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**Destroyed but not Lost:  
A Digital Reconstruction of the Chartrain Copy of  
Burchard's *Liber decretorum* (Chartres BM 161)<sup>1</sup>**

Michela Galli and Christof Rolker

*Part I: Burchard's Place in the History of Canon Law*

The *Liber decretorum* compiled shortly before 1023 by Burchard of Worms (†1025) was the most influential canon law collection of the eleventh century. Bishops, abbots, teachers, and many other prelates valued the *Liber decretorum* as a comprehensive, well-structured canon law collection covering a very wide range of issues; it was copied frequently, and many compilers used Burchard's work as a model for their own canonical collections. Thus, not only are there some 100 medieval copies (or fragments thereof) still extant, but also a large number of other collections drawing on the *Liber decretorum*. Crucially, this group includes the *Decretum* of Ivo of Chartres, which incorporated most of Burchard's *Liber decretorum* and in turn became widely influential both in its own right and via the large number of derivative collections drawing on it.

Via these later collections, the decisions Burchard had made in omitting, retaining, reworking, and arranging his material had a profound impact on medieval and even early modern canon law, if only because material not found in his comprehensive collection had a significantly lower chance of being included in any of the most influential collections of the twelfth century. After all, the *Tripartita* (in part B), the *Panormia*, and the *Decretum Gratiani*

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<sup>1</sup> This article grew out of joint research after the authors in July 2021 discovered that they both had begun to study the fragments of Chartres BM 161 and independently of each other had identified most, but not all Burchardian texts. Galli is mainly responsible for Part II, and Rolker for Parts I and IV, while Part III presents the results of our joint research. All references to the Ivonian collections use the forthcoming (2022) version of Martin Brett's editions available at <https://ivo-of-chartres.github.io/>.

all depend either directly or indirectly on the *Decretum* of Ivo of Chartres mentioned above as an important Burchard derivative.

Yet before the Burchadian material ended up (or not) in the collections of the twelfth century, the *Liber decretorum* already had undergone considerable changes. From early on, the *Liber decretorum* existed in different versions, as Burchard and his collaborators were still making additions and other changes to their work when the collection began to be used outside Worms.<sup>2</sup> As Hoffmann and Pokorny established, the arrangement of canons differs significantly already among the very early copies. In particular, they distinguish two variants of the ‘Order of Worms’: ‘type A’ (found only in the Vatican double codex, two Würzburg copies, and the editio princeps), and ‘type B’, also known as ‘Frankfurt’ order, which is found in almost all extant copies of the *Liber decretorum*. For the textual history of the collection, special attention has to be paid to the reception of Burchard in northern Italy, as it was here that several distinct versions emerged in the second half of the eleventh century. The most important branch of transmission are the so-called ‘deteriores’ manuscripts. As Gérard Fransen demonstrated in a number of studies,<sup>3</sup> many copies of the *Liber decretorum* go back directly or indirectly to exemplars which either have a number of distinctive omissions in books 8, 12, 19, and 20, or ‘scars’ suggesting that these gaps had been mended one way or the other. By ‘scars’ we refer to all phenomena which can be best explained as the result of adding some or all of

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<sup>2</sup> Hartmut Hoffmann and Rudolf Pokorny, *Das Dekret des Bischofs Burchard von Worms. Textstufen-Frühe Verbreitung-Vorlagen* (MGH. Hilfsmittel 12; Munich 1991).

<sup>3</sup> Gérard Fransen, ‘La tradition manuscrite du Décret de Burchard de Worms: une première orientation’, *Ius sacrum. Klaus Mörsdorf zum 60. Geburtstag*, ed. Audomar Scheuermann and Georg May (Munich 1969) 111-118; idem, ‘Trois notes’, *Traditio* 26 (1970) 444-447; idem, ‘Le manuscrit de Burchard de Worms conservé à la Bibliothèque municipale de Montpellier’, *Mélanges Roger Aubenas* (Société d’histoire du droit et des institutions des anciens pays de droit écrit. Recueil de mémoires et travaux 9; Montpellier 1974) 301-311; idem, ‘Le Décret de Burchard de Worms: valeur du texte de l’édition: essai de classement des manuscrits’, *ZRG Kan. Abt.* 63 (1977) 1-19; idem, ‘Le Décret de Burchard’, *Burchard von Worms, Decretorum libri XX [...]. Ergänzter Neudruck der editio princeps Köln 1548*, ed. idem and Theo Kölzer (Aalen 1992) 25-42.

the missing canons from a complete version of the *Liber decretorum*. For example, the missing material may be found in the margin rather than the main text, inserted at the end of the respective book, written by a different hand, and/or the gaps may be commented upon; sometimes, canons were conflated (or mutilated) as a result of the insertion of missing material, or inscriptions became muddled, or the capitulatio was not, or not adequately, brought up to date. As already Fransen observed, some of these features were often preserved, at least in part, when new copies were made from such ‘mended’ exemplars. For example, the phrase ‘hic minus habetur’ in several Burchard manuscripts is found in the main text of a canon to which it originally was a marginal comment.<sup>4</sup>

In all probability, the characteristic gaps first occurred with a Burchard manuscript written in or brought to northern Italy in the mid-eleventh century. Indeed, most Burchard copies written in northern Italy display the characteristic ‘deteriores’ gaps and/or ‘scars’ in the above sense; vice versa, most extant manuscripts belonging to the ‘deteriores’ tradition were written in Italy (mostly northern Italy).<sup>5</sup> It is striking that there are ‘deteriores’ copies written in (or brought to) southern Italy, Aquitaine, and the Iberian Peninsula, but no Burchard manuscript written in Germany displays the ‘deteriores’ gaps (or scars). The gaps first studied by Fransen therefore can also be used to determine whether a given Burchard manuscript ultimately depends on the ‘German’ or the ‘Italian’ branch of the transmission. In France in particular one may assume that both traditions were known at some point, and libraries in possession of more than one copy may thus have ended up with codices of both versions.

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<sup>4</sup> Fransen, ‘Essai’ 9.

<sup>5</sup> In addition to Fransen’s articles, see also Hubert Mordek, ‘Handschriftenforschungen in Italien, I: Zur Überlieferung des Dekret des Bischofs von Worms’, QF 51 (1971) 626-651. All complete Burchard manuscripts Mordek describes belong to the ‘deteriores’ tradition.

*The Chartrain Copy of the Liber decretorum and Ivo's Burchard*  
 Given all this, it should come as no surprise that the only copy of the *Liber decretorum* known to have been at Chartres in the Middle Ages (Chartres BM 161) is of special importance for the history of pre-Gratian canon law. On the one hand, it is an important witness to the reception of the *Liber decretorum* in northern France, and establishing which branch of the transmission it belongs to would help to understand the way Burchard reached this region: was it mainly the 'German' tradition that slowly made its way west, perhaps via Lotharingia? Or were Burchard copies in northern France influenced by the 'Italian' versions which were so influential in Aquitaine? In addition, the question presents itself whether or not Chartres BM 161 was related to or perhaps even identical with the Burchard copy used by Ivo of Chartres. This in turn would allow one to better understand the legal thought of Ivo: how did he, in detail, treat one of his most important formal sources? What did he leave out (and why), for which canons did he turn to Burchard (or not), and did Ivo always preserve the texts he found in his copy of the *Liber decretorum*?

Unfortunately for such an enterprise, Chartres BM 161 was largely destroyed in the devastating fire after the air raid of 26 May 1944. To establish which version(s) of the *Liber decretorum* Ivo used to produce his own collection, scholars therefore have turned to Ivo's *Decretum*, a way of enterprise that only became feasible with the editorial work of Martin Brett.<sup>6</sup> Other studies into the textual transmission of individual texts likewise have shed light on the relation between Ivo's collection and different versions of the *Liber decretorum*. Fransen was the first to highlight that Ivo's *Decretum* contained an augmented form of Burchard 1.21 (beginning 'Cavendum est summopere') first found in Milano, Ambrosiana, E.144.sup.; he later identified this augmented canon

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<sup>6</sup> See in particular Brett's concordance tables available at <https://ivo-of-chartres.github.io/> as part of his edition of Ivo's *Decretum*; in addition, see Christof Rolker, *Canon Law and the Letters of Ivo of Chartres* (Cambridge Studies in Medieval Life and Thought, Fourth Series 76; Cambridge 2010) esp. 109-112.

as one of the characteristics of an Italian Burchard version he dubbed ‘recension grégorienne’.<sup>7</sup> Pokorny, in contrast, seems to have assumed that the Chartrain Burchard copy contained the ‘German’ version of the *Liber decretorum*, perhaps because he was aware that Ivo must have had access to a complete version of Burchard.<sup>8</sup> Fowler-Magerl expanded Fransen’s argument, highlighting that Ivo’s Burchard indeed must have contained other ‘Italian’ elements but not the ‘deteriores’ gaps; she proposed that Ivo used both an Italian version of the *Liber decretorum* (perhaps similar to Milano, Ambrosiana, E.144.sup.) and a complete, ‘German’ exemplar.<sup>9</sup> Schneider in his study on the synodal orders added to these observations, pointing to the peculiar ‘ordo’ (his ‘Ordo 5’) and other ‘Italian’ elements in Ivo’s *Decretum* which he took as evidence that Ivo was working with a Burchard copy ultimately drawing on an Italian exemplar.<sup>10</sup> Rolker in turn took up Fowler-Magerl’s argument and speculated that the combination of both ‘Italian’ and ‘German’ features may already have been found in Ivo’s exemplar.<sup>11</sup> However, all these speculations on the lost Burchard manuscript(s) used at Chartres to produce Ivo’s *Decretum* could not be matched with studies on Chartres BM 161. After the war, fragments of the Chartrain manuscripts including Chartres BM 161 were brought to Paris; a 1962 survey gave a grim impression of the state of the surviving manuscripts.<sup>12</sup> Yet in 2005,

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<sup>7</sup> Fransen, ‘Montpellier’ 306 and idem, ‘Essai’ 6; idem, ‘Décret’ 38.

<sup>8</sup> Pokorny in Kéry 136.

<sup>9</sup> Linda Fowler-Magerl, ‘Fine Distinctions and the Transmission of Texts’, ZRG Kan. Abt. 83 (1997) 146-186 at 149: ‘This augmented form of the *Liber decretorum* was used . . . by Ivo of Chartres in the 1090s, who, however, must have had access to more than one copy of the *Liber decretorum*, because his *Decretum* does not have the gaps characteristic of the deterior group’.

<sup>10</sup> Herbert Schneider, ‘Einleitung’, *Die Konzilsordines des Früh- und Hochmittelalters*, ed. idem (MGH. Ordines de celebrando concilio; Hannover 1996) 1-124.

<sup>11</sup> See Rolker, *Canon Law* 112, arguing that ‘is also possible that Ivo’s model had already combined these features. If Ivo used only one Burchard copy, it was a complete version augmented with the Italian additions described above’. Fowler 197 likewise accepted that Ivo may have used a ‘mixed version’.

