Part III Breaking and Building Identities

THE AUTHORITY OF GREGORY THE GREAT: MARRIAGE AND POLITICS IN BAVARIA IN THE EIGHTH CENTURY AS EXEMPLIFIED IN THE 'GREGORIAN PART' OF THE PRAGUE SACRAMENTARY

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In memory of Paul Meyvaert

he last fifteen leaves of Prague, Archiv Pražského hradu, MS O. 83 are often referred to as 'an incomplete penitential' or 'the penitential part'. Because this part contains two texts attributed here to Gregory the Great, which will be discussed in greater detail below, I think it is better to speak of 'the Gregorian part'. The last part of the manuscript was written in the last quarter of the eighth century, probably in Bavaria, although Bischoff also allowed for an origin of this part in northern Italy. The close connections with other Bavarian manuscripts, which we will discuss below, demonstrate that it is more likely to have originated in Bavaria. Shortly after these leaves had been written, they were added to the sacramentary that makes up the bulk of the present codex, Prague MS O. 83. By 792, both parts were probably already united,

¹ For example in the groundbreaking study of this manuscript by Carl. I. Hammer, 'The Social Landscape of the Prague Sacramentary: The Prosopography of an Eighth-Century Mass-Book', *Traditio*, 54 (1999), 41–80, at p. 41.

² CLA, IX (1959), no. 1345; Bernhard Bischoff, Die südostdeutschen Schreibschulen und Bibliotheken in der Karolingerzeit, 2 vols (Wiesbaden: Harrassowitz, 1960–1980), II: Die vorwiegend österreichischen Diözesen, pp. 186–87 and 261. For further discussion, see Rosamond McKitterick's contribution to this volume.

since the hand that added the *nota historica* on folio 83°, which has been dated to in or shortly after 792,³ also added glosses in Old High German in the second part of the manuscript. In the present article I aim to introduce the texts of the Gregorian part of the manuscript, to contextualize these, and finally, to offer some suggestions as to the question of why they were added to the Prague Sacramentary proper.

Iudicia Theodori

Let us first look at the question of what kinds of texts were added to the Prague Sacramentary sometime in the years before 792. The second part starts on folio 131^r with the last twenty canons of a penitential handbook. Such handbooks were in general meant to instruct priests for hearing confession.⁴ The particular text presented in the Prague Sacramentary is based on the teachings of Theodore of Canterbury, the Greek monk from Tarsus who was sent to England in the year 668 to become Archbishop of Canterbury.⁵ His teaching on penance (and some other issues) which are generally referred to as the Theodore's penitential, or the *Iudicia Theodori*, exists in five versions, which all contain references to Roman and Greek customs, thereby demonstrating that at least the core of the text indeed derives from the teachings of Theodore.⁶ We know

³ Hammer, 'The Social Landscape', pp. 49–51.

⁴ On penitential handbooks, penitentials, or *libri paenitentiales*, see Cyrille Vogel, *Les 'Libri Paenitentiales*', Typologie des sources du moyen âge occidental, 27 (Turnhout: Brepols, 1978); Allen J. Frantzen, *Mise à jour du fascicule no 27* (Turnhout: Brepols, 1985); and now Rob Meens, *Penance in Medieval Europe, 600–1200* (Cambridge: Cambridge University Press, 2014); for the discussion about the usage of such books, see Rob Meens, 'The Frequency and Nature of Early Medieval Penance', in *Handling Sin: Confession in the Middle Ages*, ed. by Peter Biller and Alastair J. Minnis, York Studies in Medieval Theology, 2 (Woodbridge: York Medieval Press, 1998), pp. 35–61; David S. Bachrach, 'Confession in the Regnum Francorum (742–900)', *Journal of Ecclesiastical History*, 54 (2003), 3–22.

⁵ On Theodore's life, see Michael Lapidge, 'The Career of Archbishop Theodore', in *Archbishop Theodore: Commemorative Studies on his Life and Influence*, ed. by Michael Lapidge (Cambridge: Cambridge University Press, 1995), pp. 1–29; Bernhard Bischoff and Michael Lapidge, *Biblical Commentaries from the Canterbury School of Theodore and Hadrian* (Cambridge: Cambridge University Press, 1994), Introduction, pp. 5–81.

⁶ Four versions of the *Paenitentiale Theodori* were edited by Paul W. Finsterwalder in *Die Canones Theodori Cantuariensis und ihre Überlieferungsformen* (Weimar: Böhlaus, 1929); it concerns the versions known as *Discipulus Umbrensium* (U), *Canones Gregorii* (G), *Canones Cottoniani* (Co) and the *Capitula Dacheriana* (D). A fifth version, the *Canones Basilienses* (B),

that the school of Theodore and his North-African companion Hadrian was famous and attracted a lot of pupils from England and abroad. Bede describes this school in very favourable light:

And because both of them were extremely learned in sacred and secular literature, they attracted a crowd of students into whose minds they daily poured the streams of wholesome learning. They gave their hearers instruction not only in the books of holy Scripture but also in the art of metre, astronomy, and ecclesiastical computation. As evidence of this, some of their students still survive who know Latin and Greek just as well as their native tongue.⁷

There may be some exaggeration in this praise, but we have evidence in glossaries which can be related to the school of Canterbury, demonstrating that Theodore's and Hadrian's teachings included knowledge of texts and subjects which were not known in England, or other parts of Western Europe, in this period.⁸

The existence of five different versions of this text is probably the result of the way in which Theodore's *Iudicia* have come into being. They were not composed by a single author nor compiled on the basis of existing files, but probably reflect Theodore's classroom teaching. The texts are best regarded as reports of his pupils reflecting Theodore's instruction. This would explain the diverging traditions, which must already have existed at quite an early stage, as well as the fact that a core of teachings is to be found in all traditions. Theodore's background is evident in the text from the fact that it regularly refers to the customs of the Greeks and the Romans as well as to the specific authority of Greek authors such as Basil the Great or Gregory of Nazianzus.9

has been edited by Franz B. Asbach in 'Das Poenitentiale Remense und der sogen. Excarpsus Cummeani: Überlieferung, Quellen und Entwicklung zweier kontinentaler Bußbücher aus der 1. Hälfte des 8. Jahrhunderts' (unpublished doctoral dissertation, Universität-Regensburg, 1975), Anhang pp. 79–89. See also Raymund Kottje, 'Paenitentiale Theodori', in *Handwörterbuch zur deutschen Rechtsgeschichte*, vol. III (Berlin: Schmidt, 1984), cols 1413–16; Thomas Charles-Edwards, 'The Penitential of Theodore and the *Iudicia Theodori*', in *Archbishop Theodore*, ed. by Lapidge, pp. 141–74; Roy Flechner, 'The Making of the Canons of Theodore', *Peritia*, 17–18 (2003–4), 121–43.

