

## Law and Liturgy: Excommunication Records, 900-1050

### I

The bishops of tenth- and eleventh-century Europe have attracted a good deal of scholarly attention in the past thirty years.<sup>1</sup> Researchers investigating the political and religious landscapes of Latin Europe have emphasised the importance of bishops to local and regional politics and at the same time traced the ways in which their authority manifested itself in their roles as pastors, reformers and local rulers. Tim Reuter, in particular, drew attention to how bishops anticipated later developments by central medieval rulers.<sup>2</sup> Stressing the importance of symbolism and episcopal charisma to the development of ideas of community, he also recognised the significance of dioceses, with the bishop as sovereign. To date, the emphasis in the work of those that have followed him has been on identifying what might be termed the ‘secular dimensions’ of episcopal power, including bishops’ revenue raising and judicial powers, their roles in collective assemblies, as architectural patrons, and as instigators of the reform of clerical and monastic communities, and political ritual behaviour such as as *adventus* ceremonies. Most scholars are, of course, aware of the apostolic responsibilities of episcopal office – in Reuter’s words ‘in the last resort they held an office for which they would have to render an account’ for those in their charge to the Lord -- but in practice they pay little attention to them.<sup>3</sup>

This neglect contrasts sharply with more recent work on the significance of the ninth-century Frankish Empire for the development of episcopal identity. Steffen Patzold underlined the need to recognise the full range of episcopal activity, and the importance of avoiding artificial distinctions between secular and spiritual power when drawing attention to the significance of the ninth century for the expectations which medieval churchmen came to have of what bishops should be and do.<sup>4</sup> Both he and Mayke de Jong showed the importance of the councils of Louis the Pious’s reign for the development of these shared norms, and the

centrality of the manifestations of apostolic authority, that is the rituals of confession, penance and excommunication, for episcopal identity.<sup>5</sup> At the same time, Patzold demonstrated that the rolling out of the ‘model’ articulated most clearly at the Council of Paris in 829 was by no means universal across the Frankish Empire, reaching east Frankia only in the 880s. His conclusions thus complement those of Wilfried Hartmann, whose study of canon law highlighted how the rites and laws of penance and excommunication developed in the ninth century became the focus of increased attention and reflection for churchmen in the years around 900.<sup>6</sup>

The texts of the rites for penance are well documented from the late eighth century onwards, but it is only from the years immediately after 900AD that the earliest records of actual rites for excommunication survive. They do so as a record of the sentence imposed by the bishops of the province of Rheims on the murderers of Archbishop Fulk on July 6<sup>th</sup> 900, and as six chapters in the collection of canon law which Regino of Prüm compiled for the Archbishops of Trier and Mainz, c. 906 x 913.<sup>7</sup> As Patzold and Hartmann observed, it is clear from both conciliar and epistolary evidence that ninth-century Frankish bishops – like their predecessors – not only practised excommunication but invested time and thought in developing the church law surrounding it. However, they felt no need to record its rites. Quite how, when and why in the years *after* the end of the Carolingian Empire bishops and their clergy chose to set down the rites for excommunication are questions to which the answers are only imperfectly understood.

The prevailing interpretation melds canon law and liturgy into an account whereby in east Frankia and formal excommunication rites of the type in Regino were initially recorded in canon law, and only later in liturgical books. In contrast, in west Frankia, the earliest records are of the more informal, *ad hoc* formulae, like the Rheims example, which went on to have a vibrant history. This account therefore ignores differences in genre and geography. It traces

the evolution of formal rites from the Lotharingian Regino of Prüm in the early tenth century to the Rhineland Burchard of Worms in the early eleventh century only turning to the west Frankish Ivo of Chartres in the later eleventh century.<sup>8</sup> Meanwhile, there has been a good deal of research into the west Frankish evidence, which, in the absence of legal collections, has relied instead upon charters and letters and linked the increasing evidence for the practice of excommunication to changes in lordship.<sup>9</sup> Even recent work on the west Frankish evidence relies on outdated interpretations of the normative evidence and ignores the relatively plentiful evidence for informal excommunication *formulae*.<sup>10</sup> The result is historians of both east and west Frankia seem happy to accept the picture given by Regino and Burchard as normative for the post-Carolingian period, despite the disparities in the source base from different regions. Two further issues also need to be taken into account. Anglo-Saxon evidence is neglected by scholars working on continental material. This is because, as Michael Elliot has observed, scholars of continental canon law have largely ignored Anglo-Saxon canon law, whilst those working on Anglo-Saxon church law have tended to look backwards to earlier insular sources rather than at developments across the Channel; excommunication is no exception to this rule.<sup>11</sup> Secondly, recent studies of liturgical *formulae* for excommunication in this period have identified a considerable variety in the texts of excommunication rites from the tenth and eleventh centuries, pointing to the role of local agency in the making of these records in west and east Frankia and also in England.<sup>12</sup> The end result of such specialisation has been to emphasise geographical difference. What has therefore not properly been considered is the extent to which the pictures emerging from different areas and different types of evidence can in fact be compared, and whether doing so provides a clearer answer to the question of not only how but why excommunication rites came to be recorded for the first time only in the post-Carolingian period.

Any comparative study risks comparing apples with oranges, but there are good reasons for comparing the development of the tenth- and eleventh-century recording of excommunication rites in the kingdoms of England, Germany and west Frankia. Late Anglo-Saxon England and Ottonian and early Salian Germany both had relatively unified episcopates and strong kings. Contrastingly, as is well known, west Frankish politics were much more fragmented.<sup>13</sup> The second section of this paper will therefore investigate the specific contexts in which excommunication rites were recorded in these three realms in the years c.900-c.1050, and consider why these records were made, before in the final part turning to consider some of the implications of this cross-realm comparison for our current understandings of episcopacy in this period.

## II

### The Reich

The earliest record of the excommunication liturgy to survive from the Reich is that in the collection of canon law Regino of Prüm composed for the archbishops of Trier and Mainz, c. 906 x 913. As both its contents and his preface make clear, Regino intended it to serve as a practical handbook to support the bishop during the visitation of his diocese; it thus has a tight focus on pastoral care and ecclesiastical discipline. Regino's record is widely recognised by historians of excommunication as fundamental to later medieval canon law and pontifical liturgies.<sup>14</sup> Over seven chapters Regino prescribed how excommunication should be conducted as follows:

- it should take place within the Mass after the reading of the Gospel, that is before the consecration of the Eucharist;<sup>15</sup>

- the bishop should first address those people and clergy present, naming the offender, explaining the offence which had incurred the sentence, and that due process had been followed;<sup>16</sup>
- then the bishop should declare the sentence of excommunication, using one of the four formulae provided;<sup>17</sup>
- those present should acclaim the sentence;<sup>18</sup>
- using the vernacular, the bishop should then explain the consequences of the sentence for both the offender and those in the community i.e. that those having any contact with the excommunicant would themselves incur an excommunication sentence;<sup>19</sup>
- finally, the bishop should notify the priests in his own diocese and the bishops of neighbouring sees of the case via letters so as to ensure that no one has contact with the excommunicant.<sup>20</sup>

These prescriptions were followed by instructions for the rite to be followed for the reconciliation of excommunicants: the bishop should meet the penitent excommunicant(s) outside the church, and after establishing that they have performed penance, lead them by the hand into the Church, before notifying the clergy of their restoration to the Christian community.<sup>21</sup> Unlike most of the canons in his collection, Regino did not provide any authorities for these two excommunication rites. It is, however, probable that they are based on customs followed in early tenth-century Trier because, as Wilfried Hartmann has demonstrated, Regino's other unattributed canons generally reflect Carolingian law.<sup>22</sup> Moreover, Regino's text echoes later ninth-century evidence from Rheims. A letter of Archbishop Hincmar to the priests of his diocese granted them permission to read the sentence before the Gospel rather than after as offenders had taken to leaving church so as to avoid being notified of their excommunication.<sup>23</sup> Further evidence for Regino's record being grounded in earlier traditions is suggested by the linguistic echoes between one of Regino's

excommunication formula (*Libri duo*, II.416, rubricated ‘Terribilior’) and two tenth-century formulae from Rheims: that recorded as being imposed on the murderers of Archbishop Fulk of Rheims, and an anonymised formula added in a north-eastern French hand to a late ninth-century canon law manuscript sometime in the second third of the tenth century.<sup>24</sup> The most probable explanation for these parallels between practices and texts in Rheims and Trier is that they draw on common, if undocumented, earlier practices.

