III. The origin and fate of the “Donation of Constantine” in the High Middle Ages

One medieval scholar who discussed the “Constantinian Donation” was the historian Otto of Freising, an uncle of the Emperor Frederick Barbarossa. He had studied the most modern techniques of dialectical exegesis in Paris, before joining the Cistercian order and finally becoming Bishop of Freising. He knew of the literary tradition of the story of Constantine’s baptism as propagated by the Romans (“iuxta Romanorum tradicionem”), the origins of which were indeed an ancient biography (“Vita” or “Actus b. Silvestri”). He was also aware of the “Constitutum Constantini”, which somehow owed its existence to the Vita, and so of the deed that documented the emperor’s donation to the Roman church – a deed that repeatedly described itself as “constitutio” (l. 11), “institutionis pagina” (l. 20), “imperiale constitutum” (l. 281) or “decreti pagina” (l. 293), and so explicitly claimed to be an imperial decree. However Otto did not quote the deed verbatim, so it is unclear to what extent he had taken in its actual wording. But in his “Chronicle”, which he wrote about 1143-46, he interpreted both baptism and donation as signs of the elevation of the church (“exaltatio civitatis Dei”), and to him that was what mattered.

Critical scholar that he was, the Bishop of Freising compared this information with his other historical sources, without exception written documents, and noted glaring contradictions. The most obvious was Constantine’s baptism. The Roman legend of St Sylvester had the emperor healed of leprosy through the intervention of the pope, by whom he was then baptised and whom he thanked by making generous donations to the Roman church. On the other hand from the late

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antique “Tripertita hystoria”, which he trusted deeply, Otto knew that Constantine “was baptised late in his life in Nicomedia” (Chr. IV,1), and he arrived at the following conclusion: “Thus what is written about (Constantine’s) leprosy and conversion in the life of Saint Sylvester would seem to be apocryphal” (Chr. IV,1). In the 13th century an anonymous reader was not pleased with such distrust of holy authority and hastily scribbled “The master is mistaken here” in the margin of the codex, “for the Roman curia assumes the opposite, and is to be preferred”. This was the work of ‘authoritative memory’. The Church recollected the truth, and its infallibility even misled scholars. No critical historian could succeed against it in the long term.

In spite of his scepticism of the “Vita Silvestri”, Otto also accepted the Constantinian Donation – although he again did qualify this: “as is required of the story circulated by the Romans (ut Romanorum habet hystoria)” (Chr. IV,3; cf. also VII, 27). How could the Bishop of Freising have realised that the Vita was no more than a historical novel, probably written in the beginning of the second half of the 5th, not in the 4th century, and that in spite of the fact that in the intervening years the “Constitutum Constantini” had taken its place in numerous collections of ecclesiastical law, it was no more than pure invention drawn from Pseudo-Isidore’s forgeries? Nevertheless, doubts plagued the critical historian in

23 Ed. by Hofmeister, p. 185.

Otto, and prevented him from reaching a clear conclusion. His sceptical common sense wasn’t prepared to accept cultural memory blindly, even though all he had to set against it was his own logic.

The bishop declared on the one side (Chr. IV, 3) that the emperor had handed over the “imperial insignia” (insignia regni) to the pope, and withdrawn to Byzantium. Since then “the Roman church claims the Western kingdoms as a right handed over to it by Constantine” (“occidentalia regna sui iuris tanquam a Constantino sibi tradita affirmat”). The argument was confirmed by the “tribute” that the pope collected from these provinces and countries – with the exception of the two Frankish kingdoms, that is the kingdoms of the West and of the “German” Franks.

On the contrary, the “imperial party”, fautores imperii, offered an alternative interpretation: Constantine had not handed over the Empire in the manner suggested by the Bishops of Rome, “rather, out of respect for the Lord he had accepted these highest priests of God as fathers, who were to support him and his successors by anointing them and praying for them” (patrocinium orationum). This was proved by Constantine’s division of the Empire between his sons, one of whom had indeed received the West and been succeeded by Theodosius and other orthodox emperors. “Such a religious Princeps could never have granted to his sons, nor such a catholic emperor as Theodosius usurped, what had previously been granted to the Church.”

The scholarly historian took his sources seriously and undermined the very foundations of the papal doctrine that was embedded in the cultural memory of Latin Christendom. But he avoided taking a clear position on the matter: “It is not the task of this work to pronounce judgement on the issue” (Chr. IV, 3). It was the politician who let things be rather than researching into the truth talking here, not the historian who wanted to get to the bottom of matters. Throughout history the results are always disastrous.

The only certainty is the effect of Constantine’s action. Otto, who relied on Orosius’ “Historiae adversus paganos” and Rufinus’ translation of Eusebius’ “Church History” at this point, was quite right in recognising that the origins of Constantine’s conversion are to be found in his cooperation with his co-emperors, Licinius and Maximinus (Chr. IV, 2-3), before Constantine alone gave the Church its final form: “The Lord raised up the Church. He gave to it the mightiest of all worldly empires, so that the Church could be even more sure of the promise of the


Kingdom of Heaven” (Chr. IV, 4)\textsuperscript{27}. It sounded ambiguous, but that was the intention.

Recollection’s aim is reality. However, for those who want to recognize it, social reality exists only in communicative memory, which in turn is dependent on the moment at which it is conjured up; in other words on the communicative environment. It changes with time and the experiences that lie between each episode of recollection, and there is no better example of this than the chequered history of the reception of the Constantinian Donation\textsuperscript{28}.

Nothing was self-evident. When it came to interpreting the poisoned gift, the door was wide open for controversy and strife, and the truth was at all times uncomfortable. Otto’s contemporary, the Augustinian provost, Gerhoch of Reichersberg, initially (1128/29; 1138) went to great lengths to put the political effects of the “Constantinian Donation” into perspective. He maintained the strict division between secular and spiritual power as it had been laid down by medieval re-interpretation of the famous Doctrine of the Two Powers or Authorities. This was defined in a decretal of Pope Gelasius I, for example, or clarified by the Concordat of Worms (1122) in particular with regard to the division between the king’s private goods and imperial possessions three years later. A careful distinction must be made in the case of Constantine’s Donation. Thus Gerhoch drew a distinction between public property (\textit{publicae facultates}), whatever it might be, the \textit{res publica} and the \textit{regalia} on the one hand, and the private fortune of the monarch (\textit{res privata}) on the other. Only the latter could be disposed of independently, the former could only be alienated with the consent of the dukes. Constantine had taken great care to abide by this, as could be read in “his book written about his donations in Rome”\textsuperscript{29}. “He made generous gifts from his private property, but made the finest of distinctions when disposing of the regalia (\textit{discretissime dispensavit})”. He honoured the church with them, “for he did not bid the pope to perform any royal duties, nor did he unrightly usurp any of the Church’s powers.” “Thus the confusion did not start with Constantine, but was the result of the accursed abuse of some later emperors.” And then again:

\begin{itemize}
\item \textsuperscript{27} Ed. by Hofmeister, p. 189. Only at one point did the obvious reservations of the Bishop of Freising show through: in the scheme of illustrations for his “Chronicle”. In all probability it stems directly from him. While Augustus, the emperor at the time of the birth of Christ, as well as Charlemagne, Louis the Pious and Otto the Great – Christian emperors who had granted large properties to the Church of Rome – were distinguished with illustrations, the “Donor” Constantine did not merit one; cf. the edition of the Chronicle by Walther Lammers (Ausgewählte Quellen zur Deutschen Geschichte des Mittelalters. Freiherr vom Stein Gedächtnis-Ausgabe 16), Darmstadt 1960, plate 1-14.
\item \textsuperscript{28} See Laehr, Die Konstantinische Schenkung in der abendländischen Literatur bis zur Mitte des 14. Jahrhunderts (as above, note, 5).
\item \textsuperscript{29} There is also no indication that Gerhoch could possibly have meant Leo IX’s “\textit{Libellus}”; on this, see below, p. 16 with note 36. On the doctrine of the regalia cf. Johannes Fried, Der Regalienbegriff im 11. und 12. Jahrhundert. In: DA 29 (1973), pp. 449-528.
\end{itemize}
“The confusion did not raise its head with Constantine and Sylvester”\(^{30}\). Saints do not cause chaos.

In other words here too there were doubts, but not about the Donation as such. Rather doubts about its content as it was generally propagated. Indeed neither Constantine nor the Carolingian authors of the forgery could have invented “regalia”, inalienable imperial rights, or rights of the realm, for at the time they did not exist. A vague public awareness of Constantine’s gift as it was outlined by Gerhoch circulated at the time, but no precise knowledge, and so it was to remain in the future. Constantine’s Donation was to take the blame for all sorts of things with which it had nothing to do; it was a fetish and putty in the hands of scholarly and unscholarly interpreters. But what would the emperor really have donated if the division of power referred to by Gerhoch was valid? His advice was that the answer was to be found – in Rome. What devout faith in the ecclesiastical revolutionaries, what mistrust in the lively tradition, and what a misunderstanding of the actual sources themselves he revealed. And what disappointment would Gerhoch have endured had he known the genuine position of curials like Urban II, who really had set their sights on the \textit{res publica}\(^{31}\).

As the waves of conflict towered ever higher, Gerhoch too came out in clear support of the hierocratic exegesis of the Donation, turning his back on his old position (1151-58). The gifts to “the highest King”, to God, had not alienated a \textit{res publica} from the Empire. And if – apart from the question of Constantine’s baptism – there were certain discrepancies between the “\textit{Aecclesiastica Ystoria}” and the “\textit{Tripertita ystoria}”, then his advice was to “listen to the Roman Bishops, who were unified in their pronouncement of the truth”.\(^{32}\) This silently criticised and corrected Otto’s of Freising view, whose doubts were unable to get rid of the “Roman history”, and whose “Chronicle” could give rise to all kinds of anti-Roman speculation. Once again the authority-influenced memory triumphed over the critical doubts of historical scholarship and dialectic skill. Gerhoch presumably had had the real “\textit{Constitutum Constantini}” never at hand.

These few examples serve to illustrate the dualistic-hierocratic discourse. It was not an old controversy, but from the outset is was the cause of heated debate and drew ever more theologians, jurists and scholars, even popes, cardinals and dukes into the rising flames of conflict. It had broken out in the second half of the 11\(^{th}\) century, after the collections of canon law had taken the “\textit{Constitutum Constantini}” from its hiding place in the pseudo-Isodorian decretals (that grandiose, 9\(^{th}\)-century Frankish forgery, which at a very early stage, perhaps even


\(^{32}\) MGH LdL 3, p. 449. The commentary on the 64\(^{th}\) Psalm quoted here exists in three versions dated to 1151, 1153 and 1158, Classen, Gerhoch von Reichersberg (as above, note 30), p. 419.
from the outset, had already included Pseudo-Constantine’s deed\(^{33}\). It was dragged into an aristocratic world that was shaken by ecclesiastic reform and the Investiture Controversy, and was turned by Church reformers into a weapon against their enemies. It is unlikely that it was known to Burchard of Worms. Or did this great canonist of the early 11\(^{th}\) century refuse to make use of the “Constitutum Constantini” in spite being well aware of it? If he did he was satisfied with a direct or indirect hint drawn from a Pseudo-Isodorian creation that the emperor’s “immense gifts” (“donaria immensa”) had mainly benefited the “workshop of the Church” (“Fabrica templi primae sedis beati Petri\(^{34}\)”). Donations of this kind were also listed in the Papal history, the “Liber pontificalis”, but were in every way harmless and contained no poison\(^{35}\).

It was the Alsatian Pope, Leo IX (1049-54), and his ally Humbert, the Cardinal-Bishop of Silva Candida († 1061), who ‘discovered’ the “Constitutum Constantini” and recognised its unique value for a Church in need of reform in its struggle with Byzantium\(^{36}\). In the words of Horst Fuhrmann: “We know of no Papal document or pronouncement earlier than the mid-11\(^{th}\) century that mentions the Constantinian Donation expressis verbis, or at least includes a reference that is beyond all doubt” – regardless of the copy of the forgery that was perhaps dressed up as the original and presented to Otto I by the stumpy-fingered Cardinal John (962), only to be rejected as a forgery by emperor Otto III, and a few decorative references that a certain Stephan borrowed from the “Constitutum” in the late-10\(^{th}\) century. “The references are window-dressing, and there is the world of

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\(^{33}\) Only in its long version; cf. above p. 4.

\(^{34}\) Decretorum libri viginti III, 5. In: Migne PL 140, col. 675, originally stems from the chapter “De primitiva ecclesia et sinodo Niceno” of Pseudo-Isidore, ed. Hinschius p. 248,1 et seqq., but had come down to Burchard via the “Collectio Anselmo dedicata”, cf. Fuhrmann, Einfluß und Verbreitung 2 (as above, note 25), p. 474, note 138. This collection had drawn its excerpts from Pseudo-Isidore from an A2-manuscript that did not contain the part of the “Constitutum Constantini” that dealt with the Donation. Thus Burchard was also unable to lift the Donation from his copy. However independently of this he also seems to have made additional use of a long version of Pseudo-Isidore that indeed contained the passage covering the Donation (unless he obtained the chapters in question from an, as yet, unidentified original); cf. Fuhrmann, loc. cit., p. 478. However, if Burchard did indeed have a long version at his disposal, he would have been able to take the part of the “Constitutum” with the Donation from it, in which case he deliberately omitted it.