<sup>12</sup> *Manuscrits des bibliothèques sinistrées de 1940 à 1944* (Catalogue général 53; Paris 1962). See also Fransen, ‘Trois notes’ 446 for a brief mention.

the Institut de recherche et d'histoire des textes (IRHT) began to restore, digitize, and analyse the fragments from Chartres, and since 2011 has put more and more materials online allowing scholars to identify the parts that are more or less legible.<sup>13</sup>

*Part II: Paleographical Analysis*

Codex 161 (old shelfmark 154) of the Bibliothèque municipale of Chartres has not attracted much scholarly attention in the older literature; we are largely left with the brief notes in the catalogues.<sup>14</sup> According to Omont, the manuscript had 169 folios but was incomplete ('la fin manque'), and the collection contained a preface and a table of contents (capitulationes) at the end. While the 1840 catalogue gave the date 'saec. xi', Omont held it was written in the twelfth century. Post-war scholarship could no longer work with the original, and likewise was divided concerning the date.<sup>15</sup>

*Codicological note*

Chartres BM 161 is a fragmentary parchment codex of today about 370x292 mm, a measurement taken from fol.32, one of the best preserved folios. One would assume that it originally was even larger before it shrunk in the heat of the 1944 fire, but in fact

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<sup>13</sup> For the project, see Claudia Rabel, 'A Virtual Renaissance for the Manuscripts of Chartres Damaged During World War II', *What Do We Lose When We Lose a Library? Proceedings of the Conference Held at the KU Leuven 9-11 September 2015*, ed. Mel Collier (Leuven 2016) 161-166 and <https://www.manuscripts-de-chartres.fr/>.

<sup>14</sup> *Catalogue des manuscrits de la bibliothèque de la ville de Chartres* (Chartres 1840); Henri Auguste Omont in *Catalogue générale* 11 (1890) 84. The earliest reference to Chartres BM 161 may be the list of manuscripts seen by Pierre Pithou in 1579 in the library of the Chapter of Chartres Cathedral, extant in Paris BNF Dupuy 673 fol.35r; before 1594, this list was copied by Augustin Dupuy in the same manuscript at fol.133v. Two other seventeenth-century catalogues also mention it: Paris Bibliothèque de l'Arsenal 4630 fol.225r (by Le Tonnelier, who dated Chartres BM 161 to the twelfth century) and Paris BNF français 20842 fol.121-1r (where it was dated to the eleventh century). Subsequent catalogues include Chartres BM 1171 and the 1816 catalogue by Charles Claude François Hérisson extant in Chartres BM 1715.

<sup>15</sup> Pokorny in Kéry 136; the new online catalogue at <https://www.manuscripts-de-chartres.fr/fr/manuscripts/chartres-bm-ms-161> dated it 'saec. xii1/2' but by now (autumn 2021) 'XIIe s. (début ou 1er quart)'.

Omont in the 1890 catalogue gave precisely the same measures. Given the presence of the holes in the outermost part of folios for the rulings and that in the lower margin one can find the fascicule number, the codex was trimmed only moderately. As already mentioned, according to Omont it must have consisted of 169 folios, but the current state of preservation does not allow verification. The 1944 fire has destroyed some folios completely, while others have survived as fragments of different size, many of them bearing traces of fire and heat. In particular, both the first part (fol.1-13) and the last (unquantifiable folios, the last folio with a numbering considered certain after the recent reordering is fol.135) are lost completely, as is the binding (made of parchment according to Omont). All in all, there are 156 extant fragments, some being fragments of the same folio. Some of the best preserved folios have a modern foliation in pencil, in arabic numerals, in the upper right corner of the recto. According to our reconstruction of the codex, there was no folio 55, due to an error in numbering.

The fragments contain parts, however small, of all twenty books of the *Liber decretorum*. The first canon that can be identified is Burchard 1.128 (fol.14rb), the last is Burchard 20.90. Only three small fragments have survived from the capitulatio (found at the very end of the codex according to Omont). In general, books one, nineteen, and twenty have suffered the heaviest loss. The other books are more or less extensively damaged; all folios are burnt at least in the margins, some reduced to fragments, and the heat has dissolved much of the black ink of the main text. The green ink that was used to alternate the rubricated initials in red is likewise lost almost completely; blue ink was used only rarely but occasionally is preserved.<sup>16</sup> On the other hand, the two-tone red ink used for the chapter headings and rubricated initials has survived surprisingly well; often, the rubrics are the only hints that allow us to identify the fragments.

Given the state of preservation of the fragments, it is not possible to reconstruct the composition of the quires. Only one

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<sup>16</sup> On the initials see Yves Delaporte, *Les manuscrits enluminés de la Bibliothèque de Chartres* (Chartres 1929) 23.

clearly visible numbering can be found in a small fragment belonging to book 19 (fragment 37) 'XVIII' in the lower margin; in the same position on fol.32v, although the ink has disappeared, it is possible to see the numbering 'III'.

The dry point scoring is clearly visible and there are an average of 39 lines per page (e.g. fol.26r and 36r). The writing, a small-format praegothica (with letters of approximately 3-4 mm), is arranged in two columns and begins above the first line. The mirror of writing is 95x259mm per column and the intercolumn is 16mm. The pagination appears to be regular, with wide lower and outer margins, almost never occupied by annotations, corrections, or nota signs.

Unusually for a *Liber decretorum* copy, the appearance of the codex is that of a luxury copy, with large ornate initials at the beginning of all twenty books, rubricated initials for each canon, and the near absence of annotations. This suggests that Chartres BM 161 may have been a copy not for consultation and active study or use, but rather display; the illuminated decoration certainly is among the finest to be found among all extant Burchard manuscripts.

One can recognise the presence of at least three hands in Chartres BM 161: the hand of the copyist of the text, apparently the same one that filled in most of the inscriptions, the hand of a rubricator who uses a few different motifs from the previous one (serif at the base of r, forked ascenders instead of spatula-shaped) and a hand that, in brown ink, occasionally corrects the main text. All three hands use a praegothica, the characteristics of which, as we shall see, suggest that it may have been written in the first half of the twelfth century.

*Palaeographic note on the text*

The praegothica of the Chartrain codex is a laid script, drawn by a very skilled copyist, who was able to trace the letters quickly using some ligature elements, mostly with a right-handed cursus. There are, however, letters drawn with a left-handed cursus, such as lowercase b and upper case Q. Ascenders end with a spatula and sometimes with a thin and light fillet (hairline). The ductus is sharp

and not very broken, with the single strokes clearly identifiable. The writing is very legible and rather rounded.

Let us analyse the writing in more detail, letter by letter. There are several letters that tend to make ligatures, among them the letter a, drawn in two strokes: the first stroke in the shape of a '2' is often bound to the left with the previous letter, the second, vertical, tends not to make ligatures to the right. The letter d takes the two forms of uncial d, drawn in one stroke, or of straight d, drawn in two strokes. The forms are used apparently indiscriminately; both are often found closely together and Meyer's third rule is not respected.<sup>17</sup> The letter e is drawn in one or two strokes. To draw the letter e in one time, the copyist used a fluid right-handed movement that starts at the bottom, traces the curve and then closes from above with a more or less oblique stroke that is always in conjunction with the letter that follows. The hatching can be broken into two times with a first curvilinear stroke and a second oblique stroke to form the loop. In the case of e, sometimes the cauda is nothing more than the extension of the stroke that forms the loop of e, sometimes it is added to complete the letter drawn at one time. The letter f is drawn in two strokes, with a cross-stroke that can bind to the right. The letter g has an open lower loop and is completed by an upper right-hand hyphen that can bind with the following letter. The ascenders of b, straight d, h, and l are high on the headline and usually end in a spatula. The letter r is usually straight and lowercase, tending to link the first vertical stroke with the preceding letter and the second horizontal and wavy stroke to the right. There are very few examples where r takes the form of a '2' after a letter with a convex curve to the right, but it is usually reserved for the abbreviation '-rum' that can be fairly broad and sometimes ends with a loop. The letter s is found in two forms: normally it is straight at the beginning, in the middle, and at the end of words; however, occasionally its round form is used at the end of words. The letter t is lowercase, sickle-shaped, written in two strokes and with the headstroke that can ligate either to the right or to the left. The ligatures st and ct are standardised. The

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<sup>17</sup> See Wilhelm Meyer, *Die Buchstaben-Verbindungen der sogenannten gothischen Schrift* (Abh. Akad. Göttingen N.S. 1.6; Berlin 1897).

letter y has the typical dot-shaped apex. One frequently finds the ampersand ('&') and occasionally the Tironian '7' (uncrossed, with a relatively long and wavy horizontal bar) both for 'et' as a separate word and sometimes in 'etiam', but not when et formed part of other words like 'habet'. Abbreviations are not overly frequent and the copyist often decides not to use them; if they are used they conform to canonical usage.<sup>18</sup>

What, then, allows us to place the copy in the first half, or even hypothetically in the first quarter, of the twelfth century from a palaeographical point of view? The twelfth century is a time of great cultural changes: from the point of view of writing, the Caroline script, which between the ninth and eleventh centuries had become a common script throughout Europe, stiffens into various forms of praegothica and new letterforms begin to develop, even if not always adopted in a consistent way, beginning to move towards what is properly called 'Gothic style'. Typical of the twelfth rather than the eleventh century are the alternations between the two forms of letter d, s, and r respectively. The use of the round form of s at the end of a word and the round r in the form of a '2' after a convex curve to the right in Chartres BM 161 is only hinted at, imprecise, and rare. More frequent is the alternation of straight and oncial d, but not used according to the rule that would have oncial d after letters with a rounded body and straight d after straight letters. The lower left leg of the letter x is often well below the line, another feature pointing to the twelfth century. The diphthong ae can be represented by ę (e.g. in 'heç'); actual ae is very rare. Likewise, diphthong oe is often, but not always represented by ę (e.g. 'peñitencia' and 'cełum'). Occasionally, especially with Greek loanwords, we find ę for simple e (e.g. 'ęcclesia' and 'ęlemosina', but also 'ęterna').

Not only do we find ourselves at the beginning of Gothic typification, but there are also a number of features missing that could shift the temporal location of Chartres BM 161 beyond the middle of the century: the strongly broken hatching, the blending

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<sup>18</sup> On the 'canonical' meaning, see Guglielmo Cavallo, 'Fenomenologia "libraria" della maiuscola greca: stile, canone, mimesi grafica', *Bulletin of the Institute of Classical Studies* 19 (1972) 131-140.

of convex curves, the narrow and tight appearance of the script, the frequent use of abbreviations, in particular 'con-' / 'cum' in Tironian notation and *quia* in the form of 'q2', normal from 1150 onwards.<sup>19</sup>

*A note on decoration*

As mentioned above, the decorative apparatus of the codex is among the most beautiful in a manuscript of the *Liber decretorum* and it clearly demands some attention, not least because it contributes to the dating of the codex. In general and for every book, the decoration of the manuscript consists of:

1. a large letter decorated with different motifs at the beginning of each book;
2. the *incipit* of each book alternating in red, blue, and green ink (with the latter having been lost due to the heat);
3. the rubrics to individual canons;
4. initial letters for each canon alternately in red and green ink (the latter again mostly lost), with a large variety of shapes for individual letters.