Historians of canon law have traced how Regino’s texts were taken up by Burchard in his twenty-book *Decretum* and thence widely circulated across the cathedral libraries of eleventh-century Europe.<sup>25</sup> But what is less well recognised by scholars of excommunication is that in the tenth century Regino’s canons circulated mainly within the Reich, especially in Lotharingia and the Rhineland, and therefore cannot be accepted straightforwardly as representative of wider practices.<sup>26</sup> Regino’s collection survives in two recensions and is now preserved in eleven manuscripts and in four fragments from the tenth and eleventh centuries, of which only two come from outside the Reich, from the close-by sees of Rheims and Arras.<sup>27</sup> Its later influence is similarly geographically restricted: Regino’s canons on excommunication are found in only three later tenth- and early eleventh-century collections, all compiled in the Reich:

- *Collectio IV Librorum* (Lotharingia, s. x<sup>1</sup>);<sup>28</sup>
- Burchard of Worms’s *Decretum* (Worms, c. 1020);<sup>29</sup>
- *Collectio XII Partium* (Freising, s. xi<sup>in</sup>, with an augmented version from 1039).<sup>30</sup>

The texts surrounding Regino’s canons suggest the compilers of these collections regarded excommunication as fundamental to claims to episcopal authority rather than merely a form of punishment. All of Regino’s canons on excommunication were copied as a block into Book I of the *Collectio IV Librorum*, which deals with the bishop’s financial and judicial

authority rather than into Book III which deals with those offences which incur a sentence of excommunication.<sup>31</sup> Like the compiler of the *Collectio IV Librorum*, Burchard consciously linked excommunication to episcopal authority. He devoted all of Book XI to excommunication, beginning with a canon drawn from the Pseudo-Isidorean tradition, via Pseudo-Remedius of Chur's *Collectio Canonum*, which outlines the grounds on which the bishop has authority to judge, namely the apostolic power of the keys.<sup>32</sup> Regino's block of canons on the rites for imposing and reconciling excommunicants follows immediately.<sup>33</sup> Whereas both Regino and the compiler of the *Collectio IV Librorum* had left the canons prescribing how excommunication should be conducted unattributed, Burchard included spurious authorities, as was his practice elsewhere in the *Decretum*. In this case he attributed them to a Council of Rouen, perhaps because this was the authority Regino had given for the preceding canon in his collection.<sup>34</sup> Where Burchard differed most substantively from his source is in his prescription of the reconciliation rite for excommunication. Whereas Regino had opined that crimes should be corrected in accordance with divine and human law, Burchard omitted the reference to human law.<sup>35</sup> This accords with Burchard's more general views which, as Greta Austin has suggested, privileged canon law as 'the law of God', grounded in biblical authority, above that of secular law.<sup>36</sup> Further, Burchard also interpolated details of the psalms, verses and prayers into the text of Regino's outline, turning a legal prescription into a liturgical *ordo*.<sup>37</sup>

Burchard composed his *Decretum* to educate the clergy in his diocese, although how it was used by later communities remains a matter of debate.<sup>38</sup> The exact nature of the relationship between the two early eleventh-century collections, the *Decretum* compiled in Worms and the *Collectio XII Partium* compiled in Freising, continues to preoccupy scholars.<sup>39</sup> But it is widely acknowledged that close parallels indicate that there was co-operation between Worms and Freising, where the *Collectio XII Partium* was originally compiled in the early

eleventh century, with a second, longer version, being finished there c. 1039.<sup>40</sup> Like Burchard, the *Collectio XII Partium* devotes a whole book to excommunication: book X ‘de diversis conditionibus hominum et de excommunicatione reproborum.’<sup>41</sup> Both versions of the *Collectio* include the same block of canons on excommunication rites from Regino, but with Burchard’s spurious attributions to earlier councils.<sup>42</sup> The compiler(s) also followed those for Burchard and *Collectio IV Librorum* in connecting excommunication to the defence of episcopal authority: this block of canons in both versions of the *Collectio XII Partium* was preceded by a canon from the Council of Tribur (895) defending the bann imposed by the bishop on pain of excommunication.<sup>43</sup> Here, as in Burchard, spiritual law is regarded as superior to secular law and connected to the defence of the bishop’s authority in all spheres.

The citation of Regino’s canons in the *Collectio XII Partium* differ from both the original, and from the version in Burchard, in two significant regards. First, the rite for the imposition of excommunication in the augmented *Collectio* includes an expanded rubric headed ‘Incipit ordo ad excommunicandum incorrigibilis’.<sup>44</sup> This rubric expands on that in Regino and Burchard to set out how the rite should be conducted in a public mass, with the bishop entering church in full procession from the sanctuary; that he should deliver the sentence standing on the top step of the lectern, with twelve priests standing around, holding lights in their hands which they throw to the ground at the conclusion of the anathema, and that he should make clear the rebel has been summoned three times that he should return to the bosom of Holy Church. This rubric is followed by Regino’s full text of the address which the bishop should deliver. The effect is to enhance the solemnity of the occasion, by spelling out details of the rite which are otherwise hidden in Regino’s description. Another copy of this *ordo*, with an identical title and rubric, can be found in a pontifical from Freising compiled sometime in the first half of the eleventh century (now Munich, Bayerische Staatsbibliothek, Clm 21587).<sup>45</sup> In adapting Regino’s canons into an *ordo*, Freising’s churchmen demonstrate

the significance they attached to legal process – the rebel must be summoned three times – and to enhancing episcopal authority, surrounded by twelve priests, standing at the top of the lectern. Moreover, just as Burchard had done, the churchmen of Freising revised the reconciliation rite in the original *Collectio XII Partium*, although their amendments were rather less extensive than those undertaken at Worms.<sup>46</sup> This analysis suggests east Frankish churchmen made conscious choices when copying Regino's canons. The enhancements they made to Regino's original texts and the canons copied alongside them reflect local traditions but also imply that for these compilers the delivery of excommunication was intimately linked to the articulation of episcopal authority.

The Freising pontifical highlights the value of liturgical evidence. It is one of several from eleventh-century Germany to include examples which are more independent of the Regino-Burchard tradition.<sup>47</sup> Whilst the degree of local agency at work in such collections makes it much harder to approach them collectively, at least one group of manuscripts offers a means of doing so; these are the manuscripts now known as Romano-German Pontificals. Henry Parkes's researches have demonstrated that this set of *ordines* and legal texts was a much more varied and looser collection than was implied by its editors, and that it was not compiled in Mainz in the 960s, but rather only circulated widely across the Reich from the early eleventh century onwards.<sup>48</sup> Its influence outside the Reich was also much more restricted than presumed by earlier generations of scholars.<sup>49</sup> Cyrille Vogel and Reinhard Elze's edition of the Romano-German Pontifical includes all Regino's texts, together with an excommunication formula attributed to a Pope Leo.<sup>50</sup> The reconciliation rite represents an expansion of Regino's text along similar lines to that in Burchard, but it draws on wider traditions for its prayers.<sup>51</sup> Examination of the contents of these manuscripts suggests the texts of excommunication rites in these manuscripts are not nearly as uniform as the modern edition suggests. Only six out of sixteen eleventh- and twelfth-century codices labelled by

Michel Andrieu as Romano-German Pontificals contain all the excommunication rites in Vogel and Elze's edition, and these tend to be later copies, made from the second half of the eleventh century.<sup>52</sup> Conversely, perhaps the earliest example of a Romano-German Pontifical manuscript, that constructed for Henry II's new see at Bamberg in the early eleventh century, includes as an afterthought, as part of a supplement added in a slightly later hand, just the formula attributed to Pope Leo and the reconciliation rite.<sup>53</sup> The Leonine formula contains a clear statement of apostolic authority:

‘And just as the Lord gave to Blessed Peter the Apostle and his successors, whose succession we hold, however unworthy, the power that whatever they bind on earth shall be bound on earth and in heaven, and whatever they loose on earth shall be loosed on earth and in heaven, thus to those [people], if they do not wish to be corrected, we close heaven and we deny the earth for burial and may they be plunged into the lower fire, and may they be consumed for what they did without end.’<sup>54</sup>

A further seven manuscripts in the sample include an *ordo* for imposing excommunication based on that in Regino, but omit Regino's alternative address and other formulae in favour of that attributed to Leo, followed by the Romano-German reconciliation *ordo*.<sup>55</sup>

Collectively, they point to communities which envisaged the bishop relying on the language of pseudo-papal authority to pronounce excommunication and which sought to articulate apostolic authority in the episcopal reconciliation rite.

The limited circulation of the east Frankish rites means they should not be treated as normative for practice elsewhere in Europe. At the same time the preoccupation with linking the recording of excommunication rites with statements of the bishop's apostolic authority is common to compilers of both canon law and liturgical records. Can a similar pattern be found in areas with rather different patterns in the evidence for records of excommunication rites?

