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Selection and Presentation of Texts in Early Medieval Canon Law Collections: Approaching the *Codex Remensis* (Berlin, Staatsbibliothek, Phill. 1743)*

For anyone interested in the period of late antiquity it seems all too familiar that law, legal texts and legal knowledge are subject to highly complex processes of selecting materials, extracting individual passages, interpreting them and adding commentaries. Both the Theodosian Code and the Justinianic codification projects provide ample evidence of how collecting individual decrees, jurists' commentaries and general regulations and assembling them within one codex allowed for the systematization of the material contained therein. At the same time, a codification of law would lead to a suppression of alternative norms.¹ Much of this work was carried out by jurists commissioned by the state or indeed the ruler. This still holds true for the first official redaction of the Theodosian Code with its novels and additions, the so-called *Breviarium Alaricianum* or *Lex Romana Visigothorum*, compiled under the Visigothic King Alaric II in Southwestern Gaul shortly after 500.² However, when tracing the numerous compilations and epitomes that were produced on the basis of the Theodosian Code and Alaric's breviary in the post-Roman West between the 6th and 8th centuries (such as the *Epitome Aegidii*, the *Epitome Parisina* or the *Epitome*

* The paper originally delivered by Stefan Esders at the Zurich conference, being more introductory in character, underwent significant changes and considerable extension, as the project applied for funding together with Eef Overgaauw (Staatsbibliothek zu Berlin) was fortunately granted by the Deutsche Forschungsgemeinschaft in 2017. For this reason, what had been a mere outline of further research presented at the Zurich conference in 2016, became substantially augmented in the course of the project by Michael Eber and Till Stüber, both research associates within the project, and by David Ganz, who as a Mercator fellow joined the group in 2018. Although this article is a result of a joint collaboration and of intense communication within the project, the reader will hardly escape to notice that individual parts were for a large part written by individual authors, such as chapter 1 by David Ganz, chapter 4 by Till Stüber and chapter 6 by Michael Eber. However, the result is much more than the sum of its individual parts. – We would very much like to thank Albert Fenton for correcting and improving the language of this article.

1 On the methods and aims of late antique legal compilations, see especially John F. Matthews, *Laying Down the Law: A Study of the Theodosian Code*, New Haven 2001 and some of the essays collected in Jill Harries and Ian. N. Wood (eds.), *The Theodosian Code. Studies in the Imperial Law of Late Antiquity*, London 1993.

2 Detlef Liebs, *Geltung kraft Konsenses oder kraft königlichem Befehl? Die lex Romana unter den Westgoten, Burgundern und Franken*, in: *Recht und Konsens im frühen Mittelalter*, ed. by Verena Epp and Christoph Meyer, Ostfildern 2017, 63–85.

Guelferbitana),³ the influence of the state or the ruler becomes less and less apparent. Though it would be misleading to qualify these compilations as “private” collections, it seems obvious that the principles according to which many of these collections were assembled responded to an increasing diversity of needs and interests; it is up to modern research to analyse the profile of each individual collection, often only transmitted within a single manuscript.⁴

This holds even more true for the development of canon law in the West.⁵ Naturally, the emergence of canon law, of ecclesiastical jurisdiction and of legal compilations owed much to models of late Roman law.⁶ However, in canon law the impact of tradition appears to have been stronger. For canon law could not be perceived as “positive” law that could be flexibly altered and adjusted, but rather was qualified as exercising a corrective function, as it seemed necessary from time to time to adjust the behaviour of Christians and clerics to the rules laid down in the bible. The bible of course required interpretation too, but canon law pretended to look backwards in many different ways, not only to the bible, but also to councils and synods, creating norms that were based on the idea of *consensus*, while it also assigned an important role to the bishop of Rome in adjusting norms and interpreting legal rules.⁷ As canon law also comprised a great variety of texts and sources of authority, this must have had an impact on the processes of selection of legal materials such as synodal canons, papal letters, treatises on heresy etc., but also Roman imperial laws

3 Detlef Liebs, *Römische Jurisprudenz in Gallien* (2. bis 8. Jahrhundert), Berlin 2002, 109–120, 202–230 and 254–264. On the *Epitome Aegidii* and its reception, see now Dominik Trump, *Römisches Recht im Karolingerreich. Studien zur Überlieferungs- und Rezeptionsgeschichte der 'Epitome Aegidii'*, Ostfildern 2021.

4 See as a case study Detlef Liebs, *Römischrechtliche Glut für ein Bischofsgericht in Burgund. Die Epitome Parisina der Lex Romana Visigothorum*, in: XVI Convegno internazionale in Onore di Manuel J. Garcia Garrido, ed. by Giuliano Crifo, Naples 2007 (*Atti dell'Accademia Romanistica Costantiniana* 16), 63–88.

5 See Hubert Mordek, *Das kirchliche Recht im Übergang von der Antike zum Mittelalter*, in: *Akten des 26. Deutschen Rechtshistorikertages*, ed. by Dieter Simon, Frankfurt a. M. 1987 (*Studien zur Europäischen Rechtsgeschichte* 30), 455–464.

6 Eduard Schwartz, *Die Kanonensammlungen der alten Reichskirche*, in: *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung* 25 (1936), 1–114. On public authority enforcing canon law in late antiquity see Thomas Rübner, *Die gesetzegleiche Geltung des kanonischen Rechts in der Spätantike*, in: *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung* 96 (2010), 1–37.

7 On the conciliar idea of *consensus*, see Hermann Josef Sieben, *Die Konzils-idee der Alten Kirche*, Paderborn 1979, 307–314 as well as Id., *Die Partikularsynode. Studien zur Geschichte der Konzils-idee*, Frankfurt a. M. 1990, 23–25; Gregory I. Halfond, *Cum consensu omnium: Frankish Church Councils from Clovis to Charlemagne*, in: *History Compass* 5 (2007), 539–559; Bruno Dumézil, *Consultations épiscopales et délibérations conciliaires dans la Gaule du VI^e siècle*, in: *Consulter, délibérer, décider: Donner son avis au Moyen Âge*, ed. by Martine Charageat and Corinne Leveleux-Teixeira (France-Espagne, VII^e–XVI^e siècles), Toulouse 2010, 61–75; Andreas Weckwerth, *Ablauf, Organisation und Selbstverständnis westlicher antiker Synoden im Spiegel ihrer Akten*, Münster 2010.

regarding the church.⁸ Their selection and incorporation into canon law collections from the 5th century onward made them part of a larger whole, enhancing their authority as historical documents, but also framing them as parts of a series, of what was believed to be an “authentic” tradition.⁹ This was by no means simply a process of collecting available texts, but rather involved different clerical actors, entailed individual choices, and was often motivated by special historical circumstances. The ten or so canon law collections from Merovingian Gaul, preserved in manuscripts from the Merovingian or early Carolingian period, all show individual selections of material.¹⁰

The following contribution largely originates from ongoing work on one such collection today kept in Berlin’s State Library—preserved within the so-called *Codex Remensis*, an 8th-century canon law manuscript named after the monastery of Saint-Remi in Reims.¹¹ The manuscript must have been kept at Reims by the 9th century at the latest, and it continued to be there at least until the 12th, as is attested by the red marginal entry on fol. 147^v. In the later middle ages, the codex was transferred from Reims to the Jesuit Collège de Clermont in Paris, where it was famously studied by Jacques Sirmond in the first half of the 17th century for his pioneering edition of the Gallic councils and capitularies.¹² Following the suppression of the Jesuit order in France in 1764, the Paris manuscripts were bought by the Dutch bookseller Gerard Meerman in The Hague, and subsequently were acquired at auction in the early 19th century by the English bibliomaniac Sir Thomas Phillipps, who kept them in

8 On the variety of sources assembled in late antique and early medieval canon law collections, see Friedrich Maassen, *Geschichte der Quellen und Literatur des canonischen Rechts im Abendlande bis zum Ausgang des Mittelalters*, vol. 1, Graz 1870, 8–419.

9 On the self-image of Gallo-Roman synods and their codification see, among others, Michael Edward Moore, *A Sacred Kingdom. Bishops and the Rise of Frankish Kingship, 300–850*, Washington D. C. 2011, 52–84; Halfond, *Cum consensu omnium* (note 7); Gregory I. Halfond, *The Archaeology of Frankish Church Councils. AD 511–768*, Leiden 2010.

10 Hubert Mordek, *Kirchenrecht und Reform im Frankenreich. Die Collectio Vetus Gallica, die älteste systematische Kanonessammlung des fränkischen Gallien. Studien und Edition*, Berlin et al. 1975, 4–17; Lotte Kéry, *Canonical Collections of the Early Middle Ages (ca. 400–1140)*, Washington D. C. 1999; Detlef Jasper and Horst Fuhrmann, *Papal Letters in the Early Middle Ages*, Washington D. C. 2001; Ralph W. Mathisen, *Between Arles, Rome, and Toledo: Gallic Collections of Canon Law in Late Antiquity*, in: *Ilu. Revista de ciencias de las religiones* 2 (1999), 33–46; Id., *Church Councils and Local Authority. The Development of Gallic Libri canonum during Late Antiquity*, in: *Being Christian in Late Antiquity. A Festschrift for Gillian Clark*, ed. by Carol Harrison, Caroline Humfress and Isabella Sandwell, Oxford 2014, 175–195; Geoffrey D. Dunn, *Collectio Corbeiensis, Collectio Pithouensis and the Earliest Collections of Papal Letters*, in: *Collecting Early Christian Letters from the Apostle Paul to Late Antiquity*, ed. by Bronwen Neil and Pauline Allen, Cambridge 2015, 175–205.

11 On this manuscript, see the descriptions by Valentin Rose, *Verzeichniß der lateinischen Handschriften der Königlichen Bibliothek zu Berlin*, vol. 1: *Die lateinischen Meerman-Handschriften des Sir Thomas Phillipps in der Königlichen Bibliothek zu Berlin*, Berlin 1893, 171–179 and Hubert Mordek, *Bibliotheca capitularium regum Francorum manuscripta. Überlieferung und Traditionszusammenhang der fränkischen Herrscherklasse*, Munich 1995, 56–57.

12 Jacques Sirmond, *Concilia antiqua Galliae*. 3 vols., Paris 1629.

his homes in Middlehill and Cheltenham. In 1887, after long and secret negotiations initiated by Theodor Mommsen, the *Codex Remensis* was sold by Phillipps' grandson to the Royal Prussian library in Berlin along with numerous other manuscripts.¹³ Following World War II, it was kept in East Berlin, where it was hardly accessible due to its severely damaged state, and was brought to the Western part of the library shortly after 1990, while it was only restored and rebound in 2013. In 2020, the manuscript was relocated to the State Library's ancient building "Unter den Linden".

Ironically, due to this varied history, none of the most famous modern scholars of early medieval canon law and its manuscript tradition, Friedrich Maassen (1823–1900), Cuthbert Hamilton Turner (1860–1930), Hubert Mordek (1939–2006) and Klaus Zechiel-Eckes (1959–2010), were actually able to use and study the manuscript when writing their major books and/or producing their enduring editions – each of them being at the wrong place at the right time, a history of missed opportunities. When Maassen wanted to use it for his famous "Geschichte der Quellen und Literatur des canonischen Rechts im Abendlande", published in 1870, he did not have the chance to visit Phillipps' library, which is why he had to rely on the description provided by Sirmond 250 years earlier.¹⁴ Turner, in a memorable statement of 1907, wrote that he had wanted to consult the *Codex Remensis* for his monumental edition of the ecumenical councils of the Ancient church, but that the manuscript had just been sold to Germany. To illustrate his frustration at being unable to access the Codex in Berlin, Turner even quoted the Roman poet Horace, writing that it is not granted to everyone to visit Corinth, which is why he asked British colleagues who went to Berlin to inspect parts of the manuscript for him.¹⁵ And Mordek could not see it

¹³ See Alan Noel Latimer Munby, *Phillipps Studies*, vol. 5: The dispersal of the Phillipps library, Cambridge 1960.

¹⁴ See Maassen, *Geschichte der Quellen und der Literatur* (note 8), 638–640. Maassen could, in fact, take a look at the manuscript very shortly before finishing his MGH edition of the Merovingian councils: *Concilia aevi Merovingici* 1, ed. by Friedrich Maassen, Hanover 1893, XIV, 185 and 193.

