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Monastic Canon Law in the Tenth, Eleventh, and Twelfth Centuries

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General

At least from the twelfth century on, Western monastic life was conceived as inseparable from rules, and especially the *Rule of St. Benedict* (*RB*). The *RB*, which refers to itself as "law" (*RB* 58.10, 15), contains both penalties for those violating this "law" and procedural norms, and in this sense can be seen as a law book for monastic communities. In the high Middle Ages, monastic orders perceived their own *consuetudines* as legal norms, and they established their own courts and appeal stages. At the same time, monastic houses were governed by the law of the Church at large, canon law. They were, at least in theory, under the firm control of the local bishop, who consecrated churches, acted as ordinary judge, and (nominally) controlled all monastic property, to name only some episcopal rights found in canon law from very early on. Both the legal position of individual monks and nuns and that of the communities in which they lived were thus shaped by legal norms as found in monastic rules and *consuetudines*, secular law, episcopal legislation, conciliar canons, and papal decretals.

All of these authorities were transmitted in collections that gathered hundreds or thousands of excerpts (commonly called *canones*) from these and other sources. With every new collection, some texts were introduced and others were dropped; likewise the collections, once compiled, were copied more or less widely. Some remained virtually unknown, while others were used for centuries. The sending of the *Liber extra* in 1234 to the universities of Bologna and Paris together with a papal bull is generally counted as the first official promulgation of a canon law collection. In the early and central Middle Ages, however, canon law collections gained authority not by any formal promulgation, but rather as "private" enterprises that were more or less widely accepted as useful and indeed binding by others. It is

Christof Rolker, "Monasticisms, Reform and Canon Law", in: *The Cambridge History of Medieval Monasticism in the Latin West, Volume 1: Origins to the Eleventh Century*, ed. Alison I. Beach and Isabelle Cochelin, Cambridge 2020, 618–630. https://doi.org/10.1017/9781107323742

this double process—the reception of the *canones* into collections and the dissemination of these collections—from which historians are able to determine when particular parts of the inherited tradition were accepted as binding by the Church.

The single most important medieval collection was the *Decretum Gratiani*, compiled c. 1140 and never promulgated, but quickly used very widely. Over time, both older and more recent materials were added to the *Decretum*, and generations of legal scholars commented upon all of these texts. It was often this mixture of ancient authorities, more recent decretals, and a growing body of legal commentary on the older collections (including the older commentary) that informed debates and practices in universities, law courts, administration, and beyond. For the later Middle Ages, therefore, the relations between canon law and the monastic world can be studied, and have, in fact, already been extensively investigated through evidence of interaction between monks and scholars at the universities, through legal textbooks used there, through law suits involving university-trained lawyers, and through intellectual debates informed by the same texts and arguments.[1]

Things were different, however, before the universities emerged and before the *Decretum Gratiani* was established as a textbook of legal studies. Pre-Gratian canon law is mainly studied from the various canon law collections themselves, typically containing very little if any commentary. Here, the form of presentation and the selection criteria are crucial for understanding how the particular compiler shaped canon law by assembling hundreds, and sometimes thousands, of canons taken from the vast body of tradition.

Monks and the Law

Monks and monastic houses are not a prominent topic in these pre-Gratian collections or in the scholarship on them.[2] This may come as a surprise, given

[1] For the relations between bishops and monastic houses, see the article by Sharp in volume II; on monks and universities in the later Middle Ages, see the article by Clark in volume II. For monastic canon law in the twelfth and thirteenth centuries, see Gert Melville, "Ordensstatuten und allgemeines Kirchenrecht: eine Skizze zum 12./13. Jahrhundert," in *Proceedings of the Ninth International Congress of Medieval Canon Law, Munich, 13–18 July 1992*, ed. Peter Landau and Jörg Müller (Vatican City, 1997), 691–712.