## Anglo-Saxon England

The earliest Anglo-Saxon records of excommunication rites are associated Archbishop Wulfstan of Worcester and York (996-1023).<sup>56</sup> They first survive in a miscellaneous manuscript of the type often categorised as an episcopal handbook: Cambridge, Corpus Christi College, MS 265.<sup>57</sup> Written in the third quarter of the eleventh century, probably at Worcester, it contains, amongst other texts, the collection of Anglo-Saxon canon law associated with Wulfstan, now known as the *Collectio Wigorniensis*.<sup>58</sup> Copied together at the end of the *Collectio* are a rite for imposing ‘excommunication against those in contempt of the laws of the Lord and the enemies of holy church’, a short text outlining the excommunication of those who had attacked one of the community’s estates at *Ontelawe*, and a rite for the reconciliation of excommunicants. They were all written in a different, slightly later hand to that which copied the main part of the *Collectio*, and seemingly serve as a supplement to it.<sup>59</sup> It is therefore unclear whether these rites represent a core element of the *Collectio* as it existed in Wulfstan’s time, or a mid-eleventh-century addition. I follow here Michael Elliot, the *Collectio*’s most recent editor, who has suggested that it is likely that they are part of the core because there is evidence that they were also copied with two other recensions of the *Collectio* – there are five in all – including one written in the first half of the eleventh century.<sup>60</sup> Other texts in the other *reCollectio* reveal an interest in asserting the superiority of divine law, and in defining how and when excommunication should be imposed.<sup>61</sup> These texts, as with many of Wulfstan’s other writings, are indebted to ninth-century Carolingian traditions.<sup>62</sup>

It is therefore unsurprising that the *Collectio*’s rites for excommunication have some basic similarities with those in Regino. However, as I have demonstrated elsewhere, they are clearly independent of the east Frankish traditions.<sup>63</sup> In basic structure they are comparable: for the imposition of excommunication, the excommunication sentence should be read out

from the pulpit after the Gospel, and the terms of the excommunication sentence be made clear. The sentence itself should be delivered accompanied by maledictions, and those present should acclaim it with an Amen. Then the candles being held by the clergy (number unspecified) should be thrown down on the floor followed by a sacerdotal prayer. The cantor then begins the offertory. But the differences are equally revealing: the address should be delivered by the deacon, not the bishop, and its text, despite the inclusion of various phrases also found in the east Frankish material, is seemingly independent of them. These differences highlight the significance of local agency in the making of liturgical records. At the same time, the emphasis on the apostolic origins of episcopal authority, and upon their pastoral responsibility for disciplining sinners, also echo concerns found in Regino a century earlier, and in the almost contemporary compilations made at Worms and Freising. For example, the declaration of excommunication includes the statement:

‘Therefore in separating we excommunicate and in anathematizing we bind those rebels, N., from the company of all Christians, through all the power of those of whom it is spoken in the Gospel, saying ‘Whatsoever you bind upon earth, shall be bound in heaven’. For the Lord gave to the apostles, and to their successors, that is the bishops, the aforesaid power of binding and loosing and instructed them to build and to plant good in the house of the Lord, to uproot and tear down sinners from the house of the Lord, which is from the church of Christ.’<sup>64</sup>

The reconciliation rite is even more intriguing. Both the Anglo-Saxon and east Frankish rites frame the reconciliation around the bishop taking the penitent excommunicants by the hand and introducing them to the physical church as a token of their spiritual reconciliation. But the Anglo-Saxon rite departs from the east Frankish traditions in mentioning and attributing a significant role to those acting as intercessors (*intercessores*) on behalf of the penitent excommunicants with the bishop in its opening rubric.<sup>65</sup> The intercessors should promote the

excommunicants' cause to the bishop, before the excommunicants meet the bishop. The Anglo-Saxon rite further underlines the bishop's apostolic authority in its choice of absolution prayers. Whilst in the east Frankish rites the ministers requested God to absolve the penitent excommunicant, in the Anglo-Saxon rite they declaimed absolution in the first person plural, citing the source of their power: 'Let us, as successors to blessed Peter to whom the Lord granted the power to bind and loose, absolve you.'<sup>66</sup> This prayer articulating the Petrine grounds for episcopal authority circulated in Anglo-Saxon England from at least the mid-tenth century.<sup>67</sup> Although this particular manuscript is associated with Worcester, this reconciliation rite later circulated more widely within southern England because it is also found in a mid-twelfth-century pontifical manuscript from Canterbury.<sup>68</sup>

Archbishop Wulfstan was a prolific author of laws, tracts, and homilies in both Latin and Old English. Like Regino and Burchard, he has a strong interest in disciplining and educating the clergy in order to raise the standards of pastoral care, and his *Collectio* was integral to his efforts.<sup>69</sup> But the Anglo-Saxon tradition for recording excommunication rites is a century later than that in the Reich. Formal excommunication rites are recorded first in an early eleventh-century canon law context; more *ad hoc*, informal records of excommunication formulae of a type which did not circulate independently in east Frankia begin to be added to liturgical and legal manuscripts only from the second half of the eleventh century, and may be a product of the post-Conquest period.<sup>70</sup> The Anglo-Saxon trajectory for initially recording excommunication rites is therefore remarkably similar to that in east Frankia. In both realms churchmen constructed canon law collections to educate the secular clergy in the law and authority of the Church, and in doing so, found it useful to record excommunication rites. In both places these rites record local traditions. In both kingdoms they only moved later to copying them in a liturgical context. The picture for west Frankia is, however, rather different.

## West Frankia

The earliest records of excommunication rites to survive in the Latin west come from west Frankia, or more precisely from north-eastern France. The nature of these records differs from those for the Reich and Anglo-Saxon England but the manuscript context is similar. The earliest dateable rite, as mentioned above, is that imposed on the assassins of Archbishop Fulk of Rheims on July 6<sup>th</sup> 900.<sup>71</sup> It survives now as an addendum, written around 1000, to a tenth-century Rheims manuscript containing two Carolingian canon law collections.<sup>72</sup> It is a record of the ‘excommunication ... read out in the church of Saint Mary’s in Rheims’, and lists the names of all the bishops in attendance.<sup>73</sup> It therefore lacks the prescriptive details about how the rite should be administered recorded in the east Frankish texts, except for the incidental reference in the final curse to the accompanying action: ‘And just as these lights, thrown down from our hands today, are extinguished, so may their lights be extinguished in eternity.’<sup>74</sup> Rather it is presented as a record of a particular event in the see’s history, when the bishops assembled for the consecration of Fulk’s successor, Heriveus, and excommunicated those named as his murderers. This sentence is one of several records of key occasions in the ninth- and tenth-century history of Rheims’s bishops added to this manuscript: others include the penitential ordinance Archbishop Seulf issued after the Battle of Soissons in 923, and the oath sworn by Gottschalk.<sup>75</sup> It seems to be included as a historical record of a key moment in the bishopric’s history rather than as a prescriptive record of how to conduct excommunication.

There are two contenders for the actual earliest manuscript of a west Frankish excommunication formula; again both lack the prescriptive rubrics and detail of the east Frankish tradition. The first was also recorded in Rheims in a later hand as an *addendum* to a canon law collection: the *Collectio Dionysio-Hadriana*, copied in northeastern France in the third quarter of the ninth century.<sup>76</sup> The *Dionysio-Hadriana* was one of the fundamental

Carolingian canon law collections, having originally been presented by Pope Hadrian to Charlemagne in 774, and circulated widely across the Frankish kingdoms. It set out the responsibilities and duties of different members of the church, providing ‘a comprehensive plan for the building of ...Christian society’.<sup>77</sup> The excommunication formula was added in a mid-tenth century hand into a blank space at the end of the *Collectio*. This text is an anonymised version of that used at Rheims, shorn of the contextual detail.<sup>78</sup> Its appearance in this context is suggestive of the same processes which half a century or so earlier led Regino to record excommunication rites in his collection: excommunication is a disciplinary process in which the bishop asserts his authority to maintain ecclesiastical order.

The second contender is the record added post 977 to a pontifical written around 900 for the use of the archbishop of Sens.<sup>79</sup> It begins by deploring those who, having been purified by baptism, now ‘voluntarily subject themselves to the old enemy’. It excommunicates and anathematizes ‘Ragenard and his son Rodmund and their fellow soldiers and invaders of ecclesiastical things’ as being the leaders amongst ‘all those who, after I had received the blessing of the archbishop, did not let me enter the place of the church of Sens in the way of my predecessors, rejecting truth and embracing falsehood’.<sup>80</sup> Ragenard was count of Sens from 948 to 996, and his son, Fromund II, Count of Sens from 996 to 1012. The twelfth-century *Chronicle of Saint-Pierre-le-Vif* puts flesh on the cryptic reference to those who obstructed the bishop from entering the church of Sens. In 976/77 the count and his son, with some of the leading clergy of the diocese of Sens, had sought to prevent the installation of the new archbishop, Seguin, who responded by putting the whole see under interdict. Seguin was only able to enter his see some eight months after his election.<sup>81</sup> The excommunication formula seems, therefore, to have been recorded because it referred to a historical event, just as that for Rheims had been. But it was later amended in a second (undated) hand, seemingly to excommunicate several named individuals who had usurped archdeacon Wanger Arricus,

suggesting it was also later reused.<sup>82</sup> This particular manuscript was used to record other texts of historical significance to the archbishop of Sens's authority in this period, including the texts of the oaths of suffragan bishops added in its margins.<sup>83</sup>

As in England, only one canon law collection was compiled in west Frankia in this period, that of Abbo of Fleury.<sup>84</sup> Abbo did not include any excommunication rites, although he cited a canon from the Council of Meaux-Paris (845/6) which enjoined that anathema should usually be prescribed only with the support of archbishop and fellow bishops because it had such grave consequences; this canon had wider currency on the Continent in this period as it is found in Regino and Burchard.<sup>85</sup> Although Regino's collection was known in eleventh-century north-eastern France, it seems that west Frankish churchmen preferred to read and copy Carolingian canon law and episcopal *capitula* rather than compile new collections.<sup>86</sup> Their conservatism explains, at least in part, why there is no evidence for the sorts of formal rites recorded by bishops in east Frankia and Anglo-Saxon England.

