above, n. 2), pp. 588-610.

meaning,²⁷ the pope announced that he would now tackle the main problem: the Franciscan claim that Christ and the apostles had renounced not only individual, but also communal property. The pope proposed to check this claim against the Bible in order to see whether there was any truth in it. His answer then dealt with the question in four separate sections examining the origin of dominion, the temporal dominion of Christ, the apostles' and disciples' relationship with material goods (both before and after the death of Christ), and the apostles' right to litigation.²⁸

The bull's structure, the uneven weight given to the three sections, and the equally uneven treatment of the objections raised by the Franciscans make the text of *Quia vir reprobus* seem fairly disjointed. While it was intended as a crushing response to Franciscan claims about the poverty of Christ, John Oakley has argued that it was in fact a synthesis of both Franciscan and legal traditions.²⁹ It could be argued that it is this synthesis that William of Ockham attacked particularly, if obliquely, when he attempted to re-instate the traditional link between poverty, charity and perfection that had been lost in the course of the controversy, and when he re-asserted poverty as an independent theological virtue, therefore moving the discussion on a much more theological level than had previously been the case.³⁰ The theological basis of the pope's case against Franciscan poverty had remained largely implicit until 1329, and the same is true for a large number of other contributions to the debate.³¹ For the first time in the controversy,

²⁷ *Quia vir reprobus* (see above, n. 2), pp. 588-9.

²⁸ The apostles' right to litigation is not discussed here in any detail, as the argumentation of the pope moved from Scripture to law at this point: it can be found in *Quia vir reprobus* (see above, n. 2), pp. 605-10.

²⁹ Oakley, 'Franciscan Innocence' (see above, n. 6), p. 225.

³⁰ See Takashi Shogimen, *Ockham and Political Discourse in the Late Middle Ages* (Cambridge, 2007), p. 58.

³¹ For one of the major theological contributions to the debate about Franciscan poverty, see Durandus de Saint-Pourçain's discussion of poverty, perfection and the state of perfection: Jürgen Miethke, 'Das Votum *De paupertate Christi et apostolorum* des Durandus von Sancto Porciano im theoretischen Armutstreit: Eine dominikanische Position in der Diskussion um die franziskanische Armut', in *Vera Lex Historiae: Studien zu mittelalterlichen Quellen. Festschrift*

the pope now used a wealth of canonical and biblical references to make his point, not only referring to the standard ‘non-Franciscan’ biblical texts, but also offering a thorough and detailed (if one-sided) exegesis of references to dominion and property in both the Old and New Testaments. It was only in *Quia vir reprobus* that John XXII examined the Christological implications of his concept of dominion, and it was only here that he addressed the Franciscan argument from innocence.³² *Quia vir reprobus* is also the first text to bring arguments from the scholastic analysis of usury into the debate over Franciscan poverty.³³

III. John’s defence of *Cum inter nonnullos*: the scriptural title of poverty

III.1 The origin of dominion

The Franciscan poverty ideal had always depended on the assumption that there was a decisive break in humanity’s relationship with the material world after the Fall. They had followed Augustine in defining private property as a direct consequence of the Fall; there had been no dominion in the Garden of Eden.³⁴ The debate about

für Dietrich Kurze zu seinem 65. Geburtstag am 1. Januar 1993, ed. Stuart Jenks, Jürgen Sarnowski and Marie-Luise Laudage (Cologne, 1993), pp. 149-96 (the edition of the text can be found on pp. 183-94). For a primarily scriptural discussion, see the response of Cardinal Peter Colonna (edited in Felice Tocco, *La quistione della povertà nel secolo XIV secondo nuovi documenti* (Naples, 1910), pp. 158-68).

³² The link between the state of innocence and Franciscan poverty (and therefore the question of the origin of property) had been introduced into the theoretical poverty controversy by Bonagratia of Bergamo: see Töpfer, ‘Anschauungen’ (see above, n. 6), pp. 296-7 and Guy Geltner, ‘Eden Regained: William of Ockham and the Franciscan Return to Paradise’, *Franciscan Studies* 59 (2001), 63-89 (p. 73). See also Roberto Lambertini, ‘La proprietà di Adamo: stato d’innocenza ed origine del *dominium* nel commento alle Sentenze e nel’*Improbacio* di Francesco d’Ascoli’, *Bullettino dell’Istituto italiano per il Medio Evo e Archivio Muratoriano* 99 (1994), 201-52.

³³ See Roberto Lambertini, ‘*Usus and usura*: Poverty and Usury in the Franciscans’ Responses to John XXII’s *Quia vir reprobus*’, *Franciscan Studies* 54 (1994-1997), 185-210 (pp. 190-3).

³⁴ See Janet Coleman, ‘Property and Poverty’, in *The Cambridge History of Political Thought c. 350-c.1450*, ed. James H. Burns (Cambridge, 1988), pp. 607-48 (p. 614); Bernhard Töpfer, ‘*Status innocentiae* und Staatsentstehung bei Thomas von Aquino und William of Ockham’, *Mittellateinisches Jahrbuch* 36 (2001), 113-29 (p. 114); and Töpfer, ‘Anschauungen’ (see

Franciscan poverty had brought the question of the origins of *dominium* into the foreground, and both Bonagratia of Bergamo and Michael of Cesena had argued that the state of innocence precluded any possessions; they had also identified this state with that of the apostles and, by implication, with that of the Franciscan order.³⁵ To some extent, the discussion of the origin of private property shows that the pope had now been forced onto the Franciscans' own ground: it was Bonagratia of Bergamo who had first referred to the book of Genesis in his defence of the Franciscan poverty ideal.³⁶ More significantly for the pope, any examination of the origin of property raised the question of the legitimacy of private ownership;³⁷ if private ownership was natural to humanity and part of the state of innocence, there would be no reason to debate its origins.

John XXII therefore began his argument with a discussion of Genesis, and by listing references to *dominium*, *dominus* and *dominare* in relation to Adam.³⁸ These proved, according to the pope, that Adam had dominion even in the state of innocence,

above, n. 6), pp. 297-8.

³⁵ Livarius Oliger, 'Fr. Bonagratia de Bergamo et eius Tractatus de Christi et Apostolorum Paupertate', *Archivum Franciscanum Historicum* 22 (1929), 292-335 and 487-511 (pp. 506-7); for Michael of Cesena's discussion, see *Appellatio in forma maiori* (see above, n. 2), pp. 238-42 and *Appellatio in forma minori* (see above, n. 2), p. 433. See also Gian Luca Potestà, 'State of Innocence and Private Property in the Polemic on Evangelical Poverty at the Beginning of the Fourteenth Century', in *The Earthly Paradise: The Garden of Eden from Antiquity to Modernity*, ed. F. Regina Psaki and Charles Hindley (Binghamton, N.Y., 2002), 149-63 (pp. 159-60). William of Ockham, on the other hand, placed the community of apostles (and by implication the Franciscans) on a historical continuum rather than interpreting it as a recreation of the state of innocence: see Geltner, 'Eden Regained' (see above, n. 32), p. 80.

³⁶ Oliger, 'Tractatus' (see above, n. 35), p. 504. See also Peter Garnsey, *Thinking about Property: From Antiquity to the Age of Revolution* [Ideas in Context, 90] (Cambridge, 2007), p. 133. On the view that John XXII was now fighting on Michaelist ground, see also Jon Robinson, 'William of Ockham on the Right to (Ab-)Use Goods', *Franciscan Studies* 67 (2009), 347-74 (p. 348).

³⁷ For a discussion of this point, see Garnsey, *Thinking about Property* (see above, n. 36), p. 108.