¹⁵ Cuthbert Hamilton Turner (ed.), *Ecclesiae Occidentalis monumenta iuris antiquissima canonum et conciliorum graecorum interpretationes latinae* 2.1, Oxford 1907, vii: "Praeter codices quos in praefatiunculis parti i et parti ii tomi I praemissis iam enumeraueram, in hac parte nonnisi tres adhibui: quorum ut aetate, ita copia et pretio eorum quae in eo continentur, agmen ducit Remensis (unde nobis R), cuius sedes per uices continuas saeculis recentioribus mutabatur: a Iacobo enim Sirmond, ut uidetur, Parisios abductum et in Collegium Claromontanum Iesuitarum adrogatum, inde una cum ceteris codicibus Claromontanis primum Gerardus Meerman Batauus, deinceps Thomas Phillipps Anglus, postremo respublica Borussorum sibi adquisiuit. codicem ipse non uidi, quippe qui iter longiquum Berolinense suscipere non ualuerim (*non enim cuius homini contingit adire Corinthum*) neque ut in Angliam per spatium temporis exiguum commodaretur impetrari potuit. utinam adhuc apud nos constitutum contulissem! gratias itaque amplissimas et ago et habeo Magdalensibus meis, qui Berolini degentes uel unam uel alteram codicis particulam mei causa inspexerunt, Reginaldo L. Poole, Arturo E. Cowley, Friderico G. Kenyon, Ioanni K. Fotheringham, Willelmo A. Pickard-Cambridge; necnon Alexandro Souter Cantabrigiensi, quem domicilii iure etiam nostrum possumus appellare. codex notam prae se fert Berol. Phillipps lat. 84: saeculo exaratus octavo; mutilus hodie, incipit a canone Ancyritano V infra p. 66; scriptura Merovingica est et (ut ex exemplaribus phototypicis colligere licet)

for a long time, as it was kept under wraps in East Berlin;¹⁶ he did in fact consult the manuscript shortly after 1990, but only at a point when he had to focus his work on the Frankish capitularies.¹⁷ Zechiel-Eckes sadly died far too early to exploit the manuscript in full, which is why he could only use it for his posthumously published edition of the Siricius decretal.¹⁸ Consequently, comparatively little work has been done so far on this manuscript and on the law collection it contains. What follows is in fact the first comprehensive attempt to do this, by analyzing its palaeographical features, suggesting possible place(s) of compilation and establishing certain principles in its selection of materials. Naturally, such diverse and wide-ranging work can only be done as a collaborative effort involving different disciplines and fields of expertise.

1 Palaeographical features of the *Codex Remensis*

The manuscript as we have it today is clearly the work of several scribes, who all wrote a very stylized Merovingian cursive minuscule, much closer to the script of royal and private charters than to the uncial and half uncial of most Merovingian manuscripts. In 1965 Bernhard Bischoff suggested that the manuscript was one of a group of manuscripts that he believed were most probably copied in Bourges. He grouped it with Leiden, Bibliotheek der Rijksuniversiteit BPL 114 (CLA X 1959), which contained a copy of the *Epitome Aegidii* along with the formula collection of Marculf and *formulae* relating to the city of Bourges; a second manuscript Bischoff ascribed to this group was Paris, Bibliothèque nationale de France, Lat. 4629, which combined the *Lex Salica*, capitularies of Charlemagne from 802–805, and the *Lex Ribuariorum*; ‘s-Gravenage (Hague), Museum Meermanno 10 B 4 was a third manuscript of this group, which contains the *Collectio Sancti Mauri*¹⁹ (CLA X 1572a), another canon law collection; also Kassel, Universitätsbibliothek, Theol. 4° 10 (CLA VIII 1141), containing theological writings of Isidore of Seville and others, belonged to this group according to Bischoff, as did two Augustine manuscripts from St Martial in Limoges,

lecti perdifficilis.” Presumably based on these transcriptions by his colleagues, Turner also used it for his editions of the councils of Laodicea and Constantinople (EOMIA 2.3, published posthumously in 1939).

¹⁶ Personal oral communication ca. 1985. See also Mordek, *Kirchenrecht und Reform* (note 10), 10 n. 38.

¹⁷ See Mordek, *Bibliotheca capitularium regum Francorum manuscripta* (note 11), 56–7.

¹⁸ Klaus Zechiel-Eckes, *Die erste Dekretale. Der Brief Papst Siricius’ an Bischof Himerius von Tarragona vom Jahr 385* (JK 255). Aus dem Nachlass mit Ergänzungen hrsg. von Detlev Jasper, Hanover 2013, 46–47.

¹⁹ See Cuthbert Hamilton Turner, *Chapters in the History of Latin MSS. of Canons VII: The collection named after the ms. of St. Maur (F), Paris lat. 1451*, in: *Journal of Theological Studies* 32 (1930/1931), 1–11.

today kept in the Bibliothèque nationale de France, under the signatures Lat. 2034 (CLA V, 540) and Lat. 1960.²⁰

The Kassel and Paris BnF Lat. 2034 manuscripts are also copied in a cursive minuscule rich in ligatures. Both, like Phillipps 1743, have display capitals that are decorated with a human face (Kassel fol. 16^r, BnF Lat. 2034 fol. 3^v). The Leiden manuscript has display capitals on fol. 18^v, 19^r and 28^v which are similar to those in Phillipps 1743 (though there are no comparable decorated initials). The top lines of folios 21^v, 23^r, 26^r and passages in the contents list are in a script closer to Phillipps 1743. The Hague manuscript has passages copied by a hand very close to those in Phillipps 1743 on folios 181^v lines 2–24, 182^v lines 6–18, on folio 183^v the last 12 lines, all of folio 184^v, lines 12 to the end of fol. 186^v, the opening lines of the Council of Toledo on fol. 189^r and lines 9 and 10 on fol. 190^r.

In addition to the manuscripts listed by Bischoff, Bern, Burgerbibliothek 611, also containing *formulae* that refer to Bourges, and with a section dated to 727, has a scribe close to the scribes in Phillipps 1743 in the excerpts from Isidore on foll. 20^v–40^v, and a scribe in the glossary at the start of the manuscript who uses the b with a ligature to the right linking it to the following letter which is frequent in Phillipps 1743.²¹ Bern 611 probably has to be considered as the earliest of the Bourges manuscripts, then Phillipps 1743, Kassel 4° 10, Paris BnF Lat. 2034, then Hague Meermann 10 B 4, then Leiden BPL 114, and lastly Paris BnF Lat. 1960 and 4629. Since the Bern manuscript may be dated around 727, a date in the middle third of the 8th century for Phillipps 1743 would make most sense.

It is difficult to determine how many scribes were involved in copying Phillipps 1743. There are changes of hand at the base of column 1 of fol. 8^v, at fol. 54^r, 65^r, fol. 77^{r-v} 13 lines of col 1, 89^r, fol. 98^r col 2, 159^r–170^v, 176^r, 186^r, 202–231, 236–238, 250, 268. There may be as many as ten scribes. The scribe of the Hague manuscript

20 Bernhard Bischoff, *Panorama der Handschriftenüberlieferung aus der Zeit Karls des Großen*, in: Karl der Grosse. Lebenswerk und Nachleben, vol. 2, ed. by Helmut Beumann, Wolfgang Braunfels et al., Düsseldorf 1965, 233–254, at 241 (repr. in: Bernhard Bischoff, *Mittelalterliche Studien*. Ausgewählte Aufsätze zur Schriftkunde und Literaturgeschichte, vol. 3, Stuttgart 1981, 5–38, at 17): “Aus dem riesigen Gebiet südlich der Loire bis zu den Pyrenäen und hinüber nach Septimanie ist nur eine kleine Zahl handschriftlicher Denkmäler namhaft zu machen... Immerhin läßt sich die Herkunft einer Gruppe von Handschriften aus der zweiten Hälfte des 8. Jahrhunderts und der Zeit um 800 aus Bourges vermuten. Als Leithandschrift können der illustrierte Leidensis PBL (X. 1576) und die ehemals mit diesem verbundene Lex Salica, Paris BN lat. 4629, dienen, da sie beide Formeln enthalten, in denen Bourges häufig genannt ist.” With footnote 57: “Demgegenüber fällt die spätere Provenienz des Leidensis und der verwandten Handschrift Berlin, Phill. 1743 (VIII.1060) aus Saint-Remi wenig ins Gewicht, zumal in ihrer Schrift keine Beziehungen zu der fest mit Reims verbundenen frühkarolingischen Gruppe bestehen (in CLA VIII und X wurde Reimser Entstehung vermutet). In den unmittelbaren Umkreis dieser Handschriften gehören ferner Den Haag, Mus. Meerm.-Westr. 10 B 4 (T. 1) (X.1572a), Kassel, Theol. 4° 10 (VIII.1141); Paris, BN Lat. 2034 (V.540) und 1960.”

21 David Ganz, *In the Circle of the Bishop of Bourges: Bern 611 and late Merovingian Culture*, in: *East and West in the Early Middle Ages. The Merovingian Kingdoms in Mediterranean perspective*, ed. by Stefan Esders, Yaniv Fox, Yitzhak Hen and Laury Sarti, Cambridge 2019, 265–280.

almost always uses a p open at the base of the bow, while most of the scribes of Phillipps 1743 write p with a closed bow.

The initials of Phillipps 1743 are particularly elaborate. Merovingian manuscripts frequently use initials with fish or birds forming the body of the letter, but Phillipps 1743 has a large number of initials with human heads. Such heads can also be found in two initials in the Eugippius manuscript Paris BnF Lat. 2110, perhaps from Chelles, and they are frequent in the Sacramentary of Gellone, BnF Lat. 12048, copied in the 790's. Phillipps 1743 seems to be unique in using the blessing hand as an abbreviation mark above letters in display capitals.

As may be demonstrated by the beautifully embellished and structured canons of the council of Ephesus of 431 (fol. 186^r), it is perhaps the most elaborate and decorated canon law manuscript that has come down to us from the pre-Carolingian period.

The soldier on fol. 104^v as the initial "I" protects the Gallic synod of Orange held in 441, while the mysterious lady on fol. 20^r, disguised as a "Q", keeps her eye on the *Statuta ecclesiae antiqua*, a 5th-century Gallic law collection. And the gentleman on fol. 35^v, attached to a 5th-century synod of Carthage, reminds the readers as it should remind us early medievalists that the devil is in the detail and occasionally might even be jumping right out of a horn of plenty!²²

2 The contents of the *Codex Remensis*: an overview

The manuscript is noteworthy not only in palaeographical terms, but also historically, as it uniquely transmits several important texts, for instance a dossier relating to the reception of the Three Chapters controversy in Gaul, as well as the famous edict of Paris issued by king Chlothar II in 614. Its canon law collection is the largest we have from the Merovingian period. Moreover, it is known that the *Codex Remensis*, after having been transferred to Reims, was studied there by archbishop Hincmar, the foremost legal expert of his time,²³ as it also contains a number of Carolingian marginal notes that allow us to take a glimpse into the 9th-century Reims workshop.

The codex as we have it was made sometime in the 8th century, probably at an archiepiscopal see like Bourges, as it contains some Tironian notes.²⁴ It is a copy

²² Phill. 1743, foll. 104^v, 20^r, 35^v.

²³ See, e.g., Jean Devisse, Hincmar et la loi, Dacar 1962; Simon Corcoran, Hincmar and his Roman legal sources, in: Hincmar of Rheims. Life and work, ed. by Rachel Stone and Charles West, Manchester 2015, 129–155; Philippe Depreux, 'Hincmar et la loi' revisited: on Hincmar's use of capitularies, *ibid.*, 156–169.

²⁴ That particularly metropolitan sees had archives and correspondent workforces is shown by Claire Sotinel, Le personnel épiscopal. Enquête sur la puissance de l'évêque dans la cité, in: L'évêque dans la cité du IV^e au V^e siècle. Image et autorité, ed. by Eric Rebillard and Claire Sotinel, Rome 1998, 105–126, at 107–110.

