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III.

The Collectio Britannica and its Sources: Reviewing the Trustworthiness of a Key Witness of Medieval Papal Letters

Von

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Abstract: The *Collectio Britannica*, compiled in the late 11th century and preserved in only one manuscript (London, BL, Add MS 8873), contains numerous excerpts from papal letters dating from the fifth to the eleventh centuries, including many that are not known from other sources. For a long time it was considered a reliable source, but between the 1940s and 1980s some scholars expressed doubts about the authenticity of various letters found in the *Britannica*, and even in more recent research the collection is still viewed with suspicion. However, a re-examination of the relevant studies shows that many arguments against the authenticity of the papal letters as found in the *Britannica* were speculative at best. Most ‘suspicious’ elements are in fact found only in the extant London copy of the *Britannica*, not in the version used in the 1090s by Ivo of Chartres and his collaborators. Only in very few cases is there reason to believe that the sections of the *Britannica* in question contain extracts from forged or falsified papal letters. With the exception of the section on Leo IV, the relevant parts of the *Britannica* can usually be relied upon to faithfully retain the content, wording, *cursus*, and even the order of the papal registers on which they are ultimately based.

Key Words: papal letters; textual criticism; diplomatics; early Middle Ages; high Middle Ages

*) christof.rolker@uni-bamberg.de, Zentrum für Mittelalterstudien, Universität Bamberg, D-96047 Bamberg, Germany. – Calendars of papal letters are abbreviated throughout this paper: *Regesta pontificum Romanorum inde ab a. post Christum natum MCXVIII ad a. MCCCIV*, ed. August Potthast, 2 vols. Berlin 1874/75 [Potthast]; Philipp Jaffé, *Regesta pontificum Romanorum ab condita ecclesia ad annum post Christum natum MCXCVIII*, 2nd ed. Ferdinand Kaltenbrunner / Paul Ewald / Samuel Löwenfeld [JK, JE, and JL], 2 vols. Leipzig 1885–8; 3rd ed. Klaus Herbers, 4 vols. Göttingen 2016–8 [J³]; *Papstregesten 844–858*, bearbeitet von Klaus Herbers (= J.F. Böhmer, *Regesta imperii Abt. I Band 4 Teil 2 Lieferung 1*), Vienna 1999 [Böhmer/Herbers]; *Papstregesten 872–882*, bearbeitet von Veronika Unger (= J.F. Böhmer, *Regesta imperii Abt. I Band 4 Teil 3*), Vienna 2013 [Böhmer/Unger]. The absence of entries, where relevant, is indicated by ‘JL –’ and ‘J³ –’, respectively.

Zusammenfassung: Die *Collectio Britannica*, die im späten 11. Jahrhundert zusammengestellt wurde und nur in einer Handschrift erhalten ist (London, BL, Add MS 8873), enthält zahlreiche Auszüge aus päpstlichen Briefen aus dem fünften bis elften Jahrhundert, darunter viele, die aus anderen Quellen nicht bekannt sind. Lange Zeit galt sie als zuverlässige Quelle, doch zwischen den 1940er und 1980er Jahren äußerten einige Wissenschaftler Zweifel an der Echtheit verschiedener in der *Britannica* gefundener Briefe, und auch in der neueren Forschung wird die Sammlung immer noch mit Misstrauen betrachtet. Eine erneute Prüfung der einschlägigen Studien zeigt jedoch, dass viele Argumente gegen die Echtheit der päpstlichen Briefe, wie sie in der *Britannica* zu finden sind, bestenfalls spekulativ waren. Die meisten „verdächtigen“ Elemente finden sich in der Tat nur in der erhaltenen Londoner Abschrift der *Britannica*, nicht aber in der in den 1090er Jahren von Ivo von Chartres und seinen Mitarbeitern verwendeten Fassung. Nur in wenigen Fällen gibt es Grund zu der Annahme, dass die fraglichen Abschnitte der *Britannica* Auszüge aus gefälschten oder verfälschten päpstlichen Briefen enthalten. Mit Ausnahme des Abschnitts über Leo IV. kann man sich in der Regel darauf verlassen, dass die relevanten Teile der *Britannica* den Inhalt, den Wortlaut, den Cursus und sogar die Reihenfolge der päpstlichen Register, auf denen sie letztlich beruhen, getreu beibehalten.

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I. Introduction

The *Collectio Britannica* is one of the most famous pre-Gratian canon law collections¹⁾. Compiled in the late eleventh century, it contains a large number of excerpts from papal letters, Roman law, and other sources. In many cases, the material found here has no known tradition in the centuries before – sometimes no earlier transmission at all. It contains six long sec-

¹⁾ For bibliography see Lotte Kéry, *Canonical Collections of the Early Middle Ages (ca. 400–1140): A Bibliographical Guide to the Manuscripts and Literature*, Washington 1999, 237–8; and Linda Fowler-Magerl, *Clavis canonum: Selected Canon Law Collections Before 1140: Access with Data Processing*, Hanover 2005, 184–7; for overviews see Robert Somerville (in collaboration with Stephan Kuttner), *Pope Urban II, the Collectio Britannica, and the Council of Melfi (1089)*, Washington 1996, 3–21; Detlev Jasper, *The Beginning of the Decretal Tradition: Papal Letters from the Origin of the Genre Through the Pontificate of Stephen V*, in: idem/Horst Fuhrmann, *Papal Letters in the Early Middle Ages*, Washington 1999, 3–133, esp. 99–100, 107–10, 122–4, and 128–33; Martin Brett, *Some New Letters of Popes Urban II and Paschal II*, in: *Journal of Ecclesiastical History* 58 (2007) 75–96, here at 77–9; and Lotte Kéry, *Kanonensammlungen als Fundorte für päpstliche Schreiben*, in: *Das Papsttum und das vielgestaltige Italien, Hundert Jahre Italia Pontificia*, ed. Klaus Herbers /Jochen Johrendt, Berlin 2009, 275–98, here at 286–92.

tions composed only of fragments of papal letters (of seven different popes) which have attracted special attention as they seem to go back to lost papal registers. For Ewald, Conrat, Fournier, and scholars following their lead, the Britannica was part of the ‘rediscovery’ of ancient Roman and canon law²). More recent studies on the Britannica have proposed a new model of a ‘multi-stage genesis’ of the Britannica. Rather than assuming, as Ewald had done, that the Britannica was compiled by one compiler in one place from one set of sources (essentially the papal archives), Brett and Herbers have argued that the collection was composed from pre-existing dossiers which had their own textual history before they were united in the Britannica³). Scholarship on the Ivonian collections has provided solid evidence that the Britannica version available in the 1090s had already been supplemented with other materials circulating in the regions north of the Loire⁴). The only extant manuscript in

²) Paul Ewald, *Die Papstbriefe der Britischen Sammlung*, in: *Neues Archiv* 5 (1880) 275–414 and 505–96; for MGH scholars largely following Ewald’s model see the editions in MGH Epp. 5, 6, and 7 (all available online at www.dmgh.de) and the relevant preparatory studies, above all Erich Caspar, *Studien zum Register Johanns VIII.*, in: *Neues Archiv* 36 (1911) 77–156; for the Roman law see Max Conrat (Cohn), *Der Pandekten- und Institutionenauszug der britischen Dekretensammlung*, *Quelle des Ivo*, Berlin 1887, 5–12; summarized and added to in *idem*, *Geschichte der Quellen und Literatur des römischen Rechts im frühen Mittelalter*, Leipzig 1891, 345–7, 352–4, and 370–2; see also Paul Fournier, *Les collections attribuées à Yves de Chartres*, in: *Bibliothèque de l’École des Chartres [BEC]* 57 (1896) 645–98 and BEC 58 (1897) 26–77, 293–326, 410–44, and 624–76, here at BEC 57, 656–61 and 675–98; *idem*, *Les collections canoniques romaines de l’époque de Grégoire VII*, in: *Mémoires de l’Institut National de France, Académie des Inscriptions et Belles-Lettres* 41 (1918) 271–395, esp. 390–5, and his summary in *idem*/Gabriel Le Bras, *Histoire des collections canoniques en Occident, depuis les Fausses Décrétales jusqu’au Décret de Gratien*, vol. 2 Paris 1932, 155–63.

³) Martin Brett, *Urban II and the Collections Attributed to Ivo of Chartres*, *Proceedings of the Eighth International Congress of Medieval Canon Law*: San Diego, University of California at La Jolla, 21–27 August 1988, ed. Stanley A. Chodorow, Vatican City 1992, 34–9; Martin Brett, *The Sources and Influence of Paris, Bibliothèque de l’Arsenal MS 713*, in: *Proceedings of the Ninth International Congress of Medieval Canon Law*: Munich, 13–18 July 1992, ed. Peter Landau /Jörg Müller, Vatican City 1997, 149–67; Klaus Herbers, *Leo IV. und das Papsttum in der Mitte des 9. Jahrhunderts, Möglichkeiten und Grenzen päpstlicher Herrschaft in der späten Karolingerzeit*, Stuttgart 1996, here at 89; see also *idem*, *Einleitung*, in: *Böhmer/Herbers VII–XIV*, here at X–XI.

⁴) Brett, *Urban II* 27–46 and *idem*, *Sources* (both as n. 3); Robert Somerville, *Papal Excerpts in Arsenal MS 713B: Alexander II and Urban II*, in: *Proceedings Munich* (n. 3) 169–84; Brett, *New Letters* (n. 1); in addition see the ongoing

any case was made in northern France after summer 1108, the date of the most recent material it contains⁵).

While there may be consensus on the ‘multi-stage’ genesis of the collection, the question of the reliability of the Britannica is a different matter. Especially between the 1940s and 1980s a number of scholars have argued that the Britannica compiler manipulated several letters in his collection, or at least drew on formal sources containing forgeries. As the authenticity of more and more individual letters had been challenged, by the 1980s the scholarly consensus was sceptical whether the Britannica was nearly as valuable as it long had been thought. At the 1986 MGH congress on forgeries, for example, Peter Landau quoted the Britannica alongside the notorious *Collectio Taurinensis* as one of last representatives of early medieval legal culture in which the development of the law was often driven by forgery⁶). While this is not typical of modern scholarship, a cloud of suspicion still hangs around the Britannica. For example, Jasper warned that scholars should read the collection “critically”⁷). In a similar manner, Schieffer described the Britannica as depending at least indirectly on papal registers, but also referred in a summary fashion to forgeries found here⁸). Both scholars are right – clearly one

edition of the Ivonian collections by Martin Brett and his collaborators (in more detail below, n. 18).

⁵) Brett, *Urban II* (n. 3) 32–3; Christof Rolker, *History and Canon Law in the Collectio Britannica: A New Date for London, BL Add. 8873*, in: *Bishops, Texts and the Use of Canon Law Around 1100: Essays in the Honour of Martin Brett*, ed. Bruce Clark Brasington / Kathleen Grace Cushing, Aldershot 2008, 141–52. Note that Ewald (n. 2) assumed a similar date for the manuscript, but for very different reasons: He assumed that the London manuscript was the autograph of the compiler and that the Britannica contained a letter of Paschal II. The letter in question is JL † 6613a, a forgery of the eleventh century; for its date see now Charles West, *The Simony Crisis of the Eleventh Century and the ‘Letter of Guido’*, in: *Journal of Ecclesiastical History* 73 (2022) 229–253.

⁶) Peter Landau, *Gefälschtes Recht in den Rechtssammlungen bis Gratian*, in: *Fälschungen im Mittelalter*, vol. 2 Hanover 1988, 11–49, here at 40–2; on the *Taurinensis* see Giuseppe Motta, *Una silloge canonistica del sec. XII tra Deusdedit ed Anselmo di Lucca* (Torino, Biblioteca Nazionale E.V.44), in: *De iure canonico medii aevi*, Festschrift für Rudolf Weigand, ed. Peter Landau, Rome 1996, 413–42; and Fowler-Magerl (n. 1) 172–3 with further references.

⁷) Jasper, *Beginning* (n. 1) 110; see also *ibid.* 132 for a more positive assessment.

⁸) Rudolf Schieffer, *Die päpstlichen Register vor 1198*, in: *Herbers/Johrendt* (n. 1) 259–74, 264: „Die quantitativ bedeutendste Trägerin dieser abgeleiteten Registerüberlieferung ist die sogenannte ‚Collectio Britannica‘ [...], die zu Dutzenden Exzerpte aus den Registern der Päpste Gelasius I. aus dem 5., Pelagius I. und Pelagius II. aus dem 6., Leo IV., Johannes VIII. und Stephan V. aus dem 9.

should read the Britannica ‘critically’, and the collection does indeed contain forged materials – but given that such warning labels rarely are attached to other collections containing a much higher share of forgeries, it is easy to misunderstand even balanced accounts like those of Jasper and Schieffer. Indeed, the attacks against the authenticity of numerous letters contained in the Britannica have led some scholars to believe that the collection indeed contained ‘very many’ forgeries⁹⁾. Yet others assumed that the internal order of the individual *ex registro* sections could be ignored for the dating of the papal letters found here; by implication, they also called into question the authorship of several letters found in the Britannica¹⁰⁾.

As will become clear in the following, such views are a long-term consequence of the many cases where letters found in the Britannica were called ‘forged’, ‘suspicious’, or ‘manipulated’ in the scholarship of the late 1940s to the 1980s. Most of these claims were unsubstantiated (some outlandishly so), yet taken together they nonetheless had a lasting impact on scholarship. The proverb *Semper aliquid haeret* comes to mind. It is therefore in my opinion necessary to return to this older scholarship to properly assess the reliability of the Britannica.

In order to do so, I will first briefly present the extant version of the collection, as much of the discussion depends on the difference between this version and an earlier one that existed in the 1090s. Second, I will summarize the general argument why it was, and still is, so tempting to assume the Britannica depended on papal registers, before then discussing in some detail those cases which have been quoted as casting into doubt the reliability of the Bri-

sowie Alexander II. und Urban II. aus dem 11. Jahrhundert enthält. Da die Sammlung auch mit Stücken von anderer Herkunft (wie etwa aus dem Briefbuch des Bonifatius) und mit mutmaßlichen Fälschungen angereichert ist, wird sie kaum unmittelbar und vollständig auf die verlorenen Registerbände zurückzuführen sein, spiegelt aber eben doch die Fülle von deren Inhalten in der weiten zeitlichen Spreizung von den 490er bis zu 1090er Jahren wider.“

⁹⁾ Veronika Unger, *Päpstliche Schriftlichkeit im 9. Jahrhundert: Archiv, Register, Kanzlei*, Vienna 2018, here at 87 on the content of the Britannica: „Vor allem für Leo IV. haben die Forschungen der letzten Jahrzehnte bereits sehr viele gefälschte oder zumindest verdächtige Briefexzerpte ausgemacht [...]“

¹⁰⁾ See the treatment of the Britannica in the third edition of Jaffé’s *Regesta pontificum*; for letters where the arrangement in the Britannica is crucial for the question of authorship see Ewald (n. 2) 507–8 and 533–62; see also Christof Rolker, *Die Briefe Papst Pelagius’ I.: Handschriften, Editionen und Regesten, Kritische Notiz zur dritten Auflage der Regesta pontificum*, in: *Deutsches Archiv* 75 (2019) 415–47, here at 423–4 and 428–30.

tannica. Did the Britannica compiler manipulate his material? Did he include forged materials, particularly in the form of manipulated papal registers¹¹⁾? And in so far as the Britannica is based directly or indirectly on papal registers, can we trust it to preserve their chronological sequence? Finally, and more generally, what can be said about the selection criteria of the compiler?

The Extant Copy:

The Britannica today is extant in only one copy (London, British Library, Add MS 8873, or simply ‘**Add 8873**’ in the following) of 210 folios, with a change of ink (and perhaps hands?) on fol. 127r. While the script is very legible, the text is often flawed, and the codex manifestly was left unfinished (the rubricator never completed his task); in addition, it was heavily trimmed in modern times, resulting in the damage to most marginal inscriptions. The material is divided into nine sections plus an index:

| Add 8873 | Content |
|----------------|---|
| fol. 1r–8v | Incomplete index for 135+88+47+74+122 items |
| fol. 9r–38v | Gelasius I and Pelagius I; 136 canons |
| fol. 38v–52r | Alexander II; 87 canons |
| fol. 52r–120r | Varia 1A–C; 47+77+117 canons in three subsections |
| fol. 120r–136v | John VIII; 53 canons |
| fol. 136v–142r | Saint Boniface; 18 canons |
| fol. 142v–153r | Urban II; 53 canons |
| fol. 153r–159v | Stephen V; 33 canons |
| fol. 160v–171r | Leo IV; 45 canons |
| fol. 171r–210v | Varia 2; 165 canons (incomplete) |

The beginning and end of the individual sections is marked, but mostly only by one or two empty lines. In fact, only the Alexander II section has a separate heading in large red letters: *Ex registro Alexandri papae II²⁾*. Similar headings apparently were foreseen for the Urban II, Stephen V, and Leo IV sections, but as the rubricator did not work on this part

¹¹⁾ Walter Ullmann, *Nos si aliquid incompetenter ...: Some Observations on the Register Fragments of Leo IV in the Collectio Britannica*, in: *Ephemerides iuris canonici* 9 (1953) 279–87.

¹²⁾ Add 8873 fol. 38v. It is followed by a separate inscription to the first canon in this section, also in red ink: *Alexander II Petragoricensi Willelmo et Durando Tolotensi*.

of the codex, we only have the respective notes in the outer margins¹³). The *Varia* sections are called so on account of the miscellaneous nature of their material sources (Roman law, papal letters, patristic writings, historiography); they draw on a number of different formal sources including the collection of *Deusededit* and a lost collection of Roman law itself taken from the *Institutes* and the *Digest*¹⁴). There is little reason to assume the *Varia* section drew on papal registers, and I will leave aside this question in the following¹⁵). The *Boniface* section contains eighteen excerpts from the correspondence of Saint Boniface, mostly from the papal letters found here. The other six sections contain only excerpts from papal letters, and I will refer to them as the *ex registro* sections in the following. The crucial question is whether they indeed go back to lost papal registers, as it often has been claimed, or not, and if not, whether one should suspect the *Britannica* compiler to have forged or manipulated the materials found here. Given that the *Britannica* via the *Ivonian* collections and thus Gratian had a lasting impact¹⁶), and in many cases cannot be checked against other traditions of the letters in question, this question has far-reaching implications.

To address the problem, we first of all have to distinguish between the collection as it is preserved today in the London manuscript and the version that can be inferred to have existed in the late eleventh century. While the extant copy was only made in the twelfth century, the collection it contains must have been available to the compiler of the *Tripartita* and also to Ivo of Chartres and his

¹³) Add 8873 fols. 142v, 153r, and 160v, respectively: <E>x registro *Urbani* <pa>pe, *Ex regist*<ro> *Stephani* <pape>, and <E>x registro *Leonis IIII*. The index contains a heading (in red ink) *Ex registro Alexandri papae* referring to the beginning of the Alexander II section (fol. 3r), and another one *In libro Gelasii* (fol. 4r), referring to a canon found in the *Varia* 1 (fol. 65v), but these headings are derived from the main part of the collection and thus have little relevance for the reconstruction of the formal sources of the *Britannica*.

¹⁴) For *Deusededit* see Ewald (n. 2) 581–2; for the Roman law see Conrat (Cohn), *Auszug* (n. 2) 5–12; and *idem*, *Geschichte* (n. 2) 345–7, 352–4, and 370–2.

¹⁵) See, however, the comment on the Honorius I fragments in *Britannica Varia* 2.1–6 (Add 8873 fols. 171r–172v) by Erich Caspar, *Geschichte des Papsttums von den Anfängen bis zur Höhe der Weltherrschaft*, vol. 2, Tübingen 1933, here at 524 n. 1, suggesting it took them from registers also available to *Deusededit* („aus der gleichen Registerquelle“).