⁷ Bede, *Historia Ecclesiastica Gentis Anglorum*, ed. and trans. by Colgrave and Mynors, in *Bede's Ecclesiastical History of the English People*, rev. edn (Oxford: Clarendon Press, 1992), pp. 332–34; see also Michael Lapidge, 'The School of Theodore and Hadrian', *Anglo-Saxon England*, 15 (1986), 45–72.

⁸ Bischoff and Lapidge, *Biblical Commentaries*.

⁹ See Bischoff and Lapidge, *Biblical Commentaries*, pp. 150–55.

The *Iudicia Theodori* in the Prague Sacramentary transmit a particular version of Theodore's penitential, known as the Canones Gregorii, since in some manuscripts they are (incorrectly) attributed to Pope Gregory the Great. 10 In the Prague Sacramentary, there is no trace of such an attribution, as the text is clearly incomplete and only contains the last part of the text. The *Iudicia* Theodori contain not only penitential guidelines, but also ecclesiastical regulations in a broader sense. The first canon in the Prague Sacramentary, for example, deals with liturgical instruction as it prescribes that a priest should not wear his hood (cappam) when singing the responses of the Mass and that he should wear it over his shoulders when reading the Gospel. 11 Another canon included in the Prague Sacramentary discusses the question as to how to deal with clerics who are ordained by Brittonic bishops and deviate from the Catholics regarding (the date of) Easter and tonsure, although the Prague Sacramentary leaves out the word 'Brittonic' (Brittonorum) here. 12 Such clerics should receive an imposition of hands of the bishop. The churches consecrated by such bishops should be sprinkled with exorcized water and confirmed by a prayer. A reference to British clerics has been retained in one of the last canons included here, which rules that one should not give them the Eucharist or chrism when they ask for it, unless they confess that they want to be united with the other bishops. It seems, moreover, that this canon aroused some interest since it was corrected in a hand that seems similar to the one which added the Old High German glosses. 13 The *Iudicia Theodori* furthermore contain remarkable reg-

¹⁰ Die Canones Theodori Cantuariensis, ed. by Finsterwalder, pp. 253–70, with the title from BNF, MS lat. 3848 (not 3843 as Finsterwalder notes): Canones sancti Gregorii pape urbis Romae. In BSB, MS Clm 14780, closely related to the Prague Sacramentary as will be argued below, it reads: 'In nomine domini nostri salvatoris Iesu Christi incipiunt canones sancti Gregorii pape urbis Romae'.

¹¹ P. Theodori G 174 (Die Canones Theodori Cantuariensis, ed. by Finsterwalder, p. 269): 'Presbiter si responsoria cantaverit ad missam cappam suam non tollat; si autem evangelium legerit super humeros ponit'. I chose to cite the edition of Finsterwalder at places where the Prague Sacramentary differs from it only on minor points.

¹² P. Theodori G 187 (Die Canones Theodori Cantuariensis, ed. by Finsterwalder, p. 270): 'Qui ordinati sunt a [Brittonorum] episcopis qui in pascha [parochia? Prague MS] et in tonsura catholici non sunt adunati iterum episcopo catholico manus impositione confirmentur et aliqua collectione. Similiter ecclesia quae ab ipsis consecratur aqua exorcizata aspargatur et aliqua collectione confirmetur'. Prague MS O. 83, fol. 131'.

¹³ P. Theodori G 189 (Die Canones Theodori Cantuariensis, ed. by Finsterwalder, p. 270): 'Licentiam non habemus Brittonis poscentibus crismam vel eucharistiam dare nisi confessi fuerint velle nobiscum esse in unitate ecclesiae'. Prague MS O. 83, fols 131^v–132^r reads *in*

ulations for the life of the married. They state, for example, that the Greeks allow marriages within the fourth (or third) degree of consanguinity, while the Romans only consented to marriages within the fifth degree. According to the text they did not, however, dissolve a marriage within the fourth degree after it had been finalized. In addition, the *Iudicia Theodori* contain a number of remarkable sentences dealing with ritual purity. They rule, for example, that a married couple should abstain from sexual intercourse for three days before taking the Eucharist or that a man should wash before entering church after having had sex with his wife. Theodore also forbade women to enter church during menstruation and after childbirth, because they were regarded as impure during these periods. In

unitatem ecclesiam; confessi fuerint is written over erasure in another hand; the closely related BSB, MS Clm 14780 (for which see below, pp. 172–75) reads confessus fuerit, suggesting that the correction in the Prague Sacramentary is of a grammatical kind.

