

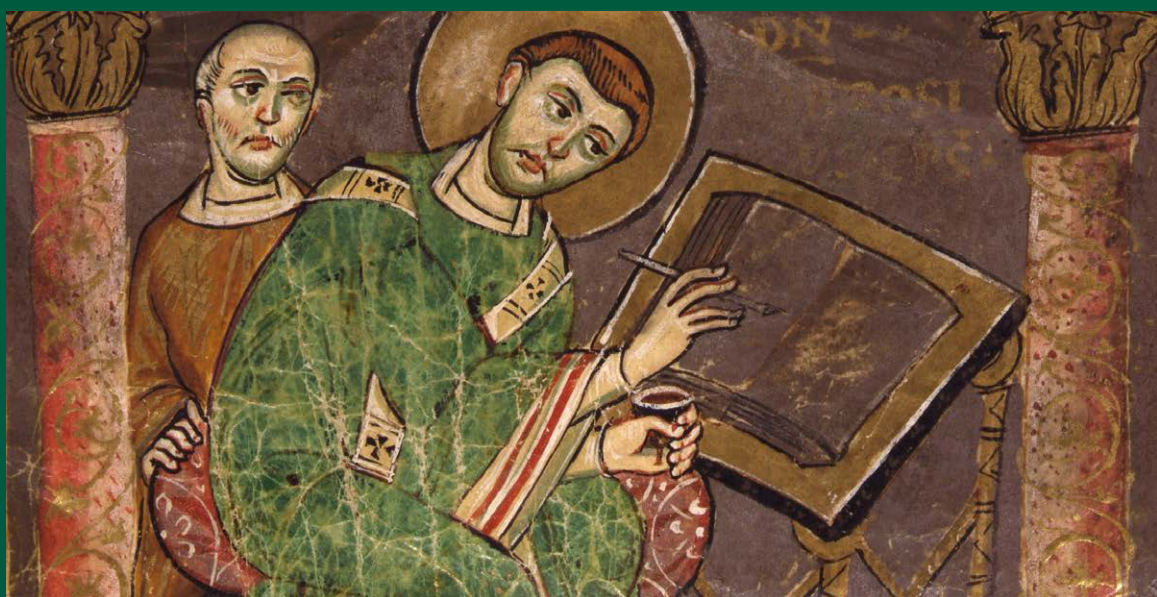


# NETWORKS OF BISHOPS, NETWORKS OF TEXTS

Manuscripts, legal cultures, tools of government  
in Carolingian Italy at the time of Lothar I

*edited by*

Gianmarco De Angelis, Francesco Veronese



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RULING IN HARD TIMES

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*Patterns of power and practices of government  
in the making of Carolingian Italy*

1

## **Networks of bishops, networks of texts**

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***Ruling in hard times.  
Patterns of power and practices of government  
in the making of Carolingian Italy***

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# Canons, books of canons, and ecclesiastical judgments in Carolingian Italy: the Council of Mantua, 827\*

by Michael Heil

The long-running jurisdictional dispute between the patriarchs of Aquileia and Grado entered a period of particular activity in the 820s, culminating in a judicial decision in Aquileia's favor at the Council of Mantua in 827. This council and its consequences offer fertile ground for exploring the ways that texts figured in ecclesiastical conflicts in ninth-century Italy. Recent work has shed light on the role hagiographical texts played in this dispute. This chapter examines another "textual" dimension: the role of canons and canon-law norms in arguments and decisions, in the "courtroom" and beyond. The chapter concludes with a brief discussion of a different case, from Lucca, that shows with particular clarity the close connection that could exist between canon law in the manuscripts and in legal practice.

Middle Ages; 9<sup>th</sup> century; North-Eastern Italy; Mantua; Aquileia-Grado; Maxentius; canon law; legal practice

\* I would like to thank the organizers of and participants in the *Reti di vescovi, reti di testi* conference as well as the *Early Medieval Law in Italian Charters and Manuscripts* workshop (Berlin, 2021) for discussion of earlier versions of this chapter. The cases discussed in summary and selective fashion here are examined more fully in my monograph in progress, provisionally titled *Clerics, Courts, and Legal Culture in Early Medieval Italy*. In what follows, bibliographical references have been kept to a minimum.

Michael W. Heil, University of Arkansas at Little Rock, United States, [mwheel@ualr.edu](mailto:mwheel@ualr.edu), 0000-0002-3284-5521

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#### Abbreviations

ACO II = *Acta conciliorum oecumenicorum*, II: *Concilium universale Chalcedonense*, ed. E. Schwartz, Berlin 1932-1938.

BMZi = J.F. Böhmer, *Regesta Imperii*, I. *Die Regesten des Kaiserreichs unter den Karolingern 751-918* (926), 3: *Die Regesten des Regnum Italiae und der Burgundischen Regna*, 1: *Die Karolinger im Regnum Italiae 840-887* (888), ed. H. Zielinski, Köln-Wien 1991.

CDL IV/2 = *Codice diplomatico longobardo*, IV/2: *I diplomi dei duchi di Benevento*, ed. H. Zielinski, Roma 2003 (FSI, 65).

ChLA<sup>2</sup>, LXXII = *Chartae Latinae Antiquiores. Facsimile-edition of the Latin Charters*, 2nd series, ed. G. Cavallo – G. Nicolaj, part LXXII, Italy XLIV, Lucca I, publ. C. Gattagrisi, Dietikon-Zürich 2002.

ChLA<sup>2</sup>, LXXIII = *Chartae Latinae Antiquiores. Facsimile-edition of the Latin Charters*, 2nd series, ed. G. Cavallo – G. Nicolaj, part LXXIII, Italy XLV, Lucca II, publ. F. Magistrale, Dietikon-Zürich 2003.

EOMIA 2.2 = *Ecclesiae Occidentalis Monumenta Iuris Antiquissima*, ed. C.H. Turner, 2, part 2, Oxford 1913.

J3 = *Regesta Pontificum Romanorum ab condita ecclesia ad annum post Christum natum MCXCVIII*, 3rd ed., ed. P. Jaffé – K. Herbers – M. Schütz *et al.*, 1, Göttingen 2016.

JK = *Regesta Pontificum Romanorum ab condita ecclesia ad annum post Christum natum MCXCVIII*, 2nd ed., ed. P. Jaffé – W. Wattenbach – S. Loewenfeld – F. Kaltenbrunner – P. Ewald, 1, Leipzig 1885.

MGH, Conc. II = MGH, *Concilia aevi Karolini*, ed. A. Werminghoff, Hannover-Leipzig 1906-1908 (Concilia, 2).

MGH, DD LdF = MGH, *Die Urkunden Ludwigs des Frommen*, ed. T. Kölzer – J.P. Clausen – D. Eichler – B. Mischke – S. Patt – S. Zwierlein, Wiesbaden 2016 (Diplomata Karolinorum, 2).

MGH, DD Lu II = MGH, *Die Urkunden Ludwigs II.*, ed. K. Wanner, München 1994 (Diplomata Karolinorum, 4).