¹⁶) For the ongoing edition of the first recension of Gratian by Anders Winroth see www.gratian.org; for the vulgate version, I use *Decretum magistri Gratiani*, ed. Emil Friedberg, Leipzig 1879; for the importance of the *Britannica* see Jasper, *Beginning* (n. 1) esp. 99–100, 107–10, 122–4, and 128–33.

collaborators in the mid-1090s¹⁷). The Tripartita in part ‘A’: Ivo’s Decretum, a preparatory collection known as the first Arsenal collection (‘Arsenal I’ for short), the Prologue to the Decretum, and occasionally Ivo’s letters all contain material taken from this lost Britannica version. All these works therefore can be used to reconstruct the Britannica. As a comparison shows, the version available to these compilers was very similar to, but not identical with that extant in the London manuscript. More specifically, content and structure of the Britannica version available in the 1090s seem to have been very similar to the extant version, except that the earlier Britannica had more and better inscriptions and occasionally better texts, too. As will be argued below, both the Tripartita A compiler and Ivo of Chartres drew on the same version of the Britannica, even if both made very different use of their shared source.

All such analysis is only possible because of the ongoing editorial work on the Ivonian collections by Martin Brett and his collaborators¹⁸); over time, it has produced many new insights and crucially, it provides a more secure basis to address the question of what the Britannica looked like before the extant copy was made. This in turn allows, and in some cases indeed necessitates, a new assessment of the question whether or not the excerpts from papal letters in the Britannica can be assumed to preserve faithfully the lost registers from which they seem to be taken.

Why Think the Britannica Draws on Registers?

Yet before looking at these letters it is worth asking why one would think that the Britannica would depend directly on papal archives in the first place? After all, very few such registers made before 1198 have survived, and one may well wonder what we can know about these registers at all. The mere fact that a handful inscriptions to individual canons and some of the (planned) headings to *ex registro* sections refer to papal registers clearly is not enough¹⁹). Yet given that so many of these letters have no known earlier

¹⁷) Brett, Urban II and idem, Sources (both as n. 3); Somerville, Urban II and Brett, New Letters (both as n. 1); see also Alfons Becker, Papst Urban II. (1088–1099), vol. 3, Stuttgart 2012, 706–13.

¹⁸) For the ongoing editions of the Tripartita (ed. Martin Brett/Przemysław Nowak), the Panormia (ed. Brett/Bruce Brasington), and Ivo’s Decretum (ed. Brett *et al.*) including the Prologue and the preparatory collection known as Arsenal I, see <https://ivo-of-chartres.github.io/>; for Ivo’s letters see the most recent (2017) edition by Geneviève Giordanengo, *Lettres d’Yves de Chartres*, <http://telma-chartres.irht.cnrs.fr/yves-de-chartres>. The letters in question are epp. 55, 60, and 73 (written in 1096, 1097, and ca. 1098, respectively).

¹⁹) See above (nn. 12–13) on headings to four *ex registro* sections. Inscriptions to

transmission, arguments on the veracity of these claims are bound to come almost exclusively from internal evidence.

This evidence is, however, impressive. To begin with, the textual quality of the *ex registro* sections of the Britannica is good, often very good. To take the letters of Pelagius I as an example, the Britannica with very few exceptions even preserves the style and the cursus of Pelagius I (which can be checked against the Arelatensis, a collection compiled in Pelagius' lifetime)²⁰. The same is true for the letters of Urban II where there is relatively good evidence to reconstruct the register version of his letters, as will be discussed in detail below. Given how poorly many high medieval collections preserve the earlier letters in particular, the textual quality of the Britannica carries considerable weight. Even if it did not draw on papal registers directly, the Britannica must depend on rare sources representing these ancient texts in unusually good quality.

Second, these texts in the Britannica are found in long series of excerpts from genuine letters only. This is stronger evidence than the mere quality of the texts. After all, even short series of excerpts from genuine letters alone are rare in any canonical collection compiled or available in the high Middle Ages. Given the frequency of misattributions and forgeries, it would have been *de facto* impossible to compose these sections of the Britannica from earlier collections, unless these collections themselves were already unusually close to the papal registers or similar sources. To take the letters of Pelagius I as an example again, even in the Britannica, there is some confusion between the letters of Gelasius I and Pelagius I. On the whole, the relevant section in the Britannica consists of two subsections, one for Gelasius followed by one for Pelagius. However, several inscriptions in the first subsection wrongly refer to Gelasius, and two fragments of letters of Gelasius I are found only after the Pelagian material. Yet this confusion is very modest if we compare the Britannica to other canonical collections. Here, letters attributed – whether correctly or not – to Gelasius I, Pelagius I, and Pelagius II are very frequently confused²¹). For example, Burchard of Worms in ~~this~~ his collection quotes not a single genuine letter of Pelagius I, but several forgeries

individual canons claiming they were taken *ex registro* are rare; a few are found in the Alexander II and Urban II sections, but most are found in the Varia 2 section, thus material taken from intermediary sources like the collection of Deusdedit.

²⁰) Pius M. Gassó/Columba Batlle, Prolegomena, in: Pelagii I papae epistolae quae supersunt (556–561), ed. iidem, Montserrat 1956, XXI–CXIV, here at LXXII–LXXVI.

²¹) For the following see *ibid.*; and Rolker, Pelagius I. (n. 10).

attributed to this pope, some of which (like JK 967) in turn were attributed to popes Pelagius, Gelasius, and occasionally Pius in later collections. To quote another influential collection, the False Decretals are transmitted with fragments of genuine letters of Pelagius I, but these genuine fragments are clearly outnumbered by material falsely attributed to this pope; later scribes would often confuse Gelasius and Pelagius in the inscriptions. The same is true of almost all early medieval collections. In fact, the only collections which contain series of genuine Pelagius I letters alone are the Arelatensis mentioned above, the lesser-known Collection in Two Books / Eight Parts²²), the Britannica itself, and collections drawing on these three collections. A medieval compiler working with any other collection would have been utterly lost, and only with great luck could have hoped to compose a series of even a handful of genuine letters of Pelagius I without also including Pseudo-Pelagius I, Pelagius II, or (Pseudo-)Gelasius I materials.

Third, and even more importantly, the *ex registro* sections of the Britannica often preserve the chronological sequence in which the letters were written. For the moment, we can set aside the question whether this was only ‘often’ the case or indeed almost always. The point is that while one needed good luck to find an uninterrupted series of excerpts from genuine letters of any given pope, it was beyond all probability that such a series happened to preserve the chronological order these letters were originally composed. There were many ‘chronologically arranged’ collections in the early and high Middle Ages, but the best these compilers could hope for was to arrange the sections devoted to individual popes in a sequence that was more or less aligned with what was known from catalogues of popes, historiography, and other ‘chronological’ collections of canon law about papal history. Within these sections, the compilers normally followed their formal sources. It was therefore very easy for any chronological order to be disturbed, but impossible to reconstruct the original sequence of the letters once it was lost. For this reason, negative evidence in this case becomes a much stronger argument than usual. If the long series of the Britannica did not, in some form, go back to papal registers, how could they present these excerpts in a sequence which would not quickly be demonstrated to present an impossible chronology? Even scholars highly sceptical of the direct use of papal registers did not claim that the arrangement of the fragments in the *ex registro* section of

²²) Christof Rolker, Bonizo von Sutri, die ‚Sammlung in zwei Büchern/acht Teilen‘ und das Gespenst der gregorianischen Zwischensammlung, in: Bulletin for Medieval Canon Law n.s. 37 (2020) 55–105, here at 82–101.

the Britannica was demonstrably wrong in more than a handful of cases (for details, see below). All this lends credit to the claim that the series were taken *ex registro*, and made Ewald argue in the 1880s that they indeed should be understood in the sense that the Britannica compiler had access to lost papal registers.

II. Possible Manipulations by the Britannica Compiler

However, there also is evidence against Ewald's model, and the relevant scholarship will be reviewed in the following. Three different kinds of argument can be distinguished. First, the Britannica compiler may have willfully manipulated his material. If this were the case, those parts of the collection that cannot be checked against other transmissions would have to be treated with suspicion, independently of where in the collection the manipulations are found. Second, the Britannica may preserve forgeries already found in its formal sources. In the case of the *Varia* sections, drawing on earlier canonical collections, such findings have no special relevance. In the case of the *ex registro* sections, in contrast, even single forgeries are evidence against Ewald's argument that these sections drew directly on lost papal registers. Finally, the fragments in the *ex registro* sections may be out of sequence; at least if this were the case for more than a few items, it would call into question the idea that the *ex registro* sections go back to lost registers. In the following, I will consider all three aspects separately, beginning with the most urgent question: did the Britannica compiler himself manipulate his texts?

Sancta octo and the Ecumenicity of Constantinople IV:

The first scholar to point out a Britannica text which was changed around the time the Britannica was compiled and potentially by the compiler himself was Dvornik in his seminal book on Constantinople IV²³). In particular, he pointed to a list of general councils in the Britannica ultimately derived from the *Liber diurnus* via *Deusdedit*. The list (later known as *Sancta octo*) is part of the so-called *Indiculum pontificis* containing the formula for the oath of the pope-elect. While all extant *Liber diurnus* manuscripts only list six councils as ecumenical, *Deusdedit* has seven (with *Nicaea II* being added), but only the Britannica and collections dependent on it also include Constantinople IV in the list²⁴). The latter addition seems to have occurred

²³) Francis Dvornik, *The Photian Schism: History and Legend*, Cambridge 1948, 319 and 440–2.

²⁴) *Liber diurnus* C64, ed. in: *Liber diurnus romanorum pontificum*, ed. Hans Foerster, Bern 1958, 334–5; *Deusdedit* 2.110 (93), ed. in: *Die Kanonensammlung*

between 1087, when Deusdedit finished his collection, and the mid-1090s, when the Isonian collections drew on the Britannica for their versions of Sancta octo. So who was responsible for the addition of Constantinople IV? Dvornik mainly stressed that it was not Ivo of Chartres²⁵), but did not rule out the Britannica compiler as responsible for the change.

The genesis of Sancta octo clearly would merit a separate study. Concerning the Britannica, the most important point is that it is the earliest known collection to contain the list that later would become canonical. While it is not impossible that the Britannica compiler himself expanded the list he found in Deusdedit, conclusive evidence is lacking. Also, one should not forget that this part of the Indiculum pontificis was an unstable text various collections of the eleventh and twelfth centuries presented in several different versions²⁶). To add to the confusion, around about the same time Constantinople IV be-

des Kardinals Deusdedit, vol. 1 [all published]: Die Kanonessammlung selbst, ed. Victor Wolf von Glanvell, Paderborn 1905, 235–7, here checked against Vat. lat. 3833 fol. 58r–v; Britannica Varia 2.147 (Add 8873 fol. 205v), counted as no. 129 in Ewald (n. 2) 591 but as no. 147 in the Clavis canonum database (n. 1). The later reception of Sancta octo depends almost exclusively on Gratian D.16 c.8 (ed. Winroth 38, ed. Friedberg 45, both as n. 16), itself drawing on the second recension of the Tripartita A here; see also below, n. 26.

²⁵) Dvornik (n. 23) 326: “The Britannica Collection gives us a fair idea of the character of Ivo’s source, since it is simply a long extract from that original, anonymous Collection, now lost. This original Collection also contained an extract of Deusdedit’s, which seems to have been copied by the scribe of the Britannica, and it was from this portion of their source that Ivo and his collaborators derived the Pontiff’s profession of faith. Thus the alteration in the number of councils in the Sovereign Pontiff’s profession of faith was probably the work of the copyists of Deusdedit’s Collection. [...] It was not Ivo, but one of his sources, now untraceable, that was responsible for the addition”; see also Daniel Stiernon, Konstantinopel IV, Paris 1975, 256 who suggested that Ivo and his collaborators may have been responsible.

²⁶) Ivo 4.132 and hence the Panormia 2.103 (both as n. 18) lack the reference to Constantinople IV. Tripartita A2.10A.1 (*ibid.*) has a different text in the two main branches of the tradition. In the case of Gratian D.16 c.8 (ed. Winroth 38, ed. Friedberg 45, both as n. 16) the so-called ‘Σ group’ may have a different version, see Regula Gujer, Concordia discordantium codicum manuscriptorum? Die Textentwicklung von 18 Handschriften anhand der D. 16 des Decretum Gratiani, Köln 2004, 399–400. Note that older printed editions are not reliable for Sancta octo; in Migne’s Patrologia, for example, Decretum 4.132 (PL 161 col. 296) is improved ultimately from Gratian, while Panormia 2.103 (PL 161 col. 1107) lacks the reference to Chalcedon. Note also that Friedberg’s text creates the erroneous impression that the list of ecumenical councils included the ‘fifth and sixth council of Chalcedon’ but only three councils of Constantinople.

gan to be referred to as the ‘eighth synod’, fragments of a (falsified) letter of Pope John VIII came into circulation which revoked this very synod²⁷). Just like Deusededit, Ivo of Chartres, and Gratian the Britannica compiler may have ‘updated’ the Indiculum or retained a new version of the list he found elsewhere, but none of the collections in question should be seen as generally unreliable solely because of the Indiculum version they contain. In other words, the fact that the Britannica refers to Constantinople IV as a ‘general’ synod in my opinion does not render the fragments found in the *ex registro* sections suspicious.

The Britannica Interpolated by Ivo? Kuttner’s Doubts on JL 5383 and JE 3180:

Much more serious doubts were raised by Stephan Kuttner, who at several occasions suggested that the compiler of the Britannica manipulated his material²⁸). Unlike Dvornik, he doubted not the *Varia* but the *ex registro* sections, and made a case for the Britannica compiler himself being responsible for the changes. Given the potential implications of Kuttner’s suggestion and the authority of this great scholar, let us consider the papal letters in question individually.

Kuttner’s starting point was his famous Turning Point article countering Fournier’s claims that the development of legal hermeneutics around 1100 was effectively inspired by Urban II²⁹). In this context, Fournier had quoted a parallel between Ivo’s Prologue and a letter of Urban II in the Britannica (JL 5383) as evidence for the influence the pope had on Ivo’s legal thought. Kuttner, in contrast, argued that JL 5383 did not influence the canonists and that the parallels should be explained by the Britannica version of the letter being interpolated from Ivo’s preface³⁰). To illustrate the close resemblance between the Britannica and the Prologue, consider the following passage:

²⁷) See the interpolated excerpts of JE 3273 and 3276 as found in Ivo 4.76–7 and the excerpts in Deusededit 4.162 (434 and 437) (n. 24) 614 and 617. While these canons do not overlap, they ultimately seem to go back to the same source; see Böhmer/Unger 553 and 555 (who seems to have overlooked the Deusededit fragments).

²⁸) Stephan Kuttner, Urban II and the Doctrine of Interpretation: A Turning Point?, in: *Studia Gratiana* 15 (1972) 55–86, here at 71 (JL 5383), 81–3 (JE 2796), and 74 (JE 2785); idem/Wilfried Hartmann, A New Version of Pope John VIII’s Decree on Sacrilege (Council of Troyes, 878), in: *Bulletin of Medieval Canon Law* n.s. 17 (1987) 1–32 (on JE 3180); see also Kuttner’s comment as reported by Somerville, Urban II (n. 1) 105.

²⁹) Paul Fournier, Un tournant de l’histoire du droit 1060–1140, in: *Nouvelle revue historique de droit français et étranger* 41 (1917) 129–80.

³⁰) Kuttner (n. 28) 71.

| | |
|---|---|
| Add 8873 fol. 129r (ed. Somerville, Urban II, 105, as n. 1) | Ivo, Prologue (ed. Brett/Brasington, as n. 18) |
| <M>ulta ecclesie principes pro tenore canonum districtius iudicant, multa pro temporum necessitate patienter tolerant, multa pro personarum qualitate moderanter dissimulant. Si enim semper protracto nervo arcus extenditur, segnius ea in quae ad tempus intendendus est iaculatur. [...] | Multa quoque principes ecclesiarum pro tenore canonum districtius iudicant, multa pro temporum necessitate tolerant, multa pro personarum utilitate vel strage populorum vitanda dispensant. |
| <M>ulta etiam a sanctis patribus pro tempore inmutata scripturarum testimonio comprobantur. Sicut sancte Romane ecclesie, cui Deo auctore deservimus, sanctus pontifex Leo neophitos ad summi sacerdotii gradum permisit ascendere, quos Pauli apostoli voce palam est ab eodem officio inhiberi; sicut etiam Arrianos legimus postquam conversi sunt in suis officiis manere permisos. | Multa etiam a sanctis patribus imminuta scripturarum testimonii comprobantur. Sicut sancte Romane ecclesie sanctus pontifex Leo neophitos ad summum sacerdotium permisit ascendere, quos Paulus publica predicatione ab eodem officio studuit remove; sicut etiam Arrianos, postquam conversi fuerunt, legimus in suis officiis fuisse susceptos. |

While textual parallels are undisputed, this in itself does not reveal the direction of dependency. In light of the undoubted dependence of the Ivonian œuvre – Decretum, Prologue, and epistolary – on the Britannica the burden of proof clearly rests with anyone suspecting the opposite direction of influence here³¹). Yet Kuttner’s arguments do not amount to a clear demonstration that the Britannica for JL 5383 depended on Ivo. He mainly argued that it “would have been more than awkward if Ivo had plagiarized the reigning pontiff”³²), but offered no explanation why the Britannica compiler would have interpolated JL 5383.

The question was taken up again by Somerville in his study of Urban’s letters in the Britannica. He came to the conclusion that the Prologue draws on the Britannica for JL 5383, not the other way round³³). As Somerville pointed out, the JL 5383 passages common to Ivo’s Prologue and the Britannica have minor differences but both follow the *cursus* typical for the papal chancery. The same holds for the wording of the Britannica version which is very close to the formulae used by Urban’s genuine letters. Somerville also pointed out that no other part of the Urban II section showed any sign of manipulation.

³¹) See Christof Rolker, *Canon Law and the Letters of Ivo of Chartres*, Cambridge 2010, esp. 93–8, 105–6, 113–4, and 152–4 on Tripartita A, Ivo’s Decretum, and his letters all drawing on the Britannica.

³²) Kuttner (n. 28) 71.

³³) Somerville, Urban II (n. 1) 109–13; see also Rolker, *Canon Law* (n. 31) 95–7.

Interpreting the Britannica version of JL 5383 as manipulated therefore implies an ‘unambiguous effort to doctor the text and to create the appearance of a papal pronouncement’ in one single instance and for no apparent reason by a compiler who otherwise very faithfully preserved the letters of the same pope³⁴). This is not how medieval forgers normally operate. Kuttner also paid little attention to the fact that whatever the textual history of JL 5383 was there could be little doubt that a Britannica version very similar to the extant one was available to the Tripartita A compiler and to Ivo, who quoted from the Urban II section not only in his Prologue, but also in his Decretum and some of his letters. The evidence from the latter is particularly valuable in this case, as their dates can be established without making any assumptions about the dates of the canonical collections around Ivo. For the transmission of JL 5383, one letter written in 1096 or not much later is of special importance. In this letter to Hugh of Lyon, Ivo twice draws on the Britannica. First, he alludes to a letter of Pelagius I as found in the Britannica; later on, he paraphrases one of the JL 5383 passages also found in his Prologue³⁵).

| | |
|---|---|
| Add 8873 fol. 129r (ed. Somerville, Urban II, 105, as n. 1) | Ivo, ep. 55 (ed. Giordanengo, as n. 18) |
| <M>ulta ecclesie principes pro tenore canonum districtius iudicant, multa pro temporum necessitate patienter tolerant, multa pro personarum qualitate moderanter dissimulant. | Inveniemus principes ecclesiarum quaedam pro rigore canonum districtius iudicasse, multa pro temporum necessitate tolerasse, multa pro personarum utilitate dissimulasse. |

According to Kuttner’s model, one would have to assume that Ivo in ep. 55 quoted Pelagius from a Britannica version very similar to the extant London copy, while the parallels between ep. 55 and the Prologue are Ivo’s own words, which only in the extant Britannica copy were presented as a letter of Urban II. This is a complicated model by any standards, and it provides no answer to a number of questions. Why did the London scribe interfere with JL 5383 in the first place, while preserving all other letters of Urban II very faithfully? Why did he happen to choose a passage which Ivo used on two different occasions? Why did he choose a passage found in two writings which both happen to draw on an earlier Britannica version for other quotations³⁶? None of these problems in itself is an insurmountable obstacle, but

³⁴) Somerville, Urban II (n. 1) 110.