Rather, the sorts of pedagogic concerns which seem to have inspired Regino, Burchard and Wulfstan to prescribe excommunication rites, emerge instead in the letter collections of two secular clerics, bishops and teachers: Gerbert of Aurillac (d.1003), sometime Archbishop of Rheims and Pope Sylvester II, and Fulbert, bishop of Chartres (1006-28). Both letter collections owe much to their authority as teachers, and to the efforts of their pupils; they serve as both memorials and exemplars.<sup>87</sup>

One of the leading scholars of the late tenth-century Latin west, Gerbert wrote the letters under consideration here during his time at Rheims cathedral. As well as teaching in the school, he wrote letters on behalf of Archbishop Adalbero (969-89), before being elected his successor in difficult and contentious circumstances, and then leaving for the court of Otto III. Gerbert's letters suggest he had a clear understanding of the canonical process to be

followed for the imposition of anathema. In 995 he wrote a warning letter against ‘those encroachers, scoundrels and tyrants whose names are written below’ for theft from, and murder of, the clergy:

‘We, all the bishops of Rheims, summon your consciences and invite you to make satisfactions. We are allowing time for penitence until the first of next month. Then we shall either recognize you as the fruitful branches of the church or with the sword of the Holy Spirit cut you off from the field of God as useless wood.’<sup>88</sup>

If they remained contumacious in the face of this warning, they would be cut off. Whilst both the canon law and formal liturgical rites referred to the need to warn excommunicants, they were often vague about the precise timetable; here Gerbert seems to demonstrate a firm grasp of process.

In April 994 he replied to a complaint he had received from a bishop, saying that he had ‘dispatched reproofing letters to those who scorn you’ but that if they continued their evil ways:

‘then we order that the documents of our summons be placed for reading in the well-known place of the church; and then, that a sentence of excommunication, written out accurately and pronounced solemnly, be affixed in [the] well-known place and that a copy of it be directed to us in order that the same may be carried out in our churches.’<sup>89</sup>

Gerbert’s proposed actions for publicising the sentence essentially conformed to those in ninth-century canon law, as Regino’s rites made clear. A warning should be issued to the people concerned, and then placed publicly in the church, and then, if they remained contumacious, a sentence of excommunication should be read out, and then stuck up, and

copies of the sentence notified to other churches. Gerbert's reference to the 'well-known place' echoes a canon found in Burchard's *Decretum*.<sup>90</sup> Burchard falsely attributed it to the decretals of Pope Honorius II, but in fact it is taken from the 875 Council of Rome, c. 11.<sup>91</sup> In other words, Gerbert is demonstrating a knowledge of ninth-century practice, and even, in his echoes of the text, of ninth-century conciliar legislation, similar to that articulated in the east Frankish rites. Others of Gerbert's letters show him acting out the canonical requirement that the bishop should notify neighbouring bishops of the sentence of excommunication.<sup>92</sup>

Like Gerbert, Fulbert of Chartres was a renowned teacher and his correspondence was preserved by his pupils as a testament to his teachings.<sup>93</sup> Like Gerbert, his letters display the same implicit awareness of the procedures associated with excommunication.<sup>94</sup> He wrote a joint letter with Avesgaudus, bishop of Le Mans, to Archbishop Ebalus of Rheims requesting that he join them in excommunicating Count Herbert of Le Mans for his attacks on the bishop of Le Mans.<sup>95</sup> He received similar requests from other bishops but did not always act on them, writing to Bishop T.:

'In my warm sympathy for you I have made the wrong done to you my own, and I am burning with zeal against those who have committed a shameful crime against the episcopate. I am burning with zeal against those who have committed a shameful crime against the episcopate. But since I do not see that it would be useful to you or safe for me if we let our zeal break forth and take vengeance by excommunicating them, I think we should rest content with sending them letters of warning until they are corrected by doing penance or punished by order of the Supreme Judge.'<sup>96</sup>

He was also aware of the need to warn the malefactor before issuing a sentence of anathema. In 1008 he wrote to Count Fulk of Anjou that he had been asked to excommunicate him for sending men to murder Count Hugh of Beauvais, and subsequently protecting them from

royal justice.<sup>97</sup> The case was a cause célèbre in the early eleventh century, for the Count's murder took place in 1008 in front of the king, Robert the Pious, whilst both were out hunting. Although Fulbert had been asked to excommunicate Fulk, he wrote 'since we were concerned for your salvation, we asked for this to be postponed for three weeks so we could write and admonish you.'<sup>98</sup> He warned the count that he 'will not remain in Christian communion with us after date' unless he ensured that the men guilty of the actual murder were brought to trial or repudiated them.<sup>99</sup> In the end, Fulk opted to avoid a potentially difficult situation by going on pilgrimage to Jerusalem. The threat of excommunication in this case seems to have been effective as a form of 'coercion', or 'bend punishment', as Lotte Kéry termed it.<sup>100</sup>

Excommunication was, however, not always easily delivered. Fulbert wrote to the bishop of Paris asking that the issuing of a sentence be put off until a council of bishops had been held:

'With regard to the woman from Laon who is committing sacrilege by ravaging your church's possessions, we have put off excommunicating her for the following reasons: first, because there was no one who would dare to notify her that we had excommunicated her; second, since it would be of little, or perhaps no profit to you, if she were excommunicated in our church without knowing it; third, because we believe that this could be done to better advantage in a provincial council of our fellow bishops. I think that we should wait until then...'<sup>101</sup>

In doing so he looked back to the teachings of the 845/6 Council of Paris which enjoined that excommunication should be delivered in synod by more than one bishop. Fulbert's letters, like those of Gerbert before him, exemplify similar themes to those found in canon law collections from England and the Reich: a twin concern to ensure that excommunication was

practiced in accordance with church law, and to link it to the defence and articulation of episcopal authority.

### III

Bishops in all three realms maintained the concern to articulate and promote the correct practice of excommunication throughout the tenth and into the eleventh century. Although Hartmann identified the years of crisis for the former Frankish kingdoms immediately after the end of the Carolingian Empire as crucial to this preoccupation, it remained an episcopal concern throughout this period. Indeed, records of the *formulae* to be used for the imposition of excommunication, and the rites to be followed for the reconciliation of excommunicants, only began to be recorded in the years after Empire. These records, as with other liturgical records, were never straightforward prescriptions, but the differences between them point to the liveliness of excommunication practices, and the rite's importance to local bishops, across east and west Frankia and Anglo-Saxon England.

Whilst current accounts of the emergence of medieval excommunication rites bring evidence together from different genres and geographical regions to construct a universal practice, it is worth recognising the different evolution in recording practices between these three realms. In east Frankia excommunication rites were initially recorded in an early tenth-century canon law collection compiled to support Lotharingian bishops in the government of their diocese, and taken up by Rhineland and Bavarian bishops anxious to provide the clerics teaching in their cathedral school with a comprehensive guide to pastoral care and discipline.

Excommunication rites only began to be added into liturgical compilations from the early eleventh century. In Anglo-Saxon England, the practice of excommunication was promoted and regulated in tenth-century royal law codes, but its rites only became a matter of record in the early eleventh century.<sup>102</sup> This is when Wulfstan, a bishop whose other writings testify to

this commitment to the education of the clergy, set them down in his canon law collection. Moreover, it was not until the post-Conquest period that excommunication formulae came to be widely recorded in liturgical books.<sup>103</sup> The nature of evidence from west Frankia is even more different. Here, churchmen chose to record the texts of specific sentences, not formal, rubricated rites. In the tenth century these seem to have been recorded as much as a matter of historical record, as for prescription. But they appear in liturgical as well as legal compilations. Far from being normative, as some of the work on the spiritual consequences of post-Carolingian dispute settlement implies, the west Frankish experience appears unusual.

But the similarities across these three case studies are also striking. In all three regions, one of the main contexts in which excommunication rites were recorded is a pedagogic one. Both Regino's and Burchard's collections were intended to support bishops in the education and discipline of their clergy in Lotharingian and the Rhineland, as was Wulfstan's in Anglo-Saxon England. In west Frankia, the letters of Gerbert and Fulbert capture the pronouncements and practice of two renowned teachers. All these texts show the debt of tenth- and early eleventh-century churchmen owed to ninth-century legislation. And all link the practice of excommunication to the articulation of the bishop's apostolic authority. This study therefore shows how an investigation of the context in which rites were recorded has the potential to move beyond the local to investigate how bishops across the post-Carolingian world of northern Europe sort to express and record their authority in a challenging world. At the same time, it highlights the dangers of treating any one record of how excommunication should be carried out as representative of a normative, universal practice for the whole of Christendom.