- 14 P. Theodori G 78 (Die Canones Theodori Cantuariensis, ed. by Finsterwalder, p. 261): 'Secundum Grecos in quarta propinquitate carnis licet nubere sicut in lege scriptum est. Secundum Romanos in quinta, tamen in quarta non solvunt coniugium postquam factum fuerit. In tertia tamen propinquitate non licet uxorem alterius accipere post obitum eius'. In P. Theodori U II,12,26 (Die Canones Theodori Cantuariensis, ed. by Finsterwalder, p. 329) it is said that the Greeks allow marriage in the third degree while in the West a marriage in the third degree seems to be approved, but the phrase tamen in tertia non solvunt should probably be corrected to tamen in quarta non solvunt as some manuscripts have it; yet this variant reading demonstrates that some manuscripts of this text could be used to defend a marriage in the third degree; see the elucidating study by Karl Ubl, Inzestverbot und Gesetzgebung: Die Konstruktion eines Verbrechens (300–1000) (Berlin: De Gruyter, 2008), p. 228, n. 58; see in general Raymund Kottje, 'Ehe und Eheverständnis in den vorgratianischen Bussbüchern', in Love and Marriage in the Twelfth Century, ed. by Willy van Hoecke and Andries Welkenhuysen (Leuven: Leuven University Press, 1981), pp. 18–40.
- ¹⁵ P. Theodori G 181–82 (Die Canones Theodori Cantuariensis, ed. by Finsterwalder, p. 269): 'Qui in matrimonium sunt tres noctes abstineant a coniunctione antequam communicant. Maritus qui cum uxore sua dormierit, lavat se antequam intret ecclesiam'; Prague MS O. 83, fol. 131^r.
- ¹⁶ P. Theodori G 125–26 (Die Canones Theodori Cantuariensis, ed. by Finsterwalder, p. 265): 'Mulieres menstruo tempore non intrent in ecclesiam neque communicent, nec sanctaemoniales nec laici; si presumpserint III ebdomadas peniteant. Similiter peniteant qui intrant ecclesiam ante mundum sanguinem post partum, id est dies XL. Qui nuberit his temporibus XX dies peniteat'. For a discussion of Theodore's views in these matters, see Rob Meens, 'Questioning Ritual Purity: The Influence of Gregory the Great's Answers to Augustine's Queries about Childbirth, Menstruation and Sexuality', in St Augustine and the Conversion of England, ed. by Richard Gameson (Stroud: Sutton, 1999), pp. 174–86.

The *Iudicia Theodori* were quickly disseminated on the Continent as well as in Ireland. They were used for the early eighth-century Irish collection of canon law known as the *Collectio Hibernensis*, while they were added to a Frankish canon law collection in the first half of the eighth century when the *Collectio Vetus Gallica* was enriched at the monastery of Corbie with this text. ¹⁷ Eighth-and ninth-century penitential handbooks adopt sentences from Theodore very frequently. ¹⁸

Libellus responsionum

Halfway through folio 132^r the text of the *Iudicia Theodori* ends, and without any clear break the manuscript continues with the following words: 'Interrogatio beati canturiorum [sic] agustini ecclesiae de episcopis qualiter cum suis clericis conversentur'. With these words begins the so-called *Libellus responsionum*, a short treatise written by Pope Gregory the Great as a response to a couple of particular questions raised by Augustine of Canterbury in the early years of the Roman mission to Anglo-Saxon England.¹⁹ Augustine had asked for papal advice on a variety of topics, many of these related to questions that are also dealt with in the *Iudicia Theodori*. The first topic discussed here regards the proper relations of a bishop with his clergy. Other topics include the freedom to allow for a certain degree of ecclesiastical diversity, the proper way to ordain

¹⁷ For its use in the *Collectio Hibernensis*, see Flechner, 'The Making of the Canons'; for its connection with the *Collectio Vetus Gallica* in Corbie, see Hubert Mordek, *Kirchenrecht und Reform im Frankenreich: Die Collectio Vetus Gallica, die älteste systematische Kanonessammlung des fränkischen Gallien. Studien und Edition, Beiträge zur Geschichte und Quellenkunde des Mittelalters, 1 (Berlin: De Gruyter, 1975), pp. 86–95.*

¹⁸ Rob Meens, Het tripartite boeteboek: Overlevering en betekenis van vroegmiddeleeuwse biechtvoorschriften (met editie en vertaling van vier tripartita) (Hilversum: Verloren, 1994).

¹⁹ Edited as letter 56a of Book XI in Gregory the Great, *Gregorii I Papae registrum epistolarum, Libri VIII–XIV*, ed. by Paul Ewald and Ludo M. Hartmann, MGH, Epistolae, 2 (Berlin: Weidemann: 1899), *Epistula* 56a, pp. 332–43. Actually, the letter was not included in Gregory's Register and for that reason it has not been included in the edition of the Register as it has been published as *Sancti Gregorii Magni Registrum epistularum*, ed. by Dag Norberg, 2 vols, CCSL, 140 and 140A (Turnhout: Brepols, 1982); Bede adopted the whole document in his *Historia Ecclesiastica Gentis Anglorum*, ed. by Colgrave and Mynors, 1, 27, pp. 78–103 (with an English translation). For a brief introduction, see Rob Meens, 'Rescriptum beati Gregorii ad Augustinum episcopum', in *Enciclopedia Gregoriana: La vita, l'opera e la fortuna die Gregorio Magno*, ed. by Giuseppe Cremascoli and Antonella Degl'Innocenti (Firenze: SISMEL, Edizioni del Galluzzo, 2008), pp. 301–02.

a bishop, or the question as to how to deal with bishops from Gaul and Britain. Yet other questions relate to robbery of churches, the proper choice of a partner in marriage, dealing specifically with the question of whether two brothers were allowed to marry two sisters, and the question as to whether one could marry within specific degrees of kinship. Finally, the text deals extensively with questions of the impurity of the human body and its relations with the sacred. Gregory discusses, for example, two topics also treated by Theodore of Canterbury: whether a menstruating woman could enter a church and whether a man should wash before entering church after sexual gratification.

The authenticity of the *Libellus responsionum* has been questioned in the past, but seems no longer to be in doubt.²⁰ Paul Meyvaert was able to demonstrate that Bede, who adopted the entire text in his *Historia Ecclesiastica*, used text of the *Libellus* that was several steps removed from its pristine state, implying that by the early eighth century, when Bede wrote his work, the *Libellus* already had a respectable history.²¹ Meyvaert also showed that the language used in the document as well as some key concepts clearly bear a Gregorian mark.²² Like Theodore's penitential, the *Libellus* was a text that had a wide dissemination. It exists in three different versions and in more than two hundred manuscripts. It was not only included in full in Bede's *Ecclesiastical History*, but many collections of canon law cited parts of this work, while penitential handbooks often referred to it or cited it. When Boniface got to know of this text, he was worried particularly because of its liberal view of marriage within the third or

²⁰ The most virulent criticism against its authenticity was formulated by Heinrich Suso Brechter, *Die Quellen zur Angelsachsenmission Gregors des Grossen: Eine Historiographische Studie* (Münster: Aschendorff, 1941), pp. 13–109, who concluded: 'Es ist unmöglich, die vereinte Stärke aller Argumente in einem einzigen Blick zumal vorzuführen: die Wahrheit aber ist nach der Totalerkenntnis, alles zusamengenommen, zu beurteilen, und diese entscheidet mit untrüglicher Evidenz gegen die Authentizität von Ep. XI 56a [Libellus responsionum]'.