³⁸ *Quia vir reprobus* (see above, n. 2), pp. 590-1, with particular reference to Gen 1,28 and Sir 17,4. The pope had already made the point earlier in the bull with specific reference to Gen 1,28: "Legitur enim Genesis 1 quod Dominus primis parentibus dixit: *Crescite et multiplicamini et replete terram et subicite eam*. Alia littera loco eius quod supra dicitur 'et subicite eam' habet 'et dominamini ei'." See *Quia vir reprobus* (see above, n. 2), p. 569.

that dominion predated the Fall, and that private property was of divine origin and natural to man. He also argued that this amounted to the divine institution of individual property: it occurred before the creation of Eve, and therefore *dominium* was given to Adam alone. It could not have been the institution of common property for the simple reason that only one human being was alive at that time.³⁹ The pope then backed the argument up by reference to Ecclesiasticus (Sirach) where God was said to have given *dominium* over animals and birds to Adam;⁴⁰ as Adam was the only person who could be called *dominus* at the time, he was the only person who could be said to have *dominium*, particularly as the creation of Eve was not mentioned until verse 5 of the same passage.⁴¹

John argued that his opinion was not contradicted by canon law: in his view, C.12 q.1 c.2 *Dilectissimis*, which is one of the *Decretum*'s most important passages dealing with the problem of communal property and use, did not claim that Adam and Eve did not have *dominium* but rather that their *dominium* was not divided.⁴² He had already argued (in the context of the property relationships of the early Christian community in Jerusalem) that the division discussed in C.12 q.1 c.2 had to be a division of *dominium* rather than use, and that therefore before the division, it was dominion that

³⁹ *Quia vir reprobus* (see above, n. 2), p. 591: "Videtur enim quod Adam in statu innocentiae, antequam Eva formaretur, solus dominium habuerit rerum temporalium; commune dominium, cum solus esset, pro illo tempore habere non potuit, cum communitio plures requirere dignoscatur." He had already made a similar argument on pp. 569-70.

⁴⁰ *Quia vir reprobus* (see above, n. 2), p. 591 with reference to Sir 17,1-5.

⁴¹ *Quia vir reprobus* (see above, n. 2), p. 570: "Unde cum de solo Adam dicitur quod dominatus est bestiarum et volatilium, sequitur quod et solus dominus fuit. Et quod Eva tunc formata non esset, patet, quia statim post illa verba 'et dominus est bestiarum et volatilium' sequitur [Eccli. 17,5]: *Creavit ex ipso adiutorium simile sibi.*"

⁴² *Quia vir reprobus* (see above, n. 2), pp. 570-1, especially p. 570: "Nec obstat c. [2] *Dilectissimis*, in contrarium allegatum. Per illud enim concludi non potest quod primi parentes temporalium dominium non habuerint, sed quod illud non habuerunt divisim." John repeated the argument later: *Quia vir reprobus* (see above, n. 2), p. 590. See also Töpfer, 'Anschauungen' (see above, n. 6), 301.

was common rather than use.⁴³ In contrast to this, the Franciscan tradition emphasised common use rather than dominion, and this was followed by William of Ockham in his refutation of the pope's argument from Genesis, which focused on the shared use of Adam and Eve and drew attention to the bonds of love between the couple which made the question of ownership moot.⁴⁴ This interpretation went beyond the very literal reading of the biblical text preferred by the pope, however, which suggested that contemporary property relationships did not represent a complete break with the state of innocence but were a re-development of the divine order that had already existed in Paradise; partly because of this, the bull has been described as a 'sanctification of property rights'.⁴⁵

The pope then expanded this argument to include biblical history. The question of whether private property was a divine or human institution had already been answered by his insistence on its presence in the Garden of Eden during the state of innocence, but the pope seems to have wanted to go beyond that in order to prove beyond any shadow of a doubt his view that *dominium* was an institution of divine rather than human law. John argued that after the Fall, but before the flood and therefore before the laws of kings, God told Adam that he should eat his bread in the sweat of his face (Gen 3,19), while Abel offered a sacrifice of his flock (Gen 4,4). In both instances, the pope interpreted the possessive pronoun used in the Bible as implying ownership

⁴³ *Quia vir reprobus* (see above, n. 2), p. 564.

⁴⁴ Ockham also acknowledged in the same passage that this argument might not entirely prove his point: see *Opus nonaginta dierum* (see above, n. 6), cap. 88, p. 660.

⁴⁵ Gordon Leff, 'The Bible and Rights in the Franciscan Disputes over Poverty', in *The Bible in the Medieval World: Essays in Memory of Beryl Smalley*, ed. Katherine Walsh and Diana Wood (Oxford, 1985), pp. 225-35 (p. 231). See also also Potestà, 'State of Innocence' see above, n. 35), p. 163. Ockham's counter-argument can be found in chapters 26-28 of the *Opus nonaginta dierum* (see above, note 6), pp. 483-94. See also Geltner, 'Eden Regained' (see above, note 32), p. 80.

over material goods for both Adam and Abel.⁴⁶ Similarly, Noah could refer to wine and vineyards as his (Gen 9,20-21), and when God promised land to Abraham's seed (Gen 12,7), this implied that Abraham's successors would be able to call the land theirs, not through an institution of human law, but as a direct gift from God.⁴⁷ Again, the pope spelled out the implications of this argument: people could say that things were theirs in the state of innocence and also at a time when innocence had been lost but before the institution of the (positive) law of kings.⁴⁸

Dominium was therefore not introduced by natural law (which in the pope's definition here was the law that all sentient beings had in common), nor by the *ius gentium* nor by the *ius regum* (which in the pope's argument was very literally the law introduced in the Book of Kings), but it was introduced directly by God as the *dominus* of his creation.⁴⁹ In his response to the bull, William of Ockham, in keeping with the Franciscan tradition, rejected any divine origin of ownership, arguing both that John's exegesis of Genesis was faulty, and that his definition of divine law was not borne out by Scripture.⁵⁰ He objected particularly to what he saw as the pope's implicit conflation

⁴⁶ *Quia vir reprobus* (see above, n. 2), p. 591: "Item, quod post lapsum primorum parentum, ante diluuium et antequam essent reges, potuerit aliquis dicere 'hoc est meum', probatur Genesis 3, 19, ubi Dominus ad Adam dixit: *In sudore vultus tui vesceris pane tuo*. Ergo patet quod Adam tunc potuit dicere panem suum, et tamen tunc non erant reges nec homines alii nisi soli primi parentes. De Abel quoque, qui fuit secundogenitus primorum parentum, dicitur Genesis 4, 4 quod Abel obtulit de primogenitis gregis sui. Ex quo patet quod Abel potuit tunc dicere 'iste grex est meus'."

⁴⁷ *Quia vir reprobus* (see above, n. 2), pp. 591-2: "Item Genesis 12, 7 c. dixit Dominus ad Abraham, existentem in terra Canaan: *Semini tuo dabo terram hanc*. Quod et fecit. Constat autem quod illi de semine suo potuerunt dicere 'terra ista mea'; et non per iura regum, quia eam ex collatione Dei habuerunt, non regum." Other passages quoted by John to support his argument were Gen 26,3, Num 31,53, Num 35.2-3 and Josh 14,1-15.

⁴⁸ *Quia vir reprobus* (see above, n. 2), p. 592 with reference to C.23 q.7 c.1.