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<sup>1</sup> In addition to the works cited below see Olivier Guyotjeannin, *Episcopus et comes: Affirmation et déclin de la seigneurie épiscopale au nord du Royaume de France (Beauvais-Noyon, Xe-début XIIIe siècle)* (Geneva: Droz, 1987); Geneviève Bühner-Thierry, *Évêques et pouvoir dans le royaume de Germanie. Les Églises de Bavière et de Souabe, 876-973* (Paris: Picard, 1997); *Bischof Burchard von Worms 1000-1025*, ed. by Wilfried Hartmann (Mainz: Verlag der Gesellschaft für mittelrheinische Kirchengeschichte, 2000); Wilfried Hartmann, 'L'évêque comme juge: la pratique du tribunal épiscopal en France du Xe au XIIe siècle', in *Hiérarchies et services au Moyen Âge*, ed. by Claude Carozzi and Huguette Taviani-Carozzi (Aix-en-Provence: Publications de l'Université de Provence, 2001), pp. 71-92; *The Bishop: Power and Piety at the First Millennium*, ed. by Sean Gilsdorf (Münster: Lit Verlag, 2004); Steffen Patzold, 'L'épiscopat du haut Moyen Âge du point de vue de la médiévisque allemande', *Cahiers de civilisation médiévale*, 48 (2005), 341-58; *The Bishop Reformed: Studies of Episcopal Power and Culture in the Central Middle Ages*, ed. by John S. Ott and Anna Trumbore Jones (Aldershot: Ashgate, 2007); Anna Trumbore Jones, *Noble Lord, Good Shepherd. Episcopal Power and Piety in Aquitaine, 877-1050* (Leiden: Brill, 2009); *Patterns of Episcopal Power: Bishops in Tenth and Eleventh Century Western Europe*, ed. by Ludger Körntgen and Dominik Wassenhoven (Berlin: Walter de Gruyter, 2011); John Eldevik, 'Bishops in the Medieval Empire: New Perspectives on the Church, State and Episcopal Office', *History Compass*, 9 (2011), 776-90; John Eldevik, *Episcopal Power and Ecclesiastical Reform in the German Empire. Tithes, Lordship, and Community, 950-1150*

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(Cambridge: Cambridge University Press, 2012); *Religion und Politik im Mittelalter: Deutschland and England im Vergleich*, ed. by Ludger Körntgen and Dominik Wassenhoven (Berlin: Walter de Gruyter, 2013); John S. Ott, *Bishops, Authority and Community in Northwestern Europe c. 1050-1150* (Cambridge: Cambridge University Press, 2015); Julia Barrow, *The Clergy in the Medieval World. Secular Clerics, Their Families and Careers in North-Western Europe, c. 800-c.1200* (Cambridge: Cambridge University Press, 2015); Florian Mazel, *L'évêque et le territoire. L'invention médiévale de l'espace (Ve-XIIIe siècle)* (Paris: Éditions du Seuil, 2016); Special Issue: *Bishops in the Age of Iron*, ed. by Brigitte Meijns and Steven Vanderputten, *Medieval Low Countries* (forthcoming).

<sup>2</sup> Timothy Reuter, 'Ein Europa der Bischöfe. Das Zeitalter Burchards von Worms', in *Bischof Burchard*, ed. by Hartmann, pp. 1-49; translated as 'A Europe of Bishops. The Age of Wulfstan of York and Burchard of Worms', in *Patterns of Episcopal Power*, ed. by Körntgen and Wassenhoven, pp. 17-38.

<sup>3</sup> Reuter, 'A Europe of Bishops', p. 37.

<sup>4</sup> Steffen Patzold, *Episcopus. Wissen über Bischöfe im Frankenreich des späten 8. bis frühen 10. Jahrhunderts* (Ostfildern: Jan Thorbecke Verlag, 2008).

<sup>5</sup> Mayke de Jong, *The Penitential State. Authority and Atonement in the Age of Louis the Pious, 814-840* (Cambridge: Cambridge University Press, 2009); Mayke de Jong, 'Ecclesia and the Early Medieval Polity', in *Staat im frühen Mittelalter*, ed. by Stuart Airlie, Walter Pohl, Helmut Reimitz (Vienna: Österreichische Akademie der Wissenschaften, 2006), pp. 113-32.

<sup>6</sup> Wilfried Hartmann, *Kirche und Kirchenrecht um 900. Die Bedeutung der spätkarolingischen Zeit für Tradition und Innovation im kirchlichen Recht*, MGH Schriften, 58 (Hannover: Hahnsche Buchhandlung, 2008), pp. 267-316.

<sup>7</sup> Berlin, Staatsbibliothek Preussischer Kulturbesitz, MS Phillips 1765, fols 95r-v; *Die Konzilien der karolingischen Teilreiche 875-911*, ed. by Wilfried Hartmann, Isolde Schröder and Gerhard Schmitz, MGH Concilia 5 (Wiesbaden: Harrassowitz, 2014), pp. 455-58; Regino of Prüm, *Libri Duo de Synodalibus Causis et Disciplinis Ecclesiasticis*, ed. by F.G.A. Wasserschleben and rev. by Wilfried Hartmann as *Das Sendhandbuch des Regino von Prüm* (Darmstadt: Wissenschaftliche Buchgesellschaft, 2004), II. 412-418, pp. 438-446.

<sup>8</sup> Elisabeth Vodola, *Excommunication in the Middle Ages* (Berkeley: University of California Press, 1986); Roger E. Reynolds, 'Rites of Separation and Reconciliation in the Early Middle Ages', *Segni e Riti nella Chiesa Altomedievale Occidentale, Spoleto, 11-17 aprile 1985*, *Settimane di studio del Centro italiano di studi sull'alto medioevo*, 33 (Spoleto, 1987), pp. 405-33, repr. in his *Law and Liturgy in the Latin Church, 5<sup>th</sup>-12<sup>th</sup> Centuries* (Aldershot: Ashgate, 2004), no. X; Christian Jaser, *Ecclesia maledicens. Rituelle und zeremonielle Exkommunikationsformen im Mittelalter* (Tübingen: Morhr Siebeck, 2013). The exception is a 2015 collection which focuses mainly on the Carolingian period and west Frankia: *Exclure de la communauté chrétienne. Sens et pratique sociales de l'anathème et de l'excommunication (IVe-XIIe siècle)*, ed. by Genevieve Bühner-Thierry and Stéphane Gioanni (Turnhout: Brepols, 2015).

<sup>9</sup> Lester K. Little, *Benedictine Maledictions. Liturgical Cursing in Romanesque France* (Ithaca, NY: Cornell University Press, 1993) suggested it was a phenomenon mainly of west Frankia north of the Loire and linked to political fragmentation; more recently scholars working on charter sanction clauses and the Peace of God movement in southern France have challenged the assumption that recourse to cursing is a north French phenomenon: Jeffrey Bowman, 'Do Neo-Romans Curse? Law, Land and Ritual in the Midi (900-1100)', *Viator*, 28 (1997), 1-32; François Bougard, 'Jugement divin, excommunication, anathème et malédiction: la sanction spirituelle dans les sources diplomatiques', in *Exclure*, ed. by Bühner-Thierry and Gioanni, pp. 215-38; Isabelle Rosé, 'Judas, Dathan, Abiron, Simon et les autres. Les figures bibliques-repoussoirs dans les clauses comminatoires des actes originaux français,' *Archiv fur Diplomatik* 62 (2016), pp. 59-106.

<sup>10</sup> Laurent Jégou, *L'évêque, juge de paix. L'autorité épiscopale et le règlement des conflits (VIIIe-XIe siècle)* (Turnhout: Brepols, 2011), pp. 462-75; Michel Lauwers, 'L'exclusion comme construction de l'ecclesia. Genèse, fonction et usages du rite de l'excommunication en Occident entre le IXe et le XIe siècle', in *Exclure*, ed. by Bühner-Thierry and Gioanni, pp. 263-84.

<sup>11</sup> Michael Elliot, 'New Evidence for the Influence of Gallic Canon Law in Anglo-Saxon England', *Journal of Ecclesiastical History*, 64 (2013), 700-730, at pp. 700-701.

<sup>12</sup> Genevieve Steele Edwards, 'Ritual Excommunication in Medieval France and England, 900-1200' (unpublished doctoral dissertation, Stanford University, 1997); Sarah Hamilton, 'Absoluimus uos uice beati petri apostolorum principis: Episcopal Authority and the

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Reconciliation of Excommunicants in England and Francia c. 900 – c. 1150’, in *Frankland. The Franks and the World of the Early Middle Ages. Essays in Honour of Dame Jinty Nelson*, ed. by Paul Fouracre and David Ganz (Manchester: Manchester University Press, 2008), pp. 209-41; Sarah Hamilton, ‘Interpreting Diversity: Excommunication Rites in the Tenth and Eleventh Centuries’, in *Understanding Medieval Liturgy. Essays in Interpretation*, ed. by Helen Gittos and Sarah Hamilton (Farnham: Ashgate, 2016), pp. 125-58; Sarah Hamilton, ‘Medieval Curses and Their Records’, *Haskins Society Journal* (forthcoming).

<sup>13</sup> For example, Gerd Tellenbach, *The Church in Western Europe from the Tenth to the Early Twelfth Century*, trans. by Timothy Reuter (Cambridge: Cambridge University Press, 1993), p.41; Jean Dunbabin, *France in the Making, 843-1180* (Oxford: Oxford University Press, 1985).

<sup>14</sup> For example, Reynolds, ‘Rites of Separation’, pp. 411-14; Little, *Benedictine Maledictions*, pp. 36-38, 143-44.

<sup>15</sup> Regino, *Libri duo*, II.412, ed. by Hartmann, p. 438.

<sup>16</sup> Regino, *Libri duo*, II.412, ed. by Hartmann, pp. 438-40.

<sup>17</sup> Regino, *Libri duo*, II.413-417, ed. by Hartmann, pp. 442-44. Hartmann’s edition omits two *formulae*; these are edited in Regino of Prüm, *Libri duo de synodalibus causis et disciplinis ecclesiasticis*, ed. F.G.A. Wasserschleben (Leipzig: Engelmann, 1840), II.414-15, pp. 373-4.