MGH, Epp. V = MGH, *Epistolarum Tomus V*, ed. E. Dümmler *et al.*, Berlin 1899 (Epistolae Karolini aevi, 3).

MGH, Ordines = MGH, *Ordines de celebrando concilio*, ed. H. Schneider, Hannover 1996.

MGH, Poetae II = MGH, *Poetae Latini aevi Carolini*, II, ed. E. Dümmler, Berlin 1884.

## 1. Introduction

Among the items in the textual “toolkit” of the bishops of Lothar’s Italy must be included canons and books of canon law. The versatility of the canons as tools – for collective episcopal action, for diocesan administration, for competition with other bishops – is evident from several contributions to this volume. Here I would like to explore one context in which the bishops of Carolingian Italy used the canons: in making arguments and in reaching judicial decisions. Canon law, as it existed in manuscripts of canonical collections, was of real and direct relevance to the legal practice of bishops. To illustrate this I would like primarily to examine a single case: the adjudication of the long-running dispute between the patriarchs of Aquileia and Grado at the Council of Mantua in 827<sup>1</sup>. Recent scholarship has shed fresh light on the importance of hagiographical texts and traditions in that conflict, at Mantua and beyond<sup>2</sup>. Here I will suggest that canon law also played a crucial role, and will try to determine precisely how it did so. I will conclude by briefly turning to a different case, from Lucca, which shows with particular clarity how close the connection could be between canon law in the manuscripts and in legal practice.

Two general observations about canon law in this period must be made at the outset. The first is that the term *canones* was multilayered: the canons were texts, but not only texts. To say that something was done *secundum* or *contra canones* could mean (and do) different things – and perhaps multiple things at once. “The canons” might refer to specific canons that could be explicitly cited or quoted; to a clearly defined canonical norm without explicit reference to the canons instantiating the norm; or to a vaguer sense of what was “right” according to ecclesiastical tradition. The canons could also be invoked in a general assertion of the correctness or legitimacy of, for instance, a decision made by a bishop or a council. Untangling these and other senses of “the canons” in records of legal practice is not always straightforward.

The second is that “canon law” did not exist as a single consistent and coherent body of law, but rather manifested itself in a wide variety of differ-

<sup>1</sup> MGH, Conc. II/2, n. 47, pp. 583–589. The literature on the council and the dispute between the patriarchs is very extensive. Recent extended discussions, with references to earlier literature, are Vocino, *Les saints en lice*; Pangerl, *Die Metropolitanverfassung*, pp. 80–90; Cerno, *Holding the Aquileian Patriarchate’s Title*; and Veronese, *Rome and the Others*, pp. 230–237.

<sup>2</sup> See especially the works of Vocino, Veronese, and Cerno cited in the previous note.

ent collections, families of related collections, and *sui generis* manuscripts<sup>3</sup>. Beyond the well-known *Collectio Dionysiana* and *Collectio Dionysio-Hadriana*, in Carolingian Italy these included collections such as the *Concordia Canonum* of Cresconius, the *Epitome Hispana*, the *Collectio Novariensis*, the *Collectio Sanblasiana*, the *Collectio Vaticana*, and more<sup>4</sup>. These collections presented different combinations and arrangements of conciliar canons, papal decretals, and other texts. Even the canons of the authoritative early ecumenical councils – which we can assume formed a shared core of canonical knowledge – varied in these collections, since they transmitted different Latin translations from the Greek. Beyond this diversity in collections is the even wider diversity in the individual manuscripts. In short, the sum of “canon law,” and its form, varied from place to place. This multiplicity of forms and contents shaped the canonical culture of early medieval Italy in ways that remain to be explored. For the historian attempting to trace connections between the canons in the manuscripts and their use in legal practice, it means that it is imperative to think in terms of the specific canonical resources that may have been available in a specific time and place. This is not always easy to discern, not least because surviving manuscripts cannot be taken straightforwardly to indicate which canonical collections circulated where<sup>5</sup>.

## 2. *The Council of Mantua: context*

The complex background to the dispute heard at the Council of Mantua can be summarized briefly as follows. According to Paul the Deacon’s account in the *Historia Langobardorum*, in 568/569 the patriarch Paul fled the old city of Aquileia in the face of the invading Lombards and took refuge on the island of Grado in the Adriatic. The church of Aquileia was at that time in schism with Rome over the so-called “Three Chapters” that had been condemned at the Council of Constantinople in 553. Four decades after Paul’s flight to Grado, early in the seventh century, the patriarchate of Aquileia underwent its own division: when at Grado an “orthodox” patriarch Candidianus was elected who reentered communion with Rome, a “schismatic” patriarch John was elected on the Lombard-controlled mainland. At the end of the seventh century John’s successor on the mainland would reconcile with Rome, but neither he nor his rival at Grado renounced the patriarchal title or claims to metropolitan authority. The old ecclesiastical province of Aquil-

<sup>3</sup> For skepticism about the appropriateness of the term “canon law” for this period see Reynolds, *Normative Texts*, pp. 34–38.

<sup>4</sup> For an overview of canonical collections in northern Italy before Gratian see Landau, *Kanonensammlungen*.

<sup>5</sup> The presence of a *Dionysiana Bobbiensis* or a similar collection in late ninth-century Modena, for instance, can only be inferred from its quotation in a letter written in that period; Heil, *Bishop Leodoin*, pp. 19–21.

eia thus remained divided in two: while the coastal dioceses were under the control of the patriarch at Grado, the dioceses of the mainland fell under the authority of the “Lombard” patriarch of Aquileia, who in fact resided not at the old city of Aquileia but rather at Cormons and then at the Cividale, the seat of the Lombard duke of Friuli.

In the 820s the long-standing tensions between the patriarchs broke into open conflict, focused on the dioceses of Istria. While the zones of control of the two patriarchs in this period largely coincided with political boundaries – the coastal dioceses subject to Grado lying at least nominally in the Byzantine sphere and those subject to Aquileia now part of the Frankish *Regnum Italiae* –, Istria represented an anomaly: while the Istrian peninsula was now in Frankish hands, the patriarchs of Grado had long claimed metropolitan authority there. Patriarch Maxentius of Aquileia seems to have exploited this discrepancy to assert his own authority over the Istrian dioceses. Probably in 826, Patriarch Venerius of Grado complained about the situation in Istria to the Carolingian emperors, Louis the Pious and Lothar I, and through them to the pope. The two patriarchs were twice summoned to Rome so that the dispute could be judged in a papal synod. Maxentius refused to appear, no doubt aware that Venerius could capitalize on a long and well-documented history of antagonism between the popes and the mainland patriarchs. The patriarch of Aquileia, who enjoyed connections to the imperial court and whose province was of strategic importance to the Carolingians, instead convinced the emperors to have the dispute adjudicated in a much friendlier venue: a synod at Mantua, within his own ecclesiastical province. Pope Eugene II seems to have been in no position to refuse. Two papal legates appear to have chaired the resulting synod on 6 June 827, which was also attended by two legates of emperors Louis and Lothar<sup>6</sup>. The other 22 prelates in attendance represented sees within the Carolingian Kingdom of Italy, and nearly half were Maxentius’s own suffragan bishops<sup>7</sup>. Aquileia’s advantage in this forum was obvious, and Venerius of Grado refused to attend.