⁴⁹ *Quia vir reprobus* (see above, n. 2), pp. 592-3: "Unde patet quod nec iure naturali primaevio, si ponatur, pro illo iure quod omnibus animantibus est commune, cum illud ius nihil statuat sed inclinat seu dirigit ad aliqua omnibus animantibus communia facienda; nec iure gentium nec iure regum seu imperatorum fuit dominium rerum temporalium introductum, sed per Deum, qui est et erat earum rerum dominus, fuit collatum primis parentibus, ut patet Genesis 1, 23-30 c."

⁵⁰ The discussion of the origin of private property can be found in chapters 26, 27 and 88 of the *Opus nonaginta dierum* (see above, n. 6), pp. 483-91 and 654-63. For the refutation of the argument that *dominium* of only one person equals the institution of private property, see

of references to law in the Bible with the content of divine law; underpinning this disagreement between the pope and the theologian was a fundamental difference in the conception of both law and dominion.⁵¹

For the pope, dominion was part of creation and existed by the will of God. Positive law contributed a variety of ways of acquiring material goods and different ways of dealing with property, as well as the possibility of taking legal action in defence of one's property, but it did not introduce dominion itself.⁵² The Roman law view that a claim in court could only be pursued if it could be expressed in an appropriate formula formed the background to John's discussion of Genesis; it supported his legal point that civil laws "introduced a way of taking action for temporal things" and explained the exclusion of explicit references to the *Decretum* in John's interpretation of the Bible.⁵³ The sin of Adam and Eve had not led to the introduction of dominion, but to the division of common dominion; because the desire for individual property was part of Adam's sin, the connection between property and sin was still present in the pope's thought, but in a much more indirect form than in more traditional accounts of the Fall. *Dominium* was not the result of the Fall, however, and communal *dominium* had been part of God's plan for humanity.

While the Franciscans claimed to be able to recreate the common use of goods characteristic of the state of innocence,⁵⁴ John XXII not only questioned whether it was possible to live without dominion in the world after the Fall, he also argued that the

especially pp. 661-2. See also Shogimen, *Ockham and Political Discourse* (see above, n. 30), p. 61.

⁵¹ *Opus nonaginta dierum* (see above, n. 6), cap. 88, pp. 661-2. See also Kilcullen, 'Political Writings' (see above, n. 3), pp. 308-9.

⁵² *Quia vir reprobus* (see above, n. 2), p. 593 with reference to D.8 c.1, C.23 q.1 c.1 and C.12 q.1 c.2.

⁵³ Robinson, 'Property Rights' (see above, n. 4), p. 165.

⁵⁴ Geltner, 'Eden Regained' (see above, n. 32), pp. 70-71 has drawn attention to the fact that the first explicit link between the state of innocence and mendicant poverty had been made in the *Sacrum commercium sancti Francisci cum domina paupertate* (ca. 1227), and that Franciscan texts did not make much use of this connection before the fourteenth century.

Franciscan view of the state of innocence was wrong: *dominium* was not the result of sin, but divinely instituted and natural to man. The pope thus sidestepped the question of whether it was possible to recreate the state of innocence in this world. Instead, he focused on his argument that *dominium* had been part of the state of innocence; nothing could therefore be gained by the renunciation of communal property.

III.2 The temporal dominion of Christ

Moving on from the origin of dominion, John went on to argue that a great number of passages both in the Old and New Testaments testified to the fact that Christ did indeed have *dominium* over temporal things. While this had been one of the central ideas underpinning the reasoning of *Cum inter nonnullos*, it was only in *Quia vir reprobus* that the pope tried to prove his point with reference to specific biblical passages. His extensive use of messianic passages from the Old Testament was new to the debate although Michael of Cesena's short appeal used a number of references to the Old Testament in his attempt to prove that use without dominion was licit even in the case of items consumable by use.⁵⁵ Moreover, the passages used by John show a deliberate conflation of *dominium* in the sense of lordship and authority with the more technically legal sense of *dominium* as property or proprietary lordship.⁵⁶

⁵⁵ See *Appellatio in forma minori* (see above, n. 2), p. 435. Bonagratia of Bergamo included also some references to the Psalms in his *Tractatus*, but their number was small compared to the wealth of references to canon law and the New Testament; there is also one reference to Genesis and the state of innocence: see Oliger, 'Tractatus' (see above, n. 35), p. 504 with reference to Gen 2,17.

⁵⁶ On the meaning and use of the term *dominium* in civil and canon law, see Peter Birks, 'The Roman Law Concept of Dominium and the Idea of Absolute Ownership', *Acta Juridica* 1 (1985), 1-37; Dietmar Willoweit, '*Dominium und proprietates*. Zur Entwicklung des Eigentumsbegriffs in der mittelalterlichen und neuzeitlichen Rechtswissenschaft', *Historisches Jahrbuch* 94 (1974), 131-56; and Maximiliane Kriechbaum, *Actio, ius und dominium in den Rechtslehren des 13. und 14. Jahrhunderts* (Ebelsbach, 1996). See also James Doyne Dawson, 'Richard FitzRalph and the Fourteenth-Century Poverty Controversies', *Journal of*

John XXII was well aware of the distinctions and subtleties of meaning of the term, but throughout *Quia vir reprobus* his use of *dominium* could shift from its sense of lordship to its technical meaning of property, and he often used the term to mean both at the same time. This conflation allowed him to use all passages that spoke of Christ as lord, and to argue that Christ was consistently portrayed as *dominus* and *rex* throughout Scripture. He had already supported this equation of *dominium* in the sense of property with all other words from the same root earlier in the bull by reference to Pseudo-Dionysius' *De divinis nominibus*, which argued that the words *dominus*, *dominans* and *dominator* derived from *dominium*.⁵⁷ One of the reasons for the conflation was that to John XXII *dominium* meant much more than its legal definition; the conflation was based on, and in turn informed, his view that dominion was an integral part of the human condition, as well as a specific type of property relationship. Interestingly, while the pope's use of the term *dominium* was almost always much broader than its technical legal sense, the opposite was generally true for his references to *usus*, where John's reliance on the narrow, legal definition of the term was castigated by the author of the *Appellatio magna monacensis*, attributed by the chronicle of Nicolaus Minorita to Michael of Cesena himself;⁵⁸ similarly, William

Ecclesiastical History 34 (1983), 315-44.

⁵⁷ This was in the context of his discussion of the origin of *dominium* and his claim that before the creation of Eve, Adam had individual *dominium* even in Paradise (*Quia vir reprobus* (see above, n. 2), p. 570). The pope here referred to Eriugena's translation of *De divinis nominibus*: see *Sancti Dionysii Areopagitae liber tertius. De divinis nominibus*, in *Joannis Scoti Opera quae supersunt omnia ad fidem Italicorum, Germanicorum, Belgicorum, Gallicorum, Britannicorum codicum*, ed. Heinrich Joseph Floss [Patrologia Latina, 122] (Petit-Montrouge, 1865), cols 1111-72. Rather than from *dominium*, as the pope claimed, the terms *dominatus*, *dominabile* and *dominari* are derived from *dominus* in this translation: "propter quod et dominatus a Domino, et dominabile, et dominari" (col. 1168).