<sup>18</sup> ‘Et respondeant omnes tertio: *Amen*, aut: *Fiat*, aut: *Anathema sit.*’ Regino, *Libri duo*, II.413, ed. by Hartmann, p. 442.

<sup>19</sup> Regino, *Libri duo*, ed. by Hartmann, II. 413, p. 442.

<sup>20</sup> Regino, *Libri duo*, ed. by Hartmann, II.413, pp. 442-44.

<sup>21</sup> Regino, *Libri duo*, ed. by Hartmann, II. 418, p. 446.

<sup>22</sup> Wilfried Hartmann, ‘Die *Capita incerta* im Sendhandbuch Reginos von Prüm’, in *Scientia veritatis. Festschrift für Hubert Mordek zum 65. Geburtstag*, ed. by Oliver Münsch and Thomas Zotz (Ostfildern: Thorbecke, 2004), pp. 207-26.

<sup>23</sup> Epistle XVII, *Patrologia Latina* 126, col. 101.

<sup>24</sup> *MGH Concilia* 5, pp. 455-58; Brussels, Bibliothèque royale de Belgique, MS 495-505, fols 204r-v; there is broadly accurate transcription by Steele Edwards, ‘Ritual Excommunication’,

pp. 139-40 (albeit erroneously attributed to MS 295-505), who noted the similarities of both Rheims formulae with one of Regino's texts.

<sup>25</sup> See now Hartmut Hoffmann and Rudolf Pokorny, *Das Dekret des Bischofs Burchard von Worms. Textstufen - Frühe Verbreitung – Vorlagen*, MGH Hilfsmittel 12 (Munich: Monumenta Germaniae Historica, 1991); also Lotte Kéry, *Canonical Collections of the Early Middle Ages (ca. 400-1140). A Bibliographical Guide to the Manuscripts and Literature* (Washington D.C.: Catholic University of America Press, 1999), pp. 133-55.

<sup>26</sup> For example, the excommunication rite in Regino is accepted by Jégou as representative of wider west Frankish practice: *L'évêque*, p. 470.

<sup>27</sup> Kéry, *Canonical Collections*, p. 129: Arras, Bibliothèque municipale, MS 723 (s. xi, Saint-Vaast); Paris, Bibliothèque nationale de France, MS lat. 17527 (s. xi<sup>1</sup>, Rheims).

<sup>28</sup> Linda Fowler-Magerl, *Clavis Canonum. Selected Canon Law Collections Before 1140*, MGH Hilfsmittel 21 (Hannover: Hahnsche Buchhandlung, 2005), pp. 68-70; for further bibliography see Kéry, *Canonical Collections*, p. 189. The contents suggest it was compiled in Lotharingia in first half of the tenth century but it now survives in only one late eleventh-century manuscript in a central Italian hand (Cologne, Erbischofliche Diözesan-und Dombibliothek, MS 124) and citations in other collections suggest it circulated in eleventh-century Italy.

<sup>29</sup> Burchard of Worms, *Decretum*, PL 140, cols 537-1065; Greta Austin, *Shaping Church Law Around the Year 1000. The Decretum of Burchard of Worms* (Ashgate: Farnham, 2009).

<sup>30</sup> Jorg Müller, *Untersuchungen zur Collectio Duodecim Partium* (Ebelsbach: R. Gremer, 1989); Kéry, *Canonical Collections*, pp. 155-157.

<sup>31</sup> *Collectio IV Librorum*, I. 67-74 = Regino, I.412-418: Linda Fowler Magerl, *Clavis Canonum. Selected Canon Law Collections Before 1140. Online Database* (<http://www.mgh.de/ext/clavis/>) (last accessed 19<sup>th</sup> October, 2018).

<sup>32</sup> Burchard of Worms, *Decretum*, XI.1, PL 140, cols 855-56; for source as Pseudo-Remedius c. 49, see Hoffmann and Pokorny, *Das Dekret*, p. 218. On Burchard of Worm's intentions, with a consideration of his working methods in Book XI, see Greta Austin, *Shaping Church Law Around the Year 1000. The Decretum of Burchard of Worms* (Ashgate: Farnham, 2009).

<sup>33</sup> Burchard, *Decretum*, XI.2-8, PL 140, cols 856-61.

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<sup>34</sup> Regino, *Libri duo*, ed. by Hartmann, II. 411, pp. 436-8: ‘De presbytero accusato: Ex Concilio Rotomagensi’.

<sup>35</sup> Burchard, *Decretum*, XI.8, *PL* 140, col. 860: ‘Et ibi secundum leges diuinas oportet damnum commissum emendari, aut si iam emendatum est, eorum testimonio comprobari’; cf. Regino, *Libri duo*, ed. by Hartmann, II.418, p. 446: ‘et ibi secundum legis diuinas et humanas oportet damnum commissum emendari, aut si iam emendatum est, eorum testimonio comprobari.’

<sup>36</sup> Greta Austin, ‘Jurisprudence in the Service of Pastoral Care: The *Decretum* of Burchard of Worms’, *Speculum*, 79 (2004), 929-59, at pp. 933, 946.

<sup>37</sup> Burchard, *Decretum*, XI.8, *PL* 140, cols 860-61; Regino, *Libri duo*, ed. by Hartmann, II.418, p. 446. On these changes see Sarah Hamilton, ‘The Anglo-Saxon and Frankish Evidence for the Rites for the Reconciliation of Excommunicants’, in *Recht und Gericht in Kirche und Welt um 900*, ed. by Wilfried Hartmann with Annette Grabowsky, Schriften des Historischen Kollegs Kolloquien 69 (Munich: R. Oldenbourg Verlag, 2007), pp. 169-196 at pp. 171-76, 190-194.

<sup>38</sup> Sarah Hamilton, *The Practice of Penance, 900-1050* (Woodbridge: Boydell Press, 2001), pp. 31-2.

<sup>39</sup> Greta Austin, ‘Freising and Worms in the Early Eleventh Century: Revisiting the Relationship Between the *Collectio Duodecim Partium* and Burchard’s *Decretum*’, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, kanonistische Abteilung* 124 (2007), pp. 45-108.

<sup>40</sup> Fowler-Magerl, *Clavis Canonum*, pp. 91-93.

<sup>41</sup> Book XI: ‘De penitentia et reconciliatione’.

<sup>42</sup> Regino, *Libri duo*, ed. by Hartmann, II. 412-418; *Collectio XII Partium*, X.115-121; the augmented *Collectio XII Partium*, X.264-270; see Fowler-Magerl, *Clavis Canonum* at <http://www.mgh.de/ext/clavis/> (last accessed 11<sup>th</sup> October, 2018).

<sup>43</sup> Council of Tribur (895), Versio Vulgata, c. 8, *Die Konzilien der karolingischen Teilreiche 875-911*, ed. by Wilfried Hartmann, Isolde Schröder and Gerhard Schmitz, MGH Concilia 5 (Wiesbaden: Harrassowitz Verlag, 2014), p. 348 = Original *Collectio XII Partium*, X.108, augmented *Collectio XII Partium*, X.262.

<sup>44</sup> Augmented *Collectio XII Partium*, X.264.

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<sup>45</sup> fols 152r-152v. A digitized version is available at Münchener DigitalisierungsZentrum Digitale Bibliothek: <https://app.digitale-sammlungen.de/bookshelf/bsb00060092/images> (last accessed 11th October 2018), on which see Hamilton, ‘Interpreting Diversity’, pp. 139-143.

<sup>46</sup> *Collectio XII Partium*, X.121.

<sup>47</sup> Hamilton, ‘Interpreting Diversity’.

<sup>48</sup> Henry Parkes, ‘Questioning the Authority of Vogel and Elze’s *Pontifical romano-germanique*’, in *Understanding Medieval Liturgy*, ed. by Gittos and Hamilton, pp. 75-102; Henry Parkes, *The Making of Liturgy in the Ottonian Church. Books, Music and Ritual in Mainz, 950-1050* (Cambridge: Cambridge University Press, 2015).

<sup>49</sup> Hamilton, *The Practice of Penance*, pp. 211-23.

<sup>50</sup> *Le Pontifical Romano-Germanique du dixième siècle*, ed. by Cyrille Vogel and Reinhard Elze, 3 vols, Studi e testi 226-27, 263 (Vatican City: Biblioteca Apostolica Vaticana, 1963-1972), I, 308-321.

<sup>51</sup> Hamilton, ‘The Anglo-Saxon and Frankish Evidence’, pp. 173-76.

<sup>52</sup> Montecassino, Ms 451 (s. xi<sup>2</sup>); Rome, Biblioteca Vallicelliana, MS D.5 (s. xi<sup>2</sup>); Vendôme, Bibliothèque municipale, MS 14 (s.xi) (s.xi<sup>1</sup>, Lorsch?); Paris, Bibliothèque nationale de France, MS lat. 820 (s. xi<sup>2</sup>, Angers); Vitry, Bibliothèque municipale, MS 36 (s. xi<sup>ex</sup>, Châlons); Eichstätt, Diözesanarchiv, Cod. B.4 (s. xi<sup>2</sup>). In addition two codices include all the PRG excommunication rite except for the Leonine formula: Munich, Bayerische Staatsbibliothek, Clm 21585 (s. xi<sup>med</sup>) and Metz, Bibliothèque municipale, Cod. 334 (s. xi). This analysis is only possible thanks to Henry Parkes’s comparative analysis of the contents of various Romano-German Pontifical manuscripts, as version of which is available here: *PRG Database: A tool for navigating Le Pontifical Romano-Germanique*, ed. Cyrille Vogel & Reinhard Elze at <http://database.prg.mus.cam.ac.uk/> (last accessed 19<sup>th</sup> October 2018).