The only surviving account of the Council of Mantua’s proceedings exists in a fifteenth-century copy, and the origin of this report is unclear. It lacks obvious features that would suggest it was an “official” document issued by the synod – it does not include subscriptions, for instance – and it may be that the report was drawn up within the church of Aquileia at some point after the synod. Even more than usual, we should not suppose that we have anything like a “neutral” or a complete record of what happened at the synod<sup>8</sup>.

<sup>6</sup> The papal legates were a bishop Benedict, probably of Albano or Amelia, and the Roman *diaconus bibliothecarius* Leo.

<sup>7</sup> In attendance were the archbishop of Ravenna and six of his suffragans; the archbishop of Milan and four of his suffragans; the patriarch of Aquileia and ten of his suffragans, as well as an archdeacon representing another (Trento). Among Aquileia’s suffragans, only Como was not represented.

<sup>8</sup> Cf. West, *Dissonance of Speech*.

Nevertheless, other sources do confirm Aquileia's victory at Mantua<sup>9</sup>, and the report seems likely to convey the tenor of the arguments made there by the Aquileians<sup>10</sup>.

The surviving report tells us little about the council beyond its hearing of the dispute. But the assembly's identity as a church council – a «sancta synodus», as the report calls it – might suggest something about the role of canons and books of canons there. Synods were, among other things, liturgical events. This is seen most clearly in the *Ordines de celebrando concilio*, the liturgical “instructions” for the holding of a synod<sup>11</sup>. Synods' liturgical dimension was crucial to their unique character and authority, as it was understood to ensure that the Holy Spirit was present in, and helped to guide, such gatherings. In the oldest extant *ordo*, which originated at the Fourth Council of Toledo (633) and is preserved in Northern Italy in the probably late-eighth-century manuscript of the *Collectio Novariensis*, the canons play a starring role in the liturgical drama of the synod<sup>12</sup>. After the opening prayers, «When all are seated in their places in silence, the deacon, clothed in an alb, shall bring the book of canons (*codex canonum*) into the middle [of the synod] and read out the *capitula* concerning the holding of councils»<sup>13</sup>. Some later *ordines* specify which canons should be recited, while allowing for the substitution of other canons «that seem more appropriate to the [presiding] metropolitan»<sup>14</sup>. Once the deacon had read out the canons, the metropolitan was to declare: «Now, most holy priests, the sentences from the canons of the ancient fathers concerning the celebration of a council have been recited». The synod could then turn to the examination of any disputes, likewise framed in terms of the canons<sup>15</sup>.

<sup>9</sup> See, e.g., the sources cited below, section 5.

<sup>10</sup> There is more reason for skepticism about its account of arguments supposedly made by a late arriving Gradese *missus*, included at the end of the report, which failed to convince the bishops. I consider these arguments, and other elements of the synodal report passed over here, in my monograph in progress.

<sup>11</sup> MGH, *Ordines*. See also Kramer, *Order in the Church*, and Francesco Veronese's contribution to this volume.

<sup>12</sup> Novara, Biblioteca Capitolare, LXXXIV (54). This *ordo* (*Ordo* I in the MGH edition) is also preserved in Italian manuscripts of the late ninth century and after. For the manuscripts, see MGH, *Ordines*, pp. 125–135, with note 3.

<sup>13</sup> «4. Sicque omnibus in suis locis in silentio consedentibus, diaconus alba indutus codicem canonum in medio proferens capitula de conciliis agendis pronuntiet»; MGH *Ordines*, *Ordo* 1, p. 140. Cf. *Ordines* 2 and 4, pp. 178 and 226.

<sup>14</sup> E.g.: «vel aliud de canonibus, quod metropolitano aptius visum fuerit, ut legatur»; MGH, *Ordines*, *Ordo* 2, p. 179. Cf. *Ordo* 4, p. 227. Both of these *ordines* are preserved in Italian manuscripts beginning in the later ninth century.

<sup>15</sup> «5. Finitisque titulis metropolitanus episcopus concilium alloquatur dicens: “Ecce, sanctissimi sacerdotes, recitatae sunt ex canonibus priscorum patrum sententiae de concilio celebrando. Si qua igitur quempiam vestrum actio commovet, coram suis fratribus proponat”. 6. Tunc si aliquis quamcumque querelam, quae contra canonem agit, in audientiam sacerdotalem protulerit, non prius ad aliud transeat capitulum, nisi primum, quae proposita est, actio terminetur»; MGH, *Ordines*, *Ordo* 1, p. 140. In *Ordo* 7, discussed by Francesco Veronese in his contribution to this volume, the canons are presented as alternate readings.



In these *ordines* the canons seem to have set the tone for and helped to legitimize the synod: their recitation affirmed that it was being held in good order, and tied the present gathering into the long synodal tradition stretching back to the church fathers. The recitation of the canons helped establish the synod *as a synod*. We do not know whether the Council of Mantua made use of such an *ordo*, but accounts of some other Carolingian synods do reveal the canons functioning in ways similar to those stipulated in the *ordines*. In his opening address at the Council at Cividale in 796, Paulinus of Aquileia recalled the injunction of the «sacred rules of the venerable canons» to hold provincial councils twice each year<sup>16</sup>, and announced that it was necessary to convoke the synod «in accordance with the inviolable prescriptions of the ancient canons»<sup>17</sup>. Contemporary visual depictions of synods, including those in the opening folios of a canonical manuscript at Vercelli dating to the second quarter of the ninth century, show a variety of books in and around synods – among them, we may suppose, *codices canonum*<sup>18</sup>. Books of canons were also used for the “substantive” business of a synod, including the resolution of disputes and the drafting of its own canons<sup>19</sup>. Paulinus stressed that the canons promulgated at the Council of Cividale in 796 were formulated «after examining the sacred pages of the canons of the Fathers», and were simply re-expressions of these old authorities in a «newer style»<sup>20</sup>. At Mantua, too, we shall see that there is reason to suppose that a *codex canonum* was put to use.

### 3. *Maxentius's canonical argument*

At Mantua the patriarch of Aquileia appeared before a body predisposed in his favor, but according to the synodal report he nevertheless arrived well

<sup>16</sup> «Nulli prorsus dubium Domini sacerdotum, qui sacras venerandorum canonum regulas vigilantia non omiserit ingenio sagatius explorare, bis in anno concilium per unamquamque provinciam fieri debere»; MGH, Conc. II/1, n. 21, p. 179. The requirement to hold provincial synods twice a year is among the canons identified for recitation in *ordines* 2 and 4. The Council of Cividale is also said (*ibidem*) to have convened «canonicis siquidem evocatum syllabis».

<sup>17</sup> «Necessarium duximus summopere festinantes dilectissimam fraternitatem vestram iuxta priscorum canonum inviolabiles sanctiones in uno collegio adgregari»; MGH, Conc. II/1, n. 21, p. 180. On the “juridical language” that pervades Paulinus’s address at the Council of Cividale and his letter to Charlemagne reporting on it, see Vocino, *Between the Palace*, pp. 255-257.