⁵⁸ The text can be found in *Nicolaus Minorita* (see above, n. 2), pp. 624-866; the discussion of *usus* can be found on pp. 829-33. See also Lambertini, 'Usus and usura' (see above, n. 33), p. 199.

of Ockham devoted a lot of space to his criticism of John's legal interpretation of the term *usus* as found in the Bible.⁵⁹

The pope concentrated on highlighting biblical texts that stressed the authority of Christ as lord, arguing that the prophets of the Old Testament had announced the coming of the Messiah as the future king.⁶⁰ He used similar references to the Messiah as king from the New Testament, such as the words of the Archangel Gabriel at the Annunciation, or the angel's words to the shepherds at the Nativity.⁶¹ Less conventional is his use of Pilate's conversation with Jesus about the nature of Christ's kingdom in the gospel of John (John 18,36-37) where Jesus stated that his kingdom was not of this world. John XXII argued that Jesus' use of *hinc* rather than *hic* showed that Christ did have *dominium* in this world, but that he had received it from outside this world. If Christ had wanted to say that he did not have any dominion in this world, his answer would have been "My kingdom is not here", rather than "My kingdom is not from here".⁶² This might not be one of the pope's more convincing scriptural arguments, but

⁵⁹ See Shogimen, *Ockham and Political Discourse* (see above, n. 30), p. 60 with reference to chapters 33-58 of the *Opus nonaginta dierum* (see above, note 6), pp. 509-53. Ockham makes a similar point in chapter 26: *Opus nonaginta dierum* (see above, note 6), p. 484.

⁶⁰ *Quia vir reprobus* (see above, n. 2), p. 594: "Multi quidem prophetae eum regem futurum populi Israelitici, et per consequens habere regni dominium, prophetarunt" with explicit references to Isa 33,22; Jer 23,5-6; Dan 2,44-45; Zach 9,9; Ps 2,6 (from the Gallican Psalter); Ps 44; and Song of Sol 3,11. See also Johannes Schlageter, 'Wurde die Armutsauffassung des Franziskus von Assisi von der "offiziellen Kirche" schließlich abgelehnt? Francisci Armutverständnis und der Streit über "dominium Christi" und "paupertas Christi" unter Papst Johannes XXII. (1316-1334)', *Franziskanische Studien* 60 (1978), 97-119 (p. 114). Ockham's long refutation of the pope's discussion of the temporal lordship of Christ can be found in chapter 93 of the *Opus nonaginta dierum* (see above, n. 6), pp. 670-705 although he did not engage with the pope's interpretation of the Old Testament in any detail (see especially pp. 673-4).

⁶¹ *Quia vir reprobus* (see above, n. 2), p. 594 with reference to Luke 1,32; Luke 2,11; Matt 2,2; John 1,47-49; John 19,19-22 and John 18,36-37.

⁶² *Quia vir reprobus* (see above, n. 2), pp. 594-5: "Hoc etiam Salvator noster confessus fuit Ioannis 18, 36-37. Cum enim Pilatus interrogaret eum utrum esset rex Iudaeorum, respondit ei: *Regnum meum non est de hoc mundo*. Ex quo Pilatus concludens dixit: *Ergo rex es tu? Iesus respondit: Regnum meum non est hinc*. Non dixit 'non est hic', sed dixit 'non est hinc', quasi diceret: *Regnum meum a mundo non habeo, sicut nec habebat; immo, a Deo <habebat>, sicut angelus eius genitrici praedixerat, dicens Lucae 1, 32: Dabit ei Dominus sedem David* etc." See also the slightly different wording of the corresponding Vulgate-passage in John 18,36-37:

it illustrates very clearly the pope's conviction that dominion was an integral part of Christ's mission on earth. Ockham based his response on a discussion of the historical context of the conversation between Christ and Pilate which showed that Christ did not claim any form of dominion for himself.⁶³ The two different readings of the passage also exemplify the opponents' different approaches to exegesis, and they show the pope's reliance on the literal meaning of the text.

Building on his general point, John continued to argue that Peter's words to the effect that God had made Jesus both lord and Christ (Acts 2,36) meant that Jesus was both *dominus et rex* as a human being, and as Jesus was crucified as man rather than God, he also had this rule and dominion as man rather than God.⁶⁴ As man, Christ had this dominion from the moment of his conception, but as God, he had it since the beginning of time.⁶⁵ While John had up to this point discussed the *dominium* of Christ in the sense of lordship, he now moved on to more tangible forms of dominion. Without

“respondit Iesus regnum meum non est de mundo hoc si ex hoc mundo esset regnum meum ministri mei decertarent ut non traderer Iudaeis nunc autem meum regnum non est hinc. Dixit itaque ei Pilatus ergo rex es tu respondit Iesus tu dicis quia rex sum ego. Ego in hoc natus sum et ad hoc veni in mundum ut testimonium perhibeam veritati omnis qui est ex veritate audit meam vocem.”

⁶³ See *Opus nonaginta dierum* (see above, n. 6), cap. 93, pp. 676-9. For a discussion of the Franciscan response to this particular argument more generally, see Roberto Lambertini, ‘Il mio regno non è di questo mondo. Aspetti della discussione sulla regalità di Cristo dall’*Improbatio* di Francesco d’Ascoli all’*Opus nonaginta dierum* di Guglielmo d’Ockham’, in *Filosofia e teologia nel Trecento. Studi in ricordo di Eugenio Randi*, ed. Luca Bianchi [Textes et Études du Moyen Âge, 1] (Louvain-la-Neuve, 1994), pp. 129-56.

⁶⁴ *Quia vir reprobus* (see above, n. 2), p. 595: “Item, concludit Petrus ex verbis praedictis quod Christus in quantum homo, subsistens in divino supposito, fuerit dominus et rex factus. Constat enim quod in quantum erat Deus, crucifixus non fuerit, sed in quantum homo, sequitur quod et regnum et dominium tamquam homini Deus sibi concessit.” Ockham’s quote of this passage in chapter 93 has a slightly different wording: “Item, concludit Petrus ex verbis praedictis quod Christus in quantum homo subsistens in divino supposito fuerit dominus et rex factus. Constat enim quod in quantum erat Deus, crucifixus non fuit, sed in quantum homo; et ideo cum rex et dominus fuerit factus in quantum crucifixus, et crucifixus fuerit in quantum homo, sequitur quod et regnum et dominium tamquam homini Deus sibi concessit.” (*Opus nonaginta dierum* (see above, n. 6), p. 671).

⁶⁵ *Quia vir reprobus* (see above, n. 2), p. 596: “Praemissa autem, scilicet regnum et universale dominium habuit Iesus in quantum Deus ab aeterno, eo ipso quod Deus genuit eum, et in quantum homo ex tempore, scilicet ab instanti conceptionis suae, ex Dei datatione, ut patet ex praedictis.”

signalling the shift in the meaning of the term, he argued that Christ's general *dominium* from birth was quickly supplemented by a much more concrete type of dominion in the form of material goods which Christ acquired on earth, either through gifts or purchase.⁶⁶ The contradiction in argument here was quickly picked up by Ockham in his response: if Christ as man had universal temporal dominion from the moment of his conception, there was no need and no possibility for him to acquire ownership over material goods later.⁶⁷ On the other hand, the theologian also complained about John's overly legalistic interpretation of *dominium* in this context, and about the pope's tendency to assume that dominion always included an element of *proprietas*.⁶⁸ The argument over the definition and appropriate use of legal and exegetical terms in the context of the life of Christ shows up the contours of a disagreement between John XXII and the Franciscans which went much deeper than the question of terminology on which it often hinged.

John claimed that the apostles and disciples, being the best witnesses for the life of Christ, confirmed his own assertion that Christ had clothes, shoes, food and wine.⁶⁹ Underlying the rather repetitive lists of food and clothing is John's view that there could be no legitimate use of a consumable item without property rights. The pope did not

⁶⁶ *Quia vir reprobus* (see above, n. 2), p. 596: "Et nihilominus habuit dominium rerum aliquarum temporalium non ab instanti suae conceptionis sed postea successive modis aliis, utpote ex collatione fidelium vel emptione adquisitas." The argument that Christ had temporal *dominium* from the moment of his conception, and that he acquired more things later on, had already been made during the consultation on poverty in 1322 by Cardinal Simon d'Archiac: see Kerry E. Spiers, 'Pope John XXII and Marsilius of Padua on the Universal Dominion of Christ: A Possible Common Source', *Medioevo: Rivista di storia della filosofia medioevale* 5-6 (1980), 471-8, there 473-4.