Fig. 1: Berlin, Staatsbibliothek, Ms. Phill. 1743, fol. 186^r

of a collection that once had been compiled in the 6th and earlier 7th centuries. Its core part is formed by a collection of conciliar canons stemming from the early

Fig. 2–4: Berlin, Staatsbibliothek, Ms. Phill. 1743, foll. 104^v, 20^f and 35^v

church, supplemented by a mixture of papal letters and synodal canons from late Roman North Africa and Gaul that extend well into the Merovingian period.²⁵

This is followed secondly by a dossier of texts relating to the Three Chapters controversy, starting with three letters sent by Pope Vigilius during his detainment in Constantinople, enriched by a unique and truly remarkable letter sent by the Milanese clergy to some Frankish envoys who were heading for Constantinople, in which a detailed report of Vigilius' maltreatment in the East Roman capital is given, quite obviously to influence public opinion on these matters in Gaul by painting him as suffering for Chalcedonian orthodoxy.²⁶ The so-called *Gesta de Nomine Acacii*,²⁷ an account of the development of the Acacian schism (484–519), written by Gelasius when he was still leading the papal chancery for his predecessor Felix III,²⁸ should also be regarded as part of this section. A third block, closely linked

25 Phill. 1743, foll. 1^r–276^r.

26 Phill. 1743, foll. 276^r–287^v. For a complete edition of this dossier see: Eduard Schwartz, *Vigilius-briefe*, in: *Sitzungsberichte der Bayerischen Akademie der Wissenschaften, Philosophisch-historische Abteilung* 1940/2 (1940), 1–31, at 1–25.

27 Phill. 1743, foll. 287^v–291^r. The *Gesta de nomine Acacii* are edited in: *Collectio Avellana*, vol. 1, ed. by Otto Günther, *Corpus Scriptorum Ecclesiasticorum Latinorum* 35, Prague et al. 1895, 440–453.

28 Walter Ullmann, *Gelasius I. (492–496). Das Papsttum an der Wende der Spätantike zum Mittelalter*, Stuttgart 1981, 245–246.

to this, contains three lists: an index of orthodox and heretical books allegedly written by Pope Gelasius I,²⁹ a list of popes and another of Roman provinces.³⁰ While all this was apparently put together shortly after 550, the fourth and last dossier of texts was clearly added only in the early 7th century,³¹ that is following the turnabout of 613 and the extermination of the Austrasian branch of the Merovingian dynasty: here, the codex provides the famous legislation inaugurated by king Chlothar II in 614 of which we would otherwise know very little.³²

3 Assembling canon law collections in Merovingian Gaul

As has already been stated above, a considerable number of Merovingian canon law collections have survived to the present day. Most of these collections present their canon law material in roughly chronological order, as is also the case in the Reims collection. Starting with the Greek councils of the early church,³³ they contain a mixture of conciliar decisions from late antique Africa and Gaul, and of papal letters from the 5th and 6th centuries, while transmitting in some detail the decisions of Gallic synods held under Visigothic and Burgundian kings – that is the synods of Agde in 506 and Epaone in 517. Focusing on Gaul, they are followed by a long series of synods held under Merovingian rule, starting with the first council of Orléans assembled by Clovis in 511, and continuing at least until the fifth council of Orléans convoked by king Childebert I in 549.

In contrast to these collections which present their legal material arranged chronologically,³⁴ one major collection was produced in the Merovingian period that sought to systematize the legal material by excerpting bits of texts from synodal

29 Phill. 1743, foll. 291^v-293^v. The standard edition is Ernst von Dobschütz, *Das Decretum Gelasianum de libris recipiendis et non recipiendis*, Leipzig 1912.

30 Phill. 1743, foll. 293^v-296^v. The *Notitia Galliarum* is edited in: *Chronicorum minorum saec. IV. V. VI. VII.*, vol. 1, ed. by Theodor Mommsen, MGH Auctores antiquissimi IX, Berlin 1892, 552–612.

31 Phill. 1743, foll. 296^v-301^v.

32 Chlothar's edict is edited in: *Capitularia regum Francorum* 1, ed. by Alfred Boretius (MGH Leges II, 1), Hanover 1883, 20–23. See Gernot Kocher, *Das Pariser Edikt von 614 und die merowingische Rechtspflege aus der Sicht der Deutschen Rechtsgeschichte*, Graz 1976 and Alexander Callander Murray, *Immunity, Nobility, and the Edict of Paris*, in: *Speculum* 69 (1994), 18–39. For a survey of its contents, see Stefan Esders, *Pariser Edikt*, in: *Handwörterbuch zur deutschen Rechtsgeschichte*, 2nd edition 4 (2018), 213–215.

33 For a survey, see Eckhard Wirbelauer, *Kirchenrechtliche Sammlungen*, in: *Lexikon der antiken christlichen Literatur*, ed. by Siegmur Döpp and Wilhelm Geerlings, Freiburg 2002, 428–437.

34 On historical and systematic collections of canon law, see Maassen, *Geschichte der Quellen und Literatur* (note 8), 1–7; see also Hubert Mordek, *Dionysio-Hadriana und Vetus Gallica*. Historisch geordnetes und systematisches Kirchenrecht am Hofe Karls des Großen, in: *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung* 55 (1969), 39–63.

acts, papal letters and so on, depriving them of their original context and redistributing them under systematic headings such as “marriage law”, “law of asylum”, “perjury” etc. This is the *Collectio canonum vetus Gallica*, compiled in Lyon around 600, famously studied by Hubert Mordek in his classic monograph of 1975.³⁵ It is here, in the process of systematizing law, that the topic of “creative selection” and of “emending and forming medieval memory” most radically makes sense – and indeed following Mordek several studies have shown how the production of a systematic canon law collection entailed the de-historicizing destruction of the legal provisions’ original contexts.³⁶

However, the chronologically arranged collections, among them the Reims collection, are also very interesting for this question, as they allow us to look at the tension between tradition and systematization from another perspective. Early medieval scholars believed historical collections to be more authentic, to be more resistant against oblivion and alteration, as it was much more difficult to forge canons within these collections than in the process of producing a systematic collection.³⁷ For this reason, the issue of “creative selection”, of “oblivion” and “forming memory” has to be dealt with in a more subtle way when it comes to analyzing chronologically ordered collections.

Indeed, the composition and structure of these historically ordered canon law collections have long been a matter of debate, with research reaching back to the pioneering works of Maassen and the ingenious Turner, while in more recent times Ralph Mathisen devoted three important articles to canon law collections from 5th

35 Mordek, *Kirchenrecht und Reform* (note 10).

36 Roy Flechner, *The Hibernensis*, Washington D. C. 2019, vol. 1, 66–80; Rob Meens, *The Uses of the Old Testament in Early Medieval Canon Law. The Collectio Vetus Gallica and the Collectio Hibernensis*, in: *The uses of the past in the early middle ages*, ed. by Yitzhak Hen and Matthew Innes, Cambridge 2000, 67–77; Charles Munier, *A propos des textes patristiques et monastiques de la Vetus Gallica*, in: *Scientia veritatis. Festschrift für Hubert Mordek zum 65. Geburtstag*, ed. by Oliver Münch and Thomas Zotz, Ostfildern 2004, 41–58; Herbert Schneider, *Die Kanonisten und Gregor der Große. Von der Collectio Vetus Gallica bis zur Anselmo dedicata*, in: *Gregorio Magno e le origini dell’Europa*, ed. by Claudio Leonardi, Florence 2014, 551–576.

37 See Klaus Zechiel-Eckes, *Historisch geordnete und systematische Sammlungen des kirchlichen Rechts im frühmittelalterlichen Rätien*, in: *Schrift, Schriftgebrauch und Textsorten im frühmittelalterlichen Churrätien*, ed. by Heidi Eisenhut, Karin Fuchs, Martin Hannes Graf and Hannes Steiner, Basel 2008, 199–221, esp. 207: Historically arranged collections as “seemingly authentic” (*authentisch daherkommend*). The attitude of contemporaries is illustrated by the compilation of the so called *Collectio Bernensis*, a collection of twenty-two conciliar decrees dealing with reasons that could serve for the deposition of unruly clerics. The collection is part of Codex Bern Burgerbibliothek ms. 611, a miscellaneous manuscript probably written in early-8th-century Bourges (see Ganz, *In the Circle of the Bishop of Bourges*). As Mordek has shown, the compilation was the result of a two-stage process: the compiler first scanned the *Collectio Vetus Gallica* for decrees serving his purpose. However, as he did not fully trust the wording of this systematic collection, he copied the canons from the *Collectio Justelliana*, a time-honored compilation of late antique church councils, apparently enjoying a better reputation than the *Vetus Gallica*, see Mordek, *Kirchenrecht und Reform* (note 10), 108.

and 6th-century Gaul.³⁸ These collections share very many texts, though often presenting them in a different order, and, in the case of the Greek material, also different translations. Maassen often supposed the use of one collection by the compiler of another, or of a common source, which seems to suggest he thought that, at least in principle, a stemma of these collections could be established. Duchesne, in a somewhat selective reading of the interdependencies proposed by Maassen, believed that they all ultimately derived from several sub-collections available in the archives of the archiepiscopal church of Arles,³⁹ a hypothesis that was decisively rejected by Harold Steinacker in 1901.⁴⁰ More recently, Mathisen again stressed that these collections, despite their similarities, clearly show traces of local redaction.⁴¹ Moreover, as was already noted by Turner, one also has to take into account the possibility that the parts of a manuscript for some time lay loose, and were rebound in a different order afterwards.⁴²

4 Collecting Gallic synodal acts

Ralph Mathisen was the first to produce some kind of synopsis of how the material in seven of the Gallic collections was arranged. It allows us to compare which synodal acts were preserved in what order and context. For instance, the 5th-century *Statuta ecclesiae antiqua* are contained in all manuscripts, albeit in different positions.⁴³ The synod of Orléans of 549, which can also be found in all manuscripts, follows at least some of the previous “national councils” of Orléans in most of them, but is added at a later stage in two manuscripts, and so on. To some of these manuscripts local synods were added, giving the collection the appearance of a local redaction, as Mathisen convincingly argued. Some also transmit later 6th and 7th-century regional material, as for instance one collection, which presents the acts of the famous Third council of Toledo from Visigothic Spain of 589 as a later addition.⁴⁴

38 See Mathisen, Church Councils and Local Authority (note 10); id., Between Arles, Rome, and Toledo (note 10); id., The “Second Council of Arles” and the Spirit of Compilation and Codification in Late Roman Gaul, in: *Journal of Early Christian Studies* 5 (1997), 511–554.

39 Louis Duchesne, *Fastes épiscopaux de l’ancienne Gaule*, vol. 1, Paris ²1907, 144–145.

40 Harold Steinacker, Die Deusedithandschrift (Cod. Vat. 3833) und die ältesten gallischen *libri canonum*, in: *Mitteilungen des Instituts für Österreichische Geschichtsforschung. Ergänzungs-Bände* 6 (1901), 113–144, at 122–134.

41 Mathisen, Between Arles, Rome, and Toledo (note 10), 43.

42 Cuthbert Hamilton Turner, Chapters in the History of Latin MSS. of Canons IV: The Corbie MS. (C), now Paris Lat. 12097, in: *Journal of Theological Studies* 30 (1928/1929), 225–236, at 230.

43 On this collection, see the seminal study of Charles Munier, *Les Statuta ecclesiae antiqua*. Édition, études critiques, Paris 1960.