²¹ Paul Meyvaert, 'Bede's Text of the *Libellus Responsionum* of Gregory the Great to Augustine of Canterbury', in *England Before the Conquest: Studies in Primary Sources Presented to Dorothy Whitelock*, ed. by Peter Clemoes and Kathleen Hughes (Cambridge: Cambridge University Press, 1971), pp. 15–33, repr. in Paul Meyvaert, *Benedict, Gregory, Bede and others*, Variorum Collected Studies Series, 61 (London: Variorum Reprints, 1977), chap. 10.

²² Paul Meyvaert, 'Diversity within Unity, a Gregorian Theme', *Heythrop Journal*, 4 (1963), 141–162, repr. in Meyvaert, *Benedict, Gregory, Bede and others*, chap. 6; Paul Meyvaert, 'Le *Libellus Responsionum* à Augustin de Cantorbéry: Une oeuvre authentique de Saint Grégoire le Grand', in *Grégoire le Grand*, ed. by Jacques Fontaine and others, Colloques internationaux du C.N.R.S.: Chantilly, Centre culturel Les Fontaines, 15–19 septembre 1982 (Paris: Éditions du Centre National de la Recherche Scientifique, 1986), pp. 543–49.

fourth degree of kinship.²³ How Boniface got to know the *Libellus* is not clear. It has been suggested that his source of information was Bede's *Ecclesiastical History*, but it seems more probable that he heard of it through a canonical collection such as the *Collectio Vetus Gallica* or the *Collectio Sancti Amandi*, both of them associated with the monastery of Corbie.²⁴ As far as we are informed, Boniface was the first person to query the authenticity of this text, and he sent messengers to Rome and Canterbury to inquire about its origin.

Theodore and the Libellus

As my brief discussion of the contents may have shown, there are close parallels in the topics considered in the Libellus and the Iudicia Theodori. Both discuss matters of ecclesiastical organization, rules of marriage, and the topic of ritual purity. These parallels are so close that it has been suspected that Theodore must have consulted the *Libellus* when dealing with these matters. ²⁵ Particularly with regard to ritual purity there are striking differences between the two texts, and it seems that Theodore responded to Gregory's views. The Iudicia Theodori, for example, simply forbid menstruating women to enter a church building or to receive communion in such a state of impurity, and explicitly include religious women (sanctaemoniales) in this rule. If women nevertheless do so, they should do penance for three weeks. If a woman who had recently given birth enters a church building before her purity has been restored, she should fulfil forty days of penance.²⁶ Gregory the Great was less harsh on such women and explicitly allowed them to enter church and receive communion, although he commended those women who chose to stay away from churches for reasons of humility. This contrast was observed by medieval readers, as references

²³ Boniface, *Epistula*, 33, in *Briefe des Bonifatius. Willibalds Leben des Bonifatius: Nebst einigen zeitgenössischen Dokumenten*, ed. by Reinhold Rau, Ausgewählte Quellen zur deutschen Geschichte des Mittelalters. Freiherr vom Stein-Gedächtnisausgabe, 4b (Darmstadt: Wissenschaftliche Buchgesellschaft, 1968), pp. 108–12, at p. 110.

²⁴ Michael Glatthaar, *Bonifatius und das Sakrileg: Zur politischen Dimension eines Rechtsbegriffs* (Frankfurt am Mainz: Lang, 2004), pp. 386–89. Theodor Mommsen, 'Die Papstbriefe bei Beda', *Neues Archiv*, 17 (1892), 390–91, thought Boniface knew the *Libellus* through Bede's *Ecclesiastical History*.

²⁵ Flechner, 'The Making of the Canons', p. 137.

²⁶ P. Theodori G 125–26 (Die Canones Theodori Cantuariensis, ed. by Finsterwalder, p. 265); see note 16 above.

to the *Libellus* in penitentials citing Theodore's rules demonstrate.²⁷ In the late eighth-century penitential *Capitula Iudiciorum*, for example, after citing Theodore's censure of women entering church during their menstruation, a canon was added which reads:

The blessed Roman pope Gregory permitted both things (forbidden by Theodore, i.e. entering a church and partaking of the Eucharist) to menstruating women and he said that they were praiseworthy if they abstained from these things out of humility.²⁸

The Merseburg A penitential, also from the late eighth century, omits every reference to Theodore's rules on this topic but incorporates instead those specific parts of the *Libellus* permitting menstruating women to do both things. In one manuscript of this work, however, copied in Bavaria around the year 900, this particular canon has been edited in such a way that it again forbade women to do these things, thus denying Gregory's intentions, and thereby indicating that in Bavaria at the close of the ninth century opinions differed on such matters.²⁹ This state of affairs demonstrates that medieval readers in the eighth and ninth centuries observed the differences between Theodore's and Gregory's views on the access of women to the sacred during menstruation and that a lively debate on this topic existed in the form of adding, omitting, or changing the decrees of both antagonists.³⁰

This was not the only way Gregory and Theodore were used in an argument. In many manuscripts we find the *Libellus* in close connection to the *Iudicia Theodori*. In Corbie, for example, both texts were added to the *Collectio Vetus Gallica*. Because of the wide dissemination of the Corbie redaction of the *Collectio Vetus Gallica*, the combination of the *Libellus responsionum* and the

²⁷ Rob Meens, 'Ritual Purity and the Influence of Gregory the Great in the Early Middle Ages', in *Unity and Diversity in the Church*, ed. by Richard Swanson, Studies in Church History, 32 (Oxford: Blackwell, 1996), pp. 31–43.

 $^{^{28}}$ Paenitentiale Capitula Iudiciorum, ed. by Meens, Het tripartite boeteboek, pp. 434–485, x, 5, p. 452.

²⁹ Paenitentiale Merseburgense A, 89, ed. by Raymund Kottje, in Paenitentialia minora Franciae et Italiae saeculi VIII–IX, CCSL, 156 (Turnhout: Brepols, 1994), pp. 123–69, at A, 89, p. 152.

