

IV. The wording and meaning of the “Constitutum Constantini”

Recollection plays base tricks with past reality; it reconstructs it and constantly creates it anew. This applies equally to individual and to collective memory. It changes its reference as and when it pleases. The reality of forgeries is not immune from such distortions, and once they have become the subject of memory they themselves can be forged and altered dramatically. So it was that memory altered the pseudo-Constantinian creation, and made of it something that it had never been; there was a substantial shift in the system of reference of cultural meaning. In order to demonstrate this we must leave behind the “Donation” and its monumental effects, and turn instead to its apparently harmless earlier history, that is to the actual text of the “Constitutum Constantini” and its origin. What did the forger originally write (and Pseudo-Isidore and the early manuscripts of the *Decretum Gratiani* preserve?) How was it to be understood? What effects did it have at the time?

The original wording of the text takes us back to another age, to another society, to other memories of Rome, other discourses, other concepts and another understanding of the text. Once it had been made part of history the context, legal consequences and entire intention of Constantine’s donation changed. So what had Constantine, at the behest of the forger, ‘donated’? What did his curious *decreti pagina*, the figure of memory in the “Constitutum Constantini”, announce? Once again we must remember that each memory is linked to its temporal context and to its needs. When and where had Constantine’s gift been recalled? Who was it who remembered it and turned it into the forgery? What was his intention?

There is general rather than universal agreement, even if the arguments are not c o n c l u s i v e. It is claimed to have been written in the second half of the 8th century, quite probably during the reign of Paul (757-767), and was therefore the work of the Roman Patriarchium, the residence of the papal administration in the 8th and 9th centuries¹⁰¹. The “Constitutum Constantini” is thought to have been

101 The best summary of this and the following is to be found in: Fuhrmann, *Das frühmittelalterliche Papsttum und die Konstantinische Schenkung* (as above, note 7). On the names of elements of the papal court, cf. Karl Jordan, *Die Entstehung der römischen Kurie: Ein Versuch; mit Nachtrag* (Libelli 91), Darmstadt 1962. According to this the *Patriarchium Lateranense* is encountered for the first time in the “*Liber Pontificalis*” under Sergius (687-701), the (*Sacrum*) *palatium Lateranense* in 813 in a procedural document of Leo III, more often thereafter, but regularly only from the mid-10th century, cf. Reinhard Elze, *Das “Sacrum*

drafted there as an expression of the pope’s view of his own position, and “to settle the Papacy’s accounts with Byzantium” (Erich Caspar). In other words as a pseudo-legitimation of the de facto legal situation¹⁰². Proof for this thesis, as already mentioned above, is seen in the resurrection of the cult of St Sylvester by Paul and his elder brother¹⁰³, and in the style and wording of the document, which seems to resemble most closely the usage of the chancellery during Paul’s reign. But while this may be true to a certain degree, it is not clear to what extent it is positive proof, for to date no analysis has been made of whether the peculiarities noted – on the whole no more than similarities in phrasing – were possible or impossible elsewhere and at a later date¹⁰⁴.

For example, the forgery refers to the Blessed Sylvester, who was as blessed as the Prince of the Apostles himself, Constantine’s *illuminator* in Christianity (l. 109). This supposedly matches the style within the chancellery at the time of Paul I, and indeed a letter from Paul I to King Pepin describes the same holy pope, St Sylvester, as *Christianorum illuminator*¹⁰⁵. But this tells us little about the pseudo-Constantinian document, for a forger working later, or even outside Rome, could of course have picked up elsewhere and used the word *illuminator*. Whoever takes a closer look at the style of the “Constitutum Constantini” and notes that it is indeed full of quotes and references gathered together from a variety of sources (in spite of the doubts voiced by Paul Scheffer-Boichorst¹⁰⁶),

palatium Lateranense” im 10. und 11. Jahrhundert. In: Studi Gregoriani 4 (1952), pp. 27-54. - Le Liber Pontificalis. Texte, introduction et commentaire par L’Abbé Louis Duchesne, vol. 1, Paris 1892, pp. 371-82; the “*sacrum palatium* in which the *primati iudicum et exercitus Romanae militiae vel cleri (...) plurima pars et praesertim sacerdotum atque civium multitudo*” met on the occasion of the contentious papal election is the (recently renovated) imperial palace (cf. Liber Pontificalis 1, ed. by Duchesne, p.371 with note 11, p.377), not the papal *Patriarchium* (as Bernhard Schimmelpfennig, Die Bedeutung Roms im päpstlichen Zeremoniell. In: Rom im hohen Mittelalter. Studien zu den Romvorstellungen und zur Rompolitik vom 10. bis zum 12. Jahrhundert. Reinhard Elze zur Vollendung seines siebzigsten Lebensjahres am 28.7.1992, ed. by Bernhard Schimmelpfennig und Ludwig Schmutge, Sigmaringen 1992, pp. 47-63, here p. 56 asserts); as the same papal biographies state, at the time each of the papal candidates had occupied one part of the *Patriarchium*.

102 Settling accounts: Caspar, Pippin und die römische Kirche (as above, note 7), p. 189; idem, Das Papsttum unter fränkischer Herrschaft (as above, note 7), p. 33; self-image: Arnaldi, Le origini dello Stato della chiesa (as above, note 7), pp. 142-4; legal situation: August Franzen, Remigius Bäumer, Papstgeschichte. Aktualisierte Neuauflage, Freiburg i. Br. 1988 [first published 1974], p. 110.

103 On this, see the “Concilium Romanum“ of 761: Concilia aevi Carolini 12, ed. by Albert Werminghoff. In: MGH Conc. 2,1, Hanover/Leipzig 1906, pp. 64-71. Yet the confessor Sylvester appears only as one of several patrons of the monastery founded by Stephen and Paul.

104 Cf. Scheffer-Boichorst, Neuere Forschungen über die Konstantinische Schenkung (as above, note 7) with further literature.

105 Codex Carolinus, ed. by Wilhelm Gundlach. In: MGH Epp. 3, Berlin 1892, pp. 469-657; on the subject: Scheffer-Boichorst, Neuere Forschungen über die Konstantinische Schenkung (as above, note 7), p. 19.

106 Scheffer-Boichorst, Neuere Forschungen über die Konstantinische Schenkung (as above, note 7), p. 22.

will have no difficulty with such a suggestion¹⁰⁷. Thus the term “enlightener” (“*illuminator*”) could have been drawn from a different source that has nothing to do with Paul’s chancellery; for example a letter or sermon of Leo I, who on occasion refers to Paul the Apostle as “teacher of the gentiles and enlightener of the entire world” (“*doctor gentium et totius mundi illuminator*”), as “teacher and enlightener of the gentiles” (“*doctor et illuminator gentium*”)¹⁰⁸. Leo himself, the saintly pope, could be “the enlightener and pillar of the Church” (“*illuminator et columna ecclesiae*”)¹⁰⁹. Christian saints and ambassadors of the faith are simply the “enlighteners” of the world¹¹⁰. All this was known not just in Rome.

What is more, the papal letters in question are only known from the Frankish realm; in 791 Charlemagne had had them collected together in the “Codex Carolinus”, and they were only available at the royal and imperial courts. Anyone who later had access to the ‘original codex’ at the royal court, and was able to have a copy made, could have been an ‘expert’ on the ‘Roman’ style, and this point should be kept in mind¹¹¹. The only existing manuscript of the collection, the Vienna manuscript lat. 449, is certainly not identical with the “original codex” of 791, but a copy of it made perhaps as early as the mid-9th century and which once belonged to Archbishop Willibert of Cologne (870-899)¹¹². So how did this collection of letters get to Cologne?