44 See Mathisen’s studies quoted above notes 10 and 38. It is this the so-called Collection of Saint-Maur, represented by the manuscripts Paris BnF Lat. 1451, Lat. 1458 (foll. 88^r-95^v), Vatican reg. 1127 and The Hague, Museum Meermano-Westrenianum 10-B-4 (olim Cod. 9), cf. Gonzalo Martínez

Even though Mathisen did not include it in his study, the *Codex Remensis* seems to illustrate his findings quite well, as there are a couple of traces from local canonistic activity that led to the assemblage of the conciliar material contained in it. As noted above, the manuscript contains a Gallic *collectio canonum* (“Reims collection”) whose latest text is the Fifth Council of Orléans 549. The collection, as we have it today, also contains the famous edict of Chlothar II, the conciliar acts of Paris 614 and the fragment of an undated council, otherwise unknown. As these three texts are clearly a later addition to the original collection,⁴⁵ we will return to them later. The presentation of the Gallic councils of the original collection has a striking peculiarity that has not been noted so far. The compiler of the Reims collection has arranged the Gallo-Roman and Merovingian synods in chronological order; an exception to this arrangement is the synod of Arles 314, which is inserted at an earlier place in the manuscript. Each synod is preceded by a heading – their uniformity strongly suggests that the headings were added by the compiler. For example, the synod of Epaone 517 starts with the words: *INCIP(IUNT) CAPITULA CONCILII EPAUNINSIS TEMPOR(E) SIGISMUNDI REGIS*, referring to Sigismund, king of the Burgundians between 516 and 523. The same words, *tempore Sigismundi regis*, precede a synod that was held in Lyon sometime between 517 and 523. As we know from contemporary chronicles, Sigismund was killed in 523 and was followed by his brother Godomarus, who ruled over the Burgundian kingdom until the Frankish conquest in 534.⁴⁶ Conspicuously however, the compiler did not leave any trace of Godomarus, as the synods of Arles 524, Vaison 529, Carpentras 527 and Orange 529 are all introduced by the words *tempore Liberi praefecti*. As is well known, Liberius was not a Burgundian king, but an Italian magnate serving as *Praefectus Praetorio per Gallias* after having been appointed by Theoderic the Great in 510.⁴⁷ The curious change from Sigismund to Liberius after 523 strongly suggests that the so-called Reims collection was in fact compiled in one of the cities between the river Isère and the river Durance that the Burgundians had lost to the Ostrogoths in that very year. To put it more precisely, the archetype of the Reims collection had probably been composed either in Apt, Avignon, Carpentras, Cavaillon, Embrun, Gap, Orange, Saint-Paul-Trois-Châteaux, Sisteron or in Vaison.⁴⁸

Díez, *La colección canónica Hispana*. Vol. 1: Estudio, Madrid 1966, 338–341. That the fragment from Paris, BnF Lat. 1458 (foll. 88^v–95^v) originally belonged to the codex Lat. 1451, is noted by Mordek, *Bibliotheca capitularium regum Francorum manuscripta* (note 11), 413.

⁴⁵ See, for instance, Alphonse van Hove, *Commentarium Lovaniense in Codicem Iuris Canonici*. vol. 1.1: *Prolegomena ad Codicem Iuris Canonici*, Mechelen et al. 1945, 275.

⁴⁶ PLRE II, 517 (“Godomarus 2”).

⁴⁷ On Liberius, see PLRE II, 677–681 (“Liberius 3”) and James J. O’Donnell, *Liberius the Patrician*, in: *Traditio* 37 (1981), 31–72. On the background, see Christian Stadermann, *Restitutio Romanarum Galliarum*. Theoderichs des Großen Intervention in Gallien (507–511), in: *Frühmittelalterliche Studien* 54 (2020), 1–67.

⁴⁸ For identification of these cities, see Reinhold Kaiser, *Die Burgunder*, Stuttgart 2004, 71 and Justin Favrod, *Histoire politique du royaume burgonde* (443–534), Lausanne 1997, 448–449.

Fig. 5: Berlin, Staatsbibliothek, Ms. Phill. 1743, fol. 135r: Explicit of the synod of Vaison 529, Incipit of Carpentras 527. The upper reference to Liberius is supplemented by a Carolingian scribe: et Sigismundi reg(is) et filior(um) IIII Clodouei reg(is) francor(um)

These findings are supported by a couple of interesting features which, taken together, point to South-Eastern Gaul as a place of composition yet again. It is important to note that Phill. 1743 is the only manuscript transmitting all 56 canons of the so-called “Second Council of Arles”. Rather than an actual council that had taken place at a certain time, it is more rightly considered an independent collection of canon law, intended to stress the authority of the metropolitan bishop of Arles.⁴⁹ Likewise, our manuscript is the only textual witness to the unabridged papal letter “*Caritatis tuae*”, sent by Pope John II to Bishop Caesarius of Arles in 534.

Particularly curious however, is the treatment of the important synods of Agde 506 and Orléans 511, both of which are considered as some kind of “national” councils, as they were assemblies of the newly forming Visigothic and Frankish churches respectively. Tellingly, the synodal acts of Agde are included in an abridged form: References to the Visigothic king Alaric II, originally part of the text, are deliberately omitted. In the original text of the penultimate canon, the synodal fathers render thanks to God and to Alaric for allowing them to convene. In Phill. 1743, the text is arbitrarily rewritten, thus erasing any remembrance of the monarch:⁵⁰

Phill. 1743, fol. 121r

ET QUA IN NOMINI domini omnibus salubriter constitutis synodus cum pace dimittitur, gracias deo agimus, orantes diuina clementia ut haec eadem facerint honore domini per multus annus, ipso iubente et permittente, possimus.

⁴⁹ Knut Schäferdiek, Das sogenannte zweite Konzil von Arles und die älteste Kanonessammlung der arelatenser Kirche, in: Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung 71 (1985), 1–19.

⁵⁰ In most canonical collections, the canon is abridged in one way or another. The original text is preserved only in the mss. Novara, Biblioteca Capitolare LXXXIV, Paris, Bibliothèque Nationale lat. 12448, Brussels, Bibliothèque Royale 2493 (Bibl. 8780–8793). The words which are altered in Phill. 1743 are set Roman.

Original text according to CCSL 148, p. 212

Et quia in nomine Domini omnibus salubriter constitutis synodus in pace dimittitur, gratias Deo primitus, deinde domino nostro regi Alarico agamus, orantes diuinam clementiam ut haec eadem facere in honore Domini per multos annos, praefato rege iubente et permittente, possimus.

While it seems obvious at first that this *damnatio memoriae* was due to Alaric's Arianism,⁵¹ a look at Clovis's council of Orléans suggests that theological differences might not have been the only reason for the rephrasing. Despite Clovis being a baptized Catholic, the redactor has removed his name from the synodal acts of Orléans just as he had done to Alaric's in the acts of Agde. The synod, as presented in Phill. 1743, is lacking any reference to the Frankish king who had sponsored the convention. In this vein, the bishops' address to the king ("*Domno suo*") is removed entirely, and Clovis's name is omitted from the preface.⁵² In the same way the canons 4, 5 and 7 are omitted, certainly because they concede far-reaching powers to the (Frankish) royal court. While these three canons are missing in a couple of other manuscripts as well,⁵³ the adaptation of canon 10 is particularly revealing, as it casts a light on the political circumstances the redactor supposedly wanted to live up to:

*De hereticis [clerecis om.], qui ad fidem catholicam plena fide ac uoluntate uenerint, uel de basilicis, quas in peruersitate sua [Gothi om.] hactenus habuerunt, id censuimus obseruari, ut si clereci fideliter conuertuntur et fidem catholicam integrae confitentur uel ita dignam uitam morum et actuum probitate custodiunt, officium, quo eos episcopus dignos esse censuerit, cum impositae manus benedictione suscipiant; et ecclesias simili, quo nostrae innouari solent, placuit ordine consecrari.*⁵⁴

In its original form, the canon refers to the situation in Aquitania after the battle of Vouillé. This area, which had hitherto formed the heartland of the Visigothic kingdom of Toulouse, was conquered by Clovis's Franks in 507. Among the participants at Clovis's council at Orléans, there were several Aquitanian bishops. They discussed what should happen to churches that had been used für Arian religious services by then. Equally at stake was the destiny of Arian clerics who had converted to Catholicism. At Orléans, the assembled bishops decided that these churches should be used by Catholics. As with newly founded churches, the Arian worship places were to be consecrated making use of the Nicene dedication rite. In contrast, in

⁵¹ See Bruno Saint-Sorny, *La fin du roi Alaric II. Le roi arien, objet d'une damnatio memoriae sous les Mérovingiens?*, in: *Auctoritas. Mélanges offerts à Olivier Guillot*, ed. by Giles Constable and Michel Rouche, Paris 2006, 193–204.

⁵² In Phill. 1743, fol. 123^v, the council of Orléans 511 starts as follows: *Cum auctore deo ex uocatione gloriosissimi regis in aurilianinsi urbe* etc. As is seen from older manuscripts, such as Paris BnF Lat. 12097 or Cologne Dombibliothek 212, *regis* was originally followed by *Chlotouechi*.

⁵³ Namely Berlin, Staatsbibliothek Phill. 1745, Cologne, Dombibliothek 212, Paris, BnF Lat. 1451, Paris BnF Lat. 1564 and Vatican Pal. lat. 574.

⁵⁴ MGH Concilia aevi Merovingici 1, 5 (note 14). The words in square brackets are omitted in Phill. 1743.

Phill. 1743 the subject *Gothi* is omitted and the church buildings in question are linked simply to “heretics”. This suggests that the ruling was meant to be adapted to an area where the same problem had arisen, while the “heretics” in question were not Goths. This scenario again applies for the Burgundian kingdom, where in 516 Sigismund had come to the throne. As this monarch openly embraced Catholicism, the reconsecration of Arian cult buildings became a realistic option and was thus subject of an animated debate. While the Burgundian synod of Epao 517 finally adopted a more moderate stance towards Arians, there were also more radical voices who would have preferred a solution modeled on the Merovingian approach.⁵⁵

It is interesting to note that there is a close textual proximity between the Gallic councils, as they are presented in the Codex Remensis, and three other manuscripts, strongly suggesting that these manuscripts all derive from a common exemplar.⁵⁶ The three manuscripts in question were all written in Northern France: Paris Bibliothèque nationale lat. 3846 (beginning of the 9th century), Berlin Staatsbibliothek Hamilton 132 (end of the 8th / beginning of the 9th century?), and Vatican Lat. 3827 (end of the 9th century).⁵⁷ The first two of them transmit the synods as part of the so called “Collection of Saint-Amand”,⁵⁸ a collection of Gallic and Spanish church councils that, considering the documents it contains, cannot have been assembled before the end of the 7th century.⁵⁹ In contrast, Vatican Lat. 3827 is the only textual witness to the “Collection of the manuscript of Beauvais”. These two collections are closely related to each other, since both collections share a considerable number of documents, while presenting them in the same order and containing the same textual re-

⁵⁵ For the solution adopted at Epao, see c. 33; that these questions were discussed within the Burgundian episcopacy is illustrated by Avitus, Ep. 7, ed. by Rudolf Peiper, MGH Auctores Antiquissimi 6,2, Berlin 1883, 35–39.

⁵⁶ The close connection linking the *Collectio Remensis* to the collections of Saint-Amand and Beauvais was first noted by Bertold Bretholz, Die Unterschriften der gallischen Concilien des 6. und 7. Jahrhunderts, in: Neues Archiv der Gesellschaft für ältere deutsche Geschichtskunde 18 (1893), 527–547, at 531 n. 1. Bretholz did not further elaborate on this, neither did later scholars.

⁵⁷ See MGH Concilia aevi Merovingici 1 (note 14), 100. For further information on Paris BnF Lat. 3846 see Mordek, Bibliotheca capitularium regum Francorum manuscripta (note 11), 439–442. Berlin Ham. 132 *ibid.* 29–34 as well as Helmut Boese, Die lateinischen Handschriften der Sammlung Hamilton zu Berlin, Wiesbaden 1966, 72–75 and Abigail Firey, Canon Law Studies at Corbie, in: Fälschung als Mittel der Politik? Pseudoisidor im Licht der neuen Forschung. Gedenkschrift für Klaus-Zechiel-Eckes, ed. by Karl Ubl and Daniel Ziemann, Wiesbaden 2015, 19–79. A description of Vatican Lat. 3827 is given in Mordek, Bibliotheca capitularium regum Francorum manuscripta (note 11), 858–863. For further information on the *Collectio Sancti Amandi* and additional manuscripts related to that collection, see Mordek, Kirchenrecht und Reform (note 10), 249–250.

⁵⁸ Maassen, Geschichte der Quellen und der Literatur (note 8), 780–784, named the collection after the monastery of Saint-Amand (situated in what is today Northwestern France), where the ms. Paris BnF Lat. 3846 was kept in the 15th century, as we are told by an *ex libris* on fol. 1^r.