\(^{36}\) Before Leo: Fuhrmann, Einfluß und Verbreitung 2 (as above, note 25); Leo IX utilised the “Constitutum” in 1053 for a “Libellus” to Michael Kerullarios of Constantinople and Leo of Ochrid which was never actually sent (JL 4302; Acta et scripta quae de controversiis ecclesiae graecae et latinae sacre decemni composita extant, ed. by Cornelius Will, Leipzig/Marburg 1861); on this, see Hans-Georg Krause, Das Constitutum Constantini im Schisma von 1054. In: Aus Kirche und Reich. Studien zu Theologie, Politik und Recht im Mittelalter. Festschrift für Friedrich Kempf zu seinem fünfundfzigsten Geburtstag und fünfundfünfzigjährigen Doktorjubiläum, ed. by Hubert Mordek, Sigmaringen 1983, pp. 130-58.
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difference between this insertion of the “Constitutum Constantini” and the arguments of a Humbert of Silva Candida”, that is in the mid-11th century.

The most important collections of canon law from the period of ecclesiastic reforms – for example those of Bishop Anselm of Lucca, of Cardinal Deusdedit, Bishop Ivo of Chartres and others – quoted the deed word for word in short. The prelude of leprosy and baptism (l. 79-155) was excluded, as well as the introductory declaration of faith by the newly baptised emperor (l. 27-78), in other words – and we shall return to this later – passages with which the forger had taken great care, and so were in some way of particular importance to him. Pseudo-Isidore also thought them so important that he integrated them into his shortened version, while excluding the section on the Donation. All that interested the canonists in the age of ecclesiastic reform was the transfer of the symbols of power and honour, the assignment of land and ceremonial rights, in particular the special ‘authority’ (potestas et dicio) over Rome, Italy and the Western provinces, as well as the handing over of the city of Rome and Constantine’s withdrawal to Byzantium (l. 156-276), that is the second part of the “Constitutum”. The passage that deserves particular emphasis as regards the “Donation” states:

(... tam palatium nostrum (...) quamque Romae urbis et omnes Italiae seu occidentalium regionum provincias, loca et civitates (...) pontifici (...) Silvestri (...) contradentes atque relinquentes eius vel successorum ipsius pontificum potestate et ditioni (...) atque iuri Romane ecclesiae concedimus permanenda.

The phrasing of the original document was virtually unchanged in these collections. However the exegetes were soon to make use of it.

Only in the copy that Leo IX or his aides, first and foremost Cardinal Humbert of Silva Candida, had before them was the wording different. This recension announced an interpretation of the text that was to become important later, although Leo and Humbert don’t seem to have followed it, and the wording of this version was not to be spread any further. It said that the emperor had handed over to the pope the stated places and regions “and granted him and his successors power and rule” ("ei vel successoribus ipsius pontificibus potestatem


38 “(...) behold, we confer to the (...) pontiff (...) Sylvester (...) as well our palace (...) as also the city of Rome, all provinces, places and cities of Italy and the western regions and we (...) relinquish them to his and his successors’ power and rule, and we decree that they shall remain under the law of the holy Roman church.”

39 Fuhrmann, Einfluß und Verbreitung 2 (as above, note 25), p. 377 et seq.
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et dicionem firmam”\(^{40}\). The emendations reveal exactly where a new, revolutionary textual exegesis had evolved, and in which direction the changes in the wording threatened the forgery. Here, in the ‘Leo-Humbert version’ of the “Constitutum Constantini”, the emperor furnished the pope with authority; in the ‘original’ forgery he handed over cities and regions to an authority that already existed. We shall return to this difference later\(^{41}\).

Leo did not deduce from the text, which he had actually held in his own hands and read with his own eyes\(^{42}\), anything that other Church reformers of his age did not also do. He raised no claim to the highest secular authority in the West, but only in the city of Rome and the “Patrimonium Petri”, and – as we shall see – this was no further than the exegetes of the 9th and 10th century had gone\(^{43}\). The relationship with the Western Empire, which was of course also a Roman Empire, and which was at the heart of the conflict over “sacerdotium” and “regnum” that soon broke out, was still excluded. Nevertheless, Leo cleared the ground for the “Donation of Constantine” to find its way into the cultural memory of the West where it was to play a curiously visible-invisible, and generally fateful role. Later popes and Church reformers such as Gregory VII (1073-1085) or Urban II (1088-1099) went further down this path and discovered novel privileges that had not originally been mentioned by the forgery: that is power over the entire Western Roman Empire\(^{44}\). From now on more and more “imperial” elements seem to have been included in the ritual of the coronation of the popes in the Lateran church and palace\(^{45}\).

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40 Cf. Petersmann, Die kanonistische Überlieferung des Constitutum Constantini (as above, note 25), p. 441; dito the manuscript of Anselm of Lucca, Rome, Bibl. Vaticana Barb. lat. 535.
41 Cf. below, p. 63.
42 Libellus c. 13, ed. by Will, p. 72, on this, see Krause, Das Constitutum Constantini (as above, note 36), p. 140; cf. also Axel Bayer, Spaltung der Christenheit. Das sogenannte Morgenländische Schisma von 1054 (AKuG. Beiheft 53), Cologne 2002, esp. p. 73, 81 and 122.
Only the most important of the early canonists, the famous but enigmatic Gratian, was unwilling to include the “Constitutum Constantini” in his “Concordantia discordantium canonum”, the two editions of which were produced between 1120 and 1150\(^46\). But this was soon felt to be an omission, and the first decretists from Bologna were quick to include the vital text – even if only the second part, the supposed “Donation”, as in other collections. This was probably the work of Paucapalea (about 1148), who was the first to produce a summa to Gratian’s “Decretum”.

He (or whoever) dressed up a long excerpt from the “Constitutum” as “Palea Constantinus” (D. 96 c. 14), and added a summary or explanatory preface at the beginning (probably drawing on Anselm) in the form of a further Palea (D. 96 c. 13)\(^47\): the latter stated that “The Emperor Constantine yielded (concessit) his crown (corona), and all his royal prerogatives (dignitas) in the city of Rome (in urbe Romana), and in Italy, and in the western parts (in partibus occidentalibus) to the Apostolic [See]” (cf. appendix B IV.). This was exactly how Paucapalea himself had paraphrased what seemed to him to be the most important points in the document in his “Summa” of Gratian’s Decretum. How he saw it is revealed by his additional remark: “Finally Constantine handed over the entire empire and his own authority” (“universum regnum ac proprium potestatem reliquit”)\(^48\). “Crown and dignity” had become “empire and imperial authority” in the entire West, and no distinction was made between regnum and imperium.