³⁰ Meens, 'Questioning Ritual Purity'. That this debate continued is argued in Rob Meens, "A Relic from Superstition": Bodily Purity and the Church from Gregory the Great to the Twelfth Century Decretists', in *Purity and Holiness: The Heritage of Leviticus*, ed. by Marcel Poorthuis and Joshua Schwartz (Leiden: Brill, 2000), pp. 281–93.

Iudicia Theodori is found in a great many manuscripts containing this canon law collection. It occurs, for example, in the early manuscript witness now in Copenhagen, a manuscript produced in the first half of the eighth century, which possibly travelled to Regensburg at an early date.³¹ A connection with the Collectio Vetus Gallica is probably not the cause of the combination of these two texts in two late eighth-century Bavarian manuscripts, both now in Vienna (ÖNB, MSS lat. 2195 and 2233). In these two manuscripts, both written in Salzburg, the *Libellus* is found in combination with the *Iudicia Theodori* (ÖNB, MS 2195) or with the so-called Paenitentiale Vindobonense B, a penitential which includes a great part of the Theodorian penitential, in combination with the Excarpsus Cummeani and the sixth-century Irish penitential composed by Finnian. 32 The combination of the Libellus with the Iudicia Theodori, therefore, seems to have been known in Bavaria at the end of the eighth century, and this suggests not only that penitential practices were of particular interest in Salzburg in the late eighth century but also that the *Libellus* was seen as a necessary or welcome companion to Theodore's penitential.

The occurrence of two late eighth-century Bavarian manuscripts containing the same combination of texts, that is, the *Libellus* with Theodorian sentences, raises the question of whether the last part of the Prague Sacramentary might be related to these Salzburg manuscripts. It can be shown that this is not the case. For while in Salzburg the so-called *Discipulus Umbrensium* version of the *Iudicia Theodori* was used, in our manuscript the version known as the *Canones Gregorii* is in play.³³ Although the Salzburg manuscripts contain the same 'Question and Answer-version' of the *Libellus responsionum*, as established by Paul Meyvaert, they belong to a different branch of the transmission when compared to the Prague Sacramentary.³⁴ The fact that we encounter in late eighth-century Bavaria two different textual traditions combining Theodore's penitential with the *Libellus responsionum* demonstrates a particular interest in the combination of these texts. That such interest was very outspoken in Bavaria is further emphasized by yet another eighth-century manuscript with strong Bavarian connections. BSB, MS Clm 14780, dating from the last quarter

³¹ See below, note 54.

³² For the close connection between these two manuscripts, see Rob Meens, 'Kanonisches Recht in Salzburg am Ende des 8. Jahrhunderts: Das Zeugnis des *Paenitentiale Vindobonense B*', Zeitschrift der Savigny-Stiftung für Rechtsgeschichte Kanonistische Abteilung, 82 (1996), 13–34.

 $^{^{\}rm 33}$ For the use of the U-version of Theodore in Salzburg, see Meens, 'Kanonisches Recht', pp. 17–18 and 20–21.

³⁴ Meyvaert, 'Bede's Text', p. 26.

of the eighth century, contains exactly the same combination of *Libellus* and *Iudicia Theodori* as the Prague Sacramentary. Moreover, both used the *Canones Gregorii* version of the *Iudicia Theodori*, and the versions of the *Libellus* in these manuscripts belong to the same textual family, as the investigations of Paul Meyvaert have shown.³⁵ The text of the *Canones Gregorii* of this Munich manuscript is closely related to that of the Prague Sacramentary.³⁶ It has even been suggested that this manuscript might have been the exemplar from which the texts in the Prague Sacramentary have been copied. Although Körntgen argues that the close chronology of the palaeographical dating of the manuscripts speaks against such a link, I think it is not impossible, granting that palaeographically the time frame is rather tight.³⁷ This Munich manuscript is also dated to the last quarter of the eighth century, and the part containing the *Libellus* and Theodore's penitential appears to have been written somewhere in France.³⁸ It can be shown to have been at Regensburg where it might have arrived at an early date, even as early as before 821.³⁹

The close textual connections between the Munich manuscript and the Prague Sacramentary seem rather peculiar if the Munich manuscript was indeed produced in France and the second part of the Prague Sacramentary in northern Italy. It seems therefore more probable that the Gregorian part of the Prague Sacramentary was written in Bavaria on the basis of the Munich

³⁵ Both manuscripts BSB, Clm 14780 and Prague O. 83, together with Oxford, Bodleian Library, MS 311, belong to the same manuscript family of the *Libellus responsionum*, as preliminary investigations of the late Paul Meyvaert have demonstrated. I want to thank Paul Meyvaert for allowing me to use his material on the *Libellus responsionum*. See also Ludger Körntgen, *Studien zu den Quellen der frühmittelalterlichen Bußbücher*, Quellen und Forschungen zum Recht im Mittelalter, 7 (Sigmaringen: Thorbecke, 1993), pp. 94–95, for the close relationship between these manuscripts.

³⁶ The Prague manuscript contains a number of variants in common with BSB, MS Clm 14780, referred to as MS E in Finsterwalder's edition, for example: G 180: *suscipere* against *recipere*; G 182: *muliere* where the other MSS read *uxore*; G 183: both have *licentiam tradendi*.

³⁷ Körntgen, *Studien*, p. 95, who holds that the date and place of origin of the Munich manuscript argue against such a close relationship.

³⁸ Reinhold Haggenmüller, 'Eine weitere Überlieferung des Paenitentiale Burgundense: Anmerkungen zum Münchener Codex Clm. 14780', *Bulletin of Medieval Canon Law*, 10 (1980), 52–55, at p. 52.

³⁹ Peter Landau, 'Kanonistische Aktivität in Regensburg im frühen Mittelalter', in *Zwei Jahrtausende Regensburg*, Schriftenreihe der Universität Regensburg, 1 (Regensburg: Mittelbayerische Druckerei- und Verlagsgesellschaft, 1979), pp. 55–73, at p. 59, unfortunately without further argumentation.

manuscript itself or a closely related manuscript. If the Munich manuscript was copied in France on the basis of a request coming from Bavaria, the demand for the *Libellus* in Bavaria apparently was so strong that the Gregorian part of the Prague Sacramentary was copied in Bavaria soon after the arrival of the Munich manuscript there.