[2] For a general survey on (pre-Gratian) canon law and monastic culture, see Gabriel Le Bras, "La part du monachisme dans le droit et l'économie du Moyen Âge," *Revue d'histoire de l'Eglise de France* 47 (1961): 199–213; Theo Kölzer, "Mönchtum und Kirchenrecht: Bemerkungen zu monastischen Kanonessammlungen der vorgratianischen Zeit," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, kanonistische Abteilung* 69 (1983): 121–42; Theo Kölzer, "Mönchtum und Außenwelt—Norm und

that, from early on, monks played an important role in the compilation of canon law collections. For example, Dionysius Exiguus (d. c. 540), a Scythian monk who spent most of his life in Rome, translated important canons from Greek into Latin and compiled the *Collectio Dionysiana*; Regino of Prüm (d. 915) compiled an influential manual of canon law after he had entered the monastery of Sankt Maximin in Trier; and the monk Olbert (d. 1048) helped Burchard of Worms (d. 1025) to compile his canon law collection. Ivo of Chartres (d. 1115) is almost always presented as a learned bishop, but he began his *magnum opus* when he was a regular canon at Saint-Quentin. Finally, and most famously, Gratian (d. 1144/5) was long thought to have been a monk, and it is not impossible that he was.

These are, no doubt, among the most important canon law collections of the early and central Middle Ages. But all of these examples also show that collections compiled by monks are not necessarily monastic in character. The *Dionysiana* is above all Roman in nature. Regino compiled his collection specifically for episcopal business, as did Burchard of Worms and Ivo of Chartres. Likewise, one can infer that the *Decretum Gratiani* was compiled by a teacher, a theologian, a legal scholar—but internal evidence supporting the idea that it was compiled by a monk is meagre.

So while monks frequently contributed to the production of canon law collections, including a relatively large number of major collections, this does not in itself tell us much about monastic canon law or about monastic life. There is, indeed, an intriguing gap between canon law and monasticism. Religious houses produced an abundance of normative texts, but these were, above all, rules setting the ideal for governing individual houses, groups of monasteries, and, later, religious orders. In contrast, it was synodal and papal legislation, not monastic rules, that made up the bulk of canon law as found in the major collections, and relatively little of it referred to monks and nuns. In fact, the part of canon law referring to monks and nuns was not only small but became less and less relevant in practice. Relations between (individual) religious houses and bishops varied greatly, and in times of conflict both sides relied much more on privileges than on legal norms.

Realität," in *Proceedings of the Eighth International Congress of Medieval Canon Law, San Diego, University of California at La Jolla, 21–27 August 1988*, ed. Stanley Chodorow (Vatican City, 1992), 265–83. A number of important studies by Picasso are collected in Giorgio G. Picasso, *Sacri canones et monastica regula. Disciplina canonica e vita monastica nella società medievale* (Milan, 2006). For the works of Roger E. Reynolds, see Kathleen Grace Cushing and Richard Gyug, eds., *Ritual, Text and Law: Studies in Medieval Canon Law and Liturgy Presented to Roger E. Reynolds* (Aldershot, 2004).

Monastic Canon Law

There are, nonetheless, monastic contributions to ecclesiastical law and genuinely monastic legal collections. The most important of these are the *Collectio* of Abbo of Fleury (d. 1004), the *Collection in 74 Titles* (*74T*), the *Collection in Five Books* (*5L*), and a rather large number of *74T*- and *5L*-derivative collections that emerged in the eleventh and twelfth centuries (for example, the collections called *Angelica* and *Toletana*).[3] They have two important aspects in common: they were produced, copied, and used mainly by monks; and they pay close attention to monastic issues such as penance, liturgy, monastic pastoral care, and monastic privileges. Concerning the last issue in particular, Abbo of Fleury and *74T* show a strong pro-monastic tendency.