This brought the final breakthrough in the understanding of the text of the invented Constitution, and reveals the intentions behind the legal interpretation that made of the “Constitutum Constantini” the extensive “Donation of Constantine”. But, of course, it wasn’t Paucapalea who invented it. Otto of Freising’s references to the “story circulated by the Romans”\(^49\) show that there was a tradition behind the doctrine presented by the decretist. Its origin can in fact be traced back to the age of Leo IX and Gregory VII, as the version of the text referred to above reveals. Reformers such as Petrus Damiani († 1072) had used a restricted interpretation of the “West” to read into the document that the regnum Italiae had been handed over; Placidus of Nonantola, a publicist of the early-12th century, interpreted the relevant passage as meaning the cession of the

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46 The production of the “Decretum” (in two editions) and Gratian’s person have been the subject of a great deal of recent research, that cannot be summarised here. However, cf. Anders Winroth, The making of Gratian’s Decretum (Cambridge Studies in Medieval Life and Thought 4, 49), Cambridge etc. 2000; see also soon the Proceedings of the Twelfth International Congress of Medieval Canon Law, with several contributions on the subject; the congress took place in Washington, D.C. in 2004.


48 Die Summa des Paucapalea über das Decretum Gratiani, ed. by Johann Friedrich von Schulte, Gießen 1890.

49 Cf. above, p. 11 seq.
occidentale regnum (something that Sylvester had certainly not assumed)\textsuperscript{50}, a
generation later the theologian Honorius Augustodunensis believed that it was the
regni summa that had been transferred\textsuperscript{51}; soon after 1137 Petrus Diaconus, a
monk from Montecassino who was proud of his Roman roots, followed the
modified wording that was to win the day\textsuperscript{52}.

This was to become the established tenor among the canonists, and finally to
shape the text of the “Constitutum” itself\textsuperscript{53}. If I am right, the first time this
occurred was in the “Liber Censuum” begun by Cardinal Cencius Savelli, later to
become Pope Honorius III (1216-1227), in 1192. He emended and shortened the
relevant passage, which thus took on a different meaning to before:

\begin{quote}
… ecce tam palatium nostrum quamque Romanam urbem et omnes Italiae seu
occidentalium regionum provintias, loca, civitates beatissimo pontifici et universalis
pape Silvestro contradimus atque relinquimus et ab eo et a successoribus eius …
disponimus disponenda\textsuperscript{54}.
\end{quote}

Potestas and dicio had been removed; the emperor had ceded to the pope his
power over the areas mentioned. The identity of the verbs (disponimus
disponenda) instead of the original distinction (decernimus disponenda) replaced
the two different legal spheres with the identity of imperial and papal authority.
But this was not to be the final version.

To be sure, at no time was there a definitive interpretation of the dubious
document. Whoever studied it closely could always read into it something other
than the ceding of imperial power. The decretist Damasus, for example, writing as
early as the late 12\textsuperscript{th} century, knew of “certain people, who claim that the emperor
has his sword from the pope, since Constantine
had handed over the Imperium to
the Roman church (...) but in fact he has it from God, as Augustinus says\textsuperscript{55}.” In
other words Damasus set a sacrosanct authority against a dubious opinion that

\begin{flushright}
\textsuperscript{50} Placidus, Liber de honore ecclesiae c. 57, MGH Ldl 2, p. 591.
\textsuperscript{51} Honorius, Summa Gloria c. 17, MGH Ldl 3, pp. 71-2.
\textsuperscript{52} Herbert Bloch, Der Autor der “Graphia aureae urbis Romae”. In: DA 40 (1984), pp. 55-175,
here p. 150; for the date of the relevant text, the “Altercatio pro Romana ecclesia contra
Grecum quondam”, cf. ibid., pp. 78-9.
\textsuperscript{53} It then also influenced the urban Roman opposition and heretical movement surrounding Arnold
of Brescia that had made the “Donation of Constantine” a central point of their attacks on the
pope. On this, see below p. 25 note 71 (the letter of Wezel the Arnoldist).
\textsuperscript{54} “… we confer and relinquish to the … pontiff Sylvester … as well our palace … as also the city
of Rome, and all the provinces, places and cities of Italy and the western regions and we order
them to his and his successors’ order”, Liber Censuum de l’Eglise roman, ed. by Paul Fabre,
Léopold Duchesne, 3 Bde. (Bibl. des Ecoles Françaises d’Athènes et de Rome 2,6,1-3), Paris
\textsuperscript{55} Quoted from A. J. Carlyle, The Political Theory of the Roman Lawyers and the Canonists. From
the Tenth Century to the Thirteenth Century (A History of Medieval Political Theory in the
West 2, ed. by Robert Warrand Carlyle), Edinburgh/London 1909, p. 212 note 2. Damasus may
have been thinking of authors like Honorius Augustodunensis, the first author known to have
expressed the interpretation proposed by the decretists, cf. Laehr, Die Konstantinische
Schenkung in der abendländische Literatur des ausgehenden Mittelalters (as above, note 5),
pp. 48-9.
\end{flushright}
also brought discredit on Constantine’s Donation. Another author, who remained anonymous, was quite right in noticing that there was no reference to Constantine having resigned to Saint Sylvester “the potestas imperii, and having received it back from him” on the occasion of his first donation to the Church.\(^56\) Even Emperor Otto IV’s learned English marshal, Gervase of Tilbury, writing around 1200, opposed the hierocratic exegesis, and made a distinction between “royal right” and “emperorship”: Constantine had “handed over only to Pope Sylvester potestas in the Western areas” and so “constituted his royal right in the West”, but it was not his wish that Sylvester [and his successors] should receive “the name and office of emperor”\(^57\). However, the discussion will be pursued no further here, for, as we have already seen, none of these doctrines was to become definitive.

Gregory IX went furthest of all. In his programmatic letter to Emperor Frederick II he claimed that Constantine had granted the pope “primacy over things and bodies in the whole world” (“rerum et corporum primatum”), in analogy to his spiritual primacy over priesthood and souls in toto orbe. The pope had no difficulty in attributing to Constantine the submission of the emperorship to the Roman pontiff and the entire priesthood\(^58\). It was one of the most extensive expressions of power that was ever based on the “Constantinian Donation”, an open threat to the emperor. It would be superfluous to point out that none of this

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was contained in the actual text of the extant forgery, not even in Gratian’s excerpt, but it did conform to the current doctrine of the pope as “God’s representative” (Vicarius Dei), as the “natural lord over all” (“dominus naturalis omnium”)⁵⁹. Constantine seemed to have submitted himself and all his successors to such power, and Frederick II was the first to get a taste of it.