³⁵) Ivo ep. 55 (ed. Giordanengo, n. 18); on ep. 55 and the Britannica see Rolker, Canon Law (n. 31) 152–3.

³⁶) In addition to JL 5383, Ivo in his Prologue (n. 18) also quotes Roman law from the Britannica, see Rolker, Canon Law (n. 31) 122.

it is fair to say that the model implies a number of odd coincidences without solving any urgent problems in the textual transmission of Urban's letters (or the Ivonian *œuvre*, for that matter).

Given the undisputed use of an earlier version of the *Britannica* by Ivo in his letters, his Prologue, and his *Decretum*, I find it much easier to assume that this also holds for JL 5383. The parallels between Ivo's ep. 55, his Prologue, and the relevant text in MS Add 8873 in my opinion are best explained by all three passages depending on the same source, namely the *Britannica* version available to Ivo and others in the 1090s. There is no reason to think that the version of JL 5383 in this lost source substantially differed from that found in the extant London copy. Even if one assumed, for the sake of argument, that Kuttner was right that the parallels to the Prologue in JL 5383 are interpolations, it is worth mentioning that this manipulation must have happened after Ivo wrote his Prologue, and after Ivo and others had used the (original) *Britannica*. In other words, even if JL 5383 as found in Add MS 8873 were influenced by Ivo's celebrated preface, this would not call into question the reliability of the *Britannica* version used to produce *Tripartita A*, *Arsenal I*, Ivo's *Decretum*, and his letters. So while I think that there are good reasons to reject Kuttner's model, the more important point in the context of the present study is that none of his arguments, even if true, would call into question the reliability of the *Britannica* version of the 1090s.

A similar point also applies to another fragment of John VIII (JE 3180) which was suspected by Kuttner and Hartmann to have been interpolated by Ivo himself, with the *Britannica* preserving the version containing Ivo's "comment"³⁷). Strongly relying on Kuttner's earlier argument on JL 5383, they argued that the *Britannica* compiler used Ivo's *Decretum* for JE 3180. Brett later showed this to be impossible. In fact, the *Britannica* has a more complete version than Ivo which, crucially, is closer than the *Decretum* version to independent witnesses of JE 3180, and which could not have been produced from Ivo's version³⁸). This, in my opinion, is enough to refute the idea that JE 3180 as found in the *Britannica* was the result of wilful manipulation of a papal letter. Yet, as in the case of JL 5383, it may be worth asking whether the hypothesis, if true, would seriously affect the reliability of the *Britannica*. Even if the form of JE 3180 in the *Britannica* were interpolated

³⁷) Kuttner/Hartmann (n. 28) 3: "[W]hen we think of his performance in the great prologue 'Exceptiones ecclesiasticarum', it makes good sense to credit the bishop of Chartres himself with the authorship [...]"

³⁸) Brett, Urban II (n. 3) 34 n. 26.

from Ivo's *Decretum*, this would be an argument about the extant London manuscript with no direct relevance to the Britannica version used to produce *Tripartita A* and *Arsenal I*. As long as the manipulation is thought to have entered the Britannica from Ivo's *Decretum*, this manipulation does not call into question the reliability of the earlier Britannica version behind the *Decretum*, for which there is ample evidence independently of the textual history of either JL 5383 or JE 3180.

Confusing Nicholas I, Hincmar, and Saint Cyprian: The Case of JE 2785 and 2796 in the London Manuscript:

The case is slightly different with two letters of Nicholas I which Kuttner thought to have been interpolated by the Britannica compiler (JE 2785 and 2796). If the letters as found in the Additional 8873 manuscript were indeed manipulated, it would be possible and even likely that the interpolated versions were already found in the Britannica version used by the Ivonian collections. However, a closer look at the Britannica and Ivo's works makes this assumption unnecessary anyhow. In the case of JE 2785, Kuttner argued that this letter in the Britannica was "inflated" by passages taken from a tract by Hincmar of Laon³⁹). Indeed, there is no visible break between the end of Nicholas' letter and the beginning of the Hincmar extracts in the London manuscript⁴⁰). But does that mean JE 2785 was inflated by the Britannica compiler? Already Perels pointed out that Hincmar himself in his *Rotula prolixa* (as the tract is known today) quoted JE 2785 immediately before the passages also found in the Britannica⁴¹). In other words, the *Rotula prolixa* could well have been the source of the Britannica for Nicholas' letter and the additional, Hincmarian, text⁴²). This would indeed fit the evidence available

³⁹) Kuttner (n. 28) 74; see also Brett, Urban II (n. 3) 37 n. 33; and Jasper, *Beginning* (n. 1) 123.

⁴⁰) Hincmar of Laon, *Rotula prolixa*, ed. Rudolf Schieffer, MGH Conc. 4 suppl. 2, 394 line 24 to 406 line 27 as found in *Britannica Varia* 2.159a (from *Porro sicut scripsisti*) to 162 (Add 8873 fol. 209r–210r).

⁴¹) Ernst Perels, MGH Epp. 6, 683–4, first (in 1912) treated the Hincmar passages as another possible letter of Nicholas but corrected himself two years later; see *idem*, *Die Briefe Papst Nikolaus' I.: Die kanonistische Überlieferung*, in: *Neues Archiv* 39 (1914) 43–153, here at 89–90. He confirmed his view in the *corrigenda* which he added to his MGH Epp. 6 edition in 1925, 811: *tollas ep. 160 ex Nicolai I. epistolarum editione*. Both Herbers (Böhmer/Herbers 429) and Schieffer (n. 40) 365 came to the same conclusion; the third edition of Jaffé's *Regesta* (J³ 6097), in contrast, seems to treat the letter as genuine for no apparent reason.

⁴²) See Perels (n. 41) 90 concluding „dass dieses Kapitel auf direkter oder indirekter Verwertung der Abhandlung des Hincmar von Laon beruht“.

from the extant *Britannica* and also *Tripartita A* which seems to have taken JE 2785 from an earlier *Britannica* version. On this basis, one may assume that the JE 2785 excerpts in the lost *Britannica* version used for *Tripartita A* looked like this:

| | | |
|--|--|---|
| Hincmar of Laon, <i>Rotula prolixa</i> (ed. Schieffer 387–94, as n. 40) | Lost <i>Britannica</i> version of ca. 1090 (my reconstruction) | Extant <i>Britannica</i> (Add 8873 fol. 206r–v) |
| Textus enim ipsius iste habetur indefatigabiliter tenendus: | | |
| ‘Epistola generalis ad omnes archiepiscopos et episcopos Galliarum directa. Nicolaus servus servorum dei reverentissimis et sanctissimis confratribus nostris archiepiscopis et episcopis per Gallias constitutis. Quamvis singularum ecclesiarum, quae propter diversitatem [...].’ | Nicolaus archiepiscopis et episcopis per Gallias | Nicolaus archie<piscopis et episcopis> per Gallias* |
| Iesus Christus [...] subiturus tamen ad caelos hanc apostolis commendavit ac per eos tanquam hereditario iure successoribus eorum, nobis scilicet [...] | Subiturus ad caelos Christus ecclesiam apostolis commendavit ac per eos tanquam hereditario iure successoribus eorum, nobis scilicet [...] | <S>ubiturus ad caelos Christus ecclesiam apostolis ac per eos tanquam hereditario iure successoribus eorum, nobis scilicet [...] |
| [...] et unde impetitur plenissima studeat hos, qui foris atque intus sunt, satisfactione certificare.’ | [...] et unde impetitur plenissima studeat hos, qui foris atque intus sunt, satisfactione certificare. | [...] et unde impetitur plenissima studeat hos qui foris atque vicus sunt satisfactione certificare. Porro, sicut scripsisti, mos est apostolice sedis pontificibus ut verba predecessorum suorum quasi propria in suis ponant epistolis. [...] |
| Porro, sicut scripsisti,** ‘mos est apostolice sedis pontificibus ut verba predecessorum suorum quasi propria in suis ponant epistolis’ [...]. | Porro, sicut scripsisti, mos est apostolice sedis pontificibus ut verba predecessorum suorum quasi propria in suis ponant epistolis. [...] | |

* Marginal inscription, partly damaged.

** Hincmar here quotes from the *Opusculum LV capitulorum* by Hincmar of Reims.

The impression of an ‘interpolation’ is simply due to the lack of visible break between two texts (before *Porro*) in the extant *Britannica*. This absence, however, is anything but unusual. After all, while Hincmar clearly marks the beginning of his Nicholas quote, it is difficult to spot its end in the *Rotula*; only a reader familiar with the writings of both Hincmars could

notice that the cross-reference (*sicut scripsisti*) is by Hincmar of Laon and refers to the *Opusculum LV capitulorum* by his uncle⁴³). Otherwise, it would be natural to assume that the passage beginning *Porro, sicut scripsisti* was still part of Nicholas' letter, who perhaps alluded to a letter he had received by the bishops of Gaul (though one would expect *scripsistis* rather than *scripsisti* in this case). In other words, any compiler trying to extract JE 2785 from the *Rotula* could have inadvertently conflated the papal letter, Hincmar's comment, and the quote from the *Opusculum*. In fact, even if the compiler had correctly identified the end of the quotation from JE 2785, and had marked it by beginning a new paragraph and/or inserting an appropriate inscription, such textual markers were easily overlooked or otherwise lost. The London manuscript of the *Britannica* itself is a prime example of how inscriptions could be lost due to scribal negligence, incompleteness, and physical damage. Indeed, I assume that in this instance too the main problem is with the London manuscript, while in its exemplar the end of JE 2785 was still marked, however imperfectly. This at least would explain why the *Tripartita A* compiler was able to copy JE 2785 excerpts from his *Britannica* without conflating it with Hincmar's text⁴⁴). So the passage shows that the *Britannica* (or one of its formal sources) used Hincmar's *Rotula* for Nicholas' letter but not that the *Britannica* compiler manipulated his material.

A similar, and even stronger, case can be made for JE 2796. Kuttner argued that the excerpt as found in the *Britannica* was interpolated with a quotation from Saint Cyprian at the end⁴⁵). This is indeed what the canon looks like in the London manuscript. Here, the Nicholas I excerpts ending *inferre iudicium asseramus* are followed by a new paragraph containing an excerpt from Cyprian's letter to Jubianus, followed by more excerpts from JE 2796⁴⁶). Yet there are several signs that the *Britannica* version used by *Tripartita A*, *Arsenal I*, and *Ivo* also had an inscription correctly referring to Cyprian⁴⁷). Not only is the supposed 'interpolation' absent from *Tripartita A*, *Arsenal I*, and *Ivo's* *Decretum* – which could perhaps still be explained

⁴³) See Schieffer's edition (n. 40) 389 n. 150.

⁴⁴) *Tripartita* (n. 18) A1.62.10–1 which here relies on *Britannica Varia* 2.149–50 (Add 8873 fol. 206v and 206v–207v); the passages in *Tripartita* and *Britannica* correspond to Hincmar, *Rotula prolixa* (ed. Schieffer (n. 40) 388 line 41 to 389 line 11 and 389 line 18 to 390 line 24.

⁴⁵) Kuttner (n. 28) 81–3.

⁴⁶) *Britannica Varia* 2.127 (Add 8873 fol. 200v); see Cyprian ep. 73.15, in: Saint Cyprien, *Correspondence*, ed. and tr. Louis Bayard, vol. 2 Paris 1925, 278.

⁴⁷) This was already argued by Perels (n. 41) 107.

by accidental omission. More importantly, the London manuscript in the left margin retains *Iubaino* [*sic*] which is best understood as the rest of the (almost correct) inscription; like so many other inscriptions it was mutilated when the London manuscript was trimmed⁴⁸). The complete inscription is also found in Arsenal I (unknown to Kuttner), where the Cyprian quote itself is lacking but the inscription *Cyprianus Iubaino* [*sic*] is found immediately after the JE 2796 excerpt ending *asseramus*⁴⁹). For this reason, the next canon in Arsenal I (again from JE 2796) appears to be from Cyprian's letter, an error repeated by Ivo in his *Decretum*⁵⁰). Finally, Ivo quoted the Cyprian passage in question, apparently from the *Britannica*, in one of his letters, correctly referring to it as *Ciprianus*⁵¹). All this can be explained easily if we assume that the lost *Britannica* version used for *Tripartita A*, *Arsenal I*, Ivo's letter, and the extant London manuscript contained the Cyprian text in the middle of excerpts from JE 2796 with the inscription *Ciprianus Iubaino*, or perhaps *Ciprianus Iubiano*. Again, a synopsis may help to illustrate this point:

| Lost <i>Britannica</i> version of ca. 1090 (my reconstruction) | Arsenal I (as n. 49) fol. 143v | Ivo 4.188 (ed. Brett, as n. 18) | Extant <i>Britannica</i> (Add 8873 fol. 200r–v) |
|---|--|---|--|
| Item [= Nicolaus in concilio Convicinum]. Imperiali iudicio non possunt ecclesiastica iura [...] inferre iudicium asseramus. | Nicolaus episcopis in concilium apud Convicinum. Imperiali iudicio non possunt ecclesiastica iura [...] inferre iudicium asseramus. | Nicolaus in concilio episcopis apud Convicinum. Imperiali iudicio non possunt ecclesiastica iura [...] inferre iudicium asseramus. | Item [= Nicolaus in concilio Convicinum*]. Imperiali iudicio non possunt ecclesiastica iura [...] inferre iudicium asseramus. |
| Ciprianus Iubaino. Quam periculosum sit in divinis rebus [...] quo semel cessit. | Ciprianus Iubaino. | Ciprianus Iubiano [<i>sic</i>]. | <Ciprianus>Iubaino.* <Q>uam periculosum sit in divinis rebus [...] quo semel cessit. |

⁴⁸) See Ewald (n. 2) 590 n. 1 (“ganz unverständlich”) and Kuttner (n. 28) (overlooking the inscription). When I first studied this *Britannica* passage, I too failed to spot the marginal inscription, and therefore in my PhD thesis stated that the *Britannica* “wrongly attributes it to Nicholas I”, see Rolker, *Canon Law* (n. 31) 153.

⁴⁹) Paris, Bibliothèque de l’Arsenal, 713 fol. 143v.

⁵⁰) *Ibid.* = Ivo 4.188, ed. Brett (n. 18). In the Arsenal manuscript, the inscription reads *Iubaino*, while the *Decretum* manuscripts mostly have *Iubiano*; the reading *Iuliano* is only found in the printed versions (and *Clavis canonum* database). Note, however, that Caesaraugustana 1.60 as found in Paris, BnF, lat. 3875 fol. 6v has *Iubiano*, but in Salamanca, BU, 2644 fol. 6ra has *Iuliano*.

⁵¹) Ivo ep. 60; see Rolker, *Canon Law* (n. 31) 153–4; see also Giordanengo (n. 18).

| | | | |
|--|---|---|--|
| Nicolaus. Quoniam idem mediator Dei et hominum [...] secularibus negotiis implicatus. | Quoniam idem mediator Dei et hominum [...] secularibus negotiis implicatus. | Quoniam idem mediator Dei et hominum [...] secularibus negotiis implicatus. | |
| Item [= Nicolaus]. Quod hi qui a fratre nostro [...] sibi ostenderint criminum. | | | Item. Quod hi qui a fratre nostro [...] sibi ostenderint criminum. |

* Both marginal inscriptions are partly cut off.

It is not clear how the Cyprian quotation found its place among the excerpts of Nicholas' letter in the first place. The fact that the JE 2796 fragments in the Britannica are not in the original sequence (according to Perels) suggests that maybe a minor accident led to the reshuffling of the excerpts, perhaps also the loss of some passages. Maybe in this context the Cyprian quote ended up among the JE 2796 fragments; but this must remain speculation. What is more certain is that the Cyprian passage was already found between two JE 2796 fragments in the lost Britannica of the 1090s, and that it was attributed correctly to Cyprian in this version. Again, we can only speculate what the page looked like, but it is clear that some readers were able to extract correct quotations (as did Ivo in his letter) while others were somewhat confused (as the Arsenal I compiler was). Yet while the textual transmission may be befuddling, there is no need to assume any manipulation here, and especially not by the Britannica compiler.

Summary:

In sum, while Kuttner pointed out several textual oddities in the London manuscript, none of his examples amounts to a convincing case of textual manipulation by the Britannica compiler. Like Ewald, Kuttner largely equated the Britannica with the extant manuscript, and did not reckon with the possibility of non-Roman formal sources (like Hincmar's *Rotula*), and of course could not reconstruct the Britannica version of the 1090s from the various canonical collections today known to have used this source. In the light of more recent scholarship, Kuttner's claims (even if true) would mainly challenge our understanding of the London manuscript but not the Britannica version that must have existed in the 1090s. Alternatively, one could imagine, for the sake of argument, that all changes Kuttner interpreted as manipulations were indeed made when the Britannica (as opposed to the London copy) was made. This model, however, would soon lead to more questions than answers. To begin with, forgers normally have motives to manipulate canonical texts;

but there simply is no reason discernible why the Britannica compiler should have inserted quotations from Hincmar or Cyprian into papal letters. Also, if the Britannica really did contain all these manipulations, it is very hard to explain how the Ivonian collections so consistently undid these manipulations by either avoiding the manipulated passages (as Tripartita A did with the Hincmar ‘interpolation’) or supplying missing references (as Arsenal I and Ivo did with Cyprian). Ivo’s undoing of the Britannica ‘manipulations’ would be particularly odd in the light of Kuttner’s argument for other canons in the Britannica having been tampered with by none other than Ivo himself, as discussed above (JE 3180).

Kuttner was right to question Ewald’s bold claims that the extant Britannica directly used and faithfully represented lost papal registers in all cases, and he was also right that the text of JE 3180, JE 2785, and JE 2796 in the London manuscript is somewhat odd. Yet his observations do not make plausible what he thought they prove. The absence (or near-absence) of inscriptions in the London manuscript, plus the occasional sloppiness of the scribe in separating individual canons are a nuisance for any user of the codex, but not part of a scheme to falsify canonical tradition. For none of the fragments Kuttner claimed to be manipulated is there a reason to suspect the Britannica compiler of tampering with his proof texts.

III. Much Smoke but Little Fire – The Supposed Forged Sources Behind the Britannica

Let us now turn to a different problem. While the Britannica compiler cannot be shown to have manipulated his materials, the *ex registro* sections may nonetheless rely on forged or manipulated formal sources. This was the original argument of Ullmann, who assumed that the Britannica relied on manipulated versions of papal registers doctored in the late eleventh century⁵²). Ullmann took for granted that a number of Leo IV fragments known only from the Britannica (JE 2607, 2608, 2618, and 2619) were forgeries, and argued in 1953 that the same was true for more letters of the same pope (JE 2646, 2613, 2615, and perhaps more)⁵³). Following his lead, Nelson in 1967 also argued that JE 2645 could equally have been manipulated in the eleventh century⁵⁴). A few years later, Kuttner for the first time raised his doubts about the Britan-

⁵²) Ullmann, Observations (n. 11), esp. 280 and 286–7.

⁵³) Cf. *ibid.* 283 and 287, but without discussion.

⁵⁴) Janet L. Nelson, The Problem of King Alfred’s Royal Anointing, in: Journal of Ecclesiastical History 18 (1967) 145–63.

nica discussed above. In 1981, finally, Ullmann rejected all letters of Gelasius I contradicting his views of early medieval papacy as forgeries, and when Peter Landau in 1986 gave a paper on forgeries in pre-Gratian law, he relied on a broad scholarly consensus sceptical of Ewald's model when he suspected another letter of Leo IV (JE 2599) as interpolated⁵⁵).