The earliest reference to the content of the forgery was believed to be recognisable during the pontificate of Hadrian I (772-795), and it was thought to have first been quoted word for word when his successor, Leo III (795-816) was in office – but on closer inspection neither assumption proves to be conclusive¹¹³.

107 On this technique, see below p. 103 seq.

108 Leo the Great, Epistola 7 [to the bishops in Italy]. In: Migne PL 54, Paris 1846, col. 620-2; Leo the Great, Sermo 5 [In natali Sancti Pauli]. In: Migne PL 56, Paris 1846, col. 1138-59.

109 Epistola sive Libellus orthodoxorum episcoporum orientalium contra Anthimum, Severum aliosque acephalos oblatum Agapito. In: Migne PL 66, Paris 1866, col. 67-76.

110 Amalarius of Metz, Eclogae de ordine Romano. In: Migne PL 105, Paris 1852, col. 1315-1332: *doctores ecclesiae, id est illuminatores* = Amalarius, Opera liturgica omnia III. Liber de ordine Antiphonarii – Eclogae de ordine Romano, ed. by Johannes Michael Hanssens (StT 140), Città del Vaticano 1950, p. 240.

111 See below pp. 104-107.

112 See Wilhelm Gundlach in: MGH Epp. 3, Berlin 1892, p. 479; the editor did not have the actual manuscript himself. On the manuscript, cf. below p. 104-107.

113 Fuhrmann, Das Frühmittelalterliche Papsttum und die Konstantinische Schenkung (as in note 7), esp. pp. 264-8; the objection of Hans Hubert Anton, Beobachtungen zum fränkisch-byzantinischen Verhältnis in karolingischer Zeit. In: Beiträge zur Geschichte des Regnum Francorum. Referate beim Wissenschaftlichen Colloquium zum 75. Geburtstag von Eugen Ewig, ed. by Rudolf Schieffer (Beihefte der Francia 22), Sigmaringen 1990, pp. 97-119, here pp. 114-7 fails to address the issue inasmuch as the verses from the so-called “Paderborner Epos”, cited as a parallel, are not actually a parallel to the imperial title of the “Constitutum Constantini”; a re-assertion of his statement by Anton, Solium Imperii (as above, note 86), p. 226, note 41 offers no new aspects (the corrupted verses: Tituli saeculi octavi I, Epytaphia civitatis Papiae XIII. In altare. In: MGH Poetae latini aevi Carolini 1, ed. by Ernst Dümmler, Berlin 1881, p. 106, cf. Anton loc. cit. p. 234, cannot be used as evidence). – The reasons cited

Thus it is claimed that the double trinitarian invocation of the “Constitutum Constantini”, which was perhaps inspired by a phrase in the “*Actus b. Silvestri*”¹¹⁴, was already quoted in 798 by a Roman synod under Leo III. However, the reference to the praefatio of the synod is inexact and dates to the 16th century, and in no way supports such a conclusion. The situation may have been the other way round; the forger, whose use of excerpts is well documented¹¹⁵, could have quoted the Roman synod¹¹⁶. All that is in fact recorded is a single invocation of the Trinity, and that was certainly not a quote from the “Constitutum Constantini”. Recently the papal title *summus pontifex et universalis papa*, which was the correct one and not unusual and which Charlemagne employed when he addressed Leo III in 801, has been mistakenly connected directly with the “Donation of Constantine” (where it is indeed not absent)¹¹⁷.

by Nicolas Huyghebaert, Une légende de fondation: le Constitutum Constantini. In: MA 85 (1979), pp. 177-209, here pp. 179-83 to support an origin among the Lateran clergy in Rome are much too general to be conclusive; any literate Frank could have been capable of the same effort. – I would like to thank Wolfram Brandes for drawing my attention to: Leontios Presbyteros von Rom, Das Leben des heiligen Gregorios von Agrigent. Kritische Ausgabe, übersetzt und kommentiert von Albrecht Berger (Berliner byzantinische Arbeiten 60), Berlin 1995, where in c. 91 (p. 255, 6-11; p. 328, on this, see introduction pp. 41-3) Constantine the Great’s donation of half of the city of Agrigentum is mentioned. Berger tries to relate this to the “Donation of Constantine”, yet this conclusion is in no way warranted by the wording. Also, he sees the Vita, of whose author nothing more is known, as having originated in Rome before 830, when Agrigentum was captured by Muslims. But this date is not compelling either; as it would call for Rome to recognise the conquests at that time as definitive and legally binding.

114 *Actus Silvestri*, ed. by Mombritius p. 528, 20-2: “*Deus Abraam, Deus Isaac et Deus Jacob qui trina invocatione in his tribus patriarchis ideo te invocari voluisti, ut manifestaretur nobis per dominum nostrum Jesum Christum, quod in trinitate pater cum filio et spiritu sancto unus sit deus verus pater verum filium habens ex se genitum verum spiritum sanctum ex utroque procedentem: una deitas in trinitate.*”

115 On this, see below p. 108 seq.

116 Quote from the forgery: Ernst-Dieter Hehl, 798 – ein erstes Zitat aus der Konstantinischen Schenkung. In: DA 47 (1991), pp. 1-17. Admittedly the invocation in question is not recorded, but only deduced from this allusion: “*concilium post invocationem sanctae trinitatis sic incipit*” together with the correct dating of the synod of 798 that follows. But some uncertainty remains. Indeed, without any further argument Hehl presupposes the ‘early dating’ of the “Constitutum Constantini”. The records in question of the papal synod of 798 will have been known to the participants at the synod of Aix-la-Chapelle in Oct. of 798, but in any case both synods were known and their ‘Acta’ accessible to the court of Charlemagne (cf. JE after 2499). Thus, the “Constitutum” could have quoted the invocation of the synodal records which, according to Hehl, are a quote from the false.

117 So Matthias Becher, Die Kaiserkrönung im Jahr 800. Eine Streitfrage zwischen Karl dem Großen und Papst Leo III. In: RhV 66 (2002), pp. 1-38, here pp. 19-28. Becher makes no strict distinction between titles applied by the popes to themselves, and those used for them by others. The title in question shows no allusion whatsoever to a “quasi-imperial” status of the pope around 800; it represents one of the correct forms of addressing the pope according to protocol. This is the form in which it is presented by the only passage of the “Codex Carolinus” 13 ([Senate and People of Rome to Pepin], ed. by Wilhelm Gundlach. In: MGH Epp. 3, Berlin 1892), pp. 508-10, not originating from the papal chancellery, but addressed to a pope (Paul I.)

What the “Constitutum Constantini” proclaimed was something different to what the canonists and propagandists of the 11th, 12th and 13th centuries believed they could read into it. Other Roman memories and other Roman references had taken on a legal aspect. This claimed that the emperor had not only founded the Lateran Church and both of the churches in Rome dedicated to the apostles, St Peter’s and Paul’s, the first donated together with his palace, the other two enriched with gold and silver as well as extensive latifundia in the East and the West, in the North and the South, throughout his empire (l. 196-208)¹¹⁸; he had not only invested the pope with the insignia of imperial authority and robes (l. 214-217). Above all Constantine had granted the Roman church “the supremacy (...) over the four principal seats, Alexandria, Antioch, Jerusalem, and Constantinople, as also over all the churches of God in the whole earth” (“*principatum [...] super quattuor praecipuas sedes [...]*”, l. 171-2) and decreed that “the pontiff (...) shall be (...) *princeps* over all the priests of the whole world, and according to his judgment everything which is provided for the *cultus Dei* and for the stability of the faith of Christians is to be administered” (l. 171-177). Thus the emperor granted the Roman church its rank as universal church (*decernentes sancimus*, l. 171), and rendered this visible ritually by handing over “imperial” insignia.