Most books begin on a recto, and sometimes space was left empty at the end of the preceding book. In more detail, books 2, 3, and 11 all have the initial letter in the upper part of the first column on a new recto, with some lines left empty after the last canon of the preceding book, and also the book title (in red) already written on the same verso. The title is invariably written in small rustic capital letters in red ink. The most prominent marker of the beginning of a new book is the very large ornate initial letter of the opening canon. For no less than eighteen books, these initials are damaged but still largely intact;<sup>20</sup> only the initials of the first and the last book are lost completely. According to Delaporte, the initial to book twenty was found on fol.157r, but in fact it is extant on fragment 59, a verso.<sup>21</sup> Thanks to a photograph taken before 1944 in black and white, as we have already seen, we also know the

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<sup>19</sup> See Armando Petrucci, *Breve storia della scrittura latina* (Rome 1992) 131-132.

<sup>20</sup> Chartres BM 161 fol.25r, 40r, 60v, 68r, 72r, 77r, 80r, 86v, 92r, 100v, 108r, 111r, 112v, 114r, 119v, 123v, 130r, and 132v.

<sup>21</sup> See below for the opening page of book 20.

initial B at the beginning of the manuscript. Some of these initials are partially zoomorphic, others are carved out and all are decorated, at least in part, with plant motifs. All the letters, with the exception of the initial N of book 14 (fol.112v), are filled in with blue, yellow and red ink.<sup>22</sup> These initials are no less than seven lines high; they are followed by the opening words of the first canon in large capital letters alternating line by line, word by word or letter by letter in red, blue, and apparently green ink (the latter being completely lost to the heat).

All books are composed of canons, with each canon being introduced by a rubric, an inscription (in smaller writing) and a decorated initial. Between the inscription and the body of the canon there often is a paragraph sign in red ink. The initials alternate between red and green ink; sometimes the red used for the rubric differs from that used for the initials. One exception is the letter at the beginning of *Ordo 5* (see below) on fol.60r, which is in black ink with a red filigree. Very occasionally, red initials are used within the main text of canons.

Some of these initials stylistically resemble eleventh-century codices, such as furred letters and dotted letters, but other letters are decorated with red filigrees, very simple but suggesting a later, twelfth-century date. Several initials deserve special attention, such as the presence of the initial A in book 2 (e.g. fol.28v and 36v) and book 9 (fol.91r-91rv) the shape of which is very close to that typical of Le Bec's scriptorium (see e.g. Cambridge UL B.16.44 and Paris BNF lat. 12211); the Q with the normally descending stroke inscribed in the body of the letter; letters which have a small trefoil at the end of their strokes; the presence of an inverted Z-shaped S (fol.100r).

The manuscript seems to have been decorated in Chartres. For Yves Delaporte its decoration was somehow reminiscent of that of Chartres BM 151, a manuscript from Saint-Père-en-Vallée in Chartres (destroyed, no known reproduction), and he dated both

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<sup>22</sup> The illuminator of this letter is not the same as for the others according to Claudia Rabel. See the description of the manuscript online at the Bibliothèque de Chartres website for a more detailed description of the decoration at <https://www.manuscrits-de-chartres.fr/fr/manuscrits/chartres-bm-ms-161>.

codices to the first half of the 12th century; according to François Avril, the decoration in Chartres BM 161 shows influences from Normandy, like that in other manuscripts written at Saint-Père-en-Vallée around the year 1100.<sup>23</sup>

*Part III: Identification of the Texts*

Let us now consider the elements that make it possible to distinguish which version of Burchard's *Liber decretorum* Chartres BM 161 contains. First of all a practical question: how did we proceed?

We have analysed the manuscript from its digitisation. As part of the project to reconstruct the damaged manuscripts of the Bibliothèque Municipale of Chartres, the IRHT is using the International Image Interoperability Framework (IIIF) standard. IIIF is a protocol for viewing, annotating, sharing, and manipulating very high definition images, and in particular it supports the use of photoediting and zooming tools. These tools turned out to be advantageous for our study of the badly damaged fragments. The lack of page-specific, persistent identifiers (e.g. stable URLs) in turn has sometimes made it difficult to study, discuss, and quote individual fragments.

The text, as far as it was legible, was checked against the editio princeps of the *Liber decretorum* edited by Bartoldus de Questenburgh, printed in Cologne by Melchior de Neuss in 1548.<sup>24</sup> Brett's edition of Ivo's *Decretum* has been used to check possible links to the Burchard copy (or copies) used by Ivo and his collaborators. Special attention has been paid to all features identified by Fransen and others to be indicative of the various versions of Burchard's collection ('German' vs. 'Italian', 'Milan', 'Gregorian' etc.). For all these steps, the *Clavis canonum* database has been invaluable; even very fragmentary material could often

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<sup>23</sup> Delaporte, *Manuscrits enluminés* 24; François Avril, 'Notes sur quelques manuscrits bénédictins normands du XI<sup>e</sup> et du XII<sup>e</sup> siècle (suite)', *Mélanges d'archéologie et d'histoire de l'École française de Rome* 77 (1965) 209-248 at 245-246.

<sup>24</sup> For the editio princeps (quoted simply as 'ed. pr.' in the following), we have used both the 1992 reprint (above, n. 2) and the digitized version of the Munich exemplar (urn:nbn:de:bvb:12-bsb10148587-8).

be identified with the help of the *Clavis*, and the transmission of individual canons established swiftly.<sup>25</sup> In the absence of a critical edition of the *Liber decretorum*, the texts found in Chartres BM 161 have been compared to those of a number of digitized copies of Burchard. In addition to the editio princeps, the Vatican double codex and the copies at Bamberg, Frankfurt, and Freiburg have been chosen to represent the ‘German’ tradition; the latter three codices are among the oldest copies of the vulgate or ‘Frankfurt’ version of the *Liber decretorum* (also known as ‘Konstanzer Ordnung’ of ‘Order of Worms, type B’).<sup>26</sup> As for the Italian branch of the transmission, two Vatican codices (Vat. lat. 1355 and Urb. lat. 180), the Milan copy (Milan Ambrosiana E.144.sup.), and the Novara copy (Novara BC XXVIII) have been studied to establish any similarities of Chartres BM 161 to the ‘Italian’ branches of the transmission of Burchard. Given the complexities of the numerous Italian Burchard versions, we often had to rely on scholarly literature in addition to manuscript evidence for this part of the analysis.<sup>27</sup>

As a result, we reconstructed the original arrangement of the fragments, and made a number of observations concerning the relation between Chartres BM 161, other *Liber decretorum* copies, and Ivo’s *Decretum*. The results of our study have informed the presentation of the digitized fragments on the IRHT site.<sup>28</sup> All digital resources used in the context of this study (and also the

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<sup>25</sup> We have used both the 2005 version (now ‘legacy search’) and the new search function now available at <https://beta.mgh.de/databases/clavis/db/>.

<sup>26</sup> BAV Pal. lat. 585/586 ([https://digi.vatlib.it/view/MSS\\_Pal.lat.585](https://digi.vatlib.it/view/MSS_Pal.lat.585)); Bamberg SB Msc.Can.6. (urn:nbn:de:bvb:12-sbb00000072-2); Frankfurt UB Ms. Barth. 50 (urn:nbn:de:hebis:30:2-12488); Freiburg UB Hs. 7. (<http://dl.ub.uni-freiburg.de/diglit/decretorum1034>). In the following, these manuscripts are quoted by their current location only, except for the BAV manuscripts which are quoted by their shelf marks.

<sup>27</sup> Milano Biblioteca Ambrosiana E.144.sup.: (<http://213.21.172.25/0b02da8280193b38>); Novara Biblioteca capitolare di Santa Maria XXVIII (not digitized); Urb. lat. 180: ([https://digi.vatlib.it/view/MSS\\_Urb.lat.180](https://digi.vatlib.it/view/MSS_Urb.lat.180)); Vat. lat. 1355: ([https://digi.vatlib.it/view/MSS\\_Vat.lat.1355](https://digi.vatlib.it/view/MSS_Vat.lat.1355)). See last note.

<sup>28</sup> Our thanks are to Dr Claudia Rabel of the IRHT. See the documentation at <https://www.manuscrs-de-chartres.fr/fr/manuscrs/chartres-bm-ms-161>.

respective IRHT site) have been captured and saved using the Internet Archive to spare other scholars the painful experience of link rot.<sup>29</sup>

#### *Book 1*

Unfortunately, the first half or so of book one is destroyed; the first text that can be identified with certainty is Burchard 1.129 on fol.14r. Thus, one cannot check whether Burchard 1.21 was augmented or not, and what Burchard 1.112 and 121 looked like.<sup>30</sup> The only evidence for the first part of Chartres BM 161 apart from descriptions of the codex therefore is a pre-1944 photograph of the upper part of the opening page.<sup>31</sup> The page is mostly covered by a giant initial, 15 lines high and leaving little space for the rest of the first word of Burchard's prologue. The fact that Burchard's name is spelled 'Broca<a>rdu<s>' here may already hint at an Italian origin of the exemplar from which Chartres BM 161 was copied, but otherwise very little can be derived from this photograph.<sup>32</sup>

#### *Beginning of book 2*

Two fragments survive of fol.25, the beginning of book 2 of Burchard's *Liber decretorum*. The recto side contains Burchard 2.1-5 and the beginning of Burchard 2.6; the verso side has the end of this canon, followed by Burchard 2.7-9, 10-11 (with only the rubrics legible), 12, 13 (badly damaged), 14, 15 (rubric only), 16 (?), 17 (?), 18 (rubric); the second, rather small fragment contains parts of Burchard 2.18, 23, and 19 (in this sequence). On fol.26r, we find the end of Burchard 2.19, followed by Burchard 2.20-22 and 24-26. So Chartres BM 161 seems to have contained a version where canon 23 of the second book was displaced (Burchard 2.18,

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<sup>29</sup> See the Wayback Machine at <https://archive.org/web/>.

<sup>30</sup> On these canons, see Fransen, 'Décret' 38-39 and Fowler-Magerl, 'Fine Distinctions' 147-148.

<sup>31</sup> The original is preserved in the BM Chartres; for a digital image see: <https://bvmm.irht.cnrs.fr/consult/consult.php?reproductionId=20000>.

<sup>32</sup> See, for example, Urb. lat. 180 fol.2ra for 'Brocardus' in Italian manuscripts. Pierre Pithou noted this spelling for the Chartrain codex, too. See Pierre Pithou, 'Appendix: Synopseos historicae virorum clarorum, qui praeter Gratianum canones et decreta ecclesiastica collegerunt', *Corpus iuris canonici Gregorii XIII. pontificis maximi auctoritate post emendationem absolutam*, ed. Justus Henning Böhmer (2 vols. Magdeburg 1747) 1.1237-1242 at 1239.

23, 19-22, 24); this corresponds to the order found in some Italian Burchard copies and also in Ivo's *Decretum*.<sup>33</sup> In other words, Chartres BM 161 seems to belong to the same Italian branch of the transmission which also was used for the making of Ivo's collection. According to Fransen, the transposition of Burchard 2.23 belongs to the features of the 'tradition la plus récente' found in more than half of the extant manuscripts.<sup>34</sup>

*Minor variants in Burchard 2.154-155*

Burchard 2.154 in Chartres BM 161 towards the end of the canon reads 'scandalizat<us est> in Deum' like Ivo and the Italian manuscripts instead of 'est scandalizatus in Deum' like the German Burchard copies.<sup>35</sup> The rubric to the next canon reads:

Ut singuli presbiteri singulis annis episcopo suo de ministerio rationem reddant

and the canon begins 'Unusquisque presbiter' instead of 'Ut unusquisque presbiter'.