⁶⁷ *Opus nonaginta dierum* (see above, n. 6), cap. 94, p. 713.

⁶⁸ *Opus nonaginta dierum* (see above, n. 6), cap. 26, p. 484. On Ockham's view of dominion, see also Stan Gagnér, 'Vorbemerkungen zum Thema "dominium" bei Ockham', in *Antiqui und Moderni. Traditionsbewußtsein und Fortschrittsbewußtsein im späten Mittelalter*, ed. Albert Zimmermann and Gudrun Vuillemin-Diem (Berlin, 1974), pp. 293-327.

⁶⁹ *Quia vir reprobus* (see above, n. 2), pp. 596-7 with reference to Matt 17,2; John 13,4; John 19,24; and Matt 27,35; Matt 3,11; Mark 1,7; and John 1,27; John 13,27; John 13,18; Matt 26,27; Mark 14,23-24; and Luke 22,17.

explicitly discuss this legal point in this context, but he took for granted his own argument first expounded in *Ad conditorem canonum* that dominion and use could not be separated in perpetuity, and not at all in the case of items that were consumed by use, such as food, clothing, and money.⁷⁰ And the fact that Jesus and the apostles are shown eating and drinking, buying food, and wearing clothes proved, to the pope at least, that they did not renounce all civil property rights – because to say that they used these things without having the right to do so would be, as he had argued in *Cum inter nonnullos*, both impious and heretical.⁷¹

The pope found additional support for his position in the *loculi*, the bags carried by Judas (John 12,6 and John 13,29). They had always been a major problem for the mendicant orders, especially the Franciscans, because they presented the most obvious challenge to the view that Christ and the apostles had been absolutely poor. Earlier in the controversy, both the *Declaratio magistrorum* issued by the Franciscan general chapter of Perugia (1322) and especially Bonagratia of Bergamo's *Tractatus de Christi et apostolorum paupertate* (also published in 1322) had addressed the issue at length, downplaying the old argument (deriving from Bonaventura) that the *loculi* were carried out of condescension for the imperfect, and focusing on the bags' role as a model for the administration of ecclesiastical property.⁷² The passage had always posed less of a problem to the Dominican self-image than to that of the Franciscans, as the Dominicans

⁷⁰ For the text of the second version of *Ad conditorem canonum* (Extra. Io. XXII 14.4), see *Extravagantes Iohannis XXII* (see above, n. 22), pp. 228-54; for the discussion of consumables, see especially pp. 236-40.

⁷¹ See *Cum inter nonnullos* (Extra. Io. XXII 14.4) (see above, n. 22), pp. 256-7.

⁷² The *Declaratio magistrorum* can be found in *Nicolaus Minorita* (see above, n. 2), pp. 71-82; the discussion of the *loculi* is on pp. 76-79; for Bonagratia's discussion, see Oliger, 'Tractatus' (see above, n. 35), pp. 332-5 and 487-500. For a summary of the condescension-argument, see Lambert, *Franciscan Poverty* (see above, n. 1), 143-4. For a discussion of the use of the *dispensatio*-argument in the controversy, see Wittneben, *Bonagratia* (see above, n. 2), pp. 113-6 and Andrea Tabarroni, *Paupertas Christi et apostolorum: L'ideale francescano in discussione (1322-1324)* [Nuovi Studi Storici, 5] (Rome, 1990), pp. 36-39.

had generally accepted the interpretation that the purse held alms given to the apostles for divine services and help for the poor.⁷³

John XXII had already argued in *Quia quorundam mentes* that the *loculi* were only really a problem if Christ and the apostles were said to have had some form of *dominium* over them;⁷⁴ even though he did not accept this premise and explicitly denied Christ's or the apostles' ownership over the *loculi* and their contents, William of Ockham also revived the *dispensatio*-argument in his response to *Quia vir reprobus*.⁷⁵ Considering the importance of the *loculi* in all earlier debates about mendicant and specifically Franciscan poverty since the 1250s, they received surprisingly little attention in the writings of John XXII or William of Ockham, however. In *Quia vir reprobus*, the pope did not address this question at all, other than including the *loculi* in the list of the many things used and therefore owned by Christ, and referring very briefly to Augustine and the *Decretum* to argue that they belonged to Christ.⁷⁶ His discussion of the *loculi* illustrates clearly the pope's lack of concern with any form of exegesis that went beyond the literal interpretation of the text; that there could be multiple layers of meaning to the question of the *loculi* or Christ's relationship with the

⁷³ See for instance the discussion in Aquinas' *Lectura super Johannem (Sancti Thomae Aquinatis Doctoris Angelici Ordinis Praedicatorum Opera Omnia*, ed. Vernon J. Bourke (Parma: Fiacadori, 1852-73; repr. New York: Musurgia, 1948-50), X: *Commentum in Matthaeum et Johannem Evangelistas* (1860; repr. 1949), pp. 279-645, there p. 537). For an extended discussion of the problem of the *loculi* from a non-Franciscan and primarily legal perspective, see the contribution of Raimond de Roux to the pope's consultation on Franciscan poverty in 1322: Tocco, *Quistione della povertà* (see above, note 31), pp. 128-43 (especially pp. 128-37).

⁷⁴ *Quia quorundam mentes* (Extra. Io. XXII 14.5) (see above, n. 22), pp. 270-3.

⁷⁵ See *Opus nonaginta dierum* (see above, n. 6), c. 94, pp. 711-5. For a discussion of Ockham's attempt to prove that Christ had no ownership of the *loculi* and the money they contained, see Shogimen, *Ockham and Political Discourse* (see above, n. 30), p. 57.

⁷⁶ *Quia vir reprobus* (see above, n. 2), p. 597: "Et quod loculi esset Iesu, patet per Augustinum dicentem: 'Habebat Dominus loculos a fidelibus oblata conservans et suorum necessitatibus aliisque indigentibus tribuebat.' Et habetur 12 q. 1 c. [17] *Cum habebat*." The wording in Ockham's quote is slightly different: "Et quod loculi essent Iesu, patet per Augustinum dicentem: *Habebat Dominus loculos, a fidelibus oblata conservans, et suorum necessitatibus aliisque indigentibus tribuebat, ut habetur xii, q. i, c. Habebat*." (*Opus nonaginta dierum* (see above, n. 6), cap. 94, p. 706).

temporal world was less important in the context of his argument than the fact that these passages showed Christ as exercising dominion over material goods.

III.3 The poverty of Christ

Having established to his satisfaction that Christ did indeed have *dominium*, both in the sense of lordship and of owning property, John XXII turned his attention to the question of the renunciation of Christ. While his discussion of the poverty of Christ (as opposed to his dominion) takes up only a very small part of the bull, it is nevertheless important to a full understanding of the pope's position: John XXII was careful to stress that he did not deny the poverty of Christ, and he reacted angrily to suggestions that he was trying to ascribe full individual dominion to Christ and the apostles.⁷⁷ His definition of what constituted evangelical poverty was very different from the Franciscan tradition, however, because for the pope Christ's poverty was not primarily characterised by lack of material possessions and the renunciation of dominion, but by a lack of attachment to worldly goods.