As a final donation Constantine now “conferred (...) as well our palace [which had already been granted to the Roman Church (l. 219)] (...) as also the city of Rome, and all the provinces, places and cities of Italy and the western regions”, and “relinquished them to the power and rule of (Sylvester) and his successors”, and he decreed “that they shall remain under the *ius* of the holy Roman Church” (“*tam palatium nostrum, ut praelatum est, quamque Romae urbis et omnes Italiae seu occidentalium regionum provincias, loca et civitates [...] pontifici [...] Silvestrio [...] contradentes atque reliquentes eius vel successorum ipsius pontificum potestati et ditioni [...] atque iuri Romane ecclesiae concedimus permanenda*”, l. 264-70). The emperor did not grant any new authority, but assigned the places and regions mentioned to the existing authority of the bishop of Rome. What should we make of this? What do *potestas*, *dicio* and *ius* actually mean? As far as I can tell the question has not yet been asked¹¹⁹.

(ed. by Gundlach, MGH Epp. 3, p. 509, 33-4). If therefore Charlemagne uses this title for Leo III, he is only duly following usual diplomatic practice; there is no connection to the “Constitutum Constantini”.

118 On the utilisation of royal treasures in the Early Middle Ages cf. Matthias Hardt, *Gold und Herrschaft. Die Schätze europäischer Könige und Fürsten im ersten Jahrtausend* (Europa im Mittelalter 6), Berlin 2004, pp. 235-299; the “Constitutum Constantini” however was not mentioned.

119 However, see Hermann Grauert, *Die Konstantinische Schenkung* 1. In: HJb 3 (1882), pp. 3-30; part 2 in HJb 4 (1883), pp. 45-95, here pp. 83-4; Caspar, *Das Papsttum unter fränkischer Herrschaft* (as above, note 7), pp. 29-32.

These terms were by no means unambiguous in the 8th and 9th centuries: *potestas* and *dicio* could certainly be taken to mean the same thing¹²⁰. Both were used to describe some sort of legitimate power, but exactly what sort was not defined. Furthermore, the phrase *potestas et dicio* can also be used together as a pair to refer to just a single concept (hendiadys). The correct meaning can only be established from the relevant context. For example, a (fictional) formula for a papal letter preserved in St-Denis offers two different meanings in one and the same sentence: the narrower *dicio* of the Roman Pontifex, and the wider *dicio* of St Peter, in whose name the pope acted by virtue of privileges he had received¹²¹. Whatever the pope’s *dicio* means here, that of the Prince of the Apostles belonged to the sphere of spiritual jurisdiction, not the secular.

It was also important who had this “power”. As far as the “Constitutum Constantini” is concerned, we must distinguish between the two Princes of the Apostles as the epitome of the Roman church on the one hand, and the successor of St Peter, the Pontifex of the City of Rome, on the other. It was only the latter who possessed *potestas* and *dicio*, and it was only through him that the rich gifts entered the law of the Roman church (*ius Romanae ecclesiae*). Thus this law involved a competence which may have been part of the *ius* of the Roman church, but which only the pope could exercise; and it was quite distinct from any right of ownership – as is clear from the gift of the Lateran Palace, which was most certainly not granted twice and to different parties in each case: first of all to the Princes of the Apostles, and through them to the pope, and then to the pope and through him to the Roman church. Indeed the formula *potestas et ius* could refer to the ‘protection’ that the pope (and not the Roman church) afforded other churches¹²². But this interpretation can hardly describe the facts of the case as far as the “Constitutum Constantini” is concerned.

Although at the time the phrases *potestas*, *dicio* or *potestas et dicio* were repeatedly used to include an aspect of legal ownership¹²³, and – as in the so-called “Ludowicianum” of 817, privileges granted by Louis the Pious to Pope

120 According to Hrabanus Maurus in his Excerptio de arte grammatica Prisciani. In: Migne PL 111, Paris 1852, col. 613-78, here col. 674B (*ditione id est potestate*).

121 Formulae collectionis sancti Dionysii, Formelsammlung von St-Denis, ed. by Karl Zeumer. In: MGH Formulae Merovingici et Karolini aevi, Hanover 1886, pp. 493-511, here p. 498, 22 et seqq.: “*apostolici sedis presules non solum sup ditione nostra constitutis, sed etiam in ceteris regionibus possitis postulata semper indulgenda sanxerunt, presertim in regione Francorum, dum profectu cuncta usque ad fines terre et oceani maris terminum sup beati Petri principis apostolorum ditione consistant; unde oportet, omnes (...) oboedire, quae per beati Petri auctoritate apostolice sedis postulata dinoscitur oboedire*”.

122 Fried, Der päpstliche Schutz für Laienfürsten (as above, note 26), p. 84.

123 See e.g. *formula 89* of the Liber Diurnus Romanorum pontificum ex unico codice Vaticano, ed. by Theodor E. von Sickel, Vienna 1889, p. 118, 11; Liber Diurnus Romanorum pontificum, ed. by Hans Foerster, Bern 1958 offers a parallel printing of all three manuscripts. However, there is no evidence for the use of the dispositive part of *formula 89* in papal documents, cf. Leo Santifaller, Liber Diurnus. Studien und Forschungen (PuP 10), Stuttgart 1976, p. 59 and pp. 91-2 (JE 2437 is to be eradicated).

Pascal I over the patrimonies of the Roman church – an earthly authority of the pope which is interpreted as “administrative sovereignty” (not as “a position of independent power”)¹²⁴; when they were transferred both property and administration were dealt with as objects. Thus in pope Hadrian I’s view Constantine transferred to the Roman church “authority [that is over the property that had been handed down] in the western (or Italian?) regions” *“potestatem in his Hesperiae partibus”*¹²⁵. Finally, imperial or royal authority could be regarded as *potestas et dicio*¹²⁶.

But none of these three possibilities can be applied to the “Constitutum Constantini”. The first can be excluded since a similar transfer of property, including the Lateran Palace, had already been referred to earlier (l. 202-6, 214-20: *“predia contulimus; [...] concessimus; concedimus [...] atque [...] contradimus palatium [...] Lateranense”*), and the pope will certainly not have received any personal property¹²⁷. The second interpretation is to be rejected, not only because it would have implied a parallel secular order besides the emperor, or an interim authority between the emperor and holders of office, for neither of which there is any evidence¹²⁸; but also because before Constantine the Bishop of

124 Pactum Hludowici Pii cum Paschali pontifice [Hludowicianum], ed. by Alfred Boretius. In: MGH Capit. 1, Hanover 1883, pp. 353-5, here p. 353, 12, p. 354, 33 (‘property’!), synonymous to *ius, principatus ac ditio* (p. 354, 5 and line 19); annotated text in: Adelheid Hahn, Das Hludowicianum. Die Urkunde Ludwigs d. Fr. für die römische Kirche von 817. In: AfD 21 (1975), pp. 15-135, here pp. 130-5 the text (I quote from the MGH edition). “Administrative autonomy”: Hahn p. 62 (with reference to older literature, the *“Liber Pontificalis”* and the “Codex Carolinus”). The “Ludowicianum” (resp. its preliminary documents), also reveals further analogies to the “Constitutum Constantini”: for instance the Inscriptio (Ludowicianum p. 353, 10-1; Constitutum line 214-8) or the eternity-formula *usque in finem seculi* (p. 354, 4). - Cf. on the further development of the privilege: Edmund E. Stengel, Die Entwicklung des Kaiserprivilegs für die römische Kirche 817-962. Ein Beitrag zur ältesten Geschichte des Kirchenstaats. In: idem, Abhandlungen und Untersuchungen zur mittelalterlichen Geschichte, Cologne/Graz 1960, pp. 218-248, here pp. 245-8).