If one re-reads these studies published from the 1950s to the 1980s today, a certain domino effect is evident. Ullmann and other scholars used the doubts on one letter to call the authenticity of other documents in question. On this basis, the authenticity of yet more letters was called into doubt, often for the sole reason that they showed similarities to other 'doubtful' letters or were transmitted jointly with such texts⁵⁶). It is therefore crucial to return to Ullmann's original argument, but to do so, let us first look at the scholarship Ullmann quoted to argue that several Leo IV fragments in the Britannica were in fact manipulated.

Leo's pallium grant for Hincmar:

When Ullmann first took issue with the reliability of the Britannica, he quoted scholarship on *pallium* grants by Leo IV (JE 2607/2608; Böhmer-Herbers †[?] 239/†[?] 240). This debate was, and is, not so much about the Britannica, and not even Leo IV; above all, the towering figure of Hincmar of Reims dominates scholarly debate⁵⁷). According to sources produced at

⁵⁵) Walter Ullmann, Gelasius I. (492–496), Das Papsttum an der Wende der Spätantike zum Mittelalter, Stuttgart 1981; Landau (n. 6) 40–2. Herbers, Leo IV. (n. 3) later identified a ninth-century copy of JE 2599 (Vat. lat. 3827), but as this copy is incomplete, it cannot be used to check Landau's claims; see also Böhmer/Herbers 203.

⁵⁶) Cf. Herbers, Leo IV. (n. 3): „Diese offenen Fragen führten wohl auch dazu, daß einige Gelehrte, die mit den Problemen der Collectio Britannica vertraut sind, sicherlich grundsätzlich zu Recht in der Collectio Britannica überlieferte Stücke nur noch mit Vorbehalt heranziehen, ohne jedoch das jeweils zur Debatte stehende Fragment einer neuen Prüfung zu unterziehen: Es unterliegt der ‚Sippenhaft‘.“

⁵⁷) Ullmann, Observations (n. 11). Among the vast literature see Herbers, Leo IV. (n. 3); idem in: Böhmer/Herbers †[?]239, †[?]240, and other relevant entries; Steven A. Schoenig, Bonds of Wool: The Pallium and Papal Power in the Middle Ages, Washington 2016, and the excellent discussion by Ludwig Falkenstein, Zu verlorenen päpstlichen Privilegien und Schreiben: Palliumverleihungen an die Erzbischöfe von Reims (8.–12. Jahrhundert), in: Eloquentia copiosus: Festschrift für Max Kerner zum 65. Geburtstag, ed. Lotte Kéry, Aachen 2006, 181–224, Rudolf Schieffer, Zum Schriftverkehr zwischen Hincmar von Reims und dem Papsttum, in: Von der Ostsee zum Mittelmeer, Forschungen zur mittelalterlichen Geschichte für Wolfgang Huschner, hg. von Sebastian Roebert *et al.*, Leipzig 2019, 278–88. Elisa Screen, An Unfortunate Necessity? Hincmar and Lothar I, in: Hincmar of

Reims – above all Flodoard’s chronicle – Leo IV had granted Hincmar not only a *pallium*, but also had allowed him to wear this *pallium* ‘every day’ rather than only on certain occasions, as it was customary for other palliated bishops.

These claims were met with scepticism from medieval times on, and modern scholarship called the authenticity of these letters into question. In 1898, Parisot was the first to spell out in detail why the supposed ‘second’ *pallium* grant for Hincmar by Leo IV was suspicious⁵⁸). By extension, he held that the relevant fragments in the Britannica (JE 2607 and 2608) which referred to the daily use of the *pallium* were either forgeries or at least heavily manipulated, and that Ewald’s model of the Britannica being compiled from papal registers was wrong, at least in the case of Leo IV⁵⁹). According to Parisot, Fournier at the time had shared some of his doubts, but by 1933 at the latest Fournier had retracted this position⁶⁰).

More recently, Herbers thought an interpolation ‘imaginable’, and Schoenig assumed the letter was ‘probably’ interpolated⁶¹). Falkenstein in turn

Rheims: Life and Work, ed. Rachel Stone/Charles West, Manchester 2015, 76–92, here at 85–92, summarises Herbers’ findings.

⁵⁸) Robert Parisot, *Le royaume de Lorraine sous les Carolingiens (843–923)*, Paris 1898, here at 737–42.

⁵⁹) *Ibid.* 741: “Cette opinion [d’Ewald, CR] ne nous paraît plus soutenable, au moins pour ce qui concerne les lettres de Léon IV.”

⁶⁰) *Ibid.* 742 n. 8, quoting Fournier as supporting his claims that the Leo IV letters in the Britannica were “complètement fausses ou fortement interpolés” and that the genesis of the Britannica was utterly different from what Ewald had proposed (“tout autrement”). If Fournier indeed held such views in the late 1890s, he later must have changed his mind again, see Fournier, *Histoire* (n. 2) 155–63. Perhaps he followed, like most French historians, the arguments of Émile Lesne, Hincmar et l’empereur Lothaire, in: *Revue des questions historiques* 78 (1905) 5–58. Also, in 1911 Fournier borrowed Bishop’s transcript [1878], allowing him to assess the question more thoroughly than before, see Robert Somerville, Edmund Bishop and His Transcription of the *Collectio Britannica*, in: *Studia in honorem eminentissimi Cardinalis Alphonsi M. Stickler*, ed. Rosalio José Castillo Lara, Rome 1992, 535–48; and *idem*, Urban II (n. 1) 6 n. 13.

⁶¹) Herbers in Böhmer/Herbers †(?)240; *idem*, Leo IV. (n. 3) 347: „Vor diesem Hintergrund [Hincmar’s readiness to falsify papal letters, CR] wäre zumindest denkbar, daß eine Pallienverleihung Leos IV. weiter ‚bearbeitet‘ wurde.“ Schoenig (n. 57) esp. 106–7 is slightly more sceptical than Herbers on JE 2608 (“probably forged or interpolated”) but agrees that in the case of JE 2607 “the removal of two words, *cotidianum* and *cotidie*, renders it mostly unobjectionable”; see also Brett, *New Letters* (n. 1) 81–2 on both JE 2608 and Leo [IV?], JE – (J³ –), another grant of *pallium*, and most recently Schieffer, *Schriftverkehr* (n. 57) 278.

provided additional arguments against the idea that Leo granted him the daily use of the *pallium*; such a privilege would not only have been unique in canon law history, but it was also unknown to Nicholas I who specifically chastised Hincmar for using the *pallium* more frequently than the papal privilege allowed (JE 2823). Strikingly, Hincmar himself (not normally known to be shy in such matters) in his answer to the pope was extremely ambiguous, downplaying his actual use of the *pallium*; he neither quotes nor otherwise implies that Leo IV had granted the daily use of the *pallium*. Falkenstein concluded that Flodoard's report was unreliable⁶²), and by extension that the relevant Britannica fragments ultimately relied on forgery. On the other hand, Schoenig pointed to a privilege for Bruno of Cologne (d. 965) to use the *pallium* 'as often as he wished', and that Nicholas I, however reluctantly, was ready to accept the possibility that Hincmar had received a similar privilege⁶³). Furthermore, Schrör pointed out that if Hincmar by 866 had indeed forged not only the privilege but also Leo's letter to the king referring to this privilege (JE 2708), this would have been an unnecessarily risky forgery, as many contemporaries of the events of the 850s were still alive at the time⁶⁴). Yet even if one assumed that the privilege (JE 2707) was genuine, this would not automatically mean that the Britannica relied on Leo's lost register; after all, privileges were normally not copied into papal registers well into the later Middle Ages.

All in all, there are good reasons to distrust both fragments as found in the Britannica, and in particular the idea that the fragments go back to papal registers. In the context of the Britannica, however, it is also important to note that whatever happened to JE 2608, it must have happened in Hincmar's or Flodoard's lifetime, long before the Britannica was compiled⁶⁵). While the Britannica compiler clearly had nothing to do with producing JE 2607 and 2608, and (*pace* Ullmann) did not rely on 'forged registers' compiled in the

⁶²) Falkenstein (n. 57) 187–90 and 218: „Dagegen dürfte seine [Flodoards, CR] Mitteilung, Gregor IV. habe Hincmar bewilligt, das ihm verliehene Pallium täglich zu tragen, keine Glaubwürdigkeit verdienen.“

⁶³) Schoenig (n. 57) 136 and 224–5. The lost privilege for Bruno to wear the *pallium quoties vellet* (JE 3658; J³ 7727) is only known from Rutger's *Vita Brunonis*, ed. Ott, MGH SS rer. Germ. n.s. 10, 27.

⁶⁴) My thanks are to Matthias Schrör for sharing this observation with me (private communication). Dr Schrör is preparing a study on the *pallium* grant(s) for Hincmar; for the time being see his *Metropolitangewalt und papstgeschichtliche Wende*, Husum 2009, ch. 4.

⁶⁵) Herbers, Leo IV. (n. 3) 346; Schoenig (n. 57) 224; Schieffer, *Schriftverkehr* (n. 57) 278.

eleventh century here, he in all probability did not take these fragments from Leo's register either.

The Excommunication of the Emperor:

Two more fragments Parisot and Lesne thought to be forgeries are JE 2618 and 2619 (Böhmer-Herbers † 134/135), both known only from the *Britannica*⁶⁶). Compared to JE 2607 and 2608, they received less attention and long passed as genuine, even if their content was often seen as strange. In JE 2618, Pope Leo IV sharply criticised Hincmar for usurping the see of Reims during the lifetime of his predecessor Ebo, and for having excommunicated Emperor Lothar and his brother, King Charles the Bald, together with their wives and children. The other fragment, itself consisting of two paragraphs linked by *item* in the *Britannica*, is addressed to the emperor; it contains the same point about Hincmar's 'usurpation' of the see of Reims and relates that Leo had prohibited Leo to excommunicate the emperor in the future.

The politics of the 840s and 850s is confusing enough, but the idea that Hincmar had excommunicated the emperor (apparently between 847 and 855) is particularly hard to reconcile with the evidence outside the *Britannica*. We know that Hincmar wrote to the emperor concerning a certain Fulcher (*Fulcerius*) whom he had excommunicated, and the fact that Hincmar wrote several such letters may suggest that the emperor had continued to support Fulcher⁶⁷). The conflict may have escalated, and in principle, Hincmar could have felt justified to excommunicate the emperor for continuously supporting Fulcher, but without further support, this remains speculation. Hincmar's letters alone do not justify the assumption that he excommunicated (as JE 2618 relates) the emperor, the king, plus their wives and children⁶⁸). Mainly for this reason, Herbers came to the conclusion that JE 2619 was suspicious and JE 2618 was fabricated by supporters of Ebo of Reims. Herbers also highlighted the fact that the only other report that Ebo sought help from Rome in the conflict over the see of Reims comes from a partisan source – known as *Narratio clericorum Remensium* – produced by clergy supporting Ebo; in other words, both fragments may have been forged (or manipulated) by the same group that also produced the *Narratio*.

⁶⁶) *Britannica* Leo IV.37 and 38 (Add 8873 fols. 169r–170r) = Leo IV, epp. 36–7, ed. Adolf von Hirsch-Gereuth, MGH Epp. 5, 604–6; see Parisot, *Royaume* (n. 58) 740–1, Lesne, *Hincmar* (n. 60) 53–4, and 57; Herbers, *Leo IV.* (n. 3) 53–4, 342–3; and *idem* in *Böhmer/Herbers † 134 and 135*.

⁶⁷) Flodoard of Reims, *Historia*, ed. Martina Stratmann, MGH SS 36, 208; see also JE 2614 = *Böhmer/Herbers † 134 and 135*.

⁶⁸) *Pace* Ewald (n. 2) 390 n. 4.

As things stand, therefore, it is hard to believe that JE 2618 and 2619 as found in the London manuscript are genuine, and there is no evidence that the Britannica of the 1090s contained a less suspicious version. Herbers' argument that the suspicious phrases in fact go back to the conflicts surrounding Hincmar is sound, and I therefore follow his conclusion that JE 2618 is a forgery and JE 2619 at least suspicious.

In the debate on the Britannica, these two fragments never have played an important role, but they indeed call into question Ewald's optimism that the lost registers of Leo IV could be reconstructed from Add MS 8873. As in the case of the supposed *pallium* grants discussed above it is important to note that JE 2618 and 2619 in all probability were forged or manipulated long before the Britannica was compiled, and it is also interesting that the Britannica thus contains both forgeries in favour of Hincmar of Reims (JE 2607/2608) and suspicious materials forgeries apparently coming from his opponents at Reims (JE 2618/2619).

A 'great stumbling block': Ullmann and JE 2646:

For the Britannica scholarship, the important point was that since the 1890s some of Leo's letters were seen as suspicious, and that this plausibly influenced Walter Ullmann in developing his view on the Britannica which in turn had a strong impact on twentieth-century scholarship on the collection. Ullmann's doubts were originally based above all on the content of three Leo IV fragments (JE 2613, 2615, and 2646) which contradicted his view of early medieval papacy; he saw Parisot's arguments as support for his position. Mainly, however, Ullmann argued from the content of the fragment of Leo's Letter 40 (JE 2646)⁶⁹). Both for Ullmann himself and scholars following his lead, it was this fragment in particular that made other letters in the Britannica suspicious⁷⁰).

Therefore, let us take closer look at JE 2646. According to the text found in the Britannica, the pope asked Emperor Louis II to send legates, and professed his readiness to accept the emperor's judgement if he, Leo, had acted unlawfully⁷¹). Ullmann thought that this text was unique in calling into ques-

⁶⁹) Leo IV ep. 40, ed. von Hirsch-Gereuth (n. 66) 607.

⁷⁰) Nelson (n. 54) (JE 2645); Kuttner (n. 28) 71 (general); Landau (n. 6) 41 (JE 2599); Herbers, Leo IV. (n. 3) 87 (JL 3446).

⁷¹) Leo IV ep. 40, ed. von Hirsch-Gereuth (n. 66) 607: *Nos si aliquid incompetenter egimus, et in subditis iuste legis tramitem non conservavimus, vestro ac vestrorum missorum cuncta volumus emendare iudicio, quoniam si nos, qui aliena debemus corrigere, peiora committimus, certe non veritatis discipuli, sed quod dolentes dicimus, erimus pre ceteris erroris magistri. Inde magnitudinis vestre magn-*

tion papal immunity, and for this reason alone was doubtful⁷²). Specifically, he argued it could only be the product of a pro-imperial forgery of the late eleventh century. In his view this was supported by JE 2646 being “found for the first time not in a canonistic collection or any other technical work but in an anti-papal pamphlet entitled *De Investitura Regali*” composed in the aftermath of Canossa but before 1084⁷³). According to Ullmann, the “manipulated” (as he contended) papal registers containing JE 2646 and other forgeries had some circulation, as *De investitura regali*, the *Britannica*, *Tripartita A*, Ivo’s *Decretum*, and Gratian all drew on this source, at least in part independently of each other⁷⁴).

Some of Ullmann’s arguments are speculative, but the majority of them are demonstrably wrong. To begin with, Ullmann was rash to assume ‘pro-imperial forgery’ solely on the basis of the content of JE 2646. In this context, it is worth remembering that another important proof text limiting papal immunity was introduced into canon law by none other than Cardinal Deusdedit⁷⁵), who may have occasionally manipulated his texts but certainly was not a ‘pro-imperial forger’. Herbers in his study on Leo IV was therefore rightly reluctant to accept Ullmann’s claims on the basis of the content alone; if JE 2646 were a forgery, Herbers held, the decisive proof would have to come from the transmission⁷⁶).

Yet Ullmann’s arguments on the manuscripts and collections in question are even weaker than his argument on the content of JE 2646. Concerning the

opere clementiam imploramus, ut tales ad hec, que diximus perquirenda missos in his partibus dirigatis, qui Deum per omnia timeant, et cuncta quemadmodum si vestra presens imperialis gloria fuisset, examussim diligenter exquirant, et non tantum hec, que superius diximus, exagitent, sed sive minora sive etiam maiora illis sint de nobis indicata negotia, ita eorum cuncta legitimo terminentur examine, quatinus in posterum nichil sit, quod ex eis indiscussum vel indiffinitum remaneat.

⁷²) Ullmann, *Observations* (n. 11) 279, calling JE 2646 a “great stumbling block” to the idea of papal immunity from secular jurisdiction.

⁷³) *Ibid.* 281–2.

⁷⁴) Ullmann, *Observations* (n. 11) 280–2.

⁷⁵) Deusdedit 1.306 (231) (n. 24) 177–8, here at 177: *Cuius [papae, CR] culpas istic redarguere presumit mortalium nullus, quia cunctos ipse iudicaturus a nemine est iudicandus, nisi forte deprehendatur a fide devius.* Deusdedit’s collection is the earliest occurrence of this famous text; its origin is unknown; for Ullmann’s interpretation of this key text on papal immunity see Walter Ullmann, *Cardinal Humbert and the Ecclesia Romana*, in: *Studi Gregoriani* 4 (1952) 111–27.

⁷⁶) Herbers, *Leo IV.* (n. 3) 65: „Der reduzierte Wert des ‚inhaltlichen Argumentes‘ wurde bereits hervorgehoben, entscheidend war wohl auch für Ullmann der Überlieferungskontext.“

transmission of the supposed ‘manipulated registers’, Tripartita A, Ivo’s Decretum, and Gratian can no longer be counted as independent witnesses, as Ullmann seemed to have assumed; the Leo material in question was clearly transmitted from an early Britannica version via Tripartita A to both Ivo and Gratian. As for the use of these registers and the ‘first appearance’ of JE 2646 in an ‘anti-papal pamphlet entitled *De Investitura Regali*’, almost every single claim Ullmann made is positively false. To begin with, the ‘pamphlet’ as found in the sole copy (Bamberg, Staatsbibliothek, Msc.Can.9) is a dossier of short anonymous texts on Saint Mary, the penance of Salomon, eschatology, and the two powers⁷⁷). The impression that the material formed a ‘pamphlet’ is based on the selective nature of Böhmer’s edition and in particular the suggestive title ‘On royal investiture’ introducing the excerpts from papal letters. Crucially, the suggestive title was Böhmer’s invention; contrary to what the edition suggests, it is not found in the manuscript⁷⁸). As for the link to Canossa, the date, and the ‘pro-imperial’ character of the whole dossier, Ullmann likewise relied on Böhmer’s interpretation of its first part, which deals with kings doing penance (*De paenitentia regum*). Yet none of Böhmer’s interpretations stand to scrutiny. As Märzl demonstrated long ago, there is no reason to see *De paenitentia regum* as specifically pro-imperial nor to date it to the late eleventh century (let alone to link it to Canossa)⁷⁹). Similar texts circulated both before and after the eleventh century, and independently from any pro-imperial propaganda. Nothing suggests that the Bamberg excerpts – covering very diverse issues – were meant to form a coherent ‘tract’, and no *terminus ante quem* apart from the production of this part of the codex at some point in the twelfth century can be established. The idea that Bamberg Msc.Can.9 was evidence for pro-imperial forgeries predating the Britannica can and should be given up.

For all these reasons, the Bamberg copy of JE 2646 does not support Ullmann’s claim that it was a pro-imperial forgery. In addition, not only is there no evidence that Bamberg Msc.Can.9 preserved a source also used

⁷⁷) Bamberg, Staatsbibliothek, Msc.Can.9 (*olim* P.I.9) fol. 106r–110v, ed. Heinrich Böhmer, MGH Libelli de lite 3, 610–4; for bibliographical references see the digital version urn:nbn:de:bvb:12-sbb00000073–7.