<sup>18</sup> Vercelli, Biblioteca Capitolare, CLXV. Celia Chazelle has recently argued that the illustrations in the Vercelli manuscript were created for Lothar I; Chazelle, *Emperors and the Law* (forthcoming). I would like to thank Prof. Chazelle for sharing this work with me in advance of publication. See more generally Reynolds, *Rites and Signs*.

<sup>19</sup> On the use of canonical collections in synods north of the Alps see, e.g., Halfond, *The Archaeology*, pp. 87-88 and works cited there; Schröder, *Die Westfränkischen Synoden*, pp. 86-88; Hartmann, *Kirche und Kirchenrecht*, pp. 99-105.

<sup>20</sup> «Non novas, karissimi, regulas instituimus nec supervacuas rerum adinventiones inhiante sectamur, sed sacris paternorum canonum recensitis foliis ea, quae ab eis bene gesta salubrique promulgata mucrone persistunt, summa devotionis veneratione amplectentes recentiori stilo opere praeclium duximus renovare»; MGH, Conc. II/1, n. 21, p. 189.

prepared with evidence and arguments. Much of Maxentius's presentation superficially takes the form of a chronological account of his see's history. But the narrative fluency of his account, which would no doubt have made its oral delivery especially effective, should not obscure the sophistication of its arguments. In its argumentative structure, Maxentius's presentation can be divided into three parts. The first is largely defensive, and aims to counter an interpretation of Patriarch Paul's flight to Grado as a formal transfer of the metropolitan see. Building on this, the second and most crucial part focuses on the double election of the early seventh century and develops a bold argument for the illegitimacy of the rival patriarchal line at Grado, an argument that hinges on canon law. The final part presents evidence on the narrower question of jurisdiction over Istria. I focus here on the second part, where canon law is decisive.

Maxentius entered the synod carrying his «*precum libelli*» – his dossier of authorities – with which he would argue «that the churches of his province, which the incursion of the Barbarians had separated from their mother (*matrix*), should by the authority of the canons now in time of peace» be returned to Aquileia's jurisdiction<sup>21</sup>. Drawing on the *Passio Hermachorae et Fortunati* or a closely related text, he began by recounting the early history of the church of Aquileia from its founding by saint Mark and Hermagoras, its first prelate<sup>22</sup>. This he followed with a modified passage from Paul the Deacon's *Historia Langobardorum* narrating Patriarch Paul's flight to Grado in the face of the «barbarity of the Lombards». Maxentius's changes to the *Historia*'s account make clear his intention to show that Paul's flight to Grado was only an emergency measure, forced upon the patriarch by the threat of imminent violence and devastation and devoid of larger significance; that is to say, that it should not be construed as a permanent transfer of metropolitan authority to Grado<sup>23</sup>.

<sup>21</sup> «Residentibus igitur in hac synodo reverentissimis episcopis, adstantibus diaconibus et cetero clero, veniens vir sanctissimus Maxentius, Aquileiensis patriarcha, precum libellos pro dispersione suae Aquileiensis aecclesiae obtulit, ut suae provinciae aecclesias, quas Barbarorum incursus a sua matrice segregaverat, auctoritate canonum iam pacis tempore percipere mereretur ad propria»; MGH, Conc. II/2, n. 47, p. 585. For *precum libelli*, cf. later in the report: «universa, quae Maxentius, patriarcha Aquileiensis, in libello obtulerat»; *ibidem*, p. 587. I would like to thank Susan Boynton for discussing this terminology with me.

<sup>22</sup> See Vocino, *Les saints en lice*.

<sup>23</sup> While Paul the Deacon says only that Paul «Langobardorum barbariem metuens, ex Aquileia ad Gradus insulam confugit secumque omnem suae thesaurum ecclesiae deportavit» (MGH, SS rer. Lang., p. 78), Maxentius says that he «Longobardorum barbariem et immanitatem metuens, ex civitate Aquileiensi et de propria sede ad Gradus insulam, plebem suam, confugiens omnemque thesaurum et sedes sanctorum Marci et Hermachorae secum ad eandem insulam detulit idcirco, non ut sedem aut primatum aecclesiae suaeque provinciae construeret inibi, sed ut Barbarorum rabiem possit evadere» (MGH, Conc. II/2, n. 47, p. 585). A full analysis and discussion is out of place here; I note only that Maxentius's surprising addition of the thrones of saints Mark and Hermagoras in particular suggests that he was trying, at least in part, to neutralize Gradese claims that possession of those thrones was a sign of Grado's legitimacy as the heir to «old» Aquileia.

Maxentius next came to the most crucial part of the story: the double election in the early seventh century and the resulting division of the province of Aquileia. Maxentius again relied on Paul the Deacon's *Historia Langobardorum*. Paul's account implicitly privileges the Aquileian over the Gradese claim, since it first narrates John's ordination as patriarch at Aquileia before adding that Candidianus was «also» ordained, as «antistis» – not patriarch – at Grado. But here too Maxentius made several crucial emendations to Paul's text (see table 1). Most significantly, he removed Paul's reference to the involvement of the Lombard king and duke of Friuli in John's election on the mainland, instead saying only that the election occurred «in the time of» king Agilulf. In this way he avoided any suggestion of Lombard interference or coercion in John's election. He also replaced Paul's reference to the «Romani» at Grado with the audacious claim that the «orthodox» Candidianus was a heretic<sup>24</sup>.

Paul the Deacon, 4.33<sup>25</sup>:

**His diebus** defuncto Severo **patriarcha**, ordinatur in loco eius Iohannes **abbas** patriarcha in Aquileia **vetere, cum consensu regis et Gisulfi ducis**. In Gradus quoque ordinatus est **Romanis** Candidianus antistis.

Maxentius<sup>26</sup>:

Defuncto **itaque** Severo ordinatur loco eius Iohannes patriarcha in Aquileia **eo tempore, quo Agilulfus rex Longobardorum regnabat**. In Gradus quoque ordinatus est **haereticus** Candidianus antistes.

Table 1. Bold text indicates divergences and Maxentius's additions.

This brought Maxentius to the core of his argument: «For this Candidianus was ordained neither by the consent of his co-provincial bishops nor in the city of Aquileia, but in the Aquileian *dioecesim et plebem* of Grado, which is a tiny island, contrary to the statutes of the canons and the decrees of the holy fathers»<sup>27</sup>. This is not an empty invocation of canonical authority. Maxentius was invoking a specific, and somewhat obscure, canonical norm to argue that Candidianus's ordination failed to fulfill the necessary requirements. While numerous canons lay out the procedures for the election and ordination of bishops, far fewer canons address those of metropolitans (such as the patriarchs)<sup>28</sup>. Two canons that do address this stipulate that it should be done in the metropolitan city and in the presence of the bishops of the province.