⁵⁹ Its latest document is the Eleventh Synod of Toledo of 675. As the Roman synod of Pope Gregory II (held on 5 April 721) is not mentioned in the contents list preceding the collection (see Paris BnF Lat. 3846 at foll. 128^r–137^v), it is, among other documents, to be considered as a later supplement.

dactions. Comparison between the two collections makes it clear that the Collection of Saint-Amand must predate the Beauvais collection,⁶⁰ while the compiler of the latter collected some of his material from a copy of the Collection of Saint-Amand. In contrast to the earlier collection, the compiler of the Beauvais collection chose to omit most of the 5th-century church councils, whereas, on the other hand, he supplemented the material contained in his exemplar by a couple of documents dating from the 8th and 9th centuries.⁶¹ Now, when comparing these two collections with the Reims collection, we find that they all have numerous features in common, enough to suggest that the compiler of the Collection of Saint-Amand may have collected large parts of his material from an exemplar containing a canon law collection very similar to the one transmitted in Phill. 1743. Given that the Collection of Saint-Amand was composed earlier than the Beauvais collection, it might be useful, for the time being, to limit our focus to the older collection and to take a closer look at the features that the Reims and the Saint-Amand collections have in common.

If we look at how the Gallic church councils are presented within Phill. 1743, it is easy to note that they form a sequence of seventeen Gallic synods that are arranged almost exactly in chronological order. The sequence is as follows: Valence 375 – Turin 398 – Riez 439 – Orange 441 – Vaison 442 – “Second Council of Arles” – Agde 506 – Orléans 511 – Epao 517 – Lyon 518/9 – Arles 524 – Vaison 529 – Carpentras 527 – Orange 529 – Orléans 538 – Orléans 541 – Orléans 549.⁶² By contrast, the three synods of

60 The chronological precedence of the Collection of Saint-Amand before the Beauvais collection is also noted by Mordek, *Kirchenrecht und Reform* (note 10), 72 n. 38. On the date of the composition of the Collection of Saint-Amand and its sources see also Martínez Díez, *La colección canónica Hispana* (note 44), 342–347.

61 Among the later documents which were added by the compiler of the Beauvais collection are the synods of Ver 755, Friuli 796/7, Paris 829, Valence 855 and Savonnières 859, two capitularies of Pippin the Short, the *epistola generalis* of Louis the Pious and his son Lothar I as well as several papal letters by Hadrian I, Leo IV and Nicholas I. The collection is described in Maassen, *Geschichte der Quellen und der Literatur* (note 8), 778–780.

62 Phill. 1743, foll. 95^v-159^r. Maassen, *Geschichte der Quellen und der Literatur* (note 8), 565–566 noted that the series Riez 439 – Orange 441 – Vaison 442 – Arles II – Agde 506 – Orléans 511 is found in a number of collections in precisely that order, viz. the collections of Lyons, Corbie, Spanish-Gallic Epitome and Lorsch, even though the latter has the synod of Orange 529 following Arles II. Maassen therefore assumed that they had a “similar source” (on this presumed *collectio antiquissima* see also Schäferdiek, *Das sogenannte zweite Konzil von Arles* (note 49), 17). It is interesting, in any case, that in the Corbie collection (only transmitted in the manuscript Paris, Bibliothèque nationale de France, lat. 12097), the synod of Riez is preceded by the synods of Valence 374 and Turin 398, whereas in between Turin and Riez, we find a papal letter (JK 292: Innocent I to a synod in Toledo) that in Phill. 1743 is placed among other decretals. As far as chronology is concerned, Innocent’s letter (ca. 404 A.D.) would in fact deserve a place between those two synods. On the Corbie Collection, see Turner, *The Corbie Ms.* (note 42); Stefan Esders, *Römische Rechts tradition und merowingisches Königtum. Zum Rechtscharakter politischer Herrschaft in Burgund im 6. und 7. Jahrhundert*, Göttingen 1997, 31–56; Wolfgang Kaiser, *Beobachtungen zur Collectio Corbeiensis und Collectio Bigotiana* (Hs. Paris BN lat. 12097 und Hs. Paris BN lat. 2796), in: *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung* 92 (2006), 63–110.

Orléans 511 (an abridged version, containing only the first nine canons), Tours 461 and Vannes 461/91 that follow the chronological dossier,⁶³ most probably did not form part of the original collection, but were added at a later date, since those texts obviously do not fit into the chronological scheme. Furthermore, the synods of Tours and Vannes were held in North-Western Gaul, whereas all other conciliar acts included in the collection were issued by episcopal assemblies convened in Southern, Central and Eastern Gaul. Apart from the four synods of Agde 506, Orléans 511, Epao 517 and Lyons 518/9,⁶⁴ all councils from the sequence from Valence 374 to Orléans 549 are also preserved in the Collection of Saint-Amand, namely in a textual form very similar to the one transmitted in Phill. 1743. These similarities can be illustrated by the synod of Turin 398.⁶⁵ In contrast to all the other manuscripts, Phill. 1743 and the manuscripts deriving from the Collection of Saint-Amand count the council's preface as first canon and merge canons five and six into a single canon. Still unlike

⁶³ Phill. 1743, foll. 159^r-165^r.

⁶⁴ In the *inscriptio* contained in the *Codex Remensis* (fol. 131^r), Lyons 518/9 is not identified as a council, but as *epistula temp(or)e sigismundi regis* (see also the explicit at fol. 132^r: *expl(icit) epist(u)la contra stephanu(m) temp(or)e sigismundi regis*). If the compiler of the *Collectio S. Amandi* scanned our *collectio canonum* for Gallic councils, he would have easily failed to recognize this document as a council and therefore chose not to include it into his collection. In contrast, the “national councils” of Agde 506 and Orléans 511 that are present in Phill. 1743, are also transmitted within the *Collectio Sancti Amandi*, albeit in versions considerably different from the versions contained in the Reims collection. This might be due to the fact that in the Reims collection these councils were preserved in truncated versions. The compiler, obviously aiming for an exhaustive collection uniting Gallic and Spanish canon law, would have found more complete versions of these councils in other manuscripts, hence preferring them over the Reims collection. Given the widespread diffusion of these conciliar acts, this assumption is perhaps the most plausible scenario. In fact, the redaction of the council of Agde 506 presented in Phill. 1743 lacks one canon and, furthermore, Pope Innocent's letter “*Consulenti tibi*” (JK 293) that had originally been part of the conciliar acts. Compared to the version transmitted in the manuscripts of the *Collectio Sancti Amandi*, the council of Orléans 511, as it is presented in Phill. 1743, lacks three canons, Clovis's letter “*Enuntiante fama*” and the episcopal sees of the conciliar fathers. Curiously, the synod of Orléans 511 appears a second time within the *collectio canonum* in Phill. 1743 (at foll. 159^r-161^r), this time as part of a later supplement (together with the synods of Tours 461 and Vannes 461/91). Even though this second version closely resembles the one copied into the *Collectio S. Amandi* (it contains the opening letter to Clovis and a subscription list identical to the mss. of the *Collectio S. Amandi*), the compiler of the *Collectio S. Amandi* did copy the council from an exemplar differing from the *Codex Remensis*, whose *capitulatio* and *canones* already finish with canon 9 (counted as canon 11), whereas the mss. of the *Collectio S. Amandi* include all 31 canons (counted as 33 canons). Likewise, the versions of the synods of Tours 461 and Vannes 461/91 in the *Collectio S. Amandi* and the Reims collection differ from each other, cf. *Concilia Galliae* a. 314–a. 506, ed. by Charles Munier, *Corpus Christianorum*, Series Latina 148, Turnhout 1963, 142–158, providing strong evidence that the synods following the chronological collection were in fact a later supplement.

⁶⁵ On this synod see Ralph W. Mathisen, *The Council of Turin (398/399) and the reorganization of Gaul ca. 395/406*, in: *Journal of Late Antiquity* 6 (2014), 264–307.

the other manuscripts, the *capitulatio* in here lists eight canons in total.⁶⁶ A common source is likewise suggested by the subscription lists: particularly telling are the last subscriptions of Orléans 549. Instead of listing the names of each bishop followed by the name of his city, in Phill. 1743, the last four episcopal subscriptions lack the names of their respective sees. Even though there is a line shift in the manuscripts pertaining to the Collection of Saint-Amand, the affinity to Phill. 1743 is still obvious.

Fig. 6: Berlin, Staatsbibliothek, Ms. Phill. 1743, fol. 159^r

Phill. 1743, fol. 159^r:

<i>beatus ep(iscopu)s</i>	<i>ecl(esiae) a(m)bianinsiu(m)</i>	<i>sub(scripsi)</i>
<i>ambrosius ep(iscopu)s</i>	<i>ecl(esiae) tricassiu(m)</i>	<i>sub(scripsi)</i>
<i>calledus⁶⁷ ep(iscopu)s</i>	<i>ecl(esiae)</i>	<i>sub(scripsi)</i>
<i>clemencius ep(iscopu)s</i>	<i>ecl(esiae)</i>	<i>sub(scripsi)</i>
<i>aegidius ep(iscopu)s</i>	<i>ecl(esiae) <rem(en)sis>⁶⁸</i>	<i>sub(scripsi)</i>
<i>quintianus ep(iscopu)s</i>	<i>ecl(esiae)</i>	<i>sub(scripsi)</i>

Paris BnF Lat. 3846, fol. 135^v:

<i>beatus ep(iscopu)s</i>	<i>ecl(esiae) abrincatis</i>	<i>sub(scripsi)</i>
<i>ambrosius ep(iscopu)s</i>	<i>ecl(esiae) ambianensiu(m)</i>	<i>sub(scripsi)</i>

⁶⁶ Phill. 1743, foll. 98^r-100^r; Paris, BnF lat. 3846, foll. 129^r and 144^{r-v}; Berlin, Hammlton 132, fol. 136^v-137^v. See also Munier's edition of the Concilia Galliae (note 64), 53 ("*Tabula canonum*") for a helpful overview, but note that Munier did not consult Ham. 132 for his edition. The synod of Turin is also transmitted in the collections of Diessen, Cologne and Albi.

⁶⁷ Maassen, MGH Concilia aevi Merovingici (note 14), 111 reads *Adledus* instead.

⁶⁸ Here, a later Carolingian corrector (erroneously) added *rem(en)sis* into the lacuna between *ecl(esiae)* and *sub(scripsi)*; the manuscript was obviously being kept at Reims when this addition was made.

<i>caeledus ep(iscopu)s</i>	<i>ecl(esiae) tricassium</i>	<i>sub(scripsi)</i>
<i>clemencius⁶⁹ ep(iscopu)s</i>	<i>ecl(esiae)</i>	<i>sub(scripsi)</i>
<i>egydius ep(iscopu)s</i>	<i>ecl(esiae)</i>	<i>sub(scripsi)</i>
<i>quincianus ep(iscopu)s</i>	<i>ecl(esiae)</i>	<i>sub(scripsi)</i>

Even in passages that at first glance would point to two different sources, a closer look at the manuscripts suggests the opposite. Phill. 1743 is the only textual witness to the complete version of the so called “Second Council of Arles”, a series of 56 canons. Paris BnF Lat. 3846, however, transmits only the first 25 and the last 11 canons, whereas Ham. 132 stops at canon 25. Nevertheless, the compiler of the Collection of Saint-Amand must have copied these canons from a 56-canon version as contained in the *Collectio Remensis*. In fact, these two collections are the only ones that merge canons 21 and 22 into a single canon and unlike most other manuscripts, they include canons 10 to 12. Much more significant, however, is the absence of canons 26 to 44, all of which were repetitions of canons that had already been formulated by the synod of Orange 441 in the manuscripts pertaining to the Collection of Saint-Amand. Having noticed that these canons were repetitions, the compiler of the Collection of Saint-Amand chose to save the work and advised his readers to simply consult the synod of Orange: *Hic desunt capitula de sinodo Arausicorum a XXV usque ad XLIII. Ideo dimisimus quia repperies in ipso sinodo.*⁷⁰ The scribe most probably got the information he was about to copy canons from Orange from an exemplar resembling the *Codex Remensis*, where canon 26 (counted as canon 25) starts with the remark: *Capitula de sinodo quae in terreturio arausico caelebrata sunt.*⁷¹ These and many more similarities suggest a strong link between the Reims collection and the Collection of Saint-Amand. Given that the Collection of Saint-Amand contains councils up to the middle of the 7th century,⁷² while the Reims collection ceased to be updated one century earlier, the Reims collection seems to have historical priority. In all probability, then, the Collection of Saint-Amand was compiled drawing from different exemplars, among them one containing the acts of the seventeen Gallic synods as preserved in the Reims collection. In order to better understand the genesis of the

⁶⁹ Berlin, Staatsbibliothek, Hamilton 132, fol. 149^v reads: *clementius*.