<sup>53</sup> Hamilton, ‘Interpreting Diversity’, pp. 134-39; Henry Parkes, ‘Henry II, Liturgical Patronage and the Birth of the ‘Romano-German Pontifical’’, *Early Medieval Europe* (forthcoming).

<sup>54</sup> ‘Et sicut dominus beato Petro apostolo eiusque successoribus, cuius uicem tenemus, quamuis indigni, potestatem dedit, ut quodcumque ligarent super terram ligatum esset et in caelis et quodcumque soluerent super terram solutum esset et in caelis, ita illis, si emendare

noluerint, caelum claudimus et terram ad sepeliendum negamus et dimergantur in ferno inferiori, soluantque quod gesserunt sine fine.’ *Le Pontifical Romano-Germanique*, ed. by Vogel and Elze, I, pp. 316-7; Bamberg, Staatsbibliothek, MS Lit. 53, fol. 191v.

<sup>55</sup> Paris, Bibliothèque nationale de France, MS Lat. 1231 (s. xi); Vienna, Österreichische Nationalbibliothek, Cod. 1817 (s. xii); Milan, Biblioteca Ambrosiana, Cod. Z.52 sup (s.xi); Münster, **WestfälischeWilhelms Universität Münster Universitäts-und Landesbibliothek, MS 1133** (s. xi); Merseburg, Domstiftsbibliothek, Cod. I.57 (s.xi); Augsburg, Bistumsarchiv, MS 21 (s. xi<sup>2</sup>); Munich, Bayerische Staatsbibliothek, Clm 3909 (s. xii).

<sup>56</sup> On Wulfstan see Patrick Wormald, ‘Archbishop Wulfstan: Eleventh-century Statebuilder’, in *Wulfstan, Archbishop of York. The Proceedings of the Second Alcuin Conference*, ed. by Matthew Townend (Turnhout: Brepols, 2004), pp. 9-27.

<sup>57</sup> Edited in Hans Sauer, ‘Die Exkommunikationsriten aus Wulfstans Handbuch und Liebermanns Gesetze’, in *Bright is the Ring of Words. Festschrift für Horst Weinstock zum 65. Geburtstag* (Bonn: Romanistischer Verlag, 1996), 283-307. A digitised facsimile and manuscript description is available at Parker Online:

<https://parker.stanford.edu/parker/catalog/nh277tk2537> (last accessed 12th October 2018).

See also that in Mildred Budny, *Insular, Anglo-Saxon and Early Anglo-Norman Manuscript Art at Corpus Christi College, Cambridge: An Illustrated Catalogue*, 2 vols (Kalamazoo, MI: Medieval Institute Publications, Western Michigan University), I, 605-7.

<sup>58</sup> This is the title given by Michael D. Elliot, ‘Canon Law Collections in Anglo-Saxon England c. 600-c.1066’ (unpublished doctoral dissertation, University of Toronto, 2013), 170-171, and Michael D. Elliot, ‘New Evidence for the Influence of Gallic Canon Law in Anglo-Saxon England’, *Journal of Ecclesiastical History*, 64 (2013), 700-730 at p 702, n. 4; it was previously known as *Excerptiones Eghberti* and the *Canon Law Collection of Archbishop Wulfstan*. Michael Elliot has generously published an edition of all 5 recensions on-line: *Anglo-Saxon Canon Law*, available at <http://individual.utoronto.ca/michaelelliott/> (last accessed 12<sup>th</sup> October 2018); this supersedes the partial edition: *Wulfstan’s Canon Law Collection*, ed. by J.E.Cross and Andrew Hamer (Cambridge: D.S.Brewer, 1999). Crucial to understanding the make-up of this collection is Hans Sauer, ‘Zur Überlieferung und Anlage von Erzbischof Wulfstans "Handbuch"’, *Deutsches Archiv für Erforschung des Mittelalters*, 36 (1980), pp. 341-84 (translated as ‘The Transmission and Structure of Archbishop Wulfstan’s ‘Commonplace Book’’, in *Old English Prose: Basic Readings*, ed. by Paul E.

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Szarmach (New York: Garlanda Publishing, 2000), pp. 339-93) and Patrick Wormald, *The Making of English Law. King Alfred to the Twelfth Century. Volume I: Legislation and its Limits* (Oxford: Blackwell, 1999), pp. 210-224.

<sup>59</sup> Cambridge, Corpus Christi College, MS 265, pp. 209, 211-15.

<sup>60</sup> *Collectio Wigorniensis C*, ed. by Michael D. Elliot, p. 121, available at <http://individual.utoronto.ca/michaelelliot/> (last accessed 12<sup>th</sup> October 2018). The other recension in which these rites appear towards the end is found in the later manuscript, Oxford, Bodleian Library, MS Barlow 37, fols 41r-41v (England, s.xii<sup>ex</sup>-/s.xiii<sup>in</sup>); the contents list for a mid-eleventh-century manuscript with an Exeter provenance, now Cambridge, Corpus Christi College, MS 190, suggests that a quire which is now missing between pp. 110-11 included similar texts.

<sup>61</sup> E.g. *Collectio Wigorniensis C*, c. 221; *Collectio Wigorniensis I*, cc. 169-171; *Collectio Wigorniensis O*, cc. 158, 164, 166. Elliot, 'Wulfstan's Commonplace Book Revised', p. 17, n. 52.

<sup>62</sup> Michael D. Elliot, 'New Evidence for the Influence of Gallic Canon Law in Anglo-Saxon England', *Journal of Ecclesiastical History*, 64 (2013), 700-730; *The Political Writings of Archbishop Wulfstan of York*, ed. and trans. by Andrew Rabin (Manchester: Manchester University Press, 2015), pp. 29-30.

<sup>63</sup> Hamilton, 'The Anglo-Saxon and Frankish Evidence'.

<sup>64</sup> 'Nos autem segregando excommunicamus et anathematizando ligamus illos rebelles N. a consortio christianorum omnium per omnipotentiam illius, qui in euuangelio locutus est dicens: 'Quodcumque ligaueritis super terram, erit ligatum et in celis' et reliqua. Dedit enim dominus apostolis et successoribus eorum, id est episcopis, potestatem uidelicet ligandi atques soluendi, et precepit eis edificare et p(l)antare bonos in domo domini, euellere et dissipare peccatores de domo domini, hoc est de ecclesia Christi.' Cambridge, Corpus Christi College, MS 265, p. 211.

<sup>65</sup> Cambridge, Corpus Christi College, MS 265, p. 213: 'De his qui post excommunicationem cum lucu penitentiae ad reconciliationem ueniunt. Placuit uniuerso senatui ut hi qui excommunicati ad emendationem ueniunt et indulgentie ueniam petunt, ac corde conpuncto penitentiae subdantur, et cum intercessoribus ad cimiterii portam perueniunt maneant illic discalciati laneisque induti, quousque eorum interuentores promoueant episcopum

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quecumque modo potuerint.’ On this text see Hamilton, ‘Rites for the Reconciliation of Excommunicants’, pp. 176-186.

<sup>66</sup> ‘Absoluimus uos uice beati petri cui dominus potestatem ligandi atque soluendi dedit’: Cambridge, Corpus Christi College, MS 265, p. 215. This prayer is unique to Anglo-Saxon tradition: Hamilton, ‘Rites for the Reconciliation of Excommunicants’, p. 182.

<sup>67</sup> Hamilton, ‘Remedies for ‘Great Transgressions’: Penance and Excommunication in Late Anglo-Saxon England’, in *Pastoral Care in Late Anglo-Saxon England*, ed. by Francesca Tinti (Woodbridge: Boydell Press, 2005), pp. 83-105 at p. 100.

<sup>68</sup> London, British Library, MS Cotton Vespasian D. xv; on its medieval provenance see Hamilton, ‘Absoluimus’, p. 211.

<sup>69</sup> In addition to the works cited in notes 55, 57 and 61 see Michael Elliot, ‘Wulfstan’s Commonplace Book Revised. The Structure and Development of Block 7 on Pastoral Privilege and Responsibility’, *Journal of Medieval Latin*, 22 (2012), pp. 1-48.

<sup>70</sup> Hamilton, ‘Remedies’, pp. 93-105.

<sup>71</sup> *MGH Concilia V*, pp. 456-58.

<sup>72</sup> Kéry, *Canonical Collections*, pp. 88 (*Collectio Dacheriana*, s.ix<sup>in</sup>), 174 (the ‘*Additiones*’ to the *Capitula of Isaac of Langres*, s.ix<sup>4/4</sup>).

<sup>73</sup> ‘Lecta est excommunicatio haec quae sequitur in aecclesia Sanctae Mariae Remis praesentibus episcopis infrascriptis’: *MGH Concilia V*, p. 456.

<sup>74</sup> ‘Et sicut hae lucernae de nostris projectae manibus hodie extinguuntur, sic eorum lucerna in aeternum extinguatur.’: *MGH Concilia V*, p. 458.

<sup>75</sup> *MGH Concilia V*, p. 455.