125 Codex Carolinus 60 [Hadrian I to Charlemagne], ed. by Wilhelm Gundlach. In: MGH Epp. 3, Berlin 1892, pp. 585-7, here p. 587. On the “Hesperia” (the West!) cf. Peter Classen, Italien zwischen Byzanz und Frankenreich, in: *Nascita dell’Europa ed Europa carolingia: un’equazione da verificare* (SSAM 27), Spoleto 1981, pp. 919-71, here pp. 961-67 [again published in: idem, *Ausgewählte Aufsätze* (VuF 28), ed. by Josef Fleckenstein, Sigmaringen 1983, pp. 85-115, here pp. 111-5]; Anton, *Solium Imperii* (as above, note 86), p. 228 (though Anton overlooked the partitive element in the passages he quoted).

126 Cf. e.g. Louis the Pious, *Diplomata ecclesiastica* 135 [for St-Maixent]. In: Migne PL 104, Paris 1851, col. 1160-1, here col. 1160C/D. – On these layers of meaning in general cf. Caspar, *Pippin und die römische Kirche* (as above, note 7), pp. 176-9, here p. 187: the formula supposedly describes the “papal dominion” (p. 187 and p. 189).

127 If in the later passage the meaning “property” had indeed been intended, the object of the donation would have to have been specified more precisely. No emperor could give away another’s property, neither in the Roman nor in the Carolingian Age. And not “all provinces” were part of the emperor’s “property”.

128 For the areas recorded in the “Ludowicianum”, Caspar, *Das Papsttum unter fränkischer Herrschaft* (as above, note 7), p. 27 assumes a “parallel order”, Hahn, *Das Hludowicianum* (as above, note 124), p. 62, note 333 an “intermediate” power.

Rome cannot possibly have received any secular *potestas* to which the emperor could have transferred any cities or provinces. We can also dismiss the third possibility on the grounds that neither was the pope already emperor, nor did the pseudo-Constantinian Constitution assign him any imperial authority and so did not make him emperor. This only changed with Gregory VII, and it was only the canonists and publicists of the 12th and 13th centuries (including Emperor Otto IV’s marshal, Gervase of Tilbury) who declared that the pope was the true emperor. Boniface VIII (1294-1303) then took the idea to a peak from which the only way back was down: “Ego sum Caesar, ego imperator.”¹²⁹ So we must look for another level of meaning for *potestas et dicio*. It turns out not to be hidden, but in fact quite visible.

As the formula from St-Denis discussed above shows, on a number of occasions in the 8th and 9th centuries *potestas* or *dicio* described what was later to be called the jurisdiction (*iurisdicio*) of a bishop. Together with the power of ordination (*potestas ordinis*) and of teaching (*potestas magisterii*), it was one of their three powers of episcopal office¹³⁰. This kind of *dicio* did not correspond to the concept of secular power or authority in Roman law¹³¹, but to its later early medieval development in c h u r c h law. Such a power could not be transferred by an emperor, he could only grant it over areas that had previously been exempt. The twin phrase *potestas et dicio* could therefore describe a bishop’s e c c l e s i a s t i c power of office¹³², and this was well known to the early Frankish ‘experts’ on the “Constitutum Constantini” in the monastery of St-Denis. They included the forgery in the same formulary as the formula of a papal letter discussed above (formula no. 3), and so produced the oldest separate textual tradition of the pseudo-Constantinian document. For the formula provided a

129 Kantorowicz, Kaiser Friedrich der Zweite, 1 (as above, note 2), p. 39 and 2, p. 19 (from which the quotes here are taken); Horst Fuhrmann, “Der wahre Kaiser ist der Papst.” Von der irdischen Gewalt im Mittelalter. In: Das antike Rom in Europa, ed. by Hans Bungert (Schriftenreihe der Universität Regensburg 12), Regensburg 1985, pp. 99-121, without notes again in idem, Einladung ins Mittelalter, Munich 1987, pp. 121-34 and p. 288.

130 Cf. Willy Szaivert, Die Entstehung und Entwicklung der Klosterexemption bis zum Ausgang des 11. Jahrhunderts. In: MIOG 59 (1951), pp. 265-98, here p. 282 et seqq.; cf. e.g. Paul I’s charter for S Salvatore in Brescia dating from 762 (JE 2350), on this, see Szaivert p. 293; Wilhelm Schwarz, Jurisdicio und Condicio. Eine Untersuchung zu den Privilegia libertatis der Klöster. In: ZRG Kan. Abt. 45 (1959), pp. 34-98, here p. 71 on *formula* 3 from St-Denis (cf. further below, note 133); Josef Semmler, Episcopi potestas und karolingische Klosterpolitik. In: Mönchtum, Episkopat und Adel zur Gründungszeit des Klosters Reichenau (VuF 20), ed. by Arno Borst, Sigmaringen 1974, pp. 305-95. On the position of bishops during the High Middle Ages: Kenneth Pennington, Pope and bishops. The papal monarchy in the twelfth and thirteenth centuries, Philadelphia 1984.

131 Cf. Hermann Gottlieb Heumann, Emil Seckel, Handlexikon zu den Quellen des römischen Rechts, Jena⁹1907, s.v.

132 Overlooked by Grauert, Die Konstantinische Schenkung (as above, note 119), and *ibid.*, pp. 525-617, moreover idem, Zur Konstantinischen Schenkung. In: HJb 5 (1884), pp.117-20, here vol. 4 (1883), pp. 83-4 and Caspar, Das Papsttum unter fränkischer Herrschaft (as above, note 7), p. 29-32, also Anton, Solium Imperii (as above, note 86), p. 225.

detailed parallel not only for the Princes of the Apostles and the pope, but also for the powers of office of bishops. This meaning is also found elsewhere¹³³.

In the 8th and 9th centuries, as indeed later, the creation and the drawing up of ecclesiastic administrative boundaries, and in particular of dioceses and church provinces, was a matter for secular authority, although it was carried out in cooperation with the relevant bishop and the pope. Charlemagne and Louis the Pious did so on many occasions; Otto the Great founded an Archbishopric in Magdeburg; Otto III the Archbishopric of Gnesen; and Henry II the Bishopric of Bamberg soon afterwards¹³⁴. Thus the assignment of particular provinces to the administrative responsibility of the Bishop of Rome by Pseudo-Constantine in no way ran contrary to the generally recognised competence of the emperor or king. This context in turn provides a framework in terms of ecclesiastic rather than secular law for the transfer of the western provinces of the Roman Empire to Sylvester’s *potestas et dicio*. It was the assignment of the western provinces (at the time of writing of the forgery all that was left was in effect the Frankish Kingdom and England, at the most also Venice, Dalmatia, South Italy and Sicily) to the spiritual and ecclesiastic “authority” of the Bishop of Rome.