These collections are not normally treated as a group, and indeed sometimes they are overlooked completely. This is partly due to too narrow a definition of "canon law" by modern scholars. The only extant copy of the *Collectio Toletana*, for example, was long classified as a theological manuscript. In other cases, the concentration on papal reform has distracted scholars from the monastic background of major collections like *74T*. Another reason for the relatively small amount of attention paid to monastic canon law has to do with the medieval rhetoric of humility. Many medieval sources stressed that the study of law did not sit easily with a monastic identity. After all, as Jerome had written, it was the "office of the monk not to teach but to weep."[4] This became a dictum, almost a proverb, quoted frequently by bishops stressing their right to supervise religious houses or by those opposing monastic *studia*.[5] Law in particular was sometimes seen as an inappropriate subject of study. The 1139 Lateran Council, for example, banned monks and regular canons from the study of secular law or medicine. Canon law was likewise seen as dangerous to monastic humility, and the Cistercians banned the *Decretum Gratiani* from their libraries in 1188.[6] As John of Salisbury (d.

[3] See Douglas Adamson and Roger E. Reynolds, *Collectio Toletana: A Canon Law Derivative of the South-Italian Collection in Five Books: An Implicit Edition with Introductory Study* (Toronto, 2008); and Roger E. Reynolds, "The Collectio Angelica: A Canon Law Derivative of the South Italian Collections in Five *Books*," in *Bishops, Texts and the Use of Canon Law around 1100: Essays in Honour of Martin Brett*, ed. Bruce Clark Brasington and Kathleen Grace Cushing (Aldershot, 2008), 7–28.

[4] Jerome, *Adversus Vigilantium*, CCSL 79C, 28.

[5] See Christof Rolker, *Canon Law and the Letters of Ivo of Chartres* (Cambridge, 2010), 205–8, for a bishop repeatedly quoting Jerome's *dictum*; see also Cécile Caby, "'Non obstante quod sunt monachi': être moine et étudiant au Moyen Âge," *Quaderni di storia religiosa* 16 (2009): 45, for its use in disputes over monastic *studia*.

[6] Ulrich Stutz, "Die Cistercienser wider Gratians Dekret," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, kanonistische Abteilung* 40 (1919): 73–4.

1180) asked rhetorically: "Who ever arose contrite from the study of the laws or even the canons?"[7] Unsurprisingly, monks in their chronicles stressed how much prayer helped them to win cases, but hardly mentioned the lawyers they also employed.[8]

The discrepancy between these discourses and living practices (including the production of legal collections by monks) clearly indicates that one should not take the rhetoric of reform at face value.[9] Monastic polemic was both directed against and based on legal learning. The famous *Dialogus*, an elaborate polemic dialogue between a Cistercian and a Cluniac monk, may serve to highlight this. Here, the same Gratian whom the Cistercian general chapter thought to be so dangerous to monks was quoted as an authority—by the Cistercian.[10]

Many monks must themselves have been well aware of this tension between condemning and using legal argument. For this reason, perhaps, the problem is addressed right at the beginning of a small canon law collection compiled for a Beneventan monastery.[11] The first seven texts are authorities on *sancta rusticitas* ("holy simplicity"). Perhaps surprisingly, they all agree that "simplicity," even if "holy," could be positively dangerous. Jerome may have placed "just simplicity" over "learned malice,"[12] but the compiler of the florilegium chose a different perspective when he gathered his proof texts under the heading "On learned justice being better than holy simplicity" ("De eo quod melior est docta iustitia quam sancta rusticitas") at the very beginning of his collection. Only then did he continue with more conventional material (what makes a monk, the sins monks could commit, the six different kinds of monks, and so on). The opening canons can be read as an apology offering a

[7] John of Salisbury, *The Letters of John of Salisbury* 144, ed. W. J. Millor, Harold Edgeworth Butler, and Christopher Nugent Lawrence Brooke, 2 vols. (London and Oxford, 1955–79), 2:32–5.

[8] Alain Boureau, "How Law Came to the Monks: The Use of Law in English Society at the Beginning of the Thirteenth Century," *Past & Present* 167 (2000): 29–74.

[9] On monasteries and reform, see the article by Vanderputten in this volume.