Apart from the texts already mentioned, the Munich manuscript also contains the text issued at the council held in Rome in 743. The Roman council of 743 discussed the Libellus responsionum in great detail. During that council Pope Zachary, who was new in office, referred to a text circulating in parts of Germania, in which Pope Gregory (the Great) would have allowed Christians to marry within the fourth degree of consanguinity. Zachary explained that he had not found this particular text in the Roman archives but seemed to accept its authenticity. The council, however, limited the value of Gregory's statement by ruling that such a privilege was only accorded in the first phase of Christianization and that now people had to abide by the stricter rules as they had been formulated by Pope Gregory II at the Roman council of 721.40 Zachary's reponse to the liberties advocated by the Libellus responsionum was most probably a reaction to Boniface's letter from the year before (742), in which the missionary bishop greeted the new pope and asked for advice on several topics, one of them concerning marriage within the third degree.⁴¹ This text therefore has a close relationship with Boniface. Moreover, BSB, MS Clm 14780 contains tables for commuting penances closely related to similar ones we find in the Excarpsus Cummeani and the Paenitentiale Remense. The eighth-century Frankish penitential known as the Excarpsus Cummeani was, as has recently been argued, most probably composed in Corbie, apparently not without Boniface's knowledge, who was in close contact with Abbot Grimo of Corbie. 42 The inclusion of these texts seems to suggest a connection

⁴⁰ Concilium Romanum (743), ed. by Albert Werminghoff, in Concilia aevi Karolini, MGH, Concilia, 2.1 (Hannover: Hahn, 1906), pp. 8–32.

⁴¹ Boniface, *Epistula* 50, in *Briefe des Bonifatius*, ed. by Rau, pp. 140–48; discussed in Ubl, *Inzestverbot und Gesetzgebung*, pp. 254–55.

⁴² Ludger Körntgen, 'Der *Excarpsus Cummeani*, ein Bußbuch aus Corbie', in *Scientia veritatis: Festschrift für Hubert Mordek zum 65. Geburtstag*, ed. by Oliver Münsch and Thomas Zotz (Ostfildern: Thorbecke, 2004), pp. 59–75. For the connections between Boniface and Corbie, see Glatthaar, *Bonifatius und das Sakrileg*; Rob Meens, 'Aspekte der Christianisierung des Volkes', in *Bonifatius: Leben und Nachwirken (754–2004)*, ed. by Franz J. Felten, Jörg Jarnut, and Lutz E. von Padberg (Mainz: Gesellschaft für mittelrheinische Kirchengeschichte, 2008), pp. 211–29.

between the Munich manuscript and the missionary field of Boniface, who was, of course, active in Bavaria and a staunch opponent of the Irish bishop of Salzburg, Virgil.⁴³ If the second part of the Prague Sacramentary is related to the Munich manuscript, and all indications point in that direction, then we may assume that the second part of the manuscript somehow belonged to the missionary field in Bavaria dominated by Anglo-Saxon missionaries and contacts with northern French monasteries such as Corbie. The Salzburg manuscripts with Theodore's penitential and the Libellus responsionum can be related to Archbishop Arn of Salzburg; the Prague Sacramentary seems to belong to another strand but with similar connections to northern France and the Bonifatian mission. The stress on Gregory the Great in the second part of the Prague Sacramentary is possibly a consequence of the connection with an Anglo-Saxon-inspired mission, for Gregory was after all the missionary pope of the English. Both texts were attributed to Gregory, although in the case of the version of Theodore's penitential used here, it is impossible to check this attribution because the first part of the text is missing. It belongs clearly, however, to the version that in other manuscripts is titled Canones Gregorii, as in the closely related Munich manuscript. 44 The authority of Gregory the Great was a crucial issue in the discussion about the importance of the Libellus responsionum, as Boniface's correspondence and the Roman council of 743 clearly show.

A Historical Context

This raises the question of why there was in Bavaria such a marked interest in Theodore's penitential and in the answers of Pope Gregory to queries put to him in the context of the mission to Anglo-Saxon England. As we have seen, the *Libellus* deals with a particular set of questions, and these topics are also of major importance in Theodore's text. Three topics are central. First, the *Libellus responsionum* and the *Iudicia Theodori* both deal with matters of ecclesiastical organization. They discuss the partition of ecclesiastical income, the continence of clerics, and the way to deal with liturgical diversity, episcopal ordination, and hierarchy. The second important topic regards marriage.

⁴³ For Boniface's activities in Bavaria, see Stephan Freund, *Von den Agilolfingern zu den Karolingern: Bayerns Bischöfe zwischen Kirchenorganisation, Reichsintegration und karolingischer Reform (700–847)*, Schriftenreihe zur Bayerischen Landesgeschichte, 144 (München: Beck, 2004), pp. 43–82; Stephan Freund, 'Bonifatius und die bayerischen Bistümer aus hagiographischer Sicht', in *Bonifatius*, ed. by Felten, Jarnut, and von Padberg, pp. 281–94.

⁴⁴ See *Die Canones Theodori Cantuariensis*, ed. by Finsterwalder, p. 253.

Gregory permitted a marriage between two brothers and two sisters as well as marriages concluded within the third or fourth degree of consanguinity, while Theodore of Canterbury decreed that marriages concluded within the fourth degree were not to be dissolved. The third important topic the text deals with is ritual purity. In such matters Theodore tended to interpret biblical precepts in a much more literal way than Gregory did.

These three major topics can all in a way be related to the situation in Bavaria in the late eighth century. The topic of ecclesiastical organization was, of course, a hot issue in a period when Boniface wanted to reorganize the Bavarian Church. The Carolingian takeover of Bavaria in 788 and the establishment of an archiepiscopal see in Salzburg ten years later led to a reshuffling of ecclesiastical positions and structures. Theodore's penitential was the result of the energetic restructuring of the English Church by the seventh-century Archbishop of Canterbury, and such a text could come in handy for an energetic new Archbishop like Arn of Salzburg. Theodore's struggle with powerful bishops like Wilfrid of York and his problems with Christians of different (Irish and British) backgrounds may have resembled in many ways the struggles a bishop like Arn had to deal with in the Bavarian lands.