The introductory explanation of the reasons for the assignment of palace, city, Italy and the western provinces to the pope’s *potestas et dicio* certainly fits in well with an interpretation of the “Constitutum Constantini” in terms of church law and spiritual authority. The recipient was the “universal father” (“*universali papae*”, l. 266), and it was intended to ensure that the “supreme pontificate

133 The formulary from St-Denis (Formulae collectionis sancti Dionysii, Formelsammlung von St-Denis, ed. by Karl Zeumer. In: MGH Formulae Merovingici et Karolini aevi, Hanover 1886, pp. 493-511) no. 11 is the oldest (the so-called “Frankish”) version of the “Constitutum Constantini”, no. 3 is a formula for a papal letter which knew a *ditio* of both the pope (p. 498, 23, moreover – here explicitly referring to spiritual jurisdiction – p. 500, 1) and of the Prince of the Apostles (p. 498, 26), as well as an episcopal, spiritual *potestas* (p. 499, 17), a bishop’s spiritual *ditio aut potestas* (p. 500, 3) and finally the jurisdictional *potestas aut ditio* of the vicedominus or archdeacon of the diocese in question (p. 499, 26-7). - Cf. also JE 2551 for Ravenna from 819 (original): “... *monasteria ... sub ditione et potestate sanctitati vestrae subiaceant*”, cf. Schwarz, Jurisdicio und Condicio (as above, note 130), p. 44; the Archbishop of Cologne possibly already received a privilege from Pope Leo III endowing him with exclusive *potestas atque ditio* over properties and rights within the archdiocese (cf. JE 3469; Epistolae selectae pontificum Romanorum 4 [Leo III. to Charlemagne], ed. by Karl Hampe. In: MGH Epp. 3, Berlin 1899, pp. 59-60). – Paschasius Radbertus used the term *potestas* describing as well worldly power – like that of kings – as the bishop’s power in his dioceses. On the episcopal power, he wrote: “*Quapropter arguendi sunt nunc in tempore quidam qui dicunt non debere arguere reges aut potestates huius saeculi neque durius increpare ne forte atrocius commoueantur ad iram sicut a quodam audiui episcoporum. Quia rex sub nullius inquit redactus est potestate neque subcura alicuius regiminis eo quod omnibus in commune est et non in una commemoratur parroechia.*” (Pasasii Radberti Expositio in Matheo libri XII [V-VIII], ed. by Beda Paulus [CCCM 56A], Turnhout 1984, p. 735, 1427-32.

134 Rudolf Schieffer, Papsttum und Bistumsgründung im Frankenreich. In: Studia in honorem Eminentissimi Cardinalis Alphonsi M. Stickler (Studia et textus historiae iuris canonici 7), ed. by Rosalio Josepho Card. Castillo Lara, Rome 1992, pp. 517-28.

(“*pontificalis apex*”) may not deteriorate (*vilesca*t), but may rather be adorned with glory and power even more than is the dignity of an earthly rule” (l. 261-3). Only pontifical, spiritual glory can be greater than imperial, earthly dignity; it alone could receive imperial territories without receiving ‘imperial authority’.

According to the invented “privilege” Constantine submitted his current official residence, the Lateran Palace, which had already been made the property of the Roman church, together with Rome, Italy and the entire Western Empire, including all places and cities (*civitates*: in other words existing and all future seats of bishops) to the ecclesiastic jurisdiction of St Peter’s successor. In doing so he defined the authority of the pope as patriarch, although this is not explicitly stated. Seen from a legal viewpoint this was different to the pope’s universal primacy (which Constantine had already constituted, or at least sanctioned with his imperial authority), and did not coincide with it¹³⁵. This is all that the forgery states, but also no less. It described ecclesiastic jurisdiction as it existed at the time; according to the formulary from St-Denis it explicitly included the Frankish Kingdom (“*praesertim in regione Francorum*”¹³⁶), and this was accepted by the emperor. For the pope this jurisdiction did not elevate the Bishop of Rome to a “Western” or “co-emperor”, it did not grant him parallel or intermediate authority within the Empire¹³⁷; although Constantine’s decree gave the pope the same rank as the emperor in ritual and ceremonial terms, it did not make him the supreme earthly ruler, and granted him no imperial or secular power over the West¹³⁸. At no point was an “Imperium” (or the “Regnum”) ceded to the Bishop of Rome, as high and late medieval authors claimed¹³⁹; only the *frigium* (and here it probably represented the other symbols of power and dignity that Constantine handed to Sylvester) was given to all his successors “in imitation of our power”, *ad*

135 This jurisdiction is clearly separate to the “princiate” over the four “*praecipuae sedes* and *super omnes in universo orbe terrarum dei ecclesias* transferred in line 171-7. This princiate refers to: *quaeque ad cultum dei vel fidei Christianorum stabilitatem procuranda*” (line 176-7); it has nothing to do with temporal *potestas* and *dicio*. On the dispersion and different interpretations of the idea of the patriarchy in the Early Middle Ages: Horst Fuhrmann, *Studien zur Geschichte mittelalterlicher Patriarchate*. Part I in: ZRG Kan. Abt. 39 (1953), pp. 112-76; part II in: ZRG Kan. Abt. 40 (1954), pp. 1-183; part III in: ZRG Kan. Abt. 41 (1955), pp. 95-183. On the formation of the “pentarchy“ esp. I, pp. 122-31; on the patriarchal rights of the Bishop of Rome esp. II p. 1-14 (on the papal vicariate in the Frankish Empire). On the dispersion of the term: Rudolf Schieffer, *Der Papst als Patriarch von Rom*. In: *Il primato del vescovo di Roma nel primo millennio. Ricerche e testimonianze*. Atti del Symposium storico-teologico Roma, 9-13 Ottobre 1989 (Pontificio Comitato di Scienze Storiche, Atti e documenti 4), ed. by Michele Maccarrone, Città del Vaticano 1991, pp. 433-51. The present Pope Benedict XVI is the first not to assume the title of Patriarch.

136 *Formulae collectionis sancti Dionysii*, ed. by Karl Zeumer, p. 498, 24. “(...) *et praesertim interventu excellentissimi filii nostri, predicti regis, super hoc privilegium suis scriptis enixius expetiti, postulata concessimus*” (line 28 et seqq.).

137 Cf. also Caspar, *Pippin und die römische Kirche* (as above, note 7), pp. 187-8.

138 Lines 168-70 does not define the geographical extent of the *potestas* conceded here, nor does it define it as imperial.

139 Cf. above p. 18 seqq.

imitationem imperii nostri (l. 259-61). The term *imitatio imperii* was new and without precedent¹⁴⁰. It is not to be interpreted as a programme. But imitation leads neither to equality, nor the assumption of the same legal position, nor succession. The “power, and dignity of glory, and vigour, and honour imperial”, “*potestas et gloriae dignitas atque vigor et honorificentia imperialis*”, which Constantine granted the Apostolic throne first of all (“*sedes sacratissima beati Petri*”, l. 168), and which surpassed earthly imperial authority, were quite clearly analogous to the investiture of St Peter as *vicarius filii dei (in terris)* (l. 180). Thus the pope was distinguished in imperial fashion as “prince over all the priests of the whole world” (“*princeps cunctis sacerdotibus totius mundi*”, l. 175-6), and not as the successor of Constantine in the West of the Roman Empire.