[10] *Le moine Idung et ses deux ouvrages: "Argumentum super quatuor questionibus" et "Dialogus duorum monachorum"* III, 3, 30, ed. and trans. R. B. C. Huygens (Spoleto, 1980), 167 (lines 452–4); for an English translation, see Idung of Prüfening, *Cistercians and Cluniacs: The Case for Cîteaux. A Dialogue between Two Monks, An Argument on Four Questions*, trans. Jeremiah F. O'Sullivan, Joseph Leahey, and Grace Perrigo (Kalamazoo, MI, 1977).

[11] Roger E. Reynolds, "Further Evidence for the Influence of the *Hibernensis* in Southern Italy: An Early Eleventh-Century Canonistic Florilegium at Montecassino," *Peritia* 19 (2005): 119–35.

[12] See Jerome's letters on the translation of the Bible and its "simple" style for context, e.g. letters 53, 57, and 62 (all edited in CSEL 54).

justification for the compiler to compose his canon law collection and for the reader to study it.

As we have seen, then, legal learning was part of medieval monastic culture, and monks contributed to the production of pre-Gratian canon law collections, but much of this is consciously hidden away by ascetic self-fashioning, anti-legal polemics, or genuine modesty. As a result, one of the specifically monastic tasks of monastic canon law was to justify monastic interest in canon law. While this was of interest mainly to monastic readers, it helps to explain why specifically monastic contributions to canon law are often found at the margins of what has traditionally been studied as pre-Gratian canon law. Two such contributions will be studied here. My first example concerns early medieval penitential books and their influence on canon law. For the second, I will look at a pro-monastic forgery, an important text on monastic *libertas*, and the (often monastic) canon law collections that transmitted it and thus introduced it into Western canon law. Both examples will serve to illustrate that monasticism had a greater impact on canon law than previously thought.

Penitentials and Canon Law

In many respects, the disciplinary regime of a monastery as laid out by the *RB* was similar to the early medieval regime of penance for lay people. The abbot, with the support and counsel of the brethren, had to distinguish between minor and major faults, and between those committed in secret or in public; and exclusion from the monastic community was an important form of punishment. All of this—the rituals used and the language in which monastic discipline was described and commented upon—closely resembled penance, as Sarah Hamilton has argued.[13] This also means that monastic books on penance and lists of penitential tariffs in principle could be adopted for a use well outside the monastery.

While there is considerable controversy about the nature of medieval penance and the origins of the early medieval penitentials, there is no doubt that monks played an important role in developing and disseminating these books from the sixth century on.[14] Irish communities seem to have played a

[13] Sarah Hamilton, *The Practice of Penance 900–1050* (Woodbridge, 2001), chapter 3. On the chapter of faults, see the article by Cochelin in this volume.

[14] In addition to Hamilton, *Practice of Penance*, see Lotte Kéry, *Gottesfurcht und irdische Strafe. Der Beitrag des mittelalterlichen Kirchenrechts zur Entstehung des öffentlichen Strafrechts* (Cologne, Weimar, and Vienna, 2006), 119–33; Abigail A. Firey, *A Contrite*

special role in this process. These penitential books were originally addressed mainly to a monastic audience, but some (more briefly, and separately) also deal with sins committed by lay people. Gradually, the penitential tariffs found here were used in the administration of penance and integrated into canon law collections used in the Church at large.[15] This changing use meant that, in the long run, concepts originally developed in a monastic context influenced the moral and legal standards set for all Christians. This expansion of monastic norms to married lay people is particularly striking in the regulation of sexuality. The penances for sexual transgressions found in the penitentials are often relatively mild, but the scrutiny with which even minor sexual sins are listed, and the rather detailed timetable of periods during which married couples should abstain from intercourse, bear the hallmark of a highly regulated life—a regular life.

As noted above, it is often difficult to determine how early medieval penitentials were actually used to administer penance in the early Middle Ages. Yet, in any case, their contents were more widely transmitted not as separate penitential books but as part of canonical collections. While the number of extant manuscripts is small (often very small) for many early medieval penitential books, those penitential canons that were integrated into the canon law collections of the tenth and eleventh centuries were disseminated very widely indeed. The most important collections in this context are those of Regino of Prüm, compiled around 900, and the *Decretum* of Burchard of Worms, compiled before 1023. Regino assembled a collection specifically for the episcopal court—more specifically, for the itinerant court (*Sendgericht*) that was part of episcopal visitations—and, while most of his material is taken from relatively recent councils, he also makes ample use of penitential books. His own collection is divided into two separate books: on the sins of the clergy and on those of the laity. Both books begin with a sort of questionnaire resembling that found in many penitentials. Regino's canon law collection is therefore "penitential" in both content and presentation.