<sup>24</sup> The «enim» in Maxentius's next sentence, which introduces his canonical argument, may indicate that he intended the charge of heresy in relation to Candidianus's supposedly uncanonical ordination and the resulting division of the patriarchate. On this point see also below, note 45.

<sup>25</sup> MGH, SS rer. Lang., p. 127.

<sup>26</sup> MGH, Conc. II/2, n. 47, p. 586.

<sup>27</sup> «Hic enim Candidianus nec per consensum comprovincialium episcoporum nec in civitate Aquileia, sed in dioecesim et plebem Aquileiensem Gradus, quae est perparva insula, contra canonum statuta et sanctorum patrum decreta ordinatus est»; MGH, Conc. II/2, n. 47, p. 586.

<sup>28</sup> For episcopal election see, e.g., the canons collected in the *Concordia canonum* of Cresconius, *capitula* 1 and 228.

Canon 19 of the Fourth Council of Toledo establishes that «a metropolitan [should be consecrated] only in the metropolis, with the co-provincial bishops coming together there»<sup>29</sup>. A decretal of Pope Leo I specifies that «when a metropolitan has died and another is to be elected in his place, the provincial bishops shall convene in the metropolitan city, so that when the will of all the clergy and all the citizens has been discussed, the best man may be chosen from the priests of this same church or from the deacons»<sup>30</sup>.

Both of these canons were accessible in collections that circulated in at least some areas of northern Italy in the early ninth century: the Toledo canon in the so-called *Collectio Novariensis*<sup>31</sup>; the decretal of Leo I, probably much more widely, in collections including the *Collectio Dionysiana* and the *Collectio Vaticana*<sup>32</sup>. A summary of the relevant part of Leo's decretal could also be found in the *Epitome Hispana*: «For the ordination of a metropolitan, all the bishops shall gather in the metropolis and examine the priests and deacons, and one of these shall be ordained»<sup>33</sup>. The *Epitome Hispana*'s summary uses the verb *ordinare*, as Maxentius does, and isolates the issue of metropolitan ordination. Both the Toledan canon and Leo's decretal in its original form, on the other hand, use different vocabulary and address a number of additional issues. (The *Epitome Hispana*'s highly abbreviated form would, moreover, have made it a convenient instrument for finding relevant canons quickly, even if its "epitomized" versions were presumably less authoritative.) Never-

<sup>29</sup> «Episcopus autem comprouincialis ibi consecrandus est ubi metropolitanus elegerit; metropolitanus autem non nisi in ciuitate metropoli comprouincialibus ibidem conuenientibus»; *La colección canónica Hispana*, 5, pp. 210-211.

<sup>30</sup> «Metropolitano vero defuncto, cum in locum ejus alius fuerit subrogandus, provinciales episcopi ad civitatem metropolim convenire debebunt, ut omnium clericorum atque omnium civium voluntate discussa, ex presbyteris ejusdem Ecclesiae, vel ex diaconis optimus eligatur»; PL 54, Ep. 14 (*Quanta fraternitati*, J<sup>3</sup> 918/JK 411), cap. 6, col. 673. On the reception of this decretal in canon law collections, see Maassen, *Geschichte*, p. 259. The principle would also be articulated in the Pseudo-Isidorian decretal of Anicius; *Decretales*, p. 120.

<sup>31</sup> *La colección del ms. de Novara*, pp. 499-500; for the manuscripts, see Kéry, *Canonical Collections*, p. 32.

<sup>32</sup> Bernhard Bischoff suggested that BAV, Barb. lat. 679, an eighth- or ninth-century manuscript of the *Collectio Vaticana*, may have been produced at Aquileia (relevant text at fol. 105v); Bischoff, *Die Rolle*, pp. 97-98; cf. Mordek, *Bibliotheca capitularium*, pp. 751-754; Kéry, *Canonical collections*, p. 25. But see now Pani, *I libri dell'età di Carlo Magno*, pp. 35-36, and Vocino and West, *On the Life*, note 54. The *Concordia Canonum* of Cresconius does not contain the relevant portion of Leo's letter, though it is included in an appendix found in several extant manuscripts of the collection; see Zechiel-Eckes, *Die Concordia canonum*, pp. 86-113. The letter is not included in the so-called *Collectio Grimanica* of Leo's letters, the only manuscript of which has been linked to Aquileia.

<sup>33</sup> «II. In ordinationem metropolitani omnes episcopi in metropoli congregentur et discutiant presbiteros et diaconos et ex ipsis ordinetur unus»; *El epitome hispanico*, p. 205. For manuscripts transmitting the *Epitome Hispana*, see Kéry, *Canonical collections*, pp. 58-59. On Verona, Biblioteca Capitolare, LXI (59) (and its relationship to the Lucca manuscript of the *Epitome*), see now Bassetti, *Un inedito frammento*. I would like to thank Marco Stoffella and Donatella Tronca for discussion of the Verona manuscript. Reliance on Leo's letter, either in its original or its epitomized form, might explain why Maxentius removed Paul the Deacon's reference to John as «abbas» (see above, table 1): Leo specifies that the metropolitan shall be chosen from among the priests and deacons of the church.

theless, it cannot be said that the patriarch's words hew particularly closely to any of these sources (see table 2). Based on the evidence of the synodal report, then, it seems that Maxentius identified a specific canonical norm but perhaps did not quote directly from any particular canon – in marked contrast to his extensive quotations from his narrative *auctoritates*.

Maxentius: Hic enim Candidianus <b>nec per consensum com-provintialium episcoporum nec in civitate Aquileia</b> , sed in dioecesim et plebem Aquileiensem Gradus, quae est parva insula, contra canonum statuta et sanctorum patrum decreta <b>ordinatus est</b> .	Toledo IIII, c. 19: metropolitanus autem [consecrandus est] non nisi in <b>ciuitate</b> metropoli <b>comprovincialibus</b> ibidem conuenientibus.	Leo I, Ep. 14, c. 6: Metropolitano vero defuncto, cum in locum ejus alius fuerit subrogandus, <b>provinciales episcopi ad civitatem</b> metropolim convenire debebunt, ut omnium clericorum atque omnium civium voluntate discussa, ex presbyteris ejusdem Ecclesiae, vel ex diaconis optimus eligatur.	Leo I, Ep. 14, c. 6 in the <i>Epitome Hispana</i> : In ordinationem metropolitani omnes <b>episcopi</b> in metropoli congregentur et discutiant presbiteros et diaconos et ex ipsis <b>ordinetur</b> unus.
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Table 2.

With the modified excerpts from the *Historia Langobardorum* Maxentius had already claimed to show that Candidianus's ordination failed to meet one of the two requirements specified by the canonical norm, since it occurred at Grado, a mere «plebs», rather than at the metropolitan city of Aquileia. He next introduced evidence intended to show that the ordination also occurred without the proper involvement of the bishops of the province. He quoted from a letter of Patriarch John of Aquileia to the Lombard king Agilulf, in which John laments that three of his suffragan bishops in Istria, who had previously refused to consent to Candidianus's ordination, were dragged from their churches and compelled to do so by the Greeks<sup>34</sup>. While John's letter supported the case against Grado in other ways too – not least by maligning Candidianus personally<sup>35</sup> – Maxentius's concluding commentary on the letter makes clear that the crucial point for him was that the apparent involvement of the Istrian bishops in Candidianus's ordination had been obtained only

<sup>34</sup> Maxentius introduces the letter immediately after his statement of the canonical norm, and he makes explicit that the letter is intended to prove that the ordination had been uncanonical: «Contra canonum statuta et sanctorum patrum decreta ordinatus est. Et inter alia probat hoc huius Aquileiensis aecclesiae Iohannis antistitis epistola»; MGH, Conc. II/2, n. 47, p. 586.