⁷⁰ See Paris, Bibliothèque nationale de France, lat. 3846, fol. 140^r in the left margin, quoted according to Munier’s edition (CCSL 148, 119). In contrast, Hamilton 132 (at fol. 132^v) already stops with c. 25 (counted as canon 24), leaving no trace of the final 11 canons. It seems clear, however, that the council was copied from an exemplar similar to Paris BnF lat. 3846, as the canons transmitted in Ham. 132 betray the same peculiarities as in the Paris manuscript. Furthermore, at fol. 132^v, Ham. 132 shows traces of scraping: Thus, following canon 25, four lines were scraped out as well as a marginal note that used to be in the same place as in the Paris manuscript.

⁷¹ Phill. 1743, fol. 113^r. Most of these observations were already noted by Maassen, *Geschichte der Quellen und der Literatur* (note 8), 195–197, followed by Mathisen, *The “Second Council of Arles”* (note 38), at 517.

⁷² The latest Gallic council within the Collection of Saint-Amand is the synod of Chalon-sur-Saône, held between 647 and 653. For a comparison of the content of the Gallic *collectiones canonum*, see the table in Odette Pontal, *Die Synoden im Merowingerreich*, Paderborn 1986, 285.

Reims collection, it might therefore prove useful to compare Phill. 1743 to the manuscripts transmitting the Collection of Saint-Amand.

5 Lists of popes and ecclesiastical provinces in Gallic canon law collections

Consulting all the manuscripts would allow us to be on firmer ground regarding the origins, the selection and redaction of individual texts contained therein. At the present stage, we should draw attention to another feature of more or less all of these collections, crucial to understanding their function – that is a list of popes and a register of the ecclesiastical provinces of Gaul. In fact, in most of these collections a long list of popes either antecedes the material or is inserted later into the manuscript, as has already been emphasized by Louis Duchesne in his edition of the *Liber pontificalis*.⁷³ For instance, in the collection Cologne, Dombibliothek 212, the list of popes is framed beneath a double arcade,⁷⁴ while the Corbie and the Reims collections have one line for each pope, organizing the detailed information provided according to columns. All these lists begin with Peter, of course; however, their respective ends are more revealing. In the Cologne collection, perhaps written in Gap around 600, the list originally extended to Pope Agapetus I, who died in 536; the list was continued by a different scribe, who added seven more popes and ended with Gregory the Great, who must have still been alive, as the dates of Gregory's pontificate had not yet been inserted.⁷⁵ In the collection from Corbie the list ended with Pope Hormisdas, who died in 523, but was later continued by adding seven further popes up to Vigilius, whose pontifical years extending to 555 were added by the scribe.⁷⁶ In the Reims codex, the list ends with Pope Felix IV, who died in 530, while his and his two predecessors' dates are not given completely.⁷⁷ So, while there is a difference as to what extent these lists were continued, it seems likely that there must have been a basic list that originally covered the Roman pontificates into the later 520s, while the continuation of such a list was a matter of local redaction. That there was once a uniform list of popes is confirmed by the fact that the entries in these lists follow exactly the same order: they first give the name of each pope, and then add the exact number of

⁷³ Le Liber Pontificalis. Texte, introduction et commentaire par Louis Duchesne, vol. 1, Paris 1886, XIV–XVIII. On the significance of these insertions see Rosamond McKitterick, *Rome and the Invention of the Papacy. The Liber Pontificalis*, Cambridge 2020, 154–156.

⁷⁴ Cologne, Dombibliothek, ms. 212 (*Collectio Coloniensis*), fol. 169^r.

⁷⁵ Cologne, Dombibliothek, ms. 212 (*Collectio Coloniensis*), fol. 169^r. For the manuscript's Gap provenance, see Tino Licht, *Halbunziale. Schriftkultur im Zeitalter der ersten lateinischen Minuskel* (III. – IX. Jahrhundert), Stuttgart 2018, 246–253.

⁷⁶ Paris, Bibliothèque nationale de France, lat. 12097 (*Collectio Corbeiensis*), fol. 1^v; see also Turner, *The Corbie Ms.* (note 42), 232–234.

⁷⁷ Berlin, Staatsbibliothek, Phill. 1743, fol. 294^v.

years, months, and even the days he spent in office. The focus of the lists thus is not on a pontiff's life data, but on the exact time-span of his office-holding which is of course a very Roman idea. As this ordering is exactly the same in all manuscripts that contain such a list, it is clear that this cannot have been a local production of knowledge but obviously responded to an official list that was once circulated, very likely by a papal representative such as the apostolic vicar of Gaul, i.e. the archbishop of Arles.⁷⁸ It seems that it spread widely from there within ecclesiastical networks. Interestingly enough, it also became integrated into the first book of the chronicle of Fredegar compiled in the 7th century, where the list was continued until Pope Theodore I (642–649).⁷⁹

The historical background to these lists is, of course, the Gallic churches' belonging to the Western patriarchate which made them subordinate to the bishop of Rome – a fact that also explains the insertion of some African canons.⁸⁰ It tells us something about the self-perception of the Gallic bishops as they regarded their Gallic canon law responding to the conciliar tradition of the ancient church and as in concord with its interpretation by the pope. On a more practical level, such a list was helpful when using the manuscript, as one could attribute an individual text, a papal letter in particular, not to an exact year, but to the pontificate of individual popes within a series of Roman pontiffs. While the Cologne manuscript with the Gap collection has the list updated to the popes until the late 6th century, the Corbie and Reims collections ended in the 530s or 550s, although we definitely know that later material was inserted into both manuscripts. The Reims list was not even updated when the whole collection was copied in the 8th century – at this time, it seems, this manuscript came to be regarded as an ancient, historical monument which should not be updated by inserting any alterations right into the text, but only by marginal notes which should be easily recognized as later additions. Such an attitude anticipates the breath of Carolingian scholarship, as we shall see later.

There is yet another important text we find in all of these collections, that is the so-called *Notitia Galliarum*. Once compiled as a list of Roman provinces in Gaul in the 5th century, the *Notitia* soon became adapted to ecclesiastical organization, as

78 On the apostolic vicariate of Arles, see the studies by Georg Langgärtner, *Die Gallienpolitik der Päpste im 5. und 6. Jahrhundert. Eine Studie über den apostolischen Vikariat von Arles*, Bonn 1964; Ralph W. Mathisen, *Ecclesiastical Factionalism and Religious Controversy in Fifth-Century Gaul*, Washington D. C. 1989; Martin Heinzelmann, *Bischofsherrschaft in Gallien: Zur Kontinuität römischer Führungsschichten vom 4. bis zum 7. Jahrhundert*, Zurich 1976, 73–84.

79 Fredegar, *Chronicle I*, 25: *Fredegarii et aliorum chronica*, ed. by Bruno Krusch, MGH SS rer. Merov. 2, Hanover 1888, 34–37.

80 Mordek, *Kirchenrecht und Reform* (note 10), 82; Hubert Mordek, *Der römische Primat in den Kirchenrechtssammlungen des Westens vom IV. bis VIII. Jahrhundert*, in: *Il primato del vescovo di Roma nel primo millennio. Ricerche e testimonianze*, ed. by Michele Maccarone, Vatican City 1991, 523–566.

has been shown by Jill Harries.⁸¹ This is even more important as the Merovingian kings actually gave up Roman provincial administration, appointing instead counts for the cities of Gaul who were directly subordinated to the king. Roman provincial organization thus was maintained only in the church's ecclesiastical provinces that would later be called archbishoprics.⁸² This is why the *Notitia* became such a widespread and important text, one which we find in more than 100 manuscripts today, several of which later adapted its contents to the emergence of new archbishoprics such as Salzburg or Magdeburg.⁸³

That ecclesiastical spatial organization maintained Roman provincial administration has also to be seen in functional terms, as well as in the context of provincial identities, as can similarly be demonstrated for Visigothic Spain.⁸⁴ Church historians usually see provincial synods as the lowest part of an ecclesiastical hierarchy of decision-making superseded by general councils on a political level which were presided over by the barbarian king, and reaching its peak in ecumenical councils or later the papal curia. This is, of course, true and is also reflected in our canon law manuscripts. However, in a diachronic perspective, provincial synods can also be understood as successor institutions of the late Roman provincial assemblies.⁸⁵ These provincial assemblies were held all over the Later Roman Empire and did not only serve the interests of the governing elite, but additionally brought forward suits against former governors and against judicial corruption, as they could also send appeals and suggestions to the ruler.⁸⁶ Synods held in the Merovingian period on a provincial level involved bishops and archbishops as the principal actors dealing with ecclesi-

⁸¹ See Jill D. Harries, Church and State in the *Notitia Galliarum*, in: *Journal of Roman Studies* 68 (1978), 26–43.

⁸² On the divergence between ecclesiastical and secular geographical administration, see Marcelo Cândido da Silva, Les cités et l'organisation politique de l'espace en Gaule mérovingienne au VI^e siècle, in: *Histoire urbaine* 4 (2001/2), 83–104 and Till Stüber, Der inkriminierte Bischof. Könige im Konflikt mit Kirchenleitern im westgotischen und fränkischen Gallien (466–614), Berlin et al. 2020.

⁸³ On the reception and adaption of the *Notitia Galliarum*, see e.g. Roger E. Reynolds, The *Notitia Galliarum*: an Unusual Bavarian Version, in: *Readers, Texts and Compilers in the Earlier Middle Ages. Studies in Medieval Canon Law in Honour of Linda Fowler-Magerl*, ed. by Michael Brett and Kathleen G. Cushing, Aldershot 2009, 3–14 and Daniel Carlo Pangerl, Die Metropolitanverfassung des karolingischen Frankenreiches, Hanover 2011, 156–159.

⁸⁴ See Manuel Koch, *Ethnische Identität im Entstehungsprozess des spanischen Westgotenreiches*, Berlin et al. 2012.

⁸⁵ On this aspect of post-Roman continuity, see also, with further readings, Sieben, Die Konzilsidee der Alten Kirche (note 7), 143–147.

⁸⁶ Joseph Zeller, Das Concilium der *Septem provinciae* in Arelate, in: *Westdeutsche Zeitschrift für Geschichte und Kunst* 24 (1905), 1–19; Id., *Concilia provincialia* in Gallien in der späteren Kaiserzeit, *ibid.* 25 (1906), 258–273; Jakob A. O. Larsen, The Position of Provincial Assemblies in the Government and Society of the Late Roman Empire, in: *Classical Philology* 29 (1934), 209–220; Jürgen Deininger, Die Provinziallandtage der römischen Kaiserzeit von Augustus bis zum Ende des dritten Jahrhunderts n.Chr., Munich 1965; Babett Edelmann-Singer, *Koina und Concilia*. Genese, Organisation und sozio-ökonomische Funktion der Provinziallandtage im römischen Reich, Stuttgart 2015.

astical discipline, liturgy, church property etc., but given the Roman background of provincial assemblies it can hardly surprise us that we also often find lay people present at provincial synods which regularly uttered complaints against corrupt royal officials, unjust judges etc. There was some debate within the Gallic church regarding what precisely the function of provincial synods was and should be in the future, as Gregory of Tours attests,⁸⁷ but this also underlines the fact that provincial synods still were a means to articulate the interests and concerns of provincial lay groups to some extent. The inclusion of the *Notitia Galliarum* within our canon law manuscripts thus served to frame the process through which the public sphere became transformed in post-Roman Gaul, and to make provincial synods part of an ecclesiastical hierarchy, thereby confining their function. However, some extant acts of provincial synods as well as revealing segments from narrative sources about synods as judicial assemblies tell us a different story.

6 Collecting papal letters, and a dossier relating to the Three Chapters Controversy

In addition to synodal acts, a great number of papal decretals have survived as part of Gallic canon law collections, the *Remensis* being no exception. While in the collection of conciliar canons, chronological order was applied relatively consistently only within the 17-synod collection described above, the compiler quite clearly attempted to order all papal letters in the *Remensis* chronologically – or at least by successive popes –, though this fact is not immediately obvious in the 8th century codex.