⁷⁸) The headline *De investitura regali*, *ibid.* 610 line 4, is not found in the Bamberg manuscript fol. 107r; no other manuscript is known. To mimic a phrase from Böhmer’s own apparatus (n. 77) 610 n. 1: *Hox finxit editor, opinior*. Ullmann, Observations (n. 11) did not see the manuscript, as is also evident from his use the pre-1906 shelfmark “P.I.9”.

⁷⁹) Claudia Märzl, Ein angeblicher Text zum Bußgang von Canossa, in: Deutsches Archiv 38 (1982) 555–63.

by the Britannica (as Ullmann claimed); actually, it can be established with great clarity that Bamberg Msc.Can.9 depends on the Tripartita, and hence indirectly on the Britannica. This direction of dependence was first suggested by Herbers, who pointed out that the Bamberg codex also contained Ivo's letter to Hugh of Lyon from 1097⁸⁰). Herbers also indicated that already the edition of JE 2613 and 2646 suggested that the Bamberg copy was closer to the Tripartita A than to the Britannica⁸¹). Indeed, this is also true for another letter of Stephen V (JL 3446) found between the two Leo IV letters in *De paenitentia regum*; for none of the three letters does Bamberg Msc.Can.9 share any of the peculiar readings of Add 8873. Rather, it almost always has the same readings as Tripartita A. Thanks to the ongoing edition by Brett and Nowak, one can compare Bamberg Msc.Can.9 to the different versions of this influential collection⁸²). Two variants in JL 3446 specifically suggest the use of the second recension of the Tripartita⁸³). Direct reliance on the Tripartita cannot explain all variants found in the Bamberg codex⁸⁴), but the use of the second recension of the Tripartita is by far the best explanation for the text of JE 2613, JL 3446, and JE 2646 as found in Bamberg Msc. Can.9. Therefore, the Bamberg manuscript is not (as Ullman asserted) a witness of a formal source of the Britannica but rather depends on a reworked

⁸⁰) Herbers, Leo IV. (n. 3) 65; see also Rolker, Canon Law (n. 31), esp. 17–21 (context), 153 (canon law), and 307–8 (concordance table).

⁸¹) Herbers, Leo IV. (n. 3) 66, based on JE 2613 and 2646, ed. von Hirsch-Gereuth (n. 66) 597 and 607, here checked against Add 8873 fol. 166r and 170r–170v, Bamberg, Staatsbibliothek, Msc.Can.9 fol. 109r–v, and Tripartita A1.60.20 and 23 (as n. 18).

⁸²) Bamberg fol. 109r–v (n. 77) 612 line 19 to 613 line 11; on the two versions of the Tripartita see Brett's introduction to the edition (n. 18) and Przemysław Nowak, A Legation of Galo, Bishop-Elect of Beauvais, to Poland in 1104 and the Collectio Tripartita, in: Proceedings of the Fifteenth International Congress of Medieval Canon Law, Paris, 17–23 July 2016, ed. Franck Roumy [forthcoming]. My thanks are to Dr Nowak for making his manuscript available to me before publication.

⁸³) Stephen V, JL 3446, ed. Erich Caspar, MGH Epp. 7, 349 lines 23 and 25; Bamberg, Staatsbibliothek, Msc.Can.9 fol. 109r; Britannica Stephen V.27 (Add 8873 fol. 158r); Tripartita A1.64.7 (n. 18): Britannica and the first recension of Tripartita A have *nostro* and *ordinare*, while the Bamberg copy has *vestro* and *consecrare* like the second recension of Tripartita.

⁸⁴) Namely, JL 3446 as found in Bamberg, Staatsbibliothek, Msc.Can.9 fol. 109r has *non* where Britannica and Tripartita (ed. Caspar, n. 83, 350 line 3) have *haud*, lacks *imperatoria* and *dureque* found in Britannica and Tripartita (*ibid.*, lines 5 and 7), and has *canonica instituta* where Britannica and Tripartita have *statuta canonica* (*ibid.*, lines 7–8).

form of a collection which itself depends on the Britannica. This makes it almost impossible that the Bamberg dossier containing JE 2613 and 2646 was compiled before ca. 1100; a date one or two decades later is much more plausible.

Given that Ullmann's arguments concerning the content of the letters of Leo IV were mainly based on his own contentious interpretation of early medieval papacy, and his arguments concerning their textual history are unsustainable, I see no reason to share any of his doubts on the authenticity of the Leo IV section in the Britannica⁸⁵). Herbers may be right that a rewording of JE 2646 in the late eleventh century was 'not impossible'⁸⁶), but I would not go beyond conceding this possibility. While Herbers still thought that *De investitura regali* was a tract that could pre-date the Britannica⁸⁷), closer analysis of the Bamberg manuscript shows that not only is the title of the 'tract' an invention of the editor, but also that the passages in question clearly depend on, and thus post-date, the Britannica. Ullmann's original argument was deeply flawed, and none of the supporting evidence he quoted stands to scrutiny; decades of research, including that by Ullmann himself and several scholars accepting his claims, have not provided any evidence that the JE 2646 fragment was indeed forged or manipulated. In sum, there is no reason at all to treat JE 2646 as a forgery.

Ullmann on the Letters of Gelasius I:

Today, it may seem obvious that Ullmann's arguments on JE 2646 were flawed from the beginning, but for decades they influenced much scholarship on early medieval history. Once it was taken for granted that the Britannica contained a pro-imperial forgery, the burden of proof was shifted more and more to those defending the authenticity of the papal letters found only here, especially if they dealt with the relation between secular and ecclesiastical power. The most obvious case of this development was Ullmann's monograph on Gelasius he published shortly before his death. Here, Ullmann without

⁸⁵) By the same token, doubts on the authenticity of JL 3446 (n. 83) based on its presence in Bamberg, Staatsbibliothek, Msc.Can.9 fol. 109r should be given up; *pace* Herbers, Leo IV. (n. 3) 87.

⁸⁶) Herbers in Böhmer/Herbers †(?) 221: „nicht auszuschließen“; see next note.

⁸⁷) Herbers *ibid.* summarizing his earlier research: „[D]emnach liegt Überlieferung in *De investitura regali* nicht unbedingt früher als diejenige in der Coll. Brit. Zuspitzungen des Fragmentes im Zusammenhang mit den Auseinandersetzungen des Investiturstreites sind durchaus denkbar, aber eine echte Grundlage ist nicht auszuschließen.“

much discussion extended his suspicion to all letters of Gelasius I in the *Britannica*⁸⁸). Again, his doubts were mainly based on the content; the letters did not fit the ‘hierocratic’ theories which Ullmann expected Gelasius to have followed. Specifically, Ullmann assumed that Gelasius for ideological reasons would not have written to Theoderic, let alone as politely as in the letters preserved in the *Britannica*⁸⁹). Yet as Amory demonstrated, the assumed cultural divide between pope and king was a ‘baseless theory’; he also pointed at letters of Gelasius transmitted independently of the *Britannica* which ‘refer to the king in respectful terms and imply that the pope was already having contact with him’⁹⁰).

Thus research on Gelasius I and the transmission of his writings on the whole has not followed Ullmann. However, in the absence of a critical edition of Gelasius’ work, Ullmann’s broadside on the *Britannica* – the most important single source for the transmission of genuine Gelasian letters – had considerable impact. This may also explain why some nineteenth-century hypotheses concerning works attributed to Gelasius I have resurfaced in recent years. For example, on two separate occasions the *Decretum Gelasianum* was presented as if Gelasius I could have composed it. Namely, the third edition of the *Regesta pontificum*, apparently unaware of the research by Ernst von Dobschütz, classifies the document as ‘doubtful’, but not forged⁹¹). This may adequately reflect the pre-1912 scholarly consensus, but none of the many studies of the twentieth century ever returned to this position⁹²). Even more striking is an assertion in an overview article on Gelasius I which in rather casual fashion asserts that the *Decretum Gelasianum*

⁸⁸) Ullmann, Gelasius I. (n. 55) esp. 218 n. 3, 225–6, and 227 n. 36; for important corrections see Patrick Amory, *People and Identity in Ostrogothic Italy*, Cambridge 1997, 489–554, here at 198–200, esp. 200 n. 22; and Jasper, *Beginning* (n. 1) 64 and 109–10.

⁸⁹) Ullmann, Gelasius I. (n. 55) 218–22.

⁹⁰) Amory (n. 88) 200 n. 22.

⁹¹) J³ ?1357 does not quote any literature from the twentieth century, let alone use it. The ‘?’ is used to mark doubtful letters, while possible forgeries are marked by ‘?†’. Curiously, the entry even mentions von Dobschütz’ edition but ignores his arguments on the genesis of the *Decretum Gelasianum* found in the same book, see Ernst von Dobschütz, *Untersuchung*, in: *Das Decretum Gelasianum de libris recipiendis et non recipiendis*, ed. idem, Leipzig 1912, 135–357; and in addition Caspar, *Geschichte* (n. 15) 773.

⁹²) Ursula Reutter, *Damasus, Bischof von Rom (366–384): Leben und Werk*, Tübingen 2009, 468–512 provides an excellent overview and detailed discussion; she suggests renaming the document *Decretum Damasi*; see also Eligius Dekkers, *Clavis Patrum Latinorum*, 3rd ed. Steenbrugge 1995, no. 1676.

was genuine⁹³). In like fashion, the author calls the question of authorship for one letter wrongly attributed to Gelasius (JK 988) ‘unresolved’, as if Ewald, Kaltenbrunner, Gassó, Batlle, and many others had never studied the Britannica⁹⁴). This is close to Ullmann’s position, who flatly ignored so many of Gelasius’ letters found in the Britannica (and some found outside), and may even, if indirectly, be influenced by his attacks on the credibility of the Britannica.

The ‘Archbishop of Dol’ in JE 3003:

The only other instance where the Britannica was said to contain a ‘forgery’ is a curious fragment of a letter of John VIII (JE 3003)⁹⁵). It is transmitted in the Britannica and was known both in Dol and in Tours in medieval times. Both churches were involved in a prolonged conflict, as the bishops of Dol repeatedly claimed independence from Tours; using genuine and forged papal letters, they claimed to be archbishops, metropolitans, palligers, or otherwise exempt from the jurisdiction of the archbishops of Tours. The conflict dates back to the ninth century, and although several popes and also the Council of Clermont 1095 ruled in favour of Tours, the dispute was finally settled by Innocent III only in 1199.

Together with JE † 2950 (clearly a forgery), JE 3003 belongs to the documents quoted by the clergy of Dol in this case to substantiate their claims

⁹³) Bronwen Neil, Gelasius I, in: *Great Christian Jurists and Legal Collections in the First Millennium*, ed. Philip L. Reynolds, Cambridge 2019, 297–314, here at 298; in this context, she bizarrely claims that the “ascription to Gelasius [...] was upheld by Ernst von Dobschütz”. The opposite is true, see von Dobschütz, *Untersuchung* (n. 91) esp. 340–4.

⁹⁴) Neil, Gelasius I (n. 93) 298; in this context, she does not even mention Ewald (n. 2) 542, Kaltenbrunner (JK 988), Dekkers (n. 92) no. 1698/1702, or indeed the critical edition: Pelagius I, ed. Gassó/Batlle (n. 20) ep. 29, 84–6. The last time the fragment was attributed to Gelasius I was by Baluze (repeated by Thiel), who relied solely on the inscription in Paris, BnF, lat. 3875 and 3876 (two copies of the *Caesaraugustana*), see Étienne Baluze, *Miscellanea novo ordine digesta* [...], ed. Giovanni Domenico Mansi, vol. 3 Lucca 1762, 1 (the reference to the manuscripts is only found in the preface, p. III); and *Epistolae Romanorum pontificum genuinae et quae ad eos scriptae sunt, a S. Hilario usque ad Pelagium II.*, vol. I [all published]: A S. Hilario usque ad S. Hormisdam, ed. Andreas Thiel, Braunsberg 1868, here at 484.

⁹⁵) *Britannica* John VIII.41 = Add 8873 fol. 132r (n. 83) 299–300; see Ewald (n. 2) 312. Note that the fundamental study by Dietrich Lohrmann, *Das Register Papst Johannes’ VIII. (872–882), Neue Studien zur Abschrift Reg. Vat. I, zum verlorenen Originalregister und zum Diktat der Briefe*, Tübingen 1968, does not discuss JE 3003.

to metropolitan status and independence from Tours. The clergy of Tours knew the document well enough to produce a detailed critique in 1198/99⁹⁶). This transmission at Dol and Tours is crucial to assess the reliability of the Britannica for JE 3003, even if the evidence is very indirect. A large collection of historical documents extracted from the Tours archives in the late seventeenth century suggests that medieval documents on the conflict with Dol were still preserved at Tours in early modern times⁹⁷). It contains a transcription of JE 3003, apparently taken from a dossier of papal letters from the ninth to the twelfth centuries, roughly in chronological sequence; there are several lacunae and corrections indicating the scribe struggled with his source. Edmonde Martène printed JE 3003 in his *Collectio nova* with exactly the same lacunae⁹⁸). In preparation of the *Thesaurus*, Martène seems to have looked at the original again; in the new preface, he claimed to have edited all documents on the Dol affair from the archival sources, and correspondingly added the subtitle *Ex archivis ecclesiae Turonensis* to the whole section⁹⁹). Compared to the *Collectio nova*, the text of JE 3003 in the *Thesaurus* is more complete; the most interesting addition is the dating clause at the very end: *VII in libro 4 epistola 4*¹⁰⁰). There also is an eighteenth-century manuscript which seems to rely on the lost Tours manuscript but does not contain JE 3003¹⁰¹). The printed editions of the eighteenth and nineteenth centuries all rely on Martène and Durand for the text of JE 3003 (Carafa did not know it); only in 1928, Caspar in his MGH edition also used the Britannica¹⁰²).

Let us turn to the letter itself. It is, or pretends to be, a letter of John VIII directed to Dol and the Breton bishops, informing them about a pilgrimage to

⁹⁶) *Mémoires pour servir de preuves à l'histoire ecclésiastique et civile de Bretagne* [...], ed. Hyacinthe Morice, vol. 1 Paris 1742, 753–9.

⁹⁷) Paris, BnF, français 22322 [not seen]. It was first reported by Lohrmann (n. 95), here at 155 n. 170; but only Unger in Böhmer/Unger 410 reported that JE 3003 and 3144 are found in the manuscript.

⁹⁸) *Veterum scriptorum et monumentorum moralium, historicorum, dogmaticorum, ad res ecclesiasticas, monasticas et politicas illustrandas, collectio nova*, ed. Edmond Martène, Rouen 1700, here at 51.

⁹⁹) *Thesaurus novus anecdotorum*, ed. Edmond Martène / Ursin Durand, vol. 3 Paris 1717, cols. 855/856 (preface) and 849/850 (quote), respectively. Of course, such claims cannot always be taken at face value, as Lohrmann (n. 95) pointed out in the case of JE 3144, which Martène printed not from the lost Tours manuscript but indeed from Labbe's edition.

¹⁰⁰) *Thesaurus* (n. 99) 867.

¹⁰¹) Paris, BnF, Collection Moureau 2 [not seen], as reported by Caspar, *Studien* (n. 2) 106 n. 1; Hartmann (MGH Conc. 5, 91).

¹⁰²) John VIII (n. 83) ep. 44, 299–300.

Rome by certain Breton monks, and the validity of consecrations conferred by Abbot Heclocar, even if the abbot overstepped his competences¹⁰³). The content of the letter is not in itself very suspicious, unless one identifies (as Unger did) ‘Abbot Heclocar’ in the letter with Abbot-Bishop Helocar (*sic*) of the early ninth century¹⁰⁴), several decades before John became pope. The address of JE 3003, in contrast, is clearly problematic. In the extant London manuscript of the Britannica, the letter is presented as being sent to a certain ‘Archbishop Magnus’; there probably was a reference to Dol before the manuscript was trimmed¹⁰⁵). In the lost Tours manuscript the addressee was called ‘Archbishop Mainus’ of Dol according to Martène¹⁰⁶). The only other letter John VIII sent to Dol is addressed to ‘Bishop Mahen of Dol’ (JE 3144)¹⁰⁷), and clearly ordered the bishops of Brittany to obey the archbishop of Tours.

Despite this contradiction and the known use of forgeries like JE † 2950 by the Dol clergy, JE 3003 was long accepted as genuine. The discussion of the date merits some attention as it is also potentially relevant for the question of authenticity. Ewald assumed JE 3003 was written in 874/875 according to its position in the Britannica¹⁰⁸). Caspar in 1911 tried to establish a more precise date by using the dating clause today only known from the *Thesaurus novus (VII in libro 4 epistola 4)*¹⁰⁹). He concluded that JE 3003 was the fourth letter in ‘volume four’ of the register, thus presumably written early in John’s fourth year as pope. In addition, Caspar claimed the *VII* referred to the seventh indiction and could be used to date the letter not long after 1 September 874 (*sic*)¹¹⁰). Both assumptions are wrong, as the seventh indiction started 1 September 873, and the fourth year of John’s reign began only on 14

¹⁰³) *Ibid.*

¹⁰⁴) Unger in Böhmer/Unger † 35. Her main argument seems to be the rarity of the name.

¹⁰⁵) Britannica John VIII.41 (Add 8873 fol. 132r): *Magno archep [sic]*. The inscription is found in the outer margin and seems to have been cut off when the manuscript was trimmed.

¹⁰⁶) *Collectio nova* (n. 98) 51 = *Thesaurus* (n. 99) 867: *dilecto atque praeclaro filio Maino archiepiscopo*.

¹⁰⁷) John VIII (n. 83) ep. 92, 87–8: *Mahen Dolensi episcopo*.

¹⁰⁸) Ewald (n. 2) 318–9, claiming that epp. 34–44 were all written between early March 874 and late February 875, and that epp. 45–55 (the last letters in the section) were all written before the end of August 875.

¹⁰⁹) Caspar, *Studien* (n. 2) 106 n. 1: „Das kann ebenfalls nur auf das Register gehen und heissen: VII. Indiktion, im vierten Regierungsjahr, was vortrefflich untereinander und zu der Stellung des Briefs in der *Collectio Britannica* passt und es ermöglichen würde, ihn genauer, statt zu 874–75, zum September 874 zu setzen.“

¹¹⁰) *Ibid.*

December 875. This would be later than the position of the letter in the *Britannica* suggests¹¹¹). Perhaps for this reason, Caspar in his edition retracted his opinion¹¹²), stating now that the letter was written in 874 or early 875, more or less as Ewald had done (who had proposed a date between March 874 and February 875). Even if the reference to the ‘fourth volume’ meant the letters written in the ninth indiction (the fourth of John’s reign), the letter would still pre-date the letters in the extant copy of the register (Reg. Vat. 1)¹¹³). The absence of JE 3003 from Reg. Vat. 1 does therefore not in itself call into doubt the authenticity of the letter.

Indeed the sole reason to see JE 3003 as manipulated is the address referring to an ‘archbishop’ of Dol. Already in the late twelfth century, the clergy of Tours was suspicious about it; they rightly pointed out that the archiepiscopal title neither fit the rest of the address, nor was it repeated in the letter itself¹¹⁴). Smith assumed the address was manipulated to support the claims to metropolitan status of Dol in the eleventh century, and also thought it possible that the falsification extended to the attribution to John VIII¹¹⁵). Herbers more cautiously thought Dolois influence on the *Britannica* or its formal sources possible to explain the address of JE 3003¹¹⁶). Recently, Unger called the whole letter a forgery¹¹⁷).

The complicated history of Dol’s claim to metropolitan dignity cannot be discussed here in any detail¹¹⁸). Conflicts over these claims continued, with

¹¹¹) See Ewald (n. 2) 318–9.

¹¹²) Erich Caspar in MGH Epp. 7 (n. 83) 300 n. *: *nihil valet ad tempus, quo epistola scripta sit, statuendum*.

¹¹³) On Reg. Vat. 1 and the letters it contains see Lohrmann (n. 95).