This is another canon where Chartres BM 161 seems to be slightly closer to Ivo's *Decretum* rather than many Burchard manuscripts.<sup>36</sup>

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<sup>33</sup> Pal. lat. 585 fol.116ra-117va, ed. pr. fol.56r-56v, Bamberg fol.57r, Frankfurt fol.51r, Freiburg fol.55r, and also Milan fol.35v all contain Burchard 2.18-24 in this sequence. In contrast, Novara fol.32v, Vat. lat. 1355 fol.51v, and Urb. lat. 180 fol.57v have the 'Italian' order (Burchard 2.18, 23, 19) also found in Ivo 6.37-39 (ed. Brett).

<sup>34</sup> Fransen, 'Montpellier' 301 and 307.

<sup>35</sup> Chartres BM 161 fol.34va. The ed. pr. fol.47ra; Pal. lat. 585 fol.143va; Bamberg fol.70rb; Frankfurt fol.64rb; Freiburg fol.68rb all have 'scandalizatus est'. Milan fol.44r, Novara fol.41r, Vat. lat. 1355 fol.66r, Urb. lat. 180 fol.71v, and Ivo 6.245 (ed. Brett) all have 'est scandalizatus'. Note that the canon is displaced in Urb. lat. 180 and Novara.

<sup>36</sup> Pal. lat. 585 fol.143va; ed. pr. fol.47rb; Bamberg fol.70va; Frankfurt fol.46va; Freiburg fol.68rb all have 'suo episcopo' and 'ministerio suo'. The rubric Ivo 6.246 (ed. Brett) has 'suo episcopo' like Chartres BM 161 but also adds another 'suo' after 'ministerio'. The canon in Chartres BM 161 begins 'Unusquisque presbiter' like Ivo 6.246. Pal. lat. 585 fol.143va; ed. pr. fol.47rb; Bamberg fol.70va; Frankfurt fol.46va; Freiburg fol.68rb all begin 'Ut unusquisque'. The inscription is 'Ex concilio Magontiensi a Riculfo eiusdem sedis archiepiscopo habito, cap. iii,' as in all Burchard manuscripts (only Ivo has 'cap.ii').

*Additions after Burchard 2.118 and muddled rubrics*

Chartres BM 161 fol.32v contains Burchard 2.118, followed by four additional canons not normally found in the *Liber decretorum*. As two of these texts are exceedingly rare material and provide important evidence for the genesis of Ivo's *Decretum*, let us look at fol.32v in some detail. It begins with the rubric of Burchard 2.118, the respective inscription, and the canon itself. The text is very legible; a small variant links Chartres BM 161 to Ivo's *Decretum*: both in mid-canon have 'cotidiani' where most Burchard copies read 'cottidianis'.<sup>37</sup>

The next canon (Burchard 2.118A) is a long excerpt from Pope Siricius' famous decretal JK 255.<sup>38</sup> In Chartres BM 161, it begins:

De sanctitate vitae clericorum. Siricius papa ca<p. VII> de Calcidonense concilio. Plurimos Christi <sacerdotes a>tque levitas post longa consecr<ratione>s sue tempora

Excerpts from JK 255 are fairly common in pre-Gratian canon law collections. For example, many collections including the *Dionysiana* and the *Hispana* contain the complete c.7 (from 'Veniamus' to 'medicinam'), while others like the *Tripartita* only have the middle part (from 'Plurimos sacerdotes Christi' to 'admitti'). In Chartres BM 161, too, the excerpt begins with Plurimos, but the parallel to most other collections (and the original text of JK 255) ends after a few lines.<sup>39</sup> After this, the canon has a sentence (beginning 'Sed illi per success<ionem>') manifestly not taken from JK 255, and in the following presents more a paraphrase than a quotation of JK 255. Chartres BM 161 here does not seem to follow any major collection like the *Dionysiana* or Pseudo-Isidore. However, as far as the text is

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<sup>37</sup> Ivo 6.194 (ed. Brett). Burchard 2.118 as found in Pal. lat. 585 fol.138rb; ed. pr. fol.45ra; Bamberg fol.67vb; Frankfurt fol.61vb; Freiburg fol.65va all have 'cottidianis' (or 'quotidianis' in case of the ed. pr.).

<sup>38</sup> For an edition, see Klaus Zechiel-Eckes, *Die erste Dekretale: Der Brief Papst Siricius' an Bischof Himerius von Tarragona vom Jahr 385 (JK 255): Aus dem Nachlass herausgegeben von Detlev Jasper* (MGH. Studien und Texte 55; Hannover 2013).

<sup>39</sup> Chartres BM 161 fol.32v: 'ac ministris generandi <facultas legitur attrib>uta'. See JK 255, ed. Zechiel-Eckes, 96 lines 101-106.

legible in Chartres BM 161, the rest of the column and the first ten lines of the right column correspond perfectly to the heavily abbreviated version of JK 255 found in the collection of Abbo of Fleury.<sup>40</sup> Compared to Abbo, Chartres BM 161 seems to have had a slightly longer version of the text. The parallel to Abbo's text ends in line ten ('sive sit episcopus sive'), after which the canon has another five and a half lines apparently not taken from JK 255 and having no parallel to other collections known to contain JK 255 excerpts:

<h>uic decreto obvia<m> †...†  
 <d>istricte interdict†...†  
 ana<t>hematis iugula†...†  
 ma<rana>tha; A cunctis†...†  
 <aeq?> †...†st.

No ready explanation is at hand on how to explain the parallel between Abbo's collection, which has no known influence on other pre-Gratian canon law collections, and Chartres BM 161. Likewise, the reference to Chalcedon in the inscription calls for an explanation.

The next canon in Chartres BM 161 (Burchard 2.118B) is a short excerpt from a letter of St Jerome, and as far as it is legible it corresponds to a canon found also in Gratian:

Hieronim<us>. Negotiato<rem clericum, et ex inope divitem, ex>  
 ignobili gloriosum, quasi qua<mdam pestem fuge.>

This canon is not normally found in Burchard, and only rarely in pre-Gratian collections.<sup>41</sup> The next canon (Burchard 2.118C) is not very legible, except for its initial (Q) and the rubric: 'De ordinatis si usuras <exe>cuerint'. This very rubric is found in Ivo's *Decretum*, where it introduces a spurious canon attributed to Jerome (Ivo 6.194A); crucially, this canon in Ivo is found immediately after Burchard 2.118. The text in Chartres BM 161, supplied from Ivo's *Decretum*, reads as follows:

<sup>40</sup> Abbo of Fleury, *Collectio canonum* c.39 (PL 139.495-496). See Franck Roumy, 'Remarques sur l'œuvre canonique d'Abbon de Fleury', *Abbon, un abbé de l'an mil*, ed. Anne Dufour and Gilette Labory (Bibliothèque d'histoire culturelle du Moyen Âge 6; Leuven 2008) 311-342 esp. 338.

<sup>41</sup> According to the *Clavis* database, only 3L and 10P have it, both in the form also found in Gratian D.88 c.9; the Vienna 7L has a variant (longer?) version. The material source is Jerome, ep. 52.5 (ed. Hilberg CSEL 54.422).

Q<uos in> ecclesiast<ico ordine videris usurarios,>  
 adulteros, <concubinarios et ad cumulandam>  
 mammo<ne pecuniam semper intentos, velut>  
 <h>ereticos devita. Si <presbiter est, corpus et>  
 <sanguinem Domini> illum tractando <non audieris,>  
 <sed etiam tractare> non permiseris.

The loss of text is considerable, but the legible parts perfectly fit the text as found in Ivo. The parallel to Ivo continues with Burchard 2.118D; again, much has to be supplied from Ivo's *Decretum*, but the legible parts again match Ivo's text:

I<dem?>. De ea<dem re>  
 N<on potestis, inquit Deus veritas, Deo servire et>  
 mammone. Cui ergo servit qui mammone  
 <serv>it? Vis audire cui<? Idolorum culture.  
 Audi aposto>lum: Avarus, quod <est idolorum servitus,>  
 non <habet here>dit<atem in regno Christi et Dei.  
 Qui ergo propter suam aviditatem perdit regnum  
 Dei, et efficitur idolatra potest dici Christicola? Non  
 colit Christum, non sacrat corpus suum nec Christus  
 per ipsum. Quid ergo? Iudicium et suam condemnationem  
 tractat, non solum dico sibi sed et tibi, si sibi  
 consentiens extiteris.>

After these two spurious canons, which have no known parallel in pre-Gratian canon law except for Ivo's *Decretum*, Chartres BM 161 fol.32v-33r continues with Burchard 2.119-127. However, presumably as a direct result of the addition of the material just quoted, the rubrics are out of order, as the following table shows:

Canon number and rubric in Burchard (ed. pr.)	Rubric in Chartres 161	Canon number and rubric in Ivo
118 De ordinatis [...] furto	De ordinatis [...] furto	194 De ordinatis [...] furto
[118A]	De sanctitate vitae clericorum	[See Ivo 6.50]
[118B]	[No rubric]	-
[118C]	De ordinatis si usuras exercuerint	194A De ordinatis si usuras exercuerint [canon in PVE only]
[118D]	De eadem re	194B De eadem re [canon in PVE only]
119 De ordinatis si usuras exercuerint	De †...†	195 De eadem re
120 De eadem re	De eodem	196 De eodem
121 De eadem re	De eodem	-
122 De eadem re	Item de eadem	197 [no rubric]
123 De eadem re	Item de usurariis	197A Item de usurariis [canon in PVB only]
124 De eadem re	Quid sit usura	198 Quid sit usura PVBD / De eadem re CRH
125 Item de usurariis	De eadem re	199 De eadem re
126 Quid sit usura	De eadem re	200 De eadem re PVBD / Quid sit usura CRM
127 De eadem re	De eadem re	201 De eadem re

The rubric to Burchard 2.118A apparently was taken from the source that also supplied the canon itself; at least it is the same also found in Abbo's collection. Burchard 2.118C, however, in Chartres BM 161 was given the rubric of Burchard 2.119, and the rubrics to the next eight canons are similarly 'displaced'. Only from Burchard 2.127 on, Chartres BM 161 again has the normal rubrics. What is striking is that in Ivo's *Decretum*, the rubrics are likewise confused for the same canons, which are part of a very long series of Burchard canons.<sup>42</sup> This very strongly suggests that Ivo for this part of his *Decretum* relied on a Burchard exemplar very similar to Chartres BM 161, from which it copied two 'additional' canons (= Burchard 2.118C-D) and all the confused rubrics along with the more standard Burchardian material. The link is even stronger if we take into account that the two texts have no known transmission in any pre-Gratian canon law collection.<sup>43</sup> In fact, the only other known transmission is a twelfth-century manuscript today in Amiens, a miscellany containing letter and tracts by Anselm of Laon, Odo of Cambrai, Fulbert of Chartres, Hildebert of Lavardin, and Ivo of Chartres.<sup>44</sup>

Interestingly, the story does not end here. As Brett's edition shows, Ivo 6.194A-B are found only in two *Decretum* manuscripts, namely Paris BNF lat. 14315 (his P) and Vat. lat. 1357 (his V).<sup>45</sup> Also, P and V have the same (slightly confused) rubrics also found in Chartres 161. While they have the two

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<sup>42</sup> Ivo 6.125-310=Burchard 2.24-237 with only a few omissions and no non-Burchardian material except the texts under discussion here.