Excerpts from the acts of the council of Ephesos (fol. 186^r-201^v), filling two quires between the decretals of Innocent I (fol. 173^r-185^v) and Zosimus I (fol. 202^r-204^r), seem to have been an addition made only by the copyists in Bourges: Zosimus' first letter is introduced by *expl(iciunt) epist(u)l(e) innocent(i) incip(iunt) epistule zosimi* (fol. 202^r). Additionally, a quire seems to have been misplaced in the exemplar of the 8th century codex: On fol. 208^{va}, Celestine I's letter to the bishops of *Viennensis* and *Narbonensis* breaks off in the middle of the sentence, merging into the end of Leo the Great's letter to the bishops of *Mauretania Caesariensis*. The end of Celestine's letter does not follow until fol. 255^{va}, again with a break in the middle of the sentence: The Roman synod of 501 – apparently included in the collection of papal letters because it was entitled *constitutio facta ad [sic] domno symmacho papa de rebus ecl(esi)ae conservandis* – is interrupted, only to be taken up again on fol. 265^{ra}, where it, in turn, directly follows the earlier part of Leo's letter. There are ca. 38 columns of text between the two parts of the synod of 501; taking this as the approximate length of one quire in the exemplar, we would also expect there to be some multiple of 38 col-

⁸⁷ See Gregory of Tours, *Libri Historiarum Decem IX* 20, ed. by Bruno Krusch and Wilhelm Levison, MGH SS rer. Merov. 1,1, Hanover ²1937–1951, 440.

umns of text between the two parts of Celestine's letter. There are, in fact, ca. 188 columns, or almost exactly 5x38, so it seems to have been moved by five quires. Controlling for both these anomalies, the collection of papal letters is almost perfectly ordered by popes; only the inclusion of the letter of Pope Siricius to Himerius of Tarragona in an earlier part of the manuscript, after the canons of Chalcedon and before material related to a synod held in Rome in 502, marks a break with this organizing principle.⁸⁸

This so-called first decretal of the 4th-century Pope Siricius written in 384, recently edited by the late Klaus Zechiel-Eckes, is almost ubiquitous in historically arranged canon law collections, as it is preserved in a large number of manuscripts.⁸⁹ In most collections, subsequent papal decretals extend to the popes of the 520s and 530s, while interestingly decretals from later 6th-century popes are transmitted far more rarely – which is telling both regarding the date when these collections were presumably compiled, and the nature of papal relations with Frankish Gaul in the second half of the 6th century. It is well known that the Three Chapters Controversy led to an alienation between the Gallic church and the papacy which Pope Pelagius I and his successors sought to reconcile.⁹⁰ And exactly at this time, the apostolic vicariate of Arles lost its importance, while within the Gallic episcopate the archbishop of Lyon assumed some sort of supremacy from the later 560s onward.⁹¹

We do not to have the slightest trace, for instance, of the fifth ecumenical council held in Constantinople that condemned the Three Chapters. Of course, a Latin trans-

88 On this peculiar grouping, see Michael Eber, 'Historische Ordnung' or Just a Mess? Tracking Dossiers in Early Medieval Canonical Collections, in: *The Art of Compilation: Manuscripts and Networks in the Early Medieval Latin West*, ed. by Anna Dorofeeva and Michael J. Kelly (in preparation).

89 On its transmission see Zechiel-Eckes, *Die erste Dekretale* (note 18), 24–58. While there is some debate on the role Siricius' predecessor Damasus played in the creation of the genre of decretals, the ubiquity of this text suggests that early medieval compilers would have agreed with Zechiel-Eckes. For recent overviews of the debate see Dominic Moreau, *Non impar conciliorum extat auctoritas*. L'origine de l'introduction des lettres pontificales dans le droit canonique, in: *L'étude des correspondances dans le monde romain de l'Antiquité classique à l'Antiquité tardive. Permanences et mutations*. Actes du XXXIIe colloque international de Lille 20–21–22 novembre 2008, ed. by Janine Desmulliez, Christine Hoët-van Cauwenberghe et al., Lille 2010 (Éditions du conseil scientifique de l'Université Lille 3), 487–506, at 494–498; Geoffrey D. Dunn, *The Emergence of Papal Decretals. The Evidence of Zosimus of Rome*, in: *Shifting Genres of Late Antiquity*, ed. by Geoffrey Greatrex and Hugh Elton, Farnham 2015, 81–92; David L. d'Avray, *Papal Jurisprudence, c. 400. Sources of the Canon Law Tradition*, Cambridge et al. 2019, 10–22. On the early history of the transmission of papal letters in general, see also Bronwen Neil, *Papal Letters and Letter Collections*, in: *Late Antique Letter Collections. A Critical Introduction and Reference Guide*, ed. by Cristiana Sogno, Bradley K. Storin et al., Oakland 2016, 449–466.

90 See Ian N. Wood, *The Franks and Papal Theology, 550–660*, in: *The Crisis of the Oikoumene. The Three Chapters and the Failed Quest for Unity in the Sixth-Century Mediterranean*, ed. by Celia Chazelle and Catherine Cubitt, Turnhout 2007, 223–241.

91 Langgärtner, *Die Gallienpolitik der Päpste* (note 78), 144–166; Mordek, *Kirchenrecht und Reform* (note 10), 75.

lation of the acts of the Ecumenical Council eventually came to Gaul, as did abbreviations of it, but today they are only preserved in collections of much later date.⁹² The Three Chapters dossier mentioned above, in fact, is a prime source for the resistance to this council in Gaul. Apart from two manuscripts of the late-8th-century *Collectio Dionysio-Hadriana* that contain a truncated version,⁹³ the Reims codex is the only canonical collection to transmit the letters written by Pope Vigilius in full, and the only one to transmit the letter to the Frankish envoys at all. The addition of the *Gesta de nomine Acacii* to this dossier is particularly telling. It suggests that the compiler was able to trace the roots of the conflict to the council of Chalcedon and the struggle over its heritage, actively shaping the memory of the Three Chapters controversy in terms of the Acacian schism, i.e. the defence of Chalcedonian orthodoxy against Eastern patriarchs and emperors all too willing to compromise with miaphysites.

One could also argue that, by doing so, the compiler was commenting on the controversy: While Vigilius's dossier was clearly designed to improve the disastrous image his wavering had caused, combining it with the *Gesta* might have been the compiler's way of advocating for a return to hard-line 'Western' papal politics like those during the Acacian schism, those of Felix III, Gelasius I and Symmachus in particular.⁹⁴ In fact, the *Gesta* end with Felix III excommunicating his own legates to Acacius who were supposed to obtain a condemnation of Peter Mongus, the miaphysite patriarch of Antioch, but ended up being imprisoned and abused in Constantinople until they entered communion with him.⁹⁵ This could be read as an argument that excommunication was the appropriate measure for betraying (the Western interpretation of) Chalcedonian orthodoxy, even if it happened under duress.

While it is not at all uncommon for *libri canonum* of this time to contain texts that would not fall under the category of 'canon law' in the strict sense – so much so that the applicability of this concept has recently been called into question⁹⁶ –, the Three Chapters dossier also raises interesting questions about how the compiler conceived of his collection as a whole, as these are the only narrative texts in an otherwise normative collection. But since they contain a narrative about threatened papal authority, they evidently were judged to contribute something to the broader context in which the normative texts unfolded their authority, not unlike the list of popes. In fact, anxiety over papal authority caused by Vigilius's mishandling of

⁹² See the translator's note in *The Acts of The Council of Constantinople of 553*. Translated with an introduction and notes by Richard Price, Liverpool 2009, vol. 1, 104–108.

⁹³ Eduard Schwartz, *Vigiliusbriege* (note 26) 27.

⁹⁴ See Jan-Markus Kötter, *Zwischen Kaisern und Aposteln. Das Akakianische Schisma (484–519) als kirchlicher Ordnungskonflikt der Spätantike*, Stuttgart 2013, 90–122.

⁹⁵ *Gesta de nomine Acacii*, (note 27) cc. 27–29, 451–452.

⁹⁶ Rosamond McKitterick, *The Church and the Law in the Early Middle Ages*, in: *Studies in Church History* 56 (2020), 7–35, at 26–35; see also Rosamond McKitterick, *History and Memory in the Carolingian World*, Cambridge 2004, 249–256 on canon law collections as more akin to historiography.

the Three Chapters controversy may have been one of the reasons that this re-collection of authoritative texts seemed necessary in the 550s.⁹⁷

7 The legislation of the Frankish King Chlothar II

As with papal letters, around 550, there seems to have been a break in the transmission of Gallic synods: the last one held under Merovingian rule to be transmitted in *all* early Gallic collections is the fifth synod of Orléans assembled under king Childebert I in 549. Decisions of later synods, for example Auxerre and Tours 567, Paris 573, the two famous synods held under King Guntram in Mâcon in the 580s,⁹⁸ and a small number of 7th-century synods, are only preserved through individual manuscripts, suggesting that their acts apparently did not spread widely or were not acknowledged everywhere. It is tempting to relate this to the division of Merovingian Gaul after the death of king Chlothar I in 561, and to the civil wars that followed. As it seems, the development of a canon law tradition comprising the whole of Gaul had irrevocably come to an end already by the mid-6th century. For even the legislation issued by king Chlothar II in Paris in 614, which put an end to an age of civil wars and reunited the whole of the Frankish kingdom for the first time since 561, has uniquely come down to us in the *Codex Remensis*,⁹⁹ while the acts of the synod of Paris that immediately preceded the publication of Chlothar's edict and which was attended by 80 bishops from the whole Frankish kingdom is transmitted in only one other manuscript.¹⁰⁰

As we know from historiographical, hagiographical and genealogical sources, the turnover of 613 had a profound impact on Merovingian self-assertion as a rupture and a new beginning in history.¹⁰¹ However in the *Codex Remensis*, the 7th-century addition comprising Chlothar's legislation of 614 was obviously copied to present it as a continuation of the earlier tradition of synodal legislation and papal letters which had only been interrupted after the fifth synod of Orléans. But the 7th-century

97 On the interplay of normative and narrative texts, see also Andrea A. Verardi, *Between Law and Literature: The Liber Pontificalis and Canonical Collections in Late Antiquity and Early Middle Ages*, in: *The Collectio Avellana and Its Revivals*, ed. by Rita Lizzi Testa and Giulia Marconi, Cambridge 2019, 370–387.

98 De Clercq erroneously suggested that the synod of Mâcon a. 581/83 was transmitted in Phill. 1743 (cf. *Concilia Galliae* a. 511 – a. 695, *Corpus Christianorum, Series Latina* 148 A, Turnout 1963, 222). In fact, it is transmitted in Phill. 1745, the so-called Lyons collection to which his siglum *L* usually refers. Maassen, *MGH Concilia aevi Merovingici* 1 (note 14), 155 provides the correct information.

99 Phill. 1743, foll. 296^{vb}–298^{vb}.

100 Phill. 1743, foll. 298^{vb}–300^{vb}; Munich, Bayerische Staatsbibliothek, clm 5508 (*Collectio Diessensis*), foll. 103^{vb}–106^{ra}.

101 Michael Eber, Stefan Esders and Till Stüber, *Die Lebensbeschreibung des Lupus von Sens und der merowingische Machtwechsel von 613/14. Studien, revidierter Text und Übersetzung* (in preparation).

addition is different in character from the rest of the collection. While the codex only contains papal letters and synodal canons, many of which were confirmed by emperors and kings, the Edict of Paris is the first document in the codex that is largely devoted also to secular matters.