Thus a variety of diverse and contradictory opinions circulated, spread by publicists and propagandists, preachers, scholars and poets. Devoid of all foundation in actual knowledge, but modified to suit the needs of the moment, they had their effect within and without the church, and were aimed in particular at the emperor. We will never know whether Damasus ever actually saw the “Constitutum”, for we do not have the Bologna master’s manuscript of the decrees, his “Liber magistri”⁶⁰; yet, Gregory’s letter contained a dangerous mixture of invention and verbatim echoes of the “Palea Constantinus” (D. 96 c. 14), of textual tradition and elaborate doctrine.

But it is not just words that bear witness to dealings with the “Constantinian Donation” in high medieval Rome. So too do pictures. However, the works of the artists, or those who commissioned them, are quite eclectic, always concentrating on individual aspects and scenes referred to in the “Constitutum”; here the pope’s headdress, the frygium⁶¹ (cf. plate 4); there Constantine serving as strator⁶² (cf. plate 5), on one occasion the handing over of the deed (cf. plate 3). As far as we can tell, from the decades around the turn of the 13th century they generally followed the hierocratic interpretation of the canonists, although the illustration of the deed being handed is only found within the context of the centuries-old struggle between the Canons of the Lateran Church and those of St Peter’s for supremacy in Rome which played such an important role in the 12th and 13th centuries (cf. plate 3). We learn about this in a “Descripicio Lateranensis

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⁶² Cf. below, p. 24.
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The iconography, titulus and monumental inscription of the mosaic, which was prominently placed in the old portico of the Lateran Basilica, emphasised the supremacy of the bishop’s seat over all other churches, including that built over the grave of the Prince of the Apostles. The actual images involved are only known from baroque sketches. The emperor’s position documents his lower rank; he kneels before the enthroned pope like a founder before a saint, and hands him the deed of donation: “The king hands Sylvester his rights in the document”, “Rex in scriptura Sylvestro dat sua iura”. The donation is shown as an act of homage and humility.

The inscription on the architrave of the portico confirms that it was indeed the “Constantinian Donation” in the guise of the “Constitutum Constantini” that was meant, and at the same time gives details of those aspects of the iura that were of most relevance for the Lateran church: that the emperor and pope had decreed that the Lateran was “the mother and head of all churches”. But while the relevant quote from the “Constitutum Constantini” in the “Descripicio Lateranensis ecclesiae” mentions the Lateran’s rank as “head and summit of all churches in the entire globe”, “caput et vertex omnium ecclesiarum in omni orbi terrarum”, it omits the “Donation” of the city, Italy and the entire West. Only the arrangement of the two central figures illustrates the hierarchical difference between emperor and pope, a difference that not even the most priceless of gifts could cancel out. But this bore witness not so much to the forgery, as to Papal doctrine.

The earliest pictorial reference to individual elements in the “Constitutum Constantini” that is certainly of Roman origin was no less programmatic. The cycle of frescoes in the Chapel of St Sylvester in SS Quattro Coronati, dedicated in 1247, was painted around the mid-13th century, during the reign of Innocent IV, when the conflict between pope and emperor was at its peak. It had its own way of combining the legend of Sylvester with Constantine’s supposed privilege, and – as far as the “Donation” was concerned – probably followed the text and interpretation of the palea to Gratian’s Decretum; perhaps also the excerpt of the “Constitutum” in the “Liber Censuum” of the Roman church.

The paintings were most likely commissioned by Cardinal Stefano Conti, 

Vicarius Urbis at the time. He avoided all reference to the argument between the

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63 As far as it concerns the “Constitutum Constantini”: Codice topografico della città di Roma 3 (Fonti 90), ed. by Roberto Valentini and Giuseppe Zucchetti, Rome 1946, pp. 329-34.
64 Recorded by Giustino Ciampini, De sacris aedificiis a Constantino Magno constructis. Synopsis Historicorum, Rome 1693; quoted after Herklotz, Der mittelalterliche Fassadenportikus (as above, note 13), p. 62.
65 “Dogmate papali datur ac simul imperiali // Quod sim cunctarum mater caput ecclesiarum (…)” cf. Herklotz, Der mittelalterliche Fassadenportikus (as above, note 13), p. 89.
66 Codice topografico 3 (as above, note 63), pp. 331-2.
67 In his commentary on the decretales Innocent IV explicitly cites D. 96 c. 14, cf. below, note 78. 

Liber censuum 1, ed. by Fabre, pp. 366-8.
papal basilicas over supremacy, instead concentrating solely on the hierocratic message. The frescoes show the *frygium, regnum* or *tiara*, as the Papal crown was known in Rome at the time\(^{68}\), being handed to Sylvester (cf. plate 4), as well as Constantine acting as *strator*, a service he is supposed to have performed for the pope who wears the *regnum* now that the insignia had been handed over to him (cf. plate 5).

The frescoes may not be a masterpiece, but since the 19\(^{th}\) century their uniqueness has brought them fame\(^{69}\). Both emphasise Constantine’s homage before the throne of St Peter’s successors. In one the pope is seated on a throne while the emperor presents his gift to him with bended knee, as he would to a saint. In the other he attends on the newly crowned pope. Everything is left to the interpretation of the observer; there is no inscription explaining the intention of either the commissioner of the work or the artist, and there is absolutely no representation of power over the western provinces of the Roman Empire. What the scenes remind us of instead is once again the actual position of secular power and authority that the “Vicar of Christ” and successor of St Peter enjoyed according to contemporary canonistic doctrine. This had been expounded by Innocent IV in his commentary on the decretals, and recently put into practice by him when he deposed Frederick II (1245)\(^{70}\). The imagery shows Constantine submitting to the pope’s position by means of both gift and attendance. In this way the frescoes evoked the “Donation of Constantine” while at the same time avoiding any direct reference to the embarrassing content (because the “Donation” derived the pope’s powers from an imperial grant), and decently set the imperial gifts within the doctrinal context created by publicists, theologians and canonists.

To sum up, “Constantine’s Donation” was the subject of much argument. But it would seem that those actively involved did not, or did not always have access to the text of the “Constitutum Constantini”, and rarely had much knowledge of it, if any at all. However, regular ignorance does not exclude the possibility of occasional knowledge, and so the omnipresent “Donation of Constantine” was only a vague, but nonetheless dangerous figure in the collective memory of the later Middle Ages. It had distanced itself noticeably from its roots in the “Constitutum Constantini”, and in turn few knew of the latter’s origins. What had the emperor actually donated? Was his donation legal? Was it valid, in spite of the fact that the Empire and the regalia were inalienable? These were the kinds of questions that were discussed in the streets, in inns or at the courts of princes.

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\(^{68}\) See below, p. 60.