<sup>43</sup> Ivo 6.194A-B (ed. Brett). Abelard quotes both texts, apparently from Ivo, in *Sic et non* q.120 cc.2-3; see *Peter Abelard, Sic et non: A Critical Edition*, ed. Blanche Beatrice Boyer and Richard Peter McKeon (Chicago-London 1977) 413-414.

<sup>44</sup> Amiens BM Fonds Lescalopier 10 (387) fol.82r. The manuscript is digitized: <https://bvmm.irht.cnrs.fr/consult/consult.php?reproductionId=15349>. See *Catalogue général* 19 (1893) 466 and Bernard Lambert, *Bibliotheca hieronymiana manuscripta: La tradition manuscrite des œuvres de Saint Jérôme* (Instrumenta Patristica et Mediaevalia 4; Den Haag 1859-1972) at vol.4A.3. The manuscript comes from Park Abbey near Leuven according to a note fol.2r; it seems to date from the second half of the twelfth century.

<sup>45</sup> See Brett's edition available at <https://ivo-of-chartres.github.io/>, here checked against Vat. lat. 1357 fol.114r-114v.

additional canons Burchard 2.118C-D, they both lack a canon found in all Burchard manuscripts checked for this study (Burchard 2.123). The other main branch of the transmission of Ivo's *Decretum*, represented by Brett's manuscripts C and R, has Burchard 2.123 but does not have Burchard 2.118C-D (or any other additional material, for that matter). The rubrics to Burchard 2.124 and 126 in these *Decretum* manuscripts are those found in the editio princeps and many Burchard manuscripts, but in other cases they are still closer to Chartres BM 161 than the editio princeps.

There are at least three possible explanations for these findings. First, Ivo's *Decretum* may have been compiled from a Burchard copy similar to Chartres BM 161, from which the additional canons were copied. In this case, one would have to assume that the exemplar of P and V retained Ivo 6.194A-B while the other manuscripts go back to an exemplar where the additions were deleted (and some rubrics corrected), presumably after comparison of Ivo's *Decretum* to a more standard Burchard copy. A similar process can be observed, for example, in the production of the Novara copy of Burchard's *Liber decretorum*. Here, a later hand marked additional canons for deletion,<sup>46</sup> evidently after having compared the codex to a more standard form of Burchard's collection. This model would also explain why C and R have rubrics (to Ivo 6.195, 196, and 199) closer to Chartres BM 161 than the more standard Burchard copies: they were found in the notional *Ur-Decretum*, and as there was no urgent need to correct them, they were retained.

Another possibility would be that Ivo's *Decretum* originally was compiled from a Burchard copy not containing the additional canons after Burchard 2.118. Later, however, someone compared it to a Burchard copy similar to Chartres BM 161 and inserted the two canons in Ivo's book six. In this model, *Decretum* manuscripts C and R represent the original version of this part of the collection, while P and V go back to an exemplar which was added to somewhat later. Such additions are frequent among manuscripts of

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<sup>46</sup> See Novara fol.61rb and 172rb (as mentioned below, notes 61 and 76).

pre-Gratian collections and thus do not demand special explanation. However, adopting this model makes it more difficult to explain why the rubrics to Ivo 6.195, 196, and 199 in manuscripts C and R of Ivo's *Decretum* are so similar to those found in Chartres 161.

A third, and more complex model would assume that the additional canons were inserted into the exemplar of P and V from an unknown source available at Chartres rather than a Burchard copy. The presence of these materials in Chartres BM 161 in this case would have to be explained by the use of both a Burchard copy (not containing the additions) and Ivo's *Decretum* to produce the extant version that can be reconstructed from the extant fragments. However, this suggests that scribe of Chartres BM 161 recognized Ivo's *Decretum* to contain long series of Burchardian material in the first place, and in addition that he chose to use Ivo's collection rather than another copy of Burchard as his source for additional material. This would be a very unusual procedure, and the model would fail to explain why the scribe took so little non-Burchardian material from Ivo, and from which source he took Burchard 2.118A-B not found in any extant manuscript of Ivo's *Decretum*.

Therefore, the last explanation can be dismissed; the parallel between Burchard 2.118-127 as found in Chartres BM 161 and Ivo 6.194-201 is best explained by the availability of a Burchard copy very similar to Chartres BM 161 to Ivo and his collaborators, whether they used this copy from the very beginning, or only later compared an early *Decretum* to this manuscript. This in turn suggests that a Burchard copy very similar to Chartres BM 161 was available at Chartres in the mid-1090s or (if it was used only to supplement Ivo's *Decretum*) not much later; Chartres BM 161 could well have been copied directly from this working manuscript of Ivo and his collaborators. The chronology makes it also tempting to assume that it was Ivo himself who brought the exemplar of Chartres 161 with him from Italy (perhaps when returning from Capua in 1091), but this must remain speculative.

Let us now turn to the other unusual contents of this part of Chartres BM 161. As for the Siricius text (Burchard 2.118A), we

may assume that it was present in a *Liber decretorum* copy available to Ivo and his collaborators at some point. Why, then, was this canon not taken into Ivo's *Decretum*? The answer seems to be that Ivo in his *Decretum* already had a longer, overlapping excerpt from JK 255 which he took from the *Tripartita* (Ivo 6.50=*Tripartita* A1.36.4). The omission of Burchard 2.118A as found in Chartres BM 161 therefore can be explained by the desire of Ivo and his collaborators to avoid internal overlap in his collection. The same holds for the absence of Burchard 2.123 in some manuscripts; it overlaps with Ivo 6.65, a longer excerpt from the same material source Ivo found in the *Tripartita*. Some repetitious canons were dropped very early in the making of Ivo's *Decretum* (and thus found in no extant copy), others apparently only when the respective exemplars of C and R on the one hand and P and V on the other were made.<sup>47</sup> In the case of Burchard 2.118B (likewise found in Chartres BM 161 but not in Ivo's *Decretum*), no such explanation is at hand; it may simply have been too short to be seen as a valuable addition to the rich materials of Burchard's book two.

*Variants in Burchard 2.134*

Burchard 2.134 prohibits the celibate clergy from attending weddings, lest they be tempted by lascivious songs or dances performed at such occasions. The material source is the Council of Agde (506) but in Burchard and many later collections the canon is misattributed to St Augustine. In the standard form found in many collections, the prohibitions specifically include subdeacons: 'Presbiteri, diaconi, subdiaconi vel deinceps, quibus ducendi uxores non est licitum'. In Chartres BM 161 fol.33v, however, Burchard 2.134 begins 'Presbiteri et diaconi vel deinceps', and the same omission is found in two Italian Burchard copies and Ivo (Ivo 6.208). According to the *Clavis* database, the very same omission is also found in two Italian collections, namely the *Ambrosiana II* and the *Collection in Two Books/Eight*

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<sup>47</sup> See Rolker, *Canon Law* 112-113, 173-174, and 258-263 on overlap in Ivo's formal sources not duplicated in the *Decretum* (or only in certain branches of the tradition).

*Parts* (2L/8P).<sup>48</sup> The *Ambrosiana II* was compiled for use at Milan around 1100; the most recent text is JL 5388, most likely written in the early 1090s. The *Collection in Two Books/Eight Parts* is related to a number of collections compiled in northern Italy in the late eleventh century; Anselm of Lucca, Bonizo of Sutri, and Deusdedit seem to have taken material from this collection which may have been compiled in the 1080s. It may well be possible this version of ‘Adge’ first originated with Italian Burchard copies, from where it may have entered other collections.

In addition, Chartres BM 161 in mid-canon lacks the phrase ‘sacris misteriis deputati’ (or ‘deputatus’), which is found in all Burchard manuscripts checked so far and also in Ivo.<sup>49</sup> So while the first gap, shared with two Italian collections and at least one Italian Burchard manuscript, links Chartres BM 161 and Ivo, the second gap tells against the idea that Chartres BM 161 was Ivo’s only exemplar (or a faithful copy of Ivo’s only exemplar).

*End of books two and three: Order of Frankfurt*

The order of canons in Chartres BM 161 is largely the so-called ‘Frankfurter Ordnung’ as found in almost all extant copies of the *Liber decretorum* (but not the editio princeps). In particular, the sequence of canons at the end of books two and three corresponds to that found in the Frankfurt and Freiburg manuscripts, not the sequence of Pal. lat. 585 and 586. As the Frankfurt order is found in almost all extant copies, whether ‘German’ or ‘Italian’ ones, this finding is not surprising.<sup>50</sup> The relevant passages in Ivo’s

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<sup>48</sup> See the *Clavis* database for *Ambrosiana II* (MJ380) and 2L/8P 6.51 (VB06.051). On the *Ambrosiana II* see Fowler 124; on the other collection, see Christof Rolker, ‘Bonizo von Sutri, die “Sammlung in zwei Büchern/acht Teilen” und das Gespenst der gregorianischen Zwischensammlung’ *BMCL* 36 (2019) 55-106.

<sup>49</sup> Pal. lat. 585 fol.140ra, Bamberg fol.68v, Frankfurt fol.62vb, Freiburg fol.66va, Milan fol.42v-43r, and Urb. lat. 180 fol.170ra all mention the ‘subdiaconi’ at the beginning; they all read ‘sacris misteriis deputati’, except for Urb. lat. 180, where one reads ‘sacris deputatus’ [*sic*] instead. Novara fol.40ra also mentions the subdeacons and has ‘deputatus’ instead of ‘deputatis’. Only in Vat. lat. 1355 fol.64r the canon begins ‘Presbyteri et diaconi vel deinceps’ as in Chartres BM 161 and Ivo 6.208 (ed. Brett).

<sup>50</sup> Chartres BM 161 fol.37r-39v: Burchard 2.226, 234, 227-233, 236, 239; canon 235 is found after Burchard 2.197, while canons 238 and 237 are found after

*Decretum* contain the Burchardian texts in almost exactly the same sequence.<sup>51</sup> Also, compared to the editio princeps, Chartres BM 161 contained Burchard 4.57-58 in the reverse order, as it is typical of the vulgate (Frankfurt) arrangement of canons.<sup>52</sup>

*Addition after 3.15 (Gregory I, JE 1317)*

Chartres BM 161 fol.40vb contains an additional canon after Burchard 3.15 (= 3.15A) taken from a letter of Gregory the Great (JE 1317). The same excerpt (in fact, only the last sentence of the letter is missing) from JE 1317 is found after Burchard 3.15 in Italian manuscripts, though not the Milan Burchard.<sup>53</sup> It is also found in Ivo's *Decretum* as part of a longer series taken from Burchard.<sup>54</sup> The additional canon in Chartres BM 161 (with gaps supplied from Ivo) reads:

Ex decretis Gregorii pape missis ad Iohannem Ravenensem episcopum.

Pervenit ad me quod in ecclesiis fraternitatis tuae, aliqua loca monasteriis consecrata, nunc habitaculorum clericorum facta sunt; dumque hi qui sunt in ecclesiis, fingunt se religiose vivere, monasteriis preponi appetunt, et per eorum vitam monasteria destruantur. Nemo etenim potest ecclesiasticis obsequiis deservire et in monachica regula ordinata persistere, ut ipse distinctionem monasterii teneat, qui quotidie in ministerio ecclesiastico cogitur permanere. Proinde fraternitas tua hoc, quolibet in loco factum sit, emendare festinet, quia ego nullo modo patior ut loca sacra per clericorum ambitum destruantur.