In the new context, the penitential texts (even if they formerly had a more pastoral character) became legal norms. At the same time, the penitential material became the subject of more refined, "legal" argumentation. Penitential books "of which the errors are certain, but the authors are uncertain" were famously condemned by a number of Carolingian councils—the

Heart: Prosecution and Redemption in the Carolingian Empire (Leiden and Boston, MA, 2009); Rob Meens, *Penance in Medieval Europe, 600–1200* (Cambridge, 2014).

[15] See Meens, *Penance in Medieval Europe*, 41–60, for discussion.

most famous being the Council of Chalon in 813, from which the quotation is taken.[16] In all likelihood, this is not to be understood as a condemnation of the whole genre. Rather, Regino and later compilers of canon law collections saw problems with some of the existing penitential books and thought that the solution was to produce a *better* penitential.

This is also true for Burchard of Worms, whose *Decretum* was even more important than Regino's collection in terms of the dissemination of penitential canons of mostly monastic origin. Penitential canons are found in most of the books that comprise Burchard's *Decretum*, but Book 19 stands out as a separate penitential book. It contains a much enlarged version of Regino's questionnaire, consisting of no fewer than 190 questions and answers: "Have you committed such and such? Then this is your penance." Burchard carefully reworked this catalogue of questions and answers as to achieve greater consistency between this practical question-and-answer list and the main body of his *Decretum*.

For about a century, no other collection was compiled that had a similar dissemination. Collections from the later eleventh century drew on Burchard for penitential material—for example, those of Anselm of Lucca (d. 1086) and Ivo of Chartres—and Burchard's collection was still in use when the *Decretum Gratiani* established itself as the standard textbook of the schools. Penitential texts that might have originated in Irish monastic communities of the sixth or seventh century had thus become an integral part of canonical collections circulating in all of western Europe around 1100.

In the twelfth century, however, an important change is visible: increasingly, penance was treated separately from canon law, the latter being understood in a narrower sense. The anonymous compiler of the influential *Panormia*, for example, copied most of his material from Ivo's *Decretum* but omitted the relevant book on penance and carefully avoided penitential canons found elsewhere in his main source. This tendency to exclude penitential material was not, however, universal. The *Panormia*, lacking penitential canons, was soon reworked by another anonymous compiler to produce the *Collection in Ten Parts*. This was mainly done by adding two new books, one of them a penitential (the other one dealing with regular canons). More famously, the *Decretum Gratiani* covers penance at length in a separate section, *De penitentia*. Gratian left no doubt that penitentials were used, and should be used, both for pastoral care and for the education of priests. The major change in the twelfth century was not that penitential canons lost their old function, but

[16] MGH Concilia 2/1, 281.

rather that canon law collections were increasingly produced for university-trained scholars and lawyers who did not themselves engage in pastoral care. Many of the earlier collections, by contrast, had been compiled by and for bishops, who were responsible for pastoral care and the education of the secular clergy.

For a very long time, therefore, penitential canons were an integral part of canon law. While they were often used in pastoral and educational settings, they were also an important stimulus for moral and juridical discourse. The discrepancy among and within penitential books may have been a practical problem, but the issue was also taken up in different, more theoretical contexts. Both Burchard of Worms and Ivo of Chartres, for example, refer in their prefaces to penitential canons when they address fundamental questions such as the nature of legal authority, the extent of a judge's discretion, or the issue of real or perceived contradictions within canon law. The same is true for other pre-Gratian collections, including monastic canon law works. The compiler of *5L*, for example, introduced a separate rubric, "In conflictu canonum" ("Conflicting canons"), to highlight contradictions between penitential canons found in his collection. He argued that this "conflict" in fact allowed the priest to choose among different solutions according to individual circumstances: "Valde considerandum est persona: Quis, cui, quale, quantum, quare" ("Much attention has to be paid to the individual. By whom, to whom, how, how greatly, why [the sin was committed]"). Not unlike Ivo of Chartres, this eleventh-century monk started with penitential canons but in the end articulated a very general statement on the application of canon law. Much more than just penance was at issue when penitential canons were discussed, but it was still the experience of monastic life that shaped both the texts under discussion and many of the "canonists" *avant la lettre* who discussed them.