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Even “shopkeepers and women” would expose the donation as a forgery and educate the “scholars”; at least that was the word among the Roman populace in the mid-12th century. But the scholars remained silent. The “Palea Constantinus” (D. 96 c. 14) was not dealt with in ordinary lectures at universities, and it was only later, once the papacy’s hierocratic doctrine had won the day about 1230, that more attention was paid to Constantine’s gift. But even then only in extraordinary lectures. Jurists now also regularly took part in the discussion. However, the “Palea Constantinus” never became the subject of a comprehensive commentary dealing with the entire text and its legal aspects, and a “communis opinio” was never reached. The object of memory was not the document itself, but rather a gesture of power that was praised by some and damned by others. Even in Dante’s vision Constantine appears twice: the poet gives him a virtual appearance in Hell when his name is mentioned, and Dante then goes on to meet him as he wanders through paradise. For this theoretician on the “monarchy” Constantine was a truly difficult holy figure.

In spite of this the way for the success of the curious charter was paved by the re-discovery of the universal church during the reforms of the 11th century. Constantine’s gifts provided the kind of material foundation without which a religious movement is doomed to failure, and gradually in Rome and elsewhere the document, long known but the object of little attention, was remembered. Most of the writings bearing witness to this process were written either in Germany and Italy, for the “Holy Roman Empire” was most directly affected, in the universities of the Late Middle Ages, or in the States of the Church. Few Spanish, French or English voices are to be heard, and it was just as rare for the Apostolic See to use the document to legitimate or even justify its claims; papal decrets never referred to the imperial donation. But nevertheless soon the whole


72 Maffei, La donazione di Costantino (as above, note 10).

73 Dante, Divina commedia Inf. XIX, 115-7 (“Ahi, Costantin, di quanto mal fu matre, / non la tua conversion, ma quella dote / che da te prese il primo ricco patre!”) and Par. XX, 55-60 (“L’altro che segue, con le leggi e meco, / sotto buona intenzion che fe’ mal frutto, / per ceder al pastor si fece greco: / Ora conosce come il mal dedotto / dal suo bene operar non gli è nocivo, / avvegna che sia il mondo indi distrutto.”). Cf. Werner Kaegi, Vom Nachleben Constantins. In: SZG 8 (1958), pp. 289-326, here pp. 310-1; Luigi Banfi, Costantino in Dante. In: Costantino il Grande dall’antichità all’umanesimo 1 (as above, note 21), pp. 91-103 (with further evocations).

74 According to the survey in Laehr, Die Konstantinische Schenkung in der abendländischen Literatur bis zur Mitte des 14. Jahrhunderts (as above, note 5), passim.
world thought that it knew where the pope’s authority came from; from Constantine’s gift.

Clearly there was a remarkable range of layers to the manner in which popes and jurists approached the Donation. They rarely used the “Constitutum Constantini” to protect the freedom of the Church, its property and rights, or even to justify the prerogatives of the Apostolic See and the Roman church. On the contrary, they went to great lengths to counter the preconception that it was Constantine who had granted the Roman church privileges even over secular princes, a belief that had become an integral part of the cultural memory of Latin Christendom, and would later regularly be taken up by heretical groups. The angel’s “thrice woe” also echoed in the ears of the curials. In a sermon delivered on the occasion of his coronation, which took place on the feast of the Chair of St Peter, Innocent III had already put the matter quite precisely: “As a sign of the spiritual (the Prince of the Apostles) had given him the mitra, as a sign of the temporal the crown: the mitra for the priesthood, the crown for kingship.” But the new pope did not state just how far this Petrine kingship extended.

The authority of the Church was the will of God, not the work of man, and the emperor could do no more than recognise the fact. It was a matter of preserving the independence of the Roman church; its “power” was to be derived directly from God and his representative, not from the Roman emperor. On the other hand, neither the Apostolic See nor the reformers wanted to discard the “Constitutum Constantini”, for it appeared to legitimate the pope’s earthly dominion within the contest of secular laws like no other document.

So it was that in a provocative pamphlet intended to incite Christendom against Frederick II, Pope Innocent IV, or rather one of his eloquent aides, corrected the error and turned the Donation on its head. The gift was no longer a gift, but an act of atonement. Constantine resigned the illegal tyranny which as a heathen he had exercised outside the Church (“inordinatam tyrannidem, qua foris antea illegitime utebatur”), and received in its place from the hand of Christ’s representative, and legitimated by God, dominion over the Empire (“a Christi vicario [...] ordinatam divinitus imperii potestatem”). For the “King of Kings” had given to the Apostolic See absolute power on earth (plenitudo potestatis), and with it power over the empire (principatum), both naturally as well as potentially (naturaliter and potentialiter). God had granted the Apostolic See both episcopal and regal monarchy. However, according to Innocent IV

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76 “In signum spiritualium contulit mihi mitram, in signum temporalium dedit mihi coronam; mitram pro sacerdotio, coronam pro regno”: Migne PL 217, col. 665.
77 The quotes are from the polemic Eger cui lenia, possibly not from the pope’s own hand, but from his immediate entourage. Ed. Herde, Ein Pamphlet der päpstlichen Kurie (as above, note 70), here p. 517, pp. 520-2, recently: Das Brief- und Formelbuch des Albert Behaim, ed. by Thomas Frenz and Peter Herde (MGH Briefe des späteren Mittelalters 1), Munich 2000, pp. 105-6, here p. 102, note 1, the most important work on the pamphlet; also Carlo Dolcini,
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Constantine had only been able to hand back the Western provinces of the Roman Empire, and not the whole world, and in his commentary on the decretals the pope paid close attention to the difference between part and the whole.

But it was in a strange contradiction of Church doctrine that the first Christian emperor had used his “privilege” to grant the Roman church much more: “the four principal seats, Alexandria, Antioch, Jerusalem and Constantinople, as over all the churches of God in the whole earth.” He had made the Bishop of Rome “emperor (princeps) over all the priests of the whole world”, and declared “that in Rome holy law shall exercise the caput principatus,” in other words the primacy of the pope. This was imperial confirmation of the secrets of papal doctrine.

However, that was the language of a past era and another Church. In the age of a reformed papacy, of the “Gratian’s Decretum” and the decretals, and of the emergence of the universal power of the pope as God’s representative on earth, it could no longer be tolerated. Leo IX already referred in this context to the “stronger right” of the Church, and to “the Lord who wished to build his Church”. Not even the most dangerous opponents of a hierocratic papacy, Frederick II or Louis IV the Bavarian, argued that the spiritual sword had been bestowed in this manner by imperial hand. Thus extensive passages in the “Constitutum” were clearly the object of a taboo, and did not play a part in public discussion. The Papacy claimed a plenitudo potestatis that was essentially universal and of divine origin, and which extended to Christians and heathens alike, in fact to all of creation; and no Constantine could ever have legitimised this.