In order to prove this point, John proposed to examine whether Christ had expressly renounced *regnum* and *dominium* during his time on earth. The pope argued first of all that an explicit renunciation could not be shown conclusively from the Bible, as Christ referred to himself as *dominus* on a number of occasions. Again, John conflated the two senses of *dominium*, referring both to the Psalter and the gospel of John, and arguing that the phrase "they divide my clothes among them and cast lots for

⁷⁷ See for instance a passage in the Franciscan treatise *Responsiones ad oppositiones*, published in 1324 (in *Bullarium Franciscanum* (see above, n. 6), 5:256-9, especially p. 258) where the pope is quoted with an explicit denial of any intention to do this. William of Ockham, on the other hand, interpreted the papal position as an attempt to ascribe full individual dominion to Christ and provided a long list of counter-arguments: see *Opus nonaginta dierum* (see above, n. 6), c. 94, pp. 710-4. On the *Responsiones*, see also Miethke, *Sozialphilosophie* (see above, n. 15), pp. 393-7.

my garment” (Ps 21,19) and Jesus’ words “You call me ‘teacher’ and ‘Lord’, and rightly so, for that is what I am” (John 13,13) showed that Jesus had not renounced dominion.⁷⁸ The pope added that if Christ had actually committed an express act of renunciation, he would have done so against the will of God, drawing on the passages in the book of Daniel which described the position and power of the Messiah.⁷⁹

In his reply to *Quia vir reprobus*, William of Ockham side-stepped the first part of the argument by pointing to the fact that, contrary to John’s opinion, Christ as man did not in fact have any temporal dominion at all, so the lack of any express renunciation in the New Testament was beside the point.⁸⁰ This rendered the rest of the pope’s argument about the will of God moot, but Ockham was more interested in the wider theological implications of John’s argument for the nature of God’s power and especially the pope’s erroneous understanding of the difference between God’s *potentia absoluta* and his *potentia ordinata*.⁸¹ This moved the debate beyond the stated intention of the pope, however, who rarely explored the theological and philosophical implications underpinning and deriving from his argument; one of the exceptions was the increasingly metaphysical as well as legal debate over the precise nature of the act of using.⁸²

⁷⁸ *Quia vir reprobus* (see above, n. 2), p. 597 with additional reference to Matt 21,2-3 and Matt 27,35. In an echo and *reductio ad absurdum* of the pope’s argumentation from possessive pronouns, William of Ockham pointed out that the Bible also referred to Mary and Joseph returning to ‘their’ city of Nazareth (Luke 2,39) although nobody seriously suggested they owned the town: *Opus nonaginta dierum* (see above, n. 6), cap. 94, p. 714.

⁷⁹ *Quia vir reprobus* (see above, n. 2), pp. 597-8, referring to Dan 2,44 and Dan 7,14.

⁸⁰ *Opus nonaginta dierum* (see above, n. 6), cap. 95, p. 716. In this, Ockham departs from earlier Franciscan arguments which had posited an express renunciation: see for instance the Michael of Cesena’s *Appellatio in forma minori* (see above, n. 2), pp. 431-2.

⁸¹ *Opus nonaginta dierum* (see above, n. 6), cap. 95, pp. 718-26. On this question, see also Lambertini, ‘Il mio regno’ (see above, n. 63), p. 144.

⁸² John’s discussion of this can be found in *Ad conditorem canonum* (Extra. Io. XXII 14.4), in *Extrauagantes Iohannis XXII* (see above, n. 22), p. 244 and in *Quia vir reprobus* (see above, n. 2), pp. 583-4; the counter-arguments by Michael of Cesena are in the *Appellatio in forma minori* (see above, n. 2), pp. 439-40, and those by William of Ockham in chapter 67 of the *Opus*

Moving away from a purely biblical discussion, the pope then tried to establish that there was no automatic link between poverty and lack of property. John compared Christ to the (hypothetical) example of a king of France who returned from abroad without being recognised, and who was allowed to live in his own palace out of charity – he would still be the king of France, living on his property, but he would also be held to be genuinely poor because he did not actually use any of the things he rightfully owned.⁸³ This echoed Ubertino of Casale’s rejection of the renunciation of property rights as the defining characteristic of evangelical and therefore Franciscan poverty during the Spiritual crisis.⁸⁴ By comparison, William of Ockham’s refutation of the argument is much closer to the consensus in the main part of the order as it had developed during the Spiritual crisis and the debates of the 1320s, and which placed the main emphasis of evangelical and Franciscan poverty on the renunciation of property rights and a concomitant lack of legal standing.⁸⁵ The pope’s discussion of Christ’s poverty is never fully developed in *Quia vir reprobus*, partly because John’s Franciscan bulls, and the controversial context in which they were published, did not constitute an

nonaginta dierum (see above, n. 6), especially pp. 585-6. See also Kriechbaum, *Actio, ius und dominium* (see above, n. 56), pp. 57-58.

⁸³ *Quia vir reprobus* (see above, n. 2), p. 598: “Si enim rex Franciae, non renuntiando regno, se absentaret a regno et post lapsum alicuius temporis incognitus rediret ad illud, si se pro rege non gereret nec aliqua emolumenta perciperet dicti regni, sed in domo regia reciperetur, ut unus alius, ex gratia necessaria vitae suae, talis utique, licet rex esset et dominus, posset mendicus et pauper merito reputari.”

⁸⁴ See Ubertino’s *Reducendo igitur ad brevitatem*: “Dicunt etiam predicti unum, quod michi videtur valde absurdum, scilicet quod Christus et apostoli perfectionem consilii de paupertate intellexerunt solum in non habendo dominium rerum.” Quoted from Charles T. Davis, ‘Ubertino da Casale and his Conception of *altissima paupertas*’, *Studi medievali* ser.3, 22 (1981), 1-56 (p. 49).

⁸⁵ *Opus nonaginta dierum* (see above, n. 6), cap. 96, p. 737. See also Brett, *Liberty, Right and Nature* (see above, n. 5), p. 12 and Arthur Stephen McGrade, *The Political Thought of William of Ockham: Personal and Institutional Principles* [Cambridge Studies in Medieval Life and Thought, ser.3,7] (Cambridge, 1974), p. 16.

appropriate forum for a meditation on the nature of the poverty of Christ, no matter what the pope's true feelings on the matter were.⁸⁶

John then moved back to the biblical argument, drawing on the Pauline Epistles to reiterate his point that *dominium* alone and separated from use did not make anyone rich, because it was not lack of *dominium* that counted but lack of enjoyment of the fruits of ownership.⁸⁷ The pope dismissed Michael's argument that the Bible showed Christ observing the Franciscan form of absolute poverty, arguing that poverty did not necessarily imply a renunciation of property rights, and that the Bible obviously contradicted the idea that Christ did not have anything at all. It was the fact that Christ had dominion and chose not to use it that made him poor; he was poor not because he did not have anything but because he refrained from enjoying the fruits of his dominion.⁸⁸

III.4 The apostles' use of material goods

When John turned from considering Christ to the question of the apostles, he began to use the term *dominium* much more exclusively in the sense of property and ownership. He also argued that it was necessary to explore the apostles' relationship

⁸⁶ John Oakley has discussed references to the poverty of the Holy Family in the pope's sermons found in Paris, Bibliothèque nationale de France, MS lat. 3290: Oakley, 'Natural Right to Property' (see above, n. 8), pp. 171-2. On the prominence of references to the poverty of Christ and the apostles in John's sermons, see also Edith Pásztor, 'Le polemiche sulla "Lectura super Apocalipsim" di Pietro di Giovanni Olivi fino alla sua condanna', *Bullettino dell'Istituto Storico Italiano per il Medio Evo e Archivio Muratoriano* 70 (1958), 365-424 (pp. 415-6 and especially note 4). Oakley has additionally drawn attention to the fact that John's descriptions of the Holy Family were very similar to those given by Ubertino da Casale at the Council of Vienne: Oakley, 'Natural Right to Property' (see above, n. 8), p. 172.