Exemption and Monastic *libertas*

My second example is drawn from the production of canon law on exemption or, more precisely, monastic *libertas*.[17] In later medieval (and modern) canon law, "exemption" has a well-defined legal meaning, namely the release of a person or corporation from the ordinary judge. In the case of a monastic community, this meant release from the local bishop. Older historiography has often studied the "struggle for exemption" (for instance, the famous battle

[17] See the article by Rosé in this volume.

between Abbo of Fleury and the bishops of Orleans c. 1000), but modern historians generally agree that the relations between monastic houses, bishop, and pope cannot adequately be described in such legal terms, and have paid attention not only to conflict but also to cooperation.[18] Indeed, monastic houses (including Cluny) often achieved their goals in cooperation with the local bishop, and even when in a strong position did not seek to remove his jurisdiction. Frequently, the main issue was protection of monastic property, whether this protection was sought from the local bishop, from royal or noble houses, or indeed from the pope.

Canon law collections were used for, and shaped by, these processes. As indicated above, most pre-Gratian canon law collections had little to say on the legal status of religious houses (apart from placing them firmly under episcopal control), and perhaps even less on monastic property. In this situation, monastic compilers of canon law collections collected, improved, and occasionally forged the proof texts that, in the long run, became the legal basis for monastic exemption. The text *Quam sit necessarium* (*QSN*) is a good example. It goes back to a genuine letter of Gregory I (JE 1504), which in the eleventh century served as a model for a pro-monastic forgery also attributed to this monk-pope (JE †1366).[19] The genuine version defended abbatial election against outside (episcopal) influence, and also contained a prohibition against anyone except the abbot making inventories of monastic property.[20]

Significantly, the collection of Abbo of Fleury, a decisively pro-monastic work, is the only one to contain the genuine version of *QSN*. The forged version goes well beyond the genuine, in very general terms placing monastic property under papal protection, prohibiting (for example) "that any bishop or secular ruler henceforth presume to diminish the revenues, goods, or properties of monasteries … in any way or on any occasion."[21] Likewise, according to the forged version of *QSN*, Gregory the Great had prohibited the bishop from celebrating mass in a monastery, from placing his throne (*cathedra*) there, or from having "any power of governing or of making some ruling, however trivial, unless he is asked by the local abbot."[22] The first collection to

[18] See Barbara H. Rosenwein, Thomas Head, and Sharon Farmer. "Monks and Their Enemies: A Comparative Approach," *Speculum* 66 (1991): 764–96.

[19] Philipp Jaffé, Samuel Loewenfeld, Friedrich Kaltenbrunner, and Paul Ewald, eds., *Regesta pontificum romanorum ab condita ecclesia ad annum post Christum natum MCXCVIII*, 2 vols. (Leipzig, 1888).

[20] Gregory the Great, *Registrum* 8.17, MGH Epistolae 2, 20.

[21] John T. Gilchrist, ed. and trans., *The Collection in Seventy-Four Titles: A Canon Law Manual of the Gregorian Reform* (Toronto, 1980), 92.

[22] *Ibid*., 93.

contain this partisan forgery was *74T*, a monastic collection of the eleventh century that included an unusually large number of canon law authorities on monastic liberty and manipulated a number of other texts in order to extend the privileges, not of a particular religious house, but of all monks.