As far as earthly power and dominion were concerned, and as expressed at the end of the document, the “righteous” goal was more modest; “where the supremacy of priests and the head of the Christian religion has been established by the heavenly emperor (sc. Rome), it is not right that there an earthly emperor should have jurisdiction” (l. 274-6). Not power over the entire West, but only over the City of Rome was granted to the successor of St Peter¹⁴¹. However, in the opinion of the forger Constantine had created the basis for the Bishop of Rome’s special ecclesiastic power of jurisdiction over the entire western Latin Church. Thus what the forger described in the “Constitutum Constantini” were widely known facts of current ecclesiastic law or claims made by the Church at the time. What drove him to do this?

The formulary of St-Denis offers a second parallel to the “Constitutum Constantini”, if on a smaller scale. Formula 9 from Tours granted an episcopal privilege, and refers to formula 2, a papal privilege. It granted a privilege and freedom to a monastery in the bishop’s city (*privilegium atque libertatem*). In honour of St Martin the *fiscus* had exempted the city, granted it freedom and named it as its heir. Thanks to the saint’s miracles, so the bishop, “our city” had won complete immunity from the kings, first and foremost King Dagobert. By virtue of this grant (*munus perpetratum*) the bishop now granted in turn his privilege of freedom. Although the city had received royal privileges and been made heir to the *fiscus*, and although the immunity granted belonged to the secular legal sphere, the bishop acted on the basis of the royal grant; the “Kings of

140 As far as is known, similar wording occurs only in Magnus Aurelius Cassiodorus, *Variarum libri XII*, ed. by Åke J. Fridh (Corpus Christianorum Series Latina 96), Turnhout 1973, p. 9, 18-9: “*Regnum nostrum imitatio vestra est, forma boni propositi, unici exemplar imperii.*” This phrase probably was not a model for the “Constitutum Constantini”. “*Imitatio imperii*” only became an interpretative phrase with Percy Ernst Schramm, *Die Imitatio imperii* (as above, note 45), who however assumed it had been developed under Gregory VII.

141 This did not conflict with the “Ludowicianum” (as above, note 124), according to which the City of Rome and its Duchy, as well as parts of Tuscany and Campania were within the *potestas et dicio* of the Princes of the Apostles and their representatives. This document remains silent (in contrast to the Exarchate, the Pentapolis and several further regions, all of them accorded to the Church of Rome by Louis’ father, Charlemagne) on where and when these rights originated.

all Gaul” accepted his action by themselves granting the monastery a privilege of protection “*ad reprimendas laicorum infestations*”¹⁴².

In as much as it only fitted the model of the separation of spiritual and secular power, this all corresponded with Carolingian policy towards the Apostolic See, as practised by Charlemagne, or shaped later – in the tradition of Charlemagne – by figures such as Wala of Corbie as imperial advisor in Italy and Rome, or Hilduin of St-Denis in a similar function in the 820s. The effects of the policy were to be felt for a long time. Within their kingdom the Carolingian emperors, above all Louis the Pious¹⁴³, did indeed claim authority over the Church down to all levels, as well as imperial power over the *patrimonium Petri*; thus was proclaimed by the *Pacta* that they had concluded with the popes¹⁴⁴, or the short “*Libellus de imperatoria potestate in urbe Roma*”, probably written in the late-9th century¹⁴⁵. But the “Constitutum Constantini” restricted this power over the Church, perhaps even called its very existence into question. The pope, fitted out with wide-ranging powers, was to take the place of the king, or at least to compete with the king and emperor.

142 *Formulae collectionis sancti Dionysii*, ed. by Karl Zeumer, p. 501, 33-502, 5: “*Nec immerito (...) eisdem (...) hoc privilegium supervenire poterit, qui (...) patrono famulantes, placere piissimo Christo contendunt, (...) atque suis monachis libertatem dare, cuius honorem fiscus totum dedit et census, libereque vivere nomenque instituit heredis. Cuius (...) miraculis coruscante a regibus singulariter emunitatem urbs nostra tota promeruit, prestante piissimo Dagoberto quondam rege, integram emunitatem suscepit, dignum arbitro munus ab eodem inpenetratum eidem (vel) in suo viventibus patrocinio tremantibus ulnis proferre*”. The royal edictum: p. 502, 40 et seq.

143 Johannes Fried, Ludwig der Fromme, das Papsttum und die fränkische Kirche. In: Charlemagne’s Heir. New Perspectives on the Reign of Louis the Pious (814-840), ed. by Peter Godman and Roger Collins, Oxford 1990, pp. 231-73. – I was not convinced by the various objections of Philippe Depreux, Empereur, Empereur associé et Pape au temps de Louis le Pieux. In: RBPhH 70 (1992), pp. 893-906 (cf. also idem., La *pietas* comme principe de gouvernement d’après le Poème sur *Louis de Pieux* d’Ermold le Noir. In: The Community, the Family and the Saint. Patterns of Power in Early Medieval Europe, ed. by Joyce Hill and Mary Swan [International Medieval Research 4], Turnhout 1998, pp. 201-24, cf. p. 215) and Wilfried Hartmann, Zur Autorität des Papsttums im karolingischen Frankenreich. In: Mönchtum-Kirche-Herrschaft 750-1000, ed. by Dieter R. Bauer et al., Sigmaringen 1998, pp. 113-32. – This is not the place for a detailed discussion. Only so much: out of what I term “distance to Rome”, Depreux made “un sentiment anti-romain” (p. 896 and rep.) or even “hostilité” (p. 897). I find his interpretation of Ermoldus Nigellus and of BM² 801 flawed (*ad nomen et potestatem imperialem coronari* does not mean “Louis reconnaît avoir reçu son pouvoir ... des mains de l’évêque de Rome” [p. 897]); my interpretation of the “Ludovicianum” of 817 differs from that of Depreux. – Hartmann, for example, ignores the differences between Frankish and Gothic authors.

144 Stengel, Die Entwicklung des Kaiserprivilegs (as above, note 124), passim; Anna Maria Drabek, Die Verträge der fränkischen und deutschen Herrscher mit dem Papsttum von 754 bis 1020 (Veröffentlichungen des Instituts für österreichische Geschichtsforschung 22), Vienna 1976; Hahn, Das Hludowicianum (as above, note 124), passim.

145 Cf. *Libellus de imperatoria potestate in urbe Roma*. In: Il Chronicon di Benedetto, monarca di S Andrea del Soratte e il “*Libellus de imperatoria potestate in urbe Roma*” (Fonti 55), ed. by Giuseppe Zucchetti, Rome 1920.

Only the City of Rome enjoyed special status – just as was proclaimed at the end of the “Constitutum”¹⁴⁶: “for where the supremacy of priests and the head of the Christian religion has been established by the heavenly Emperor, it is not right that there an earthly emperor should have jurisdiction.” (l. 274-6)¹⁴⁷. The earliest evidence for knowledge of Constantine’s Constitution outside the pseudo-Isidorian corpus, Ado of Vienne’s “Chronicle” and the “*Liber adversus Graecos*” by Aeneas of Paris, both of which date from c. 870, confirm this view. Whereas the Bishop of Paris claims that besides *diversa regnorum predia* only *Romanam dicionem* was subject to the Apostolic See,¹⁴⁸ according to Ado Constantine merely ceded the “*caput totius imperii (...) Romanam*”¹⁴⁹. Hincmar of Reims’ understanding of Constantine’s gift was not different: “*urbem scilicet Romanam papae Silvestro edicto privilegii tradidit*”¹⁵⁰. These Carolingian authors agreed with the “Constitutum” that the newly baptised emperor’s gift of secular authority was restricted to the City of Rome. We may assume that *urbs* meant the Roman