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Burchard 2.201. Chartres BM 161 fol.54v-59v: Burchard 3.217-222, 227-228, 225-226, 230-238, 240, 239, 223-224, 241 (followed by the synodal order on which see below).

<sup>51</sup> Ivo 6.269-271 (= Burchard 2.197, 201, 198), 6.301-310 (= Burchard 2.226, 234, 228-233, 236, 239), and 4.267-284 (= Burchard 3.227-228, 225-226, 230-238, 240, 239, 223-224, 241).

<sup>52</sup> Chartres BM 161 fol.64ra; ed. pr. fol.88va. See Fransen, 'Décret', 33.

<sup>53</sup> See Milan fol.53rb (Burchard 3.15-17), Urb. lat. 180 fol.85v, Vat. lat. 1355 fol.80r (where the sequence is Burchard 3.15, 15A, 17, 16); Novara fol.49r; Ivo 3.17-20 (ed. Brett)=Burchard 3.15, 15A, 16, 17.

<sup>54</sup> Ivo 3.17-20 (ed. Brett)=Burchard 3.15, 15A, 16, 17. In Chartres BM 161, but not in Ivo, the rubrics to Burchard 3.16-18 are out of sequence, evidently as a result of the insertion of 3.15A. Note also that Ivo knew the complete text of JE 1317 via *Tripartita* A1.55.101.

The canon was first reported by Fransen as an addition typical of the *deteriores*.<sup>55</sup> According to him, the presence of this text after Burchard 3.15 is typical of the ‘deteriores’. However, as in the case of other texts added to the *Liber decretorum*, it had a life of its own in the sense that it seems to have been added also to other Burchard copies otherwise unrelated to the ‘deteriores’ tradition.<sup>56</sup>

*Burchard 3.95 missing*

On fol.47r, a well-preserved page, one can read most of Burchard 3.90-98, but c.95 is clearly missing. Fransen reported this as a common phenomenon.<sup>57</sup> All German and most Italian Burchard manuscripts we have seen have it.<sup>58</sup> The absence of the canon constitutes a weak link to Ivo, whose Burchard exemplar seems to have had this gap too.<sup>59</sup>

*Burchard 3.178-179 interpolated*

Burchard 3.178 and 179 in Chartres BM 161 fol.52v are both interpolated in a way that strengthened the local clergy in the administration of ecclesiastical property. The interpolations were first reported by Kölzer, who noted that they were found in a number of Italian and Spanish copies of the *Liber decretorum*, in the *Collectio Farfensis*, and in Ivo’s *Decretum*.<sup>60</sup>

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<sup>55</sup> Fransen, ‘Montpellier’ 306; idem, ‘Décret’ 39.

<sup>56</sup> See, for example, Milano Biblioteca Trivulziana 601 fol.41rb. The copy is fragmentary, but as it contains Burchard 8.38-49 (except for c.40), 12.9-20, 19.109-159, and 20.58-110 I assume it does not belong to the ‘deteriores’ tradition.

<sup>57</sup> Fransen, ‘Décret’ 40.

<sup>58</sup> See ed. pr. fol.65vb; Frankfurt fol.88rb; Freiburg fol.91rb; Pal. lat. 585 fol.190vb-191rb; Milan fol.60va; Urb. lat. 180 fol.96ra (as no. ‘105’), which all have c.95; Vat. lat. 1355 fol.89v lacks it.

<sup>59</sup> One finds most of Burchard’s third book in Ivo’s book three, and a handful of canons in his books two and four, but Burchard 3.95 is not found anywhere in Ivo’s collection. Its content does not suggest that it was omitted for ideological reasons.

<sup>60</sup> See Theo Kölzer, ‘Prolegomena’, *Collectio canonum Regesto Farfensi inserta*, ed. idem (MIC. Ser. B 5; Vatican City 1982) 1-123, 59-60, esp. 59 n.155 for a number of Burchard manuscripts. Note that one of the three copies today held in Spanish libraries was written in Italy; we assume that the other ones ultimately go back to Italian exemplars, too. The augmented form of Burchard 3.178-179 is found in *Collectio Farfensis* 3.68-69 (ed. Kölzer 242) and Ivo 3.240-241 (ed. Brett).

Burchard 3.178 in Chartres BM 161 fol.52va (interpolation italicized) reads:

Item p<lacu>it ut presbiteri non vend<ant> rem ecclesie ubi sunt constituti nesc<ient>ibus episcopis suis, quomodo et episcopis non lice<at v>endere predia ecclesie ignorante con<cilio>o vel presbiteris suis. Non habenti ergo nec<essi>tatem, nec episcopo liceat matris ecclesie ig<nor>ante concilio vel presbiteris suis titulis u<su>ruptare.

The ‘rem’ before ‘matris’ in the last sentence seems to have been overlooked by the scribe. Among the Italian manuscripts checked for the present study, the addition is found in Vat. lat. 1355 and Novara, but not the Milan copy or Urb. lat. 180.<sup>61</sup>

Burchard 3.179 in Chartres BM 161 fol.52va (interpolation italicized) reads:

Si quis presbiter aut diaconus inventus fuerit <de mini>steriis ecclesie, ignorante concilio, aliquid <venund>asse, quia sacrilegium commisit, placuit eum in ordinatione ecclesie non haberi. <In iudicio> tamen episcopi dimittendum <sive dignus sit sive> indignus in suo recipi gradu.

Among the Italian Burchard copies, the addition is found in Novara and Vat. lat. 1355, but not the Milan copy or Urb. lat. 180.<sup>62</sup>

#### *Burchard 3.194*

The canon in fol.53v begins ‘Reum (rather than ‘Servum’) confugientem ad ecclesiam’, a common variant also found in Ivo 3.111. The canon begins with ‘Reum’ in three of the four Italian manuscripts checked for this study.<sup>63</sup>

#### *Synodal order after book 3*

At the very end of Burchard’s book three, Chartres BM 161 fol.59ra-60rb contains a synodal order which can be identified as Schneider’s *Ordo 5*, inserted after book three in almost all Italian

<sup>61</sup> Milan fol.67ra; Novara fol.61rb; Urb. lat. 180 fol.106rb-106va; Vat. lat. 1355 fol.100v (all with minor variants). In Novara, a later hand has marked the interpolation for deletion.

<sup>62</sup> Pal. lat. 585 fol.210va; ed. pr. fol.73va; Frankfurt fol.97rb; Freiburg fol.100vb, Milan fol.67ra, Novara fol.61rb, and Urb. lat. fol.106va all lack ‘ignorante concilio’ while Vat. lat. 1355 fol.100v has it. Note that the inscription to Burchard 3.179 in Chartres BM 161 has ‘cap. xxii’ but Ivo 3.241 has the usual ‘cap. xxx’.

<sup>63</sup> Milan fol.68va, Novara fol.62r (where the canon is added in the margin), and Urb. lat. 180 fol.167rb) all have ‘Reum’; only Vat. lat. 1355 fol.102v has ‘Servum’.

Burchard manuscripts and also found in Ivo's *Decretum* (Ivo 4.246-257). As Schneider established, Ivo's text is close to Milano Biblioteca Trivulziana cod. 601 and to some degree also to El Escorial Real Biblioteca de San Lorenzo T.I.14 and Novara BC XXVIII.<sup>64</sup>

The last legible words of *Ordo 5* in Chartres BM 161 fol.60rb are 'Quibus expl<etis>, archidiaconus dicat' (in red ink), a variant that links Chartres BM 161 to Ivo and three French manuscripts including the Pontifical of Chartres.<sup>65</sup> The passages in black ink are completely lost here, so nothing else can be said about the end of *Ordo 5* except that there is very little space for the last passages that normally are found here. Perhaps Chartres BM 161 even lacked the last sentence ('Tunc' to 'redeant'), which would link it to Ivrea BC XCIV, the only manuscript for which Schneider reports this gap.<sup>66</sup>

*Burchard 6.40-41 and 9.54: Remarriage*

The *Liber decretorum* has three conciliar canons allowing remarriage (Burchard 6.40-41 and 9.54), and three times mentions remarriage in the long questionnaire in his penitential book (Burchard 19.5). Significantly, Ivo in his *Decretum* omits two of these texts (Burchard 6.40 and 19.5) and presents the other two in a form lacking the crucial passages on remarriage. Special attention is therefore due to Ivo's possible sources for these texts, as this may be one of the very few cases where Ivo interfered with his proof texts in order to present the material law differently.<sup>67</sup>

Burchard 6.41 (ed. pr. fol.105vb-106ra) reads:

Si qua mulier mortem viri sui cum aliis conciliata est, et ipse vir aliquem illorum se defendendo occiderit, et si hoc probare potest ille vir eam ream esse consilii, potest, ut nobis videtur, ipsam uxorem dimittere et, si voluerit, aliam uxorem accipere. Ipsa autem insidiatrix, penitentie subiecta, absque spe coniugii maneat.

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<sup>64</sup> See Schneider, 'Einleitung' and the edition itself.

<sup>65</sup> See Schneider's edition (MGH Ordines 257 line 158). The manuscripts in question are Schneider's manuscripts P4 (= BNF lat. 945, the Chartres pontifical), P5, and S.

<sup>66</sup> See *Ordo 5*, ed. Schneider (MGH Ordines 257, lines 159-160).

<sup>67</sup> See Rolker, *Canon Law* 230 (with wrong canon numbers in n. 106).

Ivo 10.169 (ed. Brett) lacks the crucial passage ‘et si voluerit aliam uxorem accipere’. Chartres 161 and all Italian Burchard manuscripts seen have Burchard 6.40-41, with only trivial variants to the *editio princeps*.<sup>68</sup> The passage in Chartres BM 161 reads:

si probare potest ille vir eam ream <esse> consilii, potest, ut nobis videtur, ipsam uxorem dimittere et si voluerit al<i>am uxorem ducere; ipsa autem insidiatrix, penitentie subiecta, absque spe coniugii maneat.

The case is similar with Burchard 9.54 which in its original form (ed. pr. fol.129rb) reads as follows:

Si quis necessitate inevitabili cogente, in alium ducatum seu provinciam fugerit, et uxor eius cum valet et potest amore parentum aut rerum suarum eum sequi noluerit, ipsa omni tempore, quamdiu vir eius quem secuta non fuit, vivit, semper innupta permaneat. Ille vero, qui necessitate cogente in alia patria manet, si numquam in suam patriam se reversurum sperat, si se continere non potest, aliam uxorem accipiat, tamen cum poenitentia.

Ivo 8.189 (ed. Brett) lacks the last sentence, which is clearly legible in Chartres BM 161 and the Italian manuscripts checked for this study.<sup>69</sup> Thus in Chartres BM 161 all three canons (Burchard 6.40, 6.41, and 9.54) were present in their normal, unabridged form. Given that Chartres BM 161 is so closely related to the Burchard copy used by Ivo of Chartres, this provides an important argument for supposing that he almost certainly knew the three canons in their normal form. If so, one may assume that Ivo of Chartres was responsible for the omission of Burchard 6.40 and the abbreviation of the two others (Burchard 6.40 and 9.54). In doing so, he adopted his Burchardian material to the new view of marriage prevalent around 1100.