But in the shallow waters of political debate the sources of legitimation got confused, and the “Donation of Constantine” was used to put “the wealth of powers” that was derived from the succession of St Peter into concrete terms. Some popes set a fine example, for instance when claim was laid to papal supremacy over islands such as Corsica, Sardinia and Sicily, later over England and Ireland, and finally even over America. Urban II, Hadrian IV, Alexander III

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78 On X 3.34.8 v° compensato, quoted in Carlyle, The Political Theory (as above, note 55), p. 324, note 2. The context there is not given entirely correctly. Whereas Innocent invokes papal imperial authority over the West in D. 96 c.14, this only serves as a substitute in the case the other prerogatives of the Apostolic See do not suffice; following the passage quoted by Carlyle it states: “sed si non potest facere tanquam imperator, potest facere ex aliis praedictis causis vel ad minus imperator potest facere”, ed. Venice 1570 fol. 256ra. The pope’s claim is an argument de iure, not a political dictum of papal actions. On the interpretation cf. Herde, Ein Pamphlet der päpstlichen Kurie (as above, note 70).

79 Libellus c. 15, ed. by Will, p. 74.

and some of their successors were not afraid of employing the ominous gift to legitimate their claims, although they were quite discreet about it. They made assertions that the “Constitutum Constantini” did not contain; but nobody was bothered when instead of “property on various islands” (“praedia [...] in [...] diversis insulis”) without nearer specification of which ones, as in the original text of the pseudo-Constantinian charter, suddenly “all islands” (“omnes insulae”) were claimed as the property of the Apostolic See; in other words all the islands of the earth. This was how a distorted memory of Constantine’s gift guided public discussion and the actions of contemporaries in eloquent silence.

Information was coupled with misinformation, Constantine’s alleged donation with real ignorance of the invented privilege. Only about a third of the 12th and 13th-century manuscripts of the “Decretum” followed Paucapalea’s amendment and included the “Constitutum Constantini” in the text. This was noticed by the humanist Lorenzo Valla when he proved it was a forgery. Nor were there many commentaries. The “Glossa Ordinaria” of Johannes Teutonicus, the standard commentary on the “Decretum”, notes laconically (about 1215): “This Palea is not read in the schools”. But Johannes went to greater lengths to add his own dualistic, anti-hierocratic interpretation: he states that the palea “contains the privilege that Constantine had granted the Roman church (concessit Romanae ecclesiae), that it had primacy among all churches; in this privilege he had also granted it property and the insignia of its dignity. Constantine did this at the same time as he retired to the East, since there should not be two Pontifices in the same place”. This last point was, of course, a historical argument, for Constantine was indeed still Pontifex Maximus when he transferred his capital to Constantinople. But where the commentator drew this information from is unclear, perhaps he was thinking of references made by Gelasius I.

At any rate the German scholar did not mention the relinquishment of the West.

Here is not the place to follow the history of the text of the “Donation” in the High and Late Middle Ages more closely. It was tightened up and concentrated, and at the same time its hierocratic aspects sharpened. From now on it stated: Constantine gave over and relinquished “to the aforesaid our most blessed pontiff, Sylvester, the universal pope, as well our palace, as has been said, as also the city of Rome, and all the provinces, places and cities of Italy and the western regions” and retired to Constantinople (“Romanam urbem et omnes Italiae seu

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82 Thus Urban II in JL 5448 = Migne PL 151, col. 329C (1091) und JL 5449 = ibid. col. 330-1; cf. Alexander III in JL 12162 = Migne PL 200, col. 884B.
83 Cf. the passage already quoted by Carlyle, The Political Theory (as above, note 55), p. 190, note 1, later also employed by Hincmar of Reims, ibid., p. 254 with note 3.
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occidentalium regionum provincias, loca et civitates praefato beatissimo Pontifici nostro Sylvestro universali Papae contradimus atque relinquimus’’ 84. The result was the long postulated “Donation”, but the price was the original wording and its meaning. In the Middle Ages nobody, apart from a few scholars, looked at the original texts, conducted textual criticism of them, or thought about the discrepancies that had been noticed! What critical scholarship brought to light got in the way of politicians. From now on the canonistic wording prevented any dualistic interpretation.

It was in this distorted form that later manuscripts and the first printed editions of the “Decretum” presented the “Constitutum Constantini”. Even Emil Friedberg’s “critical” edition adopted the amendments of the younger Bologna canonists and banished the original version to the notes on the variants 85. The effect on scholarly research on the Early Middle Ages was obvious. Albert Hauck, to name just one important modern church historian, may quote the pseudo-Isodorian text, but interprets it in the sense of the textual understanding of the decretists; in other words that the “Donatio Constantini” “was the first expression of Papal claims to earthly power”, and that Pseudo-Isodore did not know what to make of the Donation of Constantine. Both claims are wrong. The authoritative memory of the Middle Ages dominated even early modern scholarship, and earlier interpretations still led more recent scholars astray 86.

The jurists of the High and Late Middle Ages, the scholars of secular Roman law – apart from exceptions such as Bartolus 87 – disagreed with what was said about Constantine’s donation. It was not included in their legal texts, and they only dealt very abstractly with the actual case of the donation. Some of them even questioned its authenticity. They only quoted juristic sources, and paid no special attention to the wording of the “Constitutum” as presented in the “Decretum”. They already knew what was under discussion, and their interpretations were based on what was commonly known.

84 According to the “Palea Constantinus” in the Decretum Gratiani (D. 96 c. 14, cf. also c. 13) in the Late Medieval manuscripts and the printed versions of the Decretum. The original text is quoted above, p. 19. I have so far not been able to find out when exactly and under which circumstances the wording got change and the new version established itself.

85 Decretum magistri Gratiani, ed. by Emil Friedberg (Corpus Iuris Canonici 1), Leipzig 1879, col. 344-5.


87 Maffei, La Donazione di Costantino (as above, note 10), pp. 66-7.
Azo, the most influential of Bologna’s jurists, writing about 1200/1220, did not even recognise the pope’s claim to Rome, while in his “Glossa ordinaria” of the “Corpus Iuris Civilis” Accursius, and above all the French, doubted the very validity of the “Donation”. Accursius conceded that while it was not for the jurists to decide upon the “factual solution” of the argument (solutio facti), according to “imperial law” (de iure) the donation was invalid. This was how in his “Lectura Aurea” (a summa to Justinian’s “Institutiones”) Pierre de Bellperche (Petrus de Bella Pertica, † 1308), one of the court jurists of Philip the Handsome of France, interpreted the case: “when Constantine was still on the throne he granted some province (quandam provinciam) to the Roman church. Is the donation valid? The gloss states: ‘No’; for the emperor is semper augustus, the ‘eternal enlarger of the Empire’. … Others say that the donation is indeed valid, for the law (lex) states that Constantine enlarged the Church … thus he could have granted the province to the Church … I am of the opinion that according to common law the donation is not valid. Firstly because the emperor is called ‘enlarger’ … Furthermore it is clear that Constantine only administered the Empire, … and the object of his administration could not be given away”; the argument then continued along the same lines. What is more, at no time was France subject to this rotten Donation, for the regnum Francie had never been part of the Imperium.