- 146 On Rome in the Carolingian Empire cf. Thomas F. X. Noble, *The Republic of St. Peter. The Birth of the Papal State 680-825*, Philadelphia 1991; on papal rule in the city: Othmar Hageneder, *Das crimen maiestatis, der Prozeß gegen die Attentäter Papst Leos III. und die Kaiserkrönung Karls des Großen*. In: *Aus Kirche und Reich. Studien zu Theologie, Politik und Recht im Mittelalter. Festschrift für Friedrich Kempf zu seinem fünfundsiebzigsten Geburtstag und fünfzigjährigen Priesterjubiläum*, ed. by Hubert Mordek, Sigmaringen 1983, pp. 55-79, esp. p. 72-8. – The special status of Rome was not uniformly interpreted under the Franks either, although it had been settled by Lothars I’s *Constitutio Romana* from 824, cf. esp. c. 1 and the judge’s oath: *Capitularia regum Francorum* 161. *Constitutio Romana* 824 m. Novembr. [Richtereid], ed. by Alfred Boretius. In: *MGH Capit. 1*, Hanover 1883, pp. 322-4.
- 147 After Charlemagne, only one Carolingian emperor entered the City of Rome (as opposed to St Peter’s, outside the city, or “Leo’s Town”), and then only once: Louis II under exceptional circumstances in the year 872, cf. RI 1. *Die Regesten des Kaiserreichs unter den Karolingern 3. Die Regesten des Regnum Italiae und der burgundischen Regna, Teil 1. Die Karolinger im Regnum Italiae 840-887 (888)*, ed. by Johann Friedrich Böhrer, revised by Herbert Zielinski, Cologne/Vienna 1991, no. 349, cf. also no. 350.
- 148 Aeneas, bishop of Paris, *Liber adversus Graecos*. In: *Migne PL* 121, Paris 1852, col. 683-762, here col. 758B.
- 149 Ado, archbishop of Vienne, *Chronicon in aetates sex divisum*. In: *Migne PL* 123, Paris 1852, col. 23-138, here col. 92B. – In a document preserved in an original copy from the year 967, King Lothar of the West Franks referred to the donations of Constantine: “*prediis muneribusque ditavit ecclesiam sanctorum apostolorum Petri et Pauli and omnem dignitatem imperatoriam Deo sanctisque predictis apostolis perpetuali iure contradidit; noluit enim inibi principari quo Deus clavigerum regni celestis ... delegit rectorem ecclesiarum*”. The extent of the gift was not defined any closer geographically. But since Constantine remained emperor *omnis* must clearly be restricted. Probably *inibi* indeed only refers to Rome: *Recueil des actes de Charles II le Chauve roi de France 1*, ed. by Georges Tessier, Paris 1943, pp. 340-2, here p. 72, no. 29.
- 150 Hincmar of Reims, *De ordine palatii*, ed. by Thomas Gross and Rudolf Schieffer (*MGH Fontes iuris* 3), Hanover 1980, p. 56. – At St-Denis Constantine’s gift was later still understood in this way, cf. Grauert, *Die Konstantinische Schenkung* (as above, note 119), vol. 4 p. 52 with note 3 and vol. 5, pp. 557-8.

duchy as well. At the end of the millennium, even in the mid-11th century, Constantine’s Constitution was interpreted not differently¹⁵¹.

However, the Roman church derived its right of primacy from other sources: from God, the installing of St Peter and his succession. No emperor was needed. The forger knew this, of course, and went to great lengths to incorporate the verses that record Peter’s installing, Mathew 16, 18-19: “That thou art Peter, and upon this rock I will build my church”. The almost narrative manner in which he did so (l. 144-55) betrays just how “un-Roman” his work ended up being, although this is not the place to discuss the matter in detail. The “Constitutum Constantini” lacks the programmatic aspects which are otherwise found in the text and illustrations, or in the letters, of the “Codex Carolinus”, as well as in the formulae for papal documents in the St-Denis formulary which, as we have already seen, contains a separate version of the “Constitutum”. Conversely, no official document that traces the pope’s universal primacy over the Church back to an emperor was sent out from the Patriarchium¹⁵². It is highly unlikely that the Roman clergy made up for this in the second half of the 8th century.

There are clear consequences for the identification of the origin of the “Constitutum Constantini”. Very different, non-Roman powers were at work here. They were not interested in extending or reflecting on papal authority, but in restricting the borders of the emperor’s power within the context of current Frankish supremacy, and its sacrosanct, irreversible legitimisation in a form that was also binding on the Franks and their emperor¹⁵³. The borders were set where the first Christian emperor, the *vir religiosissimus* Constantine had once set and recognised them: short of spiritual authority. This is exactly how the infamous Pseudo-Isidore understood the text of the “Donation”, as is shown by his including the pseudo-Constantinian document after his passage on his “*De primitiva ecclesia et sinodo Nicena*”. He states that although Constantine may have presided over the synod, he carefully propounded a distinct division of jurisdiction: “You shall be judged by no-one” he declared before the assembled bishops, “for yours alone is the court of God, and you are called gods. You can be judged by no man”. Ecclesiastic and secular business are separated. This was supported by the forger with a quote from the Synod of Paris of 829, and in his

151 *Annales Quedlinburgenses*, ed. by Martina Giese (MGH SS rer. Germ. 72), Hanover 2004, p. 400-1. To what extent the chronicler from Quedlinburg had herself read the “Constitutum Constantini” remains an open matter. – On Leo IX and his contemporaries: above p. 18 seqq.

152 The “privilege of the fourth day”, which is vaguely hinted at in passing by the Acts of Sylvester, can hardly be regarded as an official statement by the papacy on the origin of its primacy: “*privilegium (...) contulit, ut in toto orbe Romano sacerdotes ita hunc [sc. Romanum pontificem] caput habeant sicut omnes iudices regem*” (Actus Silvestri, ed. by Mombricitus, p. 513, 18-9).

153 A Frankish origin for the “Constitutum” was already contemplated by Grauert, *Die Konstantinische Schenkung* (as above, note 119), here vol. 4 *passim*, cf. vol. 5, p. 117-9.

own words in his summary: "For the tasks (*negotia*) of secular and church authorities are different"¹⁵⁴.

The "Constitutum Constantini" did no more than draw the legal consequences from this historical construct. It defined the rights of "the most sacred seat of the Blessed Peter" (l. 168), the insignia of the pope, the pope's special spiritual powers of jurisdiction, the possessions of the Roman church as well as its sovereignty over the City of Rome and in all probability its duchy¹⁵⁵; documented their recognition by the emperor, once pagan, now a baptised believer; and, in the usual manner of contemporary diplomacy, clothed both content and recognition in the language of a privilege. But where was such a construct necessary? When? Who used it, and to what ends?

IVa. Constantine's "departure" from the City of Rome

The idea that Constantine relinquished Rome and departed for ever from the City of Rome in order not to rule as emperor where the *Princeps pontificum* held office is of central importance to the "Constitutum Constantini". But it was by no means self-evident. Where did this idea originate? Where did it appear for the first time? Answers to these questions are likely to be of use in the search to identify the time and place of the forgery of the Pseudoconstantinianum. The legend of Sylvester certainly provides no clues, and as far as we can tell the motif of Constantine's departure doesn't seem to have played a part in the formation of the Papal State. The close connection between the *Res publica Romanorum* and St Peter or the Roman church which is indeed recurrently visible in the letters of the popes to the Carolingian kings from the second half of the 8th century did not seek legitimisation by an imperial grant¹⁵⁶. As long as the Exarch, as representative of the emperor, still resided before the gates of the Eternal City in Ravenna, then there could be no talk of a departure from old Rome. The idea was actually developed gradually, outside Rome, and outside Italy.