*An arbor consanguinitatis at the end of book seven?*

Chartres 161 contains the last canons of book seven on fol.79r (Burchard 7.28) and 80ra (Burchard 7.29-30), with an empty page in between (fol.79v). If Chartres BM 161 here had the *arbor consanguinitatis* found in many Burchard manuscripts at the end of book seven, it is lost. In principle this is possible, but it seems more likely that the page was left blank intentionally, as there is

<sup>68</sup> Chartres BM 161 fol.76rb, Milan fol.96ra, Novara fol.85vb, Urb. lat. 180 fol.150ra, and Vat. lat. 1355 fol.145v all have the crucial provision on remarriage.

<sup>69</sup> Chartres BM 161 fol.89v, Milan fol.116ra, Novara fol.103ra, Urb. lat. 180 fol.178va-178vb and Vat. lat. 1355 fol.174v all have the last sentence.

no trace of ink on it (unlike on virtually all pages of the codex). So, perhaps it was left blank in anticipation of a miniature being made after the text was completed. There is in fact evidence that Chartres BM 161 was never finished; it never was properly bound, and according to Omont it lacked the end, a comment that may well be understood to refer to the codex being unfinished.<sup>70</sup>

*Burchard 8, 12, 19, and 20: The deteriores gaps*

As mentioned above, Fransen identified four gaps typical of the ‘deteriores’ tradition: Burchard 8.38-49, 12.10-20, 19.109-159, and 20.57-110.<sup>71</sup> In Chartres BM 161 fol.83r we find a canon beginning like Burchard 8.38, but ending like Burchard 8.49, followed by c.50 with no trace of cc.39-48. In other words, Chartres BM 161 in book eight had one large gap characteristic of the ‘deteriores’ tradition first described by Fransen. There are actually several forms of this gap. In the earliest form, going back perhaps to the mise-en-page of a physically incomplete exemplar, the canon breaks off in Burchard 8.38 mid-canon with ‘cohabitare tecto’ as the last words, and continues with Burchard 8.49, beginning ‘valeat custodiri detrudere’ (equally in mid-canon). Later scribes treated this gap in different ways; some merged the two incomplete texts into one, some left a gap after ‘cohabitare tecto’, others omitted the incomplete sentence, and yet others duly noted (in the margin) that something was missing here: ‘hic minus habetur’. Chartres BM 161 seems to belong to those manuscripts where Burchard 8.38 and 49 are merged into one text, as far as this can be established given the damage to this fragment. One can still read ‘cohabitare’ at the end of one line (roughly mid-page), and ‘ere et ita’ in the next, which would fit the end of the mutilated c.38 and the beginning of the equally mutilated c.49, respectively. So apparently in Chartres BM 161 both canons were merged, even if the resulting Latin made little sense:

[...] <sub uno non> cohabitare  
 <tecto?> †...† <detrud>ere et ita  
 <omnem circa illam sollicitudinem exhibere>.

<sup>70</sup> *Cat. Gén.* 11 (1890) 84: ‘la fin manque’.

<sup>71</sup> Fransen, ‘Essai’ 8-12 and idem, ‘Décret’ 34-38.

Fransen reported very similar phenomena for other Burchard manuscripts, in particular Italian manuscripts and those produced from Italian exemplars.<sup>72</sup> So in book eight, Chartres displays the gap typical for the ‘deteriores’ tradition.

Book 12, in contrast, has no large gaps.<sup>73</sup> Significantly, however, Burchard 12.9 lacks the last nine words, an omission Fransen reported for certain ‘deteriores’ manuscripts.<sup>74</sup> Likewise, Burchard 12.29 in Chartres BM 161 has a gap reported by Fransen as typical for the ‘deteriores’; it is found in all Italian manuscripts checked for this study.<sup>75</sup> In book twelve, therefore, Chartres BM 161 had no major gaps, but ‘scars’ and smaller gaps linking it to the ‘deteriores’ tradition.

Turning to book 19, the loss of relatively many folios hampers a detailed reconstruction of the whole book. Nonetheless, the presence of Burchard 19.122, 126-128, 135-136, 141-145, 149-151, and 153 is solid proof that book nineteen in Chartres BM 161 at least did not have the typical ‘deteriores’ gap as found, for example, in the Milan Burchard. At the same time, the fragment containing c.153 shows that Chartres BM 161 ultimately belongs to the ‘deteriores’ group. Before c.153 it contains some (barely legible) text that does not fit the normal end of c.152 but instead can be identified with an addition Fransen reported for a number

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<sup>72</sup> See Fransen, ‘Montpellier’ 303 (quoting Escorial T.I.14 and Madrid BN 386).

<sup>73</sup> Chartres BM 161 fol.108r-109v has Burchard 12.1-25, including cc.10-20, some or all of which are missing from some ‘deteriores’ manuscripts.

<sup>74</sup> Chartres BM 161 fol.108va; see Fransen, ‘Montpellier’ 304 and idem, ‘Décret’ 36. Milan fol.137vb only has ‘Sin autem’ (as reported by Fransen), Urb. lat. 180 fol.217v-218r merges the beginning of c.8 and the second half of c.10 (omitting c.9 completely), Vat. lat. 1355 fol.208r has the complete form of c.9. Of all manuscripts checked for our study, Novara fol.122ra is the only to have the short form of c.9 also found in Chartres BM 161.

<sup>75</sup> Chartres BM 161 fol.110va: ‘periurium sacramento. Et post / <pauc> miserabilis necessitas’, lacking ‘de Iepte discernens’, and ‘proflus / <e>loquentie fructu fecundus’ lacking ‘de flore venustus, sapientiae’ as found in the ed. pr. fol.157ra. See Fransen, ‘Décret’ 41. Both gaps are also found in Novara fol.124ra (marked by nota signs), Urb. lat. 180 fol.221vb, and Vat. lat. 1355 fol.209v. Note that Ivo 12.84 (ed. Brett) has a much shorter version of this text which does not extend to this part of Burchard 12.29.

of Italian Burchard manuscripts including Vat. lat. 1355.<sup>76</sup> As Fransen established, this addition to Burchard 19.152 belongs to the ‘scars’ of the ‘deteriores’ tradition. Furthermore, it is possible, but by no means certain, that the last texts of Burchard’s penultimate book (Burchard 19.153-159) were abbreviated or even missing in Chartres. The reason to think so is that the lost part of the last folio of book nineteen can hardly have contained all the text found in complete versions of the *Liber decretorum*. The folio containing the end of book 19 and the beginning of book twenty survives in two fragments, both containing parts of the last ten lines or so. Burchard 19.153 begins at the bottom of the left column of the recto; the right column seems to have been empty apart from an inscription in red ink that would fit Burchard 20.1 (‘Augustin<us> dicit’). On the verso side, one finds the end of Burchard 20.2 at the bottom of the left column and parts of Burchard 20.7 in the right column. One can assume that the upper part of the verso in the left column contained the title of book twenty, a decorated initial, and the main text of Burchard 20.1 itself. This is hard to reconcile with Delaporte’s account relating that the initial to book twenty was found on fol.157r; perhaps this reference should have been to the verso rather than the recto.<sup>77</sup>

However, the problem is that Burchard 19.153-159, if present, would have to have been crammed into the upper part of the right column of fol.156, thus 30 lines or less. This seems implausible at best given that these texts fill almost a complete page in the editio princeps, and almost two pages in Urb. lat. 180. Given that several Italian Burchard manuscripts lack some or all of the last canons of

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<sup>76</sup> See Fransen, ‘Montpellier’ 303 on this addition, derived from Burchard 20.95. Urb. lat. 180 fol.308va has Burchard 19.152-153, but no addition; note, however, that Burchard 19.152 lacks a few words at the end. Vat. lat. 1355 fol.289r has the expanded form of c.152; the addition reads: ‘qui in eorum exploratione [*sic*] ad medium perducuntur sed etiam homines [*sic*] electi arguunt dum contempnunt dum virtute mentis eius malicie resistunt’. Almost the same version of Burchard 19.152 is found in Novara fol.172rb, but ending ‘virtute mentis in alio desistunt’ and with the addition marked for deletion by a later hand. In Chartres BM 161, fr. 9, the text ends ‘desistunt,’ too. Note that Ivo in his book 15 retains most of Burchard 19, but not Burchard 19.152.

<sup>77</sup> Delaporte, *Manuscrits enluminés* 23.

book nineteen, it seems reasonable to assume that this also holds for Chartres BM 161, even if it must remain speculative what exactly the end of the book looked like. Perhaps the very end of book 19 in Chartres was similar to Italian copies like Vat. lat. 1355 and Novara.<sup>78</sup> In any case it is clear that substantial parts of the second part of book nineteen were present in Chartres BM 161; it seems to depend on an exemplar where most, though not all, of the missing material (Burchard 19.109-159) had been added again.

With book twenty, the evidence is less straightforward. As Chartres BM 161 was incomplete towards the end already before 1944 and the last part of the codex was particularly severely damaged by the fire, it is no surprise that we find very little trace of the second part of the last book. In fact, only two fragments contain texts that can be identified as coming from Burchard 20.58-101, and both are problematic. The first fragment on the recto has Burchard 20.50-51 and on the verso Burchard 20.59 and 76. More specifically, the last line of the right-hand column apparently reads '<ei<sup>s</sup> ven>ia frustra postulatur. De hoc adhuc', a passage found in the second half of Burchard 20.59. What is odd, however, is the text in the right-hand column of the same fragment, containing the last words of Burchard 20.75 plus parts of the rubric and the first lines of Burchard 20.76. It is inconceivable that the right column contained the rest of Burchard 20.59 plus cc.60-75, a series of canons filling almost ten columns in the editio princeps (fol.230vb-233ra). A similar oddity surrounds Burchard 20.90, as the last lines of this canon are found on a fragment which on the other side contains the end of Burchard 20.17 (in the left column) and 18 (in the right column). Theoretically, it would be possible that ink was transferred from another folio, but this is not the case here. In both cases, one has to conclude that a number of texts from

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<sup>78</sup> In Milan fol.198, book 19 ends with c.108 and a note 'non est finitus iste nonusdecimus liber'; the following pages originally were left empty, but partly were later filled with additions. In Novara fol.172va, book 19 ends with c.158, with Burchard 19.153 added in the margin by another hand. In Urb. lat. 180 fol.308v-309r, Burchard 19.152-159 are present; after c.159, the codex contains additions by later hands, while book 20 is lacking. In Vat. lat. 1355 fol.289r, Burchard 19 ends with c.152, or rather the rubric to c.153 and a marginal note 'hic minus deest' [*sic*].

Burchard 20 were either displaced or completely absent from Chartres BM 161. So on the one hand, the presence of Burchard 20.59, 75, 76, and 90 tells against the idea that Chartres BM 161 was missing the second half of book 20 completely, as some ‘deteriores’ did; on the other hand, the mise-en-page of the respective fragments also suggest that some, perhaps even many of the canons in Burchard 20 were missing and/or not found in the usual sequence. Such phenomena tend to occur in manuscripts going back to ‘deteriores’ exemplars which were mended more or less skilfully from more complete Burchard copies, but other explanations cannot be ruled out; maybe Chartres BM 161 was never finished or it was physically damaged at some point.