It was due to the historical importance of the Paris Edict that 19th-century constitutional historians were so deeply interested in the Reims Codex – so keen that they even partly destroyed it! – which is another chapter in the history of selection and oblivion documented in this manuscript that remains to be written. As many letters had become illegible in this part of the codex, scholars used gallnut tincture to make them readable at least for a short moment. The long-term result was that everything turned brown and rendered whole passages completely illegible. In his MGH edition of the Merovingian capitularies published in 1883, when the codex was still in England, Alfred Boretius explicitly stated that his reading and reconstruction of the Paris Edict was only possible as he could use notes made by Georg Waitz, the second president of the MGH and celebrated German constitutional historian. In his travel reports, Waitz explicitly says that on his trip to England in 1877 he took a closer look at the *Codex Remensis*, which was made available to him by Sir Thomas Philipps' son at Cheltenham. He reports the friendly reception by the Philipps family who even kindly invited him to share their breakfast table, but omits to say what enabled him to read all the faded passages which Sirmond had not been able to decipher.¹⁰² We cannot ascribe with any certainty who put the reagent on the last folios of the manuscript, as there is also evidence that, when the manuscript had come to Berlin, Mommsen and others undertook new efforts to decipher the illegible passages.¹⁰³

The Paris Edict additionally entails a series of provisions on episcopal succession, studied more recently in detail by Andreas Thier, which were taken up significantly modified from decisions made by a synod that king Chlothar had assembled a week before at Paris.¹⁰⁴ The synodal acts of 614 follow directly upon the edict in the codex, though already in a reduced form, as the scribe did not copy the bishops' subscriptions, which we only find in the "Diessen Collection" that also transmits the synodal acts, but without the Edict.¹⁰⁵ After the edict and the synod, the Reims Codex also uniquely preserves the acts of yet another synod held shortly after, possibly

102 See Georg Waitz, *Reise nach England und Frankreich im Herbst 1877*; *Handschriften in englischen und schottischen Bibliotheken*, in: *Neues Archiv der Gesellschaft für ältere deutsche Geschichtskunde* 4 (1879), 9–42, 323–394 and 588–625.

103 Communication by David Ganz. Part of the research project will also be an attempt to read these passages again with the help of modern infrared and x-ray technology and rescue them from oblivion.

104 See Andreas Thier, *Hierarchie und Autonomie. Regelungstraditionen der Bischofsbestellung in der Geschichte des kirchlichen Wahlrechts bis 1140*, Frankfurt a. M. 2011 and Carlo Servatius, *Per ordinationem principis ordinetur*. Zum Modus der Bischofsnennung im Edikt Chlothars II. vom Jahr 614, in: *Zeitschrift für Kirchengeschichte* 84 (1973), 1–29.

105 Munich, Bayerische Staatsbibliothek, clm 5508, foll. 105^v and 106^r. On the episcopal subscriptions of the synod of Paris in 614, see Catherine Santschi, *Les premiers évêques du Valais et leur siège épiscopal*, in: *Vallesia* 36 (1981), 1–25, 3 n. 15.

in the 620s. What becomes clear from this en bloc addition of three texts to the Reims collection is that Chlothar's legislation was indeed regarded already by some contemporaries as a milestone after an age of civil wars, as it pointed to close cooperation between king and episcopate. But to judge from the other collections, this appears as rather exceptional in our legal records.

8 Using the *Codex Remensis* in the Carolingian period

A number of marginal notes written by different hands show how the Reims Codex was used in the Carolingian period. The first user profile that we can detect may be characterized as that of a 9th-century "historian". For there are several notes which sought to explain the legal texts by furnishing information on the historical circumstances of their genesis. For instance, at the end of the acts of the synod of Epaone held under the Burgundian king Sigismund in 517, our Carolingian scholar added to the dating clause that this was at the time when the sons and nephews of Clovis were kings of the Franks: *et filior(um) v(e)l nepotu(m) clodovei reg(is) franc(orum)*.¹⁰⁶ To the synod of Vaison held in 529 under the Ostrogothic praetorian prefect Liberius our marginal scholar added that this synod was held when the Burgundian king Sigismund and the four sons of Clovis ruled as Frankish kings.¹⁰⁷ There is much more historical information provided by this scribe in the margins, often referring to former bishops of Reims etc.¹⁰⁸ Some additions are not quite accurate, but it is remarkable that this learned person sought to present these synods as part of Frankish history. This seems to document a shift, placing more emphasis on the perceived "Frankishness" of the Gallic canon law tradition preserved in this codex.

A number of marginal notes written by a different hand in Caroline minuscule betray some sort of "librarian", or, more precisely, an expert in canon law intimately acquainted with the Reims library. This scholar noted on various occasions that a certain text of the *Codex Remensis* was not available in the other canon law manuscripts kept at Reims: *Haec epistola n(on) habet(ur) in aliis quodicib(us)* – "This letter is not to be found in other manuscripts". He even noted this for single chapters and sentences, or for individual passages with material he had not known so far.¹⁰⁹ This is

¹⁰⁶ Phill. 1743, fol. 131^r.

¹⁰⁷ Phill. 1743, fol. 135^r.

¹⁰⁸ See, for example, the note on foll. 294^v on Remigius of Reims, 34^r on Betasius, who was bishop of Reims at the time of Constantine the Great, and fol. 159^r (on this see n. 61 above).

¹⁰⁹ E.g. Phill. 1743, fol. 114^v: *Haec epistola n(on) habet(ur) in aliis quodicib(us)*; fol. 7^v: *Hoc capit(ulum) vel haec sententia minus e(st) in aliis codicib(us) n(ost)ris*; fol. 8^v: *Et hoc in nullo alio apud nos codice invenit(ur)*; fol. 186^v: *Hec usque at epistolam Zosimi n(on) habent(ur) in aliis codicib(us)* (see the illustration above, fig. 1); fol. 32^r: *Et hi can(on)es nicaeni XX ep(iscop)orum in aliis codicibus non inveniunt(ur) n(ost)ris*. See also below fig. 7.

a clear testimony that the manuscript cannot have originated in Reims, whereas its incorporation into the Reims library quite obviously was seen as a major step in expanding its sources of canon law.¹¹⁰ Moreover, it tells us something about the proficiency of legal research carried out in 9th-century Reims, for the learned librarian who produced these notes must have had a tremendous knowledge of canon law, knowing exactly where things were to be found and obviously seeking to fill his arsenal of legal material at hand. We have good reason to assume that he either worked for or indeed actually was Hincmar of Reims. Jean Devisse¹¹¹ and Martina Stratmann¹¹² have already suggested that Hincmar may have used the *Codex Remensis*, for instance for his *Collectio de ecclesiis et capellis*. What is more, Hincmar's authorship of at least some of the marginal notes in the *Codex Remensis* seems likely, as several notes written in capitals allow us to glimpse into the workshop of an extremely self-assured prelate. When dealing with the synod of Rome held in 502 under Theoderic, our commentator bluntly states: *HAEC SYNOD(US) N(ON) EST KATHOL(ICA)*, while a marginal note marks straight below: *haec epistola in recepuore codice(m) non abet(ur)*.¹¹³

His note betrays a special way of handling the tradition of canon law: As a true "Carolingian renaissance scholar", he was willing to accept old legal knowledge as a textual heritage that deserved to be preserved and should not be destroyed despite being heretical or otherwise, but at the same time he wanted to place it under close scrutiny and censure it. This has not yet been investigated in further detail, but it does not seem likely that Theoderic's once being a heretic caused the Carolingian scholar to regard the Roman synod as "not catholic".¹¹⁴ Rather, it seems relevant here that the Roman synod of 502, the last in a series of Roman synods held under Symmachus trying to legitimize his papacy against his rival Laurentius,¹¹⁵ also played an important role in the so-called *Capitula Angilramni*, that is a highly relevant part of the so-called Pseudo-Isidorian forgeries which focus on procedural law and spread first in the archdiocese of Reims to question Hincmar's authority as archbishop. Their main objective was to prevent bishops from being called to

110 On the Reims libraries and scriptoria, see Frederick M. Carey, *The scriptorium of Reims during the archbishopric of Hincmar (845–882 A.D.)*, in: *Classical and medieval studies in honor of Edward Kennard Rand*, ed. by Leslie Webber Jones, New York 1938, 41–60; François Dolbeau, *Ex dono Hincmari. Livres donnés par Hincmar (845–882) à Saint-Remi de Reims*, in: *Rerum gestarum scriptor. Histoire et historiographie au moyen âge. Hommage à Michel Sot*, ed. by Magali Coumert, Marie-Céline Isaïa, Klaus Krönert and Sumi Shimahara, Paris 2012, 601–614.

111 Jean Devisse, *Hincmar, archevêque de Reims, 845–882*, Genf 1976, vol. 3, 1411–1412.

112 Hincmar von Reims, *Collectio de ecclesiis et capellis*, ed. by Martina Stratmann (MGH *Fontes iuris Germanici antiqui* 14), Hanover 1990, 23.

113 Phill. 1743, fol. 85^r.

114 On Theoderic's early medieval afterlife, see Andreas Goltz, *Barbar – König – Tyrann. Das Bild Theoderichs des Großen in der Überlieferung des 5. bis 9. Jahrhunderts*, Berlin et al. 2008, 587–604.

115 Eckhard Wirbelauer, *Zwei Päpste in Rom. Der Konflikt zwischen Laurentius und Symmachus (498–514)*. Studien und Texte, Munich 1993, 9–43; esp. 21–23 for the dating of this synod.

Fig. 7: Berlin, Staatsbibliothek, Ms. Phill. 1743, fol. 85^r

trial and deposed by their archbishop.¹¹⁶ Theoderic's interventions in the Laurentian schism could serve here as an example to outmanoeuvre the higher ecclesiastical jurisdiction. Of course, Pseudo-Isidore and the like were developing their own vision of canon law's past by creating a late antiquity of their own, but their focus appears to be on historical precedent rather than on continuous tradition, as their argumentation echoes an increasing readiness to credit the papacy with being the highest authority in canon law.¹¹⁷

9 Conclusion

As the project is still under way, this contribution could only highlight some preliminary insights into what seems to be an extremely relevant document, which upon closer inspection will yield more specific answers to some of the questions addressed at the beginning with regard to canon law. Within one manuscript, we find many different layers of memory and oblivion. Generalizing from the canon law collections, it seems that a first phase in the dissemination of canon law material to Gaul must have ended in the 520s or early 530s, probably to some extent engineered by the apostolic vicar of Arles, while its collection and enrichment through Gallic material within larger manuscripts appears to have come to an end already by the mid-6th century, with later additions being mostly parochial in character and largely consisting

¹¹⁶ Karl-Georg Schon, *Die Capitula Angilramni. Eine prozessrechtliche Fälschung Pseudoisidors*, Hanover 2006, c. 2a, 3d and 3i, 9b, 96–97, 100–104, 114–115.

¹¹⁷ See Clara Harder, *Pseudoisidor und das Papsttum. Funktion und Bedeutung des apostolischen Stuhls in den pseudoisidorischen Fälschungen*, Cologne 2014.

of local material. The Reims Codex is an exception to this rule, as it contains all of the legislation of 614 which was both programmatic in impetus and general in application, as is even attested by later 7th-century sources. However, it apparently did not spread very much, as (to judge from what has come down to us) it was only incorporated into one of the already existing canon law collections. This seems to suggest that by the 7th century the *Spielräume* to circulate new general law in a wide-spread manner must have narrowed considerably.

Nonetheless, the Merovingian collections were still copied in the 8th and 9th centuries, but no new material was added in the course of this process, while the acts of the early Carolingian synods were transmitted within collections of Carolingian law. This attests to a rupture not in the preservation of canon law, of course, but in the configuration of what was regarded as old and as new law. As it seems, canon law of the Merovingian age had become frozen and canonized as “old law” by the 8th century at the latest. Following up to this canonization, the Reims Codex allows us to see some of the first steps of a “Carolingian jurisprudence” so to speak, as efforts were undertaken to comment upon these old texts, to compare them with other texts, to add marginal notes to their content and to store as many of them as possible in order to have them available for all kinds of purposes. What we can observe in the Carolingian period is a new approach to the legal past, with scholars and clerics undoubtedly paying respect to the old tradition, while they were apparently more urgently driven by a need to mobilize as many legal resources as were available; and if they were not, to create them anew by extending historical precedent into an imagined distant period of early Christianity that no one could go beyond. Euphemistically speaking, one could call this a transition from “selection” to “creative selection” and to even more creative “fiction”. More realistically speaking, however, this development should be seen as a striking departure from the extremely productive formative period of Western canon law that characteristically took shape in the first century of post-Roman rule in Gaul, torn between the church’s imperial tradition and its local adjustment under Merovingian rule.