Even a circumspect scholar like Lorenzo Valla, who in 1440 exposed the Donation of Constantine as a forgery, only criticised the younger Bologna version and not the original; even had he done so, his task would probably not have been any easier. The canonistic version reflected knowledge that was generally held, but hardly the intentions of the actual author of the forgery. The public
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discourse passed over the details of the pseudo-Constantinian document, and certainly did not bother with the history of the text or its terminology. Yet this was vital for any understanding of its original content. The basis of the discussion was a broad consensus rooted in a collective memory of the character of the “Donation” as the foundation of papal power on earth. This was what the truncated “Constitutum Constantini” stood for, it did not exist in its own right. It was a myth rather than a legal text, but myths have long lives.

Lorenzo only mentioned in passing that the popes perhaps did not always fully understand Constantine’s donation, although one of them will probably have written it. Nevertheless even this veiled criticism brought down the wrath of many of the curials. But he also had influential supporters: the Cardinals Nicholas of Kues (who had already used historical arguments to declare that the “Donation of Constantine” was apocryphal) and Johannes Bessarion; the future popes, Nicholas V and Calixtus III, who were his friends; as well as King Alfonso and King Ferdinand of Naples, in whose service he had written his work. Without their support the courageous scholar would have become a victim of the Inquisition. But the Apostolic See no longer needed the forgery, it could afford to sacrifice it to the truth in a humanistic gesture.

Valla’s work only became widely known in Germany later, but its affect was all the more dramatic. An unknown publisher (Strasbourg 1506) and Ulrich von Hutten (1517 or soon thereafter) printed it, and a German translation soon followed (before 1526). Martin Luther read Hutten’s (second) edition of Valla’s verdict in 1520 when he finally began to distance himself fully from Rome. The

appear though that the later manuscripts have it, cf. the edition by Friedberg, pp. 344-5. The Correctores Romani adopted the changed wording as self-evident.

93 Valla, De donatione § 79 (at the end): tam et si ab aliquo eorum [sc. paparum] ortam esse hanc fallaciam reor; cf. also § 83.


95 Des Edlen Römers Laurentii Vallensis Clagrede wider die erdicht und erlogene Begabung so von dem Kayser Constantino der römischn Kirchen soll geschehen sein, ed. by Wolfram Setz, Basel/Frankfurt am Main 1981 (facsimile of the original from ca. 1526); Horst Fuhrmann, Zu Lorenzo Vallas Schrift über die Konstantinische Schenkung. In: SM 3ª Serie 11 (1970), pp. 913-9, here pp. 916-9; Setz, Lorenzo Vallas Schrift gegen die Konstantinische Schenkung (as above, note 91), pp. 151-66 (on Hutten); pp. 180-1 (on the German translation).
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revelation of the forgery was now final evidence of Rome’s hypocrisy; “a pretty, fat, bloated, well stuffed and thoroughly Papal lie/eine weidliche, fette, dicke, wohlgemeste, eine rechte Bepstliche Luegen” which the holiest of fathers in Rome had claimed was one of the most important articles of the Christian faith, as Luther put it when he translated it in to German himself (1537). It was proof of *wh*o really ruled on the banks of the Tiber: “the murderous, damned, red whore of Rome” 96, proof that an or even the Antichrist sat on the papal throne. This was not the first time that popes were exposed as the authors of this forgery – guided by the zeal of the Reformation and blinding anger – but the results were longer-lasting. The echoes of this attribution are still to be heard today – even among Catholics. Who could have put forward the cogent claim that the pope had power on earth, if not Rome herself?

Luther’s attack rallied the opposition. Although cardinals, popes and papal notaries had already admitted that the “Constitutum Constantini” was a forgery, they felt they had now to defend its authenticity. Even Juan Torquemanda’s arguments, which ignored the accusation of forgery, (written about 1457) were resurrected 97. The Correctores Romani of Gratian’s “Decretum”, who were thorough and not uncritical, and had made a careful study of the sources for their edition of the “Decretum”, acted similarly. They had to deal with the accusation that the “Constitutum Constantini” was forged, in spite of the fact that the two “Paleae Constantinus” had become an integral part of their legal text. They could not remove them, nor could they recognise them as a forgery. These scholars of textual criticism circumnavigated the cliffs of forged law by uncritically following the canonists of the 11th century Anselm of Lucca and Deusdedit. They attributed the text of the “Donation”, which they quoted at length and word for word, to the “Gesta seu acta sancti Sylvestri”, which themselves could be traced back to Antiquity. The “Constitutum”, which Lorenzo Valla had revealed as a forgery together with “Constantine’s Donation”, had never been part of the late-antique text, although since the 11th century some manuscripts of the “Actus” linked them 98. Thus the “Correctores” claimed that the “Constitutum” had been approved by ecclesiastic authorities – including the “Decretum Gelasianum”, which was specially tailored to do so 99 – and was accepted by earlier historians 100.

96  Cf. Laehr; Die Konstantinische Schenkung in der abendländischen Literatur des ausgehenden Mittelalters (as above, note 5), pp. 172-3; cf. Setz, Lorenzo Vallas Schrift gegen die Konstantinische Schenkung (as above, note 91), pp. 166-73.
97  Cf. above, note 5; on this Maffei, La donazione di Costantino (as above, note 10), pp. 310-2.
99  Das Decretum Gelasianum De libris recipiendis et non recipiendis in kritischem Text, ed. by Ernst von Dobschütz (Texte und Untersuchungen zur Geschichte der altchristlichen Literatur 3,8,4), Leipzig 1912.
100  Corpus iuris Canonici academicum, emendatum et notis P. Lancellotti illustratum, in duos tomos distributum, usque moderno ad modum Christoph. Henr. Freiesleben, Cologne 1757, pp. 207-8, with reference to D. 15 c. 3 § 19; cf. Petersmann, Die Kanonistische Überlieferung des Constitutum Constantini (as above, note 25), pp. 368-9 and p. 416.
The forgery was shown to be truly ancient, to have been accepted by the Church, and so must be valid – valid but not correct. Cultural memory, a myth removed from its context, albeit distorted, celebrated a final triumph over all proof of forgery. Thereafter the “Donation” was drawn ever deeper into the confessional conflicts, from which it was only freed by recent scholarship.