So Chartres BM 161 contained one of the four ‘deteriores’ gaps (in book 8) and may have been missing parts of book 20, but apparently did not have the typical ‘deteriores’ gaps in books 12 and 19. This is probably best explained by Chartres BM 161 going back ultimately to an exemplar of the ‘deteriores’ tradition where most, though not all, of the missing material was added more or less skilfully. This also means that Chartrain is similar to, but cannot be identical with the *Liber decretorum* copy Ivo of Chartres used to compile his *Decretum*, at least not if we assume for the moment that Ivo used only one copy. After all, the hypothetical Burchard copy Ivo used seems to have had none of the *deteriores* gaps, including book eight.<sup>79</sup> If Chartres BM 161 was, or faithfully represents, a copy of the *Liber decretorum* used by Ivo in the making of his *Decretum*, Ivo must have supplemented this copy from another, more complete Burchard copy.

*Burchard 8.82*

The rubric to Burchard 8.82 in Chartres BM 161 fol.85r reads ‘Ut monachi vel monache compatres non habeant’; the ‘vel monache’ addition is also found in some, but not all Italian Burchard

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<sup>79</sup> Ivo 7.26-119 (ed. Brett)=Burchard 8.1-101 with only few omissions or displaced canons; the crucial series Burchard 8.38-50 is preserved faithfully in Ivo 7.57-68, only that Burchard 8.40-41 are merged into one canon.

copies.<sup>80</sup> The same form of the rubric is also found in the *Burdegalensis*, the Turin *Collection in Seven Books*, and Ivo's *Decretum*. All three collections seem to depend on an Italian version of Burchard for this canon.<sup>81</sup>

*Gaps and Variants in Burchard 13.28*

Burchard 13.28 contains a canon from the Council of Erfurt 932.<sup>82</sup> In Chartres BM 161 and Ivo 4.60, the canon is abbreviated, lacking eight words in mid-canon (from 'ibique' to 'banno') compared to the editio princeps. A comparison of the German manuscripts, the Italian manuscripts, Chartres BM 161, and Ivo suggests that the canon suffered first a loss of four words ('ibique manendo indeque revertendo'), and only later was further changed to produce the version in Chartres BM 161 and Ivo.

Burchard 13.28 as found in the German manuscripts Vat. Pal. lat. 586 fol.90va-90vb (=Va), the editio princeps fol.160rb, Frankfurt fol.206va-206vb (=Fa), and Freiburg fol.204vb (=Fb):

Precipimus namque ut nullus Christianus pro reverentia ecclesiam petendo ibique manendo indeque\* revertendo\*\*, alicuius publice potestatis banno ibidem constringatur\*\*, ne forte dum ad ecclesiam causa orationis properat, per bannum impediatur pro salute anime devote insistere.

\*manendo indeque om. Fb \*\*revertendo] vertendo Va; \*\*\* constringatur] confringatur Va, corr. ex confringatur Fa

Burchard 13.28 as found in the Italian manuscripts Milan fol.141va, Novara fol.126rb, Urb. lat. 180 fol.226ra, and Vat. lat. 1355 fol.215v (= Vc):

Precipimus namque ut nullus Christianus pro reverentia ecclesiam petendo, alicuius publice potestatis banno ibidem constringatur, ne forte dum ad\* ecclesiam causa orationis properat, per bannum impediatur pro salute anime devote insistere.

\* a sed corr. Vc

<sup>80</sup> The addition is found in Vat. lat. 1355 fol.165r and Urb. lat. 180 fol.168rb but not in Milan fol.108va, and none of the German manuscripts: Pal. lat. 585 fol.325vb; ed. pr. fol.122ra; Frankfurt fol.157rb; Freiburg fol.156va.

<sup>81</sup> *Burdegalensis* 6.21 and Turin 7L 4.226 according to the *Clavis canonum* database; Ivo 7.100 (ed. Brett).

<sup>82</sup> Erfurt 932 c.3, ed. Hartmann MGH Conc. 6.1:109.

Burchard 13.28 as found in Chartres BM 161 fol.112v (=C) and Ivo 4.60 (ed. Brett), based inter alia on the Lincoln abbreviation (=L) and Pal. lat. 587 (=D), has yet another form:

Precipimus namque\* ut nullus Christianus pro reverentia ecclesiam petendo, alicuius publice potestatis banno ibidem constringatur, ne forte dum ad ecclesiam causa orationis properat, per bannum impediatur pro salute anime sue Domini misericordiam minus\*\* devote\*\*\* postulare.

\* om. L \*\* <minus> C \*\*\* iuste D

Evidently, Chartres BM 161 is very similar to Ivo's Burchard for this canon, both by virtue of the gap in mid-canon and the rather different ending of the canon.

#### *End of Book 16*

Some Italian manuscripts including the 'Milan' subversion contain the widely popular letter *Fraterne mortis* (JL †6613a) at the end of book 16.<sup>83</sup> From fol.123r it is clear that Chartres BM 161 does not belong to this branch of the transmission. It may be worth noting that Ivo knew JL †6613a, but apparently not via Burchard; the version found in his *Decretum* is different from that found in Italian Burchard manuscripts.<sup>84</sup>

#### *Burchard 20.76*

Burchard 20.76 was present in Chartres BM 161, but as only the first few lines are extant, it remains unclear whether it had the long form or the shorter version reported by Fransen for several manuscripts.<sup>85</sup> Note that Ivo 17.87 has the short form (lacking the last lines from *quamvis miseris subvenit on*).

#### *Part IV: Conclusions*

Clearly, Chartres BM 161 belonged to the so-called Frankfurt (vulgate) version of the *Liber decretorum*, and contained a number

<sup>83</sup> On JL †6613a, see most recently Charles West, 'The Simony Crisis of the Eleventh Century and the "Letter of Guido"' JEH (2022) [pre-print available online].

<sup>84</sup> Fransen, 'Montpellier' 305 and 308; idem, 'Trois notes' 447; Fowler-Magerl, 'Fine Distinctions' 147-148 ('Milan' Burchard) and eadem, *Clavis canonum* 89. In some 'deteriores' copies, JL †6613a is found after Burchard 19.108 according to Fransen, 'Essai' 10. On the version found in Ivo 2.84 (ed. Brett) see Rolker, *Canon Law* 120. Milan, Novara, Urb. lat. 180, and Vat. lat. 1355 do not contain additional material after book 16; note, however, in the Novara copy, that a folio seems to have been cut out after Burchard 16.

<sup>85</sup> Fransen, 'Décret' 42.

of features which are specifically Italian: gaps and ‘scars’ of the *deteriores* tradition, transposed, enlarged, or additional canons in books two and three otherwise only known from Italian Burchard copies, the synodal order found in the same tradition, and numerous smaller variants. While Chartres BM 161 itself was not written in Italy, it ultimately depends on an Italian model belonging to a sub-group of the ‘*deteriores*’ tradition; there is some reason to think the Burchard version behind Chartres BM 161 emerged in northern Italy late in the eleventh century. Of all Burchard manuscripts used in the context of the present study, Chartres BM 161 shares most features with the Novara *Liber decretorum* (Novara, BC, XXVIII), but also has many variants in common with Vat. lat. 1355.

Many, but not all of the features just quoted are also found in Ivo’s *Decretum*. Rare texts like the additional material after Burchard 2.118 strongly suggest that Chartres 161 is not only similar, but indeed closely related to one of the Burchard manuscripts used to compile Ivo’s *Decretum*. However, Chartres BM 161 itself cannot be Ivo’s only Burchard exemplar, nor a faithful copy of it. There are mainly two reasons for this. First, compared to the Burchardian content of Ivo’s *Decretum*, Chartres BM 161 contains a relatively large number of minor differences not discussed here (e.g. word order, use of synonyms, orthography). While most differences do not affect the meaning, erroneous place names in particular suggest a scribe not very familiar with canon law. Every single of these differences could in principle be explained by scribal errors, and thus in theory Chartres BM 161 could still be an imperfect copy of Ivo’s exemplar. However, the sheer number of cases where Chartres BM 161 differs from the consensus of numerous *Liber decretorum* copies and all manuscripts of Ivo’s *Decretum* makes this explanation unlikely. In any case the second argument carries greater weight: While Ivo must have had access to a ‘complete’ version of Burchard’s *Liber decretorum* containing none of the four gaps of the ‘*deteriores*’ tradition, Chartres BM 161 in book eight clearly had the characteristic gap between canons 38 and 50, and may have lacked several canons in the second half of books

nineteen and twenty. This gap strongly tells against the idea that Ivo in compiling his *Decretum* was working only with an exemplar containing the same version of the *Liber decretorum* as found in Chartres BM 161.

At the same time, it is also true that Chartres BM 161 is closely related to the Burchardian parts of Ivo's *Decretum*; the additional material in books two and three, but also a number of smaller variants, strongly suggest that Ivo was working with an exemplar similar to Chartres BM 161. The best explanation for this is that Ivo indeed used at least two copies of Burchard, as Fowler-Magerl had suggested long ago.<sup>86</sup> If so, one exemplar must have been very similar to Chartres BM 161, while another one provided Ivo with enough material to mend the gap in book eight, and presumably contained better readings of many inscriptions and canons than Chartres BM 161. Whether the Burchard copy similar to Chartres 161 was used from the outset, or only to improve the nascent *Decretum*, remains a question to be solved by future research.

Chartres BM 161 may well have been written in Ivo's lifetime, and maybe Ivo's work on his *Decretum* was even the reason for the making of the manuscript; at least one can well imagine that the Burchard copies used in the making of the *Decretum* came under considerable strain in this process. Perhaps the copies were disbound into quires to test various arrangements of the material, and to prepare the insertion of sections taken from other sources than the *Liber decretorum* (the second part of Paris Arsenal 713 has been identified as a copy of non-Burchardian material compiled and rearranged in preparation for Ivo's *Decretum*).<sup>87</sup> Almost certainly, Ivo's copies of the *Liber decretorum* were heavily annotated; one may suppose nota signs and comments on excerpts ultimately going back to the same material sources, with doublets being marked to avoid repetitive canons (the final versions of Ivo's *Decretum* are remarkably free from internal overlap). In any case, the *Liber decretorum* copies

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<sup>86</sup> Fowler-Magerl, 'Fine Distinctions' 147-149.

<sup>87</sup> Martin Brett, 'The Sources and Influence of Paris, Bibliothèque de l'Arsenal MS 713', *Proceedings Munich 1992* 149-167.

must have been used intensively when the *Decretum* was compiled, and this may well have made the making of a new copy necessary.

Chartres BM 161 was thought to be lost completely for decades. As we hope to have shown, despite its fragmentary state, its content can be reconstructed in considerable detail. This was only feasible because the extant fragments can now be studied by scholars worldwide thanks to the efforts of the IRHT. At the same time, the digitization of many important manuscripts and printed books, the online edition of the Ivonian collections, and tools like the *Clavis canonum* database provide the means necessary to reconstitute manuscripts like Chartres BM 161 even from small fragments. In our opinion, the reconstruction of Chartres BM 161 thus also is a good case study on the advantages of digital tools for manuscript studies. From the time of Mabillon, palaeography has profited from technological progress, whether it was copper engravings in the eighteenth or photography in the nineteenth century. Today, digitization is taking manuscript studies to a new level. Comparison of different manuscripts, the key method in palaeographic studies, is greatly facilitated, and image tools make it possible to reconstruct texts barely visible to the human eye. Future research, we therefore hope, will reconstruct many more codices today thought to be lost.

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