¹¹⁴) Mémoires, ed. Morice (n. 96) 754: *Sed respondemus credendum est, quod per errorem scriptoris nomen archiepiscopi sit appositum, maxime quia in salutatio scriptum tantum invenitur, non in epistolae corpore. Item etiam quia in ipsa salutatio dicitur, nec non et ceteris episcopis Britanniae, nec apponitur suffraganeis*.

¹¹⁵) Julia M.H. Smith, *Province and Empire: Brittany and the Carolingians*, Cambridge 1992, here at 180 n. 133 asserted that the “superscription (‘*Magno archiepiscopo*’ [sic, CR]) and probably also the attribution to John VIII appear to be late eleventh-century tamperings to an authentic papal letter of uncertain date”. André Chédeville / Hubert Guillotel, *La Bretagne des saints et des rois: V^e–X^e siècle*, Rennes 1984, 331–2 accepted it as genuine without discussion.

¹¹⁶) Herbers, Leo IV. (n. 3) 79 n. 83: „[...] erscheint es mir nicht ganz ausgeschlossen, daß bretonischer neben Reimser Einfluß bei der Zusammenstellung der Coll. Brit. oder eher noch im Vorfeld vermutet werden könnte“; on Herbers’ arguments on Reims see the discussion of JE 2618 and 2619 above.

¹¹⁷) Unger in Böhmer/Unger † 35.

¹¹⁸) See Smith (n. 115) *passim*; and most recently Schoenig (n. 57) 112–4 and 314–6.

varying degrees of intensity, for more than 300 years. In the eleventh and twelfth centuries, Dol's claims were rejected by numerous synodal and papal decisions, but several popes also bestowed the *pallium* on bishops of Dol, while probably not accepting them as 'archbishops'¹¹⁹). Other opponents of the archbishops of Tours seem to have taken up Dol's claim simply because they knew it annoyed the archbishop: Somerville reports an account of the Council of Clermont from Marmoutier where the list of participants refers to the bishop of Dol as 'archbishop' apparently for the only reason that Marmoutier at the time was involved in a dispute with the archbishop of Tours¹²⁰). Only in 1199, Innocent III finally settled the case in favour of Tours¹²¹). Certainly at this occasion – probably not for the first time – the clergy at Dol quoted JE 3003 in favour of their case. However, it hardly was the most important document; they could also produce (genuine) letters of Gregory VII and Urban II, and the important forgery JE † 2950 (version B)¹²²).

Throughout the eleventh and twelfth centuries, then, the bishops of Dol drew on genuine, forged, and falsified documents to style themselves 'archbishop', 'palliger', and 'metropolitan'. Whether the address of JE 3003 as found in the London manuscript (*Magno arch*<i>ep</i>iscop*o*) was part of the Dolois forgeries, a quib against Tours, or only the result of a scribal error, it clearly was not original. It therefore contradicts Ewald's claim that the Britannica faithfully preserved what the compiler found in the Roman archives. On the other hand, all this does not mean that JE 3003 itself is forged. In fact, a comparison with JE † 2950 could even suggest that the main part of JE 3003 was genuine. In JE † 2950, Hadrian II seemed to mention that he sent bishop (*sic*) Festinian the *pallium*, an honour this bishop and the duke of Brit-

¹¹⁹) Gregory VII and Urban II palliated bishops Evan and Roland, respectively; both popes claimed that future bishops of Dol should not receive the *pallium*. Paschal II seems to have done the same and even to have called Baldric 'archbishop'. But Schoenig (n. 57) esp. 316 called the authenticity of the relevant letters (JL 6224 and 6225) into doubt.

¹²⁰) Robert Somerville, The Council of Clermont (1095), and Latin Christian Society, in: Archivum Historiae Pontificiae 12 (1974) 55–90, here at 64 n. 44: "Finally, the Notitia [from Marmoutier, CR] wrongly lists the Bishop of Dol as an archbishop, probably intending a slap at the Archbishop of Tours, under whose jurisdiction Dol fell in the eleventh century"; see also *idem*, The Councils of Urban II, Vol. 1: Decreta Claromontesia, Amsterdam 1972, 119–20.

¹²¹) Innocent III, Potthast no. 726; for an edition see Die Register Innocenz' III., 2. Band: 2. Pontifikatsjahr, Texte, ed. Othmar Hageneder *et al.*, Rome 1979, here at 153–4.

¹²²) Hadrian II, ep. 44, ed. Perels (n. 41) 764–5.

tany had indeed requested several times. The (genuine) papal letters on this matter are sometimes evasive, and if one takes into account that later popes indeed bestowed the *pallium* on several bishops of Dol, JE † 2950 must have raised relatively little suspicion in the late eleventh and twelfth centuries. JE 3003, in contrast, simply contained the title ‘archbishop’ in the address but otherwise did not provide much argument; unlike JE † 2950 it could easily attract suspicion, as it indeed happened. If JE 3003 really was a forgery in favour of Dol, the forgers were clearly less competent than those who had produced JE † 2950. It may well be that they took a genuine letter and promoted the addressee simply by adding the prefix *archi-* to his episcopal title, a well-meaning (from a Dolois perspective) but also pathetic manipulation.

So while the address of JE 3003 as found in the Britannica is probably manipulated, there is little reason to suspect the letter itself was forged. At the same time, the address is important evidence that material from outside the papal registers entered the Britannica, thus contradicting Ewald’s model of direct use of these sources. As in the case of Leo IV, the Britannica for JE 3003 is at least one step removed from the papal registers on which it seems to rely. Yet does that call into question the notion that the Britannica for most of the material in the relevant sections depends, if indirectly, on dossiers going back to lost papal registers or parts thereof? Does the change from ‘bishop’ to ‘archbishop’ in one fragment attributed to John VIII call into doubt the long series of excerpts taken from the letters of Gelasius I and Pelagius I, for example? In my view, this cannot be maintained; the case of JE 3003 is instructive for the genesis of the Britannica but clearly does not call into doubt the authenticity of the fragments of papal letters found in the other *ex registro* sections.

Summary:

Let us summarize these findings, some of which rely on rather subtle differences between extant or lost manuscripts. The evidence quoted in favour of forgery by the Britannica compiler mostly can be explained much more swiftly by scribal errors, missing inscriptions, and occasionally the blurring of canons in the extant London manuscript. Yet it is also true that already the Britannica version used by Tripartita A, Arsenal I, and Ivo of Chartres must have contained a small number of excerpts from papal letters in a form different from that of the lost originals. There is nothing to suggest that these changes were the result of a concerted action, as Ullmann had assumed. In fact, some changes are best explained as accidents, while others seem to be manipulations made at different times in different places, long before the

Britannica was compiled. An example of accidental changes is the letter of John VIII quoted above (JE 3180); while not interpolated by Ivo, it indeed seems to contain a sentence that originally was a comment on the papal letter, perhaps originally found in the margin of a manuscript.

More importantly, the suspected ‘forgery’ JE 2646 – which was so vital for Ullmann’s broadside against the reliability of the Britannica – is indeed genuine. Neither the internal evidence nor the transmission support Ullmann’s bold thesis; most of his claims can and must be rejected in the light of the manuscript evidence. The remaining ‘forgeries’ found in the Britannica are two letters which rightly can be suspected to have been interpolated, even if final proof is lacking. In the case of JE 2608 it is indeed possible that it was interpolated; if so, the interpolation (perhaps only of the phrase ‘daily’) can be assumed to be the work of Hincmar of Reims and his supporters. Crucially for the present study, this must have happened still in the ninth century, or possibly in the tenth (which would make Flodoard the main suspect). Likewise, the address in JE 3003 is the result of a manipulation, almost certainly at Dol, at an unknown time between the pontificate of John VIII and the compilation of the Britannica. Therefore, the known falsified letters do not suggest that the Britannica compiler manipulated his materials, but only that for his Leo IV section and to some extent also his John VIII section he relied on sources different from the papal registers, and specifically on materials that had been tampered with in northern France.

IV. Chronological Order

Given that most excerpts in canonical collections contain little if any hints to their dates and normally cannot be compared to original letters or registers, dating the lost letters often is a daunting challenge. In the case of the Britannica, which preserves so many excerpts not found in any earlier collections, this issue is even more urgent – and, for the very same reason, more difficult. Ewald, however, was extremely confident that he could establish the chronology of the letters of Gelasius I, Pelagius I, Alexander II, John VIII, Urban II, Stephen V, and Leo IV on the basis of the relevant Britannica sections. According to his interpretation, these sections were composed directly from lost papal registers (or parts thereof), and for this reason the sequence in which they were found in Add 8873 was direct evidence for their chronology¹²³). In addition, Ewald took it for granted that the underlying register volumes would all start anew – as in the famous case of the

¹²³) See Ewald (n. 2) 279 (general) and 526 (Gelasius).

fourteen-volume register of Gregory the Great – every year on September 1 (*Indiktionsjahr*)¹²⁴). He further claimed that the *ex registro* headings would normally indicate letters found at the beginning of a new volume, and hence could be dated to early September or not much later¹²⁵). Modern scholarship has largely given up these assumptions. While there is considerable controversy about what the ‘registers’ of early medieval popes looked like, most scholars would agree that Ewald’s far-reaching claims are either wrong or at least doubtful¹²⁶). Scholarship on the Britannica, and indeed on papal registers and their transmission more generally, today accepts a multi-stage genesis as the norm. As for the interpretation of *ex registro*, it always was a very bold claim to link this to the beginning of new register volumes; the use of *ex registro* by Deusdedit, for example, does not support such an interpretation. Also, at least two registers the Britannica seems to rely on were organized by the years of the pontificate, not indictions as Ewald thought¹²⁷). Those dates Ewald derived from his interpretation of *ex registro* for all these reasons can and should be ignored.

Yet while scholarship has largely given up the assumptions which Ewald used for his absolute chronology (and also some of these dates), it still is widely accepted that the relevant sections of the Britannica at least indirectly depend on papal registers¹²⁸). Likewise, there is a broad consensus that the Britannica sections largely do preserve the chronological sequence of the letters; the controversial question is whether one can trust this arrangement enough to derive the date of excerpts from their position within the respective Britannica section if there is no other evidence for their dates. The answer is partly due to different assumptions scholars start from, but even more so depends on which corpus of letters one looks at. Let us consider the individual section of the Britannica in the sequence of the London manuscript.

¹²⁴) Ewald (n. 2) 295–6 (John VIII); but see also Caspar, Studien (n. 2) 105 (indictions) and 119 n. 1 (correcting Ewald’s date for JE 3144).

¹²⁵) Ewald (n. 2) 318 on JE 2986, but see below (n. 145) for the correct date.

¹²⁶) Lohrmann (n. 95) esp. 157–66; Rudolf Schieffer, Tomus Gregorii papae, Bemerkungen zur Diskussion um das Register Gregors VII., in: Archiv für Diplomatik 17 (1971) 169–84; Othmar Hageneder, Papstregister und Dekretalenrecht, in: Recht und Schrift im Mittelalter, ed. Peter Classen, Sigmaringen 1977, 319–47; Brett, New Letters (n. 1) 77–9.

¹²⁷) See Tilmann Schmidt, Alexander II. (1061–1073) und die römische Reformgruppe seiner Zeit, Stuttgart 1977, 224–5; and Somerville, Urban II (n. 1) 22.

¹²⁸) Brett, Urban II (n. 3) 35–6; Herbers, Leo IV. (n. 3) 89–90 („Mehrstufigkeit“); Schieffer, Register (n. 8) 264; Kéry, Kanonessammlungen (n. 1) 286–7.

Gelasius I and Pelagius I:

The letters of Gelasius I still await a modern analysis (and edition)¹²⁹. Research on their chronology has not yet moved much beyond the second edition of Jaffé's *Regesta pontificum*¹³⁰. With only one exception¹³¹, Kaltenbrunner here followed Ewald for the distinction between Gelasius I, Pelagius I, and Pelagius II, and also subscribed to Ewald's chronological arguments mainly based on the arrangement of the letters in the Britannica. The authenticity of some works attributed to Gelasius (and *vice versa*, letters mainly written by him but passing under the name of his predecessors) still awaits detailed study¹³², but as far as the chronological arrangement of the Gelasius/Pelagius section of the Britannica is concerned, the scholarly consensus still follows Ewald and Kaltenbrunner. This said, prosopographical

¹²⁹ For scholarship on Gelasius I and his letters see Dekkers (n. 92) nos. 1667–75; Jasper, *Beginning* (n. 1) *s. v.*; and Rocco Ronzani *s. v.* Gelasius I, Pope, in: *Encyclopedia of Ancient Christianity*, ed. Angelo Di Bernardino, vol. 2 Downers Grove 2014, 104–7. Caspar, *Geschichte* (n. 15) 750 and other philological studies on these letters (quoted below, n. 132) are very valuable, but have paid surprisingly little attention to chronological questions. As far as they did (see *ibid.* on JK 625, 664, and 665), these controversies do not affect the present study, as these letters are not found in the Britannica.

¹³⁰ The third edition seems not to engage with the question. Note that many entries on Gelasius ignore twentieth-century research completely and sadly do not use the critical editions they cite (e.g. J³ 1334, 1335, ?1359, 1406).

¹³¹ The last two paragraphs in the Gelasius/Pelagius section of the Britannica (Add 8873 fol. 38r–v), numbered 134 and 135 in red ink, are JK 691 and 692. Both fragments traditionally were attributed to Gelasius I, but Ewald (n. 2) 508 and 562 argued that the former (his no. 72) was by Pelagius. Kaltenbrunner and Gassó/Batlle (n. 20) returned to the traditional attribution of both JK 691 and 692 to Gelasius as found e.g. in Gratian C.27 q.2 c.49 and C.36 q.1 c.2, ed. Friedberg (n. 16) 1077 and 1288. JK 692 may well have been attributed to Gelasius in the Britannica version available to Ivo; this at least is suggested by the attribution of JK 962 to Gelasius in Arsenal I (n. 18), Paris, Bibliothèque de l'Arsenal, 713 fol. 160r: "*GL' HOSTILIO COMITI. Quis iusticie [...]*." Note also that JK 691 in Add 8873 fol. 38r begins *Quia cum recessit in litigio constituta* instead of the more common *Quia cum res sit in litigio constituta*; Ewald (n. 2) 562, presumably following Bishop (n. 60) here, wrongly gives the incipit *Quia cum res*, also retained by J³ 1332.

¹³² Caspar, *Geschichte* (n. 15) 750; Hugo Koch, *Gelasius im kirchenpolitischen Dienste seiner Vorgänger, der Päpste Simplicius (468–483) und Felix III. (483–492), Ein Beitrag zur Sprache des Papstes Gelasius I. (492–496) und früherer Papstbriefe*, Munich 1935; Nelly Ertl, *Diktatoren frühmittelalterlicher Papstbriefe*, in: *Archiv für Urkundenforschung* 15 (1938) 56–132; Rocco Ronzani, *La lettera «Famuli uestrae pietatis» di Gelasio di Roma all'imperatore Anastasio I (CPL 1667 ep. 8)*, in: *Augustinianum* 51 (2011) 501–49.

studies have advanced considerably since the 1880s. It is therefore noteworthy that Ewald's claims concerning the chronological arrangement still can be maintained if one checks them against what is known about the recipients from other sources¹³³).

The case is different with the letters of Pelagius I. Here, Ewald's model has been thoroughly tested by modern research: Gassó and Batlle have provided minute studies of the chronology of the epistolary of this pope in general and the Britannica fragments in particular. On this basis, they corrected many dates maintained by earlier scholarship. As for the long Britannica section in question, however, they found only three occasions where the chronological order was even modestly disturbed. They concluded that the Britannica preserved the sequence of the papal registers very well¹³⁴). Subsequent research has not changed the findings of Gassó and Batlle¹³⁵).

Alexander II:

As for the letters of Alexander II, Ewald made a strong case that the 87 pieces (86 fragments of papal letters, one letter to the pope¹³⁶) were all written between 1061 and 1066/67; as usual, he further asserted that the Britannica retained the sequence of the register¹³⁷). Schmidt in his monograph on Alexander II reviewed Ewald's arguments, and while he did not share Ewald's optimism that the Britannica directly drew on papal registers, he concluded that there were no letters which were manifestly out of chronological sequence in the Britannica¹³⁸). Shortly later, Schmale was able to date two

¹³³) See in particular *The Prosopography of the Later Roman Empire*, ed. Arnold Hugh Martin Jones / John Robert Martindale / John Morris, 3 in 4 vols., Cambridge 1971–92; and *Prosopographie de l'Italie (303–614)*, ed. Charles Piétri / Luce Piétri, 2 vols. Paris 1982/99.

¹³⁴) Gassó/Batlle, *Prolegomena* (n. 20) XXXII–XXXV; see also Rolker, *Pelagius I.* (n. 10) here at 427–42.

¹³⁵) Dekkers (n. 92) no. 1698/1703 tentatively suggested that there could be an unknown transmission of Pelagian material, but this was a misunderstanding, see Rolker, *Pelagius I.* (n. 10) 425 n. 41; see also Bronwen Neil, *De profundis: The Letters and Archives of Pelagius I of Rome (556–561)*, in: *Collecting Early Christian Letters from the Apostle Paul to Late Antiquity*, ed. eadem / Pauline Allen, Cambridge 2015, 206–20; note, however, that her claims on the Britannica (*ibid.* 210–1) are misguided. Her idea that the fragments found Add 8873 fol. 38r were taken from letters of Pelagius II apparently goes back to the first edition of Jaffé's *Regesta*, but see Ewald (n. 2) esp. 507–8 (followed by modern research).

¹³⁶) *Britannica Alexander II.* 22 fol. 43r–v (JL –; J³ 10788).

¹³⁷) Ewald (n. 2) esp. 347–8.

¹³⁸) See Schmidt (n. 127) 224–6.

of the letters with precision¹³⁹). The discovery of Arsenal I, sometimes preserving a ‘better Britannica’ version than the London copy, helped to establish the recipients of two other letters¹⁴⁰). None of these findings contradicted Ewald’s model¹⁴¹), and the dates established by Schmale may even be seen as supporting it. Research since has not provided any new dates for Alexander’s letters in the Britannica¹⁴²). However, given the difficulties in dating the vast majority of the letters with any precision, one can only conclude that despite considerable research into Alexander’s letters since 1885, no evidence against Ewald’s chronology has been reported¹⁴³). Given their large number, this negative result nonetheless carries some weight.

John VIII:

The letters of John VIII in the Britannica have attracted more discussion¹⁴⁴). In particular, the discovery of an early modern register copy containing a letter to Willibert of Cologne, of which the Britannica contains two overlapping fragments (JE 2986) brought about an important correction to Ewald’s chronology. While Ewald, based on an *ex registro* inscription, proposed a date at the very beginning of the indiction (early September 873), the dating clause of the full version provides 28 November as the correct date¹⁴⁵). Curiously,

¹³⁹) Franz-Josef Schmale, Synoden Papst Alexanders II. (1061–1073), Anzahl, Termine, Entscheidungen, in: *Annuaire Historiae Conciliorum* 11 (1979) 307–38, here at 324 n. 82 (showing that JL 4620 was in fact only a fragment of JL 4599, dated 1066) and 324–5 (arguing convincingly that JL 4640 was written in 1067 before August). Both letters are found towards the end of the section: Britannica Alexander II.82 and 87, respectively.

¹⁴⁰) See Somerville, *Papal Excerpts* (n. 4) 174–5 on JL 4551 and 4616.

¹⁴¹) *Ibid.* 174 n. 19.

¹⁴²) The third edition of the *Regesta pontificum* is not helpful here. Note that J³ 10753 and 10913 return to Ewald’s conjectures for the addressees of two letters for no apparent reason. Likewise, J³ 10804 retains Löwenfeld’s emendation of the name of the addressee; J³ 10786 misquotes the address of Britannica Alexander II.44 which Löwenfeld in JL 4587 had provided correctly.