⁸⁷ *Quia vir reprobus* (see above, n. 2), p. 598, with reference to Gal 4,1 and 1 Tim 6,15: "quod non carentia dominii fecit eum pauperem et egenum, sed potius carentia perceptionis fructus".

⁸⁸ *Quia vir reprobus* (see above, n. 2), p. 598: "Sic Christus, [I Tim. 6, 15] *rex regum et dominus dominantium*, quoad perceptionem fructuum regni et rerum temporalium, nisi in valde paucis, pro rege vel domino se non gessit, propter quod merito pauper dici potuit voluntarius et egenus, non propter dominii carentiam sive regni, sed propterea quia se eorum fructibus et proventibus non iuvabat." See also Schlageter, 'Armutsauffassung' (see above, n. 60), p. 115.

with material goods in two distinct phases of their ministry: the time they spent with Christ on earth and their ministry after Christ's death and resurrection. The time before the death of Christ was additionally divided into three more phases: before the apostles were sent out to preach, their time spent preaching and the time after their return.⁸⁹ This makes for a rather pedantic and repetitive argument, and as in his discussion of the dominion of Christ, John XXII listed all instances of food, clothing and money used by the apostles.⁹⁰ The miracle of the five loaves and fishes in the gospel of Luke proved, for instance, that they had bread, fish, and the money to buy more.⁹¹

The main additional point made by John XXII in this context is found in his discussion of those gospel passages which described the apostles as having left everything behind. These had been used by Franciscan apologists as support for their view that the apostles had renounced individual and common dominion.⁹² The pope argued that leaving houses, boats and fishing-nets behind was not the same thing as giving up dominion over them.⁹³ This drew on an argument made more fully in an earlier part of the bull: John had already suggested, on the authority of Augustine, that in Luke 5,36 the apostles had left everything behind although they were shown to have had nets in Matthew 4,18-20 which occurred chronologically later.⁹⁴ In the

⁸⁹ *Quia vir reprobus* (see above, n. 2), p. 599.

⁹⁰ *Quia vir reprobus* (see above, n. 2), pp. 596-7 and 601-2.

⁹¹ *Quia vir reprobus* (see above, n. 2), p. 602 with reference to Luke 9,10-13.

⁹² See for instance the *Appellatio in forma minori* (see above, n. 2), p. 432, and as a response to John's restatement of his views, the *Opus nonaginta dierum* (see above, n. 6), cap. 98, p. 742.

⁹³ *Quia vir reprobus* (see above, n. 2), p. 599.

⁹⁴ *Quia vir reprobus* (see above, n. 2), p. 562: "Ad hoc dicendum quod per verba [Mt. 19, 27] *Ecce nos reliquimus omnia* etc. non potest concludi quod quoad dominium seu proprietatem reliquerint ea. Reperimus enim hoc dictum de Petro, Iacobo et Ioanne Lucae 5, 36 ubi dicitur quod *subductis ad terram navibus, relictis omnibus secuti sunt eum*, et tamen post illa verba legitur Matthaei 4, 18-20 quod Iesus, ambulans iuxta mare Galileae, vidit Petrum et Andream mittentes retia in mare, quibus ait: *Venite post me et faciam vos piscatores hominum. Qui continuo, relictis retibus, secuti sunt eum*. Et quod dictum Lucae 5 praecesserit illud quod

earlier discussion the pope had added that the apostles James and John had also left their father Zebedee behind, although they had obviously not renounced their relationship with him;⁹⁵ here, leaving him behind only meant that he was not coming with them. John also used the parable of the rich young man in Matthew 19,21 as corroborating evidence that an explicit renunciation of *dominium* could not have been meant in these passages. Jesus had told this young man to go and sell everything and give the proceeds to the poor, and John XXII argued that it was reasonable to assume that Christ meant a complete renunciation in this case. Peter, on the other hand, had only spoken of leaving things behind. If there had been an explicit renunciation on the part of the apostles, the term used by Peter would have been ‘selling’ rather than ‘leaving’, and the implication was, according to the pope, that the apostles did not actually give up dominion over the things they left.⁹⁶

The earlier discussion had been followed by the pope’s argument that some forms of property relationship could not be renounced at all, as they were necessary for survival.⁹⁷ These arguments are to a large extent legal rather than exegetical; they

dictum est Matthaei 4, dicit Augustinus in libro *De concordia evangelistarum* expresse.” See also *Sancti Aureli Augustini De consensu evangelistarum libri quattuor*, ed. Franz Wehrich [Corpus Christianorum Series Latina, 34] (Vienna, 1904), pp. 139-40. It should be noted, however, that Augustine’s text was not nearly as unequivocal about the sequence of events as John XXII, partly because Augustine’s passage primarily focused on the gospels of John and Matthew rather than Matthew and Luke.

⁹⁵ *Quia vir reprobus* (see above, n. 2), p. 563: “De Iacobo autem et Ioanne dicitur Marci 1, 20 quod relicto patre suo, Zebedeo, in navi cum mercenariis, secuti sunt eum. Certe, patrem non reliquerunt ut ei renuntiaverint et pro patre postea non habuerint eum, immo eius filii remanserunt.”

⁹⁶ *Quia vir reprobus* (see above, n. 2), p. 563: “Et propter hoc Petrus, Matthaei 19, 21 cum Dominus dixit uni qui non erat de discipulis: *Si vis perfectus esse, vende omnia quae habes et da pauperibus, et habebis thesaurum in caelo, et veni et sequere me*, Petrus dixit, *Ecce, nos reliquimus omnia* etc., non dixit ‘nos vendidimus omnia et dedimus pauperibus’, sed dixit ‘nos reliquimus omnia’. Possunt enim res temporales relinquere quoad curam et affectionem illarum sine domini abdicacione.” Ockham’s answer to this argument can be found in chapter 12 of the *Opus nonaginta dierum* (see above, n. 6), pp. 423-8.

⁹⁷ *Quia vir reprobus* (see above, n. 2), p. 563: “Vel ‘reliquimus omnia’, scilicet praeter illa sine quibus non potest haec vita transiri, sicut sunt alimenta vel pro alimenta necessaria, quibus non est verisimile quod ipsis renuntiaverint, ut probant Scripturae praedictae et aliae multae de

belong to the defence of *Ad conditorem canonum* and the more explicitly and self-consciously legal debate in the first half of *Quia vir reprobus*. The argumentation of *Ad conditorem canonum*, especially in its second, revised version, was primarily juridical, as this was the bull which presented the pope's legal case against the Franciscan ideal of poverty. Although the middle section of *Quia vir reprobus* is to a large extent a summary of John XXII's scriptural case against the Franciscans, the bull also shows the extent to which legal and theological thought were interdependent, and how his reading of Scripture was informed by the pope's legal sensibilities.