Decisively, unlike many other monastic collections, *74T* was widely spread and used. This reception is crucial to understanding whether *QSN* was indeed "law." In medieval canon law, a forged canon was deemed "authentic" if it was received into canon law collections, while a genuine text not received into such collections could be regarded as apocryphal. How did this work in practice? The early reception of *74T* shows how monks used law, and how they did so in constant interaction with other monastic houses.[23] The monks of Saint-Denis were among the first to get hold of a copy of *74T*; they used it in the 1060s to produce a cartulary and a canon law collection in the midst of a prolonged conflict with the local bishop that culminated in 1065. Two texts in particular were served to strengthen their case: the privilege they had obtained from Leo IX (r. 1049–54) in 1050 and the forged *QSN* as found in *74T*. The monks at Saint-Denis copied the latter into their own collection and also added it to their cartulary, indicating perhaps that they valued it particularly.

Other monastic houses can be shown to have observed the case closely, and to have used the same materials (*74T* and similar collections, *QSN*, and privileges). The monks at Corbie were particularly well informed about what had happened at Saint-Denis. Building on an exceptional tradition of earlier privileges and good contacts with the papacy, Corbie too had obtained a papal privilege in 1050. The monks there copied a version of the Saint-Denis privilege in one of their own cartularies, but modified the text to make it more general. Exchange between the two houses seems to have continued, as the extant Corbie cartulary was produced in preparation for the Roman synod of 1065 where the case of Saint-Denis was heard, as well as the rather similar case of Corbie and its local bishop.

The monks of Corbie were not the only ones to look at Saint-Denis and its charters. Not much later, the forgers of the so-called *Magna Carta Dunstani* at Westminster took the forged royal privileges for Saint-Denis as their model to articulate their (rather lofty) view of monastic liberties in general, and the

[23] For this and the following, see Christof Rolker, "The *Collection in Seventy-Four Titles*: A Monastic Canon Law Collection," in *Readers, Texts and Compilers in the Earlier Middle Ages: Studies in Medieval Canon Law in Honour of Linda Fowler-Magerl*, ed. Kathleen Grace Cushing and Martin Brett (Aldershot 2009), 59–72.

privileges of Westminster in particular. For this, they also used the very canon law collection employed at Saint-Denis and drew on the same passages—above all *QSN*. These texts, whether papal privileges, royal charters or canon law, were copied together and traveled together. Gradually, the authorities quoted in monastic cartularies, in canon law collections, at synods, and in other contexts were accepted as general norms. When Gratian included the *QSN* forgery (which may have been compiled by a single monastic forger) in his *Decretum* (C. 18, q. 2, c. 5), it had undoubtedly become part of general canon law.

Conclusions

Understanding how monks participated in the legal culture of the tenth, eleventh, and twelfth centuries forces historians to think about "the law" before Gratian in contemporary terms, and reveals a monastic intellectual activity that is often overlooked. The monastic contribution to canon law is also a good case to demonstrate the dynamics of medieval legal culture, when legislation was rare but forgeries were common. Some of the collections studied here (such as Abbo's collection, *5L*, and *74T*) were specifically monastic, but the way in which the texts studied here became "law" is indeed typical for pre-Gratian canon law. Single normative texts emerged in a very local context and were used by communities that found them helpful, and this sometimes gave rise to conflicts: for example, as noted above, the debates over penitentials at Carolingian synods, or the disputes over monastic property where *QSN* was quoted. Such conflicts could either diminish the authority of the relevant texts (as in the case of some, but not all, penitentials) or, on the contrary, enhance the authority of texts that were successfully quoted, as seems to have been the case with *QSN*. Evidently, compilers of canon law collections, when retaining or dropping single texts, were influenced by the changing acceptance of certain normative texts, while themselves of course having a decisive role in either distributing or suppressing single canons.

Canon law was never the most important occupation for monks, and the monastic contribution to canon law collections is small even if one takes into account collections like *74T* or *5L*. The eleventh and twelfth centuries, however, were a formative period both for monasticism and for the legal culture of Latin Christianity, and to study the interaction between canon law and monastic culture certainly helps to understand better the changes that took place at this time.

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