¹⁴³) See also Detlev Jasper, Ein Brief Papst Alexanders II. an Abt Ivo I. von Saint-Denis, in: *Grundlagen des Rechts, Festschrift für Peter Landau zum 65. Geburtstag*, ed. Richard H. Helmholz *et al.*, Paderborn 2000, 131–9 for a letter of Alexander II (JL –; J³ 11115) written in ca. 1072, well after any of the Britannica letters.

¹⁴⁴) Caspar, *Studien* (n. 2); Lohrmann (n. 95); Dorothee Arnold, *Johannes VIII.: Päpstliche Herrschaft in den karolingischen Teilreichen am Ende des 9. Jahrhunderts*, Frankfurt 2005.

¹⁴⁵) JE 2986 = Britannica John VIII.29 (Add 8873 fol. 127v–128r) was dated to the beginning of the seventh indiction by Ewald (n. 2) 317–8 because an overlapping

although Ewald's argument was quite wrong, the relative chronology he proposed is still intact¹⁴⁶). Lohrmann did not directly address the question of the chronological order in the Britannica, but while contradicting Ewald on his interpretation of the *ex registro* clause¹⁴⁷), he agreed that the Britannica for its letters of John VIII relied on lost papal registers¹⁴⁸). Unger, in contrast, rejected Ewald's chronology. Pointing out the manipulated address of one letter found in the Britannica (JE 3003, discussed above), she argued the arrangement of the Britannica fragments should be entirely ignored in establishing the chronology of John's letters¹⁴⁹). Remarkably, the address of JE 3003 was her *only* argument to discard the sequence of the Britannica as evidence for the chronology of John's letters. While she also quoted, in a summary fashion, 'modern research' on the Britannica, the studies she cited in fact do not support her point¹⁵⁰). The same is true for other studies apparently unknown

fragment from the same letter – namely Britannica Varia 2.49, from Deusdedit – has an *ex registro* inscription. In other words, the *ex registro* phrase in question is not even found in the Gelasius section of the Britannica! The MGH edition contains both the fragments as found in the canonical collections, ed. Ernst Dümmler, MGH Epp. 6 (n. 41) 256; ed. Caspar, MGH Epp. 7 (n. 83) 290–1) and the full version as found in two copies of the fifteenth century, ed. Caspar /Gerhard Laehr, MGH Epp. 7 (n. 83) 313–5. Only the latter provided the correct date (November 28), see Lohrmann (n. 95) 161 n. 21 and most recently Unger in Böhmer/Unger 96. Another fragment (unknown to Unger) is discussed and edited in Brett, New Letters (n. 1) 80–1.

¹⁴⁶) Ewald (n. 2) 317 argued on the basis of the supposed chronological order of the John VIII section that Britannica John VIII.26 must have been written between epp. 19–20 (for which the *terminus ante quem* is 14 May 873) and ep. 31 (written before Easter 874). Whether JE 2986 was written in September, as Ewald thought, or indeed in late November 873, it does not disturb the chronological sequence of this section.

¹⁴⁷) Lohrmann (n. 95) 161 n. 21, quoting JE 2986 as a counter-example.

¹⁴⁸) Lohrmann *ibid.* 206: „italienische Abschrift aus Registern des 9. Jahrhunderts“.

¹⁴⁹) See Unger in Böhmer/Unger 13 (on JE 2985) and her Einleitung, *ibid.* VII–XVI, at IX: „Die neuere Forschung zu diesen Sammlungen läßt allerdings zumindest die Rekonstruktion der chronologischen Ordnung und somit der Datierung der in der Kanonistik überlieferten Stücke, aber auch deren Basieren auf einem verlorenen ersten Registerteil überhaupt fragwürdig erscheinen. Die Sammlungen enthalten ein gefälschtes Stück, das unmöglich aus einem Register Johannes' VIII. stammen kann [JE 3003, CR], sowie einen Brief, der auch im erhaltenen Registerteil steht und definitiv nach August 876 entstanden ist [JE 3258, CR]“; see the next note.

¹⁵⁰) Unger, Einleitung *ibid.* IX n. 14 in addition to Herbers quotes Somerville, Urban II (n. 1) 14–21 and Rolker, Canon Law (n. 31) 92–100 as “neuere Forschung” on the Britannica. Yet neither of us has called into question the chronological ar-

to her¹⁵¹). Likewise, the only other primary source evidence she referred to has no relevance for the Britannica. Namely, she quotes the famous case of JE 3258 – the sole letter of John which is found both in the extant copy of John’s register (Reg. Vat. 1) and in canonical collections – against the idea that only early letters were taken into canonical collections. This observation, while valid¹⁵²), does not affect the interpretation of the Britannica from which the letter is absent. Unger’s only argument against Ewald’s chronology therefore is the title ‘archbishop’ (instead of ‘bishop’) in the address of JE 3003; this is evidently not enough to call into question the chronology of all other letters of Pope John VIII in the Britannica.

Saint Boniface:

The next section of the Britannica is the one containing excerpts from the correspondence of Saint Boniface. The papal letters found here are clearly not taken from papal registers, and do not claim so, but the section nonetheless can help us to understand the *ex registro* sections, as it sheds light on the way the Britannica compiler treated his sources. Fortunately for such an enterprise, the formal source of this section can be established with precision. As already Ewald and Tangl noted, the Boniface section of the Britannica was taken from a source very similar to an extant manuscript of the Boniface correspondence¹⁵³). Contrary to what Tangl assumed¹⁵⁴), this is best explained by the Britannica compiler working once more with sources circulating outside

rangement of the Britannica sections. Rather, Somerville, Urban II (n. 1) 23 concluded that for the letters of Urban II “no decisive evidence is at hand to refute Ewald’s supposition about chronological sequence” and “no other principle of ordering has been found which is clearly preferable”. Likewise, when I wrote that “Ewald’s dating [...] proved to be wrong” (Canon Law 94; n. 31), I was exclusively referring to the date of the London manuscript, not the chronology of the excerpts of John VIII contained in the Britannica (a topic I did not discuss in my book).

¹⁵¹) Unger in Böhmer/Unger † 35 does not mention that JE 3003 had been suspected as a forgery by Smith (n. 115) 180 n. 133, nor does she engage with Caspar, Studien (n. 2) 106 n. 1; see above (n. 101 and 109–10) for this research.

¹⁵²) On JE 3258, found in collections from the late tenth century on, see Jasper, Beginning (n. 1) 130.

¹⁵³) On Clm 8812 (Tangl’s “ms 1”) see Ewald (n. 2) 284–95 and Michael Tangl, Studien zur Neuausgabe der Bonifatius-Briefe, in: Neues Archiv 40 (1916) 639–790 and 41 (1919) 23–101, here at 91.

¹⁵⁴) Tangl *ibid.* 94 went to some length to explain how the Britannica compiler could have encountered his formal source in Italy, speculating that Clm 8812 was at Fulda for some time, where a copy would have been made which was sent to Rome, while Clm 8812 itself was returned to Mainz. However, this complicated model is not supported by any primary source evidence, and is strongly called into question

Italy. In any case, it is clear that the compiler did not change the sequence of the formal source he relied on, an observation that also holds for large parts of the *Varia* sections¹⁵⁵). Concerning the *ex registro* sections, one may conclude that the Britannica compiler on the whole was preserving the sequence of his formal sources.

Urban II:

The chronology of the next section of the Britannica, drawing on the letters of Urban II, is of particular importance as the collection must have been compiled during his pontificate (1088–99). As the date of the Britannica, and also that of the Ivonian collections, strongly depends on the date of the most recent material in the Britannica, these letters have come under particular scrutiny from early on. Both Becker in his monumental study on Urban II and Horn in his study on early medieval papal registers in the end upheld Ewald's arguments¹⁵⁶). Somerville, in collaboration with Kuttner, devoted a meticulous, book-length study to Urban's letters as found in the Britannica which is rightly seen as the definitive study on this material. As for the chronology, Somerville concluded that there was no evidence to refute Ewald's assertion that the relevant fragments in the Britannica were in chronological sequence¹⁵⁷). It may also be worth recalling that as early as 1927, Erdmann had brought to attention thirteenth-century sources drawing on the register of Urban II which confirmed several of Ewald's hypotheses¹⁵⁸).

In the case of the letters of Urban II, there is another route of inquiry to probe the Britannica's closeness to the lost registers it pretends to have used, and specifically to test some of Ewald's more contentious claims. The first piece of evidence is a note in the Urban II section (beginning *Hoc tempore*; JL –) on the primacy of Toledo which reads like an excerpt taken from a chronicle or a similar source – not papal registers. The Bri-

by the fact that no other Italian collection draws on this version of the Boniface correspondence.

¹⁵⁵) Conrat (Cohn), *Geschichte* (n. 2) 345–7 (Roman law); Ewald (n. 2) 582 and Jasper, *Beginning* (n. 1) 123 (Deusededit).

¹⁵⁶) Becker, *Urban II.* (n. 17) 706–9 and *passim*; Michael Horn, *Der Streit um die Primatswürde der Erzbischöfe von Toledo, Ein Beitrag zur Geschichte der älteren Papstregister*, in: *Archivum Historiae Pontificiae* 29 (1991) 259–80, here at 265–6, esp. 266 n. 34.

¹⁵⁷) Somerville, *Urban II* (n. 1) 23 (quoted above, n. 150).

¹⁵⁸) Carl Erdmann, *Papsturkunden in Portugal*, Göttingen 1927, at 107 and 381; see Somerville, *Urban II* (n. 1) 71–4.

tannica also contains two privileges of Urban II for Toledo (JL 5370 and 5371)¹⁵⁹). This too is remarkable, as to judge from the register of Gregory VII and other sources, privileges were rarely documented in the papal registers. Nonetheless, Ewald proposed for all three documents that they were taken from Urban's lost registers, and specifically from the first book of these registers. In addition, Ewald and Löwenfeld dated these documents to 15 October 1088, because they all refer to the primacy of Toledo which Urban II had granted that day (JL 5366, not in the Britannica)¹⁶⁰). The only evidence Ewald was able to quote was the presence, and the position, of these three documents in the extant Britannica version. At first glance, this may seem to cast Ewald's model into doubt, as he made far-reaching claims based on a contentious interpretation of a single manuscript that could not be checked against other sources.

In 1927, however, Carl Erdmann published materials independently of the Britannica that allowed the testing of Ewald's hypotheses. The evidence comes from a dispute between Toledo and Braga heard at the papal curia in 1217, and more specifically the *rotuli* preserved today in the archives of Braga and Lisbon documenting this trial. Both parties had access to papal registers, certainly in 1217 but apparently earlier, too, as they quoted from the registers with great precision, suggesting they were well prepared when the trial began. Toledo repeated its claims to primacy in Spain, but for unknown reasons was unable to produce the relevant privilege by Urban II (JL 5366, the original of which is still extant today). This was a serious problem as JL 5366 had not been registered. Therefore, the procurators quoted other materials including *Hoc tempore*, and interestingly did so by saying it was found *in registro domni Urbani II pape primo libro*¹⁶¹). Braga in turn argued against the validity of *Hoc tempore* because it was not a privilege proper, did not contain the usual formulae, lacked the signature of cardinals, and was not dated; but they did not challenge the assertion that it was found in the first volume of Urban's registers¹⁶²). In the same context, JL 5370 and 5371 came

¹⁵⁹) Britannica Urban II.17, 21, and 22 (Add 8873 fol. 144v–145r), ed., tr. and discussed by Somerville, Urban II (n. 1) 72–4 and 81–7; see Ewald (n. 2) 357–8; Erdmann (n. 158) esp. 44, 107, and 381–2; Uta-Renate Blumenthal, Papal Registers in the Twelfth Century, in: Proceedings of the Seventh International Congress of Medieval Canon Law, Cambridge, 23–27 July 1984, ed. Peter Linehan, Vatican City 1988, 137–51, here at 140–1; Horn (n. 156) 266 n. 34, and Becker, Urban II. (n. 17) 707.

¹⁶⁰) Ewald (n. 2) 357 n. 8; Löwenfeld, JL 5366–71.

¹⁶¹) Erdmann (n. 158) 107 (quote) and 381.

¹⁶²) Blumenthal (n. 159) 140–1. It may be worth pointing out that the register

under scrutiny too. This time it was Braga quoting the specific place these privileges were found. In their attempt to raise suspicion against the validity of these privileges, Braga's procurators argued that to judge from their presence in the first book of the register they dated from the first year of Urban's pontificate¹⁶³). This, they further alleged, made JL 5370 defective because Urban addressed it to 'all archbishops' while there had been no archbishops in Spain in 1088/89¹⁶⁴). This was a desperate argument against Toledo's primacy claims, but in our context, it is rather strong evidence that JL 5370 and 5371 were indeed once found in the first book of the lost registers of Urban II and dated from the first year of his pontificate. Therefore, the evidence from the Portuguese archives provides independent evidence for Ewald's seemingly adventurous hypothesis concerning *Hoc tempore*, JL 5370, and JL 5371. Likewise, recent scholarship has largely accepted the dates Ewald proposed for these documents¹⁶⁵).

The dispute between Toledo and Braga also had another side-effect relevant for our understanding of the Britannica. In his letter of 8 January 1218 to Toledo, Pope Honorius III quoted several documents from Urban's registers including four also found at least in part in the Britannica, namely *Hoc tempore*, JL 5367, 5370, and 5371¹⁶⁶). While Honorius did not specify which books the letters were found in, the way he refers to *Hoc tempore* and JL 5367 strongly suggests that both were found back to back in the register¹⁶⁷). In addition, Honorius' letter is extant in the original, in the register, and in other copies; it is therefore possible to check the textual quality of the Britannica against other transmissions that plausibly draw on the lost registers of Urban II. This is indeed what Somerville has done, finding 'only minor differences' between the original charter, the register version, and the relevant Britannica

of Gregory VII also contains a report (ed. Caspar, MGH Epp. sel. 2.1, 123) which mentions a number of privileges, including some not documented elsewhere; for such 'notes' in the Britannica see Somerville, Urban II (n. 1) 53–6, 58–9, 72–4 (*Hoc tempore*), 97–9, and 165–6.

¹⁶³) Erdmann (n. 158) 381: *Ille epistule [JL 5370 and 5371, CR] reperiuntur in primo libro Urbani, et constat, quod primus liber Urbani fuit in primo anno, nedum quia iste epistule inueniuntur statim circa principium libri.*

¹⁶⁴) Blumenthal (n. 159) 141–2.

¹⁶⁵) See Horn (n. 156) 266 n. 34; and Somerville, Urban II (n. 1) 73; the latter accepted Ewald's dates, with the possible exception of JL 5371 which he argued to be slightly later (*ibid.* 85–6).

¹⁶⁶) Erdmann (n. 158) 43; Horn (n. 156) 266; for an edition see Regesta Honorii papae III, ed. Pietro Pressutti, 2 vols. Rome 1888, vol. 1, 166–7 no. 980.

¹⁶⁷) Horn (n. 156) 266 n. 34.

passages¹⁶⁸). This again confirms that the Britannica, despite all its scribal errors, goes back to a model which must have been very close to the original papal letters. In conclusion, the documents brought to attention by Erdmann in 1927 support Ewald's assumption that the Urban II section of the Britannica preserves the sequence of the lost register of Urban II, can be used to date (at least approximately) the papal letters it contains, and must go back to models very close to the papal registers.

Leo IV (and Stephen V):

For the letters of Leo IV, the case is more complicated again. The best study available is that of Herbers in his monograph on Leo IV. Herbers argued the excerpts in the Britannica were the result of considerable reworking in several stages; in this process manipulated materials were inserted¹⁶⁹). Following Lohrmann and others, he rejected Ewald's assumption that letters said to be taken *ex registro* could be dated to the beginning of an indiction. Like Brett, Herbers came to assume a 'multi-stage genesis' for Leo's letters as found in the Britannica¹⁷⁰). Consequently, for the letters of Leo IV and Stephen V he preferred broader dating ranges than Ewald had done¹⁷¹). Nonetheless, for neither pope Herbers could find letters which were clearly out of sequence in the Britannica. This is even more interesting as Ewald's arguments for dating the letters of Leo IV always were quite weak, as he confessed himself¹⁷²). Nonetheless, it seems clear that the Leo IV section of the Britannica has a distinct, 'multi-stage' genesis which makes it less trustworthy than other *ex*

¹⁶⁸) Somerville, Urban II (n. 1) 74 (quote), see also *ibid.* 75, 81, and 84 (editions).

¹⁶⁹) Herbers, Leo IV. (n. 3) ch. 4, esp. 49–51; *idem*, Einleitung (n. 3) VII–XIV.

¹⁷⁰) *Ibid.* at X–XI: „Offen bleibt, wie das ‚verfälschte‘ Leo-Material in die Sammlung gelangte. Eine Mehrstufigkeit der Zusammenstellung vom 9.–11. Jahrhundert liegt gerade für die Leo-Fragmente nahe. Vor diesem Hintergrund ist nicht nur die indiktionsweise Einordnung der Fragmente fragwürdig, sondern auch die sogenannten ‚Fälschungen‘ sind neu zu bewerten.“ For arguments for a 'multi-stage genesis' of the Britannica see already Brett, Urban II (n. 3) 34–9.

¹⁷¹) Herbers, Einleitung (n. 3) XI: „Für die chronologische Anordnung ergab sich die Notwendigkeit, [...] bei Fragmenten der Britischen Sammlung mehrfach aus den genannten Gründen von den Vorschlägen Ewalds abzuweichen, teilweise wurde sogar der gesamte Pontifikat als Datierungsrahmen gewählt“; see, for example, Britannica Leo IV.4, dated to '852?, after September 1' by Ewald (JE 2622), to „852?“ by von Hirsch-Gereuth (n. 66) 587, but only to „847–855“ by Herbers in Böhmer/Herbers 76; see also Böhmer/Herbers 95–7, re-dating Leo's letter(s) to Sardinia (JE 2611, 2612, and 2648).

¹⁷²) Ewald (n. 2) 396: „[K]eine unserer bisherigen Datierungsreihen steht auf so schwachen Füßen, wie diese.“

registro sections in this collection, and specifically does not help us in establishing the chronology of the relevant Leo IV fragments with certainty.

Summary:

This review of scholarship was necessary to establish three points. First, many of Ewald's assumptions are no longer shared by scholarship for good reasons, and consequently some of his dates have to be rejected. Second, contrary to what Ewald assumed, the individual sections of the *Britannica* have rather different origins; in particular, the sections containing fragments of the letters of John VIII and Leo IV are in part influenced by texts forged or interpolated in the ninth or the tenth century. Like other (genuine) texts used to compile the *Britannica*, these materials were circulating in northern France. Finally, although there is a large body of specialized research profoundly sceptical of Ewald's chronology, only very rarely was his idea proven wrong that the individual *Britannica* sections retain the fragments in chronological sequence.

What does this tell us about the papal letters in the *Britannica*? The sections discussed here contain more than 400 excerpts from papal letters, some of them written more than 600 years before the *Britannica* was compiled from various formal sources. It should not come as a surprise if one finds (as sketched above) two Gelasius letters out of sequence, a mild confusion in the letters of Pelagius I written in spring 559, and some of the letters of Leo IV reshuffled in the course of time. As Gassó and Batlle put it, the chronological sequence may not be perfect, but all in all the collection could be trusted to normally preserve the chronological sequence of Pelagius' letters¹⁷³). With the possible exception of the Leo IV letters, this seems also to be true for the remaining sections under discussion here. Indeed, any model claiming that the arrangement within these *Britannica* sections was not chronological would have to explain why, then, hardly any of the letters that *can* be dated violate Ewald's proposed relative chronology. Despite the confusion that surrounds some letters, it would be methodologically invalid to fall back to the assumption that the fragments are randomly arranged. It is possible that single letters are displaced in the *Britannica*, but in the absence

¹⁷³) Gassó / Batlle, *Prolegomena* (n. 20) XXXV: *Quae ita cum sint, iam in Lateranensi tabulario, aut in quodam eiusdem apographo, illa exordinatio in dispositione epistularum fere certo exstabat, quare incerta aliquatenus manet epp. 38–54 chronologia, quippe quae ordine in Coll[ectione] Britannicae fulciebatur praesertim. Verum res non tanti momenti videatur, cum praefatae litterae in[eunte] m[ense] martio-ex[eunte] m[ense] martio fuerint datae [...]. Itaque chronologiam ab auctore statutam posse servari putavi [...].*

of other evidence, the arrangement of the fragments within the individual Britannica sections can and should be used to establish the relative chronology of the letters in question.