<sup>35</sup> «Candidianus inutilis, qui se ob sui sceleris immanitatem prefatae sanctae recordationis domno Severo, decessori nostro, sub anathematis interposicione obligatus est, ne ad potioem gradum unquam accederet, quoniam a se eique corde faventibus in praedicto Gradensi castro adulterium matri aecclesiae improbe ingereretur, ordinatur episcopus»; *ibidem*.

through coercion, and so did not represent true consent<sup>36</sup>. Thus neither condition of the canonical norm had been met in Candidianus's case, and from that uncanonical ordination the entire line of Gradese patriarchs had descended.

While acceptance of his argument for Grado's illegitimacy would render moot the question of jurisdiction over Istria, Maxentius prudently concluded by also arguing the narrower issue. To this end he presented a late eighth-century *decretum* of the clergy and people of Pola in Istria to the patriarch of Aquileia, while a delegation of Istrians made a *petitio* to the synod in Aquileia's favor.

#### 4. *The Council's decision*

The papal legates then led the synod in a review of the evidence: they «brought forth everything that Patriarch Maxentius of Aquileia had presented in his *libellus*, and the most truthful authorities that were displayed in this synod, with the canons also read out (*recitatis etiam canonibus*), reviewing everything in order»<sup>37</sup>. The recitation of the canons is here portrayed as a part of the synod's review of the evidence, implying that the recited canons were considered directly relevant to the case. But which canons were read out? Were these canons part of the dossier that Maxentius presented to the synod? While the passage leaves this and much else unclear, its syntax suggests that these canons were not part of Maxentius's *libellus*. If this is correct, it might explain why the synodal report depicts Maxentius presenting long (modified) quotations from his other texts but referring to the canons only in inexact terms. A litigant was expected to present his own *auctoritates*, but perhaps it was properly the role of the court to scrutinize the canons and determine which were appropriate to the case. This is the sort of circumstance in which we would expect the synod to make use of a *codex canonum*<sup>38</sup>.

<sup>36</sup> «Histriae episcopi de aecclesiis suis a militibus Graecorum tracti sunt et hunc Candidianum ordinare compulsi»; *ibidem*. Another sentence making a similar point should perhaps likewise be understood as commentary by Maxentius rather than part of the letter itself: «Si enim recte ei consencientes essent, voluntarie illi consentire debuerant, non autem per vim»; *ibidem*.

<sup>37</sup> «Auditis itaque horum precibus sanctissimi et reverentissimi legati sanctae Romanae ecclesiae, Benedictus videlicet episcopus et Leo diaconus, universa, quae Maxentius, patriarcha Aquileiensis, in libello obtulerat, auctoritatesque veracissimas, quae in hac synodo propalatae sunt, recitatis etiam canonibus, recapitulando cuncta per ordinem protulerunt»; MGH, Conc. II/2, n. 47, p. 587.

<sup>38</sup> Cf. CDL IV/2, n. 45, pp. 148-154, a Beneventan *placitum* of 762. In this case, heard before the duke of Benevento, the abbot of the monastery of S. Benedict argued that several families had been granted freedom «contra canonicam regulam». After having the documentary evidence in the case read out, the duke «precepimus sacros adduci canones in nostram presentia, quorum capitula sciscitantes ita continentes invenimus in sanctorum Apostolorum seu Nicino nec non Anquiritano atque Silvestri pape urbis Rome conciliis, ut...». That is, the abbot made his argument in canonical terms, but the duke is portrayed as reviewing the canons (as well as Lombard laws) in deciding the case.



The announcement of the synod's decision lends some further support to this suggestion. The papal legates asked the bishops both whether they accepted the Aquileian claims over Istria and also whether «according to these authorities Aquileia has always been the metropolis, or if the province, which contrary to the statutes of the canons has been divided between two metropolitans, should be restored» to its original unity<sup>39</sup>. The bishops' decision in favor of Maxentius is framed in the same terms, predicated on the determination that Aquileia «contrary to the statutes of the fathers had been divided between two metropolitans»<sup>40</sup>. Although the canons are invoked in generic terms («canonum statuta», «patrum statuta»), the reference to a specific canonical norm, and to a specific canon, is clear: canon 12 of the Council of Chalcedon, prohibiting the division of one province into two. The words attributed first to the papal legates and then to the synod echo the rubric to this canon in the *Collectio Dionysiana* and collections derived from it, such as the *Concordia canonum* of Cresconius (see table 3).

Council of Mantua (papal legates): si <b>provincia</b> , quae contra canonum statuta <b>in duos metropolitanos divisa est</b>	Rubric of Chalcedon, c. 12 in <i>Collectio Dionysiana</i> <sup>41</sup> : Ut nequaquam <b>in duos metropolitanos</b> <b>provincia dividatur</b>
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Table 3.

The wording is close enough to suggest that recourse may have been made to this canon, or at least its rubric, in a *codex canonum*. But beyond any general “legitimizing” function an appeal to the canons might have had, for what purpose was this canonical norm referenced? The Chalcedonian canon cannot be said to form the basis for the decision in Maxentius's favor. After all, the Gradese might well agree that the old province should be restored to unity – but under the

<sup>39</sup> «interrogatisque singulis episcopis, utrum iusta sit an iniusta Histrianorum petitio et si secundum has auctoritates Aquileia semper metropolis fuerit aut, si provincia, quae contra canonum statuta in duos metropolitanos divisa est, ad unam et primam reformari debeat». The report continues: «et si placet eorum petitio, clara voce proferte», – universi respondentes dixerunt: «Iusta est Histrianorum petitio, et quia, quod Aquileia semper metropolis extitit dominique fuit Gradensium, novimus et quia contra patrum decreta divisa est, ideo auctoritate patrum ad priorem statum reformetur; omnibus nobis placet». Et illi respondentes dixerunt: «Et nobis ita placet»; MGH, Conc. II/2, n. 47, p. 587.

<sup>40</sup> «Statuit igitur sancta synodus, ut Aquileia metropolis, quae contra patrum statuta divisa in duos metropolitanos fuerat, deinceps secundum quod et antiquitus erat prima et metropolis habeatur et Maxentius, sanctae Aquileiensis aecclesiae patriarcha, eiusque successores in singulis Histriae aecclesiis electos a clero et populo ordinandi in episcopos licentiam sicut et in caeteris civitatibus suae metropoli subiectis modo et futuris temporibus habeant»; *ibidem*.