The diversity that Boniface and Arn must have encountered in the varied ecclesiastical landscape of Bavaria, which may account for their efforts of ecclesiastical organization and correction, may also explain the importance of the topic of ritual purity. As we have already seen, attitudes and opinions regarding ritual purity varied from a literal interpretation of such rules to a spiritual one. There is no clear proof of specific conflicts over these issues in Bavaria, but the fact that in this region Irish, Anglo-Saxon, and Frankish clerics worked side by side would explain a particular interest in such issues. In Salzburg in the late eighth century, two Irish penitentials, that of Finnian and that of Cummean, were used in order to complement Theodore's penitential and the *Excarpsus Cummeani*. Ritual purity is an important theme in such texts. The presence in Salzburg of two Irish penitentials, which must have been quite rare at the time, can be explained most readily through the activity of the Irish bishop of

⁴⁵ See Freund, *Von den Agilolfingern zu den Karolingern*, pp. 43–76; Ian Wood, *The Missionary Life: Saints and the Evangelisation of Europe, 400–1050* (Harlow: Longman, 2001), pp. 145–46; and James Palmer, *Anglo-Saxons in a Frankish World, 690–900* (Turnhout: Brepols, 2009), pp. 153–56.

⁴⁶ See the detailed description of this process in Freund, *Von den Agilolfingern zu den Karolingern*, pp. 144–241.

⁴⁷ Meens, 'Kanonisches Recht', pp. 21–22.

Salzburg, Virgil.⁴⁸ Recently it has been suggested that Bishop Vivolo of Passau, with whom Boniface also got into conflict, may have been of Irish descent as well.⁴⁹ The fact that in the ninth century a copy of the *Merseburgense A* penitential was tampered with to contradict Gregory's views demonstrates that in that period such views were still controversial.⁵⁰

The issue of marriage, particularly the question of the degree of kinship within which one was allowed to contract a marriage, was, as Boniface's letters illustrate, hotly debated in the eighth century. Such a debate seems to have been particularly important in Bavaria. It is telling that Boniface in his letter to Pope Zachary from 742, in which he inquired about a pope granting the right to marry in the third degree, immediately afterwards mentioned people from Bavaria and Alemannia visiting Rome. In the Roman council of the following year, Pope Gregory referred to the *Libellus responsionum* as a text circulating in *Germania* and apparently used by people from parts of *Germania* (homines de Germaniae partibus) in arguing their case. The earliest manuscript witness of the *Libellus responsionum*, though written in northern France in the first half of the eighth century, was known in Regensburg probably already in the eighth

⁴⁸ Recently some doubt has been expressed concerning Virgil's Irish background. See Rosamond McKitterick, 'Geschichte und Gedächtnis im frühmittelalterlichen Bayern: Virgil, Arn und der Liber Vitae von St. Peter zu Salzburg', in *Erzbischof Arn von Salzburg*, ed. by Meta Niederkorn-Bruck and Anton Scharer (Wien: Oldenbourg, 2004), pp. 68–80, at pp. 76–78. The Salzburg *Liber Vitae* clearly establishes links between Salzburg and the Irish Church, particularly that of Iona; see ibid., p. 74. Close connections between Ireland and Bavaria are also revealed in Mary Garrison, 'The *Collectanea* and Medieval Florilegia', in *Collectanea Pseudo-Bedae*, ed. by Martha Bayless and Michael Lapidge, Scriptores Latini Hiberniae, 14 (Dublin: School of Celtic Studies, Dublin Institute for Advanced Studies, 1998), pp. 42–83. For the diffusion of Irish penitentials on the Continent, see Raymund Kottje, 'Überlieferung und Rezeption der irischen Bußbücher auf dem Kontinent', in *Die Iren und Europa im früheren Mittelalter*, ed. by Heinz Löwe, vol. I (Stuttgart: Klett-Cotta, 1982), pp. 511–24; and now R. Meens, 'The Irish Contribution to the Penitential Tradition', in *The Irish in Medieval Europe*, ed. by Roy Flechner and Sven Meeder (Basingstoke: Palgrave MacMillan, in press).

⁴⁹ Carl I. Hammer, "For All the Saints": Bishop Vivolo of Passau and the Eighth-Century Origins of the Feast, *Revue Mabillon*, n.s. 15 (2004), 5–26, at p. 20.

⁵⁰ See above, p. 171.

⁵¹ See Palmer, *Anglo-Saxons in a Frankish World*, p. 153: 'Odilo's people having lapsed into bad practice, particularly with regard to the eternal Bonifatian concern of marriage'.

⁵² Boniface, *Epistula* 50, ed. by Rau, p. 146.

⁵³ Concilium Romanum, ed. by Werminghoff, pp. 20 and 30.

century.⁵⁴ The question of incestuous marriages seems therefore already to have been a problem in the 740s, in certain parts of Germany, possibly Bavaria and Alemannia. This would fit exactly the period when Boniface was most active in correcting the Bavarian Church, in close cooperation with the Agilolfing duke, Odilo.⁵⁵

From the time of Arn of Salzburg we have definitive proof that incestuous marriages, or perhaps alleged incestuous marriages, were a grave problem in Bavaria, for in the letter written by Pope Leo III in the year 800, in which the Pope urged the people of Bavaria, lay and clerical alike, to acknowledge the archiepiscopal authority of Arn, he referred emphatically to the matrimonial regulations of the *Libellus responsionum*. 56 Leo acknowledged that he reacted to a specific demand made by Arn who was apparently dealing with people defending the possibility of marrying in the third degree by referring to the authority of Gregory the Great. According to the Pope they referred to a letter from Gregory to Augustine of Canterbury, which is a clear reference to the Libellus responsionum.⁵⁷ A connection with Boniface's earlier inquiries in Rome is established by Pope Leo's citation from Zachary's rebuttal of the Libellus's claims in the Roman council of 743. The remarkable close connection in Leo's letter between the refutation of the Libellus on the one hand, and his urgent call for obedience to the Archbishop on the other, strongly suggests that ecclesiastical and secular authorities in Bavaria had particularly strong differences of opinion about this topic, which would explain the remarkable interest in the *Libellus responsionum* in the Bavarian manuscripts that we have observed.