We can assume that in the 8th or 9th centuries it was generally known that Constantine had founded Constantinople, as recorded, for example, in the work of

154 *Decretales Pseudo-Isidorianae et Capitula Angilramni*, ed. by Paul Hinschius, Leipzig 1863 p. 247 et seqq. – the quote p. 248.

155 Nikolaus Gussone, *Thron und Einsetzung des Papstes von den Anfängen bis zum 12. Jahrhundert. Zur Beziehung zwischen Herrschaftszeichen und bildhaften Begriffen, Recht und Liturgie im christlichen Verständnis von Wort und Wirklichkeit* (Bonner Hist. Forschungen 41), Bonn 1978, p. 1602; cf. below p. 87 seqq.

156 *Res publica Romanorum*: cf. the assessment in Caspar, *Pippin und die römische Kirche* (as above, note 7), pp. 154-69; Bernard Bavant, *Le duché byzantin de Rome. Origine, durée et extension géographique*. In: *Melanges de l'école française de Rome. Moyen Age et temps modernes* 91 (1979), pp. 41-88.

the historian and contemporary of St Augustine, Orosius¹⁵⁷. His work had been used by the Venerable Bede, whose fame and work had soon reached the Frankish Kingdom. In his “Chronica minora”, one of our most important sources for the state of historical knowledge at the time of the Carolingians, the Anglo-Saxon author had written that Constantine had founded a city in Thrace which he had named after himself, and which “he wanted to be the centre of the Roman Empire and head of the entire East”¹⁵⁸. But this does not in any way mean that old Rome was abandoned.

Bede’s contemporary, Aldhelm of Malmesbury, another author who was soon to be widely read on the continent, and others combined the foundation of Constantinople with the legend of St Sylvester and a tale of a vision that the emperor had once had in a dream when he slept in Byzantium. He had seen how an ugly old hag had changed into a beautiful virgin in the bloom of youth. His imperial eyes rested in delight on her, but modesty led him to quickly cover her with his purple cloak and crown her with his diadem. His mother Helena told him that she was his and would not see death until the end of the world. A second dream then produced the explanation: the old hag was the old city of Byzantium, and the emperor was to restore its youthfulness and make it the “queen of all cities” (“*reginam omnium urbium*”). However, it was Sylvester who explained the dream, and the emperor promptly did as the dream had commanded and built the old city anew. The rejuvenated city now bore his name: *Civitas Constantini, Constantinopolis*¹⁵⁹. Here too there is no mention of a departure from Rome, and that Constantine “left” the City for ever.

A century later Charlemagne had the main hall in the new palace in Ingelheim decorated with an extensive cycle of frescoes illustrating the history of rulers over the world, from Cyrus and Ninus, to Alexander and Augustus, and finally himself¹⁶⁰. The artist, or whoever was responsible for the pictorial programme, also illustrated the couplet: “*Constantinus uti Romam dimittit amore, //*

157 Paulus Orosius, *Historiarum adversus paganos libri VII*, ed. by Karl Zangemeister (CSEL 5), Wien 1882, c. 7, 28, 27, pp. 504-5.

158 Bede the Venerable, *Chronica maiora ad a. DCCXXV. Eiusdem Cronica minora ad a. DCCIII*. In: MGH Auct. Ant. 13, ed. by Theodor Mommsen, Berlin 1898, pp. 223-333, here p. 296.

159 Aldhelm, *De virginitate* 25 (about St Silvester). In: *De virginitate. I. Prosa*. In: Aldhelmi opera, ed. by Rudolf Ewald (MGH Auct. Ant. 15), Berlin 1913, pp. 257-60.

160 We know this from Ermoldus Nigellus, who did not write before 830. On the programme of frescoes he describes cf. Walther Lammers, *Ein karolingisches Bildprogramm in der Aula regia von Ingelheim*. In: *Festschrift für Hermann Heimpel zum 70. Geburtstag am 19. September 1971*, vol. 3 (Veröffentlichungen des Max-Planck-Instituts für Geschichte 36, 3), Göttingen 1972, pp. 226-89; reprinted (quotes are from this edition) in idem, *Vestigia mediaevalia. Ausgewählte Aufsätze zur mittelalterlichen Historiographie, Landes- und Kirchengeschichte (Frankfurter Historische Abhandlungen 19)*, Wiesbaden 1979, pp. 219-83, here esp. pp. 247-72. Contrary to Lammers I do not date the frescoes to Louis the Pious, but to the last years of Charlemagne’s reign before his coronation as emperor, cf. Johannes Fried, *Imperium Romanum. Das römische Reich und der mittelalterliche Reichsgedanke*. In: *Millennium 3* (2006), pp. 1-42, here p. 8, note 11.

Constantinopolim construit ipse sibi"¹⁶¹. In other words here was written for all to read that Constantine had "left Rome" and built Constantinople. For the first time it was explicitly stated "left Rome – out of love", and in the context of Aldhelm's account we must add, love for the beautiful virgin Constantinopolis¹⁶². This historical construct then spread, perhaps indeed originally from Ingelheim, for it was one of Louis the Pious' favourite palaces, and one he visited frequently. This will have meant that the idea was well known to learned visitors to the Frankish court, as well as its members. Nevertheless, Frechulf of Lisieux did not (yet) have recourse to it when he wrote his Chronicle for the court, using ancient sources. It was not until the "Constitutum Constantini" that the story of the departure from Rome found favour, becoming one of the standard pictures of the history of Constantine the Great¹⁶³. Was the Constantinian forgery perhaps created within the environment of the court? This is something that must be looked at more closely.

161 Ermoldus Nigellus, *In honorem Hludowici christianissimi caesaris augusti Ermoldi Nigelli exulis elegicum carmen* IV, 245-82. In: Ermoldus Nigellus, *Carmina*. In: MGH Poetae 2, ed. by Ernst Dümmler, Berlin 1884, pp. 1-93, here pp. 65-6 (= Ermold le Noir, *Poème sur Louis le Pieux et Épitres au Roi Pépin*, éd. by Edmond Faral [Les classiques de l'histoire de France 14], Paris 1932, p. 164, v. 2152-3).

162 For example Aldhelm's *De virginitate* was known at Corbie: St. Petersburg, Lat.F v XIV 1 (in ab-script; following Ganz a copy of 793); also in Vat. Reg. Lat. 329, cf. David Ganz, *Corbie in the Carolingian Renaissance* (Beihefte der Francia 20), Sigmaringen 1990, p. 142, p. 50, and p. 154.

163 Frechulf of Lisieux, *Historiarum libri XII*. In: *Opera omnia*, ed. by Michael J. Allen (CCCM 169A), Turnhout 2002, pp. 9-724, here *Historiae* II, 3, 21, p. 612. *Constitutum Constantini*, ed. by Fuhrmann, c. 18, 271-6: "*nostrum imperium (...) orientalibus transferri ac transmutari regionibus (...) in Byzantiae provincia (...) nostrum illic constitui imperium; quoniam, ubi principatus sacerdotum et christianae religionis caput ab imperatore caelesti constitutum est, iustum non est, ut illic imperator terrenus habeat potestatem*". Cf. Johannes Scotus Eriugena, *Versus Romae*. In: MGH Poetae 3, ed. by Ludwig Traube, Berlin 1886, pp. 555-6: "*(...) Deseruere tui tanto te tempore reges // Cessit et ad Graecos nomen honosque tuus*".