<sup>41</sup> ACO II/2.2, pp. 144 and 149; cf. Zechiel-Eckes, *Die Concordia*, p. 684, cap. 200. In the *Concordia Canonum* the rubric prefaces both Chalcedon c. 12 and an excerpt from a decretal of Innocent I (J3 700/JK 310). This rubric was also used for the canon in many later collections; see Fowler-Magerl, *Clavis canonum*. The same rubric – with an initial «Quod» instead of «Ut» – also occurs in the *Collectio Hispana*: ACO 2.2/2, pp. 178 and 181. Cf. Chalcedon c. 12 in the *Epitome Hispana*: «In una provincia duo non sint metropolitani»; *El epitome hispanico*, p. 129.

authority of the patriarch at Grado<sup>42</sup>! The canon was crucial in a different way. Evidence beyond the synodal report suggests that the council was convoked to resolve the particular problem of the Istrian dioceses<sup>43</sup>. This would mean that Maxentius raised the stakes dramatically when he made the case about the very legitimacy of the two patriarchates. How could the synod, however friendly to Maxentius, justify accepting these far broader terms of debate, especially when the two patriarchs had coexisted for over two centuries? Framing the issue before the council in terms of canon 12 of Chalcedon, in effect, compelled the bishops to decide the larger question of patriarchal legitimacy. A single province clearly had been divided between two metropolitans; how could they allow this uncanonical situation to persist? Although the Chalcedonian norm is voiced by the papal legates and the assembled bishops in the synodal report, we can easily imagine that it was Maxentius who first framed the issue in these terms<sup>44</sup>.

### 5. *The canonical argument after Mantua*

The apparently definitive judgment at Mantua did not in reality lead to the abolition of the patriarchate of Grado. It did however enable Maxentius to exert his metropolitan authority over Istria, about which Venerius of Grado protested to the pope<sup>45</sup>. Even in the apparent absence of formal judicial proceedings in the decades after Mantua, the two sides continued to collect – or confect – *auctoritates* and to develop arguments<sup>46</sup>. The details of this process

<sup>42</sup> Maxentius's "counter-argument" in the first section of his presentation suggests that the Gradese saw Paul's flight to Grado as an effective transfer of metropolitan authority there. The prologue to the *Translatio Marci* would explicitly claim that Paul's successor-but-one Helias «ex consensu beatissimi papae Pelagii, facta synodo viginti episcoporum, eandem Gradensem urbem totius Venetiae metropolim esse instituit»; Colombi, *Translatio Marci*, VI/3, pp. 115-116.

<sup>43</sup> See, for example, Louis the Pious and Lothar's response to Venerius in 826 (MGH, DD LdF, B13, pp. 1219-1220); cf. Venerius's letter to Pope Gregory IV after the Council of Mantua (MGH, Epp. V, n. 12, pp. 315-316). The account of the Gradese argument at the end of the synodal report, if more or less reliable, would likewise suggest that Venerius's legate arrived at Mantua expecting only to argue the "Istrian question".

<sup>44</sup> Reference to canon 12 of Chalcedon may help to explain one surprising element of Maxentius's presentation: his assertion that Candidianus of Grado was a heretic. In glossed ninth- and tenth-century Italian manuscripts of the *Collectio Dionysiana Bobbiensis* and of the *Concordia Canonum* of Cresconius, the following gloss is found on canon 12 of Chalcedon: «Duo heretica sacrilegia in hoc facto dampnantur flagitiosa, unum, quod amissa unitate aeclesiae ad terrenas potestates convolvans sine Deo usurpat impium et anathematizandum ejusdem potestatis ingestum typo serpentis in paradiso, alterum, quod odiosa discordia inter catholica sacrificia dissensionem dampnabilem ingerit, obnoxius Deo et ecclesiae et episcopis et potestati R[omani] P[ontificis]»; Maassen, *Glossen*, p. 274. I am grateful to Steffen Patzold, to whom I owe this important observation. On the glosses see further Patetta, *Glosse*; Zechiel-Eckes, *Die Concordia canonum*; Firey, *How Carolingians Learned Canon Law*.

<sup>45</sup> MGH, Epp. V, n. 12, pp. 315-316.

<sup>46</sup> I explore the judicial and legal dimensions of this process in more detail in my monograph in progress. For the elaboration of hagiographical traditions in this context see Vocino, *Les saints en lice*; Cerno, *Holding the Aquileian patriarchate's title*; Veronese, *Saint Marc*; Veronese, *Rome and the Others*; Colombi, *Translatio Marci*.



are beyond my scope here, but it is necessary to observe that the partisans of Grado took Maxentius's canonical argument seriously and found it necessary to respond. This can be seen from the so-called *Carmen de Aquilegia numquam restauranda*, which is addressed to Lothar and Louis II and can be dated to the period between 844 and 855<sup>47</sup>. The poem is filled with broad denunciations of Aquileia's long history of wickedness, and reserves particularly harsh words for the «poisoner» Maxentius and his «well-known trickery» – perhaps an indirect recognition of his lawyerly skill. It also responds to the substance of the arguments he made at Mantua. It does so by showing that the accusations leveled against Candidianus – including those at the core of Maxentius's canonical argument – apply instead to John, his rival on the mainland. «John the abbot» was a «heretic» for his support of the Three Chapters and a «criminal and perjurer against his bishop». Most significantly, it was John, not Candidianus, who «first split the one church in two»: he was a «rebel», who «was raised up in the little *plebs* (*plebicula*) of Cividale» – not the metropolis – and «seized episcopal office» with the support of the «faithless» Lombards<sup>48</sup>. By the criteria set out by Maxentius at Mantua, it was John's election that was uncanonical.

A diploma of Louis II confirming Aquileia's jurisdiction over Istria, issued perhaps in 855, suggests that this Gradese line of attack may have hit its mark<sup>49</sup>. The diploma's long *narratio* gives voice to the arguments that the Aquileians evidently made in order to secure the confirmation. Noting that the dispute between the patriarchs was «wholly settled by the sentences of the bishops» at the *synodale concilium* at Mantua, the *narratio* offers a revised version of Maxentius's argument against the Gradese claim that Paul's flight represented a transfer of patriarchal authority, and also develops a new argument by analogy with the history of the see of Milan, which regained metropolitan authority after its archbishop returned from exile in Genoa. Conspicuously absent is Maxentius's argument about Candidianus's uncanonical ordination. The Gradese had, perhaps, succeeded in rendering it unusable by showing that the patriarchs of Aquileia were vulnerable to the same line of argument.

<sup>47</sup> MGH, Poetae II, pp. 150-153. For discussion, and a partial translation which I have largely followed, see Everett, *Paulinus*, pp. 147-149; De Nicola, *I versi*.