It seems reasonable to suppose that these differences of opinion were related to very specific cases. While it remains impossible to identify these marriages with any certainty, it is obvious that it concerned people of high social status. In Boniface's case, one opponent, who had married his uncle's widow and who possibly came from Bavaria, was of high social standing. He claimed to have received papal approval for this marriage and was able to get his case heard

⁵⁴ Landau, 'Kanonistische Aktivität', pp. 57–58; for the northern French origin of the manuscript, see Rob Meens, 'The Oldest Manuscript Witness of the *Collectio canonum Hibernensis*', *Peritia*, 14 (2000), 1–19, also mentioning a possible connection to Boniface (p. 13).

⁵⁵ Freund, Von den Agilolfingern zu den Karolingern, pp. 45–68.

⁵⁶ Leo III, *Epistola 5*, ed. by K. Hampe, in *Epistolae Karolini aevi*, III, MGH, Epistulae, 5 (Berlin: Weidemann, 1928), pp. 60–63, at p. 62.

⁵⁷ See Ubl, Inzestverbot und Gesetzgebung, p. 301.

in Rome. Moreover, Boniface describes him as a prominent layperson.⁵⁸ Boniface's letter is dated to the year 742. In 740 there had been a rebellion against Odilo, and this rebellion might somehow be related to Boniface's reforming activities.⁵⁹ Breaking up marriages between important aristocratic lineages or disputing the legality of succession arrangements are of course powerful instruments in political struggles, and possibly incest regulation was employed in Bavaria to do just that. For Boniface this is a conjecture, but the Prague Sacramentary can be connected to a particular aristocratic group in Bavaria which is known as the Huosi group, whose names are recorded in the famous nota historica. 60 After Charlemagne's visit to Bavaria when he stayed in Regensburg in the year 791, this Huosi family was involved in an inheritance dispute, which was judged by Arn of Salzburg together with the prefect Gerold and the chamberlain Meginfrid.⁶¹ If this dispute had involved the legitimacy of a specific marriage within this family, this would form a perfect context for the interest in the *Libellus responsionum* in a manuscript closely associated with this group. Such a serious conflict could also account for the absence of most parts of the Theodorian sentences in this manuscript. It is difficult to decide whether it was a deliberate choice not to include Theodore's penitential canons in the new compilation, or whether the manuscript was already incomplete at that time. If it was already incomplete when it was added to the sacramentary, the manuscript must have deteriorated very quickly, since it was probably written in the last quarter of the eighth century and it can be shown to be added to the sacramentary before 792. Such a quick deterioration may seem unlikely, even if it is conceivable in the case of a manuscript which was used while remaining unbound. Yet, remembering the economic and symbolic importance of books, it does not seem very plausible that its owner would be so careless as to lose probably half of a manuscript within about fifteen years of its completion. It is more likely, therefore, that the owner of the Prague Sacramentary was mainly interested in the Libellus responsionum and that the Canones Gregorii for some reason or another did not fit his argument. This conclusion seems to be strengthened by the particular interest shown to the Libellus through the

⁵⁸ Bonifatius, *Epistula* 50, ed. by Rau, p. 144: 'laicus quidam magne personae ad nos veniens'.

⁵⁹ As suggested by Freund, *Von den Agilolfingern zu den Karolingern*, pp. 66–67.

⁶⁰ Hammer, 'The Social Landscape', p. 63, and the contributions by Diesenberger, Depreux, and Airlie in this volume.

⁶¹ Freund, Von den Agilolfingern zu den Karolingern, pp. 162–63.

Old High German glosses, some of them in dry point, which were added to the text in the late eighth century shortly after the two parts of the manuscript were joined together. ⁶²

The manuscript is also closely related to the rebellion in Bavaria in the year 792, as the reference to Pippin (the Hunchback) as king (rex) in the nota historica demonstrates. 63 In my view, it can hardly be a coincidence that we see a particular interest in the *Libellus responsionum* in Bavaria in the early 740s and the early 790s in very similar circumstances. In both cases, the leading ecclesiastical figures — Boniface and Arn, respectively — play a central role in close connection to the papacy and the secular powers. In both cases, we can observe a serious rebellion breaking out about the time that we hear of these problems, rebellions involving leading aristocratic families in Bavaria. The views on marriage endorsed by the papacy seem to have been a crucial factor in heavily politicized conflicts. One suspects that incest legislation was used here to break up family alliances and inheritances in the region in times of shifting political alliances. 64 The disputes arising from this incest legislation in Bavaria, of which the Gregorian part of the Prague Sacramentary is an intriguing witness, had powerful political repercussions whose shockwaves reached as far as the Carolingian court and the papal see.

⁶² The glosses written in ink are *Die althochdeutschen Glossen*, ed. by Elias Steinmeyer and Eduard Sievers, 5 vols (Zürich: Weidmann, 1879–1922), IV, 331; for the impressive amount of over a hundred dry-point glosses, see Elvira Glaser and Andreas Nievergelt, 'Althochdeutsche Griffelglossen: Forschungsstand und Neufunde', in *Entstehung des Deutschen: Festschrift für Heinrich Tiefenbach*, ed. by Albrecht Greule, Eckard Meineke, and Christiane Thim-Mabrey (Heidelberg: Winter, 2004), pp. 119–32, at p. 127, as well as the contribution of Elvira Glaser to this volume.

⁶³ See Hammer, 'The Social Landscape', and the contributions by Diesenberger and Airlie to this volume.

⁶⁴ For Carolingian attempts to reshuffle landed wealth in Bavaria at this time, see Maximilian Diesenberger, 'Dissidente Stimmen zum Sturz Tassilos III', in *Texts and Identities in the Early Middle Ages*, ed. by Richard Corradini, Rob Meens, Christina Pössel, and Philip Shaw, Forschungen zur Geschichte des Mittelalters, 12 (Wien: Verlag der österreichischen Akademie der Wissenschaften, 2006), pp. 105–20, at pp. 119–20.