This is further supported by what we know about the compiler's method from the other parts of the Britannica. The Boniface section draws on a formal source very similar to the extant Clm 8812 from Mainz, and faithfully preserves the sequence of this source¹⁷⁴). For the Roman law in both Varia sections, the Britannica seems to rely on an intermediary source which largely preserved the order of the material sources (the Institutes and the Digest); as far as we can tell, the Britannica compiler did not change the sequence of these texts¹⁷⁵). The long series of canons from Deusdedit in the second Varia section likewise 'retain the sequence of his exemplar fairly exactly'¹⁷⁶). In other words, in all cases where the Britannica can be checked against its sources, it can be shown to faithfully preserve their arrangement.

V. Selection Criteria

If the Britannica compiler did not manipulate his materials, and in many cases preserved the sequence and the text of the dossiers he was working with very faithfully, it could still be argued that the collection was unreliable because the compiler selected his material following a specific agenda. Similar phenomena can indeed be observed in other collections compiled in the eleventh and twelfth centuries; sometimes, the individual texts were preserved very faithfully, but careful selection (and normally also re-arrangement) of these materials was enough to give a new meaning to old texts. A pro-monastic dossier (Montecassino MS 372)¹⁷⁷), for example, contains a section on the venerable topic of 'holy simplicity', drawing rather unsurprisingly on the writings of Saint Jerome. What is surprising, however, is the compiler's ability to present Jerome's teaching to support the argument that 'holy simplicity is good, but holy knowledge is better' – quite the opposite lesson most readers were used to draw from Jerome. What is most striking about this little dossier is the fact that the compiler hardly manipulated his texts; but he was extremely good at finding passages supporting his point, and at omitting whatever contradicted his view.

¹⁷⁴) Tangl (n. 153) 91.

¹⁷⁵) Conrat (Cohn), *Geschichte* (n. 2) 345–7.

¹⁷⁶) Jasper, *Beginning* (n. 1) 123.

¹⁷⁷) For edition and analysis see Roger E. Reynolds, *Further Evidence for the Influence of the Hibernensis in Southern Italy: An Early Eleventh-Century Canonistic Florilegium at Montecassino*, in: *Peritia* 19 (2005) 119–35.

So can the Britannica compiler be shown to have applied certain selection criteria, perhaps as part of a specific political tendency, as some scholars have thought¹⁷⁸? The question is difficult to solve. After all, the Britannica was composed from several intermediary collections which are only known via the Britannica itself. The ‘multi-stage’ model of its genesis implies that this holds not only for the *Varia* sections but indeed also the *ex registro* sections. For this reason alone, it is very difficult to establish how the Britannica compiler used his sources. As far as selection criteria are discernible, it often remains uncertain whether this tells us more about the Britannica compiler or about the dossiers he used. For example, the Roman law dossier taken from the *Institutes* and the *Digest* which survives only via the Britannica has a clear tendency to select *regulae iuris*, and significantly ignores the more complex parts of the *Digest*. This probably was the work of an epitomator different from the Britannica compiler¹⁷⁹). As for the papal letters, the striking imbalance between letters written in different years is best explained, as already Ewald assumed, by the availability of the respective material, and not conscious selection; there is a considerable degree of randomness¹⁸⁰).

With this in mind, let us look at the extant version of the Britannica for any selection criteria that may have guided the compiler. To begin with, the Britannica contains a large proportion of excerpts from papal letters. An interest in papal letters is anything but unusual, but it is still worth mentioning. The sheer number of excerpts from papal letters, the fact that the compiler retained the letters of individual popes separately in the form of the *ex registro* sections, and probably also the effort it took him to find these materials (although this must remain speculative) all support this idea. Perhaps the clearest case is the correspondence of Saint Boniface. Here, one can assume that the selection was based on a collection very similar to the extant manuscript (CIm 8112)¹⁸¹). If so, whoever was responsible for the selection found

¹⁷⁸) Ullmann, *Observations* (n. 11) famously had argued for a pro-imperial tendency in the Leo IV material. Herbers, *Leo IV*. (n. 3) 86 agreed with Ullmann, but at the same time asserted a pro-papal tendency (*ibid.* 83). This contradiction was first pointed out by Hans Hubert Anton, [Review of] Herbers, *Leo IV*. (as n. 3), in: *ZRG* 116 KA 85 (1999) 554–60, here at 555; he rightly stressed that the Leo IV section indeed combined fragments of very different character.

¹⁷⁹) Conrat (Cohn), *Auszug* (n. 2) 5–12; and *idem*, *Geschichte* (n. 2) 353.

¹⁸⁰) Ewald (n. 2) 326: „So treibt der Zufall wie in allen menschlichen Dingen auch in der Reception der Papstbriefe in die offiziellen Rechtsquellen der römischen Kirche sein launenhaftes Spiel.“

¹⁸¹) On Boniface in the Britannica see T ang l (n. 153) 91–8; for additions and important corrections see Brett, *Urban II* (n. 3) 37 n. 33; and Jasper, *Beginning* (n. 1) 100.

in the Britannica clearly was interested in the papal letters much more than the letters of Boniface himself.

A second point that can be established with some certainty is a negative finding. While the Britannica may have been a *Zwischensammlung* compiled in preparation for another collection (as it has often claimed)¹⁸², the latter cannot be identified with any of the collections known to have used the Britannica. It is inconceivable that any version of the Britannica was a preparatory work tailor-made for Tripartita A, Arsenal I, or Ivo's Decretum. The compilers of all these collections ignored large parts of the Britannica while they were evidently interested in topics on which the Britannica had little to offer. For example, the Tripartita A compiler took great efforts to include letters of Gregory the Great while the Britannica completely ignored this source; Ivo devoted much attention to sacramental theology, not least the post-Berengarian understanding of the Eucharist, but the Britannica was of little help for this enterprise. In short, the Britannica compiler was not involved in purposefully preparing any of the Ivonian collections.

Often, the tendency of canon law collections can be determined by the partisan forgeries they introduce into canon law. Monastic canon law collections, for example, tend to select letters of Gregory the Great, but are especially keen to include the pro-monastic forgeries attributed to him, and often cannot resist throwing in some forgeries in favour of their own house. The Britannica, in contrast, shows no such partisan leanings. The fragmentary letter to the 'archbishop' of Dol, the forged grant of the 'daily use' of the *pallium* for Hincmar, and the letters chastising the same prelate for having excommunicated the emperor may all have originated as forgeries in certain conflicts; but the Britannica simply collects all these materials, and there is nothing to suggest that the compiler was keen to support, for example, Dol's claim to independence from Tours. As for Hincmar of Reims, the Britannica contains material of very different nature, as discussed at some length above¹⁸³).

If anything, these canons are evidence for the compiler's interest in French and Frankish affairs more generally. Five of nine sections of the Britannica draw on sources which at least for some time circulated in Francia: the John VIII section (JE 3003), the Leo IV section (Hincmar's Rotulus), the Boni-

¹⁸² Ewald (n. 2): "Materialiensammlung [...], die nicht Selbstzweck sein kann"; Fournier, Collections canoniques (n. 2) 391–2: "collection intermédiaire"; see Rolker, Bonizo (n. 22) esp. 65–70 on Fournier's concept of 'intermediate collection' and the special role of the Britannica in this model.

¹⁸³ See above on JE 2607/2608 on the one hand and JE 2618/2619 on the other.

face section¹⁸⁴), and both *Varia* sections. This corresponds to the content of these texts; in the case of John VIII, for example, letters directed to northern Europe are clearly overrepresented in the *Britannica*¹⁸⁵). Some materials are so rare that one wonders whether the compiler could have found them by mere chance. For example, the first *Varia* section contains letters of Hadrian I transmitted with the acts of Nicaea II, but in a very unusual translation¹⁸⁶). It is utterly unclear how this translation ended up in the *Britannica*¹⁸⁷), but it is at least possible that this constitutes a distant link to Carolingian debates on this council. The letters of Hadrian II and the excerpts from Carolingian chronicles in the *Varia* 2 section are a more straightforward case of materials relevant to Frankish history¹⁸⁸). While some uncertainty remains, the fact that this interest in Frankish affairs is visible in different parts of the *Britannica* may support the idea that this really reflects the interest of the compiler and not only the materials available to him¹⁸⁹).

The case of the rare Carolingian materials just mentioned leads to another possible selection criterion: many of the texts in the *Britannica* have little in common except for their excessive rarity. Excerpts from the *Digest*, rare letters of Gelasius I and Pelagius I, the Hadrian II letters, the writings of Hincmar – all these texts are very rare, at least in canon law collections before the twelfth century, and in many cases the *Britannica* is the first collection to introduce them into canon law. This argument is supported by the striking absence of materials like the letters of Gregory the Great and some of the more popular letters of Leo I; the *Britannica* is one of the very few major collections to ignore these sources completely¹⁹⁰).

¹⁸⁴) Pace Tangl (n. 153).

¹⁸⁵) Schieffer, Register (n. 8) 270.

¹⁸⁶) Hadrian I, JE 2448, 2483, and 2449 as found in *Britannica Varia* 1C.34, 35, and 55 (London, BL, add. 8873 fol. 100r–104r); see Erich Lamberz, *Einleitung*, in: *Concilium Universale Nicaenum Secundum* 1, ed. idem (= *Acta conciliorum oecumenicorum Series II* vol. 3.1), Berlin 2008, VII–LXX, esp. LI (with further references).

¹⁸⁷) Lamberz *ibid.* LI suggested Hadrian's register as the source, but this is far from certain. The question of Hadrian's letters in the *Britannica* and in *Tripartita A* clearly demands further studies.

¹⁸⁸) See Brett, Urban II (n. 3) 36 on *Britannica Varia* 2.11–13b (Add 8873 fol. 176v–177r). The excerpts seem not to have been added together with the *Gesta Francorum* excerpts (*Varia* 2.14), as at least one of them was taken into Ivo's *Decretum* 5.34 via *Arsenal I* (n. 18).

¹⁸⁹) Brett, Urban II (n. 3), 37.

¹⁹⁰) Jasper, *Beginning* (n. 1), 133.

All in all, the *Britannica* is not governed by a specific tendency, as so many collections of the eleventh and twelfth centuries are¹⁹¹). The compiler clearly did not select his material with any of the great debates of the late eleventh century – the Eucharist debate, reordinations, and so on – in mind, let alone chose to compile a partisan collection. As for controversies of the past like those around Hincmar of Reims, the *Britannica* compiler integrated partisan material without showing any partisan interest himself. His interests can best be described by the interest in papal letters (from ancient times to his own), in Frankish affairs (kings, bishops, metropolitans, palligers), and a predilection for exceedingly rare materials of very different nature. No wonder that compilers with very different interests found the collection extremely useful, especially in combination with more ‘mainstream’ collections like the *False Decretals* or Burchard’s *Liber decretorum*.

VI. Conclusions

Some 150 years have passed since Pertz, Bishop, Waitz, Ewald, and others have first studied the *Britannica*¹⁹²). Since then, diplomatic, palaeographical, and philological research on the epistolary of so many popes including Pelagius I (Gassó / Battle), Leo IV (Herbers), John VIII (Caspar, Lohrmann), and Urban II (Somerville, Brett) have massively enlarged our understanding of the *Britannica*. Today, such research can start from reliable editions of almost all relevant *Britannica* sections and several canonical collections (*Deusdedit*, *Tripartita*, *Arsenal I*, *Ivo’s Decretum*). Newly discovered copies of papal letters found also in the *Britannica* (Leo IV, John VIII, and Urban II) and the identification of *Tripartita* and *Arsenal* as drawing on a *Britannica* version predating the version found in Add 8873 allow to test many hypotheses about the genesis of the collection. Research is greatly facilitated by *Hilfsmittel* like the second edition of Jaffé’s *Regesta*, Böhmer-Herbers’ calendars of papal letters, and the *Clavis canonum* database, and last but not least by the availability of digital images of several key manuscripts (Add 8873, but also *Arsenal 713*, Vat. lat. 3833, and many others).

¹⁹¹) For an overview see my book *Canon Law in the Age of Reforms* (c. 1000 to c. 1150), to be published as part of the *History of Medieval Canon Law*, ed. Wilfried Hartmann/Ken Pennington [forthcoming].

¹⁹²) Georg Heinrich Pertz (d. 1876) studied Add 8873 in the 1860s or perhaps the early 1870s, see Georg Waitz, *Handschriften in Englischen Bibliotheken*, in: *Neues Archiv* 4 (1879) 324–94, here at 325 (date) and 337–8 (manuscript). Waitz had seen the manuscript in 1877, but Ewald only knew it via Bishop’s transcription from 1878 on; see Somerville, Edmund Bishop (n. 60).

None of these studies, editions, and Hilfsmittel were of course available to Ewald when he was reconstructing the Britannica from Bishop's transcript in the late 1870s. It should therefore come at no surprise that many elements of his model – which contained, as Ewald himself confessed, a number of rather bold claims – have been challenged over time, often on the basis of primary sources not available to him. Rather, in the light of all this it is impressive how well Ewald's model has passed the test of time.

The present article has reviewed all major contributions to the debate, and the results can be summarized briefly as follows. First, over the course of time, many scholars have called many of the fragments in the Britannica 'doubtful' or even 'forged', but only in a handful of cases supplied convincing arguments for these claims. This is particularly true in the case of Ullmann, who declared more Britannica fragments 'doubtful' than any other scholar but mainly relied on his own contentious interpretation of early medieval papacy for this claim. Where he did take other evidence into account (as in the case of JL 2646), his interpretation can be shown to rely on venturesome assumptions that often turned out to be factually wrong. In other cases – JE 2785, 2796, and 3180 as discussed by Kuttner – the extant London manuscript is indeed odd, but none of these fragments (or JL 5383, for that matter) appears to be the result of wilful manipulation. In any case the comparison of the London manuscript with the canonical collections drawing on the Britannica in the 1090s shows that the latter version of the collection in all probability did not yet have the textual oddities that made Kuttner suspicious in the first place. In the end, the list of ecumenical councils later known as *Sancta octo* in the *Varia* section is the only case where a manipulation by the Britannica compiler seems possible. More importantly for the purpose of this study, among well above 1,000 canonical proof texts, *Sancta octo* is the *only* one for which a case at least can be made that the Britannica compiler may have interfered with his material; none of the other materials filling more than 200 folios gives rise to similar suspicion, especially not in the *ex registro* sections.

If we turn from possible manipulations by the Britannica compiler to cases where he retained versions of papal letters which can be shown to differ from the lost original, the overall picture is similar: many fragments have been called 'dubious' in this sense, but only for a handful a strong case against their authenticity has been made. Ullmann's idea of large-scale forgeries of the late-eleventh century influencing the Britannica turned out to be baseless. However, unlike the case of manipulations by the Britannica compiler, there are indeed a handful of cases where the collection – both in its extant

form and the version circulating in the 1090s – can be shown to contain fragments of papal letters which in all probability misrepresent the content of the respective originals. Namely, the odd letter of John VIII which already in medieval times was suspected to be manipulated (JE 3003) and several Leo IV fragments which scholarship since the late nineteenth century has discussed as possible forgeries are indeed highly suspicious. John VIII almost certainly did not address the bishop of Dol as ‘archbishop’. Thus, the address of JE 3003 as found in the Britannica is best explained as belonging to the forgeries supporting Dol’s case of independence from Tours. As for the Leo IV letters, two sets of fragments in the *ex registro* section are indeed highly suspicious: the two fragments of a privilege granting Hincmar of Reims the ‘daily use’ of the *pallium* (JE 2618/2619) and two other fragments chastising the same prelate for usurping his see and containing implausible references to the excommunication of Emperor Lothar (JE 2607/2608). The ‘second’ *pallium* privilege for Hincmar almost certainly was forged at Reims at some point before Flodoard finished his chronicle. The other fragments (JE 2607/2608), in contrast, may well have been forged or manipulated by Hincmar’s opponents, possibly still in his lifetime.

Five dubious fragments may seem a small set compared to the hundreds of canons found in the *ex registro* sections, especially if we compare these numbers to other canon law collections containing often more forgeries than genuine material. Nonetheless, the presence of these five texts in the Britannica is important evidence against Ewald’s model of the *ex registro* sections drawing more or less directly on papal registers. Instead, all five fragments in the form preserved by the Britannica emerged outside the papal chancery, and more specifically can be assumed to be the result of partisan forgery. Either the Britannica compiler himself added the suspicious fragments to the Leo IV dossier he obtained elsewhere or he relied on a formal source similar to the extant *ex registro* section, that is, a dossier that looked like excerpts from Leo’s registers but in fact contained some manipulated or even forged fragments. The presence of JE 3003 demands a similar explanation for the genesis of the *ex registro* section for John VIII.

This all confirms the ‘multi-stage genesis’ of the Britannica Brett and Herbers since the 1980s have advocated. The collection was compiled from a range of smaller dossiers which seem to have had very different transmission before they reached the Britannica. Yet what does this mean for our key question, the reliability of the *ex registro* sections of the Britannica? The answer is evidently different for each section. The Leo IV section in particular cannot be trusted to preserve the content or, for that matter, the sequence

of the original letters. It may well be that large parts of the section indeed preserve the relative chronology, but as it is not possible to identify the more reliable parts with any certainty, one should not build any arguments on the date of Leo's letter solely on their position in the Britannica. By the same argument, some doubts remain concerning the letters of John VIII, even if the section on the whole is rightly seen as a reliable witness to the lost registers of this pope.

For the remaining *ex registro* sections decades of research often critical of Ewald's model have largely confirmed that they are indeed very reliable. Even some of his more adventurous claims concerning the lost registers of Urban II were later confirmed by newly discovered primary source evidence. More generally, the fact that the *ex registro* sections contain so many fragments of genuine letters, and none of the many forged or misattributed letters, already suggests that the Britannica compiler for these sections must have relied on sources unusually close to the papal registers.

As for the chronological order of the *ex registro* section, the rather precise dates Ewald supplied for many letters were often based on assumptions no longer shared by modern research. In contrast, his more general argument that the arrangement of the fragments in the individual sections by and large corresponded to the sequence they were written, has been confirmed by later research. Even scholars profoundly sceptical of Ewald's dates only very rarely have identified letters written demonstrably earlier or later than their place in the Britannica would suggest. Given how easily any chronological sequence was lost in canonical collections, this negative evidence is a rather strong argument that the long section indeed preserve the chronological sequence rather well. The most important exceptions are, again, the Leo IV section, and a few letters in the Gelasius/Pelagius section.

So with the exception of the Leo IV section, the relevant parts of the Britannica normally can be trusted to faithfully preserve the content, the wording, the *cursus*, and even the sequence of the papal registers on which they are ultimately based. Of course, one has to account for scribal errors in the London manuscript, its unfinished nature, and the physical losses. Personal names and place names are often badly misrepresented. Inscriptions and initial letters are partly missing, the division of individual texts occasionally is blurred, and some material may have been displaced as in the case of the two Pelagius fragments found only after the Gelasius I section. Fortunately, however, a number of sources (above all the Tripartita, the Arsenal collection, and Ivo's Decretum) can be used to control the London manuscript, and in

many cases these sources allow to reconstruct the version of the Britannica circulating in the 1090s with some precision. Scholars therefore no longer have to trust the Britannica uncritically; rather, based on a critical assessment of the evidence, they can trust large parts of the collection to faithfully preserve the content of many papal letters written between the fifth and the eleventh centuries.