<sup>48</sup> «15. Pulso Gotho Longobardus adiit Italiam,/ quem deus ad suam numquam perduxit noticiam,/ et sub quo Iohannes abbas deguit hereticus./ 16. Qui super nefanda nefas adiecit scelestius,/ ut secutus apostatarum dampnatorum heresim,/ ipse primus unam in duas scinderet ecclesiam./ 17. Quod Hieroboam malignus in Israel egerat/ ut amisso templo dei adoraret vitulos,/ quos conflatile erexit rex infidelissimus./ 18. Reus et periurus suo Viventio pontifici/ isdem Foroiuliensi Iohannes in plebicula/ erectus atque rebellis presulatum arripuit./ 19. Superbus ob infideles et avaros iudices/ Longobardos atque Gothos periit iusticiam/ sanctorum et perietur idem infideliter»; MGH, Poetae II, p. 152.

<sup>49</sup> MGH, DD Lu II, n. 17, pp. 97-99. The diploma has problematic elements and is at least superficially interpolated (see Wanner's comments in the MGH edition and BMZi, n. 143), but there is little reason to doubt the substance of its *dispositio*.

## 6. *A Lucchese coda*

Canonical norms were pivotal to Maxentius's arguments at Mantua and the council's sweeping judgment in his favor. Despite this, and despite the fact that the record tells us that canons were «read out» in the synod, the connection between canonical norms, specific canons and canonical collections, and physical *codices canonum* has for the most part remained elusive. I will conclude by briefly turning to a different case, in which our knowledge of local canonical resources allows us to establish this connection more concretely. As the forum for this case was very different from the Council of Mantua, it also suggests something of the breadth of judicial contexts in which the canons might be evoked.

The case comes from the diocese of Lucca and concerns a priest, Alpulus, who had been degraded from the priesthood following his abduction of a nun. In 803 and again in 813 Alpulus appeared before Bishop James of Lucca, claiming that he had been unjustly removed from his church. Alpulus's complex case, known to us from the original *notitiae* of the judgments, is an extremely valuable window into Carolingian justice and ecclesiastical legal practice, including the use of canon law<sup>50</sup>. Here I will highlight just one aspect of this. In both 803 and 813, immediately before announcing the judgment against and excommunication of Alpulus, the bishop invoked a canonical norm concerning clerics who have been excommunicated and presume to perform anything pertaining to the ministry. Several commentators have observed a resemblance to canon 4 of the Council of Antioch but, making recourse to “standard” canonical collections such as the *Collectio Dionysiana*, *Collectio Dionysio-Hadriana*, and *Collectio Hispana*, they have noted that the wording in the *notitiae* does not closely parallel that canon or any other<sup>51</sup>. It might, then, seem that we face the same uncertainty as in the case of Maxentius's reference to the canons at Mantua. One might suppose that the bishop cited the canon inexactly from memory. But we reach a different conclusion when we recall the diversity of canonical collections in Carolingian Italy, and consider the particular canonical resources the bishop of Lucca may have had at his disposal. The famous manuscript 490 of the Biblioteca Capitolare of Lucca is a large miscellany of texts produced between the late eighth and early ninth centuries<sup>52</sup>. The codex contains two canonical collections, the *Epitome Hispana* and the *Collectio Sanblasiana*. The *Sanblasiana* (also known as the *Collectio Italica*) transmits the canons of Antioch in a form of the so-called

<sup>50</sup> Placiti I, n. 16, pp. 44-48 (803 VII, Lucca)/ChLA<sup>2</sup>, LXXII, n. 24, pp. 83-89, and Placiti I, n. 26, pp. 80-84 (813 IV, Lucca)/ChLA<sup>2</sup>, LXXIII, n. 50, pp. 164-171. For key bibliography, see the following note.

<sup>51</sup> See Besta, *Nuovi appunti*, p. 390; Andreolli, *Uomini*, pp. 42-43 with note 6; Padoa Schioppa, *Giudici*, p. 1651 with note 105 (referencing canon 3 of Antioch); Hamilton, *Inquiring into Adultery*, pp. 28-29 with note 33; Loschiavo, *The priest*, pp. 246-247 with note 28.

<sup>52</sup> On this codex see Paolo Tomei's contribution in this volume, with references to key bibliography.

*versio Prisca*<sup>53</sup>. The words recorded in the two judgments against Alpus are, with a few intentional omissions and minor variants, identical to those of canon 4 of the Council of Antioch as it appears in the Lucca *Sanblasiana* (see table 4). In addition, the words that James used to introduce the canon in court in 803 are identical to the rubric for the canon in the *Sanblasiana*. The similarity to the text in the codex suggests that the scribe of the two *notitiae*, the subdeacon and notary Richiprandus, made use of the Lucca *Sanblasiana* – or its exemplar or a related copy – as he drew up the charters. It is perhaps not too far-fetched to imagine that the bishop of Lucca had before him the same codex as he pronounced his judgments in court.

ChLA <sup>2</sup> , LXXII, n. 24 (a. 803), p. 85	ChLA <sup>2</sup> , LXXIII, n. 50 (a. 813), p. 167	Council of Antioch, c. 4 in the <i>Collectio Dionysiana</i> (II) <sup>54</sup> :	Council of Antioch, c. 4 in Lucca, Biblioteca Capitolare, MS 490, fol. 264r ( <i>Collectio Sanblasiana</i> ) <sup>55</sup> :
secundum canonicam auctoritatem <b>de his qui degradatj presumunt sacrosanctum agere:</b> 'Si quis presbiter aut diaconus ad proprio [episcopo] excommunicatus presumpserit aliquid ministerii agere, ipse in se damnatione firmavit.'	secundum memoratum capitulu[m] canonum continere videtur ut 'si presbiter aut diaconus a proprio episcopo excommunicatus presumpserit aliquid ministerii agere, ipse in se damnatione firmavit; secundum morem consuetudinis numquam eis liceret in alio sinodo spem ad restituendum aberet' et cetera	DE DAMNATIS ET MINISTRARE TEMPTANTIBUS. Si quis episcopus damnatus a synodo, uel presbyter aut diaconus a suo episcopo, ausi fuerint aliquid de ministerio sacro contingere, siue episcopus iuxta praecedentem consuetudinem siue presbyter aut diaconus; nullo modo liceat ei nec in alia synodo restitutionis spem aut locum habere satisfactionis	<b>DE HIS QUI DEGRADATI PRAESUMUNT SACROSANCTUM AGERE.</b> Si quis episcopus a synodo depositus aut presbiter aut diaconus a proprio episcopo excommunicatus presumpserit aliquid ministerii agere, ipse in se damnationem firmavit. Si episcopus similiter secundum morem consuetudinis numquam eis licere in alio synodo spem ad restituendos habere neque satisfactionis locum eis datur

Table 4.

<sup>53</sup> On the *Sanblasiana* and its contents, see Maassen, *Geschichte*, pp. 504–512; Kéry, *Canonical collections*, pp. 29–31; Elliot, *Collectio* (pp. 21–27 for the Lucca manuscript). See also Paolo Tomei's contribution in this volume.

<sup>54</sup> *EOMIA* 2.2, pp. 247 and 249.

<sup>55</sup> Cf. *EOMIA* 2.2, pp. 246 and 248 (*Versio Prisca*, with siglum *S* for the *Sanblasiana*, but not collating the Lucca manuscript).

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Michael W. Heil  
University of Arkansas at Little Rock  
mwheil@ualr.edu