As far as the apostles' relationship with material goods was concerned, John XXII then moved from the question of the implications of 'leaving things behind' to some of the other pro-Franciscan texts, especially the famous *Nolite possidere*-passage in the gospel of Matthew (Matt 10,9-10).⁹⁸ The pope conceded that on their preaching mission, property in any form was forbidden to the apostles, but argued with reference to Augustine that this was not a precept; rather it gave them the ability and authority to receive what was necessary for their survival from their audience. The contemporary debate about counsels and precepts formed the backdrop to John's discussion, although as in the case of the *loculi*, he did not overtly engage with the discussion about which parts of the gospels were evangelical counsels, and which

quibus dicetur latius infra." The canonical idea that all things had to be shared in times of necessity could be (and sometimes was) interpreted as constituting an abrogation of individual property rights, giving those in need the right to take from those who had property: Garnsey, *Thinking about Property* (see above, n. 36), p. 94 and Rudolf Weigand, Rudolf, *Die Naturrechtslehre der Legisten und Dekretisten von Irnerius bis Accursius und von Gratian bis Johannes Teutonicus* [Münchener Theologische Studien: Kanonistische Abteilung, 26] (Munich, 1967), pp. 327-36. Ockham addresses the argument from necessity in chapter 12 (*Opus nonaginta dierum* (see above, n. 6), pp. 426-7), but without going into the canonical implications of the concept.

⁹⁸ Matt 10,9-10: "nolite possidere aurum neque argentum neque pecuniam in zonis vestries. non peram in via neque duas tunicas neque calciamenta neque virgam dignus enim est operarius cibo suo". See also Mark 6,7-9 and Luke 9,2-3.

were precepts and therefore binding on all believers.⁹⁹ The debate in this instance had moved on from some of the old concerns: Ockham also did not revive the old debate over counsels and precepts in his discussion of the pope's argument, but focused instead on the fact that the instructions to the apostles were not temporary but permanent.¹⁰⁰

According to John, however, once the apostles returned from their preaching mission, material possessions were again permitted to them, and Scripture showed them using material goods, both before and after their return from preaching. Apostles and disciples had material goods in common; otherwise the prohibition to carry money, a staff and extra clothing would not have made sense. There was no evidence that Christ had ever counselled the apostles or disciples to renounce communal property.¹⁰¹

Despite his claim that in discussing the apostles' relationship with material goods it was necessary to distinguish a number of different time-periods, in practice John came to the same conclusion for all of them: only during their preaching mission could a renunciation of property be shown for the apostles, and even then this renunciation was not a precept, and it remained limited in time. The pope used the early Christian communities described in Acts as further support for his argument that the apostles as well as the early Jewish converts held everything in common, while

⁹⁹ The attempt to distinguish between counsels and precepts, both in the gospels and the Franciscan rule had surfaced in the secular-mendicant controversy, the Spiritual crisis and in the theoretical poverty debate: for a survey of some of the arguments and their significance for the conceptualisation of the Franciscan poverty ideal in the later thirteenth and early fourteenth centuries, see especially David Burr, 'The *Correctorium* Controversy and the Origins of the *usus pauper* Controversy', *Speculum* 60 (1985), 331-42.

¹⁰⁰ *Opus nonaginta dierum* (see above, n. 6), cap. 102, especially pp. 755-8. Ockham also added a complaint about John's misinterpretation of Augustine at this stage (pp. 761-2).

¹⁰¹ *Quia vir reprobus* (see above, n. 2), pp. 601-2.

Gentile converts even had private property.¹⁰² While the Franciscans stressed the renunciation of property and the community of use in the early Christian community of Jerusalem, the pope's focus was on a community of dominion, echoing a similar difference in interpreting the canonical tradition where John XXII stressed common dominion, while the Franciscans emphasised common use. The Franciscan tradition had focused on a recreation of evangelical and apostolic poverty; John XXII linked the life of Christ and the apostles to that of the primitive church described in Acts. The ambiguity in the description of the property relationships of the early Christian community of Jerusalem could be used by the Franciscans to support their ideal, while John XXII intended to show that there was no substantive difference between the model for Christian perfection exemplified by the apostolic life and that of the primitive church. For the pope, the dominion of Christ underpinned the communality of property in the early Christian community in Jerusalem, and the apostles' property-sharing in these early communities did not mark a break from their life as preachers when Christ still walked among them.

By the time John discussed the property relationships of the seventy-two disciples and the early Christian communities, his argument relied primarily on the sheer weight of repetition and on the acceptance of the pope's legal point about the impossibility of any licit use of consumable items without having the legal right to do so. John did not attempt to develop this legal argument in the context of his discussion of Scripture, but it underpinned even his scriptural case against the Franciscan ideal. The pope's overall conclusion was predictably simple: during Christ's time on earth, after his death and after the establishment of the first Christian communities, both he

¹⁰² *Quia vir reprobus* (see above, n. 2), pp. 603-4 with reference to Acts 4,32-35. Ockham's response can be found in chapters 106 and 107 of the *Opus nonaginta dierum* (see above, n. 6), pp. 770-82.

and the apostles used material goods, including consumables, and they had the (legal) right to do so. No explicit renunciation of communal property rights on their part could be proved from scriptural texts.

IV. Conclusion

While John XXII did not give much detailed attention to the scriptural title of apostolic and Franciscan poverty in any of his early bulls, he devoted a lot of time and effort to it in *Quia vir reprobus*. The pope referred frequently to Augustine and the *Decretum* in the bull, but his main focus was on scriptural arguments which he supported with extensive quotations and long lists of biblical passages. John's interest in the poverty and dominion of Christ as it was described in the gospels may be linked to a more general revival of biblical studies and an emphasis on the literal sense of Scripture which coincided with John's pontificate and which was supported by the pope. Apart from refuting Michael's scriptural arguments, John devoted the middle section of *Quia vir reprobus* to an attempt to establish the temporal dominion of Christ and the apostles from the Bible. His exegesis of biblical passages dealing with the apostles' property relationships focused on their use of consumable goods and the fact that they could not be shown to have renounced all property rights or legal standing. To some extent the fact that William of Ockham attempted to handle the dispute as a matter of biblical theology can be seen not just as a theologian's response to a primarily legal debate,¹⁰³ but also as a consequence of John XXII's own change of the terms of the discussion: before the publication of *Quia vir reprobus*, very few of the participants in the debate had focussed primarily on biblical theology, and

¹⁰³ For this assessment, see Shogimen, *Ockham and Political Discourse* (see above, n. 30), p. 61.

William of Ockham's work is one of the few (surviving) direct responses to the pope's scriptural arguments.

In this central part of *Quia vir reprobus*, John XXII stepped back from the point-by-point refutation of his opponents' arguments in order to construct a self-contained discussion of his views of the role of *dominium* in the Bible and in God's plans for humanity. The middle section of the bull is therefore as close as we can get to a personal statement of the pope on his own definition of both the dominion and the poverty of Christ. John's approach to exegesis was informed by his legal training although it did not constitute a particularly legalistic reading of the biblical text. It does to some extent, however, constitute a lawyer's reading and interpretation of Scripture, in light of his concerns about the Franciscan poverty ideal, as well as an attempt to address the criticisms of his opponents. Biblical exegesis did not constitute his main objection to the Franciscan ideal, but rather an integral, if not always articulated part of his larger case. It was inextricably linked to his view of dominion which started with, but went beyond its legal definition. John XXII's explicit and detailed discussion of the role of dominion in the history of salvation led to the heart of his dissatisfaction with the Franciscan poverty ideal: according to John, *dominium* was natural to humanity and had been divinely instituted; it was an essential aspect of the human condition and part of God's plan for his creation. The Franciscan view that Christ and the apostles had been absolutely poor could not be proved from the Bible and therefore could not be used as a justification for the Franciscan poverty ideal. Renunciation of common *dominium* had not been practised by Christ, and it was not demanded by Scripture: the perfect poverty of Christ and the apostles in the gospels did not consist of, much less depend upon, the renunciation of dominion.