<sup>76</sup> Brussels, Bibliothèque royale de Belgique, MS 495-505; Kéry, *Canonical Collections*, pp. 13-20.

<sup>77</sup> Rosamond McKitterick, *The Frankish Church and the Carolingian Reforms, 789-895* (London: Royal Historical Society, 1977), p. 4.

<sup>78</sup> For a transcription see Steele Edwards, ‘Ritual Excommunication’, pp. 139-40.

<sup>79</sup> Saint Petersburg, National Library of Russia, MS Q.v.I.no. 35, fols 105v-107r. See Niels Krogh Rasmussen, *Les Pontificaux de haut Moyen Âge. Genèse du livre de l’évêque* (Leuven:

Spicilegium Sacrum Lovaniense, 1998), pp. 89-135 for a description. The text has been edited most recently by Steele Edwards, 'Ritual Excommunication', pp. 150-154.

<sup>80</sup> "Igitur cognoscat universalis ecclesia hostes seuissimos et tirannos improbos, aduersarios et persecutores pessimos sanctae dei aecclesiae, Ragendardum et Rodmundum eius filium eorumque commilitones ecclesiasticarum rerum peruasores.....Hos et omnes qui postquam archiepiscopalem suscepi benedictionem, sanctum Sennensis ecclesiae locum ingredi non permiserunt more antecessorum meorum, desistentes a veritate adherentes mendatio, insuper anathematizamus per Patrem et filium et spiritum sanctum et per auctoritatem nobis a deo concessa.": Saint Petersburg, National Library of Russia, MS lat. Q.v.I.35, fols 105v- 106r.

<sup>81</sup> *Chronique de Saint-Pierre-le-Vif-de Sens, Dite de Clarius: Chronicon Sancti Petri Vivi Senonensis*, ed. by Robert-Henri Bautier and Monique Gilles (Paris: Centre national de la recherche scientifique, 1979), p. 90.

<sup>82</sup> Guy Lobrichon, 'Nouvelles recherches sur le rituel pontifical de Sens au IXe siècle', *Bulletin de la Société Nationale des Antiquaires de France* (13, May, 1992), pp. 191-200.

<sup>83</sup> Georg Waitz, 'Obediensklärungen burgundischer und französischer Bischöfe', *Neues Archiv*, 3 (1878), pp. 195-202.

<sup>84</sup> Composed 988x996, it survives in only one eleventh-century manuscript: Kéry, *Canonical Collections*, pp. 199-201; ed. *PL* 139, cols 473-508.

<sup>85</sup> Abbo, *Collectio Canonum*, c. 36: 'De inuste excommunicatum', *PL* 139, col. 494, cites 3 canons under this heading, including the Council of Meaux-Paris (845/6), c. 56, *MGH Concilia III*, pp. 110-11. Cf. Regino, *Libri Duo*, II.310, and Burchard, *Decretum*, XI.10, *PL* 140, cols 861-2.

<sup>86</sup> Confirmed by a review of the evidence for local collections in Kéry, *Canonical Collections*, pp. 161-202. There are two west Frankish manuscripts of Regino: Arras, Bibliothèque municipale, MS 723 (s. xi, Saint-Vaast, Arras) and Paris, Bibliothèque nationale de France, MS lat. 17525 (s. xi<sup>1</sup>, Rheims). Note also the copy of *Collectio XII Partium*, now Troyes, Bibliothèque municipale, MS 246 (s. xi<sup>1</sup>, east Frankia, prov. cathedral of Troyes).

<sup>87</sup> *Die Briefsammlung Gerberts von Reims*, ed. Fritz Weigle, *MGH Die Briefe der deutschen Kaiserzeit 2* (Weimar: Hermann Böhlau, 1966); Pierre Riché, 'Nouvelles recherches sur les lettres de Gerbert d'Aurillac', *Comptes rendus des séances de l'Académie des Inscriptions et*

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*Belles-Lettres*, 131 (1987), pp. 575-85; *The Letters and Poems of Fulbert of Chartres*, ed. and trans. Frederick Behrends (Oxford: Oxford University Press, 1976).

<sup>88</sup> ‘Conuenimus ergo conscientiam uestram omnes episcopae Remorum diocesos ad satisfactionem inuitamus. Spaciumque paenitentiae usque in proximis kalendis attribuimus, tunc uos aut in fertiles ecclesiae palmites recognituri aut tanquam inutile lignum ab agro Dei gladio sancti spiritus excisuri’, *Die Briefsammlung Gerberts*, ed. Weigle, no. 199, pp. 241-42; translation: *The Letters of Gerbert with his Papal Privileges as Sylvester II*, ed. and trans. Harriet Pratt Lattin (New York: Columbia University Press, 1960), no. 195, pp. 229-30.

<sup>89</sup> ‘Quod si, quod absit, in malitia perseveraverint, tunc in celebri ecclesiae loco nostrae uocationis scripta ad legendum proponi iubemus, deinde excommunicationem rationabiliter conscriptam et a uobis sollempniter celebratam celebri affigi loco eiusque exemplar nobis dirigi, ut idem in nostris fiat aecclesiis’: *Die Briefsammlung Gerberts*, ed. Weigle, no. 202, p. 244; translation, based on an earlier edition with a different dating and suggested addressee, *Letters of Gerbert*, no. 206, p. 267.

<sup>90</sup> *Decretum*, XI.49, *PL* 140, col. 868.

<sup>91</sup> Hoffmann and Pokorny, *Das Dekret*, p. 221; *MGH Concilia V*, p. 12.

<sup>92</sup> *Die Briefsammlung Gerberts*, ed. Weigle, nos 100, 113, pp. 129-30, 141.

<sup>93</sup> On Fulbert and his circle see Pierre Riché, ‘Autour du millénaire de Fulbert, le maître et ses disciples’, *Bulletin de la Société archéologique d'Eure-et-Loir*, 92(2007), pp. 1-10, repr. in Pierre Riché, *Les Lumières de l'an mille* (Paris: Centre national de la recherche scientifique, 2013), pp. 199-212; Bernard Gowers, ‘Fulbert of Chartres and His Circle: Scholarship and Society in Eleventh-century France’ (unpublished doctoral dissertation, University of Oxford, 2007).

<sup>94</sup> Jean Leclercq, ‘L’interdit et l’excommunication d’après les lettres de Fulbert de Chartres’, *Revue historique de droit français et étranger*, 4<sup>th</sup> ser. 22 (1944), pp. 67-77; Wilfried Hartmann, ‘Die Briefe Fulberts von Chartres als Quelle für die Praxis des bischöflichen Gerichts in Frankreich am Beginn des 11. Jahrhunderts’, in *Grundlagen des Rechts. Festschrift für Peter Landau zum 65. Geburtstag*, ed. by Richard H. Helmholz, Paul Mikat, Jörg Müller, and Michael Stolleis (Paderborn: F. F. Schöningh, 2000), pp. 93-103.

<sup>95</sup> *The Letters and Poems of Fulbert of Chartres*, ed. and trans. by Frederick Behrends (Oxford: Oxford University Press, 1976), no.87, pp. 154-6.

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<sup>96</sup> *Fulbert*, ed. Behrends, no. 54, p. 94: ‘Illatam uobis iniuriam uere meam facio compassionis affectu, in eos qui sacro ordini fecere contumeliam zelo feruens. Sed quia nec uobis utile esse uideo nec mihi tutum ut zelus noster ad uindictam excommunicationis erumpat, expectandum et commonitoriis utendum esse reor, donec illos aut penitentia corrigat, aut summi iudicis sententia multet.’

<sup>97</sup> *Fulbert*, ed. Behrends, no. 13, p. 26.

<sup>98</sup> ‘Sed nos tuae prouidentes saluti, trium ebdomadaram ab ipso die petiuimus inducias, ut litteris te conuenire possemus.’, *Fulbert*, ed. Behrends, no. 13, p. 26.

<sup>99</sup> ‘Christianam communionem nobiscum ulterius non habebis’, *Fulbert*, ed. Behrends, no. 13, p. 26.

<sup>100</sup> Lotte Kéry, *Gottesfurcht und irdische Strafe. Der Beitrag des mittelalterlichen Kirchenrechts zur Entstehung des öffentlichen Strafrechts* (Cologne: Böhlau, 2006), p. 108.

<sup>101</sup> ‘Laudonensem illam sacrilegam res ecclesiae uestrae diripientem propter has causas excommunicare distulimus: primo, quia defuit qui ipsi ferre auderet nostram excommunicationem; deinde, quia parum uobis aut nihil fortasse prodesset, si illa nesciens excommunicaretur in ecclesia nostra; tercio, quia expectauimus ut in conuentu nostrorum conprouincialium episcoporum utilius hoc fieret. Quod etiam adhuc expectandum nobis uidetur, si animi uestri serenitas adquiescat.’: *Fulbert*, ed. Behrends, no. 79, pp. 138-41. Leclercq, ‘L’interdit’, p. 76.

<sup>102</sup> Hamilton, ‘Remedies’, pp. 98-99.

<sup>103</sup> Hamilton, ‘Remedies’, pp. 94-97; Elaine Treharne, ‘A Unique Old English Formula for Excommunication from Corpus Christi College 303’, *Anglo-Saxon England*, 24 (1995), pp. 185-211.